



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2016-6

A. Keith Burt, Director
Oklahoma ABLE Commission
3812 N. Santa Fe Ave., Suite 200
Oklahoma City, Oklahoma 73118

August 23, 2016

Dear Director Burt:

This office has received your request for an Official Attorney General Opinion in which you ask the following questions:

- 1. Does Senate Bill 424 allow a brewer licensee to sell beer it produces to consumers twenty-one (21) years of age or older for consumption by that consumer on the licensed premises?**
- 2. Does Senate Bill 424 allow a brewer licensee to sell beer it produces to consumers twenty-one (21) years of age or older for consumption by that consumer off of the licensed premises?**

Under current state law, brewers cannot sell high point beer directly to consumers. *See* 37 O.S.2011, § 505(A) (“No person shall...sell...any alcoholic beverage except as specifically provided in the Oklahoma Alcoholic Beverage Control Act.”). Section 521 of Title 37 of the Oklahoma Statutes permits brewers to offer free samples of such beer so long as the amount given as a sample to any individual equals no more than twelve ounces in one day. 37 O.S.Supp.2016, § 521(A). The recently-enacted Senate Bill 424 (“SB 424”) permits brewers to, for the first time, sell high point beer directly to consumers. *See* 2016 Okla. Sess. Laws ch. 367, § 1 (eff. 8-26-16). You ask whether the new law limits where the consumers may consume the beer. We answer your questions below.¹

In interpreting legislative enactments, we begin with the text of the statute itself. *World Pub. Co. v. Miller*, 2001 OK 49, ¶ 7, 32 P.3d 829, 832. “If the language is plain and clearly expresses the

¹ Article 28 of the Oklahoma Constitution, statutes passed pursuant to that Article (like 37 O.S.Supp.2016, § 521), and the rules of the Alcoholic Beverage Laws and Enforcement Commission do not generally apply to low-point beer (beer containing 3.2% or less alcohol by weight). *See* OKLA. CONST. art. 28, § 2. Nothing in this Opinion is intended to affect or address the sales of low point beer, or to address any constitutional questions that might be raised by SB 424.

legislative will, further inquiry is unnecessary.” *Ledbetter v. Howard*, 2012 OK 39, ¶ 12, 276 P.3d 1031, 1035. Our task is thus to determine the ordinary meaning of the words that the Legislature chose in the provisions of law at issue. *See Rogers v. Quiktrip Corp.*, 2010 OK 3, ¶ 11, 230 P.3d 853, 859 (“[I]ntent is derived from the language of a statute.”)

SB 424 states that “[a] brewer license shall authorize the holder thereof: . . . to sell beer produced by the licensee to consumers twenty-one (21) years of age or older on the premises of the brewery.” 2016 Okla. Sess. Laws ch. 367, § 1(A) (eff. 8-26-16) (emphasis added). The provision unambiguously authorizes *sales* of beer *on the premises* of the brewery to consumers, and does not restrict *the location* in which *consumers may consume* that beer.

Had the Legislature intended to limit the location of consumption of the beer that is sold, it could have said so, just as it has done in neighboring provisions. For example, “[a] mixed beverage license shall authorize the holder thereof: To . . . offer for sale and possess mixed beverages *for on-premises consumption only*.” 37 O.S.Supp.2016, § 521(I) (emphasis added). Similarly, “[a] package store license shall authorize the holder thereof: To purchase alcohol, spirits, beer, and wine in retail containers . . . to consumers *for off-premises consumption only*.” *Id.* § 521(H) (emphasis added). Moreover, SB 424 limits the manner of sale of beer by brewers in other respects, for example, by permitting sales only to consumers twenty-one years of age or older and only during the hours between 10:00 a.m. and 9:00 p.m., but does not impose any limitations on the location of consumption. Given that the Legislature knows how to include words of limitation, but chose not to, we conclude that the Legislature intended no such limitation. *See A. Scalia & B. Garner, Reading Law: The Interpretation of Legal Texts* 93 (2012) (“Nothing is to be added to what the text states or reasonably implies...a matter not covered is to be treated as not covered.”). SB 424 thus authorizes sales of beer produced by the brewery to consumers on the premises, and in no way limits the place of consumption.²

It is, therefore, the official Opinion of the Attorney General that:

- 1. Senate Bill 424 permits a brewer licensee to sell beer it produces to consumers twenty-one years of age or older for consumption by that consumer on the licensed premises.**
- 2. Senate Bill 424 permits a brewer licensee to sell packaged beer it produces to consumers twenty-one years of age or older for consumption by that consumer off of the licensed premises.**



E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA

² To the extent SB 424 conflicts with other provisions of law that might otherwise limit certain sales, we read the Legislature’s unequivocal, unlimited authorization of these sales as amending those laws by creating a narrow exception for brewers to make these sales.

A handwritten signature in black ink, appearing to read 'P. Wyrick', with a stylized flourish at the end.

PATRICK R. WYRICK
SOLICITOR GENERAL
OKLAHOMA OFFICE OF THE ATTORNEY GENERAL