

STATE OF OKLAHOMA

1st Session of the 60th Legislature (2025)

SENATE BILL 1044

By: Coleman

AS INTRODUCED

An Act relating to alcoholic beverages; amending 37A O.S. 2021, Sections 2-107, 3-119, 6-103 as last amended by Section 1, Chapter 200, O.S.L. 2023, and 6-108 (37A O.S. Supp. 2024, Section 6-103), which relate to wine and spirit wholesale license, limitations on rights and interests, and prohibited acts; requiring certain payment methods; requiring payments from certain licensees to certain wholesalers or distributors to be made by electronic funds transfer (EFT); establishing requirements for EFT payments; providing certain exceptions; imposing certain penalty; conforming language; updating statutory language; and providing an effective date.

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

SECTION 1. AMENDATORY 37A O.S. 2021, Section 2-107, is amended to read as follows:

Section 2-107. A. A wine and spirits wholesaler license shall authorize the holder thereof:

1. To purchase and import into this state spirits and wines from persons authorized to sell same who are the holders of a manufacturer or nonresident seller license, and their agents who are the holders of manufacturer's agent licenses;

1 2. To purchase spirits and wines from licensed distillers,
2 rectifiers and winemakers in this state;

3 3. To purchase spirits and wines from licensed wholesalers, to
4 the extent set forth in subsections B and C of this section;

5 4. To sell in retail containers in this state to retailers,
6 mixed beverage, caterer, special event, public event, hotel beverage
7 or airline/railroad beverage licensees, spirits and wines which have
8 been received and unloaded at the bonded warehouse facilities of the
9 wholesaler before such sale;

10 5. To sell to licensed wholesalers, to the extent set forth in
11 subsections B and C of this section, spirits and wines which have
12 been received and unloaded at the bonded warehouse facilities of the
13 wholesaler before such sale;

14 6. To sell spirits and wines out of this state to qualified
15 persons; and

16 7. To sell to licensed distillers spirits that were
17 manufactured by that distiller and which have been received and
18 unloaded at a bonded warehouse facility of a wholesaler before such
19 sale.

20 Provided, however, sales of spirits and wine in containers with
21 a capacity of less than one-twentieth (1/20) gallon by a holder of a
22 wholesaler license shall be in full case lots and in the original
23 unbroken case. Wholesalers shall be authorized to place such signs
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1 outside their place of business as are required by Acts of Congress
2 and by such laws and regulations promulgated under such Acts.

3 B. A wholesaler may sell spirits and wine to other wholesalers
4 or purchase spirits and wines from other wholesalers without
5 complying with subsection A of this section in the case of the sale,
6 purchase or other transfer or acquisition of the entire business of
7 a wholesaler including the inventory of spirits and wine.

8 C. A wholesaler license shall authorize the holder thereof to:

9 ~~1. Maintain~~ maintain not more than three ~~(3)~~ self-owned or
10 leased and self-operated bonded warehouses within this state. All
11 invoices shall be stored at the principal place of business for
12 which the wholesaler license was granted; ~~and~~

13 ~~2. Accept as payment cash, personal check, cashier's check,~~
14 ~~money order or electronic fund transfer from persons licensed to~~
15 ~~purchase alcoholic beverages; provided, a wholesaler shall not be~~
16 ~~permitted to accept payment by credit card.~~

17 SECTION 2. AMENDATORY 37A O.S. 2021, Section 3-119, is
18 amended to read as follows:

19 Section 3-119. A. It shall be unlawful for any manufacturer,
20 brewer, wine and spirits wholesaler, beer distributor or person
21 authorized to sell alcoholic beverages to a wholesaler, or any
22 employee, officer, director, stockholder owning fifteen percent
23 (15%) or more of the stock, any type of partner, manager, member or
24 agent thereof, to directly or indirectly:

1 1. Have any financial interest in any premises upon which any
2 alcoholic beverage is sold at retail or in any business connected
3 with the retailing of alcoholic beverages; provided, nothing in this
4 act shall prohibit the operation of a mixed beverage licensee, beer
5 and wine licensee or caterer licensee by an entity which has common
6 owners with the holder of a small brewer license or a brewpub
7 license;

8 2. Lend any money or other thing of value, or to make any gift
9 or offer any gratuity, to any package store, retail wine, retail
10 beer, mixed beverage, beer and wine, public event or bottle club
11 licensee or caterer;

12 3. Guarantee any loan or the repayment of any financial
13 obligation of any retailer, mixed beverage, beer and wine, public
14 event or bottle club licensee or caterer;

15 4. Require any wine and spirits wholesaler, beer distributor,
16 retailer, mixed beverage, on-premises beer and wine licensee, public
17 event or caterer to purchase and dispose of any quota of alcoholic
18 beverages, or to require any retailer to purchase any kind, type,
19 size, container or brand of alcoholic beverages in order to obtain
20 any other kind, type, size, container or brand of alcoholic
21 beverages;

22 5. Sell to any retailer, mixed beverage, on-premises beer and
23 wine licensee, public event or caterer any alcoholic beverage on
24 consignment, or upon condition, or with the privilege of return, or

1 on any condition other than a bona fide sale; provided, the
2 following shall not be considered a violation of this paragraph:

- 3 a. delivery in good faith, through mistake, inadvertence
4 or oversight, of an alcoholic beverage that was not
5 ordered by a retailer, mixed beverage licensee, on-
6 premises beer and wine licensee, caterer, public event
7 or special event licensee to such licensee,
- 8 b. replacement of product breakage that occurred while
9 the alcoholic beverages were in transit from the
10 wholesaler to the licensee, or
- 11 c. replacement of cork-tainted wine that makes the
12 product unsaleable as long as the licensee notifies
13 the wine and spirits wholesaler of the defect in
14 writing within ninety (90) days after delivery of the
15 product; or

16 6. Extend credit to any retailer, other than holders of Federal
17 Liquor Stamps on United States government reservations and
18 installations, mixed beverage, public event or on-premises beer and
19 wine licensee or caterer, other than a state lodge located in a
20 county which has approved the retail sale of alcoholic beverages by
21 the individual drink for on-premises consumption. The acceptance of
22 a postdated check or draft or the failure to deposit for collection
23 a current check or draft by the second banking day after receipt
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1 shall be deemed an extension of credit. Violation of this section
2 shall be grounds for suspension of the license.

3 B. All payments by a retail beer, retail wine, or retail
4 spirits licensee to a beer distributor or a wine and spirits
5 wholesaler licensee for the purchase of beer, wine, or spirits shall
6 be made by electronic funds transfer (EFT) payment. All EFT
7 payments shall comply with the following provisions:

8 1. The beer distributor or wine and spirits wholesaler licensee
9 shall initiate the EFT payment transmittal by initiating the
10 withdrawal of the funds from the retailer's account;

11 2. The EFT payment transmittal to the banking institution shall
12 occur no later than the next banking business day from the date of
13 the delivery of the beer, wine, or spirits order to the retailer
14 licensee; and

15 3. A single EFT payment may be made to a wholesaler licensee
16 making deliveries to multiple locations of a chain retailer on the
17 same business day. The retailer and wholesaler shall maintain a
18 store-by-store detailed record to ensure that individual delivery
19 invoices may be traced to the EFT payment.

20 C. A wholesaler licensee may only accept cash, check, or money
21 order in the following instances:

22 1. When accepting payment for a non-sufficient funds EFT
23 payment;

1 2. During temporary service interruptions of the third-party
2 payment processing company; or

3 3. For thirty (30) days following the issuance of a license to
4 a retailer.

5 D. To maintain control of its ability to receive payment, the
6 wholesaler licensee shall be solely responsible for selecting a
7 third-party payment processing company to facilitate the EFT
8 payments. A wholesaler licensee shall not select a third-party
9 payment processing company that requires more than thirty (30) days'
10 notice from the wholesaler licensee to terminate its agreement with
11 the third-party payment processing company.

12 E. A retail licensee making a non-sufficient funds EFT payment
13 to a wholesaler is subject to penalty pursuant to this section.

14 SECTION 3. AMENDATORY 37A O.S. 2021, Section 6-103, as
15 last amended by Section 1, Chapter 200, O.S.L. 2023 (37A O.S. Supp.
16 2024, Section 6-103), is amended to read as follows:

17 Section 6-103. A. No retail spirits licensee shall:

18 1. Purchase or receive any alcoholic beverage other than from a
19 wine and spirits wholesaler, beer distributor, winery or small
20 brewer self-distribution licensee who elects to self-distribute;

21 2. Suffer or permit any retail container to be opened, or any
22 alcoholic beverage to be consumed on the licensed premises, except
23 when serving samples as authorized by Section 2-109 of this title or
24 otherwise permitted by law; provided, the licensee shall not permit

1 any alcoholic beverage content or retail container unsealed in
2 connection with sampling authorized by Section 2-109 of this title
3 to remain on the licensed premises at the close of business on that
4 day, excluding spirits;

5 3. Sell any alcoholic beverages at any hour other than between
6 the hours of 8:00 a.m. and midnight Monday through Saturday, and
7 shall not be permitted to be open on Thanksgiving Day or Christmas
8 Day; provided, a county may, pursuant to the provisions of
9 subsections B and C of Section 3-124 of this title, elect to allow
10 such sales between the hours of noon and midnight on Sunday. Retail
11 spirits licensees shall be permitted to sell alcoholic beverages on
12 the day of any General, Primary, Runoff Primary or Special Election
13 whether on a national, state, county or city election, provided that
14 the election day does not occur on any day on which such sales are
15 otherwise prohibited by law;

16 4. Sell spirits in a city or town, unless such city or town has
17 a population in excess of two hundred (200) according to the latest
18 Federal Decennial Census;

19 5. Sell any alcoholic beverage on credit; provided, that
20 acceptance by a licensee of a cash or debit card or a nationally
21 recognized credit card in lieu of actual cash payment does not
22 constitute the extension of credit; provided, further, as used in
23 this section:

1 a. "cash or debit card" means any instrument or device
2 whether known as a debit card or by any other name,
3 issued with or without fee by an issuer for the use of
4 the cardholder in depositing, obtaining or
5 transferring funds from a consumer banking electronic
6 facility, and

7 b. "nationally recognized credit card" means any
8 instrument or device, whether known as a credit card,
9 credit plate, charge plate or by any other name,
10 issued with or without fee by an issuer for the use of
11 the cardholder in obtaining money, goods, services or
12 anything else of value on credit which is accepted by
13 over one hundred retail locations; or

14 6. Offer or furnish any prize, premium, gift or similar
15 inducement to a consumer in connection with the sale of alcoholic
16 beverages, except that goods or merchandise included by the
17 manufacturer in packaging with alcoholic beverages or for packaging
18 with alcoholic beverages shall not be included in this prohibition,
19 but no wholesaler or retailer shall sell any alcoholic beverage
20 prepackaged with other goods or merchandise at a price which is
21 greater than the price at which the alcoholic beverage alone is
22 sold; provided, it shall not be considered inducement or a premium
23 for a retail spirits licensee to have an advertised price posted
24 higher online than the shelf price on the licensed premises; ~~or~~

1 ~~7. Pay for alcoholic beverages by a check or draft which is~~
2 ~~dishonored by the drawee when presented to such drawee for payment;~~
3 ~~and the ABLE Commission may cancel or suspend the license of any~~
4 ~~retailer who has given a check or draft, as maker or endorser, which~~
5 ~~is so dishonored upon presentation.~~

6 B. No retail spirits licensee shall permit any person under
7 twenty-one (21) years of age to enter into or remain within or about
8 the licensed premises unless accompanied by the person's parent or
9 legal guardian; provided, however, this restriction shall not apply
10 to an employee of a licensed beer distributor or wine and spirits
11 wholesaler who:

12 1. Is at least eighteen (18) years of age;

13 2. Is accompanied by a coworker at least twenty-one (21) years
14 of age; and

15 3. Enters for the sole purpose of merchandising or delivering
16 product to the licensee in the normal course of business.

17 SECTION 4. AMENDATORY 37A O.S. 2021, Section 6-108, is
18 amended to read as follows:

19 Section 6-108. No holder of a Retail Wine License or a Retail
20 Beer License shall:

21 1. Purchase or receive any alcoholic beverage other than from a
22 wine and spirits wholesaler, beer distributor, winery or small
23 brewer self-distribution licensee;

1 2. Suffer or permit any retail container to be opened, or any
2 alcoholic beverage to be consumed on the licensed premises, except
3 when serving samples as authorized by Section 2-109 of this title or
4 as otherwise permitted by law; provided, the licensee shall not
5 permit any alcoholic beverages content or retail container unsealed
6 in connection with sampling authorized by Section 2-109 of this
7 title to remain on the licensed premises at the close of the
8 business on that day;

9 3. Sell any beer or wine at any hour other than between the
10 hours of 6:00 a.m. and 2:00 a.m. the following day, Monday through
11 Sunday. Retail wine and retail beer licensees shall be permitted to
12 sell beer and wine on the day of any General, Primary, Runoff
13 Primary or Special Election whether on a national, state, county or
14 city election;

15 4. Sell any beer and wine on credit; except as follows:

16 a. the acceptance by a grocery store, convenience store
17 or drug store of a cash or debit card, or a nationally
18 recognized credit card, in lieu of actual cash payment
19 does not constitute the extension of credit; provided,
20 further, as used in this section:

21 (1) "cash or debit card" means any instrument or
22 device whether known as a debit card or by any
23 other name, issued with or without fee by an
24 issuer for the use of the cardholder in

1 depositing, obtaining or transferring funds from
2 a consumer banking electronic facility, and

3 (2) "nationally recognized credit card" means any
4 instrument or device, whether known as a credit
5 card, credit plate, charge plate or by any other
6 name, issued with or without fee by an issuer for
7 the use of the cardholder in obtaining money,
8 goods, services or anything else of value on
9 credit which is accepted by over one hundred
10 retail locations, and

11 b. when the holder of a Retail Wine License, Retail Beer
12 License or Mixed Beverage License is a private
13 membership club, marina, golf course or country club
14 that normally charges food, drinks and other purchases
15 to the member's monthly dues account in the regular
16 course of business, in lieu of actual cash payment at
17 the time of purchase, such practice does not
18 constitute the extension of credit; or

19 5. Offer or furnish any prize, premium, gift or similar
20 inducement to a consumer in connection with the sale of beer or
21 wine, except that goods or merchandise included by the manufacturer
22 in packaging with beer or wine or for packaging with beer or wine
23 shall not be included in this prohibition, nor shall a retail wine
24 or retail beer license holder selling wine or beer at a multiunit

1 discount be included in this prohibition; but no retail wine or
2 retail beer licensee shall sell any beer or wine prepackaged with
3 other goods or merchandise at a price which is greater than the
4 price at which the alcoholic beverage alone is sold; ~~or~~

5 ~~6. Pay for beer or wine by a check or draft which is dishonored~~
6 ~~by the drawee when presented to such drawee for payment; and the~~
7 ~~ABLE Commission may cancel or suspend the license of any retailer~~
8 ~~who has given a check or draft, as maker or endorser, which is so~~
9 ~~dishonored upon presentation.~~

10 SECTION 5. This act shall become effective November 1, 2025.

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