

OKLAHOMA STATE SENATE  
CONFERENCE  
COMMITTEE REPORT

May 19, 2017

Mr. President:

Mr. Speaker:

The Conference Committee, to which was referred

SB 646

By: Bice of the Senate and Mulready of the House

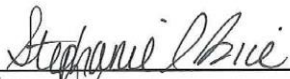
Title: Alcoholic beverages; sales; licensing. Effective date.

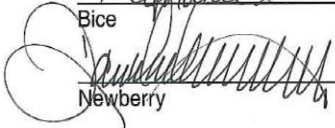
\_\_\_\_\_ together with Engrossed House Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the House recede from all Amendments.
2. That the attached Conference Committee Substitute be adopted.


Respectfully submitted,

SENATE CONFEREES:

  
\_\_\_\_\_  
Bice

  
\_\_\_\_\_  
Newberry

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Leewright

  
\_\_\_\_\_  
Daniels

  
\_\_\_\_\_  
Stanislawski

  
\_\_\_\_\_  
Sparks

\_\_\_\_\_  
Pittman

HOUSE CONFEREES:

Conference Committee on Business, Commerce and Tourism

Senate Action \_\_\_\_\_ Date \_\_\_\_\_ House Action \_\_\_\_\_ Date \_\_\_\_\_

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1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 CONFERENCE COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED

5 SENATE BILL NO. 646

6 By: Bice of the Senate

7 and

8 Mulready of the House

9 CONFERENCE COMMITTEE SUBSTITUTE

10 An Act relating to alcoholic beverages; amending 37  
11 O.S. 2011, Sections 163.11, as last amended by  
12 Section 1, Chapter 205, O.S.L. 2013, 163.18G,  
13 163.18H, 163.20, 521, as last amended by Section 5 of  
14 Enrolled House Bill No. 1302 of the 1st Session of  
15 the 56th Oklahoma Legislature, and 554.1 and 554.2,  
16 as amended by Sections 15 and 16, Chapter 298, O.S.L.  
17 2014 (37 O.S. Supp. 2016, Sections 163.11, 554.1 and  
18 554.2), which relate to the sale, shipment,  
19 licensing, taxing and legal remedies associated with  
20 low-point beer and alcoholic beverages; providing  
21 that under certain circumstances certain actions  
22 shall not constitute violations of certain provisions  
23 of law, create liability or be subject to fines,  
24 orders, penalties or license revocations; deeming  
certain permits valid under certain conditions;  
exempting certain licensees from obligations to make  
certain independent determinations; providing that  
certain licenses may be relied upon by other  
licensees; amending Sections 3, 4, 13, 19, 20, 38,  
76, 78, 80, 81, 86, 101, 102, 135 and 144, Chapter  
366, O.S.L. 2016 (37A O.S. Supp. 2016, Sections 1-  
103, 1-104, 2-101, 2-107, 2-108, 2-126, 3-106, 3-108,  
3-110, 3-111, 3-116, 4-104, 4-105, 5-132 and 6-104),  
which relate to the sale, regulation, licensing,  
distribution, marketing and taxation of alcoholic  
beverages; modifying definitions; clarifying date;  
clarifying references; allowing for refrigeration of  
product on certain date; expanding eligibility for

1 interim licenses; limiting allowable sales to interim  
2 licensees; providing that certain licenses may be  
3 relied upon by other licensees; exempting certain  
4 licensees from obligations to make certain  
5 independent determinations; providing that under  
6 certain circumstances certain actions shall not  
7 create liability; modifying authorities of wine and  
8 spirits wholesaler licensees; eliminating certain  
9 exemption pertaining to storage licensee owning  
10 multiple licensed establishments; modifying certain  
11 limitation related to direct wine shipments;  
12 clarifying certain dates; applying certain  
13 distribution requirements and limitations on cider  
14 manufacturers; requiring certain assignment of  
15 exclusive rights to distribute under certain  
16 conditions; establishing the rights and obligations  
17 of cider manufacturers under certain conditions;  
18 providing processes, requirements and limitations  
19 related to manufacturers and nonresident sellers that  
20 have not designated a wine or spirits wholesaler;  
21 providing exemption to such processes, requirements  
22 and limitations; providing price posting requirements  
23 related to sales of products with no designated wine  
24 and spirits wholesaler; providing exemption for  
certain products; providing for severability of  
certain provisions; providing price posting  
requirements related to sales of products having a  
designated wine and spirits wholesaler; clarifying  
applicability; requiring certain periodic electronic  
publications and distribution of price catalog to  
certain entities; requiring certain content be  
included in price catalog; limiting ability to modify  
price catalog; providing timeline for when price  
amendments become applicable; requiring certain  
publication of price amendments; authorizing  
additional types of representatives to submit labels  
and fee payments as part of the brand label  
registration process; requiring certain reimbursement  
of representative within certain time period;  
modifying prohibition on wine and spirits wholesaler  
sales and deliveries on certain days and dates;  
repealing 37 O.S. 2011, Sections 163.11, as last  
amended by Section 1 of this act, 163.18G, as amended  
by Section 2 of this act, 163.18H, as amended by  
Section 3 of this act, 163.20, as amended by Section  
4 of this act, 521, as last amended by Section 5 of  
this act, 554.1, as last amended by Section 6 of this

1 act, and 554.2, as last amended by Section 7 of this  
2 act, which relate to the sale, shipment, licensing  
3 and taxing of, and legal remedies associated with,  
4 low-point beer and alcoholic beverages; providing for  
5 codification; and providing effective dates.

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

7 SECTION 1. AMENDATORY 37 O.S. 2011, Section 163.11, as  
8 last amended by Section 1, Chapter 205, O.S.L. 2013 (37 O.S. Supp.  
9 2016, Section 163.11), is amended to read as follows:

10 Section 163.11 A. It shall be unlawful for any person to  
11 maintain or operate any place where low-point beer, as herein  
12 defined, is sold for consumption on or off the premises without  
13 first securing a permit issued by the district court clerk of the  
14 county in which the premises are located.

15 B. 1. The person applying for a permit must file a verified  
16 application every three (3) years stating that he or she has never  
17 been convicted of violating any of the laws prohibiting the traffic  
18 in any spirituous, vinous, fermented or malt liquors or the laws  
19 related to the Uniform Controlled Dangerous Substances Act in this  
20 state or another state or the United States, or of any of the  
21 gambling laws of this state or another state or the United States,  
22 within three (3) years immediately preceding the date of his or her  
23 petition, or any of the laws commonly called "Prohibition Laws", or  
24

1 had any permit or license to sell low-point beer revoked in any  
2 county of this state within twelve (12) months.

3 2. A person who has been convicted of a felony shall not be  
4 eligible for a permit unless the person received a pardon for the  
5 felony or a period of ten (10) years has elapsed since the  
6 completion of the sentence imposed for the felony.

7 C. No permit shall be issued to sell low-point beer for on-  
8 premises consumption unless the person applying for such permit  
9 shall have signed an affidavit stating that the location of the  
10 building in which low-point beer is to be sold is not prohibited by  
11 the provisions of Section 163.27 of this title.

12 D. A fee of One Hundred Fifty Dollars (\$150.00) shall be  
13 charged for the issuance or renewal of such three-year permit, which  
14 fee shall be deposited in the county court fund, in addition to  
15 other fees required by law.

16 E. Upon petition being filed, the district court clerk shall  
17 give fifteen (15) days' notice for an initial application, and it is  
18 the applicant's responsibility to cause the same to be posted by the  
19 entrance on the front of the building in which said low-point beer  
20 is to be sold and to file proof of posting in such case; and a copy  
21 of said notice shall also be mailed to the district attorney, the  
22 sheriff and the chief of police or marshal of any city or town in  
23 which the business is to be operated. The notice shall contain the  
24 name of the applicant and the location of the place of business.

1 The initial permit shall be valid for a period of three (3) years  
2 and shall expire if not renewed with proper showing required by  
3 subsection B of this section, and upon payment of proper fees. A  
4 permit may be renewed within ten (10) days of expiration, upon  
5 proper application pursuant to subsection B of this section and  
6 payment of the proper fees, but without the payment of any late  
7 fees. Provided, however, that if a proper application under  
8 subsection B of this section is filed within eleven (11) days but  
9 not more than thirty (30) days after the expiration date of the  
10 permit, upon payment of a fee of One Hundred Dollars (\$100.00) in  
11 addition to the initial permit fee, the court clerk is authorized to  
12 treat the application as one for renewal and to issue a renewal  
13 permit to the applicant, if all requirements have otherwise been met  
14 by the applicant. A renewal permit granted during the thirty-day  
15 grace period shall become effective upon the date of its issuance by  
16 the court clerk.

17 F. An application shall be denied upon any ground that would  
18 require the permit to be revoked.

19 G. A person who has obtained a permit pursuant to this section  
20 and who ceases to maintain or operate any place where low-point beer  
21 is sold for consumption on or off the premises shall be entitled to  
22 receive a refund of the permit fee from the district court clerk  
23 prorated with respect to the amount of time remaining until  
24 expiration of the permit, upon surrender of the existing permit to

1 the district court clerk. The manner and prorated refund shall be  
2 prescribed by the Administrative Director of the Courts.

3 H. If there are no protests and the petition is sufficient on  
4 its face, then the permit shall be granted by the district court  
5 clerk. Provided, that if any citizen of the county files a written  
6 protest setting forth objections, then the district court clerk  
7 shall advise the chief judge who shall assign such petition to a  
8 district judge or associate district judge for hearing.

9 I. The application for the permit must be verified and in  
10 writing, contain the information above required, and must be set for  
11 hearing on a date named in the notice required to be posted.

12 J. All testimony before the district court shall be under oath.

13 K. A judge of the district court, upon five (5) days' notice to  
14 the person holding the permit, shall revoke the permit for any one  
15 of the following reasons:

16 1. Drunkenness of the person holding the permit or permitting  
17 any intoxicated person to loiter in or around his or her place of  
18 business;

19 2. Person under the influence of drugs or any controlled  
20 substance holding the permit or permitting any drugged or drug  
21 abusing person to loiter in or around his or her place of business;

22 3. The sale to any person under twenty-one (21) years of age of  
23 low-point beer;

24

1       4. Permitting persons under the age of twenty-one (21) in a  
2 separate or enclosed bar area which has as its main purpose the  
3 selling or serving of low-point beer for consumption on the  
4 premises, in violation of the provisions of Sections 241 through 246  
5 of this title;

6       5. Nonpayment of any of the taxes or license fees imposed by  
7 the provisions of Section 163.1 et seq. of this title on complaint  
8 of the Oklahoma Tax Commission;

9       6. Violating any of the laws of the state commonly called  
10 "Prohibition Laws" or violating any of the gambling laws of the  
11 state or permitting anyone to violate any of the laws in such places  
12 or violating any of the provisions of Section 163.1 et seq. of this  
13 title;

14       7. Conviction for the violation of any of the laws of this  
15 state, another state or the United States for the sale or possession  
16 of intoxicating liquors within three (3) years immediately preceding  
17 the issuance of the dealer's license;

18       8. Violating any law pertaining to the use, possession,  
19 manufacture or sale of any controlled substance pursuant to the  
20 Uniform Controlled Dangerous Substances Act, or violation of any  
21 rule promulgated or order issued to control a new product or  
22 noncontrolled product or substance pursuant to Section 2-201 of  
23 Title 63 of the Oklahoma Statutes, or violation of any drug or  
24 narcotic law of the United States; or



1           9. A material false statement in the application.

2           L. After the revocation of any permit, for any of the above  
3 reasons, except paragraph 5 of subsection K of this section for  
4 nonpayment of taxes, or license fees, or except as otherwise  
5 provided in this subsection, no new permit shall be issued to the  
6 same person or to a relative of such person for the same location or  
7 premises prior to the expiration of a period of one (1) year from  
8 the date of the revocation. Upon the fourth or subsequent  
9 revocation of a permit for a violation of paragraph 3 or 4 of  
10 subsection K of this section, no new permit shall be issued to the  
11 same person or to a relative of such person for the same location or  
12 premises prior to the expiration of a period of three (3) years from  
13 the date of the revocation.

14           M. On or before the tenth day of each month each district court  
15 clerk shall file with the Oklahoma Tax Commission, on forms  
16 prescribed and furnished by the Commission, a report showing the  
17 name, address, and county permit number of each person to whom a  
18 county permit has been issued or whose permit has been revoked, or  
19 who shall have been refused a county permit, during the previous  
20 calendar month. In case of the revocation of a permit by a judge of  
21 the district court, the district court clerk shall within five (5)  
22 days report the action to the Oklahoma Tax Commission. If county  
23 permits shall have been issued, revoked or refused during the month,  
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1 the district court clerk shall make a report accordingly to the  
2 Commission.

3 N. 1. Upon application to and approval by the court clerk of  
4 the district court, an applicant to be a retail dealer as defined by  
5 Section 163.2 of this title who meets the requirements of this  
6 section and Section 163.11a of this title may be granted a special  
7 event permit after payment of a fee of Twenty-five Dollars (\$25.00)  
8 in addition to other fees required by law, which fees shall not be  
9 refundable or apportionable. A special event permit for the sale  
10 and on-premises consumption of low-point beer shall be issued  
11 fourteen (14) days after the date of filing with the district court  
12 of the application, unless a protest is filed as provided in this  
13 subsection.

14 2. Every application for a special event permit shall contain  
15 proof that a copy of the application has been mailed to the chief of  
16 police or marshal of the city or town, and the sheriff and district  
17 attorney of the county, wherein the special event is to be located.

18 a. If no objection is filed within ten (10) days after  
19 service of notice of the application, the court clerk  
20 may grant the special event permit.

21 b. If a written objection or request for restrictions is  
22 filed within ten (10) days after service of the  
23 application, a judge of the district court, upon five  
24 (5) days' notice to the applicant, chief of police or

1 marshal of the city or town, and sheriff and district  
2 attorney of the county, where the event is to occur,  
3 shall determine whether the special permit should be  
4 granted, restricted or denied, based upon the totality  
5 of circumstances concerning the proposed event,  
6 including, but not limited to, the location of the  
7 event, qualifications of the applicant, history of the  
8 applicant, and specific concerns regarding public  
9 safety.

10 3. A special event permit issued under this subsection shall  
11 authorize the holder thereof to sell and distribute low-point beer  
12 for a period not to exceed ten (10) consecutive days from the date  
13 of issuance. A separate permit shall be required for each  
14 individual place of business, whether permanent or a temporary  
15 assemblage. Provided, retail dealers shall not be required to  
16 obtain a special permit for each bar or service unit within the same  
17 enclosed area or within the general vicinity of each other for  
18 events held outside a physical structure. A special event permit  
19 shall not be renewable. A municipality shall not, by ordinance or  
20 otherwise, refuse to issue a special event permit or special event  
21 license for any event for which the applicant has received a special  
22 event permit as provided in this section.

23 O. That the person demanded, was shown, and reasonably relied  
24 upon proof of age shall be a rebuttable presumption to any action

1 brought pursuant to this section. A person cited for violating this  
2 section shall be deemed to have reasonably relied upon proof of age,  
3 and such person shall not be found guilty of such violation if:

4 1. The individual who purchased or received the low-point beer  
5 presented what a reasonable person would have believed was a driver  
6 license or other government-issued photo identification purporting  
7 to establish that such individual was twenty-one (21) years of age  
8 or older; or

9 2. The person cited for the violation confirmed the validity of  
10 the driver license or other government-issued photo identification  
11 presented by such individual by performing a transaction scan by  
12 means of a transaction scan device.

13 Provided, that this defense shall not relieve from liability any  
14 person cited for a violation of this section if such person failed  
15 to exercise reasonable diligence to determine whether the physical  
16 description and picture on the driver license or other government-  
17 issued photo identification was that of the individual who presented  
18 it. The availability of the defense described in this subsection  
19 does not affect the availability of any other defense under any  
20 other provision of law.

21 P. It shall not be deemed a violation of this section or the  
22 Low-Point Beer Distribution Act for a licensed wholesaler to sell  
23 low-point beer to a retailer who holds a permit from the Oklahoma  
24 Tax Commission pursuant to Section 163.7 of this title, regardless

1 of whether or not such retailer holds a valid permit from the  
2 district court of the relevant county pursuant to this section or  
3 such district court permit has expired. Any permit issued by the  
4 Oklahoma Tax Commission pursuant to Section 163.7 of this title  
5 shall be deemed valid, and licensed wholesalers shall have no  
6 obligation to independently determine the validity of such permit.

7 SECTION 2. AMENDATORY 37 O.S. 2011, Section 163.18G, is  
8 amended to read as follows:

9 Section 163.18G Any aggrieved person shall have a cause of  
10 action for violations of the provisions of the Low-Point Beer  
11 Distribution Act and Section 231 of this title and may recover  
12 damages or obtain injunctive relief or both; provided however, that  
13 no licensed wholesaler shall be liable to any aggrieved person for  
14 the sale of low-point beer to a retailer who holds a permit from the  
15 Oklahoma Tax Commission pursuant to Section 163.7 of this title,  
16 regardless of whether such retailer holds a valid permit from the  
17 district court of the relevant county pursuant to Section 163.11 of  
18 this title or such district court permit has expired. Any permit  
19 issued by the Oklahoma Tax Commission pursuant to Section 163.7 of  
20 this title shall be deemed valid, and licensed wholesalers shall  
21 have no obligation to independently determine the validity of such  
22 permit.

23 SECTION 3. AMENDATORY 37 O.S. 2011, Section 163.18H, is  
24 amended to read as follows:

1 Section 163.18H A. In addition to any other powers conferred  
2 on the Oklahoma Tax Commission to impose penalties for violations of  
3 Sections 163.1 through 163.25 and 231 of this title, whenever in the  
4 judgment of the Commission any person has committed an act which  
5 constitutes a violation of the Low-Point Beer Distribution Act and  
6 Section 231 of this title, the Commission may:

7 1. After notice and hearing, issue a cease and desist order to  
8 any person that is licensed as a manufacturer or wholesaler;

9 2. Impose a fine of not more than Five Thousand Dollars  
10 (\$5,000.00) for each violation in the event that after the issuance  
11 of an order to cease and desist the illegal activity, the person  
12 that the order is directed to commits any act in violation of the  
13 order; and

14 3. Make application to the appropriate court for an order  
15 enjoining such acts or practices, and upon a showing by the  
16 Commission that such violations have occurred, an injunction,  
17 restraining order, or such other order as may be appropriate shall  
18 be granted by such court, without bond.

19 B. Each day a violation is continuing shall constitute a  
20 separate offense.

21 C. Administrative fines imposed pursuant to the provisions of  
22 this section shall be enforceable in the district courts of this  
23 state.

24

1 D. All administrative fines collected by the Commission  
2 pursuant to the provisions of this section shall be forwarded to the  
3 State Treasurer for deposit in the General Revenue Fund.

4 E. Any manufacturer or wholesaler injured by a violation of the  
5 Low-Point Beer Distribution Act may:

6 1. Bring an action for recovery of damages. Judgment shall be  
7 entered for actual damages plus reasonable attorney's fees and  
8 costs; and

9 2. Bring an action to restrain and enjoin the violation of the  
10 Low-Point Beer Distribution Act.

11 F. Notwithstanding the provisions of subsections A, B, C, D and  
12 E of this section, no licensed wholesaler shall be subject to any  
13 fines, orders or other penalties imposed by the Oklahoma Tax  
14 Commission as a result of the sale of low-point beer to a retailer  
15 who holds a permit from the Oklahoma Tax Commission pursuant to  
16 Section 163.7 of this title, regardless of whether such retailer  
17 holds a valid permit from the district court of the relevant county  
18 pursuant to Section 163.11 of this title or such district court  
19 permit has expired. Any permit issued by the Oklahoma Tax  
20 Commission pursuant to Section 163.7 of this title shall be deemed  
21 valid, and licensed wholesalers shall have no obligation to  
22 independently determine the validity of such permit.

23 SECTION 4. AMENDATORY 37 O.S. 2011, Section 163.20, is  
24 amended to read as follows:

1 Section 163.20 A. Any person who shall engage in the sale of  
2 low-point beer in violation of the provisions of Sections 163.1  
3 through 163.25 of this title shall be deemed guilty of a  
4 misdemeanor, and upon conviction thereof shall be punished for such  
5 misdemeanor as provided for by the general statutes of this state.

6 B. Any person who engages in the sale or shipping of low-point  
7 beer in violation of the provisions of Section ~~±~~ 163.26 of this ~~act~~  
8 title on or after the effective date of Section 20.1 of Title 21 of  
9 the Oklahoma Statutes, upon conviction, shall be guilty of a  
10 Schedule G felony if the sale or delivery is made to a person under  
11 twenty-one (21) years of age, or a misdemeanor if the sale or  
12 delivery is made to a person twenty-one (21) years of age or older.  
13 Any person who engages in the sale or shipping of low-point beer in  
14 violation of the provisions of Section ~~±~~ 163.26 of this ~~act~~ title  
15 before the effective date of Section 20.1 of Title 21 of the  
16 Oklahoma Statutes shall be guilty of a felony punishable by  
17 imprisonment for not more than two (2) years, if the sale or  
18 delivery is made to a person under twenty-one (21) years of age, or  
19 a misdemeanor, if the sale or delivery is made to a person twenty-  
20 one (21) years of age or older. The fine for a violation of Section  
21 ~~±~~ 163.26 of this ~~act~~ title shall be not more than Five Thousand  
22 Dollars (\$5,000.00). In addition, if such person holds a permit  
23 issued by the Oklahoma Tax Commission pursuant to Section 163.7 of  
24



1 this title, the permit shall be revoked pursuant to the procedures  
2 set forth in Section 163.18H of this title.

3 C. Notwithstanding the provisions of subsections A and B of  
4 this section, no licensed wholesaler shall be guilty of a  
5 misdemeanor or subject to any fines or license revocation as a  
6 result of the sale of low-point beer to a retailer who holds a  
7 permit from the Oklahoma Tax Commission pursuant to Section 163.7 of  
8 this title, regardless of whether such retailer holds a valid permit  
9 from the district court of the relevant county pursuant to Section  
10 163.11 of this title or such district court permit has expired. Any  
11 permit issued by the Oklahoma Tax Commission pursuant to Section  
12 163.7 of this title shall be deemed valid, and licensed wholesalers  
13 shall have no obligation to independently determine the validity of  
14 such permit.

15 SECTION 5. AMENDATORY 37 O.S. 2011, Section 521, as last  
16 amended by Section 5 of Enrolled House Bill No. 1302 of the 1st  
17 Session of the 56th Oklahoma Legislature, is amended to read as  
18 follows:

19 Section 521. A. A brewer license shall authorize the holder  
20 thereof: To manufacture, bottle, package, and store beer on  
21 licensed premises; to sell beer in this state to holders of Class B  
22 wholesaler licenses and retail licenses and to sell beer out of this  
23 state to qualified persons; to sell beer produced by the licensee to  
24 consumers twenty-one (21) years of age or older on the premises of

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

20 B. A distiller license shall authorize the holder thereof: To  
21 manufacture, bottle, package, and store spirits on licensed  
22 premises; to sell spirits in this state to licensed wholesalers and  
23 manufacturers only; to sell spirits out of this state to qualified  
24 persons; to purchase from licensed distillers and rectifiers in this

1 state, and import spirits from without this state for manufacturing  
2 purposes in accordance with federal laws and regulations.

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

1 produced by such winemaker directly to licensed retail package  
2 stores and restaurants in this state; and provided further that:

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

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

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

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

1 package stores and restaurants in this state in full case lots only,  
2 and in accordance with the provisions of the Oklahoma Alcoholic  
3 Beverage Control Act and such rules as the ABLE Commission shall  
4 adopt.

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

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

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

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

22 a. the total volume of spirits sales of the wholesaler,  
23 by liter, from the previous calendar year, and  
24

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

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

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

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

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

18           In order to allow the ABLE Commission to determine the top  
19 eighteen brands, wholesalers must submit to the ABLE Commission  
20 every sixty (60) days a sworn affidavit listing their top twenty-  
21 five brands in sales for the previous sixty (60) days, excluding  
22 sales to wholesalers. Such affidavits shall be submitted in  
23 conjunction with the original price postings of wholesalers.



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

16 G. A Class B wholesaler license shall authorize the holder  
17 thereof: To purchase and import into this state beer from persons  
18 authorized to sell same who are the holders of nonresident seller  
19 licenses, and their agents who are the holders of manufacturers  
20 agent licenses; to purchase beer from licensed brewers and Class B  
21 wholesalers in this state; to sell in retail containers to  
22 retailers, mixed beverage, caterer, special event, public event,  
23 hotel beverage, and airline/railroad beverage licensees in this  
24 state, beer which has been unloaded and stored at the holder's self-

1 owned or leased and self-operated warehouse facilities for a period  
2 of at least twenty-four (24) hours before such sale; and to sell  
3 beer in this state to Class B wholesalers and out of this state to  
4 qualified persons, including federal instrumentalities and voluntary  
5 associations of military personnel on federal enclaves in this state  
6 over which this state has ceded jurisdiction.

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

19 I. A mixed beverage license shall authorize the holder thereof:  
20 To purchase alcohol, spirits, beer or wine in retail containers from  
21 the holder of a wholesaler or Class B wholesaler license or as  
22 specifically provided by law and to sell, offer for sale and possess  
23 mixed beverages for on-premises consumption only; provided, the  
24 holder of a mixed beverage license issued for an establishment which

1 is also a restaurant may purchase wine directly from a winemaker who  
2 is permitted and has elected to self-distribute as provided in  
3 Section 3 of Article XXVIII of the Oklahoma Constitution.

4 Sales and service of mixed beverages by holders of mixed  
5 beverage licenses shall be limited to the licensed premises of the  
6 licensee unless the holder of the mixed beverage license also  
7 obtains a caterer license or a mixed beverage/caterer combination  
8 license. A mixed beverage license shall only be issued in counties  
9 of this state where the sale of alcoholic beverages by the  
10 individual drink for on-premises consumption has been authorized. A  
11 separate license shall be required for each place of business. No  
12 mixed beverage license shall be issued for any place of business  
13 functioning as a motion picture theater, as defined by Section 506  
14 of this title. A mixed beverage licensee whose main purpose is  
15 hosting live performance art presentations may utilize the services  
16 of a licensed caterer for its alcoholic beverage service as long as  
17 it is not open to the public more than one hundred twenty (120) days  
18 per year.

19 J. A bottle club license shall authorize the holder thereof: To  
20 store, possess and mix alcoholic beverages belonging to members of  
21 the club and to serve such alcoholic beverages for on-premises  
22 consumption to club members. A bottle club license shall only be  
23 issued in counties of this state where the sale of alcoholic  
24 beverages by the individual drink for on-premises consumption has

1 not been authorized. A separate license shall be required for each  
2 place of business.

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

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

19 L. 1. An annual special event license shall authorize the  
20 holder thereof: To sell and distribute mixed beverages for  
21 consumption on the premises for which the license has been issued  
22 for up to four events to be held over a period not to exceed one (1)  
23 year, not to exceed two such events in any three-month period. For  
24 purposes of this paragraph, an event shall not exceed a period of

1 ten (10) consecutive days. An annual special event license shall  
2 only be issued in counties of this state where the sale of alcoholic  
3 beverages by the individual drink for on-premises consumption has  
4 been authorized. The holder of an annual special event license  
5 shall provide written notice to the ABLE Commission of each special  
6 event not less than ten (10) days before the event is held.

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

18 3. An annual public event license shall authorize the holder  
19 thereof: to sell and distribute mixed beverages for consumption on  
20 the premises for which the license has been issued for up to six  
21 events to be held over a period not to exceed one (1) year. The  
22 applicant for an annual public event license, who does not already  
23 hold a license issued by the ABLE Commission, shall make application  
24 not less than sixty (60) days before its first event. The ABLE

1 Commission shall have the authority to waive the sixty-day  
2 requirement at its discretion. For purposes of this paragraph, an  
3 event shall not exceed a period of three (3) consecutive days. An  
4 annual public event license shall only be issued in counties of this  
5 state where the sale of alcoholic beverages by the individual drink  
6 for on-premises consumption has been authorized. The holder of an  
7 annual public event license shall provide written notice to the ABLE  
8 Commission of each subsequent public event not less than ten (10)  
9 days before the event is held. A public event license shall not be  
10 used in lieu of a mixed beverage license. The holder of an annual  
11 public event license may choose to utilize the services of a  
12 licensed caterer to provide and distribute the alcoholic beverages  
13 at their events. When the applicant chooses to utilize the services  
14 of a licensed caterer, the applicant shall declare upon application  
15 which licensed caterer will be used. The licensed caterer shall be  
16 responsible for payment of all applicable mixed beverage taxes  
17 through the existing Mixed Beverage Tax Permit issued to his or her  
18 business by the Oklahoma Tax Commission.

19 4. A one-time public event license shall authorize the holder  
20 thereof: to sell and distribute mixed beverages for consumption on  
21 the premises for which the license has been issued. The applicant  
22 for a one-time public event license, who does not already hold a  
23 license issued by the ABLE Commission, shall make application not  
24 less than sixty (60) days before the event. The ABLE Commission

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

16 M. A hotel beverage license shall authorize the holder thereof:  
17 To sell or serve alcoholic beverages in 50 milliliter spirits, 187  
18 milliliter wine, and 12-ounce malt beverage containers which are  
19 distributed from a hotel room mini-bar. A hotel beverage license  
20 shall only be issued in counties of this state where the sale of  
21 alcoholic beverages by the individual drink for on-premises  
22 consumption has been authorized. A hotel beverage license shall  
23 only be issued to a hotel or motel as defined by Section 506 of this  
24 title which is also the holder of a mixed beverage license.

1 Provided, that application may be made simultaneously for both such  
2 licenses. A separate license shall be required for each place of  
3 business.

4 N. An airline/railroad beverage license shall authorize the  
5 holder thereof: To sell or serve alcoholic beverages in or from any  
6 size container on a commercial passenger airplane or railroad  
7 operated in compliance with a valid license, permit or certificate  
8 issued under the authority of the United States or this state, even  
9 though the airplane or train, in the course of its travel, may cross  
10 an area in which the sale of alcoholic beverages by the individual  
11 drink is not authorized and to store alcoholic beverages in sealed  
12 containers of any size at any airport or station regularly served by  
13 the licensee, in accordance with rules promulgated by the Alcoholic  
14 Beverage Laws Enforcement Commission. Alcoholic beverages purchased  
15 by the holder of an airline/railroad license from the holder of a  
16 wholesaler license shall be presumed to be purchased for consumption  
17 outside the State of Oklahoma or in interstate commerce, and shall  
18 be exempt from the excise tax provided for in Section 553 of this  
19 title.

20 O. An agent license shall authorize the holder thereof: To  
21 represent only the holders of licenses within this state, other than  
22 retailers, authorized to sell alcoholic beverages to retail dealers  
23 in Oklahoma, and to solicit and to take orders for the purchase of  
24 alcoholic beverages from retailers including licensees authorized to



1 sell alcoholic beverages by the individual drink for on-premises  
2 consumption. Such license shall be issued only to agents and  
3 employees of the holder of a license under the Oklahoma Alcoholic  
4 Beverage Control Act, but no such license shall be required of an  
5 employee making sales of alcoholic beverages on licensed premises of  
6 the employee's principal. No person holding an agent license shall  
7 be entitled to a manufacturers agent license.

8 P. An employee license shall authorize the holder thereof: To  
9 work in a package store, mixed beverage establishment, beer and wine  
10 establishment, bottle club, public event or any establishment where  
11 alcohol or alcoholic beverages are sold, mixed, or served. Persons  
12 employed by a mixed beverage licensee, beer and wine licensee,  
13 public event licensee or a bottle club who do not participate in the  
14 service, mixing, or sale of mixed beverages shall not be required to  
15 have an employee license. Provided, however, that a manager  
16 employed by a mixed beverage licensee, public event licensee or a  
17 bottle club shall be required to have an employee license whether or  
18 not the manager participates in the service, mixing or sale of mixed  
19 beverages. Applicants for an employee license must have a health  
20 card issued by the county in which they are employed, if the county  
21 issues such a card. Employees of special event, caterer, unless  
22 catering a mixed beverage licensed premises, or airline/railroad  
23 beverage licensees shall not be required to obtain an employee  
24 license. Persons employed by a hotel licensee who participate in

1 the stocking of hotel room mini-bars or in the handling of alcoholic  
2 beverages to be placed in such devices shall be required to have an  
3 employee license.

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

6 1. Manufacture of patent, proprietary, medicinal,  
7 pharmaceutical, antiseptic, and toilet preparations;

8 2. Manufacture of extracts, syrups, condiments, and food  
9 products; and

10 3. For use in scientific, chemical, mechanical, industrial, and  
11 medicinal products and purposes.

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

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

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

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

10 S. A private carrier license may be issued to any carrier other  
11 than a common carrier described in subsection Q of this section.  
12 Such license shall authorize the holder thereof to transport  
13 alcoholic beverages other than wine sold directly by a winemaker or  
14 winery to a retail package store or restaurant into, within, or out  
15 of this state under such terms, conditions, limitations, and  
16 restrictions as the ABLE Commission may prescribe by order issuing  
17 such license and by regulations. No carrier license or private  
18 carrier license shall be required of licensed brewers, distillers,  
19 winemakers, rectifiers, wholesalers, or Class B wholesalers, to  
20 transport alcoholic beverages from the place of purchase or  
21 acquisition to the licensed premises of such licensees and from such  
22 licensed premises to the licensed premises of the purchaser in  
23 vehicles owned or leased by such licensee when such transportation  
24 is for a lawful purpose and not for hire.

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

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

22 U. A storage license may be issued to a holder of a brewer,  
23 distiller, winemaker, rectifier, wholesaler, Class B wholesaler,  
24 nonresident seller, package store, mixed beverage, caterer, public

1 event or hotel beverage license, and shall authorize the holder  
2 thereof: To store alcoholic beverages in a public warehouse holding  
3 a bonded warehouse license, and no goods, wares or merchandise other  
4 than alcoholic beverages may be stored in the same warehouse with  
5 alcoholic beverages in private warehouses owned or leased and  
6 operated by such licensees elsewhere than on their licensed  
7 premises. Provided:

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

11 2. Any licensee who is the holder of a mixed beverage/caterer  
12 combination license or the holder of a mixed beverage license and a  
13 hotel beverage license who is issued a storage license shall store  
14 all inventories of alcoholic beverages either on the premises of the  
15 mixed beverage establishment or in the warehouse;

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

18 4. A storage license shall be required for a public event  
19 licensee storing alcoholic beverages for use at a subsequent event;  
20 and

21 5. Notwithstanding the provisions of subsection I of this  
22 section or any other provision of this title, a licensee who wholly  
23 owns more than one licensed mixed beverage establishment may store  
24 alcoholic beverages for each of the licensed establishments in one

1 location under one storage license. Alcoholic beverages purchased  
2 and stored pursuant to the provisions of a storage license, for one  
3 licensed mixed beverage establishment may be transferred by a  
4 licensee to another licensed mixed beverage establishment which is  
5 wholly owned by the same licensee. Notice of such a transfer shall  
6 be given in writing to the Oklahoma Tax Commission and the ABLE  
7 Commission within three (3) business days of the transfer. The  
8 notice shall clearly show the quantity, brand and size of every  
9 transferred bottle or case.

10 V. A sacramental wine supplier license shall authorize the  
11 holder thereof: To sell, ship or deliver sacramental wine to any  
12 religious corporation or society of this state holding a valid  
13 exemption from taxation issued pursuant to Section 501(a) of the  
14 Internal Revenue Code, 1986, and listed as an exempt organization in  
15 Section 501(c) (3) of the Internal Revenue Code, 1986, of the United  
16 States, as amended.

17 W. A beer and wine license shall authorize the holder thereof:  
18 To purchase beer and wine in retail containers from the holder of a  
19 wholesaler or Class B wholesaler license or as specifically provided  
20 by law and to sell, offer for sale and possess beer and wine for on-  
21 premises consumption only; provided, the holder of a beer and wine  
22 license issued for an establishment which is also a restaurant may  
23 purchase wine from a winemaker who is permitted and has elected to  
24

1 self-distribute as provided in Section 3 of Article XXVIII of the  
2 Oklahoma Constitution.

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

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

24

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

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

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

7 A charitable alcoholic beverage event shall be conducted solely  
8 to raise funds for charitable purposes. A charitable alcoholic  
9 beverage license will allow the event attendees access to tastings,  
10 samples, dinners, and alcoholic beverages as parts of their entrance  
11 fee or ticket price. Wine, spirits and/or beer used in, served, or  
12 consumed at a charitable alcoholic beverage event may be purchased  
13 by the charitable organization or donated by any person or entity.  
14 The charitable alcoholic beverage event license shall be issued for  
15 a period not exceeding four (4) days. Only eight such licenses may  
16 be issued to an organization in any twelve-month period. The  
17 charitable organization holding a charitable alcoholic beverage  
18 event license shall not be required to obtain a special event  
19 license. Charitable auction and charitable alcoholic beverage event  
20 license holders may also utilize a licensed caterer to provide  
21 additional alcohol services at the event and on the premises. The  
22 charitable auction license shall authorize the holder thereof to  
23 auction wine, spirits, and/or beer purchased from a retail package  
24 store or received as a gift from an individual if the auction is



1 conducted to raise funds for charitable purposes. The charitable  
2 auction license shall be issued for a period not to exceed two (2)  
3 days. Only four such licenses shall be issued to an organization in  
4 any twelve-month period. The maximum amount of wine, spirits,  
5 and/or beer auctioned pursuant to the charitable auction license  
6 shall not exceed fifty (50) gallons. All wine, beer, and spirits  
7 auctioned pursuant to the charitable auction license shall be  
8 registered and all fees and taxes shall be paid in accordance with  
9 the Oklahoma Alcoholic Beverage Control Act.

10 No charitable alcoholic beverage event license shall be required  
11 for an organization, association or nonprofit corporation which is  
12 an economic development chamber or similar entity, provided the  
13 event is not conducted primarily for fundraising purposes, and  
14 provided the services of a licensed caterer are used to provide and  
15 distribute the alcoholic beverages at the event.

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

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

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

11 Z. A small farm winery license shall authorize the holder  
12 thereof: To manufacture and bottle wines produced by that small  
13 farm winery. In addition, a small farm winery license authorizes  
14 the holder of that permit to bottle and sell wines produced by  
15 another small farm winery. In order for a small farm winery to  
16 bottle and sell another small farm winery's products, both the  
17 selling winery and the buying winery shall be small farm winery  
18 permit holders. A small farm wine may display the trademarked  
19 "Oklahoma Grown" sticker available from the Oklahoma Grape Industry  
20 Council.

21 AA. In the event any portion of this section is declared  
22 invalid for any reason, the invalid portion shall be severed and the  
23 rest and remainder of the section shall be saved and given full  
24 force and application.

1 BB. Except as provided in Sections 554.1 and 554.2 of this  
2 title with respect to cities, towns and counties, and except as may  
3 be provided under Title 68 of the Oklahoma Statutes with respect to  
4 the Oklahoma Tax Commission, no license or permit other than  
5 licenses as provided under the Oklahoma Alcoholic Beverage Control  
6 Act shall be required of any licensee by any agency, instrumentality  
7 or political subdivision of this state to engage in any activity  
8 covered by the Oklahoma Alcoholic Beverage Control Act anywhere  
9 within the State of Oklahoma and no agency, instrumentality or  
10 political subdivision of this state shall interfere with the ABLE  
11 Commission's regulation of, or a wholesaler's performance of, the  
12 sale, distribution, possession, handling or marketing of alcoholic  
13 beverages on any premises of any licensee as defined in Section 506  
14 of this title. Any license issued by the ABLE Commission under this  
15 title may be relied upon by other licensees as a valid license. No  
16 other licensee shall have any obligation to independently determine  
17 the validity of such license or be held liable solely as a  
18 consequence of another licensee's failure to maintain a valid  
19 license.

20 SECTION 6. AMENDATORY 37 O.S. 2011, Section 554.1, as  
21 amended by Section 15, Chapter 298, O.S.L. 2014 (37 O.S. Supp. 2016,  
22 Section 554.1), is amended to read as follows:

23 Section 554.1 Cities and towns are hereby authorized to levy an  
24 annual occupational tax for the privilege of operating as a

1 retailer, mixed beverage, beer and wine, caterer, public event or  
2 special event licensee, bottle club, manufacturer, wholesaler or  
3 Class B wholesaler, within their respective jurisdictions, not to  
4 exceed the state license fee for such licensees; provided that the  
5 aforementioned tax shall be levied only by the city or town in which  
6 such licensee has his principal place of business. This section  
7 shall not give any city or town any right to determine or regulate  
8 the issuance of any license, except as specifically provided for in  
9 this section, as the Alcoholic Beverage Laws Enforcement Commission  
10 shall have exclusive authority as to issuance and regulations of  
11 said licenses and no city or town may prescribe rules or regulations  
12 in conflict with or in addition to the statutes of this state or the  
13 rules of the ABLE Commission. No licensee shall be held liable for  
14 engaging in business otherwise authorized under this title with any  
15 other retailer, mixed beverage, beer and wine, caterer, public event  
16 or special event licensee, bottle club, manufacturer, wholesaler or  
17 Class B wholesaler solely because such other party has failed to pay  
18 any occupational tax due under this section.

19 Cities or towns which levy an occupational tax under this  
20 section shall make an annual report to the ABLE Commission, covering  
21 the fiscal year, showing the number and class of licensees subject  
22 to said tax, and the amount of money received therefrom, which  
23 information is to be included in the annual report of the ABLE  
24

1 Commission submitted to the Governor, and transmitted to the  
2 Legislature.

3 SECTION 7. AMENDATORY 37 O.S. 2011, Section 554.2, as  
4 amended by Section 16, Chapter 298, O.S.L. 2014 (37 O.S. Supp. 2016,  
5 Section 554.2), is amended to read as follows:

6 Section 554.2 Counties are hereby authorized to levy an annual  
7 occupational tax for the privilege of operating as a mixed beverage,  
8 beer and wine, caterer, public event or special event licensee or as  
9 a bottle club, within their respective jurisdictions and not located  
10 in a city or town levying an occupation tax as provided by Section  
11 554.1 of this title, not to exceed the state license fee for such  
12 licensees; provided that the aforementioned tax shall be levied only  
13 by the county in which such licensee has his or her principal place  
14 of business. All revenues derived from any such annual occupational  
15 tax shall be deposited in the general revenue fund of the county.  
16 This section shall not give any county any right to determine or  
17 regulate the issuance of any license, except as specifically  
18 provided for in this section, as the Alcoholic Beverage Laws  
19 Enforcement Commission shall have exclusive authority as to issuance  
20 and regulations of said licenses and no county may prescribe rules  
21 or regulations in conflict with or in addition to the statutes of  
22 this state or the rules of the ABLE Commission. No licensee shall  
23 be held liable for engaging in business otherwise authorized under  
24 this act with any other retailer, mixed beverage, beer and wine,

1 caterer, public event or special event licensee, bottle club,  
2 manufacturer, wholesaler or Class B wholesaler solely because such  
3 other party has failed to pay any occupational tax due under this  
4 section.

5 Counties which levy an occupational tax under this section shall  
6 make an annual report to the ABLE Commission, covering the fiscal  
7 year, showing the number and class of licensees subject to said tax,  
8 and the amount of money received therefrom, which information is to  
9 be included in the annual report of the ABLE Commission submitted to  
10 the Governor, and transmitted to the Legislature.

11 SECTION 8. AMENDATORY Section 3, Chapter 366, O.S.L.  
12 2016 (37A O.S. Supp. 2016, Section 1-103), is amended to read as  
13 follows:

14 Section 1-103. As used in the Oklahoma Alcoholic Beverage  
15 Control Act:

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

18 2. "Alcohol" means and includes hydrated oxide of ethyl, ethyl  
19 alcohol, ethanol or spirits of wine, from whatever source or by  
20 whatever process produced. It does not include wood alcohol or  
21 alcohol which has been denatured or produced as denatured in  
22 accordance with Acts of Congress and regulations promulgated  
23 thereunder;

24

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

5           4. "Applicant" means any individual, legal or commercial  
6 business entity, or any individual involved in any legal or  
7 commercial business entity allowed to hold any license issued in  
8 accordance with the Oklahoma Alcoholic Beverage Control Act;

9           5. "Beer" means any beverage of alcohol by volume and obtained  
10 by the alcoholic fermentation of an infusion or decoction of barley,  
11 or other grain, malt or similar products. "Beer" may or may not  
12 contain hops or other vegetable products. "Beer" includes, among  
13 other things, beer, ale, stout, lager beer, porter and other malt or  
14 brewed liquors, but does not include sake, known as Japanese rice  
15 wine;

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

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

23           8. "Bottle club" means any establishment in a county which has  
24 not authorized the retail sale of alcoholic beverages by the

1 individual drink, which is required to be licensed to keep, mix and  
2 serve alcoholic beverages belonging to club members on club  
3 premises;

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

8 10. "Brand extension" means:

9 a. after the effective date of this act, any brand of  
10 beer or cider introduced by a manufacturer in this  
11 state which either:

12 (1) incorporates all or a substantial part of the  
13 unique features of a preexisting brand of the  
14 same licensed manufacturer, or

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

17 b. any brand of beer that a manufacturer, the majority of  
18 whose total volume of all brands of beer distributed  
19 in this state by such manufacturer on January 1, 2016,  
20 was distributed as low-point beer, desires to sell,  
21 introduces, begins selling or theretofore has sold and  
22 desires to continue selling a strong beer in this  
23 state which either:

24



1 (1) incorporates or incorporated all or a substantial  
2 part of the unique features of a preexisting low-  
3 point beer brand of the same licensed  
4 manufacturer, or

5 (2) relies or relied to a significant extent on the  
6 goodwill associated with a preexisting low-point  
7 beer brand;

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

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

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

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

1        15. "Convicted" and "conviction" mean and include a finding of  
2 guilt resulting from a plea of guilty or nolo contendere, the  
3 decision of a court or magistrate or the verdict of a jury,  
4 irrespective of the pronouncement of judgment or the suspension  
5 thereof;

6        16. "Director" means the Director of the ABLE Commission;

7        17. "Distiller" means any person who produces spirits from any  
8 source or substance, or any person who brews or makes mash, wort or  
9 wash, fit for distillation or for the production of spirits (except  
10 a person making or using such material in the authorized production  
11 of wine or beer, or the production of vinegar by fermentation), or  
12 any person who by any process separates alcoholic spirits from any  
13 fermented substance, or any person who, making or keeping mash, wort  
14 or wash, has also in his or her possession or use a still;

15        18. "Distributor agreement" means the written agreement between  
16 the distributor and manufacturer as set forth in Section ~~78~~ 3-108 of  
17 this ~~act~~ title;

18        19. "Drug store" means a person primarily engaged in retailing  
19 prescription and nonprescription drugs and medicines;

20        20. "Dual strength beer" means a brand of beer that,  
21 immediately prior to ~~the effective date of this act~~ April 15, 2017,  
22 was being sold and distributed in this state:

23

24

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

4 b. as strong beer pursuant to the Alcoholic Beverage  
5 Control Act in effect immediately prior to the  
6 effective date of this act,

7 and continues to be sold and distributed as such on October 1,

8 2018. Dual strength beer does not include a brand of beer that  
9 arose as a result of a brand extension as defined in this section;

10 21. "Fair market value" means the value in the subject  
11 territory covered by the written agreement with the distributor or  
12 wholesaler that would be determined in an arm's length transaction  
13 entered into without duress or threat of termination of the  
14 distributor's or wholesaler's rights and shall include all elements  
15 of value, including goodwill and going-concern value;

16 22. "Good cause" means:

17 a. failure by the distributor to comply with the material  
18 and reasonable provisions of a written agreement or  
19 understanding with the manufacturer, or

20 b. failure by the distributor to comply with the duty of  
21 good faith;

22 23. "Good faith" means the duty of each party to any  
23 distributor agreement and all officers, employees or agents thereof

1 to act with honesty in fact and within reasonable standards of fair  
2 dealing in the trade;

3 24. "Grocery store" means a person primarily engaged in  
4 retailing a general line of food, such as canned or frozen foods,  
5 fresh fruits and vegetables, and fresh and prepared meats, fish and  
6 poultry;

7 25. "Hotel" or "motel" means an establishment which is licensed  
8 to sell alcoholic beverages by the individual drink and which  
9 contains guestroom accommodations with respect to which the  
10 predominant relationship existing between the occupants thereof and  
11 the owner or operator of the establishment is that of innkeeper and  
12 guest. For purposes of this section, the existence of other legal  
13 relationships as between some occupants and the owner or operator  
14 thereof shall be immaterial;

15 26. "Legal newspaper" means a newspaper meeting the requisites  
16 of a newspaper for publication of legal notices as prescribed in  
17 Sections 101 through 114 of Title 25 of the Oklahoma Statutes;

18 27. "Licensee" means any person holding a license under the  
19 Oklahoma Alcoholic Beverage Control Act, and any agent, servant or  
20 employee of such licensee while in the performance of any act or  
21 duty in connection with the licensed business or on the licensed  
22 premises;

23 28. "Low-point beer" shall mean any beverages containing more  
24 than one-half of one percent (1/2 of 1%) alcohol by volume, and not

1 more than three and two-tenths percent (3.2%) alcohol by weight,  
2 including but not limited to, beer or cereal malt beverages obtained  
3 by the alcoholic fermentation of an infusion by barley or other  
4 grain, malt or similar products;

5 29. "Manufacturer" means a brewer, distiller, winemaker,  
6 rectifier or bottler of any alcoholic beverage and its subsidiaries,  
7 affiliates and parent companies;

8 30. "Manufacturer's agent" means a salaried or commissioned  
9 salesperson who is the agent authorized to act on behalf of the  
10 manufacturer or nonresident seller in the state;

11 31. "Meals" means foods commonly ordered at lunch or dinner and  
12 at least part of which is cooked on the licensed premises and  
13 requires the use of dining implements for consumption. Provided,  
14 that the service of only food such as appetizers, sandwiches, salads  
15 or desserts shall not be considered "meals";

16 32. "Mini-bar" means a closed container, either refrigerated in  
17 whole or in part, or nonrefrigerated, and access to the interior of  
18 which is:

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

22 33. "Mixed beverage cooler" means any beverage, by whatever  
23 name designated, consisting of an alcoholic beverage and fruit or  
24 vegetable juice, fruit or vegetable flavorings, dairy products or

1 carbonated water containing more than one-half of one percent (1/2  
2 of 1%) of alcohol measured by volume but not more than seven percent  
3 (7%) alcohol by volume at sixty (60) degrees Fahrenheit and which is  
4 packaged in a container not larger than three hundred seventy-five  
5 (375) milliliters. Such term shall include but not be limited to  
6 the beverage popularly known as a "wine cooler";

7 34. "Mixed beverages" means one or more servings of a beverage  
8 composed in whole or part of an alcoholic beverage in a sealed or  
9 unsealed container of any legal size for consumption on the premises  
10 where served or sold by the holder of a mixed beverage, beer and  
11 wine, caterer, public event, charitable event or special event  
12 license;

13 35. "Motion picture theater" means a place where motion  
14 pictures are exhibited and to which the general public is admitted,  
15 but does not include a place where meals, as defined by this  
16 section, are served, if only persons over twenty-one (21) years of  
17 age are admitted;

18 36. "Nonresident seller" means any person licensed pursuant to  
19 Section ~~47~~ 2-135 of this ~~act~~ title;

20 37. "Retail salesperson" means a salesperson soliciting orders  
21 from and calling upon retail alcoholic beverage stores with regard  
22 to his or her product;

23 38. "Occupation" as used in connection with "occupation tax"  
24 means the sites occupied as the places of business of the

1 manufacturers, wholesalers, beer distributors, retailers, mixed  
2 beverage licensees, on-premises beer and wine licensees, bottle  
3 clubs, caterers, public event and special event licensees;

4 39. "Original package" means any container of alcoholic  
5 beverage filled and stamped or sealed by the manufacturer;

6 40. "Package store" means any sole proprietor or partnership  
7 that qualifies to sell wine, beer and/or spirits for off-premise  
8 consumption and that is not a grocery store, convenience store or  
9 drug store, or other retail outlet that is not permitted to sell  
10 wine or beer for off-premise consumption;

11 41. "Patron" means any person, customer or visitor who is not  
12 employed by a licensee or who is not a licensee;

13 42. "Person" means an individual, any type of partnership,  
14 corporation, association, limited liability company or any  
15 individual involved in the legal structure of any such business  
16 entity;

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

- 1           a.    allowing the presence and consumption of alcoholic  
2                    beverages by private parties which are closed to the  
3                    general public, or  
4           b.    allowing the services of a caterer serving alcoholic  
5                    beverages provided by a private party.

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

9       44. "Private event" means a social gathering or event attended  
10 by invited guests who share a common cause, membership, business or  
11 task and have a prior established relationship. For purposes of  
12 this definition, advertisement for general public attendance or  
13 sales of tickets to the general public shall not constitute a  
14 private event;

15       45. "Public event" means any event that can be attended by the  
16 general public;

17       46. "Rectifier" means any person who rectifies, purifies or  
18 refines spirits or wines by any process (other than by original and  
19 continuous distillation, or original and continuous processing, from  
20 mash, wort, wash or other substance, through continuous closed  
21 vessels and pipes, until the production thereof is complete), and  
22 any person who, without rectifying, purifying or refining spirits,  
23 shall by mixing (except for immediate consumption on the premises  
24 where mixed) such spirits, wine or other liquor with any material,



1 manufactures any spurious, imitation or compound liquors for sale,  
2 under the name of whiskey, brandy, rum, gin, wine, spirits, cordials  
3 or any other name;

4 47. "Regulation" or "rule" means a formal rule of general  
5 application promulgated by the ABLE Commission as herein required;

6 48. "Restaurant" means an establishment that is licensed to  
7 sell alcoholic beverages by the individual drink for on-premises  
8 consumption and where food is prepared and sold for immediate  
9 consumption on the premises;

10 49. "Retail container for spirits and wines" means an original  
11 package of any capacity approved by the United States Bureau of  
12 Alcohol, Tobacco and Firearms;

13 50. "Retailer" means a package store, grocery store,  
14 convenience store or drug store licensed to sell alcoholic beverages  
15 for off-premise consumption pursuant to a Retail Spirits License,  
16 Retail Wine License or Retail Beer License;

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

1       52. "Short order food" means food other than full meals  
2 including but not limited to sandwiches, soups and salads. Provided  
3 that popcorn, chips and other similar snack food shall not be  
4 considered "short order food";

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

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

11       55. "Small farm winery" means a wine-making establishment that  
12 does not annually produce for sale more than fifteen thousand  
13 (15,000) gallons of wine as reported on the United States Department  
14 of the Treasury, Alcohol and Tobacco Tax and Trade Bureau, Report of  
15 Wine Premises Operations (TTB Form 5120.17);

16       56. "Sparkling wine" means champagne or any artificially  
17 carbonated wine;

18       57. "Special event" means an entertainment, recreation or  
19 marketing event that occurs at a single location on an irregular  
20 basis and at which alcoholic beverages are sold;

21       58. "Spirits" means any beverage other than wine or beer, which  
22 contains more than one-half of one percent (1/2 of 1%) alcohol  
23 measured by volume, and obtained by distillation, whether or not  
24 mixed with other substances in solution and includes those products

1 known as whiskey, brandy, rum, gin, vodka, liqueurs, cordials and  
2 fortified wines and similar compounds, but shall not include any  
3 alcohol liquid completely denatured in accordance with the Acts of  
4 Congress and regulations pursuant thereto;

5 59. "Strong beer" means beer which, prior to the effective date  
6 of this act, was distributed pursuant to the Oklahoma Alcoholic  
7 Beverage Control Act, Section 501 et seq. of Title 37 of the  
8 Oklahoma Statutes;

9 60. "Successor manufacturer" means a primary source of supply,  
10 a brewer, a cider manufacturer or an importer that acquires rights  
11 to a beer or cider brand from a predecessor manufacturer;

12 61. "Tax Commission" means the Oklahoma Tax Commission;

13 62. "Territory" means a geographic region with a specified  
14 boundary;

15 63. "Wine and spirits wholesaler" or "wine and spirits  
16 distributor" means and includes any sole proprietorship or  
17 partnership licensed to distribute wine and spirits in the state.  
18 The term "wholesaler", as used in this act, shall be construed to  
19 refer to a wine and spirits wholesaler; and

20 64. "Wine" means and includes any beverage containing more than  
21 one-half of one percent (1/2 of 1%) alcohol by volume and not more  
22 than twenty-four percent (24%) alcohol by volume at sixty (60)  
23 degrees Fahrenheit obtained by the fermentation of the natural  
24 contents of fruits, vegetables, honey, milk or other products

1 containing sugar, whether or not other ingredients are added, and  
2 includes vermouth and sake, known as Japanese rice wine;

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

6 SECTION 9. AMENDATORY Section 4, Chapter 366, O.S.L.  
7 2016 (37A O.S. Supp. 2016, Section 1-104), is amended to read as  
8 follows:

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

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

1 Commission, the Governor shall appoint a replacement, with the  
2 advice and consent of the State Senate, within ninety (90) days.

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

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

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

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

15 G. The Commission shall appoint a Director, whose duties shall  
16 be defined as provided in Section ~~§~~ 1-108 of this ~~act~~ title.

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

23 1. Except for the sale of wine or beer to the public, an  
24 interim license shall allow all qualified retail wine and retail

1 beer licensees to perform all activities permissible under a full  
2 license including but not limited to purchasing, stocking and  
3 storing the wine and/or full-strength beer prior to October 1, 2018.  
4 In order to qualify for an interim license, the licensee must  
5 satisfy all the requirements set forth in Article XXVIII A of the  
6 Oklahoma Constitution and this act. The interim license shall  
7 convert to a full license on October 1, 2018;

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

12 3. An interim license shall allow all qualified wine and  
13 spirits wholesalers and beer distributors to perform all activities  
14 permissible under a full license including but not limited to  
15 selling and delivering wine and/or full-strength beer to all  
16 qualified retail wine and retail beer licensees. In order to  
17 qualify for an interim license, the wine and spirits wholesaler and  
18 beer distributor must comply with the provisions set forth in  
19 Article XXVIII A of the Oklahoma Constitution and this act. The  
20 interim license shall convert to a full license on October 1, 2018.

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

24 a. such sales may begin no sooner than September 1, 2018,

1           b. the beer distributor must be assigned a beer  
2           distributor territory by the manufacturer pursuant to  
3           a distributor agreement to begin October 1, 2018, and  
4           c. the interim license only permits sales to retailers by  
5           the interim license in the distribution territory as  
6           set forth in the distributor agreement.

7           I. No retail wine or retail beer licensee may sell wine and/or  
8 beer, other than low-point beer, and no package store may sell  
9 refrigerated wine and/or beer, prior to October 1, 2018. The sale  
10 or refrigeration of wine and/or beer in violation of this subsection  
11 shall result in the revocation of the interim license and a monetary  
12 fine of Twenty-five Thousand ~~dollars~~ Dollars (\$25,000.00).

13           SECTION 10.           AMENDATORY           Section 13, Chapter 366, O.S.L.  
14 2016 (37A O.S. Supp. 2016, Section 2-101), is amended to read as  
15 follows:

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

- 19           1. Brewer License..... \$1,250.00
- 20           2. Small Brewer License..... \$125.00
- 21           3. Distiller License..... \$3,125.00
- 22           4. Winemaker License..... \$625.00
- 23           5. Small Farm Winery License..... \$75.00
- 24           6. Rectifier License..... \$3,125.00





1		(renewal)	
2	16.	Caterer License.....	\$1,005.00
3		(initial license)	
4			\$905.00
5		(renewal)	
6	17.	Annual Special Event License.....	\$55.00
7	18.	Quarterly Special Event License.....	\$55.00
8	19.	Hotel Beverage License.....	\$1,005.00
9		(initial license)	
10			\$905.00
11		(renewal)	
12	20.	Airline/Railroad Beverage License.....	\$1,005.00
13		(initial license)	
14			\$905.00
15		(renewal)	
16	21.	Agent License.....	\$55.00
17	22.	Employee License.....	\$30.00
18	23.	Industrial License.....	\$23.00
19	24.	Carrier License.....	\$23.00
20	25.	Private Carrier License.....	\$23.00
21	26.	Bonded Warehouse License.....	\$190.00
22	27.	Storage License.....	\$23.00
23	28.	Nonresident, Seller License or Manufacturer's	
24		License.....	\$750.00

- 1 29. Manufacturer's Agent License..... \$55.00
- 2 30. Sacramental Wine Supplier License..... \$100.00
- 3 31. Charitable Auction License..... \$1.00
- 4 32. Charitable Alcoholic Beverage License..... \$55.00
- 5 33. Winemaker Self-Distribution License..... \$750.00
- 6 34. Annual Public Event License.....\$1,005.00
- 7 35. One-Time Public Event License..... \$255.00
- 8 36. Small Brewer Self-Distribution License..... \$750.00
- 9 37. Brewpub License..... \$1,005.00
- 10 38. Brewpub Self-Distribution License..... \$750.00

11 B. 1. There shall be added to the initial or renewal fees for  
12 a Mixed Beverage License an administrative fee, which shall not be  
13 deemed to be a license fee, in the amount of Five Hundred Dollars  
14 (\$500.00), which shall be paid at the same time and in the same  
15 manner as the license fees prescribed by paragraph 10 of subsection  
16 A of this section; provided, this fee shall not be assessed against  
17 service organizations or fraternal beneficiary societies which are  
18 exempt under Section 501(c)(19), (8) or (10) of the Internal Revenue  
19 Code.

20 2. There shall be added to the fee for a Mixed Beverage/Caterer  
21 Combination License an administrative fee, which shall not be deemed  
22 to be a license fee, in the amount of Two Hundred Fifty Dollars  
23 (\$250.00), which shall be paid at the same time and in the same  
24

1 manner as the license fee prescribed by paragraph 11 of subsection A  
2 of this section.

3 C. Notwithstanding the provisions of subsection A of this  
4 section:

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

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

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

15 E. All licenses, except as otherwise provided, shall be valid  
16 for one (1) year from date of issuance unless revoked or  
17 surrendered. Provided, all employee licenses shall be valid for two  
18 (2) years.

19 F. The holder of a license, issued by the ABLE Commission, for  
20 a bottle club located in a county of this state where the sale of  
21 alcoholic beverages by the individual drink for on-premises  
22 consumption has been authorized, may exchange the bottle club  
23 license for a mixed beverage license or an on-premises beer and wine  
24 license and operate the licensed premises as a mixed beverage

1 establishment or an on-premises beer and wine establishment subject  
2 to the provisions of the Oklahoma Alcoholic Beverage Control Act.  
3 There shall be no additional fee for such exchange and the mixed  
4 beverage license or on-premises beer and wine license issued shall  
5 expire one (1) year from the date of issuance of the original bottle  
6 club license.

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

- 9 1. Nonresident Seller or Manufacturer License..... \$2,500.00
- 10 2. Wine and Spirits Wholesaler License..... \$2,500.00
- 11 3. Beer Distributor..... \$1,000.00
- 12 4. Retail Spirits License for cities and towns  
13 over 5,000 population..... \$250.00
- 14 5. Retail Spirits License for cities and towns  
15 from 2,501 to 5,000 population..... \$200.00
- 16 6. Retail Spirits License for cities and towns  
17 from 200 to 2,500 population..... \$150.00
- 18 7. Retail Wine License..... \$250.00
- 19 8. Retail Beer License..... \$250.00
- 20 9. Mixed Beverage License..... \$25.00
- 21 10. Mixed Beverage/Caterer Combination License..... \$25.00
- 22 11. Caterer License..... \$25.00
- 23 12. On-Premises Beer and Wine License..... \$25.00
- 24 13. Annual Public Event License..... \$25.00

1 14. Small Farm Winery License..... \$25.00

2 15. Small Brewer License..... \$35.00

3 The surcharge shall be paid concurrent with the licensee's  
4 annual licensing fee and shall be deposited in the Alcoholic  
5 Beverage Governance Revolving Fund established pursuant to Section  
6 ~~131~~ 5-128 of this ~~act~~ title.

7 H. Any license issued by the ABLE Commission under this title  
8 may be relied upon by other licensees as a valid license, and no  
9 other licensee shall have any obligation to independently determine  
10 the validity of such license or be held liable solely as a  
11 consequence of another licensee's failure to maintain a valid  
12 license.

13 SECTION 11. AMENDATORY Section 19, Chapter 366, O.S.L.  
14 2016 (37A O.S. Supp. 2016, Section 2-107), is amended to read as  
15 follows:

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

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

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

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

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

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

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

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

20           B. A wholesaler may sell spirits and wine to other wholesalers  
21 or purchase spirits and wines from other wholesalers without  
22 complying with subsection ~~B~~ A of this ~~subsection~~ section in the case  
23 of the 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 C. A wholesaler license shall authorize the holder thereof to  
4 ~~operate a single bonded warehouse with a single central office~~  
5 ~~together with delivery facilities at a location in this state only:~~

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

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

14 SECTION 12. AMENDATORY Section 20, Chapter 366, O.S.L.  
15 2016 (37A O.S. Supp. 2016, Section 2-108), is amended to read as  
16 follows:

17 Section 2-108. A. A beer distributor license shall authorize  
18 the holder thereof:

19 1. To purchase and import into this state beer from persons  
20 authorized to sell the same who are the holders of manufacturer's  
21 licenses, and their agents who are the holders of manufacturer's  
22 agent licenses;

23 2. To purchase beer from licensed brewers and beer distributors  
24 in this state;

1           3. To sell in retail containers to retailers, mixed beverage,  
2 caterer, special event, public event, hotel beverage and  
3 airline/railroad beverage licensees in this state, beer which has  
4 been received, unloaded and stored at the holder's self-owned or  
5 leased and self-operated warehouse facilities before such sale,  
6 unless otherwise permitted by this section; and

7           4. To sell beer in this state to beer distributors and out of  
8 this state to qualified persons, including federal instrumentalities  
9 and voluntary associations of military personnel on federal enclaves  
10 in this state over which this state has ceded jurisdiction.

11           B. In the event that no in-state beer distributor for a  
12 particular brewer is willing to deliver beer to a county or counties  
13 located within the state, the ABLE Commission may grant an economic  
14 hardship exemption to an out-of-state beer distributor for a  
15 particular brewer and waive the at-rest requirement set forth in  
16 this section, upon a good-faith showing that:

17           1. It is economically infeasible or impractical for an in-state  
18 beer distributor for a particular brewer to deliver to the county or  
19 counties due to remoteness, or population, or both;

20           2. No in-state beer distributor of a particular manufacturer  
21 objects to the waiver within thirty (30) days of receiving written  
22 notice of the economic hardship application sent by the ABLE  
23 Commission; and

24



1           3. The out-of-state beer distributor agrees to pay all  
2 necessary licensing fees and remit all applicable taxes to the State  
3 of Oklahoma.

4           C. The economic hardship exemption provided for in subsection B  
5 of this section shall renew annually, provided that no in-state beer  
6 distributor for a particular brewer submits an executed distribution  
7 agreement to assume responsibility to distribute the beer in the  
8 subject county or counties at least sixty (60) days prior to the  
9 renewal date of the exemption. The in-state beer distributor who  
10 has executed a distribution agreement to assume responsibility to  
11 distribute beer in the subject territory shall compensate the out-  
12 of-state distributor the fair market value of the distribution  
13 rights of the territory as determined pursuant to Section ~~78~~ 3-108  
14 of this ~~act~~ title.

15           D. Provided, nothing in this section shall require an Oklahoma  
16 licensed beer distributor with an Oklahoma designated territory on  
17 the effective date of this act to meet the hardship provisions in  
18 subsections B and C of this section to continue to operate as a  
19 licensed Oklahoma beer distributor.

20           SECTION 13.           AMENDATORY           Section 38, Chapter 366, O.S.L.  
21 2016 (37A O.S. Supp. 2016, Section 2-126), is amended to read as  
22 follows:

23           Section 2-126. A storage license may be issued to a holder of a  
24 brewer, distiller, winemaker, rectifier, wine or spirits wholesaler,

1 beer distributor, nonresident seller, mixed beverage, caterer,  
2 public event or hotel beverage license and shall authorize the  
3 holder thereof to store alcoholic beverages in a public warehouse  
4 holding a bonded warehouse license. The holder of a small brewer  
5 license or brewpub license shall not be required to obtain a storage  
6 license to store beer within the limits set forth in Section ~~3~~ 1-103  
7 of this ~~act~~ title. No goods, wares or merchandise other than  
8 alcoholic beverages may be stored in the same warehouse with  
9 alcoholic beverages in private warehouses owned or leased and  
10 operated by such licensees elsewhere than on their licensed  
11 premises. Provided:

12 1. A storage license issued to a beer distributor shall permit  
13 the storage of beer and permit the sale and delivery to retailers  
14 from the premises covered by such license;

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

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

23

24

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

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

16 SECTION 14. AMENDATORY Section 76, Chapter 366, O.S.L.  
17 2016 (37A O.S. Supp. 2016, Section 3-106), is amended to read as  
18 follows:

19 Section 3-106. A. A Direct Wine Shipper's Permit may be issued  
20 by the Oklahoma ABLE Commission to a winery licensed in this or any  
21 other state within the United States as a wine producer. A Direct  
22 Wine Shipper's Permit allows a winery to ship up to six nine-liter  
23 cases of wine annually directly to an Oklahoma resident who is  
24 twenty-one (21) years of age or older for such resident's personal

1 use and not for resale. No resident shall be permitted to purchase  
2 more than thirty nine-liter cases of wine per year under the  
3 provisions of this section.

4 B. A Direct Wine Consumer's Permit may be issued by the ABLE  
5 Commission to a resident who is twenty-one (21) years of age or  
6 older and wishes to purchase wine directly from a winery pursuant to  
7 this section.

8 C. The ABLE Commission shall promulgate rules governing the  
9 application, issuance and renewal of Direct Wine Shipper's Permits,  
10 which shall include but not be limited to:

11 1. Proof of current licensure in this or any other state as a  
12 wine producer;

13 2. Payment of a registration fee of Three Hundred Dollars  
14 (\$300.00) for original permits and One Hundred Fifty Dollars  
15 (\$150.00) for renewal permits; and

16 3. Any other documentation that the ABLE Commission believes is  
17 reasonably necessary to verify the identity and physical location of  
18 the winery.

19 D. The ABLE Commission shall promulgate rules governing the  
20 application, issuance and renewal of Direct Wine Consumer's Permits,  
21 which shall include but not be limited to:

22 1. A sworn statement verifying that the applicant is at least  
23 twenty-one (21) years of age upon the date of application submission  
24

1 and that the wine is intended for personal use and not for resale;  
2 and

3 2. Any other documentation that the ABLE Commission believes is  
4 reasonably necessary to verify the identity or age of the applicant.

5 E. With regard to direct wine shipments permitted by this  
6 section, Direct Wine Shipper permit holders:

7 1. Shall not ship more than six nine-liter cases of wine  
8 annually to any person for his or her personal use;

9 2. Shall not ship wine intended for resale;

10 3. Shall ensure that all containers of wine shipped directly to  
11 a resident in this state include the Direct Wine Consumer's Permit  
12 Number issued by the ABLE Commission and are conspicuously labeled  
13 with the words "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 OR  
14 OLDER REQUIRED FOR DELIVERY.";

15 4. Shall require the transporter or common carrier that  
16 delivers the wine to obtain the signature of a person twenty-one  
17 (21) years of age or older at the delivery address at the time of  
18 delivery. At the expense of the Direct Wine Shipper, the Direct  
19 Wine Shipper shall receive a delivery confirmation from the express  
20 company, common carrier or contract carrier indicating the location  
21 of delivery, time of delivery and the name and signature of the  
22 individual who accepted the delivery. The ABLE Commission shall  
23 design and create a label or approve a label that must be affixed to  
24 the shipping container by the licensee;

1 5. Shall not ship wine otherwise available in Oklahoma;

2 6. Shall report to the ABLE Commission annually, by a method  
3 prescribed by the ABLE Commission, the total amount of wine shipped  
4 into the state the preceding calendar year;

5 7. Shall annually pay to the Oklahoma Tax Commission all  
6 applicable taxes due on sales authorized by this section to Oklahoma  
7 residents in the preceding calendar year. The amount of such taxes  
8 shall be calculated as if the sale were in Oklahoma at the location  
9 where delivery is made. Upon request, permit holders shall permit  
10 the Tax Commission to perform an audit of the permit holder's  
11 records in order to assure compliance; and

12 8. Shall be deemed to have consented to the jurisdiction of any  
13 agency or court of the State of Oklahoma tasked with the enforcement  
14 of or adjudication of controversies related to this section and any  
15 related laws or rules.

16 F. No express company, common carrier or contract carrier nor  
17 any representative, agent or employee on behalf of the same shall  
18 knowingly deliver any shipping container that contains an alcoholic  
19 beverage into this state, unless it complies with the provisions of  
20 this section. No express company, common carrier or contract  
21 carrier nor any representative, agent or employee on behalf of the  
22 same shall knowingly deliver any shipping container that is clearly  
23 labeled as containing an alcoholic beverage, including but not  
24 limited to the lawful shipment of wine under this section, to any

1 person in this state who is under the age of twenty-one (21) at the  
2 time of delivery. Any express company, common carrier or contract  
3 carrier that carries or transports alcoholic beverages for delivery  
4 within this state in violation of this section shall be guilty of a  
5 misdemeanor and for the first offense be fined not more than Two  
6 Thousand Five Hundred Dollars (\$2,500.00), for a second offense  
7 shall be fined not more than Five Thousand Dollars (\$5,000.00) and  
8 for a third and subsequent offense be fined not more than Ten  
9 Thousand Dollars (\$10,000.00). An express company, common carrier  
10 and contract carrier shall be held vicariously liable for the  
11 actions of its representatives, agents and employees for actions in  
12 violation of this section.

13 SECTION 15. AMENDATORY Section 78, Chapter 366, O.S.L.  
14 2016 (37A O.S. Supp. 2016, Section 3-108), is amended to read as  
15 follows:

16 Section 3-108. A. The provisions of this section shall be in  
17 effect except as otherwise provided in Article XXVIII A of the  
18 Oklahoma Constitution.

19 B. Subject to the provisions of subsection D of this section,  
20 every licensed brewer or cider manufacturer authorized to sell its  
21 beer or cider in this state shall:

22 1. Enter into a distributor agreement with a licensed  
23 distributor, as defined herein, to sell the designated brands,  
24 including brand extensions, of the brewer or cider manufacturer.

1 The agreement shall designate the sales territory of that licensed  
2 distributor and the designated brands to be sold by the licensed  
3 distributor. All such distributor agreements shall specifically  
4 authorize this sale of the designated brands by a licensed  
5 distributor within that sales territory. All such distributor  
6 agreements shall further provide that the licensed manufacturer who  
7 desires to sell a brand extension of a low-point beer in Oklahoma  
8 must assign the low-point beer brand extension to the licensed  
9 distributor to whom the licensed manufacturer granted the exclusive  
10 sales territory to the low-point beer brand from which the brand  
11 extension resulted;

12 2. Sell its registered and approved designated brands only to a  
13 licensed distributor with whom that brewer or cider manufacturer has  
14 a distributor agreement designating the sales territory of the  
15 licensed distributor and the designated brands to be sold by the  
16 licensed distributor;

17 3. Authorize only one licensed distributor for each designated  
18 sales territory. Such licensed distributor shall be the only  
19 licensed distributor for the designated brands of the authorizing  
20 brewer or cider manufacturer within that designated sales territory;  
21 and

22 4. Designate who is responsible for the distribution of its  
23 designated brands.

24



1 C. Subject to the provisions of subsection D of this section,  
2 any and all licensed distributors possessing the rights to  
3 distribute a low-point beer brand in a specific territory prior to  
4 the introduction of that low-point beer's correlating beer brand  
5 extension in that specific territory shall retain the right to  
6 distribute the low-point beer from which the brand extension  
7 resulted.

8 D. 1. No later than ~~sixty (60) days after the effective date~~  
9 ~~of this act~~ August 2, 2018, a brewer shall assign the exclusive  
10 right to distribute a beer brand, including brand extensions  
11 thereof, to the low-point beer distributor who was, prior to the  
12 effective date of this act, assigned the exclusive distribution  
13 rights to the low-point beer from which the brand extension arose  
14 without charge or payment of compensation, unless the low-point beer  
15 distributor is, on the effective date of this act, a brewer of beer  
16 or low-point beer and has therefore been distributing low-point beer  
17 pursuant to a license to so distribute, subject to the provisions of  
18 subsection E of this section. This subsection shall not apply to a  
19 small brewer as defined in Section ~~3~~ 1-103 of this ~~act~~ title.

20 2. With respect to brand extensions which arise after ~~the~~  
21 ~~effective date of this act~~ October 1, 2018, the brewer or cider  
22 manufacturer shall assign the exclusive right to distribute the  
23 brand extension to the distributor who has been assigned the  
24

1 exclusive distribution rights to the beer or cider from which the  
2 brand extension arose, without charge or payment of compensation.

3 3. With respect to a brand of beer or cider which was, prior to  
4 April 15, 2017, distributed in this state only as strong beer or  
5 cider pursuant to the Alcoholic Beverage Control Act then in effect,  
6 if a low-point version of the brand is introduced after April 15,  
7 2017, no later than August 2, 2018, the brewer or cider manufacturer  
8 shall assign the exclusive rights to distribute the low-point  
9 version of the brand to the distributor who was, immediately prior  
10 to the introduction of the low-point version of the brand, assigned  
11 the exclusive distribution rights to the strong version of the brand  
12 without charge or payment of compensation.

13 4. ~~No later than sixty (60) days after the effective date of~~  
14 ~~this act~~ August 2, 2018, with respect to dual strength beer, the  
15 brewer thereof shall assign the exclusive right to distribute the  
16 brands represented by the dual strength beer to either the low-point  
17 beer distributor or the nonresident seller who had theretofore been  
18 assigned the exclusive distribution rights in the territory to  
19 either version of the dual strength beer; provided, however,  
20 whichever party is selected by the brewer must compensate the party  
21 that was not selected by the brewer for the loss of the distribution  
22 rights with respect to that particular territory. Whichever party  
23 is selected shall obtain the requisite distributor license and shall  
24 be subject to the provisions of this act.

1       4. 5. Compensation for the purposes of this provision shall be  
2 the fair market value of the party losing its distribution rights  
3 with respect to the beer within that specific territory. Fair  
4 market value shall be determined as set forth in Section ~~§~~ 3-111 of  
5 this ~~act~~ title and shall take into account all aspects of brand  
6 valuation, including but not limited to:

- 7           a. the diminished value of the distribution of one  
8           version of beer as a consequence of the subsequent  
9           introduction of the other version,
- 10          b. the expected annual sales and earnings of the  
11          distributor agreement,
- 12          c. the length of time the existing distributor held in  
13          the distribution sales agreement, and
- 14          d. any other relevant items of value, such as goodwill  
15          and going concern.

16       E. If a brewer, whether directly or through an affiliate,  
17 maintained one or more licenses to distribute low-point beer in this  
18 state prior to the effective date of this act, then up to two ~~(2)~~ of  
19 the brewer's low-point beer distribution licenses shall  
20 automatically convert to beer distribution licenses upon the  
21 effective date of this act, and such brewer shall be permitted to  
22 continue to distribute beer in two ~~(2)~~ territories within which it  
23 currently distributes without the appointment of a distributor for  
24 such period of time as determined by the Legislature and consistent

1 with the Constitution of the State of Oklahoma; provided however, it  
2 shall not be permitted to distribute beer outside of the territory  
3 unless it enters into a distributor agreement with an independent  
4 licensed distributor as provided in paragraph 1 of subsection B of  
5 this section. This section shall not apply to small brewers that  
6 have elected to self-distribute.

7 SECTION 16. AMENDATORY Section 80, Chapter 366, O.S.L.  
8 2016 (37A O.S. Supp. 2016, Section 3-110), is amended to read as  
9 follows:

10 Section 3-110. A. A licensed distributor designated as the  
11 licensed distributor for a beer brand within a designated sales  
12 territory shall present that beer brand for sale to all on-premise  
13 licensees on the same price basis and without discrimination and to  
14 all off-premise licensees on the same price basis within a  
15 particular county and without discrimination. A licensed  
16 distributor shall not sell, supply or deliver, either directly or  
17 indirectly through a third party, a beer brand to a licensed  
18 retailer outside of the designated sales territory of the designated  
19 distributor nor to any person the licensed distributor has reason to  
20 believe will sell or supply any quantity of the beer brand to any  
21 retail location outside of the designated sales territory of the  
22 designated distributor.

23 B. All beer shall only be transported by a marked conveyance  
24 owned or leased by the licensed distributor and operated by the

1 licensed distributor or an employee of the distributor for the  
2 products of a licensed manufacturer within the designated sales  
3 territory to the address and location of a licensed retailer within  
4 that designated sales territory.

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

9 D. With the approval of the licensed manufacturer, a licensed  
10 distributor may sell the designated brands to a licensed retailer  
11 located in a designated sales territory of another licensed  
12 distributor if that licensed distributor is temporarily unable for  
13 any reason to provide the designated brands of the licensed  
14 manufacturer within its designated sales territory.

15 E. All beer purchased by a licensed distributor for resale in  
16 this state shall physically come into the possession of the licensed  
17 distributor and be unloaded in and distributed from the licensed  
18 warehouse of the licensed distributor located in this state prior to  
19 being resold in this state.

20 SECTION 17. AMENDATORY Section 81, Chapter 366, O.S.L.  
21 2016 (37A O.S. Supp. 2016, Section 3-111), is amended to read as  
22 follows:  
23  
24

1 Section 3-111. A. Except as provided in subsection F of this  
2 section, a small brewer is not subject to the termination provisions  
3 of this section.

4 B. 1. Except as provided in subsections C, D and E of this  
5 section, no brewer shall terminate a distributor agreement with any  
6 beer distributor unless all of the following occur:

7 a. the brewer establishes good cause for such  
8 termination,

9 b. the beer distributor receives written notification by  
10 certified mail, return receipt requested, from the  
11 brewer of the alleged noncompliance and is afforded no  
12 less than sixty (60) days in which to cure such  
13 noncompliance. If not capable of being cured within  
14 the sixty-day period, the beer distributor shall begin  
15 the cure within the sixty-day period and diligently  
16 pursue the cure as promptly as feasible,

17 c. the beer distributor fails to cure such noncompliance  
18 within the allotted cure period, and

19 d. the brewer provides written notice by certified mail,  
20 return receipt requested, to the beer distributor of  
21 such continued noncompliance. The notification shall  
22 contain a statement of the intention of the brewer to  
23 terminate the distributor agreement, the reasons for  
24

1                   the termination and the date the termination shall  
2                   take effect.

3           2. If a beer distributor cures an alleged noncompliance within  
4 the cure period provided in subparagraph b of paragraph 1 of this  
5 subsection, any notice of termination from a brewer to a beer  
6 distributor shall be null and void.

7           C. A brewer may immediately terminate a distributor agreement,  
8 effective upon furnishing written notification to the beer  
9 distributor by certified mail, return receipt requested, for any of  
10 the following reasons:

11           1. The beer distributor's failure to pay any account when due  
12 and upon written demand by the brewer for such payment, in  
13 accordance with agreed payment terms;

14           2. The assignment or attempted assignment by the beer  
15 distributor for the benefit of creditors, the institution of  
16 proceedings in bankruptcy by or against the beer distributor, the  
17 dissolution or liquidation of the beer distributor or the insolvency  
18 of the beer distributor;

19           3. The revocation or suspension of, or the failure to renew for  
20 a period of more than fourteen (14) days, a beer distributor's  
21 state, local or federal license or permit to sell beer in this  
22 state;

1           4. The beer distributor has been convicted of a felony that, in  
2 the brewer's sole judgment, adversely affects the goodwill of the  
3 beer distributor or brewer;

4           5. A beer distributor has been convicted of, found guilty of or  
5 pled guilty or nolo contendere to, a charge of violating a law or  
6 regulation of the United States or of this state if it materially  
7 and adversely affects the ability of the beer distributor or brewer  
8 to continue to sell its beer in this state;

9           6. Any attempted transfer of ownership of the beer distributor,  
10 stock of the beer distributor or stock of any parent corporation of  
11 the beer distributor, or any change in the beneficial ownership or  
12 control of any entity having control of the beer distributor,  
13 without obtaining the prior written approval of the brewer, which  
14 may not be unreasonably withheld, except as may otherwise be  
15 permitted pursuant to a written agreement between the parties;

16           7. Fraudulent conduct in the beer distributor's dealings with  
17 the brewer of beer, including the intentional sale of beer outside  
18 the brewer's established quality standards;

19           8. Cessation of the beer distributor to conduct business for  
20 five (5) consecutive business days, unless conducting the business  
21 is prevented or rendered impractical due to events beyond the  
22 distributor's reasonable control as a result of an act of God, an  
23 insured casualty, war or a condition of national, state or local  
24 emergency; or



1       9. Any sale of beer, directly or indirectly, to customers  
2 located outside the territory assigned to the beer distributor by  
3 the brewer unless expressly authorized by the brewer.

4       Provided, the beer distributor shall have the opportunity to  
5 sell the brewer's brands for one hundred twenty (120) days after  
6 termination in accordance with the distributor agreement.

7       D. The brewer shall have the right to terminate an agreement  
8 with a beer distributor at any time by giving the beer distributor  
9 at least ninety-days' written notice by certified mail, return  
10 receipt requested; provided, the brewer shall give a similar notice  
11 to all other beer distributors in all other states who have entered  
12 into the same distributor agreement with the brewer.

13       E. If a particular brand of beer is transferred by purchase or  
14 otherwise from a brewer to a successor brewer, the following shall  
15 occur:

16       1. The successor brewer shall become obligated to all of the  
17 terms and conditions of the agreement in effect on the date of  
18 succession. This subsection applies regardless of the character or  
19 form of the succession. A successor brewer has the right to  
20 contractually require its beer distributor to comply with  
21 operational standards of performance, if the standards are uniformly  
22 established for all of the successor brewer's distributors. A  
23 successor brewer may, upon written notice, terminate its agreement,  
24 in whole or in part, with a beer distributor of the brewer it

1 succeeded, for the purpose of transferring the distribution rights  
2 in the beer distributor's territory to a new beer distributor,  
3 provided that the successor beer distributor first pays to the  
4 existing beer distributor the fair market value of the existing  
5 distributor's business with respect to the terminated brand or  
6 brands;

7 2. If the successor brewer decides to terminate its agreement  
8 with the existing beer distributor for purposes of transfer, the  
9 successor brewer shall notify the existing beer distributor in  
10 writing of the successor brewer's intent not to appoint the existing  
11 beer distributor for all or part of the existing beer distributor's  
12 territory. The successor brewer shall mail the notice of  
13 termination by certified mail, return receipt requested, to the  
14 existing beer distributor. The successor brewer shall include in  
15 the notice the names, addresses and telephone numbers of the  
16 successor beer distributor or distributors;

17 3. a. the successor beer distributor shall negotiate with  
18 the existing beer distributor to determine the fair  
19 market value of the existing beer distributor's right  
20 to distribute in the existing beer distributor's  
21 territory. The successor beer distributor and the  
22 existing beer distributor shall negotiate the fair  
23 market value in good faith, and  
24

1           b.    the existing beer distributor shall continue to  
2                distribute in good faith until payment of the  
3                compensation agreed to under subparagraph a of this  
4                paragraph, or awarded under paragraph 4 of this  
5                subsection, is received; and

6           4.   a.   if the successor beer distributor and the existing  
7                beer distributor fail to reach a written agreement on  
8                the fair market value within thirty (30) days after  
9                the existing beer distributor receives the notice  
10              required pursuant to paragraph 2 of this subsection,  
11              the successor beer distributor or the existing beer  
12              distributor shall send a written notice to the other  
13              party requesting arbitration pursuant to the Uniform  
14              Arbitration Act, Part 2 of Article 22 of Title 13,  
15              C.R.S. Arbitration shall be held for the purpose of  
16              determining the fair market value of the existing beer  
17              distributor's right to distribute in the existing beer  
18              distributor territory,

19           b.    notice of intent to arbitrate shall be sent, as  
20                provided in subparagraph a of this paragraph, not  
21                later than forty (40) days after the existing beer  
22                distributor receives the notice required pursuant to  
23                paragraph 2 of this subsection.  The arbitration  
24                proceeding shall conclude not later than sixty (60)

1 days after the date the notice of intent to arbitrate  
2 is mailed to a party, unless this time is extended by  
3 mutual agreement of the parties and the arbitrator,

4 c. any arbitration held pursuant to this subsection shall  
5 be conducted in a city within this state that:

6 (1) is closest to the existing beer distributor, and

7 (2) has a population of more than twenty thousand  
8 (20,000) people,

9 d. any arbitration held pursuant to this paragraph shall  
10 be conducted before one impartial arbitrator to be  
11 selected by the American Arbitration Association or  
12 its successor. The arbitration shall be conducted in  
13 accordance with the rules and procedures of the  
14 Uniform Arbitration Act, Part 2 of Article 22 of Title  
15 13, C.R.S.,

16 e. an arbitrator's award in any arbitration held pursuant  
17 to this paragraph shall be monetary only and shall not  
18 enjoin or compel conduct. Any arbitration held  
19 pursuant to this paragraph shall be in lieu of all  
20 other remedies and procedures,

21 f. the cost of the arbitrator and any other direct costs  
22 of an arbitration held pursuant to this paragraph  
23 shall be equally divided by the parties engaged in the  
24

1 arbitration. All other costs shall be paid by the  
2 party incurring them,

3 g. the arbitrator in any arbitration held pursuant to  
4 this paragraph shall render a written decision not  
5 later than thirty (30) days after the conclusion of  
6 the arbitration, unless this time is extended by  
7 mutual agreement of the parties and the arbitrator.  
8 The decision of the arbitrator is final and binding on  
9 the parties. The arbitrator's award may be enforced  
10 by commencing a civil action in any court of competent  
11 jurisdiction. Under no circumstances may the parties  
12 appeal the decision of the arbitrator,

13 h. an existing beer distributor or successor beer  
14 distributor who fails to participate in the  
15 arbitration hearings in any arbitration held pursuant  
16 to this paragraph waives all rights the existing beer  
17 distributor or successor beer distributor would have  
18 had in the arbitration and is considered to have  
19 consented to the determination of the arbitrator, and

20 i. if the existing beer distributor does not receive  
21 payment from the successor beer distributor of the  
22 settlement or arbitration award required under  
23 paragraph 2 or 3 of this subsection within thirty (30)  
24

1 days after the date of the settlement or arbitration  
2 award:

3 (1) the existing beer distributor shall remain the  
4 beer distributor in the existing beer  
5 distributor's territory to at least the same  
6 extent that the existing beer distributor  
7 distributed the beer immediately before the  
8 successor brewer acquired rights to the brand,  
9 and

10 (2) the existing beer distributor is not entitled to  
11 the settlement or arbitration award.

12 F. 1. In addition to termination rights that may be set forth  
13 in a distributor agreement, a small brewer who manufactures less  
14 than twenty-five thousand ~~(25,000)~~ barrels of beer annually may  
15 terminate a distributor agreement with any beer distributor provided  
16 that, prior to the effective date of the termination, the small  
17 brewer pays the beer distributor the fair market value of the  
18 distribution rights which will be lost or diminished by reason of  
19 the termination.

20 2. If such small brewer and beer distributor cannot mutually  
21 agree to the fair market value of the applicable distribution rights  
22 lost or diminished by reason of the termination, then the brewer  
23 shall pay the beer distributor a good faith estimate of the fair  
24 market value of the applicable distribution rights.

1           3. If the beer distributor being terminated under ~~subparagraph~~  
2 paragraph 2 of this subsection disputes that the payment made by the  
3 small brewer was less than the fair market value of the distribution  
4 rights, then the beer distributor may within forty-five (45) days of  
5 termination submit the question of fair market value of the  
6 applicable distribution rights lost or diminished by reason of the  
7 termination to binding arbitration before a panel of three neutral  
8 arbitrators appointed in accordance with the commercial arbitration  
9 rules of the American Arbitration Association, which panel shall  
10 determine by majority decision whether the small brewer's payment  
11 meets the requirements of ~~subparagraph~~ paragraph 2 of this  
12 subsection.

13           4. If the arbitration panel rules that the payment made by the  
14 small brewer to the beer distributor upon termination was less than  
15 the fair market value of distribution rights lost or diminished by  
16 reason of the termination, then the small brewer must pay the beer  
17 distributor the difference between the payment made to the beer  
18 distributor and the determined fair market value plus interest.

19           5. If the arbitration panel rules that the payment made by the  
20 small brewer to the beer distributor upon termination was more than  
21 the fair market value of distribution rights lost or diminished by  
22 reason of the termination, then the beer distributor must pay the  
23 small brewer the difference between the payment made to the beer  
24 distributor and the determined fair market value, plus interest.

1       6. All arbitration fees and expenses shall be equally divided  
2 among the parties to the arbitration, except if the arbitration  
3 panel determines that the small brewer's payment upon termination  
4 was not a good-faith estimate of the fair market value, then the  
5 panel may award up to one hundred percent (100%) of the arbitration  
6 costs to the small brewer.

7       G. 1. Any beer distributor or brewer who is aggrieved by a  
8 violation of any provision of subsections B and D of this section  
9 shall be entitled to recovery of damages caused by the violation.  
10 Except for a dispute arising under subsection E of this section,  
11 damages shall be sought in a civil action in any court of competent  
12 jurisdiction.

13       2. Any dispute arising under subsections B and D of this  
14 section may also be settled by such dispute resolution procedures as  
15 may be provided by a written agreement between the parties.

16       H. Nothing in this section shall be construed to limit or  
17 prohibit good-faith settlements voluntarily entered into by the  
18 parties.

19       I. Nothing in this section shall be construed to give a beer  
20 distributor any right to compensation if an agreement with the beer  
21 distributor is terminated by a brewer pursuant to subsections B, C  
22 and D of this section.

23  
24



1 J. No brewer shall require any beer distributor to waive  
2 compliance with any provision of the Oklahoma Alcoholic Beverage  
3 Control Act.

4 K. No brewer shall charge or accept, and no beer distributor  
5 shall pay or provide, any money, property, gratuity, rebate, free  
6 goods, shipping charges different than those charged for all beer  
7 distributors, allowances, thing of value or inducement from a beer  
8 distributor in exchange for the brewer entering into a distributor  
9 agreement with the beer distributor. However, a brewer who also  
10 holds a beer distributor license and desires to sell all or a  
11 portion of its beer distribution rights and business, or a holder of  
12 small brewer license who desires to change its election from self-  
13 distribution to the use of a distributor agreement may accept a  
14 payment for the fair market value of its existing and established  
15 distribution business in the subject territory.

16 L. This section shall apply to any agreement entered into and  
17 any renewals, extensions, amendments or conduct constituting a  
18 modification of a distributor agreement by a brewer or cider  
19 manufacturer existing on or after the effective date of this act.

20 M. Where a cider manufacturer distributes cider through a beer  
21 distributor, the rights and obligations of the cider manufacturer,  
22 the distributor, a successor cider manufacturer and a successor  
23 distributor shall be the same as the rights and obligations provided  
24

1 in this section for a brewer, beer distributor, successor brewer and  
2 successor beer distributor.

3 SECTION 18. AMENDATORY Section 86, Chapter 366, O.S.L.  
4 2016 (37A O.S. Supp. 2016, Section 3-116), is amended to read as  
5 follows:

6 Section 3-116. A. Any manufacturer or subsidiary of a  
7 manufacturer who markets its products solely through a subsidiary or  
8 subsidiaries, a distiller, rectifier, bottler, winemaker or importer  
9 of alcoholic beverages, bottled or made in a foreign country, either  
10 within or without this state, may sell such brands or kinds of  
11 alcoholic beverages to every licensed wine and spirits wholesaler  
12 who desires to purchase the same, on the same price basis and  
13 without discrimination or inducements, and shall further be required  
14 to sell such beverages only to those persons licensed as wine and  
15 spirits wholesalers.

16 B. The provisions of subsection A of this section shall not  
17 apply to a brewer.

18 C. No manufacturer shall require a wine and spirits wholesaler  
19 or beer distributor to purchase any alcoholic beverages or any  
20 goods, wares or merchandise as a condition to the wine and spirits  
21 wholesaler or beer distributor obtaining or being entitled to  
22 purchase any alcoholic beverages.

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

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

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

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

1 sale shall first be submitted in writing to the ABLE Commission for  
2 approval under such requirements as it may deem proper. Approval or  
3 disapproval of price changes shall not be required if filed in  
4 conformity with the provisions of this subsection.

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

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

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

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

1           a. a manufacturer who has posted F.O.B. prices from a  
2           foreign shipping point shall also list the same  
3           item(s) at an F.O.B. point within the continental  
4           United States. Only one United States F.O.B. point  
5           shall be permitted, and

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

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

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

20           7. The sale, or offer to sell, of any item of alcoholic  
21           beverage by a manufacturer to a wine and spirits wholesaler at a  
22           price not in compliance with the price posted with the ABLE  
23           Commission may be deemed a violation; and  
24

1        8. This subsection shall not apply to a manufacturer that has  
2 designated a wine and spirits wholesaler to sell its product in the  
3 state.

4        SECTION 19.        NEW LAW        A new section of law to be codified  
5 in the Oklahoma Statutes as Section 3-116.1 of Title 37A, unless  
6 there is created a duplication in numbering, reads as follows:

7        A. In the event a manufacturer has not designated a wine and  
8 spirits wholesaler to sell its product in the state, every wine and  
9 spirits wholesaler that sells that product shall comply with the  
10 following posting requirements:

11        1. All wine and spirits wholesalers who choose to sell the  
12 nondesignated product shall file with the ABLE Commission on the  
13 fifteenth day of each posting month a proposed category percentage  
14 markup. A percentage markup shall be defined as a percentage of  
15 increase or decrease in relation to the wholesaler laid-in-cost for  
16 all items in each category. The percentage does not have to be the  
17 same for all categories, but in the original posting the percentage  
18 shall be the same for all items in the same category;

19        2. The proposed markups shall be computed by percentage in the  
20 four categories: Spirits, Cordials and Specialties, Wines-Domestic  
21 and Wines-Imported. In reporting to the ABLE Commission, the  
22 proposed markups shall be set forth in the following categories and  
23 order:

- 1           a.    Category 1 - Spirits: Straights, Blends, Bonds, Corn,  
2                    Rye, Scotch, Canadian, Irish, Vodka, Gin, Rum, Brandy  
3                    Alcohol and Tequila,  
4           b.    Category 2 - Cordials and Specialties: Cocktails,  
5                    Cordials, Domestic and Imported and Miscellaneous  
6                    Specialties,  
7           c.    Category 3 - Wines-Domestic: Vermouth American,  
8                    Fortified American, Light American and Champagne  
9                    American, and  
10          d.    Category 4 - Wines-Imported: Vermouth Imported,  
11                    Fortified Imported, Light French, Light German, Light  
12                    Other Imported and Champagne Imported;

13           3.    When a wine and spirits wholesaler desires to charge for  
14 expenses incurred in handling of individual bottles in fractional  
15 cases, or for transportation of their alcoholic beverage to persons  
16 licensed to purchase the same, the wine and spirits wholesaler shall  
17 on the fifteenth day of each posting month include with its proposed  
18 percentage posting the separate amounts, if any, to be charged for  
19 bottle handling and the amount of transportation, respectively, to  
20 be charged per case;

21           4.    The proposed posting by the wine and spirits wholesaler  
22 shall list the percentage posting, and the handling and  
23 transportation cost without discrimination to all licensees  
24

1 regardless of their distance from the wine and spirits wholesaler's  
2 warehouse;

3 5. The ABLE Commission shall immediately upon receipt of all  
4 proposed category percentage postings, prepare a summation of the  
5 proposal and disseminate an electronic copy to all wine and spirits  
6 wholesalers. The summation shall contain the proposed percentage  
7 posting for each category, including proposed transportation charges  
8 as submitted by each wine and spirits wholesaler;

9 6. After filing the report required by this subsection, any and  
10 all wine and spirits wholesalers shall be permitted to register on  
11 or before the twenty-fifth day of each posting month an adjusted  
12 price. The adjusted price means percentage or individual item  
13 prices reported and registered by a wine and spirits wholesaler on  
14 or before the twenty-fifth day of the posting month in response to a  
15 lower percentage reported and registered by a competitor on the  
16 fifteenth day of the month. The adjusted price shall be no lower  
17 than the lowest percentage posted on the fifteenth day of said month  
18 by any wine and spirits wholesaler;

19 7. The adjusted price posted by a wine and spirits wholesaler  
20 in response to the lowest percentage posted by any wine and spirits  
21 wholesaler may, but need not be, posted in terms of a percentage  
22 and, if not so stated, shall state the price at which the wine and  
23 spirits wholesaler proposes to sell each individual item or size of  
24 item which he proposes to offer for sale during the posting period.



1 The price postings, except for unmodified percentage markups, shall  
2 describe each item by brand, size, age, type and proof. Wines and  
3 champagnes shall reflect the alcoholic contents thereof;

4 8. The percentage markup utilized by a wine and spirits  
5 wholesaler in calculating its adjusted prices may be at any level  
6 between its originally posted percentage markup and the lowest  
7 percentage markup originally posted by any other wine and spirits  
8 wholesaler, but may not be above its original posting or below the  
9 lowest percentage posted by any wine and spirits wholesaler. Any  
10 fraction within four (4) decimals in determining final prices of  
11 bottles shall be raised to the next higher cent;

12 9. Each wine and spirits wholesaler may, upon the twenty-fifth  
13 day of the posting month, adjust his transportation and handling  
14 charges to a level no lower than that of a competitor or higher than  
15 its initial proposal on the fifteenth day of the posting month.  
16 Such bottle handling and transportation charge shall be in effect  
17 for the duration of the price posting which it accompanies.  
18 Provided, that if a licensee shall order any item in full case lots  
19 and the wine and spirits wholesaler does not have in inventory such  
20 item in full case lots, no bottle handling charge may be assessed to  
21 the licensee for the partial case;

22 10. All wine and spirits wholesalers shall, on the same date of  
23 filing an adjusted price posting with the ABLE Commission, transmit  
24

1 electronically a copy of its adjusted prices to each wine and  
2 spirits wholesaler in the state;

3 11. A wine and spirits wholesaler may include a minimum order  
4 charge of no less than One Dollar (\$1.00) for any order of alcoholic  
5 beverages to a retail, mixed beverage, caterer or special event  
6 licensee that does not exceed the amount that such wholesaler  
7 designates as a minimum order in his proposed price posting. The  
8 minimum charge, if it is more than One Dollar (\$1.00), and the  
9 amount of the minimum order shall be included in the price posting;

10 12. All price postings, as adjusted, shall become effective on  
11 the first day of the following month and remain in effect for a  
12 period of two (2) months. No other charge may be assessed by the  
13 wholesaler to the licensee except those expressly authorized by the  
14 provisions of the Oklahoma Alcoholic Beverage Control Act or the  
15 rules of the ABLE Commission;

16 13. A price posting on a new item not previously stocked by a  
17 wine and spirits wholesaler shall be filed with the ABLE Commission  
18 prior to offering for sale, but no such item shall be listed at a  
19 lower price than is then, or will be, in effect during the price  
20 period for which the new item is filed, and within the percentage in  
21 the proper category of said wine and spirits wholesaler. In the  
22 event of a new item posting, mailings to wine and spirits  
23 wholesalers and those licensed to purchase wine and spirits in the  
24

1 state, as herein required, shall be sent on the same date as the  
2 postings;

3 14. When a wine and spirits wholesaler discontinues an item, or  
4 does not have an item in its warehouse or on order, the item shall  
5 be deleted from its price posting. When or if the item is restocked  
6 or replaced in the inventory of the wine and spirits wholesaler, it  
7 shall be reentered into the price postings as would a new item;

8 15. The sale of or the offer to sell alcoholic beverages at the  
9 prices quoted in such price posting before the same is in force and  
10 effect shall be grounds for the suspension or revocation of the wine  
11 and spirits wholesaler's license if the new price varies from the  
12 price then in effect; and

13 16. The provisions of this section are severable, and if any  
14 provisions of the same shall be void, the decision of the court so  
15 holding shall not affect or impair the remaining parts or provisions  
16 thereof.

17 B. This section shall not apply to products that have been  
18 designated by a manufacturer for distribution by a wine and spirits  
19 wholesaler in the state.

20 SECTION 20. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 3-116.2 of Title 37A, unless  
22 there is created a duplication in numbering, reads as follows:

23 A. In the event a manufacturer has designated a wine and  
24 spirits wholesaler to sell its product in the state, the wine and

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

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

18 SECTION 21. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 3-116.3 of Title 37A, unless  
20 there is created a duplication in numbering, reads as follows:

21 A. On the first business day of every month, every wine and  
22 spirits wholesaler shall electronically publish and distribute its  
23 price catalog to the ABLE Commission, to all licensees who have  
24 purchased alcoholic beverages from the wine and spirits wholesaler

1 within the past sixty (60) days, and to any on-premises or off-  
2 premises licensee who requests an electronic copy of the same.  
3 Every price catalog shall contain the sales price of every item  
4 offered for sale by brand name, size, proof and type of alcoholic  
5 beverage, as well as any transportation, handling and other charges  
6 to be assessed for the delivery of the products. In addition, every  
7 price catalog shall contain the effective date of the price catalog,  
8 as well as the name, physical address, office phone number and  
9 facsimile number of the wine and spirits wholesaler.

10 B. The wine and spirits wholesaler shall not alter or modify  
11 its price catalog without the prior written consent of the ABLE  
12 Commission for good cause shown. The ABLE Commission may also  
13 approve a modification to a wine and spirits wholesaler's price  
14 catalog in the event a manufacturer is allowed to change the price  
15 of a product within the posting period. For designated products,  
16 the price amendment shall become effective on the first business day  
17 of the following calendar week. For nondesignated products, the  
18 price amendment shall become effective on the first day of the  
19 second month of the sixty-day posting period. The wine and spirits  
20 wholesaler shall publish and distribute all approved price  
21 amendments consistent with the requirements set forth in subsection  
22 A of this section.

23

24

1 SECTION 22. AMENDATORY Section 101, Chapter 366, O.S.L.  
2 2016 (37A O.S. Supp. 2016, Section 4-104), is amended to read as  
3 follows:

4 Section 4-104. Municipalities are hereby authorized to levy an  
5 annual occupational tax for the privilege of operating as a  
6 retailer, mixed beverage, beer and wine, caterer, public event or  
7 special event licensee, bottle club, manufacturer, wine and spirits  
8 wholesaler or beer distributor, within their respective  
9 jurisdictions, not to exceed the state license fee for such  
10 licensees; provided, the tax shall be levied only by the  
11 municipality in which such licensee has its principal place of  
12 business. This section shall not give any municipality any right to  
13 determine or regulate the issuance of any license, except as  
14 specifically provided for in this section, as the ABLE Commission  
15 shall have exclusive authority as to issuance and regulations of  
16 licenses. No municipality may prescribe rules or regulations in  
17 conflict with or in addition to the statutes of this state or the  
18 rules of the ABLE Commission. No licensee shall be held liable for  
19 engaging in business otherwise authorized under this title with any  
20 other retailer, mixed beverage, beer and wine, caterer, public event  
21 or special event licensee, bottle club, manufacturer, wine and  
22 spirits wholesaler or beer distributor solely because such other  
23 party has failed to pay any occupational tax due under this section.  
24

1 Municipalities which levy an occupational tax under this section  
2 shall make an annual report to the ABLE Commission, covering the  
3 fiscal year, showing the number and class of licensees subject to  
4 the tax authorized by this section, and the amount of money received  
5 therefrom, which information is to be included in the annual report  
6 of the ABLE Commission submitted to the Governor, and transmitted to  
7 the Legislature.

8 SECTION 23. AMENDATORY Section 102, Chapter 366, O.S.L.  
9 2016 (37A O.S. Supp. 2016, Section 4-105), is amended to read as  
10 follows:

11 Section 4-105. Counties are hereby authorized to levy an annual  
12 occupational tax for the privilege of operating as a mixed beverage,  
13 beer and wine, caterer, public event or special event licensee or as  
14 a bottle club, within their respective jurisdictions and not located  
15 in a municipality levying an occupation tax as provided by Section  
16 ~~401~~ 4-104 of this ~~act~~ title, not to exceed the state license fee for  
17 such licensees; provided, the tax shall be levied only by the county  
18 in which such licensee has its principal place of business. All  
19 revenues derived from any such annual occupational tax shall be  
20 deposited in the general revenue fund of the county. This section  
21 shall not give any county any right to determine or regulate the  
22 issuance of any license, except as specifically provided for in this  
23 section, as the ABLE Commission shall have exclusive authority as to  
24 issuance and regulations of licenses. No county may prescribe rules

1 or regulations in conflict with or in addition to the statutes of  
2 this state or the rules of the ABLE Commission. No licensee shall  
3 be held liable for engaging in business otherwise authorized under  
4 this act with any other mixed beverage, beer and wine, caterer,  
5 public event or special event licensee or bottle club solely because  
6 such other party has failed to pay any occupational tax due under  
7 this section.

8 Counties which levy an occupational tax under this section shall  
9 make an annual report to the ABLE Commission, covering the fiscal  
10 year, showing the number and class of licensees subject to the tax,  
11 and the amount of money received therefrom, which information is to  
12 be included in the annual report of the ABLE Commission submitted to  
13 the Governor, and transmitted to the Legislature.

14 SECTION 24. AMENDATORY Section 135, Chapter 366, O.S.L.  
15 2016 (37A O.S. Supp. 2016, Section 5-132), is amended to read as  
16 follows:

17 Section 5-132. A. Except as provided in subsection D of this  
18 section, no alcoholic beverage shall be labeled, offered or  
19 advertised for sale in this state unless in accordance with rules  
20 promulgated pursuant to the provisions of Section ~~133~~ 5-130 of this  
21 ~~act~~ title and unless the brand label shall have been registered with  
22 and approved by the ABLE Commission and the appropriate fee paid as  
23 provided for in this section.

24



1 B. An application for registration of a brand label shall be  
2 filed by and fees paid by the manufacturer or brewer of the brand if  
3 the manufacturer or brewer is licensed by the ABLE Commission;  
4 however, if the manufacturer is represented by a manufacturer's  
5 agent ~~or~~, licensed nonresident seller, wine and spirits wholesaler  
6 or beer distributor, then the manufacturer's agent ~~or~~, nonresident  
7 seller, wine and spirits wholesaler or beer distributor shall submit  
8 each label for each product the manufacturer offers for sale in this  
9 state, along with payment of the brand registration fee; provided,  
10 the manufacturer or brewer must fully reimburse the manufacturer's  
11 agent, licensed nonresident seller, wine and spirits wholesaler or  
12 beer distributor for the cost of the brand registration fee within  
13 forty-five (45) days of the time the original brand registration fee  
14 is paid. Cordials and wines which differ only as to age or vintage  
15 year, as defined by such rules, shall be considered the same brand,  
16 and those that differ as to type or class may be considered the same  
17 brand by the ABLE Commission where consistent with the purposes of  
18 this section.

19 C. The application for registration of a brand label shall be  
20 filed on a form prescribed by the ABLE Commission, and shall contain  
21 such information as the ABLE Commission shall require. Such  
22 application shall be accompanied by a certified check, bank  
23 officers' check or draft or money order in the amount of the annual  
24

1 registration fee, or the properly prorated portion thereof  
2 prescribed by this section.

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

11 2. Each brand label registered and approved pursuant to this  
12 section shall be valid for a term of up to one (1) year, expiring on  
13 the June 30 next following registration, and may be renewed for  
14 subsequent terms of one (1) year beginning on the July 1 following  
15 the initial registration. Brand registration fees for labels  
16 registered after July 1 may be prorated through the following June  
17 30 on a quarterly basis. The brand registration fee shall not be  
18 transferable.

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

22 F. The ABLE Commission may at any time exempt any discontinued  
23 brand from fee provisions of this section where a manufacturer or  
24 wholesaler has an inventory of one hundred cases or less of liquor

1 or wine and five hundred cases or less of beer, and certifies to the  
2 ABLE Commission in writing that such brand is being discontinued.

3 G. No private labels or control labels shall be approved for  
4 sale in this state.

5 SECTION 25. AMENDATORY Section 144, Chapter 366, O.S.L.  
6 2016 (37A O.S. Supp. 2016, Section 6-104), is amended to read as  
7 follows:

8 Section 6-104. No wine or spirits wholesaler licensee shall  
9 sell or deliver, and no wine or spirits retail licensee shall  
10 receive:

11 1. ~~Sell or deliver any~~ Any amount of spirits or wines to any  
12 licensee on ~~Saturday or~~ Sunday; or

13 2. ~~Sell or deliver any~~ Any amount of spirits or wines to any  
14 licensee on New Year's Day, ~~Memorial Day,~~ the Fourth of July, ~~Labor~~  
15 ~~Day,~~ Thanksgiving Day or Christmas Day.

16 SECTION 26. REPEALER 37 O.S. 2011, Section 163.11, as  
17 last amended by Section 1 of this act, is hereby repealed.

18 SECTION 27. REPEALER 37 O.S. 2011, Section 163.18G, as  
19 amended by Section 2 of this act, is hereby repealed.

20 SECTION 28. REPEALER 37 O.S. 2011, Section 163.18H, as  
21 amended by Section 3 of this act, is hereby repealed.

22 SECTION 29. REPEALER 37 O.S. 2011, Section 163.20, as  
23 amended by Section 4 of this act, is hereby repealed.

24

1 SECTION 30. REPEALER 37 O.S. 2011, Section 521, as last  
2 amended by Section 5 of this act, is hereby repealed.

3 SECTION 31. REPEALER 37 O.S. 2011, Section 554.1, as  
4 last amended by Section 6 of this act, is hereby repealed.

5 SECTION 32. REPEALER 37 O.S. 2011, Section 554.2, as  
6 last amended by Section 7 of this act, is hereby repealed.

7 SECTION 33. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 11 and 15 of  
8 this act shall become effective October 1, 2017. Sections 10, 12,  
9 13, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30,  
10 31 and 32 of this act shall become effective October 1, 2018.

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