

1 ENGROSSED SENATE
2 BILL NO. 811

By: Coleman of the Senate

3 and

4 Marti of the House

5
6 An Act relating to alcoholic beverages; amending 37A
7 O.S. 2021, Section 2-148, which relates to grounds to
8 revoke or suspend licenses; allowing ABLE Commission
9 discretion to revocation and administration of fines;
10 and providing an effective date.

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

12 SECTION 1. AMENDATORY 37A O.S. 2021, Section 2-148, is
13 amended to read as follows:

14 Section 2-148. A. Any license issued pursuant to the
15 provisions of the Oklahoma Alcoholic Beverage Control Act by the
16 ABLE Commission, after due notice and hearing, may be revoked or
17 suspended if the ABLE Commission finds or has grounds to believe
18 that the licensee has:

19 1. ~~Violated any rule promulgated by the ABLE Commission;~~

20 ~~2.~~ Procured a license through fraud, or misrepresentation, or
21 concealment of a material fact;

22 ~~3.~~ 2. Made any false representation or statement to the ABLE
23 Commission or the Oklahoma Tax Commission in order to prevent or
24 induce action by the ABLE Commission or the Tax Commission;

1 ~~4.~~ 3. Maintained an unsanitary establishment or has supplied
2 impure or otherwise deleterious beverages or food;

3 ~~5.~~ 4. Stored, possessed, mixed or served on the premises of a
4 bottle club any alcoholic beverage upon which the tax levied by
5 Section 5-101 of this title has not been paid as provided for in the
6 Oklahoma Alcoholic Beverage Control Act, in a county of this state
7 where the sale of alcoholic beverages by the individual drink for
8 on-premises consumption has not been authorized;

9 ~~6.~~ 5. Misrepresented to a customer or the public any alcoholic
10 beverage sold by the licensee;

11 ~~7.~~ 6. Had any permit or license issued by the Tax Commission
12 and required by the Oklahoma Alcoholic Beverage Control Act,
13 suspended or revoked by the Tax Commission; or

14 ~~8.~~ 7. Is not in compliance with the tax laws of this state as
15 required in Article XXVIII-A of the Oklahoma Constitution.

16 B. The ABLE Commission may revoke or suspend the license of any
17 mixed beverage, caterer or bottle club licensee if the ABLE
18 Commission finds or has grounds to believe that such licensee:

19 1. Has acted as an agent of a manufacturer, brewer or
20 wholesaler of alcoholic beverages;

21 2. Is a manufacturer, brewer or wholesaler of alcoholic
22 beverages;

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1 3. Has borrowed money or property or accepted gratuities or
2 rebates from a manufacturer, brewer or wholesaler of alcoholic
3 beverages;

4 4. Has obtained the use of equipment from any manufacturer,
5 brewer or wholesaler of alcoholic beverages or any agent thereof;

6 5. Has violated any of the provisions of the Oklahoma Alcoholic
7 Beverage Control Act for which mandatory revocation or suspension is
8 not required;

9 6. Has been convicted within the past twenty-five (25) years,
10 of a violation of any state or federal law relating to alcoholic
11 beverage for which mandatory revocation or suspension is not
12 required; or

13 7. Is not in compliance with the tax laws of this state as
14 required in Article XXVIII-A of the Oklahoma Constitution.

15 C. The ABLE Commission may revoke or suspend the license of any
16 retail, mixed beverage, caterer or bottle club licensee if the ABLE
17 Commission finds or has grounds to believe that such licensee has
18 borrowed money or property or accepted gratuities, discounts,
19 rebates, free goods, allowances or other inducements from a wine and
20 spirits wholesaler or beer distributor.

21 D. The ABLE Commission shall have the authority to revoke the
22 license of any licensee if the ABLE Commission finds:

23 1. That the licensee knowingly sold alcoholic beverages or
24 allowed such beverages to be sold, delivered or furnished to any

1 person under the age of twenty-one (21) years or to any person
2 visibly intoxicated or adjudged insane or mentally deficient;

3 2. That the licensee, any general or limited partner of the
4 licensee, or in the case of a corporation, an officer or director of
5 the corporation, has been convicted of a felony or is not in
6 compliance with the tax laws of this state as required in Article
7 XXVIII-A of the Oklahoma Constitution. Provided, an employee
8 license may be issued and held by a person who has been convicted of
9 a felony if such conviction was not for a violent offense specified
10 in paragraph 2 of Section 571 of Title 57 of the Oklahoma Statutes
11 or an offense under the provisions of this title;

12 3. That, in the case of a wine and spirits wholesaler, beer
13 distributor, retail spirits, retail wine or retail beer licensee,
14 the holder of the license or any member of a general or limited
15 partnership which is the holder of such a license, has been
16 convicted of a prohibitory law relating to the sale, manufacture or
17 transportation of alcoholic beverages which constitutes a felony.

18 E. If the ABLE Commission shall find by a preponderance of the
19 evidence as in civil cases that a licensee has knowingly sold any
20 alcoholic beverage to any person under the age of twenty-one (21)
21 years, after a public hearing, the ABLE Commission shall ~~revoke such~~
22 ~~license and no~~ have the discretion as to the revocation ~~shall be~~
23 ~~exercised by the ABLE Commission~~ of a license or administration of
24 fines.

1 F. The ABLE Commission shall have the authority to promulgate
2 rules to establish a penalty schedule for violations of any
3 provision of the Oklahoma Alcoholic Beverage Control Act or any rule
4 of the ABLE Commission. The schedule shall provide for suspension
5 or revocation of any license for major and minor violations as
6 determined by the ABLE Commission. Penalties shall be increasingly
7 severe with each violation by a licensee.

8 Provided, that for a fourth major violation by a licensee within
9 a twenty-four-month period, the penalty shall be mandatory
10 revocation of license. The twenty-four-month period shall be
11 calculated from the date of the most recent violation as set forth
12 in an order signed by the Director or the designee of the Director.

13 G. The ABLE Commission or the Tax Commission may impose a
14 monetary penalty in lieu of or in addition to suspension of a
15 license. The amount of the fine for a major violation shall be
16 computed by multiplying the proposed number of days of the
17 suspension period by One Hundred Dollars (\$100.00). The amount of
18 the fine for a minor violation shall be computed by multiplying the
19 number of days of the proposed suspension period by Fifty Dollars
20 (\$50.00).

21 H. The failure of any licensee to pay a fine or serve a
22 suspension imposed by the ABLE Commission or the Tax Commission
23 shall result in the revocation of the license of the licensee.

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1 I. If the ABLE Commission or the Tax Commission finds that
2 public health, safety or welfare require emergency action, and
3 incorporates a finding to that effect in its order, summary
4 suspension of a license may be ordered pending proceeding for
5 revocation or other action, pursuant to the provisions of Section
6 314 of Title 75 of the Oklahoma Statutes.

7 SECTION 2. This act shall become effective November 1, 2023.
8 Passed the Senate the 8th day of March, 2023.

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10 _____
11 Presiding Officer of the Senate

12 Passed the House of Representatives the ____ day of _____,
13 2023.

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16 Presiding Officer of the House
17 of Representatives