

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 1367

By: Hays

6 AS INTRODUCED

7 An Act relating to alcoholic beverages; providing an
8 Alcoholic Beverages Laws Enforcement Commission
9 (ABLE) licensed establishments are not liable for the
10 actions of an employee in most instances; defining
11 ABLE licensed establishment; providing procedure for
12 when an ABLE licensed establishment receives an
13 administrative notice of violation for the actions of
14 an employee; providing when an ABLE licensed
15 establishment is liable for actions of an employee;
16 providing when certain repeat actions of an employee
17 can be attributable to an ABLE licensed
18 establishment; providing required proof to attribute
19 liability for the repeat actions of an employee to an
20 ABLE licensed establishment; providing time period
21 for repeat actions by employee to have occurred for
22 liability to be attributed to the ABLE licensed
23 establishment; providing actions by an ABLE licensed
24 establishment that creates a rebuttable presumption
that the ABLE licensed establishment has indirectly
encouraged a violation of the law; defining term;
providing burden of proof for hearings; providing
that ABLE Commission may use other means of proof for
establishing that an ABLE licensed establishment has
indirectly encouraged a violation of the law by an
employee than what is provided in this act; providing
for codification; and providing an effective date.

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

1 SECTION 1. NEW LAW A new section of law to be codified

2 in the Oklahoma Statutes as Section 6-130 of Title 37A, unless there
3 is created a duplication in numbering, reads as follows:

4 A. An establishment with a license issued Oklahoma Alcoholic
5 Beverage Law Enforcement Commission (ABLE) shall not be liable for
6 actions by an employee of the ABLE licensed establishment, unless
7 the actions of the employee are directly attributable to the ABLE
8 licensed establishment. For the purposes of this section an ABLE
9 licensed establishment shall mean a holder of ABLE issued license or
10 permit, which shall not include an ABLE employee license. An ABLE
11 licensed establishment that receives an administrative notice of a
12 violation by the ABLE Commission for an action of an employee may
13 provide to the ABLE Commission, not later than ten (10) days after
14 receipt of an administrative notice of violation, an affidavit
15 indicating that the ABLE licensed establishment was not attributable
16 to the actions of the employee. At a hearing in which the ABLE
17 licensed establishment claims the employee's actions were not
18 attributable to the ABLE licensed establishment, the ABLE licensed
19 establishment may be required to present additional evidence to
20 support such claim.

21 B. If an employee performs any of the following actions at a
22 time when the employee does not possess a currently valid ABLE
23 employee license, then the action of the employee does not meet the
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1 requirements of this act and therefore shall be attributable to the
2 ABLE licensed establishment:

3 1. The employee sells, furnishes or gives an alcoholic beverage

4 to:

5 a. a person who is insane or mentally deficient,

6 b. a minor, or

7 c. an intoxicated person.

8 2. The employee allows consumption of an alcoholic beverage by:

9 a. a person who is insane or mentally deficient,

10 b. a minor, or

11 c. an intoxicated person.

12 C. Proof by the ABLE Commission that an employee, who holds

13 valid ABLE employee license, performed an action described in

14 paragraphs 1 or 2 of subsection B of this act on three (3) or more

15 occasions within a twelve (12) month period shall create a

16 rebuttable presumption that ABLE licensed establishment is

17 attributable to the actions of the employee by indirectly

18 encouraging a violation of the law within the meaning of this act.

19 The rebuttable presumption is created regardless of whether the

20 employee performing the action described in paragraph 1 or 2 of

21 subsection B of this act on a second or subsequent occasion is the

22 same person.

23 D. For purposes of satisfying the condition precedent set forth

24 in subsection C of this act, proof shall be demonstrated by:

1 1. Producing final orders issued by the ABLE commission or
2 district court finding that the ABLE licensed establishment violated
3 this act on two (2) past occasions; and

4 2. Establishing a prima facie case that an employee of the ABLE
5 licensed establishment violated this act on a third or subsequent
6 occasion.

7 E. For purposes of subsection D of this act, all incidents
8 offered to satisfy the condition precedent set forth in subsection C
9 of this act shall be for the same type of offense and shall have
10 occurred within a twelve (12) month period as calculated from the
11 dates the incidents occurred.

12 F. There is a rebuttable presumption that an ABLE licensed
13 establishment has indirectly encouraged a violation of the law
14 within the meaning of this act if the ABLE Commission presents
15 sufficient proof that an ABLE licensed establishment fails to meet
16 any of the following:

17 1. The ABLE licensed establishment requires each employee to
18 present a seller server training certificate within fourteen (14)
19 days of their initial employment date.

20 2. The ABLE licensed establishment requires each employee to
21 maintain a currently valid ABLE employee license.

22 3. The ABLE licensed establishment adopts written policies and
23 procedures that are designed to prevent, and that affirm a strong
24 commitment by the ABLE licensed establishment to prohibit:

1 a. the sale, service, dispensation or delivery of an
2 alcoholic beverage to:

- 3 (1) a person who is insane or mentally deficient,
4 (2) a minor, or
5 (3) an intoxicated person; and

6 b. the consumption of an alcoholic beverage by:

- 7 (1) a person who is insane or mentally deficient,
8 (2) a minor, or
9 (3) an intoxicated person.

10 4. The ABLE licensed establishment ensures that all employees
11 have read and understood the ABLE licensed establishment's policies
12 and procedures described in paragraph 3 of this subsection.

13 5. The ABLE licensed establishment maintains records for at
14 least one (1) year after the date employment was terminated that
15 show that each employee read and understood the license or permit
16 holder's current policies and procedures described in paragraph 3 of
17 this subsection.

18 G. For purposes of this act, "employee" includes all persons
19 paid by an ABLE licensed establishment to sell, serve, dispense, or
20 deliver alcoholic beverages or to immediately manage, direct,
21 supervise or control the sale or service of alcoholic beverages.

22 H. At a hearing in which the ABLE licensed establishment
23 asserts the affirmative defense established under this act, the ABLE
24 Commission may present evidence to establish a rebuttable

1 presumption under this act. If the evidence is sufficient to
2 establish a *prima facie* case, the burden of persuasion in the
3 proceeding shifts to the ABLE licensed establishment to show that it
4 has not indirectly encouraged a violation of the law within the
5 meaning of this act.

6 I. The rebuttable presumptions authorized in this act are not
7 the exclusive means by which the ABLE Commission may establish that
8 an ABLE licensed establishment has indirectly encouraged a violation
9 of the law within the meaning of act.

10 SECTION 2. This act shall become effective November 1, 2025.

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