

1 ENGROSSED HOUSE AMENDMENT  
TO  
2 ENGROSSED SENATE BILL NO. 336

By: Bice of the Senate

3 and

4 Roberts (Sean) of the House  
5  
6

7 An Act relating to winemakers; amending Section 3,  
8 Chapter 366, O.S.L. 2016, as last amended by Section  
9 13, Chapter 304, O.S.L. 2018, Section 13, Chapter  
10 366, O.S.L. 2016, as last amended by Section 2,  
11 Chapter 312, O.S.L. 2018, Section 16, Chapter 366,  
12 O.S.L. 2016, as last amended by Section 2, Chapter  
13 315, O.S.L. 2018, and Section 43, Chapter 366, O.S.L.  
14 2016 (37A O.S. Supp. 2018, Sections 1-103, 2-101, 2-  
15 104 and 2-131), which relate to definitions,  
16 licenses; winemakers and small farm winery; adding  
17 definition; creating satellite tasting room license;  
18 setting annual license fee; authorizing certain  
19 licensees to operate a satellite tasting room;  
20 stating purpose of satellite tasting room; modifying  
21 language; defining certain term for certain purpose;  
22 updating statutory language; providing for  
23 codification; and providing an effective date.  
24

18 AMENDMENT NO. 1. Delete the title, enacting clause and entire bill  
19 and replace with:

21 "An Act relating to winemakers; amending Section 3,  
22 Chapter 366, O.S.L. 2016, as last amended by Section  
23 13, Chapter 304, O.S.L. 2018, Section 13, Chapter  
24 366, O.S.L. 2016, as last amended by Section 2,  
Chapter 312, O.S.L. 2018, Section 16, Chapter 366,  
O.S.L. 2016, as last amended by Section 2, Chapter  
315, O.S.L. 2018, and Section 43, Chapter 366,

1 O.S.L. 2016 (37A O.S. Supp. 2018, Sections 1-103, 2-  
2 101, 2-104 and 2-131), which relate to definitions,  
3 licenses, winemakers and small farm winery; adding  
4 definitions; creating satellite tasting room  
5 license; setting annual license fee; authorizing  
6 certain licensees to operate a satellite tasting  
7 room under certain conditions; stating purpose of  
8 satellite tasting room; defining certain term for  
9 certain purpose; updating statutory language;  
10 providing for codification; and providing an  
11 effective date.

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

13 SECTION 1. AMENDATORY Section 3, Chapter 366, O.S.L.  
14 2016, as last amended by Section 13, Chapter 304, O.S.L. 2018 (37A  
15 O.S. Supp. 2018, Section 1-103), is amended to read as follows:

16 Section 1-103. As used in the Oklahoma Alcoholic Beverage  
17 Control Act:

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

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

3. "Alcoholic beverage" means alcohol, spirits, beer and wine  
as those terms are defined herein and also includes every liquid or

1 solid, patented or not, containing alcohol, spirits, wine or beer  
2 and capable of being consumed as a beverage by human beings;

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

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

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

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

21 8. "Bottle club" means any establishment in a county which has  
22 not authorized the retail sale of alcoholic beverages by the  
23 individual drink, which is required to be licensed to keep, mix and  
24

1 serve alcoholic beverages belonging to club members on club  
2 premises;

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

7 10. "Brand extension" means:

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

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

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

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

23 (1) incorporates or incorporated all or a substantial  
24 part of the unique features of a preexisting low-

1 point beer brand of the same licensed  
2 manufacturer, or

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

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

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

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

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

23 15. "Convicted" and "conviction" mean and include a finding of  
24 guilt resulting from a plea of guilty or nolo contendere, the

1 decision of a court or magistrate or the verdict of a jury,  
2 irrespective of the pronouncement of judgment or the suspension  
3 thereof;

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

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

13 18. "Distributor agreement" means the written agreement between  
14 the distributor and manufacturer as set forth in Section 3-108 of  
15 this title;

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

18 20. "Dual-strength beer" means a brand of beer that,  
19 immediately prior to April 15, 2017, was being sold and distributed  
20 in this state:

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

24

1           b.    as strong beer pursuant to the Alcoholic Beverage  
2                   Control Act in effect immediately prior to the  
3                   effective date of this act,  
4 and continues to be sold and distributed as such on October 1, 2018.  
5 Dual-strength beer does not include a brand of beer that arose as a  
6 result of a brand extension as defined in this section;

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

13           22.  "Good cause" means:

14           a.   failure by the distributor to comply with the material  
15                   and reasonable provisions of a written agreement or  
16                   understanding with the manufacturer, or

17           b.   failure by the distributor to comply with the duty of  
18                   good faith;

19           23.  "Good faith" means the duty of each party to any  
20 distributor agreement and all officers, employees or agents thereof  
21 to act with honesty in fact and within reasonable standards of fair  
22 dealing in the trade;

23           24.  "Grocery store" means a person primarily engaged in  
24 retailing a general line of food, such as canned or frozen foods,

1 fresh fruits and vegetables, and fresh and prepared meats, fish and  
2 poultry;

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

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

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

19 28. "Low-point beer" shall mean any beverages containing more  
20 than one-half of one percent (1/2 of 1%) alcohol by volume, and not  
21 more than three and two-tenths percent (3.2%) alcohol by weight,  
22 including but not limited to, beer or cereal malt beverages obtained  
23 by the alcoholic fermentation of an infusion by barley or other  
24 grain, malt or similar products;



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

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

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

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

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

18       33. "Mixed beverage cooler" means any beverage, by whatever  
19 name designated, consisting of an alcoholic beverage and fruit or  
20 vegetable juice, fruit or vegetable flavorings, dairy products or  
21 carbonated water containing more than one-half of one percent (1/2  
22 of 1%) of alcohol measured by volume but not more than seven percent  
23 (7%) alcohol by volume at sixty (60) degrees Fahrenheit and which is  
24 packaged in a container not larger than three hundred seventy-five

1 (375) milliliters. Such term shall include but not be limited to  
2 the beverage popularly known as a "wine cooler";

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

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

13 36. "Nonresident seller" means any person licensed pursuant to  
14 Section 2-135 of this title;

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

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

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

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

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

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

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

- 21           a. allowing the presence and consumption of alcoholic  
22                 beverages by private parties which are closed to the  
23                 general public, or

24

1           b.     allowing the services of a caterer serving alcoholic  
2                    beverages provided by a private party.

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

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

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

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

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

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

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

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

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

22 52. "Short-order food" means food other than full meals  
23 including but not limited to sandwiches, soups and salads. Provided  
24

1 that popcorn, chips and other similar snack food shall not be  
2 considered "short-order food";

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

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

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

14 56. "Sparkling wine" means champagne or any artificially  
15 carbonated wine;

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

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

1 alcohol liquid completely denatured in accordance with the Acts of  
2 Congress and regulations pursuant thereto;

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

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

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

11 62. "Territory" means a geographic region with a specified  
12 boundary;

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

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

1       65. "Winemaker" means and includes any person or establishment  
2 who manufactures for human consumption any wine upon which a license  
3 fee and a tax are imposed by any law of this state; and

4       66. "Satellite tasting room" means a licensed establishment  
5 operated off the licensed premises of the holder of a small farm  
6 winery or winemaker license, which serves wine for on-premises or  
7 off-premises consumption.

8       Words in the plural include the singular, and vice versa, and  
9 words imparting the masculine gender include the feminine, as well  
10 as persons and licensees as defined in this section.

11       SECTION 2.       AMENDATORY       Section 13, Chapter 366, O.S.L.  
12 2016, as last amended by Section 2, Chapter 312, O.S.L. 2018 (37A  
13 O.S. Supp. 2018, Section 2-101), is amended to read as follows:

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

- 17       1. Brewer License..... \$1,250.00
- 18       2. Small Brewer License..... \$125.00
- 19       3. Distiller License..... \$3,125.00
- 20       4. Winemaker License..... \$625.00
- 21       5. Small Farm Winery License..... \$75.00
- 22       6. Rectifier License..... \$3,125.00
- 23       7. Wine and Spirits Wholesaler License..... \$3,000.00
- 24       8. Beer Distributor License..... \$750.00





1		(initial license)	
2			\$905.00
3		(renewal)	
4	17.	Annual Special Event License.....	\$55.00
5	18.	Quarterly Special Event License.....	\$55.00
6	19.	Hotel Beverage License.....	\$1,005.00
7		(initial license)	
8			\$905.00
9		(renewal)	
10	20.	Airline/Railroad Beverage License.....	\$1,005.00
11		(initial license)	
12			\$905.00
13		(renewal)	
14	21.	Agent License.....	\$55.00
15	22.	Employee License.....	\$30.00
16	23.	Industrial License.....	\$23.00
17	24.	Carrier License.....	\$23.00
18	25.	Private Carrier License.....	\$23.00
19	26.	Bonded Warehouse License.....	\$190.00
20	27.	Storage License.....	\$23.00
21	28.	Nonresident Seller License or Manufacturer's	
22		License.....	\$750.00
23	29.	Manufacturer's Agent License.....	\$55.00
24	30.	Sacramental Wine Supplier License.....	\$100.00

1	31. Charitable Auction License.....	\$1.00
2	32. Charitable Alcoholic Beverage License.....	\$55.00
3	33. Winemaker Self-Distribution License.....	\$750.00
4	34. Annual Public Event License.....	\$1,005.00
5	35. One-Time Public Event License.....	\$255.00
6	36. Small Brewer Self-Distribution License.....	\$750.00
7	37. Brewpub License.....	\$1,005.00
8	38. Brewpub Self-Distribution License.....	\$750.00
9	<u>39. Satellite Tasting Room License.....</u>	<u>\$100.00</u>

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

19 2. There shall be added to the fee for a Mixed Beverage/Caterer  
20 Combination License an administrative fee, which shall not be deemed  
21 to be a license fee, in the amount of Two Hundred Fifty Dollars  
22 (\$250.00), which shall be paid at the same time and in the same  
23 manner as the license fee prescribed by paragraph 11 of subsection A  
24 of this section.

1 C. Notwithstanding the provisions of subsection A of this  
2 section:

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

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

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

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

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

1 There shall be no additional fee for such exchange and the mixed  
2 beverage license or on-premises beer and wine license issued shall  
3 expire one (1) year from the date of issuance of the original bottle  
4 club license.

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

- 7 1. Nonresident Seller or Manufacturer License..... \$2,500.00
- 8 2. Wine and Spirits Wholesaler License..... \$2,500.00
- 9 3. Beer Distributor..... \$1,000.00
- 10 4. Retail Spirits License for cities and towns  
11 over 5,000 population..... \$250.00
- 12 5. Retail Spirits License for cities and towns  
13 from 2,501 to 5,000 population..... \$200.00
- 14 6. Retail Spirits License for cities and towns  
15 from 200 to 2,500 population..... \$150.00
- 16 7. Retail Wine License..... \$250.00
- 17 8. Retail Beer License..... \$250.00
- 18 9. Mixed Beverage License..... \$25.00
- 19 10. Mixed Beverage/Caterer Combination License..... \$25.00
- 20 11. Caterer License..... \$25.00
- 21 12. On-Premises Beer and Wine License..... \$25.00
- 22 13. Annual Public Event License..... \$25.00
- 23 14. Small Farm Winery License..... \$25.00
- 24 15. Small Brewer License..... \$35.00

1 The surcharge shall be paid concurrent with the licensee's  
2 annual licensing fee and, in addition to Five Dollars (\$5.00) of the  
3 employee license fee, shall be deposited in the Alcoholic Beverage  
4 Governance Revolving Fund established pursuant to Section 5-128 of  
5 this title.

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

12 SECTION 3. AMENDATORY Section 16, Chapter 366, O.S.L.  
13 2016, as last amended by Section 2, Chapter 315, O.S.L. 2018 (37A  
14 O.S. Supp. 2018, Section 2-104), is amended to read as follows:

15 Section 2-104. A winemaker license shall authorize the holder  
16 thereof:

17 1. To manufacture (including such mixing, blending and cellar  
18 treatment as authorized by federal law), bottle, package and store  
19 on licensed premises wine containing not more than twenty-four  
20 percent (24%) alcohol by volume, provided the bottle or package  
21 sizes authorized shall be limited to the capacities approved by the  
22 United States Alcohol and Tobacco Tax and Trade Bureau;

23 2. To sell wine in this state to licensed wholesalers and  
24 manufacturers;

1           3. To sell wine produced at the winery from grapes and other  
2 fruits and berries grown in this state, if available, for either on-  
3 premises or off-premises consumption to consumers on the premises of  
4 the winery;

5           4. To serve free samples of wine produced at the winery to  
6 visitors twenty-one (21) years of age and older. For purposes of  
7 this section, no visitor may sample more than a total of six (6)  
8 fluid ounces of wine per day. The winery shall restrict the  
9 distribution and consumption of wine samples to an area within the  
10 licensed premises designated by the winery. A current floor plan  
11 that includes the designated sampling area shall be on file with the  
12 ABLE Commission. No visitor under twenty-one (21) years of age  
13 shall be permitted to enter the designated sampling area when  
14 samples are being distributed and consumed. Samples of wine served  
15 by a winery under this section shall not be considered a sale of  
16 wine within the meaning of Article ~~XXVIII~~ XXVIII-A of the Oklahoma  
17 Constitution or Section 1-103 of this title; provided, such samples  
18 of wine shall be considered removed or withdrawn from the winery for  
19 use or consumption within the meaning of Section 5-110 of this title  
20 for excise tax determination and reporting requirements;

21           5. To serve free samples of wine produced at the winery at  
22 public events such as festivals and trade shows;

23  
24

1       6. To sell wine produced at the winery, for either on-premises  
2 or off-premises consumption at public events such as festivals and  
3 trade shows;

4       7. To sell wine out of this state to qualified persons;

5       8. To purchase from licensed winemakers, distillers and  
6 rectifiers in this state, and to import into this state wine, brandy  
7 and fruit spirits for use in manufacturing in accordance with  
8 federal laws and regulations;

9       9. To sell and serve Oklahoma-manufactured wine, mulled wine,  
10 or spiced wine, mixed with nonalcoholic beverages or food items such  
11 as water, sugar, fruits and vegetables, at any temperature for  
12 either on-premises or off-premises consumption;

13       10. To purchase beer in retail containers from the holder of a  
14 wholesaler, beer distributor, small brewer self-distributor or  
15 brewpub self-distributor license or as specifically provided by law;  
16 ~~and~~

17       11. To sell, offer for sale and possess beer for on-premises  
18 consumption; and

19       12. To establish satellite tasting rooms as defined and  
20 authorized in this act where the winemaker's products may be tasted,  
21 sampled, sold and served for on-premises consumption and the  
22 winemaker is permitted to sell its products in sealed containers;  
23 provided, the small farm winery license or winemaker license is  
24 active and in good standing. The wine sold at a satellite tasting



1 room must have been produced/manufactured by the holder of a small  
2 farm winery license or winemaker license and must have all  
3 manufacturing taxes paid.

4 SECTION 4. AMENDATORY Section 43, Chapter 366, O.S.L.  
5 2016 (37A O.S. Supp. 2018, Section 2-131), is amended to read as  
6 follows:

7 Section 2-131. A. A small farm winery license shall authorize  
8 the holder thereof:

9 1. To manufacture and bottle wines produced by that small farm  
10 winery; ~~and~~

11 2. To bottle and sell wines produced by another small farm  
12 winery. In order for a small farm winery to bottle and sell another  
13 small farm winery's products, both the selling winery and the buying  
14 winery shall be small farm winery permit holders;

15 3. To establish satellite tasting rooms as defined and  
16 authorized in this act where the winemaker's products may be tasted,  
17 sampled, sold and served for on-premises consumption and the  
18 winemaker is permitted to sell its products in sealed containers;  
19 provided, the small farm winery license is active and in good  
20 standing. The wine sold at a satellite tasting room must have been  
21 produced/manufactured by the holder of a small farm winery license  
22 and must have all manufacturing taxes paid; and

23 4. The small farm winery licensee shall have the same authority  
24 as the winemaker licensee.

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

3 SECTION 5. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 2-159 of Title 37A, unless there  
5 is created a duplication in numbering, reads as follows:

6 A satellite tasting room license shall authorize the holder of a  
7 small farm winery license or winemaker license to operate no more  
8 than two satellite locations in addition to his or her licensed  
9 premises for the purpose of providing tastings, samples and retail  
10 sales for on-premises or off-premises consumption to consumers over  
11 twenty-one (21) years of age; provided the wine tasted, sampled or  
12 sold shall have been produced/manufactured by the holder of a small  
13 farm winery or winemaker license and shall have all manufacturing  
14 taxes paid.

15 The holder of a small farm winery license or winemaker license  
16 must obtain approval for each satellite location from the city, town  
17 or municipality before submitting the application to the ABLE  
18 Commission. The fee for licensing each satellite location will be  
19 One Hundred Dollars (\$100.00) annually.

20 The small farm winery licensee or winemaker licensee operating a  
21 satellite tasting room must keep such license in good standing and  
22 is liable for any violation committed on the premises of its  
23 satellite tasting rooms. Employees and managers of the satellite  
24 tasting room must be trained in alcohol handling, laws and

1 regulations and hold a current alcohol servers license and must be  
2 over twenty-one (21) years of age.

3 For purposes of this section, the term "tasting or tastings"  
4 means the serving of free samples of the winemaker's products not to  
5 exceed more than a total of six (6) fluid ounces of wine per person  
6 aged twenty-one (21) years or older per day, or the serving of the  
7 winemaker's products by individual drink purchased by the consumer  
8 for on-premises consumption, or the retail sale of the winemaker's  
9 products in sealed containers to an on-premises customer for off-  
10 premises consumption, or any combination thereof.

11 SECTION 6. This act shall become effective November 1, 2019."

12 Passed the House of Representatives the 23rd day of April, 2019.

13

14

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\_\_\_\_\_  
Presiding Officer of the House of  
Representatives

16

17 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2019.

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\_\_\_\_\_  
Presiding Officer of the Senate

21

22

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24

1 ENGROSSED SENATE  
2 BILL NO. 336

By: Bice of the Senate

and

Roberts (Sean) of the House

3  
4  
5  
6 An Act relating to winemakers; amending Section 3,  
7 Chapter 366, O.S.L. 2016, as last amended by Section  
8 13, Chapter 304, O.S.L. 2018, Section 13, Chapter  
9 366, O.S.L. 2016, as last amended by Section 2,  
10 Chapter 312, O.S.L. 2018, Section 16, Chapter 366,  
11 O.S.L. 2016, as last amended by Section 2, Chapter  
12 315, O.S.L. 2018, and Section 43, Chapter 366, O.S.L.  
13 2016 (37A O.S. Supp. 2018, Sections 1-103, 2-101, 2-  
14 104 and 2-131), which relate to definitions,  
15 licenses; winemakers and small farm winery; adding  
16 definition; creating satellite tasting room license;  
17 setting annual license fee; authorizing certain  
18 licensees to operate a satellite tasting room;  
19 stating purpose of satellite tasting room; modifying  
20 language; defining certain term for certain purpose;  
21 updating statutory language; providing for  
22 codification; and providing an effective date.

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

24 SECTION 7. AMENDATORY Section 3, Chapter 366, O.S.L.  
2016, as last amended by Section 13, Chapter 304, O.S.L. 2018 (37A  
O.S. Supp. 2018, Section 1-103), is amended to read as follows:

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

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

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

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

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

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

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

24

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

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

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

15           10. "Brand extension" means:

16           a. after the effective date of this act, any brand of  
17 beer or cider introduced by a manufacturer in this  
18 state which either:

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

22           (2) relies to a significant extent on the goodwill  
23 associated with the preexisting brand, or  
24

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

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

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

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

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

23          13. "Cider" means any alcoholic beverage obtained by the  
24 alcoholic fermentation of fruit juice, including but not limited to

1 flavored, sparkling or carbonated cider. For the purposes of the  
2 distribution of this product, cider may be distributed by either  
3 wine and spirits wholesalers or beer distributors;

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

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

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

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

22 18. "Distributor agreement" means the written agreement between  
23 the distributor and manufacturer as set forth in Section 3-108 of  
24 this title;



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

3 20. "Dual-strength beer" means a brand of beer that,  
4 immediately prior to April 15, 2017, was being sold and distributed  
5 in this state:

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

9 b. as strong beer pursuant to the Alcoholic Beverage  
10 Control Act in effect immediately prior to the  
11 effective date of this act,

12 and continues to be sold and distributed as such on October 1, 2018.  
13 Dual-strength beer does not include a brand of beer that arose as a  
14 result of a brand extension as defined in this section;

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

21 22. "Good cause" means:

22 a. failure by the distributor to comply with the material  
23 and reasonable provisions of a written agreement or  
24 understanding with the manufacturer, or

1           b.     failure by the distributor to comply with the duty of  
2                   good faith;

3           23.    "Good faith" means the duty of each party to any  
4 distributor agreement and all officers, employees or agents thereof  
5 to act with honesty in fact and within reasonable standards of fair  
6 dealing in the trade;

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

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

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

22          27.    "Licensee" means any person holding a license under the  
23 Oklahoma Alcoholic Beverage Control Act, and any agent, servant or  
24 employee of such licensee while in the performance of any act or

1 duty in connection with the licensed business or on the licensed  
2 premises;

3 28. "Low-point beer" shall mean any beverages containing more  
4 than one-half of one percent (1/2 of 1%) alcohol by volume, and not  
5 more than three and two-tenths percent (3.2%) alcohol by weight,  
6 including but not limited to, beer or cereal malt beverages obtained  
7 by the alcoholic fermentation of an infusion by barley or other  
8 grain, malt or similar products;

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

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

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

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

23 a. restricted by means of a locking device which requires  
24 the use of a key, magnetic card or similar device, or

1           b.     controlled at all times by the licensee;

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

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

17           35.    "Motion picture theater" means an establishment which is  
18 licensed by Section 2-110 of this title to sell alcoholic beverages  
19 by the individual drink and where motion pictures are exhibited, and  
20 to which the general public is admitted;

21           36.    "Nonresident seller" means any person licensed pursuant to  
22 Section 2-135 of this title;

23

24

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

4        38. "Occupation" as used in connection with "occupation tax"  
5 means the sites occupied as the places of business of the  
6 manufacturers, wholesalers, beer distributors, retailers, mixed  
7 beverage licensees, on-premises beer and wine licensees, bottle  
8 clubs, caterers, public event and special event licensees;

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

11        40. "Package store" means any sole proprietor or partnership  
12 that qualifies to sell wine, beer and/or spirits for ~~off-premise~~  
13 off-premises consumption and that is not a grocery store,  
14 convenience store or drug store, or other retail outlet that is not  
15 permitted to sell wine or beer for ~~off-premise~~ off-premises  
16 consumption;

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

19        42. "Person" means an individual, any type of partnership,  
20 corporation, association, limited liability company or any  
21 individual involved in the legal structure of any such business  
22 entity;

23        43. "Premises" means the grounds and all buildings and  
24 appurtenances pertaining to the grounds including any adjacent

1 premises if under the direct or indirect control of the licensee and  
2 the rooms and equipment under the control of the licensee and used  
3 in connection with or in furtherance of the business covered by a  
4 license. Provided that the ABLE Commission shall have the authority  
5 to designate areas to be excluded from the licensed premises solely  
6 for the purpose of:

7 a. allowing the presence and consumption of alcoholic  
8 beverages by private parties which are closed to the  
9 general public, or

10 b. allowing the services of a caterer serving alcoholic  
11 beverages provided by a private party.

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

15 44. "Private event" means a social gathering or event attended  
16 by invited guests who share a common cause, membership, business or  
17 task and have a prior established relationship. For purposes of  
18 this definition, advertisement for general public attendance or  
19 sales of tickets to the general public shall not constitute a  
20 private event;

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

23 46. "Rectifier" means any person who rectifies, purifies or  
24 refines spirits or wines by any process (other than by original and

1 continuous distillation, or original and continuous processing, from  
2 mash, wort, wash or other substance, through continuous closed  
3 vessels and pipes, until the production thereof is complete), and  
4 any person who, without rectifying, purifying or refining spirits,  
5 shall by mixing (except for immediate consumption on the premises  
6 where mixed) such spirits, wine or other liquor with any material,  
7 manufactures any spurious, imitation or compound liquors for sale,  
8 under the name of whiskey, brandy, rum, gin, wine, spirits, cordials  
9 or any other name;

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

12 48. "Restaurant" means an establishment that is licensed to  
13 sell alcoholic beverages by the individual drink for on-premises  
14 consumption and where food is prepared and sold for immediate  
15 consumption on the premises;

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

19 50. "Retailer" means a package store, grocery store,  
20 convenience store or drug store licensed to sell alcoholic beverages  
21 for ~~off-premise~~ off-premises consumption pursuant to a Retail  
22 Spirits License, Retail Wine License or Retail Beer License;

23 51. "Sale" means any transfer, exchange or barter in any manner  
24 or by any means whatsoever, and includes and means all sales made by

1 any person, whether as principal, proprietor or as an agent, servant  
2 or employee. The term "sale" is also declared to be and include the  
3 use or consumption in this state of any alcoholic beverage obtained  
4 within or imported from without this state, upon which the excise  
5 tax levied by the Oklahoma Alcoholic Beverage Control Act has not  
6 been paid or exempted;

7 52. "Short-order food" means food other than full meals  
8 including but not limited to sandwiches, soups and salads. Provided  
9 that popcorn, chips and other similar snack food shall not be  
10 considered "short-order food";

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

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

17 55. "Small farm winery" means a wine-making establishment that  
18 does not annually produce for sale more than fifteen thousand  
19 (15,000) gallons of wine as reported on the United States Department  
20 of the Treasury, Alcohol and Tobacco Tax and Trade Bureau, Report of  
21 Wine Premises Operations (TTB Form 5120.17);

22 56. "Sparkling wine" means champagne or any artificially  
23 carbonated wine;

24



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

4        58. "Spirits" means any beverage other than wine or beer, which  
5 contains more than one-half of one percent (1/2 of 1%) alcohol  
6 measured by volume, and obtained by distillation, whether or not  
7 mixed with other substances in solution and includes those products  
8 known as whiskey, brandy, rum, gin, vodka, liqueurs, cordials and  
9 fortified wines and similar compounds, but shall not include any  
10 alcohol liquid completely denatured in accordance with the Acts of  
11 Congress and regulations pursuant thereto;

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

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

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

20       62. "Territory" means a geographic region with a specified  
21 boundary;

22       63. "Wine and spirits wholesaler" or "wine and spirits  
23 distributor" means and includes any sole proprietorship or  
24 partnership licensed to distribute wine and spirits in the state.

1 The term "wholesaler", as used in this act, shall be construed to  
2 refer to a wine and spirits wholesaler; ~~and~~

3 64. "Wine" means and includes any beverage containing more than  
4 one-half of one percent (1/2 of 1%) alcohol by volume and not more  
5 than twenty-four percent (24%) alcohol by volume at sixty (60)  
6 degrees Fahrenheit obtained by the fermentation of the natural  
7 contents of fruits, vegetables, honey, milk or other products  
8 containing sugar, whether or not other ingredients are added, and  
9 includes vermouth and sake, known as Japanese rice wine;

10 65. "Winemaker" means and includes any person or establishment  
11 who manufactures for human consumption any wine upon which a license  
12 fee and a tax are imposed by any law of this state; and

13 66. "Satellite tasting room" means a licensed establishment  
14 operated off the licensed premises of the holder of a small farm  
15 winery or winemaker license, which serves wine for on-premises or  
16 off-premises consumption.

17 Words in the plural include the singular, and vice versa, and  
18 words imparting the masculine gender include the feminine, as well  
19 as persons and licensees as defined in this section.

20 SECTION 8. AMENDATORY Section 13, Chapter 366, O.S.L.  
21 2016, as last amended by Section 2, Chapter 312, O.S.L. 2018 (37A  
22 O.S. Supp. 2018, Section 2-101), is amended to read as follows:

23

24

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

- 4 1. Brewer License..... \$1,250.00
- 5 2. Small Brewer License..... \$125.00
- 6 3. Distiller License..... \$3,125.00
- 7 4. Winemaker License..... \$625.00
- 8 5. Small Farm Winery License..... \$75.00
- 9 6. Rectifier License..... \$3,125.00
- 10 7. Wine and Spirits Wholesaler License..... \$3,000.00
- 11 8. Beer Distributor License..... \$750.00
- 12 9. The following retail spirits license fees shall be

13 determined by the latest Federal Decennial Census:

- 14 a. Retail Spirits License for cities and  
15 towns from 200 to 2,500 population..... \$305.00
- 16 b. Retail Spirits License for cities and  
17 towns from 2,501 to 5,000 population..... \$605.00
- 18 c. Retail Spirits License for cities and  
19 towns over 5,000 population..... \$905.00
- 20 10. Retail Wine License..... \$1,000.00
- 21 11. Retail Beer License..... \$500.00
- 22 12. Mixed Beverage License..... \$1,005.00  
23 (initial license)  
24 \$905.00

1		(renewal)
2	13. Mixed Beverage/Caterer Combination License.....	\$1,250.00
3	14. On-Premises Beer and Wine License.....	\$500.00
4		(initial license)
5		\$450.00
6		(renewal)
7	15. Bottle Club License.....	\$1,000.00
8		(initial license)
9		\$900.00
10		(renewal)
11	16. Caterer License.....	\$1,005.00
12		(initial license)
13		\$905.00
14		(renewal)
15	17. Annual Special Event License.....	\$55.00
16	18. Quarterly Special Event License.....	\$55.00
17	19. Hotel Beverage License.....	\$1,005.00
18		(initial license)
19		\$905.00
20		(renewal)
21	20. Airline/Railroad Beverage License.....	\$1,005.00
22		(initial license)
23		\$905.00
24		(renewal)

1	21.	Agent License.....	\$55.00
2	22.	Employee License.....	\$30.00
3	23.	Industrial License.....	\$23.00
4	24.	Carrier License.....	\$23.00
5	25.	Private Carrier License.....	\$23.00
6	26.	Bonded Warehouse License.....	\$190.00
7	27.	Storage License.....	\$23.00
8	28.	Nonresident Seller License or Manufacturer's	
9		License.....	\$750.00
10	29.	Manufacturer's Agent License.....	\$55.00
11	30.	Sacramental Wine Supplier License.....	\$100.00
12	31.	Charitable Auction License.....	\$1.00
13	32.	Charitable Alcoholic Beverage License.....	\$55.00
14	33.	Winemaker Self-Distribution License.....	\$750.00
15	34.	Annual Public Event License.....	\$1,005.00
16	35.	One-Time Public Event License.....	\$255.00
17	36.	Small Brewer Self-Distribution License.....	\$750.00
18	37.	Brewpub License.....	\$1,005.00
19	38.	Brewpub Self-Distribution License.....	\$750.00
20	39.	<u>Satellite Tasting Room License.....</u>	<u>\$100.00</u>

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

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

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

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

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

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

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

24

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

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

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

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

- 1        5. Retail Spirits License for cities and towns
- 2            from 2,501 to 5,000 population..... \$200.00
- 3        6. Retail Spirits License for cities and towns
- 4            from 200 to 2,500 population..... \$150.00
- 5        7. Retail Wine License..... \$250.00
- 6        8. Retail Beer License..... \$250.00
- 7        9. Mixed Beverage License..... \$25.00
- 8        10. Mixed Beverage/Caterer Combination License..... \$25.00
- 9        11. Caterer License..... \$25.00
- 10       12. On-Premises Beer and Wine License..... \$25.00
- 11       13. Annual Public Event License..... \$25.00
- 12       14. Small Farm Winery License..... \$25.00
- 13       15. Small Brewer License..... \$35.00

14        The surcharge shall be paid concurrent with the licensee's  
15 annual licensing fee and, in addition to Five Dollars (\$5.00) of the  
16 employee license fee, shall be deposited in the Alcoholic Beverage  
17 Governance Revolving Fund established pursuant to Section 5-128 of  
18 this title.

19        H. Any license issued by the ABLE Commission under this title  
20 may be relied upon by other licensees as a valid license, and no  
21 other licensee shall have any obligation to independently determine  
22 the validity of such license or be held liable solely as a  
23 consequence of another licensee's failure to maintain a valid  
24 license.



1 SECTION 9. AMENDATORY Section 16, Chapter 366, O.S.L.  
2 2016, as last amended by Section 2, Chapter 315, O.S.L. 2018 (37A  
3 O.S. Supp. 2018, Section 2-104), is amended to read as follows:

4 Section 2-104. A winemaker license shall authorize the holder  
5 thereof:

6 1. To manufacture (including such mixing, blending and cellar  
7 treatment as authorized by federal law), bottle, package and store  
8 on licensed premises wine containing not more than twenty-four  
9 percent (24%) alcohol by volume, provided the bottle or package  
10 sizes authorized shall be limited to the capacities approved by the  
11 United States Alcohol and Tobacco Tax and Trade Bureau;

12 2. To sell wine in this state to licensed wholesalers and  
13 manufacturers;

14 3. To sell wine produced at the winery from grapes and other  
15 fruits and berries grown in this state, if available, for either on-  
16 premises or off-premises consumption to consumers on the premises of  
17 the winery;

18 4. To serve free samples of wine produced at the winery to  
19 visitors twenty-one (21) years of age and older. For purposes of  
20 this section, no visitor may sample more than a total of six (6)  
21 fluid ounces of wine per day. The winery shall restrict the  
22 distribution and consumption of wine samples to an area within the  
23 licensed premises designated by the winery. A current floor plan  
24 that includes the designated sampling area shall be on file with the

1 ABLE Commission. No visitor under twenty-one (21) years of age  
2 shall be permitted to enter the designated sampling area when  
3 samples are being distributed and consumed. Samples of wine served  
4 by a winery under this section shall not be considered a sale of  
5 wine within the meaning of Article XXVIII A of the Oklahoma  
6 Constitution or Section 1-103 of this title; provided, such samples  
7 of wine shall be considered removed or withdrawn from the winery for  
8 use or consumption within the meaning of Section 5-110 of this title  
9 for excise tax determination and reporting requirements;

10 5. To serve free samples of wine produced at the winery at  
11 public events such as festivals and trade shows;

12 6. To sell wine produced at the winery, for either on-premises  
13 or off-premises consumption at public events such as festivals and  
14 trade shows;

15 7. To sell wine out of this state to qualified persons;

16 8. To purchase from licensed winemakers, distillers and  
17 rectifiers in this state, and to import into this state wine, brandy  
18 and fruit spirits for use in manufacturing in accordance with  
19 federal laws and regulations;

20 9. To sell and serve Oklahoma-manufactured wine, mulled wine,  
21 or spiced wine, mixed with nonalcoholic beverages or food items such  
22 as water, sugar, fruits and vegetables, at any temperature for  
23 either on-premises or off-premises consumption;

24

1 10. To purchase beer in retail containers from the holder of a  
2 wholesaler, beer distributor, small brewer self-distributor or  
3 brewpub self-distributor license or as specifically provided by law;  
4 and

5 11. To sell, offer for sale and possess beer for on-premises  
6 consumption; and

7 12. To establish satellite tasting rooms as defined and  
8 authorized in this act where the winemaker's products may be tasted,  
9 sampled, sold and served for on-premises consumption and the  
10 winemaker is permitted to sell its products in sealed containers;  
11 provided, the small farm winery license or winemaker license is  
12 active and in good standing. The wine sold at a satellite tasting  
13 room must have been produced/manufactured by the holder of a small  
14 farm winery license or winemaker license and must have all  
15 manufacturing taxes paid.

16 SECTION 10. AMENDATORY Section 43, Chapter 366, O.S.L.  
17 2016 (37A O.S. Supp. 2018, Section 2-131), is amended to read as  
18 follows:

19 Section 2-131. A. A small farm winery license shall authorize  
20 the holder thereof:

21 1. To manufacture and bottle wines produced by that small farm  
22 winery; ~~and~~

23 2. To bottle and sell wines produced by another small farm  
24 winery. In order for a small farm winery to bottle and sell another

1 small farm winery's products, both the selling winery and the buying  
2 winery shall be small farm winery permit holders; and

3 3. To establish satellite tasting rooms as defined and  
4 authorized in this act where the winemaker's products may be tasted,  
5 sampled, sold and served for on-premises consumption and the  
6 winemaker is permitted to sell its products in sealed containers;  
7 provided, the small farm winery license is active and in good  
8 standing. The wine sold at a satellite tasting room must have been  
9 produced/manufactured by the holder of a small farm winery license  
10 and must have all manufacturing taxes paid.

11 B. A small farm wine may display the trademarked "Oklahoma  
12 Grown" sticker available from the Oklahoma Grape Industry Council.

13 SECTION 11. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 2-159 of Title 37A, unless there  
15 is created a duplication in numbering, reads as follows:

16 A satellite tasting room license shall authorize the holder of a  
17 small farm winery license or winemaker license to operate no more  
18 than two satellite locations in addition to their licensed premises  
19 for the purpose of providing tastings, samples and retail sales for  
20 on-premises or off-premises consumption to consumers over twenty-one  
21 (21) years of age.

22 The holder of a small farm winery license or winemaker license  
23 must obtain approval for each satellite location from the city, town  
24 or municipality before submitting the application to the ABLE

1 Commission. The fee for licensing each satellite location will be  
2 One Hundred Dollars (\$100.00) annually.

3 The small farm winery licensee or winemaker licensee operating a  
4 satellite tasting room must keep such license in good standing and  
5 is liable for any violation committed on the premises of its  
6 satellite tasting rooms. Employees and managers of the satellite  
7 tasting room must be trained in alcohol handling, laws and  
8 regulations and hold a current alcohol servers license and must be  
9 over twenty-one (21) years of age.

10 For purposes of this section, the term "tasting or tastings"  
11 means the serving of free samples of the winemaker's products not to  
12 exceed more than a total of six (6) fluid ounces of wine per person  
13 aged twenty-one (21) years or older per day, or the serving of the  
14 winemaker's products by individual drink purchased by the consumer  
15 for on-premises consumption, or the retail sale of the winemaker's  
16 products in sealed containers to an on-premises customer for off-  
17 premises consumption, or any combination thereof.

18 SECTION 12. This act shall become effective November 1, 2019.

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1 Passed the Senate the 11th day of March, 2019.

2  
3 \_\_\_\_\_  
4 Presiding Officer of the Senate

5 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
6 2019.

7  
8 \_\_\_\_\_  
9 Presiding Officer of the House  
10 of Representatives