**DIVISION SIX – GENERAL LIABILITY**

45. LIQUOR LIABILITY COVERAGE (Subline Code 332)

Paragraph **B.3.c.** is replaced by the following:

**c.** Refer to mandatory state endorsements:

**(1)** Oklahoma Notice Endorsement IL 01 79**.**

**(2)** Oklahoma Changes – Cancellation And Nonrenewal Endorsement IL 02 36**.**

**(3)** Oklahoma Changes – Your Right To Claim And Injury Information Endorsement CG 27 48 (Claims-made Only).

Paragraph **G.5.** is replaced by the following:

G. Liquor Liability Grades

**5.** The Liquor Liability Numerical Grade is 1 for any federally recognized Native American Indian Tribe state liquor licensees and 5 for all other vendors.

Citation of Statute: OKLA. STAT. tit. 37A. Alcoholic Beverage, including:

OKLA. STAT. tit. 37A. § 6-101. Prohibited acts – Violations – Penalties;

OKLA. STAT. tit. 37A. § 6-102. Prohibited acts of licensees;

OKLA. STAT. tit. 37A. § 6-120. Selling, furnishing or giving alcoholic beverages to persons under 21 – Penalties; and

OKLA. STAT. tit. 37A. § 6-121. Knowingly selling, furnishing or giving alcoholic beverages to insane, mentally deficient or intoxicated persons – Penalties.

These statutes are liquor control laws, not dramshop statutes.

Among other aspects, these statutes generally provide that no person shall;

**a.** Knowingly sell, deliver or furnish alcoholic beverages to any person under 21; or

**b.** Sell, deliver or knowingly furnish alcoholic beverages to an intoxicated person or to any person who has been adjudged insane or mentally deficient.

Comments

The Oklahoma Supreme Court in *Busby v. Quail Creek Golf and Country Club, 885 P.2d 1326 (Okla. 1994)* stated that to establish negligence per se on the basis of a statutory violation, the plaintiff must establish that: 1) the injury was caused by a statutory violation; 2) the injury was a type to be prevented by the statute; and 3) the injured party was of the class meant to be protected by the statute.

TheOklahoma Supreme Court in *Brigance v. The Velvet Dove Restaurant, Inc., 725 P. 2d 300 (Okla. 1986)* generally ruled that a third-party passenger injured by an intoxicated driver had a civil cause of action against a commercial vendor for the on-premises consumption, for negligent sale of an intoxicating beverage to a person the vendor knew or should have known was noticeably intoxicated, and whose consumption of alcohol was the alleged cause of the injuries.

The Oklahoma Supreme Court in *Tomlinson v. Love's Country Stores, 854 P.2d. 910 (Okla. 1993)* generally held that:

* The vendor has a duty not to sell alcoholic beverages to a person under 21 regardless of whether consumption was on- or off-premises of the vendor;
* The vendor may rebut its duty not to sell to a minor by demonstrating that the purchaser appeared to be of age and that the vendor used reasonable means of identification to ascertain age of purchaser; and
* The common law duty is to exercise ordinary care in providing alcoholic beverages to an individual.

The court also generally noted that the vendor may assert the negligence of the injured party, whether a minor or an adult, as a defense under Oklahoma's comparative negligence statute.

The Oklahoma Supreme Court in *Boyle v. ASAP Energy, Inc., 408 P. 3d 183 (Okla. 2017)* held that Oklahoma recognizes a cause of action when a commercial vendor of alcohol sells alcohol to a noticeably intoxicated person for consumption off the premises of the vendor when a person is injured as a result of the vendor violating a statute which prohibits such sales. The court also held that one who sells intoxicating beverages for consumption off the premises has a duty to exercise reasonable care not to sell liquor to a noticeably intoxicated person.

The Oklahoma Supreme Court in *Scheffer v. Buffalo Run Casino, PTE, Inc., 315 P.3d 359 (Okla. 2013)* held that a tribe does not expressly waive its sovereign immunity by applying for and receiving a liquor license from the State of Oklahoma, and consequently the named tribe defendant in this case is immune from dram-shop liability in state court.

**DIVISION TEN – BUSINESSOWNERS**

29. ENDORSEMENTS

Paragraph **B.13.b.(4)** is replaced by the following:

B. Liability Endorsements

13. Liquor Liability Coverage

b. Liquor Liability Grades

**(4)** The Liquor Liability Numerical Grade is 1 for any federally recognized Native American Indian Tribe state liquor licensees and 5 for all other vendors.

Citation of Statute: OKLA. STAT. tit. 37A. Alcoholic Beverage, including:

OKLA. STAT. tit. 37A. § 6-101. Prohibited acts – Violations – Penalties;

OKLA. STAT. tit. 37A. § 6-102. Prohibited acts of licensees;

OKLA. STAT. tit. 37A. § 6-120. Selling, furnishing or giving alcoholic beverages to persons under 21 – Penalties; and

OKLA. STAT. tit. 37A. § 6-121. Knowingly selling, furnishing or giving alcoholic beverages to insane, mentally deficient or intoxicated persons – Penalties.

These statutes are liquor control laws, not dramshop statutes.

Among other aspects, these statutes generally provide that no person shall:

**a.** Knowingly sell, deliver or furnish alcoholic beverages to any person under 21; or

**b.** Sell, deliver or knowingly furnish alcoholic beverages to an intoxicated person or to any person who has been adjudged insane or mentally deficient.

Comments

The Oklahoma Supreme Court in *Busby v. Quail Creek Golf and Country Club, 885 P.2d 1326 (Okla. 1994)* stated that to establish negligence per se on the basis of a statutory violation, the plaintiff must establish that: 1) the injury was caused by a statutory violation; 2) the injury was a type to be prevented by the statute; and 3) the injured party was of the class meant to be protected by the statute.

The Oklahoma Supreme Court in *Brigance v. The Velvet Dove Restaurant, Inc., 725 P.2d 300 (Okla. 1986)* generally ruled that a third-party passenger injured by an intoxicated driver had a civil cause of action against a commercial vendor for the on-premises consumption, for negligent sale of an intoxicating beverage to a person the vendor knew or should have known was noticeably intoxicated, and whose consumption of alcohol was the alleged cause of the injuries.

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The Oklahoma Supreme Court in *Scheffer v. Buffalo Run Casino, PTE, Inc., 315 P.3d 359 (Okla. 2013)* held that a tribe does not expressly waive its sovereign immunity by applying for and receiving a liquor license from the State of Oklahoma, and consequently the named tribe defendant in this case is immune from dram-shop liability in state court.

*The remainder of the rule is unchanged*