

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 804 By: Bice of the Senate
3 and
4 McEntire of the House
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6

7 An Act relating to prohibited acts of alcoholic
8 beverage licensees; amending Section 142, Chapter
9 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 6-
10 102), which relates to prohibited acts of licensees;
11 providing exceptions to certain prohibited acts;
12 providing an effective date; and declaring an
13 emergency.

14 AMENDMENT NO. 1. Delete the title, enacting clause and entire bill
15 and replace with:

16 "An Act relating to prohibited acts of alcoholic
17 beverage licensees; amending Section 142, Chapter
18 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 6-
19 102), which relates to prohibited acts of licensees;
20 providing exceptions to certain prohibited acts;
21 providing an effective date; and declaring an
22 emergency.

23 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

24 SECTION 1. AMENDATORY Section 142, Chapter 366, O.S.L.
2016 (37A O.S. Supp. 2018, Section 6-102), is amended to read as
follows:

1 Section 6-102. A. No licensee of the ABLE Commission shall:

2 1. Receive, possess or sell any alcoholic beverage except as
3 authorized by the Oklahoma Alcoholic Beverage Control Act and by the
4 license or permit which the licensee holds;

5 2. Employ any person under eighteen (18) years of age in the
6 selling of beer or wine or employ any person under twenty-one (21)
7 years of age in the selling of spirits. Provided:

8 a. a mixed beverage, beer and wine, caterer, public
9 event, special event, bottle club, retail wine or
10 retail beer licensee may employ servers or sales
11 clerks who are at least eighteen (18) years of age,
12 except persons under twenty-one (21) years of age may
13 not serve in designated bar or lounge areas, and

14 b. a mixed beverage, beer and wine, caterer, public
15 event, special event or bottle club licensee may
16 employ or hire musical bands who have musicians who
17 are under eighteen (18) years of age if each such
18 musician is either accompanied by a parent or legal
19 guardian or has on their person, to be made available
20 for inspection upon demand by any employee of the ABLE
21 Commission or law enforcement officer, a written,
22 notarized affidavit from the parent or legal guardian
23 giving the underage musician permission to perform in
24 designated bar or lounge areas;

1 3. Give any alcoholic beverage as a prize, premium or
2 consideration for any lottery, game of chance or skill or any type
3 of competition;

4 4. Use any of the following means or inducements to stimulate
5 the consumption of alcoholic beverages, including but not limited
6 to:

7 a. deliver more than two drinks to one person at one
8 time,

9 b. sell or offer to sell to any person or group of
10 persons any drinks at a price that is less than six
11 percent (6%) below the markup of the cost to the mixed
12 beverage licensee; provided, a mixed beverage licensee
13 shall be permitted to offer these drink specials on
14 any particular hour of any particular day and shall
15 not be required to offer these drink specials for an
16 entire calendar week or from open to close,

17 c. sell or offer to sell to any person an unlimited
18 number of drinks during any set period of time for a
19 fixed price, except at private functions not open to
20 the public,

21 d. sell or offer to sell drinks to any person or group of
22 persons on any one day or portion thereof at prices
23 less than those charged the general public on that
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1 day, except at private functions not open to the
2 public,

3 e. increase the volume of alcoholic beverages contained
4 in a drink without increasing proportionately the
5 price regularly charged for such drink during the same
6 calendar week, or

7 f. encourage or permit, on the licensed premises, any
8 game or contest which involves drinking or the
9 awarding of drinks as prizes.

10 Provided, that the provisions of this paragraph shall not
11 prohibit the advertising or offering of food or entertainment in
12 licensed establishments;

13 5. Permit or allow any patron or person to exit the licensed
14 premises with an open container of any alcoholic beverage.

15 Provided, this prohibition shall not be applicable to closed
16 original containers of alcoholic beverages which are carried from
17 the licensed premises of a bottle club by a patron, closed original
18 wine containers removed from the premises of restaurants, hotels and
19 motels, or to closed original containers of alcoholic beverages
20 transported to and from the place of business of a licensed caterer
21 by the caterer or an employee of the caterer;

22 6. Serve or sell alcoholic beverages with an expired license
23 issued by the ABLE Commission; or

1 7. Permit any person to be drunk or intoxicated on the
2 licensee's licensed premises.

3 B. A mixed beverage or beer and wine licensee shall not be
4 deemed to have violated the provisions of paragraph 5 of subsection
5 A of this section if it allowed a patron to leave the licensed
6 premises with an open container of beer or wine only and:

7 1. The otherwise prohibited act was committed during the hours
8 of 8 a.m. to midnight on the day of a scheduled home football game
9 of institutions within The Oklahoma State System of Higher
10 Education, and the establishment is located within two thousand
11 (2,000) feet of the institution;

12 2. The licensee is participating by invitation in a municipally
13 sanctioned art, music or sporting event within city limits when the
14 municipality has provided written notice of the event and a list of
15 invited licensees to the ABLE Commission at least five (5) days
16 prior to the event; or

17 3. The patron remains on the connected, physical property of
18 the licensee or in a public area adjacent to the physical property
19 of the licensee with prior municipal approval; provided that written
20 notice of the use of the connected, physical property of the
21 licensee or public area shall be provided to the ABLE Commission at
22 least five (5) days prior to such use.

23 SECTION 2. This act shall become effective July 1, 2019.
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1 SECTION 3. It being immediately necessary for the preservation
2 of the public peace, health or safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval."

5 Passed the House of Representatives the 23rd day of April, 2019.

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Presiding Officer of the House of
Representatives

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10 Passed the Senate the ____ day of _____, 2019.

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Presiding Officer of the Senate

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1 ENGROSSED SENATE
2 BILL NO. 804

By: Bice of the Senate

3 and

4 McEntire of the House

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6 An Act relating to prohibited acts of alcoholic
7 beverage licensees; amending Section 142, Chapter
8 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 6-
9 102), which relates to prohibited acts of licensees;
10 providing exceptions to certain prohibited acts;
11 providing an effective date; and declaring an
12 emergency.

13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 4. AMENDATORY Section 142, Chapter 366, O.S.L.
15 2016 (37A O.S. Supp. 2018, Section 6-102), is amended to read as
16 follows:

17 Section 6-102. A. No licensee of the ABLE Commission shall:

18 1. Receive, possess or sell any alcoholic beverage except as
19 authorized by the Oklahoma Alcoholic Beverage Control Act and by the
20 license or permit which the licensee holds;

21 2. Employ any person under eighteen (18) years of age in the
22 selling of beer or wine or employ any person under twenty-one (21)
23 years of age in the selling of spirits. Provided:

24 a. a mixed beverage, beer and wine, caterer, public
event, special event, bottle club, retail wine or

1 retail beer licensee may employ servers or sales
2 clerks who are at least eighteen (18) years of age,
3 except persons under twenty-one (21) years of age may
4 not serve in designated bar or lounge areas, and

5 b. a mixed beverage, beer and wine, caterer, public
6 event, special event or bottle club licensee may
7 employ or hire musical bands who have musicians who
8 are under eighteen (18) years of age if each such
9 musician is either accompanied by a parent or legal
10 guardian or has on their person, to be made available
11 for inspection upon demand by any employee of the ABLE
12 Commission or law enforcement officer, a written,
13 notarized affidavit from the parent or legal guardian
14 giving the underage musician permission to perform in
15 designated bar or lounge areas;

16 3. Give any alcoholic beverage as a prize, premium or
17 consideration for any lottery, game of chance or skill or any type
18 of competition;

19 4. Use any of the following means or inducements to stimulate
20 the consumption of alcoholic beverages, including but not limited
21 to:

22 a. deliver more than two drinks to one person at one
23 time,

- 1 b. sell or offer to sell to any person or group of
2 persons any drinks at a price that is less than six
3 percent (6%) below the markup of the cost to the mixed
4 beverage licensee; provided, a mixed beverage licensee
5 shall be permitted to offer these drink specials on
6 any particular hour of any particular day and shall
7 not be required to offer these drink specials for an
8 entire calendar week or from open to close,
- 9 c. sell or offer to sell to any person an unlimited
10 number of drinks during any set period of time for a
11 fixed price, except at private functions not open to
12 the public,
- 13 d. sell or offer to sell drinks to any person or group of
14 persons on any one day or portion thereof at prices
15 less than those charged the general public on that
16 day, except at private functions not open to the
17 public,
- 18 e. increase the volume of alcoholic beverages contained
19 in a drink without increasing proportionately the
20 price regularly charged for such drink during the same
21 calendar week, or
- 22 f. encourage or permit, on the licensed premises, any
23 game or contest which involves drinking or the
24 awarding of drinks as prizes.

1 Provided, that the provisions of this paragraph shall not
2 prohibit the advertising or offering of food or entertainment in
3 licensed establishments;

4 5. Permit or allow any patron or person to exit the licensed
5 premises with an open container of any alcoholic beverage.

6 Provided, this prohibition shall not be applicable to closed
7 original containers of alcoholic beverages which are carried from
8 the licensed premises of a bottle club by a patron, closed original
9 wine containers removed from the premises of restaurants, hotels and
10 motels, or to closed original containers of alcoholic beverages
11 transported to and from the place of business of a licensed caterer
12 by the caterer or an employee of the caterer;

13 6. Serve or sell alcoholic beverages with an expired license
14 issued by the ABLE Commission; or

15 7. Permit any person to be drunk or intoxicated on the
16 licensee's licensed premises.

17 B. A mixed beverage or beer and wine licensee shall not be
18 deemed to have violated the provisions of paragraph 5 of subsection
19 A of this section if it allowed a patron to leave the licensed
20 premises with an open container of beer or wine only and:

21 1. The otherwise prohibited act was committed during the hours
22 of 8 a.m. to midnight on the day of a scheduled home football game
23 of institutions within The Oklahoma State System of Higher
24

1 Education, and the establishment is located within two thousand
2 (2,000) feet of the institution; or

3 2. The licensee is participating by invitation in a municipally
4 sanctioned art, music or sporting event within city limits when the
5 municipality has provided written notice of the event and a list of
6 invited licensees to the ABLE Commission at least five (5) days
7 prior to the event.

8 SECTION 5. This act shall become effective July 1, 2019.

9 SECTION 6. It being immediately necessary for the preservation
10 of the public peace, health or safety, an emergency is hereby
11 declared to exist, by reason whereof this act shall take effect and
12 be in full force from and after its passage and approval.

13 Passed the Senate the 11th day of March, 2019.

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Presiding Officer of the Senate

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17 Passed the House of Representatives the ____ day of _____,

18 2019.

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Presiding Officer of the House
of Representatives

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