

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 SENATE BILL NO. 1173

By: David of the Senate

and

Hall of the House

6
7
8
9 COMMITTEE SUBSTITUTE

10 [alcoholic beverages - Oklahoma Alcoholic Beverage
11 Control Act - Oklahoma Alcoholic Beverage Control
12 Act - Alcoholic Beverage Laws Enforcement
13 Commission - effective dates -
14 emergency]

15
16
17 ~~BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:~~

18 SECTION 1. AMENDATORY 37 O.S. 2011, Section 521, as last
19 amended by Section 4, Chapter 381, O.S.L. 2017 (37 O.S. Supp. 2017,
20 Section 521), is amended to read as follows:

21 Section 521. A. A brewer license shall authorize the holder
22 thereof: To manufacture, bottle, package, and store beer on
23 licensed premises; to sell beer in this state to holders of Class B
24 wholesaler licenses and retail licenses and to sell beer out of this

1 state to qualified persons; to sell beer produced by the licensee to
2 consumers twenty-one (21) years of age or older on the premises of
3 the brewery; and to serve free samples of beer produced by the
4 licensee to visitors twenty-one (21) years of age or older. For
5 purposes of this section, no visitor may sample more than a total of
6 twelve (12) fluid ounces of beer per day. The brewer must restrict
7 the distribution and consumption of beer samples to an area within
8 the licensed premises designated by the brewer. A current floor
9 plan that includes the designated sampling area must be on file with
10 the Oklahoma Alcoholic Beverage Laws Enforcement (ABLE) Commission.
11 No visitor under twenty-one (21) years of age shall be permitted to
12 enter this designated sampling area when samples are being
13 distributed or consumed. Samples and sales may only be distributed
14 or consumed between 10:00 a.m. and 9:00 p.m. Samples and sales of
15 beer made or served by a brewery under this section shall not be
16 considered a "sale" of beer within the meaning of Article XXVIII of
17 the Oklahoma Constitution or Section 506 of this title; however,
18 such samples and sales of beer shall be considered beer removed or
19 withdrawn from the brewery for "use or consumption" within the
20 meaning of Section 542 of this title for excise tax determination
21 and reporting requirements.

22 B. A distiller license shall authorize the holder thereof: To
23 manufacture, bottle, package, and store spirits on licensed
24 premises; to sell spirits in this state to licensed wholesalers and

1 manufacturers only; to sell spirits out of this state to qualified
2 persons; to purchase from licensed distillers and rectifiers in this
3 state, and import spirits from without this state for manufacturing
4 purposes in accordance with federal laws and regulations.

5 C. A winemaker license shall authorize the holder thereof: To
6 manufacture (including such mixing, blending and cellar treatment as
7 authorized by federal law), bottle, package, and store on licensed
8 premises wine containing not more than twenty-four percent (24%)
9 alcohol by volume, provided the bottle or package sizes authorized
10 shall be limited to the capacities approved by the United States
11 Alcohol and Tobacco Tax and Trade Bureau; to sell wine in this state
12 to licensed wholesalers and manufacturers; to sell bottles of wine
13 produced at the winery from grapes and other fruits and berries
14 grown in this state, if available, to consumers on the premises of
15 the winery; to serve visitors on the licensed premises samples of
16 wine produced on the premises; to serve samples of wine produced at
17 the winery at festivals and trade shows; to sell wine produced at
18 the winery, in original sealed containers, at festivals and trade
19 shows; to sell wine out of this state to qualified persons; to
20 purchase from licensed winemakers, distillers and rectifiers in this
21 state, and to import into this state wine, brandy and fruit spirits
22 for use in manufacturing in accordance with federal laws and
23 regulations; provided, a winemaker either within or without this
24 state that annually produces no more than ten thousand (10,000)

1 gallons of wine may elect to sell and self-distribute the wine
2 produced by such winemaker directly to licensed retail package
3 stores and restaurants in this state; and provided further that:

4 1. Any such winemaker which elects to directly sell its wine to
5 package stores and restaurants shall not also use a licensed
6 wholesale distributor as a means of distribution, and shall be
7 required to sell its wines to every package store and restaurant
8 licensee who desires to purchase the same, on the same price basis
9 and without discrimination;

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

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

20 D. A winemaker self-distribution license shall authorize a
21 licensed winemaker within or without this state which is permitted
22 by Section 3 of Article XXVIII of the Oklahoma Constitution and
23 subsection C of this section, to distribute its wine directly to
24 retail package stores and restaurants in this state and that elects

1 to do so, to sell and deliver its wines directly to licensed retail
2 package stores and restaurants in this state in full case lots only,
3 and in accordance with the provisions of the Oklahoma Alcoholic
4 Beverage Control Act and such rules as the ABLE Commission shall
5 adopt.

6 E. A rectifier license shall authorize the holder thereof: To
7 rectify spirits and wines, bottle, package, and store same on the
8 licensed premises; to sell spirits and wines in this state to
9 licensed wholesalers and manufacturers only; to sell spirits and
10 wines out of this state to qualified persons; to purchase from
11 licensed manufacturers in this state; and to import into this state
12 for manufacturing purposes spirits and wines in accordance with
13 federal laws and regulations.

14 F. 1. A wholesaler license shall authorize the holder thereof:
15 To purchase and import into this state spirits and wines from
16 persons authorized to sell same who are the holders of a designating
17 manufacturer license, nonresident seller license, and their agents
18 who are the holders of manufacturers agent licenses; to purchase
19 spirits and wines from licensed distillers, rectifiers and
20 winemakers in this state; to purchase spirits and wines from
21 licensed wholesalers, to the extent set forth in ~~paragraphs~~
22 paragraph 2 and 3 of this subsection; to sell in retail containers
23 in this state to retailers, mixed beverage, caterer, special event,
24 public event, hotel beverage or airline/railroad beverage licensees,

1 spirits and wines which have been received and unloaded at the
2 bonded warehouse facilities of the wholesaler before such sale; to
3 sell to licensed wholesalers, to the extent set forth in ~~paragraphs~~
4 paragraph 2 and 3 of this subsection, spirits and wines which have
5 been received and unloaded at the bonded warehouse facilities of the
6 wholesaler before such sale; and to sell spirits and wines out of
7 this state to qualified persons. Provided, however, sales of
8 spirits and wine in containers with a capacity of less than one-
9 twentieth (1/20) gallon by a holder of a wholesaler license shall be
10 in full case lots and in the original unbroken case. Wholesalers
11 shall be authorized to place such signs outside their place of
12 business as are required by Acts of Congress and by such laws and
13 regulations promulgated under such Acts.

14 2. ~~Wholesalers are prohibited from purchasing annually in~~
15 ~~excess of fifteen percent (15%) of their total spirits inventory and~~
16 ~~fifteen percent (15%) of their total wine inventory from one or more~~
17 ~~wholesalers. Wholesalers are also prohibited from purchasing~~
18 ~~annually in excess of fifteen percent (15%) of their inventory of~~
19 ~~any individual brand of spirits or wine from one or more~~
20 ~~wholesalers. The volume of spirits and wine and of each brand that~~
21 ~~each wholesaler is permitted to purchase annually from other~~
22 ~~wholesalers shall be calculated by the ABLE Commission by~~
23 ~~multiplying fifteen percent (15%) by:~~

24

- 1 a. ~~the total volume of spirits sales of the wholesaler,~~
2 ~~by liter, from the previous calendar year, and~~
- 3 b. ~~the total volume of wine sales of the wholesaler, by~~
4 ~~liter, from the previous calendar year, and~~
- 5 c. ~~the volume of sales of each brand of spirits or wine~~
6 ~~of the wholesaler, by liter, from the previous~~
7 ~~calendar year.~~

8 ~~A wholesaler who did not post any sales of spirits, wine or of a~~
9 ~~particular brand in the previous calendar year shall be deemed to~~
10 ~~have sold the same volume of spirits, wine or of a particular brand~~
11 ~~as the wholesaler posting the smallest volumes of sales in spirits,~~
12 ~~wine or of a particular brand for that year for the purposes of this~~
13 ~~paragraph. Notwithstanding the foregoing, wholesalers shall not~~
14 ~~purchase any inventory in spirits or wine from any other wholesaler~~
15 ~~until such time that the purchasing wholesaler possesses an~~
16 ~~inventory valued at no less than Two Hundred Fifty Thousand Dollars~~
17 ~~(\$250,000.00). Inventory valuation shall be based on the original~~
18 ~~actual price paid by the purchasing wholesaler to the nonresident~~
19 ~~seller for the inventory.~~

20 3. A wholesaler may sell spirits and wine to other wholesalers
21 or purchase spirits and wines from other wholesalers ~~without~~
22 ~~complying with paragraph 2 of this subsection~~ in the case of the
23 sale, purchase, or other transfer or acquisition of the entire
24

1 business of a wholesaler, including the inventory of spirits and
2 wine.

3 ~~4. 3.~~ A wholesaler license shall authorize the holder thereof
4 to operate a single bonded warehouse with a single central office
5 together with delivery facilities at a location in this state only
6 at the principal place of business for which the wholesaler license
7 was granted.

8 ~~5. All licensed wholesalers shall register prices, purchase and
9 keep on hand or have on order a fifteen day supply of all brands
10 constituting the top eighteen brands in total sales by all Oklahoma
11 wholesalers during the past twelve month period, according to the
12 records of the ABLE Commission as revised by the ABLE Commission
13 quarterly; provided, however, that not more than three brands of any
14 particular nonresident seller shall be included in the top brands
15 classification. All purchase orders for these top eighteen brands
16 must show an expected due delivery date. These purchase orders may
17 only be canceled with prior approval of the Director of the ABLE
18 Commission, unless a wholesaler shall have in its warehouse a
19 fifteen day supply of merchandise on such purchase order.~~

20 ~~In order to allow the ABLE Commission to determine the top
21 eighteen brands, wholesalers must submit to the ABLE Commission
22 every sixty (60) days a sworn affidavit listing their top twenty-
23 five brands in sales for the previous sixty (60) days, excluding~~

24

1 ~~sales to wholesalers. Such affidavits shall be submitted in~~
2 ~~conjunction with the original price postings of wholesalers.~~

3 ~~A fifteen-day supply of a particular brand for a particular~~
4 ~~wholesaler shall be based upon the market share of the wholesaler,~~
5 ~~determined by first multiplying the total number of liters of such~~
6 ~~brand sold by all wholesalers to all retailers during the previous~~
7 ~~calendar year by the percentage that the total sales of wine and~~
8 ~~spirits of the particular wholesaler, in liters, for such calendar~~
9 ~~year bears to the total sales of wine and spirits, in liters,~~
10 ~~reported by all wholesalers for such calendar year; and then~~
11 ~~dividing by twenty-four (24); provided, that a fifteen-day supply~~
12 ~~for a wholesaler who has not been in business for the entirety of~~
13 ~~the previous calendar year shall be deemed to be equal to that of~~
14 ~~the wholesaler who was in business for the entirety of the previous~~
15 ~~calendar year and who reported the lowest volume of sales of wine~~
16 ~~and spirits, in liters, of any wholesaler having been in business~~
17 ~~for such period.~~

18 G. A Class B wholesaler license shall authorize the holder
19 thereof: To purchase and import into this state beer from persons
20 authorized to sell same who are the holders of nonresident seller
21 licenses, and their agents who are the holders of manufacturers
22 agent licenses; to purchase beer from licensed brewers and Class B
23 wholesalers in this state; to sell in retail containers to
24 retailers, mixed beverage, caterer, special event, public event,

1 hotel beverage, and airline/railroad beverage licensees in this
2 state, beer which has been unloaded and stored at the holder's self-
3 owned or leased and self-operated warehouse facilities for a period
4 of at least twenty-four (24) hours before such sale; and to sell
5 beer in this state to Class B wholesalers and out of this state to
6 qualified persons, including federal instrumentalities and voluntary
7 associations of military personnel on federal enclaves in this state
8 over which this state has ceded jurisdiction.

9 H. A package store license shall authorize the holder thereof:
10 To purchase alcohol, spirits, beer, and wine in retail containers
11 from the holder of a brewer, wholesaler or Class B wholesaler
12 license and to purchase wine from a winemaker who is permitted and
13 has elected to self-distribute as provided in Section 3 of Article
14 XXVIII of the Oklahoma Constitution and to sell same on the licensed
15 premises in such containers to consumers for off-premises
16 consumption only and not for resale; provided, wine, beer, and
17 spirits may be sold to charitable organizations that are holders of
18 charitable alcoholic beverage auction or charitable alcoholic
19 beverage event licenses. All alcoholic beverages that are sold by a
20 package store are to be sold at ordinary room temperature.

21 I. A mixed beverage license shall authorize the holder thereof:
22 To purchase alcohol, spirits, beer or wine in retail containers from
23 the holder of a wholesaler or Class B wholesaler license or as
24 specifically provided by law and to sell, offer for sale and possess

1 mixed beverages for on-premises consumption only; provided, the
2 holder of a mixed beverage license issued for an establishment which
3 is also a restaurant may purchase wine directly from a winemaker who
4 is permitted and has elected to self-distribute as provided in
5 Section 3 of Article XXVIII of the Oklahoma Constitution.

6 Sales and service of mixed beverages by holders of mixed
7 beverage licenses shall be limited to the licensed premises of the
8 licensee unless the holder of the mixed beverage license also
9 obtains a caterer license or a mixed beverage/caterer combination
10 license. A mixed beverage license shall only be issued in counties
11 of this state where the sale of alcoholic beverages by the
12 individual drink for on-premises consumption has been authorized. A
13 separate license shall be required for each place of business. Upon
14 application, a mixed beverage license shall be issued for any place
15 of business functioning as a motion picture theater, as defined by
16 Section 506 of this title. Provided, that upon proof of legal age
17 to consume alcohol, every patron being served alcoholic beverages
18 shall be required to wear a wrist bracelet or receive a hand stamp
19 identifying the patron as being of legal age to consume alcohol.
20 This requirement shall only apply inside a motion picture theater
21 auditorium where individuals under the legal age to consume alcohol
22 are allowed. A mixed beverage licensee whose main purpose is
23 hosting live performance art presentations may utilize the services
24 of a licensed caterer for its alcoholic beverage service as long as

1 it is not open to the public more than one hundred twenty (120) days
2 per year.

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

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

20 A licensed caterer shall be authorized to sell mixed beverages
21 for on-premises consumption incidental to the distribution of food
22 at temporary private functions, at temporary public events that are
23 licensed and approved by the ABLE Commission, and on the premises of
24 a mixed beverage licensee whose main purpose is the hosting of live

1 performing art presentations and is not open to the public more than
2 one hundred twenty (120) days per year.

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

15 2. A quarterly special event license shall authorize the holder
16 thereof: To sell and distribute mixed beverages for consumption on
17 the premises for which the license has been issued for up to three
18 events to be held over a period not to exceed three (3) months. For
19 purposes of this paragraph, an event shall not exceed a period of
20 ten (10) consecutive days. A quarterly special event license shall
21 only be issued in counties of this state where the sale of alcoholic
22 beverages by the individual drink for on-premises consumption has
23 been authorized. The holder of a quarterly special event license
24

1 shall provide written notice to the ABLE Commission of each special
2 event not less than ten (10) days before the event is held.

3 3. An annual public event license shall authorize the holder
4 thereof: to sell and distribute mixed beverages for consumption on
5 the premises for which the license has been issued for up to six
6 events to be held over a period not to exceed one (1) year. The
7 applicant for an annual public event license, who does not already
8 hold a license issued by the ABLE Commission, shall make application
9 not less than sixty (60) days before its first event. The ABLE
10 Commission shall have the authority to waive the sixty-day
11 requirement at its discretion. For purposes of this paragraph, an
12 event shall not exceed a period of three (3) consecutive days. An
13 annual public event license shall only be issued in counties of this
14 state where the sale of alcoholic beverages by the individual drink
15 for on-premises consumption has been authorized. The holder of an
16 annual public event license shall provide written notice to the ABLE
17 Commission of each subsequent public event not less than ten (10)
18 days before the event is held. A public event license shall not be
19 used in lieu of a mixed beverage license. The holder of an annual
20 public event license may choose to utilize the services of a
21 licensed caterer to provide and distribute the alcoholic beverages
22 at their events. When the applicant chooses to utilize the services
23 of a licensed caterer, the applicant shall declare upon application
24 which licensed caterer will be used. The licensed caterer shall be

1 responsible for payment of all applicable mixed beverage taxes
2 through the existing Mixed Beverage Tax Permit issued to his or her
3 business by the Oklahoma Tax Commission.

4 4. A one-time public event license shall authorize the holder
5 thereof: to sell and distribute mixed beverages for consumption on
6 the premises for which the license has been issued. The applicant
7 for a one-time public event license, who does not already hold a
8 license issued by the ABLE Commission, shall make application not
9 less than sixty (60) days before the event. The ABLE Commission
10 shall have the authority to waive the sixty-day requirement at its
11 discretion. For purposes of this paragraph, an event shall not
12 exceed a period of three (3) consecutive days. A public event
13 license shall only be issued in counties of this state where the
14 sale of alcoholic beverages by the individual drink for on-premises
15 consumption has been authorized. A public event license shall not
16 be used in lieu of a mixed beverage license. The holder of a one-
17 time public event license may choose to utilize the services of a
18 licensed caterer to provide and distribute the alcoholic beverages
19 at his or her event. When the applicant chooses to utilize the
20 services of a licensed caterer, the applicant shall declare upon
21 application which licensed caterer will be used. The licensed
22 caterer shall be responsible for payment of all applicable mixed
23 beverage taxes through the existing Mixed Beverage Tax Permit issued
24 to his or her business by the Oklahoma Tax Commission.

1 M. A hotel beverage license shall authorize the holder thereof:
2 To sell or serve alcoholic beverages in 50 milliliter spirits, 187
3 milliliter wine, and 12-ounce malt beverage containers which are
4 distributed from a hotel room mini-bar. A hotel beverage license
5 shall only be issued in counties of this state where the sale of
6 alcoholic beverages by the individual drink for on-premises
7 consumption has been authorized. A hotel beverage license shall
8 only be issued to a hotel or motel as defined by Section 506 of this
9 title which is also the holder of a mixed beverage license.
10 Provided, that application may be made simultaneously for both such
11 licenses. A separate license shall be required for each place of
12 business.

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

1 wholesaler license shall be presumed to be purchased for consumption
2 outside the State of Oklahoma or in interstate commerce, and shall
3 be exempt from the excise tax provided for in Section 553 of this
4 title.

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

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

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

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

15 1. Manufacture of patent, proprietary, medicinal,
16 pharmaceutical, antiseptic, and toilet preparations;

17 2. Manufacture of extracts, syrups, condiments, and food
18 products; and

19 3. For use in scientific, chemical, mechanical, industrial, and
20 medicinal products and purposes.

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

24

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

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

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

20 S. A private carrier license may be issued to any carrier other
21 than a common carrier described in subsection Q of this section.
22 Such license shall authorize the holder thereof to transport
23 alcoholic beverages other than wine sold directly by a winemaker or
24 winery to a retail package store or restaurant into, within, or out

1 of this state under such terms, conditions, limitations, and
2 restrictions as the ABLE Commission may prescribe by order issuing
3 such license and by regulations. No carrier license or private
4 carrier license shall be required of licensed brewers, distillers,
5 winemakers, rectifiers, wholesalers, or Class B wholesalers, to
6 transport alcoholic beverages from the place of purchase or
7 acquisition to the licensed premises of such licensees and from such
8 licensed premises to the licensed premises of the purchaser in
9 vehicles owned or leased by such licensee when such transportation
10 is for a lawful purpose and not for hire.

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

21 T. A bonded warehouse license shall authorize the holder
22 thereof: To receive and store alcoholic beverages for the holders of
23 storage licenses on the licensed premises of the bonded warehouse
24 licensee. No goods, wares or merchandise other than alcoholic

1 beverages may be stored in the same bonded warehouse with alcoholic
2 beverages. The holder of a bonded warehouse license shall furnish
3 and file with the ABLE Commission a bond running to all bailers of
4 alcoholic beverages under proper storage licenses and their
5 assignees (including mortgagees or other bona fide lienholders)
6 conditioned upon faithful performance of the terms and conditions of
7 such bailments.

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

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

21 2. Any licensee who is the holder of a mixed beverage/caterer
22 combination license or the holder of a mixed beverage license and a
23 hotel beverage license who is issued a storage license shall store
24

1 all inventories of alcoholic beverages either on the premises of the
2 mixed beverage establishment or in the warehouse;

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

5 4. A storage license shall be required for a public event
6 licensee storing alcoholic beverages for use at a subsequent event;
7 and

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

21 V. A sacramental wine supplier license shall authorize the
22 holder thereof: To sell, ship or deliver sacramental wine to any
23 religious corporation or society of this state holding a valid
24 exemption from taxation issued pursuant to Section 501(a) of the

1 Internal Revenue Code, 1986, and listed as an exempt organization in
2 Section 501(c)(3) of the Internal Revenue Code, 1986, of the United
3 States, as amended.

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

13 Sales and service of beer and wine by holders of beer and wine
14 licenses shall be limited to the licensed premises of the licensee
15 unless the holder of the beer and wine license also obtains a
16 caterer license. A beer and wine license shall only be issued in
17 counties of this state where the sale of alcoholic beverages by the
18 individual drink for on-premises consumption has been authorized. A
19 separate license shall be required for each place of business.
20 Provided, that upon proof of legal age to consume alcohol, every
21 patron being served alcoholic beverages shall be required to wear a
22 wrist bracelet or receive a hand stamp identifying the patron as
23 being of legal age to consume alcohol. This requirement shall only
24 apply inside a motion picture theater auditorium where individuals

1 under the legal age to consume alcohol are allowed. No spirits
2 shall be stored, possessed or consumed on the licensed premises of a
3 beer and wine licensee.

4 X. A charitable auction or charitable alcoholic beverage event
5 license may be issued to a charitable organization exempt from
6 taxation under Section 501(c)(3), (4), (5), (6), (7), (8), (9),
7 (10), or (19) of the United States Internal Revenue Code. The
8 charitable alcoholic beverage event license shall authorize the
9 holder thereof to conduct a wine, spirit and/or beer event which may
10 consist of one or more of a wine, spirit and/or beer tasting event,
11 a wine, spirit and/or beer dinner event or a wine, spirit and/or
12 beer auction, which may be either a live auction conducted by an
13 auctioneer or a silent auction for which:

14 1. Bid sheets are accepted from interested bidders at the
15 event;

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

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

20 A charitable alcoholic beverage event shall be conducted solely
21 to raise funds for charitable purposes. A charitable alcoholic
22 beverage license will allow the event attendees access to tastings,
23 samples, dinners, and alcoholic beverages as parts of their entrance
24 fee or ticket price. Wine, spirits and/or beer used in, served, or

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

23 Y. A mixed beverage/caterer combination license shall authorize
24 the holder thereof: To purchase or sell mixed beverages as

1 specifically provided by law for the holder of a mixed beverage
2 license or a caterer license. All provisions of the Oklahoma
3 Alcoholic Beverage Control Act applicable to mixed beverage licenses
4 or caterer licenses, or the holders thereof, shall also be
5 applicable to mixed beverage/caterer combination licenses or the
6 holders thereof, except where specifically otherwise provided. A
7 mixed beverage/caterer combination license shall only be issued in
8 counties of this state where the sale of alcoholic beverages by the
9 individual drink for on-premises consumption has been authorized. A
10 separate license shall be required for each place of business.

11 A licensed mixed beverage/caterer licensee shall be authorized
12 to sell mixed beverages for on-premises consumption incidental to
13 the distribution of food at temporary private functions, at
14 temporary public events that are licensed and approved by the ABLE
15 Commission, and on the premises of a mixed beverage licensee whose
16 main purpose is the hosting of live art presentations and is not
17 open to the public more than one hundred twenty (120) days per year.

18 Z. A small farm winery license shall authorize the holder
19 thereof: To manufacture and bottle wines produced by that small
20 farm winery. In addition, a small farm winery license authorizes
21 the holder of that permit to bottle and sell wines produced by
22 another small farm winery. In order for a small farm winery to
23 bottle and sell another small farm winery's products, both the
24 selling winery and the buying winery shall be small farm winery

1 permit holders. A small farm wine may display the trademarked
2 "Oklahoma Grown" sticker available from the Oklahoma Grape Industry
3 Council.

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

8 BB. 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 2. AMENDATORY 37 O.S. 2011, Section 573, is
23 amended to read as follows:

24

1 Section 573. A. Except as provided in subsection D of this
2 section, no liquor, wine, or beer shall be labeled, offered or
3 advertised for sale unless in accordance with such regulations and
4 unless the brand label shall have been registered with and approved
5 by the Alcoholic Beverage Laws Enforcement Commission and the
6 appropriate fee paid as provided for in this section.

7 B. An application for registration of a brand label shall be
8 filed by the owner of the brand if such owner is licensed by the
9 ABLE Commission, however, if the owner is not licensed but is
10 represented by a licensed nonresident seller, the nonresident seller
11 licensee shall submit each label for each product he offers for sale
12 in this state. Cordials and wines which differ only as to age or
13 vintage year, as defined by such regulations, shall be considered
14 the same brand; and those that differ as to type or class may be
15 considered the same brand by the ABLE Commission where consistent
16 with the purposes of this section.

17 C. The application for registration of a brand label shall be
18 filed on a form prescribed by the ABLE Commission, and shall contain
19 such information as the ABLE Commission shall require. Such
20 application shall be accompanied by a certified check, bank
21 officers' check or draft, or money order in the amount of the annual
22 registration fee, or the properly prorated portion thereof
23 prescribed by this section.

24

1 D. 1. The annual fee for registration of any brand label for
2 liquor shall be Three Hundred Seventy-five Dollars (\$375.00); the
3 annual fee for registration of any brand label for beer shall be Two
4 Hundred Dollars (\$200.00); the annual fee for registration of any
5 brand label for wine made in the United States, or for registration
6 of any category of imported wine as defined by the ABLE Commission,
7 shall be Two Hundred Dollars (\$200.00). Beer manufactured in this
8 state shall be exempt from brand label registration fees.

9 2. Each brand label registered and approved pursuant to this
10 section shall be valid for a term of up to one (1) year, expiring on
11 the June 30 next following registration, and may be renewed for
12 subsequent terms of one (1) year beginning on the July 1 following
13 the initial registration. Brand registration fees for labels
14 registered after July 1 may be prorated through the following June
15 30 on a quarterly basis. The brand registration fee shall not be
16 transferable, unless otherwise allowed by law. A nonresident seller
17 may transfer brand registrations to the distiller or winery that
18 produces those brands, provided the distiller or winery has obtained
19 a designating manufacturer's license, at no expense to the
20 nonresident seller, distiller or winery.

21 E. If the ABLE Commission shall deny the application for
22 registration of a brand label it shall return the registration fee
23 to the applicant, less twenty-five percent (25%) of such fee.

24

1 F. The ABLE Commission may at any time exempt any discontinued
2 brand from fee provisions of this section where a manufacturer or
3 wholesaler has an inventory of one hundred cases or less of liquor
4 or wine and five hundred cases or less of beer, and certifies to the
5 ABLE Commission in writing that such brand is being discontinued.

6 SECTION 3. AMENDATORY Section 2, Chapter 366, O.S.L.
7 2016 (37A O.S. Supp. 2017, Section 1-102), is amended to read as
8 follows:

9 Section 1-102. A. The purpose of the Oklahoma Alcoholic
10 Beverage Control Act is to implement the provisions of Article
11 XVIIIIA of the Oklahoma Constitution, as referred to the people for
12 their approval or rejection by the Secretary of State pursuant to
13 the provisions of Enrolled Senate Joint Resolution No. 68 of the 2nd
14 Session of the 55th Oklahoma Legislature. The Legislature hereby
15 declares that the Oklahoma Alcoholic Beverage Control Act is deemed
16 to be a code, digest or revision of statutes pursuant to the
17 provisions of Section 57 of Article V of the Oklahoma Constitution.

18 B. All alcoholic beverages as herein defined except alcohol
19 produced for use as a motor fuel under a permit issued by the
20 Oklahoma State Department of Agriculture, Food, and Forestry shall
21 be subject to the provisions of the Oklahoma Alcoholic Beverage
22 Control Act.

23 C. The Legislature finds and declares that:
24

1 1. The state has a substantial interest in exercising its
2 powers and the powers granted to the states by the Twenty-first
3 Amendment to the Constitution of the United States and in regulating
4 the structure of the state's alcoholic beverage industry including
5 the activities of manufacturers, importers, wholesalers and
6 retailers, the methods by which alcoholic beverages are marketed,
7 and influences that affect the consumption levels of alcoholic
8 beverages by the people of the state;

9 2. The state's system of regulating the manufacture,
10 distribution and sale of alcoholic beverages has served this state
11 and its citizens well and has contributed to the economic growth and
12 stability of the state;

13 3. Changes in market dynamics and advances in technology may
14 have altered the way the alcoholic beverage industry operates, but
15 have not changed the state's desire for strict regulation of the
16 manufacture, importation, distribution, marketing and sale of
17 alcoholic beverages in accordance with the Oklahoma State
18 Constitution and laws and regulations enacted by the Legislature and
19 the Oklahoma Alcoholic Beverage Laws Enforcement Commission. Such
20 regulation advances the interest of the state in ensuring a
21 competitive and orderly market in the distribution and sale of
22 alcoholic beverages, promoting temperance in the use and consumption
23 of alcoholic beverages, and facilitating the collection of excise
24 taxes and fees. The purpose of the state's regulatory system is to

1 promote these interests by requiring economic separation between the
2 tiers that contributes to a fair, open and competitive market
3 resulting in interbrand and other competition within each tier, and
4 prevents disorderly market conditions, including but not limited to
5 the domination of local markets and the undue influence of one tier
6 over another. This purpose is effective through any direct or
7 indirect ownership interest, or any other financial or business
8 obligation;

9 4. The state maintains an interest in the promotion of
10 temperance as a paramount public health, safety and welfare concern.
11 The Legislature further reaffirms that temperance is achieved,
12 consistent with structural regulation that promotes a competitive
13 and orderly market, by controlled access to, and responsible use and
14 consumption of, alcoholic beverages by persons of legal drinking
15 age; and

16 5. All provisions of this act shall be literally construed for
17 the accomplishment of these purposes, and any exceptions are to be
18 narrowly interpreted and applied.

19 SECTION 4. AMENDATORY Section 3, Chapter 366, O.S.L.
20 2016, as amended by Section 5, Chapter 381, O.S.L. 2017 (37A O.S.
21 Supp. 2017, Section 1-103), is amended to read as follows:

22 Section 1-103. As used in the Oklahoma Alcoholic Beverage
23 Control Act:

24

1 1. "ABLE Commission" or "Commission" means the Alcoholic
2 Beverage Laws Enforcement Commission;

3 2. "Alcohol" means and includes hydrated oxide of ethyl, ethyl
4 alcohol, ethanol or spirits of wine, from whatever source or by
5 whatever process produced. It does not include wood alcohol or
6 alcohol which has been denatured or produced as denatured in
7 accordance with Acts of Congress and regulations promulgated
8 thereunder;

9 3. "Alcoholic beverage" means alcohol, spirits, beer and wine
10 as those terms are defined herein and also includes every liquid or
11 solid, patented or not, containing alcohol, spirits, wine or beer
12 and capable of being consumed as a beverage by human beings;

13 4. "Applicant" means any individual, legal or commercial
14 business entity, or any individual involved in any legal or
15 commercial business entity allowed to hold any license issued in
16 accordance with the Oklahoma Alcoholic Beverage Control Act;

17 5. "Beer" means any beverage of alcohol by volume and obtained
18 by the alcoholic fermentation of an infusion or decoction of barley,
19 or other grain, malt or similar products. "Beer" may or may not
20 contain hops or other vegetable products. "Beer" includes, among
21 other things, beer, ale, stout, lager beer, porter and other malt or
22 brewed liquors, but does not include sake, known as Japanese rice
23 wine;

24

1 6. "Beer keg" means any manufacturer-sealed, single container
2 that contains not less than four (4) gallons of beer;

3 7. "Beer distributor" means and includes any person licensed to
4 distribute beer for retail sale in the state, but does not include a
5 holder of a small brewer self-distribution license or brewpub self-
6 distribution license. The term "distributor", as used in this act,
7 shall be construed to refer to a beer distributor;

8 8. "Bottle club" means any establishment in a county which has
9 not authorized the retail sale of alcoholic beverages by the
10 individual drink, which is required to be licensed to keep, mix and
11 serve alcoholic beverages belonging to club members on club
12 premises;

13 9. "Brand" means any word, name, group of letters, symbol or
14 combination thereof, that is adopted and used by a licensed
15 manufacturer to identify a specific beer and to distinguish that
16 product from another beer;

17 10. "Brand extension" means:

18 a. after the effective date of this act, any brand of
19 beer introduced by a manufacturer in this state which
20 either:

21 (1) incorporates all or a substantial part of the
22 unique features of a preexisting brand of the
23 same licensed manufacturer, or
24

1 (2) relies to a significant extent on the goodwill
2 associated with the preexisting brand, or

3 b. any brand of beer that a manufacturer, the majority of
4 whose total volume of all brands of beer distributed
5 in this state by such manufacturer on January 1, 2016,
6 was distributed as low-point beer, desires to sell,
7 introduces, begins selling or theretofore has sold and
8 desires to continue selling a strong beer in this
9 state which either:

10 (1) incorporates or incorporated all or a substantial
11 part of the unique features of a preexisting low-
12 point beer brand of the same licensed
13 manufacturer, or

14 (2) relies or relied to a significant extent on the
15 goodwill associated with a preexisting low-point
16 beer brand;

17 11. "Brewer" means and includes any person who manufactures for
18 human consumption by the use of raw materials or other ingredients
19 any beer upon which a license fee and a tax are imposed by any law
20 of this state;

21 12. "Brewpub" means a licensed establishment operated on the
22 premises of, or on premises located contiguous to, a small brewer,
23 that prepares and serves food and beverages, including alcoholic
24 beverages, for on-premises consumption;

1 13. "Cider" means any alcoholic beverage obtained by the
2 alcoholic fermentation of fruit juice, including but not limited to
3 flavored, sparkling or carbonated cider. For the purposes of the
4 distribution of this product, cider may be distributed by either
5 wine and spirits wholesalers or beer distributors;

6 14. "Convenience store" means any person primarily engaged in
7 retailing a limited range of general household items and groceries,
8 with extended hours of operation, whether or not engaged in retail
9 sales of automotive fuels in combination with such sales;

10 15. "Convicted" and "conviction" mean and include a finding of
11 guilt resulting from a plea of guilty or nolo contendere, the
12 decision of a court or magistrate or the verdict of a jury,
13 irrespective of the pronouncement of judgment or the suspension
14 thereof;

15 16. "Designating manufacturer" means a winemaker or distiller
16 that has exclusively designated a single wine and spirits wholesaler
17 to distribute one or more of its products to retailers within the
18 state;

19 17. "Director" means the Director of the ABLE Commission;

20 ~~17.~~ 18. "Distiller" means any person who produces spirits from
21 any source or substance, or any person who brews or makes mash, wort
22 or wash, fit for distillation or for the production of spirits
23 (except a person making or using such material in the authorized
24 production of wine or beer, or the production of vinegar by

1 fermentation), or any person who by any process separates alcoholic
2 spirits from any fermented substance, or any person who, making or
3 keeping mash, wort or wash, has also in his or her possession or use
4 a still;

5 ~~18.~~ 19. "Distributor agreement" means the written agreement
6 between the distributor and manufacturer as set forth in Section 3-
7 108 of this title;

8 ~~19.~~ 20. "Drug store" means a person primarily engaged in
9 retailing prescription and nonprescription drugs and medicines;

10 ~~20.~~ 21. "Dual-strength beer" means a brand of beer that,
11 immediately prior to the effective date of this act, was being sold
12 and distributed in this state:

13 a. as a low-point beer pursuant to the Low-Point Beer
14 Distribution Act in effect immediately prior to the
15 effective date of this act, and

16 b. as strong beer pursuant to the Alcoholic Beverage
17 Control Act in effect immediately prior to the
18 effective date of this act.

19 Dual-strength beer does not include a brand of beer that arose
20 as a result of a brand extension as defined in this section;

21 ~~21.~~ 22. "Fair market value" means the value in the subject
22 territory covered by the written agreement with the distributor or
23 wholesaler that would be determined in an arm's length transaction
24 entered into without duress or threat of termination of the

1 distributor's or wholesaler's rights and shall include all elements
2 of value, including goodwill and going-concern value;

3 ~~22.~~ 23. "Good cause" means:

4 a. failure by the distributor to comply with the material
5 and reasonable provisions of a written agreement or
6 understanding with the manufacturer, or

7 b. failure by the distributor to comply with the duty of
8 good faith;

9 ~~23.~~ 24. "Good faith" means the duty of each party to any
10 distributor agreement and all officers, employees or agents thereof
11 to act with honesty in fact and within reasonable standards of fair
12 dealing in the trade;

13 ~~24.~~ 25. "Grocery store" means a person primarily engaged in
14 retailing a general line of food, such as canned or frozen foods,
15 fresh fruits and vegetables, and fresh and prepared meats, fish and
16 poultry;

17 ~~25.~~ 26. "Hotel" or "motel" means an establishment which is
18 licensed to sell alcoholic beverages by the individual drink and
19 which contains guestroom accommodations with respect to which the
20 predominant relationship existing between the occupants thereof and
21 the owner or operator of the establishment is that of innkeeper and
22 guest. For purposes of this section, the existence of other legal
23 relationships as between some occupants and the owner or operator
24 thereof shall be immaterial;

1 ~~26.~~ 27. "Legal newspaper" means a newspaper meeting the
2 requisites of a newspaper for publication of legal notices as
3 prescribed in Sections 101 through 114 of Title 25 of the Oklahoma
4 Statutes;

5 ~~27.~~ 28. "Licensee" means any person holding a license under the
6 Oklahoma Alcoholic Beverage Control Act, and any agent, servant or
7 employee of such licensee while in the performance of any act or
8 duty in connection with the licensed business or on the licensed
9 premises;

10 ~~28.~~ 29. "Low-point beer" shall mean any beverages containing
11 more than one-half of one percent (1/2 of 1%) alcohol by volume, and
12 not more than three and two-tenths percent (3.2%) alcohol by weight,
13 including but not limited to, beer or cereal malt beverages obtained
14 by the alcoholic fermentation of an infusion by barley or other
15 grain, malt or similar products;

16 ~~29.~~ 30. "Manufacturer" means a brewer, distiller, winemaker,
17 rectifier or bottler of any alcoholic beverage and its subsidiaries,
18 affiliates and parent companies;

19 ~~30.~~ 31. "Manufacturer's agent" means a salaried or commissioned
20 salesperson who is the agent authorized to act on behalf of the
21 manufacturer or nonresident seller in the state;

22 ~~31.~~ 32. "Meals" means foods commonly ordered at lunch or dinner
23 and at least part of which is cooked on the licensed premises and
24 requires the use of dining implements for consumption. Provided,

1 that the service of only food such as appetizers, sandwiches, salads
2 or desserts shall not be considered "meals";

3 ~~32.~~ 33. "Mini-bar" means a closed container, either
4 refrigerated in whole or in part, or nonrefrigerated, and access to
5 the interior of which is:

- 6 a. restricted by means of a locking device which requires
7 the use of a key, magnetic card or similar device, or
- 8 b. controlled at all times by the licensee;

9 ~~33.~~ 34. "Mixed beverage cooler" means any beverage, by whatever
10 name designated, consisting of an alcoholic beverage and fruit or
11 vegetable juice, fruit or vegetable flavorings, dairy products or
12 carbonated water containing more than one-half of one percent (1/2
13 of 1%) of alcohol measured by volume but not more than seven percent
14 (7%) alcohol by volume at sixty (60) degrees Fahrenheit and which is
15 packaged in a container not larger than three hundred seventy-five
16 (375) milliliters. Such term shall include but not be limited to
17 the beverage popularly known as a "wine cooler";

18 ~~34.~~ 35. "Mixed beverages" means one or more servings of a
19 beverage composed in whole or part of an alcoholic beverage in a
20 sealed or unsealed container of any legal size for consumption on
21 the premises where served or sold by the holder of a mixed beverage,
22 beer and wine, caterer, public event, charitable event or special
23 event license;

24

1 ~~35.~~ 36. "Mixer" means a nonalcoholic beverage sold in a sealed
2 container and intended for the primary purpose of mixing with an
3 alcoholic beverage for off-premises consumption. For purposes of
4 Section 3 of Article XXVIII A of the Oklahoma Constitution, a mixer
5 shall not be construed as a nonalcoholic item when calculating the
6 twenty-percent cap on the nonalcoholic items that may be sold by the
7 holder of a Retail Spirits License;

8 37. "Motion picture theater" means an establishment which is
9 licensed by Section 2-110 of this title to sell alcoholic beverages
10 by the individual drink and where motion pictures are exhibited, and
11 to which the general public is admitted;

12 ~~36.~~ 38. "Nonresident seller" means ~~any person licensed a~~
13 distiller or winery that has not designated a wine and spirits
14 wholesaler pursuant to Section 2-135 of this title;

15 ~~37.~~ 39. "Retail salesperson" means a salesperson soliciting
16 orders from and calling upon retail alcoholic beverage stores with
17 regard to his or her product;

18 ~~38.~~ 40. "Occupation" as used in connection with "occupation
19 tax" means the sites occupied as the places of business of the
20 manufacturers, wholesalers, beer distributors, retailers, mixed
21 beverage licensees, on-premises beer and wine licensees, bottle
22 clubs, caterers, public event and special event licensees;

23 ~~39.~~ 41. "Original package" means any container of alcoholic
24 beverage filled and stamped or sealed by the manufacturer;

1 ~~40.~~ 42. "Package store" means any sole proprietor or
2 partnership that qualifies to sell wine, beer and/or spirits for
3 off-premise consumption and that is not a grocery store, convenience
4 store or drug store, or other retail outlet that is not permitted to
5 sell wine or beer for off-premise consumption;

6 ~~41.~~ 43. "Patron" means any person, customer or visitor who is
7 not employed by a licensee or who is not a licensee;

8 ~~42.~~ 44. "Person" means an individual, any type of partnership,
9 corporation, association, limited liability company or any
10 individual involved in the legal structure of any such business
11 entity;

12 ~~43.~~ 45. "Premises" means the grounds and all buildings and
13 appurtenances pertaining to the grounds including any adjacent
14 premises if under the direct or indirect control of the licensee and
15 the rooms and equipment under the control of the licensee and used
16 in connection with or in furtherance of the business covered by a
17 license. Provided that the ABLE Commission shall have the authority
18 to designate areas to be excluded from the licensed premises solely
19 for the purpose of:

- 20 a. allowing the presence and consumption of alcoholic
21 beverages by private parties which are closed to the
22 general public, or
- 23 b. allowing the services of a caterer serving alcoholic
24 beverages provided by a private party.

1 This exception shall in no way limit the licensee's concurrent
2 responsibility for any violations of the Oklahoma Alcoholic Beverage
3 Control Act occurring on the licensed premises;

4 ~~44.~~ 46. "Private event" means a social gathering or event
5 attended by invited guests who share a common cause, membership,
6 business or task and have a prior established relationship. For
7 purposes of this definition, advertisement for general public
8 attendance or sales of tickets to the general public shall not
9 constitute a private event;

10 ~~45.~~ 47. "Public event" means any event that can be attended by
11 the general public;

12 ~~46.~~ 48. "Rectifier" means any person who rectifies, purifies or
13 refines spirits or wines by any process (other than by original and
14 continuous distillation, or original and continuous processing, from
15 mash, wort, wash or other substance, through continuous closed
16 vessels and pipes, until the production thereof is complete), and
17 any person who, without rectifying, purifying or refining spirits,
18 shall by mixing (except for immediate consumption on the premises
19 where mixed) such spirits, wine or other liquor with any material,
20 manufactures any spurious, imitation or compound liquors for sale,
21 under the name of whiskey, brandy, rum, gin, wine, spirits, cordials
22 or any other name;

23 ~~47.~~ 49. "Regulation" or "rule" means a formal rule of general
24 application promulgated by the ABLE Commission as herein required;

1 ~~48.~~ 50. "Restaurant" means an establishment that is licensed to
2 sell alcoholic beverages by the individual drink for on-premises
3 consumption and where food is prepared and sold for immediate
4 consumption on the premises;

5 ~~49.~~ 51. "Retail container for spirits and wines" means an
6 original package of any capacity approved by the United States
7 Bureau of Alcohol, Tobacco and Firearms;

8 ~~50.~~ 52. "Retailer" means a package store, grocery store,
9 convenience store or drug store licensed to sell alcoholic beverages
10 for off-premise consumption pursuant to a Retail Spirits License,
11 Retail Wine License or Retail Beer License;

12 ~~51.~~ 53. "Sale" means any transfer, exchange or barter in any
13 manner or by any means whatsoever, and includes and means all sales
14 made by any person, whether as principal, proprietor or as an agent,
15 servant or employee. The term "sale" is also declared to be and
16 include the use or consumption in this state of any alcoholic
17 beverage obtained within or imported from without this state, upon
18 which the excise tax levied by the Oklahoma Alcoholic Beverage
19 Control Act has not been paid or exempted;

20 ~~52.~~ 54. "Short-order food" means food other than full meals
21 including but not limited to sandwiches, soups and salads. Provided
22 that popcorn, chips and other similar snack food shall not be
23 considered "short-order food";

24

1 ~~53.~~ 55. "Small brewer" means a brewer who manufactures less
2 than twenty-five thousand (25,000) barrels of beer annually pursuant
3 to a validly issued Small Brewer License hereunder;

4 ~~54.~~ 56. "Small farm wine" means a wine that is produced by a
5 small farm winery with seventy-five percent (75%) or more Oklahoma-
6 grown grapes, berries, other fruits, honey or vegetables;

7 ~~55.~~ 57. "Small farm winery" means a wine-making establishment
8 that does not annually produce for sale more than fifteen thousand
9 (15,000) gallons of wine as reported on the United States Department
10 of the Treasury, Alcohol and Tobacco Tax and Trade Bureau, Report of
11 Wine Premises Operations (TTB Form 5120.17);

12 ~~56.~~ 58. "Sparkling wine" means champagne or any artificially
13 carbonated wine;

14 ~~57.~~ 59. "Special event" means an entertainment, recreation or
15 marketing event that occurs at a single location on an irregular
16 basis and at which alcoholic beverages are sold;

17 ~~58.~~ 60. "Spirits" means any beverage other than wine or beer,
18 which contains more than one-half of one percent (1/2 of 1%) alcohol
19 measured by volume, and obtained by distillation, whether or not
20 mixed with other substances in solution and includes those products
21 known as whiskey, brandy, rum, gin, vodka, liqueurs, cordials and
22 fortified wines and similar compounds, but shall not include any
23 alcohol liquid completely denatured in accordance with the Acts of
24 Congress and regulations pursuant thereto;

1 ~~59.~~ 61. "Strong beer" means beer which, prior to the effective
2 date of this act, was distributed pursuant to the Oklahoma Alcoholic
3 Beverage Control Act, Section 501 et seq. of Title 37 of the
4 Oklahoma Statutes;

5 ~~60.~~ 62. "Successor manufacturer" means a primary source of
6 supply, a brewer or an importer that acquires rights to a beer brand
7 from a predecessor manufacturer;

8 ~~61.~~ 63. "Tax Commission" means the Oklahoma Tax Commission;

9 ~~62.~~ 64. "Territory" means a geographic region with a specified
10 boundary;

11 ~~63.~~ 65. "Wine and spirits wholesaler" or "wine and spirits
12 distributor" means and includes any sole proprietorship or
13 partnership licensed to distribute wine and spirits in the state.
14 The term "wholesaler", as used in this act, shall be construed to
15 refer to a wine and spirits wholesaler; and

16 ~~64.~~ 66. "Wine" means and includes any beverage containing more
17 than one-half of one percent (1/2 of 1%) alcohol by volume and not
18 more than twenty-four percent (24%) alcohol by volume at sixty (60)
19 degrees Fahrenheit obtained by the fermentation of the natural
20 contents of fruits, vegetables, honey, milk or other products
21 containing sugar, whether or not other ingredients are added, and
22 includes vermouth and sake, known as Japanese rice wine.

23
24

1 Words in the plural include the singular, and vice versa, and
2 words imparting the masculine gender include the feminine, as well
3 as persons and licensees as defined in this section.

4 SECTION 5. AMENDATORY Section 4, Chapter 366, O.S.L.
5 2016, as amended by Section 9, Chapter 364, O.S.L. 2017 (37A O.S.
6 Supp. 2017, Section 1-104), is amended to read as follows:

7 Section 1-104. A. The Alcoholic Beverage Laws Enforcement
8 Commission created in Section 1 of Article XXVIII of the Oklahoma
9 Constitution is hereby re-created. The purpose of the Commission
10 shall be to enforce the alcoholic beverage laws of the state, and
11 the Commission shall have such power and authority to enforce such
12 laws, rules and regulations as shall be prescribed by the Oklahoma
13 Alcoholic Beverage Control Act.

14 B. The Commission shall consist of seven (7) members, to be
15 appointed by the Governor with the advice and consent of the State
16 Senate; provided, members serving on October 1, 2017, shall continue
17 to serve until such time as their terms would have expired pursuant
18 to the provisions of Section 1 of Article XXVIII of the Oklahoma
19 Constitution. Five of the members shall be at-large members
20 representing the lay citizenry. The remaining two members shall be
21 persons with law enforcement experience in this state. Any time
22 there is a vacancy on the Commission, the Governor shall appoint a
23 replacement, with the advice and consent of the State Senate, within
24 ninety (90) days.

1 C. Members of the Commission shall be appointed for a term of
2 five (5) years.

3 D. No more than four members of the Commission shall be
4 appointed from the same political party. No more than two members
5 of the Commission shall be appointed from the same federal
6 congressional district.

7 E. No member of the Commission shall hold any license
8 authorized by the Oklahoma Alcoholic Beverage Control Act, or have
9 any interest in any capacity, in the manufacture, sale, distribution
10 or transportation of alcoholic beverages.

11 F. The members of the Commission shall be removable from office
12 for cause as other officers not subject to impeachment.

13 G. The Commission shall appoint a Director, whose duties shall
14 be defined as provided in Section 1-108 of this title.

15 H. The State of Oklahoma shall take all necessary steps to
16 ensure the timely implementation of Enrolled Senate Joint Resolution
17 No. 68 of the 2nd Session of the 55th Oklahoma Legislature, if
18 approved by the voters. Consistent with this objective, the ABLE
19 Commission shall have the power to issue interim licenses prior to
20 October 1, 2018, as follows:

21 1. Except for the sale of wine or beer to the public, an
22 interim license shall allow all qualified retail wine and retail
23 beer licensees to perform all activities permissible under a full
24 license including but not limited to purchasing, stocking and

1 storing the wine and/or full-strength beer prior to October 1, 2018.
2 In order to qualify for an interim license, the licensee must
3 satisfy all the requirements set forth in Article XXVIII A of the
4 Oklahoma Constitution and this act. ~~The~~ This interim license shall
5 convert to a full license on October 1, 2018;

6 2. Package stores may install refrigerated coolers for the
7 storage of beer and wine prior to October 1, 2018, provided the
8 refrigerated coolers shall not be used to cool product below room
9 temperature prior to October 1, 2018; and

10 3. An interim license shall allow all qualified wine and
11 spirits wholesalers and beer distributors to perform all activities
12 permissible under a full license including but not limited to
13 selling and delivering wine and/or full-strength beer to all
14 qualified retail wine and retail beer licensees. A wine and spirits
15 wholesaler that has been designated by a manufacturer as the
16 exclusive distributor of its wine or spirits may post those
17 designated products by line-item, consistent with Section 3-116.2 of
18 this title, on September 15, 2018, for sale effective October 1,
19 2018. In order to qualify for an interim license, the wine and
20 spirits wholesaler and beer distributor must comply with the
21 provisions set forth in Article XXVIII A of the Oklahoma Constitution
22 and this act. The interim license shall convert to a full license
23 on October 1, 2018.

24

1 Provided, however, that a manufacturer is only permitted to sell
2 beer or cider to a beer distributor holding a valid interim license
3 pursuant to this section as follows:

- 4 a. such sales may begin no sooner than September 1, 2018,
- 5 b. the beer distributor either must be assigned a beer
6 distributor territory by the manufacturer pursuant to
7 a distributor agreement to begin October 1, 2018, or
8 be a brewer or an affiliate of a brewer that will be
9 permitted to distribute beer within two territories
10 pursuant to the provisions of subsection E of Section
11 3-108 of ~~the~~ this title, and
- 12 c. the interim license only permits sales to retailers by
13 the interim licensee either in the distribution
14 territory as set forth in the distributor agreement or
15 in the two territories permitted pursuant to the
16 provisions of subsection E of Section 3-108 of this
17 title.

18 I. No retail wine or retail beer licensee may sell wine and/or
19 beer, other than low-point beer, and no package store may sell
20 refrigerated wine and/or beer, prior to October 1, 2018. The sale
21 or refrigeration of wine and/or beer in violation of this subsection
22 shall result in the revocation of the interim license and a monetary
23 fine of Twenty-five Thousand Dollars (\$25,000.00).

1 SECTION 6. AMENDATORY Section 8, Chapter 366, O.S.L.
2 2016 (37A O.S. Supp. 2017, Section 1-108), is amended to read as
3 follows:

4 Section 1-108. A. The ABLE Commission shall appoint a
5 Director, who shall employ an Assistant Director and such other
6 personnel as are necessary to properly enforce and administer the
7 Oklahoma Alcoholic Beverage Control Act. The Director shall require
8 bonds in such instances and amounts as the ABLE Commission may
9 direct, and shall be in direct charge of all records. The Director
10 shall further have the following specific powers and duties:

11 1. To issue licenses provided for in the Oklahoma Alcoholic
12 Beverage Control Act, and to approve or reject any official bond
13 required to be filed with the Director or the ABLE Commission;

14 2. To appoint and employ, supervise and discharge such
15 employees as may be determined necessary for the proper discharge of
16 the duties of the office of Director, upon duties and salary fixed
17 and determined by the ABLE Commission and subject to all the rules
18 that may be promulgated by the ABLE Commission. The Director and
19 the ABLE Commission, in appointing and employing personnel, shall
20 give preference to honorably discharged members of the Armed Forces
21 of the United States;

22 3. To conduct such investigations and make such reports as may
23 be necessary to keep the ABLE Commission advised concerning any
24

1 violations of the provisions of the Oklahoma Alcoholic Beverage
2 Control Act and make orders for its enforcement;

3 4. To make recommendations to the ABLE Commission concerning
4 the suspension or revocation of any licenses, the levying of fines
5 against licensees for violations of the provisions of the Oklahoma
6 Alcoholic Beverage Control Act or rules of the ABLE Commission or
7 any action that should be filed or commenced against any official
8 bond theretofore approved by the Director or the ABLE Commission;

9 5. To regularly inspect all places of business of licensees,
10 and all other persons, firms or corporations dealing in the
11 manufacture, distribution, transportation, sale or service of
12 alcoholic beverages under the provisions of the Oklahoma Alcoholic
13 Beverage Control Act and report to the ABLE Commission concerning
14 any and all violations with a recommendation to the ABLE Commission
15 for its determination;

16 ~~6. To refer any evidence of a violation of any provision of the~~
17 ~~Oklahoma Alcoholic Beverage Control Act which carries a criminal~~
18 ~~penalty to the appropriate law enforcement authority for action;~~

19 ~~7.~~ To aid the enforcement authorities of this state or any
20 county or municipality of the state, or the federal government, in
21 prosecutions of violations of the Oklahoma Alcoholic Beverage
22 Control Act; and

23 ~~8.~~ 7. To enforce the provisions of the Prevention of Youth
24 Access to Tobacco Act including but not limited to the levying of

1 administrative fines against persons violating the provisions of the
2 Prevention of Youth Access to Tobacco Act, and to at least annually
3 conduct random unannounced inspections at locations where tobacco
4 products are sold or distributed and conduct targeted inspections at
5 those locations which have been in violation of the provisions of
6 the Prevention of Youth Access to Tobacco Act.

7 B. The Director may employ or contract with attorneys, as
8 needed, to advise the Director and the ABLE Commission on all legal
9 matters and shall appear for and represent the Director and the ABLE
10 Commission in all administrative hearings and all litigation or
11 other proceedings which may arise in the discharge of their duties.
12 At the request of the ABLE Commission, such attorneys shall assist
13 district attorneys in prosecuting charges of violators of the
14 Oklahoma Alcoholic Beverage Control Act.

15 SECTION 7. AMENDATORY Section 13, Chapter 366, O.S.L.
16 2016, as amended by Section 10, Chapter 364, O.S.L. 2017 (37A O.S.
17 Supp. 2017, Section 2-101), is amended to read as follows:

18 Section 2-101. A. Except as otherwise provided in this
19 section, the licenses issued by the ABLE Commission, and the annual
20 fees therefor, shall be as follows:

- 21 1. Brewer License..... \$1,250.00
- 22 2. Small Brewer License..... \$125.00
- 23 3. Oklahoma Distiller License..... \$3,125.00
- 24 4. Oklahoma Winemaker License..... \$625.00

1		(initial license)	
2			\$900.00
3		(renewal)	
4	16.	Caterer License.....	\$1,005.00
5		(initial license)	
6			\$905.00
7		(renewal)	
8	17.	Annual Special Event License.....	\$55.00
9	18.	Quarterly Special Event License.....	\$55.00
10	19.	Hotel Beverage License.....	\$1,005.00
11		(initial license)	
12			\$905.00
13		(renewal)	
14	20.	Airline/Railroad Beverage License.....	\$1,005.00
15		(initial license)	
16			\$905.00
17		(renewal)	
18	21.	Agent License.....	\$55.00
19	22.	Employee License.....	\$30.00
20	23.	Industrial License.....	\$23.00
21	24.	Carrier License.....	\$23.00
22	25.	Private Carrier License.....	\$23.00
23	26.	Bonded Warehouse License.....	\$190.00
24	27.	Storage License.....	\$23.00

1	28.	Nonresident, 7 Seller License or Manufacturer's	
2		License	\$750.00
3	29.	Manufacturer's Agent License.....	\$55.00
4	30.	Sacramental Wine Supplier License.....	\$100.00
5	31.	Charitable Auction License.....	\$1.00
6	32.	Charitable Alcoholic Beverage License.....	\$55.00
7	33.	Winemaker Self-Distribution License.....	\$750.00
8	34.	Annual Public Event License.....	\$1,005.00
9	35.	One-Time Public Event License.....	\$255.00
10	36.	Small Brewer Self-Distribution License.....	\$750.00
11	37.	Brewpub License.....	\$1,005.00
12	38.	Brewpub Self-Distribution License.....	\$750.00
13	39.	<u>Designating Manufacturer License:</u>	
14		<u>a. 50 cases or less sold in Oklahoma last</u>	
15		<u>calendar year.....</u>	<u>\$50.00</u>
16		<u>b. 51 to 500 cases sold in Oklahoma in</u>	
17		<u>last calendar year.....</u>	<u>\$75.00</u>
18		<u>c. 501 cases or more sold in Oklahoma in</u>	
19		<u>last calendar year.....</u>	<u>\$100.00</u>

20 B. 1. There shall be added to the initial or renewal fees for
21 a Mixed Beverage License an administrative fee, which shall not be
22 deemed to be a license fee, in the amount of Five Hundred Dollars
23 (\$500.00), which shall be paid at the same time and in the same
24 manner as the license fees prescribed by paragraph 10 of subsection

1 A of this section; provided, this fee shall not be assessed against
2 service organizations or fraternal beneficiary societies which are
3 exempt under Section 501(c)(19), (8) or (10) of the Internal Revenue
4 Code.

5 2. There shall be added to the fee for a Mixed Beverage/Caterer
6 Combination License an administrative fee, which shall not be deemed
7 to be a license fee, in the amount of Two Hundred Fifty Dollars
8 (\$250.00), which shall be paid at the same time and in the same
9 manner as the license fee prescribed by paragraph 11 of subsection A
10 of this section.

11 C. Notwithstanding the provisions of subsection A of this
12 section:

13 1. The license fee for a mixed beverage or bottle club license
14 for those service organizations or fraternal beneficiary societies
15 which are exempt under Section 501(c)(19), (8) or (10) of the
16 Internal Revenue Code shall be Five Hundred Dollars (\$500.00) per
17 year; and

18 2. The renewal fee for an airline/railroad beverage license
19 held by a railroad described in 49 U.S.C., Section 24301, shall be
20 One Hundred Dollars (\$100.00).

21 D. An applicant may apply for and receive both an on-premises
22 beer and wine license and a caterer license.

23 E. All licenses, except as otherwise provided, shall be valid
24 for one (1) year from date of issuance unless revoked or

1 surrendered. Provided, all employee licenses shall be valid for two
2 (2) years.

3 F. The holder of a license, issued by the ABLE Commission, for
4 a bottle club located in a county of this state where the sale of
5 alcoholic beverages by the individual drink for on-premises
6 consumption has been authorized, may exchange the bottle club
7 license for a mixed beverage license or an on-premises beer and wine
8 license and operate the licensed premises as a mixed beverage
9 establishment or an on-premises beer and wine establishment subject
10 to the provisions of the Oklahoma Alcoholic Beverage Control Act.
11 There shall be no additional fee for such exchange and the mixed
12 beverage license or on-premises beer and wine license issued shall
13 expire one (1) year from the date of issuance of the original bottle
14 club license.

15 G. In addition to the applicable licensing fee, the following
16 surcharge shall be assessed annually on the following licenses:

- 17 1. Nonresident Seller ~~or Manufacturer~~ License..... \$2,500.00
- 18 2. Wine and Spirits Wholesaler License..... \$2,500.00
- 19 3. Beer Distributor..... \$1,000.00
- 20 4. Retail Spirits License for cities and towns
21 over 5,000 population..... \$250.00
- 22 5. Retail Spirits License for cities and towns
23 from 2,501 to 5,000 population..... \$200.00

24

- 1 6. Retail Spirits License for cities and towns
- 2 from 200 to 2,500 population..... \$150.00
- 3 7. Retail Wine License..... \$250.00
- 4 8. Retail Beer License..... \$250.00
- 5 9. Mixed Beverage License..... \$25.00
- 6 10. Mixed Beverage/Caterer Combination License..... \$25.00
- 7 11. Caterer License..... \$25.00
- 8 12. On-Premises Beer and Wine License..... \$25.00
- 9 13. Annual Public Event License..... \$25.00
- 10 14. Small Farm Winery License..... \$25.00
- 11 15. Small Brewer License..... \$35.00
- 12 16. Designating Manufacturer License:
- 13 a. 50 cases or less sold in Oklahoma last
- 14 calendar year..... \$50.00
- 15 b. 51 to 500 cases sold in Oklahoma in
- 16 last calendar year..... \$75.00
- 17 c. 501 cases or more sold in Oklahoma in
- 18 last calendar year..... \$100.00

19 The surcharge shall be paid concurrent with the licensee's

20 annual licensing fee and, in addition to Five Dollars (\$5.00) of the

21 employee license fee, shall be deposited in the Alcoholic Beverage

22 Governance Revolving Fund established pursuant to Section 5-128 of

23 this title.

24

1 H. Any license issued by the ABLE Commission under this title
2 may be relied upon by other licensees as a valid license, and no
3 other licensee shall have any obligation to independently determine
4 the validity of such license or be held liable solely as a
5 consequence of another licensee's failure to maintain a valid
6 license.

7 SECTION 8. AMENDATORY Section 19, Chapter 366, O.S.L.
8 2016, as amended by Section 11, Chapter 364, O.S.L. 2017 (37A O.S.
9 Supp. 2017, Section 2-107), is amended to read as follows:

10 Section 2-107. A. A wine and spirits wholesaler license shall
11 authorize the holder thereof:

12 1. To purchase and import into this state spirits and wines
13 from persons authorized to sell same who are the holders of a
14 designating manufacturer or nonresident seller license, and their
15 agents who are the holders of manufacturer's agent licenses;

16 2. To purchase spirits and wines from licensed distillers,
17 rectifiers and winemakers in this state;

18 3. To purchase spirits and wines from licensed wholesalers, to
19 the extent set forth in subsections B and C of this section;

20 4. To sell in retail containers in this state to retailers,
21 mixed beverage, caterer, special event, public event, hotel beverage
22 or airline/railroad beverage licensees, spirits and wines which have
23 been received and unloaded at the bonded warehouse facilities of the
24 wholesaler before such sale;

1 5. To sell to licensed wholesalers, to the extent set forth in
2 subsections B and C of this section, spirits and wines which have
3 been received and unloaded at the bonded warehouse facilities of the
4 wholesaler before such sale; and

5 6. To sell spirits and wines out of this state to qualified
6 persons.

7 Provided, however, sales of spirits and wine in containers with
8 a capacity of less than one-twentieth (1/20) gallon by a holder of a
9 wholesaler license shall be in full case lots and in the original
10 unbroken case. Wholesalers shall be authorized to place such signs
11 outside their place of business as are required by Acts of Congress
12 and by such laws and regulations promulgated under such Acts.

13 B. A wholesaler may sell spirits and wine to other wholesalers
14 or purchase spirits and wines from other wholesalers without
15 complying with subsection A of this section in the case of the sale,
16 purchase or other transfer or acquisition of a particular brand of
17 spirits or wine or the entire business of a wholesaler, including
18 the inventory of spirits and wine.

19 C. A wholesaler license shall authorize the holder thereof to:

20 1. Transport wine, spirits and beer in vehicles owned, leased
21 or operated by the wholesaler, a subsidiary of the wholesaler, or
22 its agent, in addition to any nonalcoholic items. Provided, if the
23 wholesaler transports beer, a valid beer distributor license must be
24

1 maintained by the wholesaler or affiliated entity having common
2 ownership with the licensed wholesaler;

3 2. Maintain not more than three ~~(3)~~ self-owned or leased and
4 self-operated bonded warehouses within this state. All invoices
5 shall be stored at the principal place of business for which the
6 wholesaler license was granted; and

7 ~~2.~~ 3. Accept as payment cash, personal check, cashier's check,
8 money order or electronic fund transfer from persons licensed to
9 purchase alcoholic beverages; provided, a wholesaler shall not be
10 permitted to accept payment by credit card.

11 SECTION 9. AMENDATORY Section 32, Chapter 366, O.S.L.
12 2016 (37A O.S. Supp. 2017, Section 2-120), is amended to read as
13 follows:

14 Section 2-120. A wholesaler's agent license shall authorize the
15 holder thereof:

16 1. To represent only the holders of wine and spirits wholesaler
17 and beer distributor licenses ~~within this state, other than~~
18 ~~retailers,~~ authorized to sell alcoholic beverages to ~~retail dealers~~
19 off-premises and on-premises retailers in Oklahoma; and

20 2. To solicit and to take orders for the purchase of alcoholic
21 beverages from off-premises and on-premises retailers ~~including~~
22 ~~licensees~~ authorized to sell alcoholic beverages ~~by the individual~~
23 ~~drink for on-premises consumption~~ in Oklahoma.

24

1 Such license shall be issued only to agents and employees of the
2 holder of a license under the Oklahoma Alcoholic Beverage Control
3 Act, but no such license shall be required of an employee making
4 sales of alcoholic beverages on licensed premises of the employee's
5 principal. No applicant for a wholesaler's agent license shall also
6 hold a manufacturer's agent license.

7 SECTION 10. AMENDATORY Section 37, Chapter 366, O.S.L.
8 2016 (37A O.S. Supp. 2017, Section 2-125), is amended to read as
9 follows:

10 Section 2-125. A bonded warehouse license shall authorize the
11 holder thereof to receive and store alcoholic beverages and
12 nonalcoholic beverages for the holders of storage licenses on the
13 licensed premises of the bonded warehouse licensee. No goods, wares
14 or merchandise other than alcoholic beverages may be stored in the
15 same bonded warehouse with alcoholic beverages. The holder of a
16 bonded warehouse license shall furnish and file with the ABLE
17 Commission a bond running to all bailers of alcoholic beverages
18 under proper storage licenses and their assignees (including
19 mortgagees or other bona fide lienholders) conditioned upon faithful
20 performance of the terms and conditions of such bailments.

21 SECTION 11. AMENDATORY Section 47, Chapter 366, O.S.L.
22 2016 (37A O.S. Supp. 2017, Section 2-135), is amended to read as
23 follows:

24

1 Section 2-135. A. All out-of-state distillers, and winemakers,
2 ~~brewers, importers, brokers and others who~~ seeking to sell alcoholic
3 ~~beverages to wine and spirits wholesalers and beer distributors~~ in
4 Oklahoma, regardless of whether such sales are consummated within or
5 without the state, must either obtain a designating manufacturer's
6 license, if it wishes to designate a single wholesaler to sell its
7 products, or ~~contract with a person that maintains a~~ nonresident
8 seller license, if it wishes to sell its products to all licensed
9 wine and spirits wholesalers, in order to sell alcoholic beverages
10 intended for consumption within the State of Oklahoma.

11 A designating manufacturer's license or nonresident seller
12 license shall authorize the holder thereof to solicit and take
13 orders for ~~alcoholic beverages~~ wine and spirits from the holders of
14 Oklahoma wine and spirits wholesaler licenses authorized to import
15 the same into this state, and to ship or deliver, or cause to be
16 shipped or delivered, ~~alcoholic beverages~~ wine or spirits into
17 Oklahoma pursuant to such sales.

18 B. A brewer not licensed in this state selling beer to a
19 ~~nonresident seller~~ beer distributor shall have a written
20 distribution sales agreement with the ~~nonresident seller~~ beer
21 distributor. Such agreement shall be subject to inspection by the
22 ABLE Commission.

23 C. The ABLE Commission may, subject to the provisions of the
24 Oklahoma Alcoholic Beverage Control Act requiring notice and hearing

1 in the case of sanctions against holders of licenses, suspend or
2 revoke a designating manufacturer's license or nonresident seller
3 license, or brewer's license for any violation of the Oklahoma
4 Alcoholic Beverage Control Act by the holder thereof.

5 D. No licensee in this state authorized to import alcoholic
6 beverages into this state shall purchase or receive any alcoholic
7 beverages from without this state from any person not holding a
8 valid and existing designating manufacturer's license, ~~or~~
9 nonresident seller license, or brewer's license. Every designating
10 manufacturer's license or nonresident seller license shall expire on
11 the June 30 following its issuance or renewal, and shall be eligible
12 for subsequent renewal terms of one (1) year beginning on the July 1
13 following each expiration. License fees for a new or initial
14 manufacturer's license or nonresident seller license applied for
15 after July 1 may be prorated through the following June 30 on a
16 quarterly basis.

17 E. The holder of a designating manufacturer's license or
18 nonresident seller license shall, promptly upon consignment of any
19 alcoholic beverages to an importer in Oklahoma, forward to the ABLE
20 Commission a true copy of the invoice, bill of lading or other
21 document as the ABLE Commission may by rule prescribe, showing the
22 details of such shipment.

23 F. Any person, not otherwise a dealer in alcoholic beverages,
24 coming into possession of any alcoholic beverages as security for or

1 in payment of a debt, or as an insurer or its transferee or assignee
2 for the salvage or liquidation of an insured casualty or damage or
3 loss, or as an executor, administrator, trustee or other fiduciary,
4 may sell the beverages in one lot or parcel to a duly licensed
5 wholesaler or beer distributor at an agreed-upon price without
6 regard to current posted prices. However, immediately after taking
7 possession of the alcoholic beverages, the person shall register
8 with the Director and furnish a detailed list of the alcoholic
9 beverages and post with the Director a bond in such amount as the
10 Director deems sufficient to protect the state from any taxes due on
11 the alcoholic beverages. The person shall pay to the Director a
12 registration fee of Fifty Dollars (\$50.00), which fee shall permit
13 the sale of only the alcoholic beverages detailed in the
14 registration request. A wholesaler or beer distributor receiving a
15 lot or parcel of alcoholic beverages pursuant to this subsection may
16 sell it in one lot or parcel or more than one lot or parcel to a
17 licensed package store or mixed beverage licensee or more than one
18 licensed package store or mixed beverage licensee at an agreed-upon
19 price without regard to current posted prices; provided, the total
20 of the lots sold by the wholesaler or beer distributor shall not
21 exceed four (4) lots.

22 SECTION 12. AMENDATORY Section 48, Chapter 366, O.S.L.
23 2016 (37A O.S. Supp. 2017, Section 2-136), is amended to read as
24 follows:

1 Section 2-136. A manufacturer's agent license shall authorize
2 the holder thereof to represent only the holders of a designating
3 manufacturer's license or nonresident seller license and to solicit
4 and take orders for the sale of wine and spirits for the purpose of
5 resale. No such license shall be issued to any person until it
6 shall have been shown to the satisfaction of the ABLE Commission
7 that the applicant has been duly authorized to act as the agent of
8 the principal he or she proposes to represent, and that the
9 principal or principals he or she proposes to represent has been
10 duly authorized to do business in the State of Oklahoma, and has
11 appointed a service agent in this state. No applicant for a
12 manufacturer's agent license shall also hold an agent license. It
13 shall be unlawful for any person other than the holder of a
14 manufacturer's agent license or ~~an~~ a wholesaler's agent license to
15 solicit or take orders in the state from a wine and spirits
16 wholesaler or beer distributor.

17 SECTION 13. AMENDATORY Section 60, Chapter 366, O.S.L.
18 2016 (37A O.S. Supp. 2017, Section 2-148), is amended to read as
19 follows:

20 Section 2-148. A. Any license issued pursuant to the
21 provisions of the Oklahoma Alcoholic Beverage Control Act by the
22 ABLE Commission, after due notice and hearing, may be revoked or
23 suspended if the ABLE Commission finds or has grounds to believe
24 that the licensee has:

- 1 1. Violated any rule promulgated by the ABLE Commission;
- 2 2. Procured a license through fraud, or misrepresentation, or
3 concealment of a material fact;
- 4 3. Made any false representation or statement to the ABLE
5 Commission or the Oklahoma Tax Commission in order to prevent or
6 induce action by the ABLE Commission or the Tax Commission;
- 7 4. Maintained an unsanitary establishment or has supplied
8 impure or otherwise deleterious beverages or food;
- 9 5. Stored, possessed, mixed or served on the premises of a
10 bottle club any alcoholic beverage upon which the tax levied by
11 Section ~~104~~ 5-101 of this ~~act~~ title has not been paid as provided
12 for in the Oklahoma Alcoholic Beverage Control Act, in a county of
13 this state where the sale of alcoholic beverages by the individual
14 drink for on-premises consumption has not been authorized;
- 15 6. Misrepresented to a customer or the public any alcoholic
16 beverage sold by the licensee;
- 17 7. Had any permit or license issued by the Tax Commission and
18 required by the Oklahoma Alcoholic Beverage Control Act, suspended
19 or revoked by the Tax Commission; or
- 20 8. Is not in compliance with the tax laws of this state as
21 required in Article XXVIII A of the Oklahoma Constitution.

22 B. The ABLE Commission may revoke or suspend the license of any
23 mixed beverage, caterer or bottle club licensee if the ABLE
24 Commission finds or has grounds to believe that such licensee:

1 1. Has acted as an agent of a manufacturer or wholesaler of
2 alcoholic beverages;

3 2. Is a manufacturer or wholesaler of alcoholic beverages;

4 3. Has borrowed money or property or accepted gratuities or
5 rebates from a manufacturer or wholesaler of alcoholic beverages;

6 4. Has obtained the use of equipment from any manufacturer or
7 wholesaler of alcoholic beverages or any agent thereof;

8 5. ~~Has violated any of the provisions of the Oklahoma Alcoholic~~
9 ~~Beverage Control Act for which mandatory revocation or suspension is~~
10 ~~not required;~~

11 ~~6.~~ Has been convicted within the past twenty-five (25) years,
12 of a violation of any state or federal law relating to alcoholic
13 beverage for which mandatory revocation or suspension is not
14 required; or

15 ~~7.~~ 6. Is not in compliance with the tax laws of this state as
16 required in Article XXVIII A of the Oklahoma Constitution.

17 C. The ABLE Commission may revoke or suspend the license of any
18 retail, mixed beverage, caterer or bottle club licensee if the ABLE
19 Commission finds or has grounds to believe that such licensee has
20 borrowed money or property or accepted gratuities, discounts,
21 rebates, free goods, allowances or other inducements from a wine and
22 spirits wholesaler or beer distributor.

23 D. The ABLE Commission shall have the authority to revoke the
24 license of any licensee if the ABLE Commission finds:

1 1. That the licensee knowingly sold alcoholic beverages or
2 allowed such beverages to be sold, delivered or furnished to any
3 person under the age of twenty-one (21) years or to any person
4 visibly intoxicated or adjudged insane or mentally deficient;

5 2. That the licensee, any general or limited partner of the
6 licensee, or in the case of a corporation, an officer or director of
7 the corporation, has been convicted of a felony or is not in
8 compliance with the tax laws of this state as required in Article
9 XXVIII A of the Oklahoma Constitution;

10 3. That, in the case of a wine and spirits wholesaler, beer
11 distributor, retail spirits, retail wine or retail beer licensee,
12 the holder of the license or any member of a general or limited
13 partnership which is the holder of such a license, has been
14 convicted of a prohibitory law relating to the sale, manufacture or
15 transportation of alcoholic beverages which constitutes a felony.

16 E. If the ABLE Commission shall find by a preponderance of the
17 evidence as in civil cases that a licensee has knowingly sold any
18 alcoholic beverage to any person under the age of twenty-one (21)
19 years, after a public hearing, the ABLE Commission shall revoke such
20 license and no discretion as to the revocation shall be exercised by
21 the ABLE Commission.

22 ~~F.~~ The ABLE Commission shall have the authority to promulgate
23 rules to establish a penalty schedule for violations of any
24 provision of the Oklahoma Alcoholic Beverage Control Act or any rule

1 of the ABLE Commission. The schedule shall provide for suspension
2 or revocation of any license for major and minor violations as
3 determined by the ABLE Commission. Penalties shall be increasingly
4 severe with each violation by a licensee.

5 Provided, that for a fourth major violation by a licensee within
6 a twenty-four-month period, the penalty shall be mandatory
7 revocation of license. The twenty-four-month period shall be
8 calculated from the date of the most recent violation as set forth
9 in an order signed by the Director or the designee of the Director.

10 ~~G.~~ F. The ABLE Commission or the Tax Commission may impose a
11 monetary penalty in lieu of or in addition to suspension of a
12 license. The amount of the fine for a major violation shall be
13 computed by multiplying the proposed number of days of the
14 suspension period by One Hundred Dollars (\$100.00). The amount of
15 the fine for a minor violation shall be computed by multiplying the
16 number of days of the proposed suspension period by Fifty Dollars
17 (\$50.00).

18 ~~H.~~ G. The failure of any licensee to pay a fine or serve a
19 suspension imposed by the ABLE Commission or the Tax Commission
20 shall result in the revocation of the license of the licensee.

21 ~~I.~~ H. If the ABLE Commission or the Tax Commission finds that
22 public health, safety or welfare require emergency action, and
23 incorporates a finding to that effect in its order, summary
24 suspension of a license may be ordered pending proceeding for

1 revocation or other action, pursuant to the provisions of Section
2 314 of Title 75 of the Oklahoma Statutes.

3 SECTION 14. AMENDATORY Section 79, Chapter 366, O.S.L.
4 2016 (37A O.S. Supp. 2017, Section 3-109), is amended to read as
5 follows:

6 Section 3-109. In order to regulate distribution of beer in
7 this state and assure collection of all applicable taxes and fees,
8 all beer sold in this state by a licensed distributor shall only be
9 transported within this state to the licensed address and location
10 of a licensed retailer or between the licensed addresses and
11 locations of licensed retailers ~~by a marked conveyance owned or~~
12 ~~leased by a licensed distributor~~ in the manner as permitted by law.

13 SECTION 15. AMENDATORY Section 80, Chapter 366, O.S.L.
14 2016, as amended by Section 15, Chapter 364, O.S.L. 2017 (37A O.S.
15 Supp. 2017, Section 3-110), is amended to read as follows:

16 Section 3-110. A. A licensed distributor designated as the
17 licensed distributor for a beer brand within a designated sales
18 territory shall present that beer brand for sale to all on-premise
19 licensees on the same price basis and without discrimination and to
20 all off-premise licensees on the same price basis within a
21 particular county and without discrimination. A licensed
22 distributor shall not sell, supply or deliver, either directly or
23 indirectly through a third party, a beer brand to a licensed
24 retailer outside of the designated sales territory of the designated

1 distributor nor to any person the licensed distributor has reason to
2 believe will sell or supply any quantity of the beer brand to any
3 retail location outside of the designated sales territory of the
4 designated distributor.

5 B. All beer shall only be transported ~~by~~by:

6 1. By a marked conveyance owned or leased by:

7 a. the licensed beer distributor and operated by the
8 licensed beer distributor or an employee of the beer
9 distributor ~~for~~, or

10 b. a licensed wine and spirits wholesaler having common
11 ownership with the licensed beer distributor and
12 operated by the commonly owned wine and spirits
13 wholesaler or an employee of the commonly owned wine
14 and spirits wholesaler; and

15 2. For the products of a licensed manufacturer within the
16 designated sales territory to the address and location of a licensed
17 retailer within that designated sales territory.

18 C. Any beer sold by the licensed distributor shall not be
19 delivered to, received by or stored at any place other than the
20 address and location of the licensed retailer for which state and
21 local retailer licenses or permits have been issued.

22 D. With the approval of the licensed manufacturer, a licensed
23 distributor may sell the designated brands to a licensed retailer
24 located in a designated sales territory of another licensed

1 distributor if that licensed distributor is temporarily unable for
2 any reason to provide the designated brands of the licensed
3 manufacturer within its designated sales territory.

4 E. All beer purchased by a licensed distributor for resale in
5 this state shall physically come into the possession of the licensed
6 distributor and be unloaded in and distributed from the licensed
7 warehouses of the licensed distributor located in this state prior
8 to being resold in this state.

9 SECTION 16. AMENDATORY Section 86, Chapter 366, O.S.L.
10 2016, as amended by Section 17, Chapter 364, O.S.L. 2017 (37A O.S.
11 Supp. 2017, Section 3-116), is amended to read as follows:

12 Section 3-116. A. 1. Any manufacturer or subsidiary of a
13 manufacturer who markets its products solely through a subsidiary or
14 subsidiaries, a distiller, rectifier, bottler, winemaker or importer
15 of alcoholic beverages, bottled or made in a foreign country, either
16 within or without this state, may sell such brands or kinds of
17 alcoholic beverages to every licensed wine and spirits wholesaler
18 who desires to purchase the same, on the same price basis and
19 without discrimination or inducements, and shall further be required
20 to sell such beverages only to those persons licensed as wine and
21 spirits wholesalers; provided, that a manufacturer may designate a
22 single wine and spirits wholesaler to distribute its brands within
23 the state, hereafter referred to as a designating manufacturer.

24

1 2. If a manufacturer elects to designate one or more of its
2 brands, it may designate different brands within its portfolio to a
3 different wine and spirits wholesaler, but no particular brand shall
4 be designated to, posted, or sold to the retail tier by more than
5 one wine and spirits wholesaler within the state.

6 3. A designating manufacturer may transfer the exclusive right
7 to distribute one or more of its brands to a different wine and
8 spirits wholesaler within the state, provided the designating
9 manufacturer provides the current designated wholesaler sixty (60)
10 days written notice of its intent to transfer the brand; provided,
11 the parties may agree upon an earlier transfer date.

12 B. The provisions of subsection A of this section shall not
13 apply to a brewer.

14 C. No manufacturer shall require a wine and spirits wholesaler
15 or beer distributor to purchase any alcoholic beverages or any
16 goods, wares or merchandise as a condition to the wine and spirits
17 wholesaler or beer distributor obtaining or being entitled to
18 purchase any alcoholic beverages.

19 Violation of this section shall be a misdemeanor. Conviction
20 hereunder shall automatically revoke the violator's license.

21 D. In the event a manufacturer or nonresident seller has not
22 designated a wine and spirits wholesaler to sell its product in the
23 state, the product shall be posted in accordance with the following:
24

1 1. On the first business day of each month, the manufacturer
2 shall post with the ABLE Commission the price of all wine and
3 spirits it proposes to offer for sale to licensed wine and spirit
4 wholesalers in this state. All prices shall become effective on the
5 first business day of the following month and shall remain in effect
6 and unchanged for a period of not less than one (1) month. The
7 posting shall be submitted on a form approved by the ABLE Commission
8 and shall identify the brand, size, alcohol content and price of
9 each item intended to be offered for sale. No change or
10 modification of the posted price shall be permitted except upon
11 written permission from the ABLE Commission based on good cause
12 shown;

13 2. When a new item is registered, or an old item is
14 discontinued, or any change is made by a manufacturer or nonresident
15 seller as to price, age, proof, label or type of bottle of any item
16 offered for sale in this state, such new item, discontinued item or
17 change in price, age, proof, label or type of bottle of any item
18 shall be listed separately on the cover page of the price schedule
19 and, in the case of prices changed, shall reflect both the old and
20 the new price of the item changed. All new items and changes as to
21 age, proof, label or type of bottle in which any item is offered for
22 sale shall first be submitted in writing to the ABLE Commission for
23 approval under such requirements as it may deem proper. Approval or
24

1 disapproval of price changes shall not be required if filed in
2 conformity with the provisions of this subsection.

3 a. In addition to the foregoing requirements, the
4 manufacturer shall, at the same time, on regular forms
5 provided by the ABLE Commission, re-register all items
6 of alcoholic beverage which the manufacturer had
7 registered and offered for sale in this state during
8 the previous price period.

9 b. A short form of price posting may be permitted by the
10 ABLE Commission for any price period in which no new
11 item is offered or old item discontinued, or change is
12 made in the price, age, proof, label or type of bottle
13 of any item offered by any manufacturer. Such short
14 form shall contain only such statements as the
15 Director may require or permit;

16 3. The brand name, size, proof and type of alcoholic beverages
17 must be shown on each container sold in this state;

18 4. No brand of alcoholic beverage shall be listed on a price
19 list or posting in more than one place, or offered for sale by more
20 than one method, or at more than one price, except as provided
21 hereafter:

22 a. a manufacturer who has posted F.O.B. prices from a
23 foreign shipping point shall also list the same
24 item(s) at an F.O.B. point within the continental

1 United States. Only one United States F.O.B. point
2 shall be permitted, and

3 b. a manufacturer may list on their price list or posting
4 an item of specific size that may be packaged in more
5 than one type or design of container, provided that
6 the containers being offered have been approved by the
7 ABLE Commission;

8 5. The manufacturer shall sell to the wine and spirits
9 wholesalers all items of wine and spirits at the current posted
10 price in effect on the date of the shipment as shown on the
11 manifest, bill of lading or invoice;

12 6. A full and correct copy of each said price registration
13 shall be transmitted to wine and spirits wholesalers on the same day
14 such prices are filed with or mailed to the ABLE Commission. Proof
15 of such mailing or delivery shall be furnished the ABLE Commission
16 by the manufacturer with the price registration or upon request;

17 7. The sale, or offer to sell, of any item of alcoholic
18 beverage by a manufacturer to a wine and spirits wholesaler at a
19 price not in compliance with the price posted with the ABLE
20 Commission may be deemed a violation; and

21 8. This subsection shall not apply to a manufacturer that has
22 designated a wine and spirits wholesaler to sell its product in the
23 state.

1 SECTION 17. AMENDATORY Section 19, Chapter 364, O.S.L.
2 2017 (37A O.S. Supp. 2017, Section 3-116.2), is amended to read as
3 follows:

4 Section 3-116.2 A. In the event a manufacturer has designated
5 a wine and spirits wholesaler to sell its product in the state, the
6 wine and spirits wholesaler shall comply with the following posting
7 requirements: The wine and spirits wholesaler shall submit its
8 line-item price posting for that product no later than the fifteenth
9 day of each month. If the fifteenth day of the month falls on a
10 Saturday, Sunday or a holiday then the wine and spirits wholesaler
11 shall submit its price posting on the next business day. The price
12 posting submitted by the wine and spirits wholesaler shall list the
13 line-item price, handling cost, transportation cost and any other
14 costs that may be associated with the sale or delivery of that item.
15 All prices shall become effective on the first business day of the
16 month following posting and shall remain in effect and unchanged in
17 one-month increments. No change or modification of the posted price
18 shall be permitted except upon written permission from the ABLE
19 Commission based on good cause shown.

20 B. This section shall not apply unless a product has been
21 designated by a manufacturer for distribution by a single wine and
22 spirits wholesaler in the state.

23 C. This section shall become effective on September 1, 2018.
24

1 SECTION 18. AMENDATORY Section 98, Chapter 366, O.S.L.
2 2016 (37A O.S. Supp. 2017, Section 4-101), is amended to read as
3 follows:

4 Section 4-101. A. Municipalities are authorized to enact
5 ordinances consistent with the provisions of the Oklahoma Alcoholic
6 Beverage Control Act. Provided, municipalities may not enact
7 ordinances criminalizing conduct that may be prosecuted
8 administratively by the ABLE Commission. In municipalities with
9 populations of thirty-five thousand (35,000) or more according to
10 the most recent federal decennial census, these ordinances may
11 provide for maximum penalties of fines not to exceed One Thousand
12 Dollars (\$1,000.00) plus court costs, an imprisonment not to exceed
13 ninety (90) days, or both such fine and imprisonment.

14 B. All municipalities of this state may enact ordinances
15 prohibiting or regulating nudity or drink solicitation in
16 establishments licensed pursuant to the provisions of the Oklahoma
17 Alcoholic Beverage Control Act.

18 C. The provisions of this section shall not authorize any
19 municipality to regulate by ordinance or issue any licenses for
20 activities for which a license is required to be issued pursuant to
21 the provisions of the Oklahoma Alcoholic Beverage Control Act.

22 SECTION 19. AMENDATORY Section 135, Chapter 366, O.S.L.
23 2016, as amended by Section 23, Chapter 364, O.S.L. 2017 (37A O.S.
24 Supp. 2017, Section 5-132), is amended to read as follows:

1 Section 5-132. A. Except as provided in subsection D of this
2 section, no alcoholic beverage shall be labeled, offered or
3 advertised for sale in this state unless in accordance with rules
4 promulgated pursuant to the provisions of Section 5-130 of this
5 title and unless the brand label shall have been registered with and
6 approved by the ABLE Commission and the appropriate fee paid as
7 provided for in this section.

8 B. An application for registration of a brand label shall be
9 filed by and fees paid by the manufacturer or brewer of the brand ~~if~~
10 ~~the manufacturer or brewer is licensed by the ABLE Commission;~~
11 ~~however, if the manufacturer is represented by a manufacturer's~~
12 ~~agent, licensed nonresident seller, wine and spirits.~~ The
13 designated wholesaler or beer distributor, ~~then the manufacturer's~~
14 ~~agent, nonresident seller, wine and spirits wholesaler or beer~~
15 ~~distributor shall~~ may submit each label for each product the
16 designating manufacturer or brewer offers for sale in this state,
17 along with payment of the brand registration fee, on behalf of the
18 manufacturer or brewer; provided, the manufacturer or brewer must
19 fully reimburse the ~~manufacturer's agent, licensed nonresident~~
20 ~~seller, wine and spirits~~ designated wholesaler or beer distributor
21 for the cost of the brand registration fee within forty-five (45)
22 days of the time the original brand registration fee is paid.
23 Cordials and wines which differ only as to age or vintage year, as
24 defined by such rules, shall be considered the same brand, and those

1 that differ as to type or class may be considered the same brand by
2 the ABLE Commission where consistent with the purposes of this
3 section.

4 C. The application for registration of a brand label shall be
5 filed on a form prescribed by the ABLE Commission, and shall contain
6 such information as the ABLE Commission shall require. Such
7 application shall be accompanied by a certified check, bank
8 officers' check or draft or money order in the amount of the annual
9 registration fee, or the properly prorated portion thereof
10 prescribed by this section.

11 D. 1. The annual fee for registration of any brand label for
12 spirits shall be Three Hundred Seventy-five Dollars (\$375.00). The
13 annual fee for registration of any brand label for beer shall be Two
14 Hundred Dollars (\$200.00). The annual fee for registration of any
15 brand label for wine made in the United States, or for registration
16 of any category of imported wine as defined by the Tax Commission,
17 shall be Two Hundred Dollars (\$200.00). Beer manufactured in this
18 state shall be exempt from brand label registration fees.

19 2. Each brand label registered and approved pursuant to this
20 section shall be valid for a term of up to one (1) year, expiring on
21 the June 30 next following registration, and may be renewed for
22 subsequent terms of one (1) year beginning on the July 1 following
23 the initial registration. Brand registration fees for labels
24 registered after July 1 may be prorated through the following June

1 30 on a quarterly basis. The brand registration fee shall not be
2 transferable, unless otherwise allowed by law. A nonresident seller
3 may transfer brand registrations to the distiller or winery that
4 produces those brands, provided the distiller or winery has obtained
5 a designating manufacturer's license, at no expense to the
6 nonresident seller, distiller or winery.

7 E. If the ABLE Commission shall deny the application for
8 registration of a brand label, it shall return the registration fee
9 to the applicant, less twenty-five percent (25%) of such fee.

10 F. The ABLE Commission may at any time exempt any discontinued
11 brand from fee provisions of this section where a manufacturer or
12 wholesaler has an inventory of one hundred cases or less of liquor
13 or wine and five hundred cases or less of beer, and certifies to the
14 ABLE Commission in writing that such brand is being discontinued.

15 G. No private labels or control labels shall be approved for
16 sale in this state.

17 SECTION 20. AMENDATORY Section 141, Chapter 366, O.S.L.
18 2016 (37A O.S. Supp. 2017, Section 6-101), is amended to read as
19 follows:

20 Section 6-101. A. No person shall:

21 1. Knowingly sell, deliver or furnish alcoholic beverages to
22 any person under twenty-one (21) years of age;

23
24

1 2. Sell, deliver or knowingly furnish alcoholic beverages to an
2 intoxicated person or to any person who has been adjudged insane or
3 mentally deficient;

4 3. Open a retail container or consume alcoholic beverages on
5 the premises of a package store, grocery store, convenience store or
6 drug store, unless otherwise permitted by law;

7 4. Import into this state, except as provided for in the
8 Oklahoma Alcoholic Beverage Control Act, any alcoholic beverages;
9 provided, that nothing herein shall prohibit the importation or
10 possession for personal use of not more than one (1) liter of
11 alcoholic beverages upon which the Oklahoma excise tax is
12 delinquent;

13 5. Receive, possess or use any alcoholic beverage in violation
14 of the provisions of the Oklahoma Alcoholic Beverage Control Act;

15 6. Transport into, within or through this state more than one
16 (1) liter of alcoholic beverages upon which the Oklahoma excise tax
17 has not been paid unless the person accompanying or in charge of the
18 vehicle transporting same shall possess a true copy of a bill of
19 lading, invoice, manifest or other document particularly identifying
20 the alcoholic beverages being transported and showing the name and
21 address of the consignor and consignee; provided, this prohibition
22 shall not apply to the first one hundred eighty (180) liters of
23 alcoholic beverages classified as household goods by military
24

1 personnel, age twenty-one (21) or older, when entering Oklahoma from
2 temporary active assignment outside the contiguous United States;

3 7. Knowingly transport in any vehicle upon a public highway,
4 street or alley any alcoholic beverage except in the original
5 container which shall not have been opened and the seal upon which
6 shall not have been broken and from which the original cap or cork
7 shall not have been removed, unless the opened container be in the
8 rear trunk or rear compartment, which shall include the spare tire
9 compartment in a vehicle commonly known as a station wagon and panel
10 truck, or any outside compartment which is not accessible to the
11 driver or any other person in the vehicle while it is in motion;

12 8. Consume spirits, wine or beer in public except on the
13 premises of a licensee of the ABLE Commission who is authorized to
14 sell or serve spirits by the individual drink, or unless otherwise
15 permitted by law. No person shall be intoxicated in a public place.
16 This provision shall be cumulative and in addition to existing law;

17 9. Forcibly resist lawful arrest, or by physical contact
18 interfere with an investigation of any infringement of the Oklahoma
19 Alcoholic Beverage Control Act or with any lawful search or seizure
20 being made by a law enforcement officer or an employee of the ABLE
21 Commission, when such person knows or should know that such acts are
22 being performed by a state, county or municipal officer or employee
23 of the ABLE Commission;

24

1 10. Manufacture, duplicate, counterfeit or in any way imitate
2 any bottle club membership card required to be issued by the ABLE
3 Commission without the permission of the ABLE Commission;

4 11. Consume or possess alcoholic beverages on the licensed
5 premises of a bottle club unless such person possesses a valid
6 membership card for that club issued by the club;

7 12. Knowingly possess any bottle club membership card required
8 to be issued by the ABLE Commission which has been manufactured,
9 counterfeited, imitated or in any way duplicated without the
10 permission of the ABLE Commission; or

11 13. Knowingly and willfully permit any individual under twenty-
12 one (21) years of age who is an invitee to the person's residence,
13 any building, structure or room owned, occupied, leased or otherwise
14 procured by the person or on any land owned, occupied, leased or
15 otherwise procured by the person, to possess or consume any
16 alcoholic beverage as defined by Section 3 of this act, any
17 controlled dangerous substance as defined in the Uniform Controlled
18 Dangerous Substances Act, or any combination thereof, in such place.

19 B. Except as provided for in subsection C of this section,
20 punishment for violation of paragraph 13 of subsection A of this
21 section shall be as follows:

22 1. Any person who is convicted of a violation of the provisions
23 of paragraph 13 of subsection A of this section shall be deemed
24

1 guilty of a misdemeanor for the first offense and be punished by a
2 fine of not more than Five Hundred Dollars (\$500.00);

3 2. Any person who, within ten (10) years after previous
4 convictions of a violation:

- 5 a. of paragraph 13 of subsection A of this section,
- 6 b. of the provisions of any law of another state
7 prohibiting the offense provided for in paragraph 13
8 of subsection A of this section, or
- 9 c. in a municipal criminal court of record for the
10 violation of a municipal ordinance prohibiting the
11 offense provided for in paragraph 13 of subsection A
12 of this section,

13 shall be guilty of a misdemeanor and shall be punished by a fine of
14 not more than One Thousand Dollars (\$1,000.00);

15 3. Any person who, within ten (10) years after two or more
16 previous convictions of a violation:

- 17 a. of paragraph 13 of subsection A of this section,
- 18 b. of the provisions of any law of another state
19 prohibiting the offense provided for in paragraph 13
20 of subsection A of this section, or
- 21 c. in a municipal criminal court of record for the
22 violation of a municipal ordinance prohibiting the
23 offense provided for in paragraph 13 of subsection A
24 of this section, or

1 d. ~~or~~ of any combination of two or more thereof,
2 shall be guilty of a felony and shall be punished by a fine of not
3 more than Two Thousand Five Hundred Dollars (\$2,500.00), or by
4 imprisonment in the custody of the Department of Corrections for not
5 more than five (5) years, or by both such fine and imprisonment.

6 C. Any person who violates paragraph 13 of subsection A of
7 this section, and such actions cause great bodily injury or the
8 death of a person, shall, in addition to any other penalty provided
9 by law, be guilty of a felony, punishable by imprisonment in the
10 custody of the Department of Corrections for not more than five (5)
11 years, a fine of not less than Two Thousand Five Hundred Dollars
12 (\$2,500.00) nor more than Five Thousand Dollars (\$5,000.00), or both
13 such fine and imprisonment.

14 D. Except as provided in subsection C of Section 166 of this
15 act, any person who shall engage in any of the following and disturb
16 the peace of any person:

17 1. In any public place, or in or upon any passenger coach,
18 streetcar, or in or upon any other vehicle commonly used for the
19 transportation of passengers, or in or about any depot, platform,
20 waiting station or room, drink or otherwise consume any intoxicating
21 liquor unless authorized by this act, intoxicating substance or
22 intoxicating compound of any kind, or inhale glue, paint or other
23 intoxicating substance;

1 2. Be drunk or intoxicated in any public or private road, or in
2 any passenger coach, streetcar or any public place or building, or
3 at any public gathering, from drinking or consuming such
4 intoxicating liquor, intoxicating substance or intoxicating compound
5 or from inhalation of glue, paint or other intoxicating substance;
6 or

7 3. Be drunk or intoxicated from any cause,
8 shall be guilty of a misdemeanor, and upon conviction thereof shall
9 be punished by a fine of not less than Ten Dollars (\$10.00), nor
10 more than One Hundred Dollars (\$100.00) or by imprisonment for not
11 less than five (5) days nor more than thirty (30) days or by both
12 such fine and imprisonment.

13 SECTION 21. AMENDATORY Section 145, Chapter 366, O.S.L.
14 2016, as amended by Section 2, Chapter 366, O.S.L. 2017 (37A O.S.
15 Supp. 2017, Section 6-105), is amended to read as follows:

16 Section 6-105. No mixed beverage, public event, special event
17 or on-premises beer and wine licensee shall:

18 1. Purchase or receive any alcoholic beverage other than from a
19 person holding a wine and spirit wholesaler or beer distributor
20 license issued pursuant to the Oklahoma Alcoholic Beverage Control
21 Act; provided, a mixed beverage or on-premises beer and wine
22 licensee whose premises are a restaurant may purchase wine produced
23 at wineries in this state directly from a winemaker as provided in
24 Section 2 of Article XXVIII A of the Oklahoma Constitution;

1 2. Transport alcoholic beverages from the place of purchase to
2 the licensed premises unless the licensee also holds a private
3 carrier license issued by the ABLE Commission;

4 3. Use or allow the use of any mark or label on a container of
5 alcoholic beverage which is kept for sale which does not clearly and
6 precisely indicate the nature of the contents or which might deceive
7 or conceal the nature, composition, quantity, age or quality of such
8 beverage;

9 4. Keep or knowingly permit any alcoholic beverage to be kept,
10 brought or consumed on the licensed premises which is not allowed to
11 be sold or served upon such premises; or

12 5. Allow any person under twenty-one (21) years of age to enter
13 into, remain within or loiter about the designated bar area of the
14 licensed premises, except for persons who incidentally pass through
15 the designated area.

16 The prohibition in this subsection against persons under twenty-
17 one (21) years of age entering or remaining within the designated
18 bar area of the licensed premises shall not apply:

- 19 a. if the licensed premises are closed to the public
20 during a time the premises are legally permitted to be
21 open for business and the premises are used for a
22 private party at which alcoholic beverages may be
23 served to persons twenty-one (21) years of age or
24 older. Any alcoholic beverages served at a private

1 party on the licensed premises may be purchased from
2 the licensee at a negotiated price or purchased
3 privately and served at the private party on the
4 licensed premises. Any licensee who desires to
5 conduct such a private party shall notify the ABLE
6 Commission, in writing, at least ten (10) calendar
7 days prior to the private party. The notification
8 shall include the date, time and purpose of the
9 private party and any other information the ABLE
10 Commission may deem necessary, or

11 b. to a designated bar area which is a concessions stand
12 serving beer ~~and~~, wine or spirits, in addition to food
13 and nonalcoholic beverages, which concession stand is
14 located at, in, or on the premises of a sports, music
15 or entertainment venue, convention center, fairgrounds
16 or similar facility.

17 SECTION 22. AMENDATORY Section 165, Chapter 366, O.S.L.
18 2016 (37A O.S. Supp. 2017, Section 6-125), is amended to read as
19 follows:

20 Section 6-125. ~~A.~~ Any person who shall violate any provision
21 of the Oklahoma Alcoholic Beverage Control Act for which no specific
22 administrative or civil penalty is prescribed shall be guilty of a
23 misdemeanor and be fined not more than Five Hundred Dollars
24

1 (\$500.00), or imprisoned in the county jail for not more than six
2 (6) months, or by both such fine and imprisonment.

3 ~~B. Provided, however, notwithstanding any provision of law to~~
4 ~~the contrary, any offense, including traffic offenses, in violation~~
5 ~~of any of the provisions of the Oklahoma Alcoholic Beverage Control~~
6 ~~Act which is not otherwise punishable by a term of imprisonment or~~
7 ~~confinement shall be punishable by a term of imprisonment not to~~
8 ~~exceed one day in the discretion of the court, in addition to any~~
9 ~~fine prescribed by law.~~

10 SECTION 23. REPEALER 37 O.S. 2011, Section 521, as last
11 amended by Section 1 of this act, and 37 O.S. 2011, Section 573, as
12 amended by Section 2 of this act, are hereby repealed.

13 SECTION 24. Sections 1, 2, 4 and 7 of this act shall become
14 effective July 1, 2018.

15 SECTION 25. Sections 5, 8, 11, 15 and 16 of this act shall
16 become effective August 1, 2018.

17 SECTION 26. Section 17 of this act shall become effective
18 September 1, 2018.

19 SECTION 27. Sections 3, 6, 9, 10, 12, 13, 14, 18, 19, 20, 21,
20 22 and 23 of this act shall become effective October 1, 2018.

21 SECTION 28. It being immediately necessary for the preservation
22 of the public peace, health or safety, an emergency is hereby
23
24

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

3

4 56-2-10361 JBH 04/10/18

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24