

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

HOUSE BILL 2623

By: Echols

AS INTRODUCED

An Act relating to alcoholic beverages; amending 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), which relates to definitions; modifying definition; adding definition; amending Section 13, Chapter 366, O.S.L. 2016, as last amended by Section 2, Chapter 312, O.S.L. 2018 (37A O.S. Supp. 2018, Section 2-101), which relates to license fees; adding satellite tasting room license fee; amending Section 16, Chapter 366, O.S.L. 2016, as last amended by Section 2, Chapter 315, O.S.L. 2018 (37A O.S. Supp. 2018, Section 2-104), which relates to the winemaker license; adding certain license authorization; amending Section 33, Chapter 366, O.S.L. 2016, as amended by Section 1, Chapter 314, O.S.L. 2018 (37A O.S. Supp. 2018, Section 2-121), which relates to the employee license; incorporating satellite tasting room license information; amending Section 43, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 2-131), which relates to the small farm winery license; granting additional authorizations; creating the satellite tasting room license; granting certain authorizations; setting annual license fee; specifying employee requirements; amending Section 132, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 5-129), which relates to the Oklahoma Viticulture and Enology Center Development Revolving Fund; expanding the establishment of a Viticulture and Enology Center to Oklahoma State University; providing for codification; and providing an effective date.

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

2 SECTION 1. AMENDATORY Section 3, Chapter 366, O.S.L.  
3 2016, as last amended by Section 13, Chapter 304, O.S.L. 2018 (37A  
4 O.S. Supp. 2018, Section 1-103), is amended to read as follows:  
5

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

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

10 2. "Alcohol" means and includes hydrated oxide of ethyl, ethyl  
11 alcohol, ethanol or spirits of wine, from whatever source or by  
12 whatever process produced. It does not include wood alcohol or  
13 alcohol which has been denatured or produced as denatured in  
14 accordance with Acts of Congress and regulations promulgated  
15 thereunder;

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

20 4. "Applicant" means any individual, legal or commercial  
21 business entity, or any individual involved in any legal or  
22 commercial business entity allowed to hold any license issued in  
23 accordance with the Oklahoma Alcoholic Beverage Control Act;  
24

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

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

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

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

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

24          10. "Brand extension" means:

1 a. after the effective date of this act, any brand of  
2 beer or cider introduced by a manufacturer in this  
3 state which either:

4 (1) incorporates all or a substantial part of the  
5 unique features of a preexisting brand of the  
6 same licensed manufacturer, or

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

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

16 (1) incorporates or incorporated all or a substantial  
17 part of the unique features of a preexisting low-  
18 point beer brand of the same licensed  
19 manufacturer, or

20 (2) relies or relied to a significant extent on the  
21 goodwill associated with a preexisting low-point  
22 beer brand;

23 11. "Brewer" means and includes any person who manufactures for  
24 human consumption by the use of raw materials or other ingredients

1 any beer upon which a license fee and a tax are imposed by any law  
2 of this state;

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

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

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

16 15. "Convicted" and "conviction" mean and include a finding of  
17 guilt resulting from a plea of guilty or nolo contendere, the  
18 decision of a court or magistrate or the verdict of a jury,  
19 irrespective of the pronouncement of judgment or the suspension  
20 thereof;

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

22 17. "Distiller" means any person who produces spirits from any  
23 source or substance, or any person who brews or makes mash, wort or  
24 wash, fit for distillation or for the production of spirits (except

1 a person making or using such material in the authorized production  
2 of wine or beer, or the production of vinegar by fermentation), or  
3 any person who by any process separates alcoholic spirits from any  
4 fermented substance, or any person who, making or keeping mash, wort  
5 or wash, has also in his or her possession or use a still;

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

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

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

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

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

20 and continues to be sold and distributed as such on October 1, 2018.

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

23 21. "Fair market value" means the value in the subject  
24 territory covered by the written agreement with the distributor or

1 wholesaler that would be determined in an arm's length transaction  
2 entered into without duress or threat of termination of the  
3 distributor's or wholesaler's rights and shall include all elements  
4 of value, including goodwill and going-concern value;

5 22. "Good cause" means:

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

9 b. failure by the distributor to comply with the duty of  
10 good faith;

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

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

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

1 relationships as between some occupants and the owner or operator  
2 thereof shall be immaterial;

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

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

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

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

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

23 31. "Meals" means foods commonly ordered at lunch or dinner and  
24 at least part of which is cooked on the licensed premises and

1 requires the use of dining implements for consumption. Provided,  
2 that the service of only food such as appetizers, sandwiches, salads  
3 or desserts shall not be considered "meals";

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

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

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

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

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

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

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

10       38. "Occupation" as used in connection with "occupation tax"  
11 means the sites occupied as the places of business of the  
12 manufacturers, wholesalers, beer distributors, retailers, mixed  
13 beverage licensees, on-premises beer and wine licensees, bottle  
14 clubs, caterers, public event and special event licensees;

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

17       40. "Package store" means any sole proprietor or partnership  
18 that qualifies to sell wine, beer and/or spirits for off-premise  
19 consumption and that is not a grocery store, convenience store or  
20 drug store, or other retail outlet that is not permitted to sell  
21 wine or beer for off-premise consumption;

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

1       42. "Person" means an individual, any type of partnership,  
2 corporation, association, limited liability company or any  
3 individual involved in the legal structure of any such business  
4 entity;

5       43. "Premises" means the grounds and all buildings and  
6 appurtenances pertaining to the grounds including any adjacent  
7 premises if under the direct or indirect control of the licensee and  
8 the rooms and equipment under the control of the licensee and used  
9 in connection with or in furtherance of the business covered by a  
10 license. Provided that the ABLE Commission shall have the authority  
11 to designate areas to be excluded from the licensed premises solely  
12 for the purpose of:

- 13           a. allowing the presence and consumption of alcoholic  
14                beverages by private parties which are closed to the  
15                general public, or
- 16           b. allowing the services of a caterer serving alcoholic  
17                beverages provided by a private party.

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

21       44. "Private event" means a social gathering or event attended  
22 by invited guests who share a common cause, membership, business or  
23 task and have a prior established relationship. For purposes of  
24 this definition, advertisement for general public attendance or

1 sales of tickets to the general public shall not constitute a  
2 private event;

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

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

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

18 48. "Restaurant" means an establishment that is licensed to  
19 sell alcoholic beverages by the individual drink for on-premises  
20 consumption and where food is prepared and sold for immediate  
21 consumption on the premises;

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

1       50. "Retailer" means a package store, grocery store,  
2 convenience store or drug store licensed to sell alcoholic beverages  
3 for off-premise consumption pursuant to a Retail Spirits License,  
4 Retail Wine License or Retail Beer License;

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

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

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

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

23       55. "Small farm winery" means a wine-making establishment that  
24 does not annually produce for sale more than ~~fifteen thousand~~

1 ~~(15,000)~~ five thousand (5,000) gallons of wine as reported on the  
2 United States Department of the Treasury, Alcohol and Tobacco Tax  
3 and Trade Bureau, Report of Wine Premises Operations (TTB Form  
4 5120.17);

5 56. "Sparkling wine" means champagne or any artificially  
6 carbonated wine;

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

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

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

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

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

2 62. "Territory" means a geographic region with a specified  
3 boundary;

4 63. "Wine and spirits wholesaler" or "wine and spirits  
5 distributor" means and includes any sole proprietorship or  
6 partnership licensed to distribute wine and spirits in the state.  
7 The term "wholesaler", as used in this act, shall be construed to  
8 refer to a wine and spirits wholesaler; ~~and~~

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

16 65. "Winemaker" means and includes any person or establishment  
17 that manufactures for human consumption any wine upon which a  
18 license fee and a tax are imposed by any law of this state.

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

22 SECTION 2. AMENDATORY Section 13, Chapter 366, O.S.L.  
23 2016, as last amended by Section 2, Chapter 312, O.S.L. 2018 (37A  
24 O.S. Supp. 2018, Section 2-101), is amended to read as follows:

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~~ 13 of  
11 subsection A 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 3. 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~~ 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 where tastings, on-  
8 site consumption and bottle sales are permitted, but only if the  
9 small farm winery license or winemaker license is active and in good  
10 standing with the ABLE Commission and the Tax Commission. The wine  
11 sold at the satellite tasting room must have been produced or  
12 manufactured by the small farm winery license holder or the  
13 winemaker license holder and must have all manufacturing taxes paid.  
14 The satellite tasting room license application is first submitted to  
15 the city, town or municipality where the tasting room will be  
16 located. Upon approval from the city, town or municipality, the  
17 application will then go the state.

18 SECTION 4. AMENDATORY Section 33, Chapter 366, O.S.L.  
19 2016, as amended by Section 1, Chapter 314, O.S.L. 2018 (37A O.S.  
20 Supp. 2018, Section 2-121), is amended to read as follows:

21 Section 2-121. An employee license shall authorize the holder  
22 thereof to work in a licensed package store, retail spirits, retail  
23 wine or retail beer establishment, brewpub, mixed beverage  
24 establishment, beer and wine establishment, satellite tasting room,

1 bottle club, public event or any establishment where alcohol or  
2 alcoholic beverages are sold, mixed or served. Persons employed by  
3 a mixed beverage, on-premises beer and wine, retail wine, retail  
4 beer, satellite tasting room, public event or a bottle club licensee  
5 who do not participate in the service, mixing or sale of mixed  
6 beverages shall not be required to have an employee license.  
7 Provided, however, that a manager employed by a mixed beverage  
8 licensee, satellite tasting room licensee, public event licensee or  
9 a bottle club shall be required to have an employee license whether  
10 or not the manager participates in the service, mixing or sale of  
11 mixed beverages. Applicants for an employee license must be at  
12 least eighteen (18) years of age and have a health card issued by  
13 the county in which they are employed, if the county issues such a  
14 card; provided, the provisions of this section shall not be  
15 construed to permit any person under twenty-one (21) years of age to  
16 be employed to sell spirits. Employees of a special event, caterer,  
17 unless catering a mixed beverage-licensed premise or  
18 airline/railroad beverage licensees shall not be required to obtain  
19 an employee license. Persons employed by a hotel licensee who  
20 participate in the stocking of hotel room mini-bars or in the  
21 handling of alcoholic beverages to be placed in such devices shall  
22 be required to have an employee license. As a prerequisite to the  
23 issuance of an employee license, not later than fourteen (14) days  
24 after initial licensure, the first-time applicant shall be required

1 to have successfully completed a training program conducted by the  
2 ABLE Commission, or by another entity approved by the ABLE  
3 Commission, including an in-house training program conducted by the  
4 employer. Proof of training completion shall be made available for  
5 inspection by the ABLE Commission at the business location employing  
6 the licensee. The failure of an employee licensee to comply with  
7 this section may constitute a revocable offense.

8 SECTION 5. AMENDATORY Section 43, Chapter 366, O.S.L.  
9 2016 (37A O.S. Supp. 2018, Section 2-131), is amended to read as  
10 follows:

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

13 1. To manufacture and bottle wines produced by that small farm  
14 winery; ~~and~~

15 2. To bottle and sell wines produced by another small farm  
16 winery. In order for a small farm winery to bottle and sell another  
17 small farm winery's products, both the selling winery and the buying  
18 winery shall be small farm winery permit holders;

19 3. To package and store on licensed premises wine produced by  
20 that small farm winery;

21 4. To sell wine in this state to licensed wholesalers and  
22 manufacturers;

23 5. To sell wine produced at the winery from grapes and other  
24 fruits and berries grown in this state, if available, for either on-

1 premises or off-premises consumption to consumers on the premises of  
2 the winery;

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

19 7. To serve free samples of wine produced at the winery at  
20 public events such as festivals and trade shows;

21 8. To sell wine produced at the winery, for either on-premises  
22 or off-premises consumption at public events such as festivals and  
23 trade shows;

24 9. To sell wine out of this state to qualified persons;

1       10. To purchase from licensed winemakers, distillers and  
2 rectifiers in this state, and to import into this state wine, brandy  
3 and fruit spirits for use in manufacturing in accordance with  
4 federal laws and regulations;

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

9       12. To purchase beer in retail containers from the holder of a  
10 wholesaler, beer distributor, small brewer self-distributor or  
11 brewpub self-distributor license or as specifically provided by law;

12       13. To sell, offer for sale and possess beer for on-premises  
13 consumption; and

14       14. To establish satellite tasting rooms where tastings, on-  
15 site consumption and bottle sales are permitted, but only if the  
16 small farm winery license or winemaker license is in good standing  
17 with the ABLE Commission and the Tax Commission. The wine sold at  
18 the satellite tasting room must have been produced or manufactured  
19 by the small farm winery license holder or the winemaker license  
20 holder and must have all manufacturing taxes paid. The satellite  
21 tasting room license application is first submitted to the city,  
22 town or municipality where the tasting room will be located. Upon  
23 approval from the city, town or municipality, the application will  
24 then go the state.

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

4 SECTION 6. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 2-159 of Title 37A, unless there  
6 is created a duplication in numbering, reads as follows:

7 A. A satellite tasting room license shall authorize the holder  
8 of a valid small farm winery or winemaker license to operate no more  
9 than two tasting rooms where the satellite tasting room license  
10 holder can provide wine manufactured by the satellite tasting room  
11 license holder on his or her original licensed premises as a wine  
12 tasting in an amount no greater than six (6) ounces per day to each  
13 consumer who is twenty-one (21) years of age or older.

14 B. A satellite tasting room license holder in his or her  
15 licensed satellite tasting room may offer for sale wine for on-  
16 premises or off-premises consumption.

17 C. The small farm winery license holder or winemaker license  
18 holder remains responsible for the Satellite Tasting Room licensed  
19 premises and shall obtain proof of compliance with all applicable  
20 municipal or county zoning ordinances and codes before submitting an  
21 application for a satellite tasting room license to the ABLE  
22 Commission. A copy of all documents certifying compliance with all  
23 relevant municipalities or counties shall be filed with the  
24 application for the satellite tasting room license. The fee for

1 licensing each remote location shall be One Hundred Dollars  
2 (\$100.00) annually.

3 D. The satellite tasting room license holder's small farm  
4 winery license or winemaker license must be in good standing with  
5 the ABLE Commission and the Tax Commission and the small farm winery  
6 license holder or winemaker license holder is liable for any  
7 violation committed on the premises of his or her satellite tasting  
8 rooms.

9 E. Each employee and manager of a satellite tasting room must  
10 be twenty-one (21) years of age or older and must be a holder of an  
11 employee license, unless otherwise provided for in Section 2-121 of  
12 Title 37A of the Oklahoma Statutes.

13 SECTION 7. AMENDATORY Section 132, Chapter 366, O.S.L.  
14 2016 (37A O.S. Supp. 2018, Section 5-129), is amended to read as  
15 follows:

16 Section 5-129. A. There is hereby created in the State  
17 Treasury a revolving fund for the Oklahoma Department of  
18 Agriculture, Food, and Forestry to be designated the "Oklahoma  
19 Viticulture and Enology Center Development Revolving Fund".

20 B. The fund shall be a continuing fund, not subject to fiscal  
21 year limitations, and shall consist of all monies distributed to the  
22 fund:

23 1. From the apportionment provided in paragraph 1 of Section  
24 ~~107~~ 5-104 of this ~~act~~ title; and

1           2. From any other source in accordance with state and federal  
2 law.

3           C. All monies accruing to the credit of the fund are hereby  
4 appropriated and may be budgeted and expended by the Department for  
5 the purpose of:

6           1. Establishing a Viticulture and Enology Center on the campus  
7 of Redlands Community College and Oklahoma State University;

8           2. Developing viticulture-related and enology-related education  
9 programs;

10          3. Developing technologies, strategies or practices that aid in  
11 the production of grapes and wine in Oklahoma; and

12          4. Increasing the positive economic impact of the Oklahoma wine  
13 industry on this state.

14          D. Expenditures from the fund shall be made upon warrants  
15 issued by the State Treasurer against claims filed as prescribed by  
16 law with the Director of the Office of Management and Enterprise  
17 Services for approval and payment.

18          SECTION 8. This act shall become effective November 1, 2019.

19  
20          57-1-7342           MB           01/14/19

21  
22  
23  
24