



Oklahoma Alcohol Laws – Effective October 1, 2018

Q: Is it still lawful to purchase/sell 3.2% ABW beer in Oklahoma after September 30th?

A: SQ792 did not abolish low-point beer, it simply repealed the constitutional provision that distinguished low-point beer from beer that contains more than 3.2% ABW. Effective October 1, 2018, all beer will fall under the jurisdiction of the ABLE Commission. Okla. Const. Art. 28A, §1, 37A O.S. §1-102(B), 37A O.S. §1-103(5).

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Q: Beginning October 1, 2018, are on-premises licensees required to collect the 13.5% gross receipts tax on all beer, even if it that beer does not exceed 3.2% ABW?

A: Effective October 1, 2018, all beer is considered taxable as a mixed beverage regardless of its ABW. Unless the Oklahoma Tax Commission determines otherwise, all beer sold after September 30th are considered mixed beverages for purposes of gross receipts tax collection. 37A O.S. §5-105(B)(1).

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Q: What are the hours of sale for on-premises consumption?

A: On-premises licensees may sell alcoholic beverages from 8 a.m. to 2 a.m., Monday through Saturday. Counties still determine whether on-premises licensees may sell alcoholic beverages on Sunday and what hours those sales may occur. Okla. Const. Art. 28A, §3(C) and §6, 37A O.S. §3-124, 37A O.S. §3-125(B)(1).

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Q: What are the hours of sale for (Breweries), (Liquor Stores), (Grocery/Convenience Stores)?

A: Small brewers may sell beer and wine from 10 a.m. to 2 a.m., Monday through Saturday, Package stores may sell beer, wine, and spirits, from 8 a.m. to Midnight, Monday through Saturday, and Grocery and Convenience Stores may sell beer and wine from 6 a.m. to 2 a.m., Sunday through Saturday. Small brewers and Package stores may sell on Sunday if approved by the county in which the licensed premises are located. 37A O.S. §2-102(D), 37A O.S. §3-113(C), 37A O.S. §6-103(A)(3).

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Q: Do all counties in Oklahoma allow for Sunday sales of alcoholic beverages?

A: On-premises Sunday sales may still be prohibited or restricted by voters on a county-by-county basis. Based on ABLE Commission data, 13 counties have restricted on-premises Sunday sales (Adair, Canadian, Carter, Custer, Grady, Mayes, Muskogee, Noble, Nowata, Ottawa, Stephens, Washington, Woods), while five counties prohibit on-premises Sunday sales altogether (Atoka, Haskell, Kingfisher, Seminole, Washita). Okla. Const. Art. 28A, §6, 37A O.S. §3-124, 37A O.S. §3-125(B)(1).

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Q: Are movie theaters allowed to sell alcoholic beverages?

A: Yes, movie theaters are permitted to obtain a mixed beverage license, provided that if persons under 21 are permitted to enter the same movie theater, then those patrons wishing to consume alcoholic beverages must have their hand stamped or wear a special bracelet identifying them as persons 21 or over. 37A O.S. §2-110(2).

<http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=479543>

Q: How old does someone need to be before applying for a liquor server license?

A: The legal age to obtain an ABLE Employee license remains 18 years of age. However, you must still be 21 or older to pour alcoholic beverages in a Type II Establishment, work in a Type I Establishment, or a Package Store. ABLE classifies those Mixed Beverage licensees whose primary purpose is the sale of alcoholic beverages to be a Type I Establishment, whereas all other Mixed Beverage licensees (those whose primary purpose is something other than the sale of alcoholic beverages) are considered by ABLE as Type II Establishments. 37A O.S. §2-121.

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Q: What is the percentage of alcohol sales before being classified as a bar (21 to enter)?

A: A mixed beverage licensee must have a full kitchen on its premises, sell food items from full menu, and maintain gross sales on food of at least 35% per month in order to be designated as a Type-II establishment. 37A O.S. §6-114.

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Q: Can I apply for a liquor license if I have been convicted of a felony?

A: If otherwise qualified, a convicted felon may obtain an ABLE Employee license as long as the conviction occurred over five years ago and was not violent or ABLE-related offense. A violent crime includes (but is not limited to) murder, rape, assault, battery, robbery, burglary, pointing a firearm, arson, inciting a riot, possessing child pornography, lewd or indecent proposal of a child, extortion, or terrorism or terrorism hoax. 37A O.S. §2-148(D)(2), 57 O.S. §571(2).

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Q: If my establishment was licensed as a "Low-point Beer Bar" what are my options now that 3.2 beer goes away and it is only strong beer?

A: Low-point beer bars will not exist effective October 1, 2018. These low-point beer bars may apply for an ABLE mixed beverage license or an on-premises beer and wine license. If the sale of alcoholic beverages is the applicant's main purpose, then persons under 21 will not be permitted to enter the license premises. If the low-point beer bar is located within 300 feet of a church or school, then it may apply for a mixed beverage license under a "grandfather provision" adopted by the Legislature in 2018, provided the licensed establishment does not cease operation or change ownership. 37A O.S. §2-110, 37A O.S. §2-128, 37A O.S. §2-139(C)(2), 37A O.S. §6-114.

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Q: Can I advertise "Happy Hour" on mixed beverages, beer, and wine?

A: On-premises licensees may offer happy hour specials, using all lawful means of advertising, on alcoholic beverages on certain hours and/or days of the week, provided those happy hour prices must remain at least six percent (6%) above the licensee's cost for that drink. 37A O.S. §6-102(4)(b).

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Q: Who has to have an ABLE Employee license?

A: Any person who participates in the service, mixing, or sale of alcoholic beverages must obtain an ABLE Employee license. A manager of an on-premises licensee must also obtain an ABLE Employee license, whether or not the manager participates in the serving, mixing or sale of an alcoholic beverage. 37A O.S. §2-121.

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Q: How old do I have to be to get an ABLE Employee license?

A: A person must be at least 18 years of age to obtain an ABLE Employee license, but ABLE Employee licensees are prohibited from selling or serving alcoholic beverages in package stores, Type I mixed beverage establishments, or designated bar areas of Type II mixed beverage establishments until they are at least 21 years of age. 37A O.S. §2-121, 37A O.S. §6-102(2)(a).

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Q: Do I have to have any training to be eligible for an ABLE Employee license?

A: All applicants for an ABLE Employee license obtained after September 30, 2018, must complete server training within 14 days after receiving an ABLE Employee license. 37A O.S. §2-121.

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Q: The new law requires mandatory server/seller training prior to an initial license from ABLE. I already have my license. Will I have to take the training when I renew my license?

A: Based on the ABLE Commission's current interpretation, mandatory server training only applies to new ABLE Employee licensees, not current ABLE Employee licensees or those renewing their licenses. If an ABLE Employee license expires, however, that person would be required to complete mandatory server training. 37A O.S. §2-121.

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Q: Can I infuse alcohol at my bar/restaurant?

A: On-premises licensees may infuse alcoholic beverages provided the infused beverage is not aged more than 14 days, not sold more than 21 days after the aging process is complete, and not stored in a container larger than 5 gallons. The on-premises licensee must mix and store the infused beverage on the licensed premise, affix a label to the container setting forth the production date, destruction date, and base product used, and maintain for ABLE inspection reports on when the containers were cleaned. 37A O.S. §5-133(B).

<http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=480278>

Q: Now that 3.2 beer is going away and it's just "strong beer" being sold, what new rules will ABLE enforce for the outdoor festivals I conduct or participate in?

A: The sale, service, and consumption of all alcoholic beverages will fall under ABLE and local enforcement jurisdiction beginning October 1, 2018. A person or entity wishing to sell or serve alcoholic beverages at a festival must obtain the appropriate license(s) and permit(s) from ABLE and local government, such as a public event license, or contract with a caterer or caterer-mixed beverage licensee to sell or serve those alcoholic beverages. 37A O.S. §2-114.

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