

**TITLE 710. OKLAHOMA TAX COMMISSION**  
**CHAPTER 20. ALCOHOL, MIXED BEVERAGES, AND LOW-POINT BEER**

**RULEMAKING ACTION:**

Notice of proposed **PERMANENT** rulemaking.

**PROPOSED RULES:**

Subchapter 1. General Provisions

710:20-1-3 [AMENDED]

Subchapter 5. Mixed Beverage

710:20-5-1 [AMENDED]

710:20-5-2 [AMENDED]

**SUMMARY:**

Sections **710:20-1-3**, **710:20-5-1** and **710:20-5-2** have been amended consistent with the provisions of Sections 18 through 21 of Senate Bill 1715 [2014] which provide for Oklahoma Tax Commission licensing, bonding and mixed beverage tax reporting and payment requirements of holders of public event licenses issued by the ABLE Commission along with acts prohibited by these licensees.

In addition, other rule changes may be made to clarify policy, improve readability, correct scrivener's errors, update statutory citation, and ensure accurate internal cross-references.

**AUTHORITY:**

Oklahoma Tax Commission; 68 O.S. § 203; 37 O.S. § 586

**COMMENT PERIOD:**

Persons wishing to make written submissions may do so by **4:30 p.m. February 20, 2015**, to the Oklahoma Tax Commission, Tax Policy Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date, by calling Emmily Hood at (405) 521-3133.

**PUBLIC HEARING:**

A public hearing will be held to provide an additional means by which suggestions may be offered on the content of the proposed rules. Time, date and place of the hearing is as follows: **February 23, 2015, 12:30 p.m.**, in the 4<sup>th</sup> floor hearing room at the Oklahoma Tax Commission, 2501 Lincoln Blvd., Oklahoma City, Oklahoma. In order to facilitate entry into the building, those wishing to appear should contact Emmily Hood at (405) 521-3133 at least 24 hours prior to the hearing date to complete their visitor pre-registration. Entry to the M.C. Connors building must be made through the doors located on the east side of the building. In order to gain access to the 4<sup>th</sup> floor hearing room, attendees must register at the information desk in the lobby by presenting a driver license or other photo identification. A name badge and floor access card will be issued once registration is complete.

Time limitations may be imposed on oral presentations to ensure that all persons who have filed written requests for placement on the docket will have an opportunity to speak.

**REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:**

Although nothing in this rulemaking action is expected to adversely impact small business, the Oklahoma Tax Commission (OTC) requests that any business entity affected by these rules provide the OTC, within the comment period, in dollar amounts, if possible, information on any increase in direct costs, such as fees, and indirect costs, such as those associated with reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed Rules.

**COPIES OF PROPOSED RULES:**

Interested persons may inspect proposed rules at the offices of the Oklahoma Tax Commission, Tax Policy Division, 5th floor, M. C. Connors Building, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma. Copies of proposed rules may be reviewed online at [www.tax.ok.gov](http://www.tax.ok.gov)

**RULE IMPACT STATEMENT:**

A Rule Impact Statement will be prepared and will be available for review from and after January 30, 2015, from the same source listed above for obtaining copies of proposed rules.

**CONTACT PERSON:**

Lisa Haws, Liaison; Phone: 405-521-3133; FAX: 405-522-0063; Email: [lhaws@tax.ok.gov](mailto:lhaws@tax.ok.gov)

## CHAPTER 20. ALCOHOL, MIXED BEVERAGES AND LOW-POINT BEER

### SUBCHAPTER 1. GENERAL PROVISIONS

#### 710:20-1-3. Purchase requirements for mixed beverage permit holders

(a) No mixed beverage or beer and wine licensee shall purchase or receive any alcoholic beverage other than from:

(1) A person holding a wholesaler or Class B wholesaler license issued pursuant to the Oklahoma Alcoholic Beverage Control Act; or,

(2) A licensed Oklahoma winemaker, if the licensee's premises is ~~are~~ also a restaurant. In this instance, the licensee may purchase wine produced at Oklahoma wineries directly from the winemaker. [See: 37 O.S. § 537(E)(1)]

(b) No mixed beverage, beer and wine, caterer, public event or special event licensee, nor any officer, agent, or employee of such licensee, may possess or allow on the licensed premises, any container of any alcoholic beverage which is not listed on an invoice from the wholesaler or from a licensed Oklahoma winemaker from whom the alcoholic beverage was purchased. [See: 37 O.S. ~~Supp.2001~~, § 582(A)]

### SUBCHAPTER 5. MIXED BEVERAGES

#### 710:20-5-1. Procedures for payment of gross receipts tax on mixed beverage, caterer, hotel beverage, beer and wine, mixed beverage/caterer combination, public event and special event license holders; definitions

(a) **General provisions.** Pursuant to the authority and power granted to the Oklahoma Tax Commission, the excise tax imposed upon the total gross receipts of a holder of a mixed beverage, caterer, hotel beverage, beer and wine, mixed beverage/caterer combination, public event or special event license issued by the ABLE Commission, shall be paid through monthly tax reporting procedures as established by rules of this Commission, and shall be implemented, administered and enforced in accordance with said rules. [See: 37 O.S. §576]

(b) **Definitions.** The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

(1) *"Alcoholic beverage" means alcohol, spirits, beer, and wine, as those terms are defined in Section 506(3) of Title 37 of the Oklahoma Statutes and also includes every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed as a beverage by human beings, but does not include low-point beer, as that term is defined in 37 O.S. § 163.2.*

(2) *"Mixed beverages" means one or more servings of a beverage composed in whole or part of an alcoholic beverage in a sealed or unsealed container of any legal size for consumption on the premises where served or sold by the holder of a mixed beverage, beer and wine, caterer, or special event license. [See: 37 O.S. § 506(22)]*

#### 710:20-5-2. Designation of agent of the Oklahoma Tax Commission

(a) The Director of the Taxpayer Assistance Division is hereby designated as the agent, servant and employee of the Oklahoma Tax Commission for the following purposes:

(1) Issuance of mixed beverage tax permits;

(2) Cancellation of mixed beverage tax permits upon delinquency in reporting or paying the gross receipts tax or sales tax;

- (3) Temporary suspension of mixed beverage tax permits upon revocation or suspension of the mixed beverage, caterer, hotel beverage, public event or special events licenses issued by the ABLE Commission;
  - (4) Establishing amounts of required bonds; and,
  - (5) Seizure of containers or cases of alcoholic beverages declared to be contraband.
- (b) The Director shall report to the Commission, at least on a quarterly basis, all actions taken pursuant to the delegation in (a) of this Section. [See: 37 O.S. §§577-578, 582]

**OKLAHOMA TAX COMMISSION**  
**Rule Impact Statement**  
**CHAPTER 20. Alcohol, Mixed Beverages, and Low-Point Beer**

**RULE IMPACT STATEMENT:** This statement is provided in conjunction with the following rulemaking action(s):

**710:20-1-3 Purchase requirements for mixed beverage permit holders [AMENDED]**

**710:20-5-1 Procedures for payment of gross receipts tax on mixed beverage, caterer, hotel beverage, beer and wine, mixed beverage/caterer combination, public event and special event license holders; definitions [AMENDED]**

**710:20-5-2. Designation of agent of the Oklahoma Tax Commission [AMENDED]**

- (a.) **Purpose of the Proposed Rule:** The purpose of this rulemaking action is to implement the provisions of Sections 18 through 21 of Senate Bill 1715 [2014] which provides for Oklahoma Tax Commission licensing, bonding and mixed beverage tax reporting and payment requirements of holders of public event licenses issued by the ABLE Commission along with acts prohibited by these licensees.
- (b.) **Classes Affected:** Public event licensees.
- (c.) **Persons Benefited:** Public event licensees.
- (d.) **Probable Economic Impact:**
- 1. On Affected Classes:** No economic impact based on this rule change is anticipated
  - 2. On Political Subdivision:** The amendment is not expected to adversely impact other political subdivisions of the State.
  - 3. Fees:** The rulemaking action does increase an existing fee.
- (e.) **Probable Costs to the Agency:** Costs to promulgate and enforce the proposed rule will be funded through normal agency budget. No measurable impact on State revenues is anticipated.
- (f.) **Will the Rule Impact Political Subdivisions?** No economic impact on, nor need for cooperation from political subdivisions is anticipated.
- (g.) **Small Business Impact:** After consideration with reference to Section 303(A)(4) and 303(B)(6) of Title 75, it is believed that the proposed rule will have no adverse impact upon Small Business.
- (h.) **Alternative Methods and Costs of Compliance:** There are no less costly or non-regulatory methods or less intrusive methods for achieving the purpose of this proposed rule. No formalized compliance cost minimization measures have been pursued.
- (i.) **Public Health/Safety/Environmental Concerns:** The proposed rules are not anticipated to have any effect on public health, safety, or the environment –either beneficial or otherwise.
- (j.) **Effect of Non-Implementation on Environment:** If the proposed rules are not promulgated, no effect on the public health, safety, or the environment will result.
- (k.) **Date:** November 1, 2014                      **Date Modified:**     N/A
- (l.) **Prepared by:** Christy Caesar                      **Phone Number:**     521-3133