



The following information is being provided to assist your City Attorney in better understanding the pending changes to the sale of alcohol, effective October 1, 2018. We have created a page on our website to act as a hub for alcohol policy information, and organize sample ordinances from municipalities across the state. It may be accessed [HERE](#).

Subject: [Senate Joint Resolution 68](#) – passed during the 2016 legislative session, referred and approved by a vote of the people via State Question 792. [SB 383](#) creating Title 37A passed in the 2016 Legislature.

Effective date: October 1, 2018

Certificate of Compliance Requests - The Certification of Compliance process is a [statutory provision](#) where applicants for alcohol licenses are required to document their compliance with all applicable zoning, safety, fire, and health codes. This gives the municipal government the ability to ensure alcohol establishments are in compliance with local regulations prior to the ABLE Commission granting a license. Municipalities will be made aware of any compliance requests directly by the applicant. Some municipalities handle this step more formally by making forms available on their websites that are used by the applicant to notify the municipality of this request (click [HERE](#) to download the City of Tulsa’s Compliance Packet as a sample), while others have no formal document and receive the request directly from the applicant in a less formal manner.

Municipalities respond with a letter outlining the applicants compliance. In our discussions with the ABLE Commission, we have been told these letters need not be detailed or complex. Sample letters from Oklahoma City and the City of Fairview have been provided by the Commission and can be downloaded [HERE](#). Any forms currently in use by municipalities for this purpose should be updated to reflect the new licenses available after the October implementation. If your municipality does not have the above zoning, safety, fire, and health codes, a simple letter stating this is all that is required. This process is currently in place and will need to be followed both prior to and after the new alcohol law goes into effect in October.

- The statutory requirements to be obtained by this process are outlined below.
 - “A certificate of zoning issued by the municipality in which the applicant proposes to locate the applicant's principal place of business under the license, or by the county if the principal place of business is located outside the incorporated limits of a municipality, certifying that the applicant's proposed location and use thereof comply with all municipal zoning ordinances or county zoning regulations if applicable” [See Title 37A Section 2-142 \(2\)](#).
 - “A certificate issued by the municipality in which the applicant proposes to locate the applicant's principal place of business under the license, or by the county if the principal place of business is located outside the incorporated limits of a municipality, certifying that the applicant's existing or proposed operations under the license comply with all municipal or county fire codes, safety codes, or health codes, if applicable” [See Title 37A Section 2-142 \(3\)](#).
- Sample Certification of Compliance documents are available for download [HERE](#).

Licenses: There are additional license options under the new liquor laws. A sample ordinances establishing licenses and fees can be downloaded [HERE](#).

Please Note: This summary is *not a substitute for legal advice*. You should consult your city or town attorney prior to taking any action based on this document.

- [SB 1336](#) from the 2018 Legislative session amends Title 37A to allow for on-premises consumption of alcohol in licensed breweries, brewpubs, and wineries. These entities may open and sell alcoholic beverages as early as 8 a.m. (opening times were limited to 10 a.m. previous to this change).
 - Section 3-125. A. No alcoholic beverages may be sold, dispensed, served or consumed on the premises of a mixed beverage, caterer, public event, charitable event, special event, on-premises beer and wine, small brewer or brewpub licensee between the hours of 2:00 a.m. and 8:00 a.m. Municipalities may enact ordinances requiring such premises to be closed to the public between the hours of 2:00 a.m. and 6:00 a.m.
 - Section 4-101. ... D. Municipalities are authorized to enact ordinances regulating the closing time of ABLE Commission licensees who provide alcoholic beverages for consumption on the premises; provided, no ordinance shall be enacted for premises to open later than 6:00 a.m. or close earlier than 2:00 a.m.
 - This bill is effective October 1, 2018.

Occupational Tax: [Title 37A Section 4-104](#) outlines that municipalities, where the sale of alcoholic beverages is lawful, may levy an occupation tax not exceeding the amount of the State license fees, for the manufacture, distribution or sale of alcoholic beverages. A sample ordinance can be downloaded [HERE](#).

Municipal Involvement in the Alcohol Business: Below is the portion of the enacted [Senate Joint Resolution 68](#), which was incorporated into the State Constitution, which impacts municipal sales of alcohol. Many municipalities have concerns regarding alcohol sales on municipally operated facilities including golf courses, civic centers, etc. Municipalities may consider contracting with 3rd parties to run facilities that sell alcohol to avoid the prohibition.

- Section 8. The State of Oklahoma, or any political subdivision thereof, ... is hereby prohibited from engaging in any phase of the alcoholic beverage business, including the manufacture, sale, transportation or distribution thereof, at wholesale or retail, and the maintenance, ownership or operation of warehouses or alcoholic beverage stores...

Dual Strength Beer: Effective October 1, 2018, the State of Oklahoma will no longer have dual strength beer. Prior to this date, 3.2 ABV (Alcohol by Volume) (low-point beer) was regulated separately from “alcohol” and beer of higher alcohol content. Moving forward, no matter the alcohol content, alcoholic beverages will be regulated the same by the ABLE Commission.

- “Section 1. All beverages that contain alcohol, unless otherwise defined by law, shall be considered alcoholic beverages by this state and therefore governed by this Article and all other applicable laws” [Senate Joint Resolution 68](#).
- Municipalities should review “Low-Point Beer” references from ordinances policies and replace with language that is consistent with the new requirements.

Buffer Zones: If your municipality has beer, wine, or liquor buffer zones you should check to see if it needs to be updated.

- [Title 37A Section 2-139](#) continues the 300ft buffer zone restriction of prohibiting alcohol businesses within the proximity of churches and schools.
 - If a license is granted in violation of applicable law, the appeals process is limited to:
 - a. a parent or legal guardian whose child or children attend the church or school
 - b. an official of the church
 - c. an official of the school

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- [SB 1332](#) grandfathers in low-point beer license holders that are within the 300 foot buffer zone, and low-point beer licensees may have their license transferred to a mixed-beverage license. Effective date of Oct. 1, 2018
- [Title 37A Section 3-103](#) grants interested party status to municipalities. This provides them notice as to the granting of a license, and the ability to appeal within 15 days of a granted license by following the procedures outlined for a license application denial. See [Section 2-150](#). Effective date of Oct. 1, 2018

Municipal Authority to Initiate License Revocations

- Municipalities “may initiate a license suspension or revocation proceeding as to such licensee by filing a written complaint with the ABLE Commission.” [This act may] be based on any ground that the ABLE Commission might have asserted... [and the municipality] shall be deemed an interested party” [Title 37A Section 4-102](#).
- One ground includes if the licensee “procured a license through fraud, or misrepresentation, or concealment of a material fact” (full list available in [Title 37A Section 2-148](#)).

Sunday Alcohol Sales: The new law allows for Sunday sales at liquor stores on a county option basis. You will need to address this through your County Commissioners. The Board of County Commissioners will set an election date which will submit the question to a vote of the people. See [Title 37A Section 3-124](#).

Retail outlets: See [Title 37A Section 2-109](#).

- Retail Wine License Holders may sell wine up to 15% ABV (Alcohol by Volume)
- Retail Beer License Holders may sell beer up to 8.99% ABV (Alcohol by Volume)

Liquor store changes: See [Title 37A Section 2-156](#).

- May sell refrigerated beer and wine
- May sell anything sold in a grocery or convenience store, up to 20% of its gross monthly sales
- Sales may include items such as lottery tickets, tobacco, Tylenol, etc

Winery license changes: See [Title 37A Section 2-104](#).

- Sell at winery for on and off premises consumption
- Give free samples of wine to consumers
- Sell at festivals and tradeshow

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