

An Act

ENROLLED SENATE
BILL NO. 321

By: Mazzei and Fields of the
Senate

and

Sears and Hoskin of the
House

An Act relating to revenue and taxation; amending 37 O.S. Section 576, which relates to gross receipts tax on mixed beverages; making certain requirement permissive; prohibiting certification of a class for certain actions relating to mixed beverage, sales or use taxes; and providing for codification.

SUBJECT: Collection of taxation

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

SECTION 1. AMENDATORY 37 O.S. 2011, Section 576, is amended to read as follows:

Section 576. A. A tax at the rate of thirteen and one-half percent (13.5%) is hereby levied and imposed on the total gross receipts of a holder of a mixed beverage, caterer, or special event license, issued by the ABLE Commission, from:

1. The sale, preparation or service of mixed beverages;
2. The total retail value of complimentary or discounted mixed beverages;

3. Ice or nonalcoholic beverages that are sold, prepared or served for the purpose of being mixed with alcoholic beverages and consumed on the premises where the sale, preparation or service occurs; and

4. Any charges for the privilege of admission to a mixed beverage establishment which entitle a person to complimentary mixed beverages or discounted prices for mixed beverages.

B. For purposes of this section:

1. "Mixed beverages" means mixed beverages as defined by Section 506 of this title;

2. "Total gross receipts" means the total amount of consideration received as charges for admission to a mixed beverage establishment as provided in paragraph 4 of subsection A of this section and the total retail sale price received for the sale, preparation or service of mixed beverages, ice, and nonalcoholic beverages to be mixed with alcoholic beverages. The advertised price of a mixed beverage ~~shall~~ may be the sum of the total retail sale price and the gross receipts tax levied thereon; and

3. "Total retail value" means the total amount of consideration that would be required for the sale, preparation or service of mixed beverages.

C. The gross receipts tax levied by this section shall be in addition to the excise tax levied in Section 553 of this title, the sales tax levied in the Oklahoma Sales Tax Code, Section 1350 et seq. of Title 68 of the Oklahoma Statutes and to any municipal or county sales taxes.

D. The gross receipts tax levied by this section is hereby declared to be a direct tax upon the receipt of consideration for any charges for admission to a mixed beverage establishment as provided in paragraph 4 of subsection A of this section, for the sale, preparation or service of mixed beverages, ice, and nonalcoholic beverages to be mixed with alcoholic beverages, and the total retail value of complimentary or discounted mixed beverages.

E. The total of the retail sale price received for the sale, preparation or service of mixed beverages, ice, and nonalcoholic beverages to be mixed with alcoholic beverages shall be the total gross receipts for purposes of calculating the sales tax levied in the Oklahoma Sales Tax Code, Section 1350 et seq. of Title 68 of the Oklahoma Statutes.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 282 of Title 68, unless there is created a duplication in numbering, reads as follows:

Notwithstanding any other provision of law, one or more members of a class may not sue as representative parties on behalf of all members of a class, and a court may not hereafter certify a class, on any claim arising from the collection of monies denominated as gross receipts tax on mixed beverages, sales tax or use tax, or in which the damages sought or the injury claimed is monies that have been collected as, or denominated as, gross receipts tax on mixed beverages, sales tax or use tax, and which have been remitted to the Oklahoma Tax Commission or other governmental taxing authority.

Passed the Senate the 20th day of May, 2013.


Presiding Officer of the Senate

Passed the House of Representatives the 24th day of May, 2013.


Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 29th

day of May, 20 13, at 10:18 o'clock P M.

By: Audrey Kocurek

Approved by the Governor of the State of Oklahoma this 29th

day of May, 20 13, at 4:03 o'clock P M.


Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 29th

day of May, 20 13, at 5:25 o'clock P M.

By: Chris Trevisan