

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 55th Legislature (2015)

4 ENGROSSED SENATE
5 BILL NO. 383

By: Bice and Jolley of the
Senate

6 and

7 Mulready of the House

8
9
10 [intoxicating liquor - authority under certain
11 licenses - retail package store authority - chilled
beer - effective date]
12
13

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

15 SECTION 1. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 150 of Title 37, unless there is
17 created a duplication in numbering, reads as follows:

18 A. The provisions of this section shall become effective only
19 upon approval of the people of this state of a duly enrolled
20 legislative measure proposing a state question or multiple state
21 questions by legislative referendum(s) to amend and/or repeal all or
22 part of Article XXVIII of the Oklahoma Constitution and remove
23 certain restrictions, regulations, and control of low-point beer as
24 defined in Section 163.2 of Title 37 of the Oklahoma Statutes, and

1 beer, light beer, mixed beverage cooler, light wine, and wine as
2 each is defined in Section 506 of Title 37 of the Oklahoma Statutes.

3 B. The Legislature shall enact laws providing for the strict
4 regulation, control, licensing, and taxation of the manufacture,
5 sale, distribution, possession, and transportation of all alcoholic
6 beverages in this state.

7 1. The exclusion in the Oklahoma Constitution, Article XXVIII,
8 Section 2, for beer containing not more than three and two-tenths
9 percent (3.2%) of alcohol by weight is hereby abolished.

10 2. The sale of beer and wine in incorporated cities and towns
11 of this state wherein the sale of alcoholic beverages is lawful
12 shall be available to the public through qualified licensed retail
13 stores. The licenses for retail stores shall be issued by the ABLE
14 Commission pursuant to statutory authority. The term "retail store"
15 means a "retailer" as defined by Section 506 of Title 37 of the
16 Oklahoma Statutes and a "retail dealer" as defined by Section 163.2
17 of Title 37 of the Oklahoma Statutes.

18 C. 1. Retail sales of alcoholic beverages shall be limited to
19 the original sealed package by licensed privately owned and operated
20 retail stores in cities and towns having a population in excess of
21 two hundred (200) persons.

22 2. Goods, wares or merchandise may be sold on the same premises
23 on which retail alcoholic beverages are sold, unless specifically
24 proscribed by law or rule.

1 3. Beer and wine may be offered for sale at room temperature or
2 chilled.

3 4. The space in which retail alcoholic beverages are sold or
4 displayed must be able to be secured, and shall be secured, by a
5 door or closure approved by the ABLE Commission during those times
6 that retail sales of alcoholic beverages are prohibited. Alcoholic
7 beverages may be sold by the licensee on days and at times not
8 prohibited by law, rule or county prohibition.

9 5. Not more than one retail store license shall be issued to
10 any person or general or limited partnership.

11 SECTION 2. AMENDATORY 37 O.S. 2011, Section 521, as last
12 amended by Section 4, Chapter 298, O.S.L. 2014 (37 O.S. Supp. 2014,
13 Section 521), is amended to read as follows:

14 Section 521. A. A brewer license shall authorize the holder
15 thereof: To manufacture, bottle, package, and store beer on
16 licensed premises; to sell beer in this state to holders of Class B
17 wholesaler licenses and retail licenses and to sell beer out of this
18 state to qualified persons; and to serve free samples of beer
19 produced by the licensee to visitors twenty-one (21) years of age or
20 older. For purposes of this section, no visitor may sample more
21 than a total of twelve (12) fluid ounces of beer per day. The
22 brewer must restrict the distribution and consumption of beer
23 samples to an area within the licensed premises designated by the
24 brewer. A current floor plan that includes the designated sampling

1 area must be on file with the Oklahoma Alcoholic Beverage Laws
2 Enforcement (ABLE) Commission. No visitor under twenty-one (21)
3 years of age shall be permitted to enter this designated sampling
4 area when samples are being distributed or consumed. Samples may
5 only be distributed or consumed between ~~ten~~ 10:00 a.m. and ~~nine~~ 9:00
6 p.m. Samples of beer served by a brewery under this section shall
7 not be considered a "sale" of beer within the meaning of Article
8 XXVIII of the Oklahoma Constitution or Section 506 of this title;
9 however, such samples of beer shall be considered beer removed or
10 withdrawn from the brewery for "use or consumption" within the
11 meaning of Section 542 of this title for excise tax determination
12 and reporting requirements.

13 B. A distiller license shall authorize the holder thereof: To
14 manufacture, bottle, package, and store spirits on licensed
15 premises; to sell spirits in this state to licensed wholesalers and
16 manufacturers only; to sell spirits out of this state to qualified
17 persons; to purchase from licensed distillers and rectifiers in this
18 state, and import spirits from without this state for manufacturing
19 purposes in accordance with federal laws and regulations.

20 C. A winemaker license shall authorize the holder thereof: To
21 manufacture (including such mixing, blending and cellar treatment as
22 authorized by federal law), bottle, package, and store on licensed
23 premises wine containing not more than twenty-four percent (24%)
24 alcohol by volume~~;~~; provided,; the bottle or package sizes authorized

1 shall be limited to the capacities approved by the United States
2 Alcohol and Tobacco Tax and Trade Bureau; to sell wine in this state
3 to licensed wholesalers and manufacturers; to sell bottles of wine
4 produced at the winery from grapes and other fruits and berries
5 grown in this state, if available, to consumers on the premises of
6 the winery; to serve visitors on the licensed premises samples of
7 wine produced on the premises; to serve samples of wine produced at
8 the winery at festivals and trade shows; to sell wine produced at
9 the winery, in original sealed containers, at festivals and trade
10 shows; to sell wine out of this state to qualified persons; to
11 purchase from licensed winemakers, distillers and rectifiers in this
12 state, and to import into this state wine, brandy and fruit spirits
13 for use in manufacturing in accordance with federal laws and
14 regulations; provided, a winemaker either within or without this
15 state that annually produces no more than ten thousand (10,000)
16 gallons of wine may elect to sell and self-distribute the wine
17 produced by such winemaker directly to licensed retail package
18 stores and restaurants in this state; and provided further that:

19 1. Any such winemaker which elects to directly sell its wine to
20 package stores and restaurants shall not also use a licensed
21 wholesale distributor as a means of distribution, and shall be
22 required to sell its wines to every package store and restaurant
23 licensee who desires to purchase the same, on the same price basis
24 and without discrimination;

1 2. If a winemaker or winery sells directly to a retail package
2 store or restaurant, the winemaker shall transport the wine from the
3 winemaker's winery to the premises where the wine is to be delivered
4 only in vehicles owned or leased by the winemaker and not by common
5 or private contract carrier and shall obtain all necessary permits
6 as required by the Oklahoma Alcoholic Beverage Control Act; and

7 3. If the production volume limit applicable to winemakers is
8 ruled to be unconstitutional by a court of competent jurisdiction,
9 then no winemaker shall be permitted to directly sell its wine to
10 retail package stores or restaurants in this state.

11 D. A winemaker self-distribution license shall authorize a
12 licensed winemaker within or without this state which is permitted
13 by Section 3 of Article XXVIII of the Oklahoma Constitution and
14 subsection C of this section, to distribute its wine directly to
15 retail package stores and restaurants in this state and that elects
16 to do so, to sell and deliver its wines directly to licensed retail
17 package stores and restaurants in this state in full case lots only,
18 and in accordance with the provisions of the Oklahoma Alcoholic
19 Beverage Control Act and such rules as the ABLE Commission shall
20 adopt.

21 E. A rectifier license shall authorize the holder thereof: To
22 rectify spirits and wines, bottle, package, and store same on the
23 licensed premises; to sell spirits and wines in this state to
24 licensed wholesalers and manufacturers only; to sell spirits and

1 wines out of this state to qualified persons; to purchase from
2 licensed manufacturers in this state; and to import into this state
3 for manufacturing purposes spirits and wines in accordance with
4 federal laws and regulations.

5 F. 1. A wholesaler license shall authorize the holder thereof:
6 To purchase and import into this state spirits and wines from
7 persons authorized to sell same who are the holders of a nonresident
8 seller license, and their agents who are the holders of
9 manufacturers agent licenses; to purchase spirits and wines from
10 licensed distillers, rectifiers and winemakers in this state; to
11 purchase spirits and wines from licensed wholesalers, to the extent
12 set forth in paragraphs 2 and 3 of this subsection; to sell in
13 retail containers in this state to retailers, mixed beverage,
14 caterer, special event, public event, hotel beverage or
15 airline/railroad beverage licensees, spirits and wines which have
16 been received and unloaded at the bonded warehouse facilities of the
17 wholesaler before such sale; to sell to licensed wholesalers, to the
18 extent set forth in paragraphs 2 and 3 of this subsection, spirits
19 and wines which have been received and unloaded at the bonded
20 warehouse facilities of the wholesaler before such sale; and to sell
21 spirits and wines out of this state to qualified persons. Provided,
22 however, sales of spirits and wine in containers with a capacity of
23 less than one-twentieth (1/20) gallon by a holder of a wholesaler
24 license shall be in full case lots and in the original unbroken

1 case. Wholesalers shall be authorized to place such signs outside
2 their place of business as are required by Acts of Congress and by
3 such laws and regulations promulgated under such Acts.

4 2. Wholesalers are prohibited from purchasing annually in
5 excess of fifteen percent (15%) of their total spirits inventory and
6 fifteen percent (15%) of their total wine inventory from one or more
7 wholesalers. Wholesalers are also prohibited from purchasing
8 annually in excess of fifteen percent (15%) of their inventory of
9 any individual brand of spirits or wine from one or more
10 wholesalers. The volume of spirits and wine and of each brand that
11 each wholesaler is permitted to purchase annually from other
12 wholesalers shall be calculated by the ABLE Commission by
13 multiplying fifteen percent (15%) by:

- 14 a. the total volume of spirits sales of the wholesaler,
15 by liter, from the previous calendar year, and
- 16 b. the total volume of wine sales of the wholesaler, by
17 liter, from the previous calendar year, and
- 18 c. the volume of sales of each brand of spirits or wine
19 of the wholesaler, by liter, from the previous
20 calendar year.

21 A wholesaler who did not post any sales of spirits, wine or of a
22 particular brand in the previous calendar year shall be deemed to
23 have sold the same volume of spirits, wine or of a particular brand
24 as the wholesaler posting the smallest volumes of sales in spirits,

1 wine or of a particular brand for that year for the purposes of this
2 paragraph. Notwithstanding the foregoing, wholesalers shall not
3 purchase any inventory in spirits or wine from any other wholesaler
4 until such time that the purchasing wholesaler possesses an
5 inventory valued at no less than Two Hundred Fifty Thousand Dollars
6 (\$250,000.00). Inventory valuation shall be based on the original
7 actual price paid by the purchasing wholesaler to the nonresident
8 seller for the inventory.

9 3. A wholesaler may sell spirits and wine to other wholesalers
10 or purchase spirits and wines from other wholesalers without
11 complying with paragraph 2 of this subsection in the case of the
12 sale, purchase, or other transfer or acquisition of the entire
13 business of a wholesaler, including the inventory of spirits and
14 wine.

15 4. A wholesaler license shall authorize the holder thereof to
16 operate a single bonded warehouse with a single central office
17 together with delivery facilities at a location in this state only
18 at the principal place of business for which the wholesaler license
19 was granted.

20 5. All licensed wholesalers shall register prices, purchase and
21 keep on hand or have on order a fifteen-day supply of all brands
22 constituting the top eighteen brands in total sales by all Oklahoma
23 wholesalers during the past twelve-month period, according to the
24 records of the ABLE Commission as revised by the ABLE Commission

1 quarterly; provided, however, that not more than three brands of any
2 particular nonresident seller shall be included in the top-brands
3 classification. All purchase orders for these top eighteen brands
4 must show an expected due delivery date. These purchase orders may
5 only be canceled with prior approval of the Director of the ABLE
6 Commission, unless a wholesaler shall have in its warehouse a
7 fifteen-day supply of merchandise on such purchase order.

8 In order to allow the ABLE Commission to determine the top
9 eighteen brands, wholesalers must submit to the ABLE Commission
10 every sixty (60) days a sworn affidavit listing their top twenty-
11 five brands in sales for the previous sixty (60) days, excluding
12 sales to wholesalers. Such affidavits shall be submitted in
13 conjunction with the original price postings of wholesalers.

14 A fifteen-day supply of a particular brand for a particular
15 wholesaler shall be based upon the market share of the wholesaler,
16 determined by first multiplying the total number of liters of such
17 brand sold by all wholesalers to all retailers during the previous
18 calendar year by the percentage that the total sales of wine and
19 spirits of the particular wholesaler, in liters, for such calendar
20 year bears to the total sales of wine and spirits, in liters,
21 reported by all wholesalers for such calendar year; and then
22 dividing by twenty-four (24); provided, that a fifteen-day supply
23 for a wholesaler who has not been in business for the entirety of
24 the previous calendar year shall be deemed to be equal to that of

1 the wholesaler who was in business for the entirety of the previous
2 calendar year and who reported the lowest volume of sales of wine
3 and spirits, in liters, of any wholesaler having been in business
4 for such period.

5 G. A Class B wholesaler license shall authorize the holder
6 thereof: To purchase and import into this state beer from persons
7 authorized to sell same who are the holders of nonresident seller
8 licenses, and their agents who are the holders of manufacturers
9 agent licenses; to purchase beer from licensed brewers and Class B
10 wholesalers in this state; to sell in retail containers to
11 retailers, mixed beverage, caterer, special event, public event,
12 hotel beverage and airline/railroad beverage licensees in this
13 state, beer which has been unloaded and stored at the holder's self-
14 owned or leased and self-operated warehouse facilities for a period
15 of at least twenty-four (24) hours before such sale; and to sell
16 beer in this state to Class B wholesalers and out of this state to
17 qualified persons, including federal instrumentalities and voluntary
18 associations of military personnel on federal enclaves in this state
19 over which this state has ceded jurisdiction.

20 H. A package store license shall authorize the holder thereof:
21 To purchase alcohol, spirits, beer and wine in retail containers
22 from the holder of a brewer, wholesaler or Class B wholesaler
23 license and to purchase wine from a winemaker who is permitted and
24 has elected to self-distribute as provided in Section 3 of Article

1 XXVIII of the Oklahoma Constitution and to sell same on the licensed
2 premises in such containers to consumers for off-premises
3 consumption only and not for resale; provided, wine may be sold to
4 charitable organizations that are holders of charitable auction or
5 charitable wine event licenses. ~~All alcoholic~~ Alcoholic beverages
6 that are sold by a package store are to be sold at ordinary room
7 temperature, except a package store may elect to store and sell beer
8 as defined in Section 506 of this title that has been chilled to a
9 temperature that is below room temperature.

10 I. A mixed beverage license shall authorize the holder thereof:
11 To purchase alcohol, spirits, beer or wine in retail containers from
12 the holder of a wholesaler or Class B wholesaler license or as
13 specifically provided by law and to sell, offer for sale and possess
14 mixed beverages for on-premises consumption only; provided, the
15 holder of a mixed beverage license issued for an establishment which
16 is also a restaurant may purchase wine directly from a winemaker who
17 is permitted and has elected to self-distribute as provided in
18 Section 3 of Article XXVIII of the Oklahoma Constitution.

19 Sales and service of mixed beverages by holders of mixed
20 beverage licenses shall be limited to the licensed premises of the
21 licensee unless the holder of the mixed beverage license also
22 obtains a caterer license or a mixed beverage/caterer combination
23 license. A mixed beverage license shall only be issued in counties
24 of this state where the sale of alcoholic beverages by the

1 individual drink for on-premises consumption has been authorized. A
2 separate license shall be required for each place of business. No
3 mixed beverage license shall be issued for any place of business
4 functioning as a motion picture theater, as defined by Section 506
5 of this title.

6 J. A bottle club license shall authorize the holder thereof: To
7 store, possess and mix alcoholic beverages belonging to members of
8 the club and to serve such alcoholic beverages for on-premises
9 consumption to club members. A bottle club license shall only be
10 issued in counties of this state where the sale of alcoholic
11 beverages by the individual drink for on-premises consumption has
12 not been authorized. A separate license shall be required for each
13 place of business.

14 K. A caterer license shall authorize the holder thereof: To
15 sell mixed beverages for on-premises consumption incidental to the
16 sale or distribution of food at particular functions, occasions, or
17 events which are temporary in nature. A caterer license shall not
18 be issued in lieu of a mixed beverage license. A caterer license
19 shall only be issued in counties of this state where the sale of
20 alcoholic beverages by the individual drink for on-premises
21 consumption has been authorized. A separate license shall be
22 required for each place of business.

23 L. 1. An annual special event license shall authorize the
24 holder thereof: To sell and distribute mixed beverages for

1 consumption on the premises for which the license has been issued
2 for up to four events to be held over a period not to exceed one (1)
3 year, not to exceed two such events in any three-month period. For
4 purposes of this paragraph, an event shall not exceed a period of
5 ten (10) consecutive days. An annual special event license shall
6 only be issued in counties of this state where the sale of alcoholic
7 beverages by the individual drink for on-premises consumption has
8 been authorized. The holder of an annual special event license
9 shall provide written notice to the ABLE Commission of each special
10 event not less than ten (10) days before the event is held.

11 2. A quarterly special event license shall authorize the holder
12 thereof: To sell and distribute mixed beverages for consumption on
13 the premises for which the license has been issued for up to three
14 events to be held over a period not to exceed three (3) months. For
15 purposes of this paragraph, an event shall not exceed a period of
16 ten (10) consecutive days. A quarterly special event license shall
17 only be issued in counties of this state where the sale of alcoholic
18 beverages by the individual drink for on-premises consumption has
19 been authorized. The holder of a quarterly special event license
20 shall provide written notice to the ABLE Commission of each special
21 event not less than ten (10) days before the event is held.

22 3. An annual public event license shall authorize the holder
23 thereof: to sell and distribute mixed beverages for consumption on
24 the premises for which the license has been issued for up to six

1 events to be held over a period not to exceed one (1) calendar year.
2 For purposes of this paragraph, an event shall not exceed a period
3 of three (3) consecutive days. An annual public event license shall
4 only be issued in counties of this state where the sale of alcoholic
5 beverages by the individual drink for on-premises consumption has
6 been authorized. The holder of an annual public event license shall
7 provide written notice to the ABLE Commission of each promoted
8 public event not less than ten (10) days before the event is held.
9 A public event license shall not be used in lieu of a mixed beverage
10 license.

11 4. A one-time public event license shall authorize the holder
12 thereof: to sell and distribute mixed beverages for consumption on
13 the premises for which the license has been issued. For purposes of
14 this paragraph, an event shall not exceed a period of three (3)
15 consecutive days. A public event license shall only be issued in
16 counties of this state where the sale of alcoholic beverages by the
17 individual drink for on-premises consumption has been authorized.
18 The holder of a public event license shall provide written notice to
19 the ABLE Commission of each public event not less than ten (10) days
20 before the event is held. A public event license shall not be used
21 in lieu of a mixed beverage license.

22 M. A hotel beverage license shall authorize the holder thereof:
23 To sell or serve alcoholic beverages in 50 milliliter spirits, 187
24 milliliter wine, and 12-ounce malt beverage containers which are

1 distributed from a hotel room mini-bar. A hotel beverage license
2 shall only be issued in counties of this state where the sale of
3 alcoholic beverages by the individual drink for on-premises
4 consumption has been authorized. A hotel beverage license shall
5 only be issued to a hotel or motel as defined by Section 506 of this
6 title which is also the holder of a mixed beverage license.
7 Provided, that application may be made simultaneously for both such
8 licenses. A separate license shall be required for each place of
9 business.

10 N. An airline/railroad beverage license shall authorize the
11 holder thereof: To sell or serve alcoholic beverages in or from any
12 size container on a commercial passenger airplane or railroad
13 operated in compliance with a valid license, permit or certificate
14 issued under the authority of the United States or this state, even
15 though the airplane or train, in the course of its travel, may cross
16 an area in which the sale of alcoholic beverages by the individual
17 drink is not authorized and to store alcoholic beverages in sealed
18 containers of any size at any airport or station regularly served by
19 the licensee, in accordance with rules promulgated by the Alcoholic
20 Beverage Laws Enforcement Commission. Alcoholic beverages purchased
21 by the holder of an airline/railroad license from the holder of a
22 wholesaler license shall be presumed to be purchased for consumption
23 outside the State of Oklahoma or in interstate commerce, and shall
24

1 be exempt from the excise tax provided for in Section 553 of this
2 title.

3 O. An agent license shall authorize the holder thereof: To
4 represent only the holders of licenses within this state, other than
5 retailers, authorized to sell alcoholic beverages to retail dealers
6 in Oklahoma, and to solicit and to take orders for the purchase of
7 alcoholic beverages from retailers including licensees authorized to
8 sell alcoholic beverages by the individual drink for on-premises
9 consumption. Such license shall be issued only to agents and
10 employees of the holder of a license under the Oklahoma Alcoholic
11 Beverage Control Act, but no such license shall be required of an
12 employee making sales of alcoholic beverages on licensed premises of
13 the employee's principal. No person holding an agent license shall
14 be entitled to a manufacturers agent license.

15 P. An employee license shall authorize the holder thereof: To
16 work in a package store, mixed beverage establishment, bottle club,
17 public event or any establishment where alcohol or alcoholic
18 beverages are sold, mixed, or served. Persons employed by a mixed
19 beverage licensee, public event licensee or a bottle club who do not
20 participate in the service, mixing, or sale of mixed beverages shall
21 not be required to have an employee license. Provided, however,
22 that a manager employed by a mixed beverage licensee, public event
23 licensee or a bottle club shall be required to have an employee
24 license whether or not the manager participates in the service,

1 mixing or sale of mixed beverages. Applicants for an employee
2 license must have a health card issued by the county in which they
3 are employed, if the county issues such a card. Employees of
4 special event, caterer or airline/railroad beverage licensees shall
5 not be required to obtain an employee license. Persons employed by
6 a hotel licensee who participate in the stocking of hotel room mini-
7 bars or in the handling of alcoholic beverages to be placed in such
8 devices shall be required to have an employee license.

9 Q. An industrial license may be issued to persons desiring to
10 import, transport, and use alcohol for the following purposes:

11 1. Manufacture of patent, proprietary, medicinal,
12 pharmaceutical, antiseptic, and toilet preparations;

13 2. Manufacture of extracts, syrups, condiments, and food
14 products; and

15 3. For use in scientific, chemical, mechanical, industrial, and
16 medicinal products and purposes.

17 No other provisions of the Oklahoma Alcoholic Beverage Control
18 Act shall apply to alcohol intended for industrial, medical,
19 mechanical, or scientific use.

20 Any person receiving alcohol under authority of an industrial
21 license who shall use, permit, or cause same to be used for purposes
22 other than authorized purposes specified above, and all such
23 alcohol, shall be liable to all provisions of the Oklahoma Alcoholic
24 Beverage Control Act, including payment of tax thereon.

1 No provisions of the Oklahoma Alcoholic Beverage Control Act
2 shall apply to alcohol withdrawn by any person free of federal tax
3 under a tax-free permit issued by the United States government, if
4 such alcohol is received, stored, and used as authorized by federal
5 laws.

6 R. A carrier license may be issued to any common carrier
7 operating under a certificate of convenience and necessity issued by
8 any duly authorized federal or state regulatory agency. Such
9 license shall authorize the holder thereof to transport alcoholic
10 beverages other than wine sold directly by a winemaker or winery to
11 a retail package store or restaurant into, within, and out of this
12 state under such terms, conditions, limitations, and restrictions as
13 the ABLE Commission may prescribe by order issuing such license and
14 by regulations.

15 S. A private carrier license may be issued to any carrier other
16 than a common carrier described in subsection Q of this section.
17 Such license shall authorize the holder thereof to transport
18 alcoholic beverages other than wine sold directly by a winemaker or
19 winery to a retail package store or restaurant into, within, or out
20 of this state under such terms, conditions, limitations, and
21 restrictions as the ABLE Commission may prescribe by order issuing
22 such license and by regulations. No carrier license or private
23 carrier license shall be required of licensed brewers, distillers,
24 winemakers, rectifiers, wholesalers, or Class B wholesalers, to

1 transport alcoholic beverages from the place of purchase or
2 acquisition to the licensed premises of such licensees and from such
3 licensed premises to the licensed premises of the purchaser in
4 vehicles owned or leased by such licensee when such transportation
5 is for a lawful purpose and not for hire.

6 No carrier license or private carrier license shall be required
7 of the holder of a package store, mixed beverage, caterer, special
8 event, hotel beverage, public event or airline/railroad license to
9 pick up alcoholic beverage orders from the licensees' wholesaler or
10 Class B wholesaler from whom they are purchased, and to transport
11 such alcoholic beverages from the place of purchase or acquisition
12 to the licensed premise of such licensees in vehicles owned or under
13 the control of such licensee or a licensed employee of such licensee
14 under such terms, conditions, limitations and restrictions as the
15 ABLE Commission may prescribe.

16 T. A bonded warehouse license shall authorize the holder
17 thereof: To receive and store alcoholic beverages for the holders of
18 storage licenses on the licensed premises of the bonded warehouse
19 licensee. No goods, wares or merchandise other than alcoholic
20 beverages may be stored in the same bonded warehouse with alcoholic
21 beverages. The holder of a bonded warehouse license shall furnish
22 and file with the ABLE Commission a bond running to all bailers of
23 alcoholic beverages under proper storage licenses and their
24 assignees (including mortgagees or other bona fide lienholders)

1 conditioned upon faithful performance of the terms and conditions of
2 such bailments.

3 U. A storage license may be issued to a holder of a brewer,
4 distiller, winemaker, rectifier, wholesaler, Class B wholesaler,
5 nonresident seller, package store, mixed beverage, caterer, public
6 event or hotel beverage license, and shall authorize the holder
7 thereof: To store alcoholic beverages in a public warehouse holding
8 a bonded warehouse license, and no goods, wares or merchandise other
9 than alcoholic beverages may be stored in the same warehouse with
10 alcoholic beverages in private warehouses owned or leased and
11 operated by such licensees elsewhere than on their licensed
12 premises. Provided:

13 1. A storage license issued to a Class B wholesaler shall
14 permit the storage of light beer and permit the sale and delivery to
15 retailers from the premises covered by such license;

16 2. Any licensee who is the holder of a mixed beverage/caterer
17 combination license or the holder of a mixed beverage license and a
18 hotel beverage license who is issued a storage license shall store
19 all inventories of alcoholic beverages either on the premises of the
20 mixed beverage establishment or in the warehouse;

21 3. A storage license shall not be required for a special event
22 licensee storing alcoholic beverages for use at a subsequent event;

23

24

1 4. A storage license shall be required for a public event
2 licensee storing alcoholic beverages for use at a subsequent event;
3 and

4 5. Notwithstanding the provisions of subsection I of this
5 section or any other provision of this title, a licensee who wholly
6 owns more than one licensed mixed beverage establishment may store
7 alcoholic beverages for each of the licensed establishments in one
8 location under one storage license. Alcoholic beverages purchased
9 and stored pursuant to the provisions of a storage license, for one
10 licensed mixed beverage establishment may be transferred by a
11 licensee to another licensed mixed beverage establishment which is
12 wholly owned by the same licensee. Notice of such a transfer shall
13 be given in writing to the Oklahoma Tax Commission and the ABLE
14 Commission within three (3) business days of the transfer. The
15 notice shall clearly show the quantity, brand and size of every
16 transferred bottle or case.

17 V. A sacramental wine supplier license shall authorize the
18 holder thereof: To sell, ship or deliver sacramental wine to any
19 religious corporation or society of this state holding a valid
20 exemption from taxation issued pursuant to Section 501(a) of the
21 Internal Revenue Code, 1986, and listed as an exempt organization in
22 Section 501(c) (3) of the Internal Revenue Code, 1986, of the United
23 States, as amended.

24

1 W. A beer and wine license shall authorize the holder thereof:
2 To purchase beer and wine in retail containers from the holder of a
3 wholesaler or Class B wholesaler license or as specifically provided
4 by law and to sell, offer for sale and possess beer and wine for on-
5 premises consumption only; provided, the holder of a beer and wine
6 license issued for an establishment which is also a restaurant may
7 purchase wine from a winemaker who is permitted and has elected to
8 self-distribute as provided in Section 3 of Article XXVIII of the
9 Oklahoma Constitution.

10 Sales and service of beer and wine by holders of beer and wine
11 licenses shall be limited to the licensed premises of the licensee
12 unless the holder of the beer and wine license also obtains a
13 caterer license. A beer and wine license shall only be issued in
14 counties of this state where the sale of alcoholic beverages by the
15 individual drink for on-premises consumption has been authorized. A
16 separate license shall be required for each place of business. No
17 beer and wine license shall be issued for any place of business
18 functioning as a motion picture theater, as defined by Section 506
19 of this title. No spirits shall be stored, possessed or consumed on
20 the licensed premises of a beer and wine licensee.

21 X. A charitable auction or charitable alcoholic beverage event
22 license may be issued to a charitable organization exempt from
23 taxation under Section 501(c)(3), (4), (5), (7), (8), (9), (10), or
24 (19) of the United States Internal Revenue Code. The charitable

1 alcoholic beverage event license shall authorize the holder thereof
2 to conduct a wine, spirit and/or beer event which may consist of one
3 or more of a wine, spirit and/or beer tasting event, a wine, spirit
4 and/or beer dinner event or a wine, spirit and/or beer auction,
5 which may be either a live auction conducted by an auctioneer or a
6 silent auction for which:

7 1. Bid sheets are accepted from interested bidders at the
8 event;

9 2. The holders of tickets are allowed to bid online for a
10 period not exceeding thirty (30) days prior to the event; or

11 3. Both bid sheets are accepted at the event and online bids
12 are accepted pursuant to paragraph 2 of this subsection.

13 A charitable alcoholic beverage event shall be conducted solely
14 to raise funds for charitable purposes. A charitable alcoholic
15 beverage license will allow the event attendees access to tastings,
16 samples, dinners and alcoholic beverages as parts of their entrance
17 fee or ticket price. Wine, spirits and/or beer used in, served, or
18 consumed at a charitable alcoholic beverage event may be purchased
19 by the charitable organization or donated by any person or entity.
20 The charitable alcoholic beverage event license shall be issued for
21 a period not exceeding four (4) days. Only eight such licenses may
22 be issued to an organization in any twelve-month period. The
23 charitable organization holding a charitable alcoholic beverage
24 event license shall not be required to obtain a special event

1 license. Charitable auction and charitable alcoholic beverage event
2 license holders may also utilize a licensed caterer to provide
3 additional alcohol services at the event and on the premises. The
4 charitable auction license shall authorize the holder thereof to
5 auction wine, spirits and/or beer purchased from a retail package
6 store or received as a gift from an individual if the auction is
7 conducted to raise funds for charitable purposes. The charitable
8 auction license shall be issued for a period not to exceed two (2)
9 days. Only four such licenses shall be issued to an organization in
10 any twelve-month period. The maximum amount of wine, spirits and/or
11 beer auctioned pursuant to the charitable auction license shall not
12 exceed fifty (50) gallons. All wines auctioned pursuant to the
13 charitable auction license shall be registered and all fees and
14 taxes shall be paid in accordance with the Oklahoma Alcoholic
15 Beverage Control Act.

16 Y. A mixed beverage/caterer combination license shall authorize
17 the holder thereof: To purchase or sell mixed beverages as
18 specifically provided by law for the holder of a mixed beverage
19 license or a caterer license. All provisions of the Oklahoma
20 Alcoholic Beverage Control Act applicable to mixed beverage licenses
21 or caterer licenses, or the holders thereof, shall also be
22 applicable to mixed beverage/caterer combination licenses or the
23 holders thereof, except where specifically otherwise provided. A
24 mixed beverage/caterer combination license shall only be issued in

1 counties of this state where the sale of alcoholic beverages by the
2 individual drink for on-premises consumption has been authorized. A
3 separate license shall be required for each place of business.

4 Z. In the event any portion of this section is declared invalid
5 for any reason, the invalid portion shall be severed and the rest
6 and remainder of the section shall be saved and given full force and
7 application.

8 AA. Except as provided in Sections 554.1 and 554.2 of this
9 title with respect to cities, towns and counties, and except as may
10 be provided under Title 68 of the Oklahoma Statutes with respect to
11 the Oklahoma Tax Commission, no license or permit other than
12 licenses as provided under the Oklahoma Alcoholic Beverage Control
13 Act shall be required of any licensee by any agency, instrumentality
14 or political subdivision of this state to engage in any activity
15 covered by the Oklahoma Alcoholic Beverage Control Act anywhere
16 within the State of Oklahoma and no agency, instrumentality or
17 political subdivision of this state shall interfere with the ABLE
18 Commission's regulation of, or a wholesaler's performance of, the
19 sale, distribution, possession, handling or marketing of alcoholic
20 beverages on any premises of any licensee as defined in Section 506
21 of this title.

22 SECTION 3. AMENDATORY 37 O.S. 2011, Section 534, is
23 amended to read as follows:

24

1 Section 534. A. No package store license shall be issued for
2 premises unless ~~said~~ the premises are separated from premises on
3 which any other goods, wares or merchandise are sold or services are
4 rendered by nontransparent walls which may be broken by a passageway
5 to which the public is not admitted. Provided, it shall be unlawful
6 for any person or persons to take any alcoholic beverage from such
7 store through ~~said~~ the passageway for the purpose of selling,
8 reselling, or delivering in connection with the sale of ~~said~~ the
9 alcoholic beverage. Such licenses shall apply only to the premises
10 described in the application. No person may own any interest in
11 more than one package store. For the purpose only of establishing
12 whether or not a person owns an interest in more than one package
13 store, any person having a beneficial interest in any package store
14 shall be deemed to be a partner in ~~said~~ the package store except
15 that the spouse of any package store license holder or partner shall
16 not be deemed to be a partner or have a beneficial interest in a
17 package store unless his or her name appears on the license. A
18 beneficial interest shall be any interest that benefits from any
19 sales or profits of ~~said~~ the package store.

20 B. For purposes of this section, any spouse of a package store
21 license holder shall not hold another license provided for pursuant
22 to the Oklahoma Alcoholic Beverage Control Act, except a package
23 store license, beer and wine license, or a mixed beverage license.

24

1 C. Package stores licensed under the Oklahoma Alcoholic
2 Beverage Control Act may sell only alcoholic beverages in retail
3 containers as defined in Section 506 of this title, in the original
4 package for consumption off the premises. ~~Provided, all alcoholic~~
5 Alcoholic beverages are to be sold at ordinary room temperature,
6 except a package store may elect to store and sell beer as defined
7 in Section 506 of this title that has been chilled to a temperature
8 that is below room temperature. All retail sales shall be made on
9 the licensed premises and all deliveries off the premises, at
10 retail, of intoxicating liquor or beer are hereby prohibited.

11 SECTION 4. This act shall become effective November 1, 2015.

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13 COMMITTEE REPORT BY: COMMITTEE ON ALCOHOL, TOBACCO, AND CONTROLLED
14 SUBSTANCES, dated 04/07/2015 - DO PASS, As Amended.

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