

1 STATE OF OKLAHOMA

2 1st Session of the 60th Legislature (2025)

3 COMMITTEE SUBSTITUTE  
FOR  
4 HOUSE BILL NO. 2803

By: Marti

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7 COMMITTEE SUBSTITUTE

8 An Act relating to alcoholic beverages; amending 37A  
9 O.S. 2021, Section 3-111, as amended by Section 7,  
Chapter 338, O.S.L. 2023 (37A O.S. Supp. 2024,  
10 Section 3-111), which relates to termination of  
distribution agreements; requiring certain things to  
occur before a brewer terminates a distributor;  
11 modifying timing requirements; updating actions that  
may allow a brewer to immediately terminate a  
12 distributor agreement; requiring a new distributor to  
purchase any remaining inventory for laid in cost of  
13 an old distributor in certain instances; requiring  
arbitrators to have certain qualifications; providing  
14 for when an appeal of a decision of an arbitrator may  
be made; requiring small brewers to purchase any  
15 remaining inventory for laid in cost when terminating  
a distribution agreement in certain circumstances;  
providing that a penalty for wrongful termination and  
16 a distribution agreement may include the purchase of  
any remaining inventory for laid in cost; and  
providing an effective date.

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

21 SECTION 1. AMENDATORY 37A O.S. 2021, Section 3-111, as  
22 amended by Section 7, Chapter 338, O.S.L. 2023 (37A O.S. Supp. 2024,  
23 Section 3-111), is amended to read as follows:

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1           Section 3-111. A. Except as provided in subsection G of this  
2 section, a small brewer is not subject to the termination provisions  
3 of this section.

4           B. 1. Except as provided in subsection C of this section, no  
5 brewer shall terminate a distributor agreement with any beer  
6 distributor without establishing good cause for such termination and  
7 unless all of the following occur:

8               a. the beer distributor receives written notification by  
9 certified mail, return receipt requested, from the  
10 brewer ~~eff~~ stating with specificity the alleged  
11 noncompliance with material and reasonable provisions  
12 of the agreement and is afforded no less than ~~sixty~~  
13 ~~(60) days~~ ninety (90) days in which to cure such  
14 noncompliance. If not capable of being cured within  
15 the ~~sixty-day period~~ ninety-day period, the beer  
16 distributor shall begin the cure within the ~~sixty-day~~  
17 ~~period~~ ninety-day period and diligently pursue the  
18 cure as promptly as feasible,

19               b. the beer distributor fails to cure such noncompliance  
20 within the allotted cure period, and

21               c. the brewer provides written notice by certified mail,  
22 return receipt requested, to the beer distributor of  
23 such continued noncompliance. The notification shall  
24 contain a statement of the intention of the brewer to

1                   terminate the distributor agreement, the reasons for  
2                   the termination and the date the termination shall  
3                   take effect.

4       2. If a beer distributor cures an alleged noncompliance within  
5       the cure period provided in subparagraph a of paragraph 1 of this  
6       subsection, any notice of termination from a brewer to a beer  
7       distributor shall be null and void.

8               C. A brewer may immediately terminate a distributor agreement,  
9       effective upon furnishing written notification to the beer  
10      distributor by certified mail, return receipt requested, for any of  
11      the following reasons:

12       1. The beer distributor's failure to pay any account when due  
13      and upon written demand by the brewer for such payment, in  
14      accordance with agreed payment terms;

15       2. The assignment or attempted assignment by the beer  
16      distributor for the benefit of creditors, the institution of  
17      proceedings in bankruptcy by or against the beer distributor, the  
18      dissolution or liquidation of the beer distributor or the insolvency  
19      of the beer distributor;

20       3. The revocation or suspension of, or the failure to renew for  
21      a period of more than fourteen (14) days, a beer distributor's  
22      state, local or federal license or permit to sell beer in this  
23      state;

1       4. The beer distributor has been convicted of a felony that, in  
2 the brewer's sole judgment, adversely affects the goodwill of the  
3 beer distributor or brewer; provided, however, an existing  
4 stockholder or stockholders, partner or partners, or member or  
5 members shall have the right to purchase the stock, partnership  
6 interest, or membership interest of the offending stockholder,  
7 partner, or member prior to the conviction of the offending  
8 stockholder, partner, or member, subject to brewer's approval, which  
9 shall not be unreasonably withheld, and if the sale is completed  
10 prior to conviction, the provisions of this paragraph shall not  
11 apply;

12       5. A beer distributor has been convicted of, found guilty of or  
13 pled guilty or nolo contendere to, a charge of violating a law or  
14 regulation of the United States or of this state if it materially  
15 and adversely affects the ability of the beer distributor or brewer  
16 to continue to sell its beer in this state;

17       6. Any attempted transfer or change in beneficial ownership of  
18 ten percent (10%) or more of the beer distributor, stock of the beer  
19 distributor or stock of any parent corporation of the beer  
20 distributor, or any change in the ownership or control of any entity  
21 having control of the beer distributor, without obtaining the prior  
22 written approval of the brewer, which may not be unreasonably  
23 withheld and must be based on reasonable and material objective  
24 requirements imposed on all other distributors, except as may

1 otherwise be permitted pursuant to a written agreement between the  
2 parties;

3       7. Fraudulent conduct, by or on the part of the beer  
4 distributor or any owner of the beer distributor, or by any employee  
5 as to which the beer distributor or any of its owners or its senior  
6 management knew or reasonably should have known, in the beer  
7 distributor's dealings with the brewer of beer, including the  
8 intentional sale of beer outside the brewer's established quality  
9 standards, provided however, in the case of fraudulent conduct by a  
10 beer distributor employee other than the owner or senior management  
11 and only in the event the beer distributor was unaware or should not  
12 have been aware of such fraudulent conduct, the beer distributor  
13 shall be allowed ~~sixty-day~~ ninety-day cure period following written  
14 notice of such conduct from the brewer, and shall only be terminated  
15 for failing to cure the same within ~~sixty (60)~~ ninety (90) days  
16 thereof;

17       8. Cessation of the beer distributor to conduct business for  
18 five (5) consecutive business days, unless conducting the business  
19 is prevented or rendered impractical due to events beyond the  
20 distributor's reasonable control as a result of an act of God, an  
21 insured casualty, war or a condition of national, state or local  
22 emergency; or

1       9. Any intentional sale of beer, directly or indirectly, to  
2 customers located outside the territory assigned to the beer  
3 distributor by the brewer unless expressly authorized by the brewer.

4       D. Any beer distributor terminated by a brewer under subsection  
5 B of this section shall have the opportunity to sell the brewer's  
6 brand rights for one hundred twenty (120) days after termination in  
7 accordance with the distributor agreement. If no such sale occurs,  
8 the brewer's newly appointed distributor shall pay the beer  
9 distributor the fair market value of the distribution rights, which  
10 will be lost or diminished by reason of termination, and purchase  
11 any remaining non-expired inventory for laid in cost. If the  
12 parties cannot agree on the fair market value, the parties shall  
13 follow the same procedures as set forth in paragraphs 2 through 6 of  
14 subsection G of this section.

15       E. The brewer shall have the right to terminate an agreement  
16 with a beer distributor at any time by giving the beer distributor  
17 at least ninety-days' written notice by certified mail, return  
18 receipt requested; provided, the brewer shall give a similar notice  
19 to all beer distributors in all other states with which the brewer  
20 has a distributor agreement.

21       F. 1. If a particular brand of beer is transferred by purchase  
22 or otherwise from a brewer to a successor brewer, the successor  
23 brewer shall become obligated to all of the terms and conditions of  
24 the agreement in effect on the date of succession. This subsection

1 applies regardless of the character or form of the succession. A  
2 successor brewer has the right to contractually require its beer  
3 distributor to comply with operational standards of performance, if  
4 the standards are uniformly established for all of the successor  
5 brewer's distributors. Provided, however, where the successor  
6 brewer holds a brewer's license in the state as of January 1, 2023,  
7 and has an existing distribution agreement with a beer distributor,  
8 the successor brewer may terminate the distribution agreement, in  
9 whole or in part, in order to transfer the brand rights to the  
10 successor brewer's beer distributor with at least ~~sixty~~ (60) ninety  
11 (90) days' written notice to the terminated distributor and with  
12 termination effective upon payment to the terminated beer  
13 distributor the fair market value of the terminated beer  
14 distributor's business with respect to the terminated brand or  
15 brands.

16       2. A successor brewer may, upon written notice, terminate its  
17 agreement, in whole or in part, with a beer distributor of the  
18 brewer it succeeded, for the purpose of transferring the  
19 distribution rights in the beer distributor's territory to a new  
20 beer distributor, provided that the successor beer distributor first  
21 pays to the existing beer distributor the fair market value of the  
22 existing distributor's business with respect to the terminated brand  
23 or brands;

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1       3. If the successor brewer decides to terminate its agreement  
2 with the existing beer distributor for purposes of transfer, the  
3 successor brewer shall notify the existing beer distributor in  
4 writing of the successor brewer's intent not to appoint the existing  
5 beer distributor for all or part of the existing beer distributor's  
6 territory. The successor brewer shall mail the notice of  
7 termination by certified mail, return receipt requested, to the  
8 existing beer distributor. The successor brewer shall include in  
9 the notice the names, addresses and telephone numbers of the  
10 successor beer distributor or distributors;

11       4. a. the successor beer distributor shall negotiate with  
12                   the existing beer distributor to determine the fair  
13                   market value of the existing beer distributor's right  
14                   to distribute in the existing beer distributor's  
15                   territory. The successor beer distributor and the  
16                   existing beer distributor shall negotiate the fair  
17                   market value in good faith, and

18       b. the existing beer distributor shall continue to  
19                   distribute in good faith until payment of the  
20                   compensation agreed to under subparagraph a of this  
21                   paragraph, or awarded under paragraph 4 of this  
22                   subsection, is received; and

23       5. a. if the successor beer distributor and the existing  
24                   beer distributor fail to reach a written agreement on

1                   the fair market value within thirty (30) days after  
2                   the existing beer distributor receives the notice  
3                   required pursuant to paragraph 2 of this subsection,  
4                   the successor beer distributor or the existing beer  
5                   distributor shall send a written notice to the other  
6                   party requesting arbitration pursuant to the Uniform  
7                   Arbitration Act, Part 2 of Article 22 of Title 13,  
8                   C.R.S. Arbitration shall be held for the purpose of  
9                   determining the fair market value of the existing beer  
10                  distributor's right to distribute in the existing beer  
11                  distributor territory,

- 12                 b. notice of intent to arbitrate shall be sent, as  
13                 provided in subparagraph a of this paragraph, not  
14                 later than forty (40) days after the existing beer  
15                 distributor receives the notice required pursuant to  
16                 paragraph 2 of this subsection. The arbitration  
17                 proceeding shall conclude not later than sixty (60)  
18                 days after the date the notice of intent to arbitrate  
19                 is mailed to a party, unless this time is extended by  
20                 mutual agreement of the parties and the arbitrator,  
21                 c. any arbitration held pursuant to this subsection shall  
22                 be conducted in a city within this state that:  
23                         (1) is closest to the existing beer distributor, and

(2) has a population of more than twenty thousand  
(20,000) people according to the latest Federal  
Decennial Census,

- d. any arbitration held pursuant to this paragraph shall be conducted before one impartial arbitrator to be selected by the American Arbitration Association (AAA) or its successor. The arbitration shall be conducted in accordance with the rules and procedures of the Uniform Arbitration Act, Part 2 of Article 22 of Title 13, C.R.S. The AAA arbitrator must have no less than fifteen (15) years of experience in franchise law and is required to use the laws of the state where the distributor is located and cannot use other state laws in their reviews,

e. an arbitrator's award in any arbitration held pursuant to this paragraph shall be monetary only and shall not enjoin or compel conduct. Any arbitration held pursuant to this paragraph shall be in lieu of all other remedies and procedures,

f. the cost of the arbitrator and any other direct costs of an arbitration held pursuant to this paragraph shall be equally divided by the parties engaged in the arbitration. All other costs shall be paid by the party incurring them,

1                   g. the arbitrator in any arbitration held pursuant to  
2                   this paragraph shall render a written decision not  
3                   later than thirty (30) days after the conclusion of  
4                   the arbitration, unless this time is extended by  
5                   mutual agreement of the parties and the arbitrator.

6                   The decision of the arbitrator is final and binding on  
7                   the parties, but questions of error of law may be  
8                   appealed by either party to a state or federal court  
9                   in the state where the distributor is located. The  
10                  arbitrator's award may be enforced by commencing a  
11                  civil action in any court of competent jurisdiction.  
12                  Under no circumstances may the parties appeal the  
13                  decision of the arbitrator,

14                  h. an existing beer distributor or successor beer  
15                  distributor who fails to participate in the  
16                  arbitration hearings in any arbitration held pursuant  
17                  to this paragraph waives all rights the existing beer  
18                  distributor or successor beer distributor would have  
19                  had in the arbitration and is considered to have  
20                  consented to the determination of the arbitrator, and

21                  i. if the existing beer distributor does not receive  
22                  payment from the successor beer distributor of the  
23                  settlement or arbitration award required under  
24                  paragraph 2 or 3 of this subsection within thirty (30)

1           days after the date of the settlement or arbitration  
2           award:

3           (1) the existing beer distributor shall remain the  
4           beer distributor in the existing beer  
5           distributor's territory to at least the same  
6           extent that the existing beer distributor  
7           distributed the beer immediately before the  
8           successor brewer acquired rights to the brand,  
9           and

10          (2) the existing beer distributor is not entitled to  
11           the settlement or arbitration award.

12         G. 1. In addition to termination rights that may be set forth  
13         in a distributor agreement, a small brewer may terminate a  
14         distributor agreement with any beer distributor; provided, that  
15         prior to the effective date of the termination, the small brewer  
16         pays the beer distributor the fair market value of the distribution  
17         rights which will be lost or diminished by reason of the termination  
18         and purchase any remaining non-expired inventory for laid in cost.

19         2. If such small brewer and beer distributor cannot mutually  
20         agree to the fair market value of the applicable distribution rights  
21         lost or diminished by reason of the termination, then the brewer  
22         shall pay the beer distributor a good faith estimate of the fair  
23         market value of the applicable distribution rights.

1       3. If the beer distributor being terminated under paragraph 2  
2 of this subsection disputes that the payment made by the small  
3 brewer was less than the fair market value of the distribution  
4 rights, then the beer distributor may within forty-five (45) days of  
5 termination submit the question of fair market value of the  
6 applicable distribution rights lost or diminished by reason of the  
7 termination to binding arbitration before a panel of three neutral  
8 arbitrators appointed in accordance with the commercial arbitration  
9 rules of the American Arbitration Association, which panel shall  
10 determine by majority decision whether the small brewer's payment  
11 meets the requirements of paragraph 2 of this subsection.

12      4. If the arbitration panel rules that the payment made by the  
13 small brewer to the beer distributor upon termination was less than  
14 the fair market value of distribution rights lost or diminished by  
15 reason of the termination, then the small brewer must pay the beer  
16 distributor the difference between the payment made to the beer  
17 distributor and the determined fair market value plus interest.

18      5. If the arbitration panel rules that the payment made by the  
19 small brewer to the beer distributor upon termination was more than  
20 the fair market value of distribution rights lost or diminished by  
21 reason of the termination, then the beer distributor must pay the  
22 small brewer the difference between the payment made to the beer  
23 distributor and the determined fair market value, plus interest.

1       6. All arbitration fees and expenses shall be equally divided  
2 among the parties to the arbitration, except if the arbitration  
3 panel determines that the small brewer's payment upon termination  
4 was not a good-faith estimate of the fair market value, then the  
5 panel may award up to one hundred percent (100%) of the arbitration  
6 costs to the prevailing party.

7       H. 1. Any beer distributor or brewer who is aggrieved by a  
8 violation of any provision of this section shall be entitled to the  
9 recovery of damages caused by the violation. If a beer distributor  
10 is not terminated in accordance with the provisions of this section,  
11 damages may additionally include the fair market value of the  
12 distribution rights and purchase any remaining non-expired inventory  
13 for laid in cost. Damages shall be sought in a civil action in any  
14 court of competent jurisdiction.

15       2. Any dispute arising under this section may also be settled  
16 by such dispute resolution procedures as may be provided by a  
17 written agreement between the parties.

18       I. Nothing in this section shall be construed to limit or  
19 prohibit good-faith settlements voluntarily entered into by the  
20 parties.

21       J. Except as otherwise provided herein, nothing in this section  
22 shall be construed to give a beer distributor any right to  
23 compensation if an agreement with the beer distributor is terminated  
24 by a brewer pursuant to this section.

1       K. No brewer shall require any beer distributor to waive  
2 compliance with any provision of the Oklahoma Alcoholic Beverage  
3 Control Act and any provisions of the Oklahoma Alcoholic Beverage  
4 Control Act shall supersede any provisions of a distributor  
5 agreement in conflict in this section.

6       L. No brewer shall charge or accept, and no beer distributor  
7 shall pay or provide, in a material way, any money, property,  
8 gratuity, rebate, free goods, shipping charges different than those  
9 charged for all beer distributors, allowances, thing of value or  
10 other inducement, as defined in Section 3-123 of this title, from a  
11 beer distributor in exchange for the brewer entering into a  
12 distributor agreement with the beer distributor. However, a brewer  
13 who also holds a beer distributor license and desires to sell all or  
14 a portion of its beer distribution rights and business, or a holder  
15 of small brewer license who desires to change its election from  
16 self-distribution to the use of a distributor agreement may accept a  
17 payment for the fair market value of its existing and established  
18 distribution business in the subject territory.

19       M. This section shall apply to any agreement entered into and  
20 any renewals, extensions, amendments or conduct constituting a  
21 modification of a distributor agreement by a brewer or cider  
22 manufacturer.

23       N. Where a cider manufacturer distributes cider through a beer  
24 distributor, the rights and obligations of the cider manufacturer,

1 the distributor, a successor cider manufacturer and a successor  
2 distributor shall be the same as the rights and obligations provided  
3 in this section for a brewer, beer distributor, successor brewer and  
4 successor beer distributor.

5 SECTION 2. This act shall become effective November 1, 2025.  
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7 60-1-12656 CMA 02/17/25  
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