

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 57th Legislature (2019)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1641

By: **Echols**

7
8 COMMITTEE SUBSTITUTE

9 An Act relating to alcoholic beverages; amending
10 Section 13, Chapter 366, O.S.L. 2016, as last amended
11 by Section 2, Chapter 312, O.S.L. 2018 (37A O.S.
12 Supp. 2018, Section 2-101), which relates to fees;
13 modifying name of certain license; adding certain
14 license information; amending Section 19, Chapter
15 366, O.S.L. 2016, as amended by Section 11, Chapter
16 364, O.S.L. 2017 (37A O.S. Supp. 2018, Section 2-
17 107), which relates to the wine and spirits
18 wholesaler license; authorizing wine or spirits
19 wholesaler licensee to purchase or import from
20 certain additional sources; restricting certain
21 purchases of alcoholic beverages by wholesalers;
22 requiring certain licensees to collect and remit
23 excise taxes on certain imports; expanding exception
24 to the certain restrictions on the sales of spirits
and wine between wholesalers; amending Section 47,
Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018,
Section 2-135), which relates to the manufacturer's
license; authorizing the election of designating or
nondesignating manufacturer status; and providing an
effective date.

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

1 SECTION 1. AMENDATORY Section 13, Chapter 366, O.S.L.
2 2016, as last amended by Section 2, Chapter 312, O.S.L. 2018 (37A
3 O.S. Supp. 2018, Section 2-101), is amended to read as follows:
4 Section 2-101. A. Except as otherwise provided in this
5 section, the licenses issued by the ABLE Commission, and the annual
6 fees therefor, shall be as follows:
7 1. Brewer License..... \$1,250.00
8 2. Small Brewer License..... \$125.00
9 3. Distiller License..... \$3,125.00
10 4. Winemaker License..... \$625.00
11 5. Small Farm Winery License..... \$75.00
12 6. Rectifier License..... \$3,125.00
13 7. Wine and Spirits Wholesaler License..... \$3,000.00
14 8. Beer Distributor License..... \$750.00
15 9. The following retail spirits license fees shall be
16 determined by the latest Federal Decennial Census:
17 a. Retail Spirits License for cities and
18 towns from 200 to 2,500 population..... \$305.00
19 b. Retail Spirits License for cities and
20 towns from 2,501 to 5,000 population..... \$605.00
21 c. Retail Spirits License for cities and
22 towns over 5,000 population..... \$905.00
23 10. Retail Wine License..... \$1,000.00
24 11. Retail Beer License..... \$500.00

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

1		(initial license)	
2		\$905.00	
3		(renewal)	
4	21.	Agent License.....	\$55.00
5	22.	Employee License.....	\$30.00
6	23.	Industrial License.....	\$23.00
7	24.	Carrier License.....	\$23.00
8	25.	Private Carrier License.....	\$23.00
9	26.	Bonded Warehouse License.....	\$190.00
10	27.	Storage License.....	\$23.00
11	28.	Nonresident Seller License or Manufacturer's	
12		License	\$750.00
13	28A.	<u>Designating or Nondesignating Manufacturer</u>	
14		<u>License:</u>	
15	a.	<u>50 cases or less sold in Oklahoma in</u>	
16		<u>last calendar year</u>	<u>\$75.00</u>
17	b.	<u>51 to 500 cases sold in Oklahoma in</u>	
18		<u>last calendar year</u>	<u>\$100.00</u>
19	c.	<u>501 cases or more sold in Oklahoma in</u>	
20		<u>last calendar year</u>	<u>\$125.00</u>
21	29.	Manufacturer's Agent License.....	\$55.00
22	30.	Sacramental Wine Supplier License.....	\$100.00
23	31.	Charitable Auction License.....	\$1.00
24	32.	Charitable Alcoholic Beverage License.....	\$55.00

33. Winemaker Self-Distribution License..... \$750.00
34. Annual Public Event License..... \$1,005.00
35. One-Time Public Event License..... \$255.00
36. Small Brewer Self-Distribution License..... \$750.00
37. Brewpub License..... \$1,005.00
38. Brewpub Self-Distribution License..... \$750.00

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

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

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

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

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

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

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

15 F. The holder of a license, issued by the ABLE Commission, for
16 a bottle club located in a county of this state where the sale of
17 alcoholic beverages by the individual drink for on-premises
18 consumption has been authorized, may exchange the bottle club
19 license for a mixed beverage license or an on-premises beer and wine
20 license and operate the licensed premises as a mixed beverage
21 establishment or an on-premises beer and wine establishment subject
22 to the provisions of the Oklahoma Alcoholic Beverage Control Act.
23 There shall be no additional fee for such exchange and the mixed
24 beverage license or on-premises beer and wine license issued shall

1 expire one (1) year from the date of issuance of the original bottle
2 club license.

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

5 1. Nonresident Seller ~~or Manufacturer~~ License..... \$2,500.00

6 1A. Designating or Nondesignating Manufacturer

7 License:

8 a. 50 cases or less sold in Oklahoma in
9 last calendar year..... \$125.00

10 b. 51 to 500 cases sold in Oklahoma in
11 last calendar year..... \$250.00

12 c. 501 cases or more sold in Oklahoma in
13 last calendar year..... \$375.00

14 2. Wine and Spirits Wholesaler License..... \$2,500.00

15 3. Beer Distributor..... \$1,000.00

16 4. Retail Spirits License for cities and towns
17 over 5,000 population..... \$250.00

18 5. Retail Spirits License for cities and towns
19 from 2,501 to 5,000 population..... \$200.00

20 6. Retail Spirits License for cities and towns
21 from 200 to 2,500 population..... \$150.00

22 7. Retail Wine License..... \$250.00

23 8. Retail Beer License..... \$250.00

24 9. Mixed Beverage License..... \$25.00

10. Mixed Beverage/Caterer Combination License..... \$25.00
11. Caterer License..... \$25.00
12. On-Premises Beer and Wine License..... \$25.00
13. Annual Public Event License..... \$25.00
14. Small Farm Winery License..... \$25.00
15. Small Brewer License..... \$35.00

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

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

SECTION 2. AMENDATORY Section 19, Chapter 366, O.S.L. 2016, as amended by Section 11, Chapter 364, O.S.L. 2017 (37A O.S. Supp. 2018, Section 2-107), is amended to read as follows:

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

1. To purchase and import into this state spirits and wines from persons authorized to sell same who are the holders of a

1 designating manufacturer license, nondesignating manufacturer
2 license or nonresident seller license, and their agents who are the
3 holders of manufacturer's agent licenses; provided, it shall be
4 unlawful for any wholesaler to purchase any alcoholic beverage for
5 resale unless those alcoholic beverages are purchased from the
6 primary American source of supply for the brand of alcoholic
7 beverages sought to be resold;

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

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

12 4. To sell in retail containers in this state to retailers,
13 mixed beverage, caterer, special event, public event, hotel beverage
14 or airline/railroad beverage licensees, spirits and wines which have
15 been received and unloaded at the bonded warehouse facilities of the
16 wholesaler before such sale; provided, it shall be unlawful for any
17 wholesaler to sell any alcoholic beverages if the alcoholic
18 beverages have not been purchased by the wholesaler from the primary
19 American source of supply;

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

1 6. To sell spirits and wines out of this state to qualified
2 persons; and

3 7. To collect and remit excise taxes on all alcoholic beverages
4 it has transported into the state.

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

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

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

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

22 2. Accept as payment cash, personal check, cashier's check,
23 money order or electronic fund transfer from persons licensed to
24

1 purchase alcoholic beverages; provided, a wholesaler shall not be
2 permitted to accept payment by credit card.

3 SECTION 3. AMENDATORY Section 47, Chapter 366, O.S.L.
4 2016 (37A O.S. Supp. 2018, Section 2-135), is amended to read as
5 follows:

6 Section 2-135. A. All out-of-state distillers, winemakers,
7 brewers, importers, brokers and others who sell alcoholic beverages
8 to wine and spirits wholesalers and beer distributors in Oklahoma,
9 regardless of whether such sales are consummated within or without
10 the state, must either obtain a manufacturer's license or contract
11 with a person that maintains a nonresident seller license in order
12 to sell alcoholic beverages intended for consumption within the
13 State of Oklahoma.

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

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

1 C. The ABLE Commission may, subject to the provisions of the
2 Oklahoma Alcoholic Beverage Control Act requiring notice and hearing
3 in the case of sanctions against holders of licenses, suspend or
4 revoke a manufacturer's license or nonresident seller license for
5 any violation of the Oklahoma Alcoholic Beverage Control Act by the
6 holder thereof.

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

18 E. The holder of a manufacturer's license or nonresident seller
19 license shall, promptly upon consignment of any alcoholic beverages
20 to an importer in Oklahoma, forward to the ABLE Commission a true
21 copy of the invoice, bill of lading or other document as the ABLE
22 Commission may by rule prescribe, showing the details of such
23 shipment.
24

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

1 G. In the event a winery, distiller, importer or broker obtains
2 a manufacturer's license, the manufacturer shall elect to be either
3 a designating manufacturer or nondesignating manufacturer. For
4 purposes of this title:

5 1. "Designating manufacturer" shall be any manufacturer,
6 importer, broker or agent that has designated a wine and spirits
7 wholesaler to distribute one or more stock keeping units (SKUs)
8 within the state; and

9 2. "Nondesignating manufacturer" shall be any manufacturer,
10 importer, broker or agent that has elected to allow all wine and
11 spirits wholesalers to distribute one or more SKUs within the state.

12 SECTION 4. This act shall become effective November 1, 2019.

13
14 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE, dated
15 03/04/2019 - DO PASS, As Amended and Coauthored.