

1 ENGROSSED HOUSE AMENDMENT

2 TO

2 ENGROSSED SENATE BILL NO. 1032

By: Howard of the Senate

3 and

4 Hays of the House

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7 An Act relating to alcohol licensure; establishing
8 certain protections for certain establishment
9 licensed by the Alcoholic Beverage Laws Enforcement
Commission; defining term; requiring certain
 affidavits; requiring proof of certain violations;
 requiring certain written policies; directing certain
 recordkeeping; providing for codification; and
 providing an effective date.

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15 AMENDMENT NO. 1. Strike the title, enacting clause, and entire bill
16 and insert:

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18 "An Act relating to alcoholic beverages; defining
19 terms; making certain actions by an employee not
attributable to licensed establishments; providing an
affirmative defense under certain circumstances;
requiring licensed establishments to present certain
information when asserting the affirmative defense;
attributing certain actions by an employee to the
licensed establishment; creating a rebuttable
presumption that a licensed establishment has
indirectly encouraged violations of the law by
employees; authorizing the ABLE Commission to present
evidence to establish a rebuttable presumption;
stating which party has the burden of persuasion;

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1 providing construing provision; providing for
2 codification; and providing an effective date.
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BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 6-130 of Title 37A, unless there
is created a duplication in numbering, reads as follows:

As used in this section:

1. "Employee" means any person paid by an establishment
licensed by the Alcoholic Beverage Laws Enforcement (ABLE)
Commission to sell, serve, dispense, or deliver alcoholic beverages
or to immediately manage, direct, supervise, or control the sale or
service of alcoholic beverages; and

2. "Seller-server training certificate" means a certificate
granted for completing an Oklahoma seller-server certification
course recognized by the ABLE Commission.

SECTION 2. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 6-130.1 of Title 37A, unless
there is created a duplication in numbering, reads as follows:

A. Certain actions of an employee are not attributable to
an establishment licensed by the Alcoholic Beverage Laws Enforcement
(ABLE) Commission and shall be an affirmative defense to such
liability when such licensed establishment receives a notice of
violation for certain actions of an employee.

1 B. The following actions of an employee of a licensed
2 establishment are not attributable to the licensed establishment:

3 1. The selling, furnishing, or giving of 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; or

8 2. Allowing the 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. A licensed establishment may assert the affirmative defense
13 if the licensed establishment:

14 1. Required all employees to maintain a currently valid
15 employee license from the ABLE Commission;

16 2. Required each employee to present a seller-server training
17 certificate within fourteen (14) days of his or her initial
18 employment date, unless the employee is deemed exempt by an existing
19 statute and required each employee to attend a seller-server
20 training course every two (2) years upon renewal of the employee
21 license and attend a seller-server training course every two (2)
22 years after the initial employment date, unless an employee is
23 exempt pursuant to Section 2-121 of Title 37A of the Oklahoma
24 Statutes;

1 3. Adopted written policies and procedures which prohibit:

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

4 (1) a person who is insane or mentally deficient,

5 (2) a minor, or

6 (3) an intoxicated person, or

7 b. the employee from allowing consumption of an alcoholic
8 beverage by:

9 (1) a person who is insane or mentally deficient,

10 (2) a minor, or

11 (3) an intoxicated person; and

12 4. Ensured that all employees have read and understood the

13 required policies as provided in paragraph 3 of this subsection by

14 having an acknowledgment of understanding by the employee in

15 writing. Such acknowledgment shall be kept for record by the

16 licensed establishment for at least one (1) year after the date the

17 employee was terminated.

18 D. A licensed establishment asserting the affirmative defense

19 under this act shall provide to the ABLE Commission, not later than

20 ten (10) days after receipt of an administrative notice of

21 violation, an affidavit indicating that the licensed establishment

22 was in compliance with the requirements of this act at the time of

23 the violation for which the administrative notice was issued, which

24 shall include a copy of the valid employee license held by the

1 employee who committed the alleged violation, a copy of the current
2 training certificate held by that employee, and a signed copy of
3 acknowledgment of receipt of policies by the employee. At a hearing
4 in which the licensed establishment asserts the affirmative defense
5 created by this act, the licensed establishment may be required to
6 present additional evidence to support such defense.

7 E. When an employee does not possess a currently valid employee
8 license from the ABLE Commission, the action of the employee shall
9 be attributable to the licensed establishment.

10 F. Proof by the ABLE Commission that an employee performed an
11 action described in this act on three or more occasions within a
12 twelve-month period shall create a rebuttable presumption that a
13 licensed establishment has indirectly encouraged a violation of the
14 law pursuant to this act. The rebuttable presumption is created
15 regardless of whether the employee performing the action described
16 in this subsection on a second or subsequent occasion is the same
17 employee who performed the initial action. Proof of violation shall
18 be demonstrated by:

19 1. Producing final orders issued by the ABLE Commission or a
20 court of competent jurisdiction finding that the licensed
21 establishment violated this act on two previous occasions; and

22 2. Establishing a prima facie case that an employee of the
23 licensed establishment violated this act on a third or subsequent
24 occasion.

1 G. Proof of violation of this act shall be for the same type of
2 offense and shall have occurred within a twelve-month period, as
3 calculated from the dates the incidents occurred.

4 H. At a hearing in which the licensed establishment asserts the
5 affirmative defense established in this act, the ABLE Commission may
6 present evidence to establish a rebuttable presumption under this
7 act. If the evidence is sufficient to establish a *prima facie* case,
8 the burden of persuasion in the proceeding shifts to the licensed
9 establishment to show that it has not indirectly encouraged a
10 violation of the law within the meaning of this act.

11 I. Nothing in this act shall be construed to establish
12 exclusive means by which the ABLE Commission may establish that a
13 licensed establishment has indirectly encouraged a violation of this
14 act.

15 SECTION 3. This act shall become effective November 1, 2025."

Passed the House of Representatives the 7th day of May, 2025.

Presiding Officer of the House of
Representatives

Passed the Senate the ____ day of _____, 2025.

Presiding Officer of the Senate

1 ENGROSSED SENATE
2 BILL NO. 1032

3 By: Howard of the Senate

4 and

5 Hays of the House

6 An Act relating to alcohol licensure; establishing
7 certain protections for certain establishment
8 licensed by the Alcoholic Beverage Laws Enforcement
9 Commission; defining term; requiring certain
 affidavits; requiring proof of certain violations;
 requiring certain written policies; directing certain
 recordkeeping; providing for codification; and
 providing an effective date.

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

12 SECTION 4. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 6-130 of Title 37A, unless there
14 is created a duplication in numbering, reads as follows:

15 As used in this section:

16 1. "Employee" means any person paid by an establishment
17 licensed by the Alcoholic Beverage Laws Enforcement (ABLE)
18 Commission to sell, serve, dispense, or deliver alcoholic beverages
19 or to immediately manage, direct, supervise, or control the sale or
20 service of alcoholic beverages; and

21 2. "Seller-server training certificate" means a certificate
22 granted for completing an Oklahoma seller-server certification
23 course recognized by the ABLE Commission.

1 SECTION 5. NEW LAW A new section of law to be codified

2 in the Oklahoma Statutes as Section 6-130.1 of Title 37A, unless
3 there is created a duplication in numbering, reads as follows:

4 A. An establishment licensed by the Alcoholic Beverage Laws
5 Enforcement (ABLE) Commission that claims that the actions of an
6 employee are not attributable to the establishment licensed by the
7 ABLE Commission under this act, shall provide to the ABLE
8 Commission, not later than ten (10) days after receipt of an
9 administrative notice of violation, an affidavit indicating that the
10 establishment licensed by the ABLE Commission was in compliance with
11 the requirements of this act at the time of the violation for which
12 the administrative notice was issued. At a hearing in which the
13 establishment licensed by the ABLE Commission claims the benefits of
14 this act, the establishment licensed by the ABLE Commission may be
15 required to present additional evidence to support such claim.

16 B. At a time when an employee does not possess a currently
17 valid employee license from the ABLE Commission, the action of the
18 employee shall be attributable to the establishment licensed by the
19 ABLE Commission if the employee:

20 1. Sells, furnishes, or gives an alcoholic beverage to:

- 21 a. a person who is insane or mentally deficient,
22 b. a minor, or
23 c. an intoxicated person; or

24 2. Allows consumption of an alcoholic beverage by:

- 1 a. a person who is insane or mentally deficient,
2 b. a minor, or
3 c. an intoxicated person.

4 C. Proof by the ABLE Commission that an employee performed an
5 action described this act on three or more occasions within a
6 twelve-month period shall create a rebuttable presumption that an
7 establishment licensed by the ABLE Commission has indirectly
8 encouraged a violation of the law pursuant to this act. The
9 rebuttable presumption is created regardless of whether the employee
10 performing the action described in this subsection on a second or
11 subsequent occasion is the same employee who performed the initial
12 action. Proof of violation shall be demonstrated by:

13 1. Producing final orders issued by the ABLE Commission or a
14 court of competent jurisdiction finding that the establishment
15 licensed by the ABLE Commission violated this act, on two past
16 occasions; and

17 2. Establishing a prima facie case that an employee of the
18 establishment licensed by the ABLE Commission violated this act on a
19 third or subsequent occasion.

20 D. Proof of violation of this act shall be for the same type of
21 offense and shall have occurred within a twelve-month period, as
22 calculated from the dates the incidents occurred.

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1 E. A rebuttable presumption shall be established if the ABLE
2 Commission presents sufficient proof that an establishment licensed
3 by the ABLE Commission has adhered to the following requirements:

4 1. Requiring each employee to present a seller-server training
5 certificate within fourteen (14) days of his or her initial
6 employment date and attend a seller-server training course every two
7 (2) years after the initial employment date, unless an employee is
8 exempt pursuant to Section 2-121 of Title 37A of the Oklahoma
9 Statutes;

10 2. Requiring each employee to maintain a currently valid
11 employee license from the ABLE Commission;

12 3. Adopting written policies and procedures that are designed
13 to prohibit:

14 a. the sale, service, dispensation, or delivery of an
15 alcoholic beverage to:

- 16 (1) a person who is insane or mentally deficient,
17 (2) a minor, or
18 (3) an intoxicated person, or

19 b. the employee from allowing consumption of an alcoholic
20 beverage by:

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

1 4. Ensuring that all employees have read and understood the
2 ABLE Commission's policies and procedures established in this act,
3 and maintaining records for at least one (1) year after the date
4 employment was terminated that show that each employee had read and
5 understood the license or permit holder's then current policies and
6 procedures established under this act.

7 F. At a hearing in which the establishment licensed by the ABLE
8 Commission asserts the affirmative defense established in this act,
9 the Commission may present evidence to establish a rebuttable
10 presumption under this section. If the evidence is sufficient to
11 establish a prima facie case, the burden of persuasion in the
12 proceeding shifts to the establishment licensed by the ABLE
13 Commission to show that it has not indirectly encouraged a violation
14 of the law within the meaning of this act.

15 G. Nothing in this act shall be construed to establish
16 exclusive means by which the ABLE Commission may establish that a
17 license or permit holder has indirectly encouraged a violation of
18 this act.

19 SECTION 6. This act shall become effective November 1, 2025.
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Passed the Senate the 13th day of March, 2025.

Presiding Officer of the Senate

Passed the House of Representatives the _____ day of _____,
2025.

Presiding Officer of the House
of Representatives