

1 ENGROSSED HOUSE AMENDMENT  
TO  
2 ENGROSSED SENATE BILL NO. 1173 By: David of the Senate  
3 and  
4 Hall of the House  
5  
6

7 An Act relating to alcoholic beverages; amending  
8 Section 80, Chapter 366, O.S.L. 2016, as amended by  
9 Section 15, Chapter 364, O.S.L. 2017 (37A O.S. Supp.  
10 2017, Section 3-110), which relates to licensed beer  
11 distributor; removing requirement for certain person  
12 to operate certain conveyance; and providing an  
13 effective date.

14 AUTHOR: Remove Representative Hall as principal House author and  
15 substitute with Representative Echols

16 AUTHOR: Remove Senator David as principal Senate author and  
17 substitute with Senator Bice

18 AMENDMENT NO. 1. Replace the title, enacting clause and entire bill  
19 and insert

20 "[ alcoholic beverages - Oklahoma Alcoholic Beverage  
21 Control Act - Oklahoma Alcoholic Beverage Control  
22 Act - Alcoholic Beverage Laws Enforcement  
23 Commission - effective dates]  
24

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

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

5 Section 521. A. A brewer license shall authorize the holder  
6 thereof: To manufacture, bottle, package, and store beer on  
7 licensed premises; to sell beer in this state to holders of Class B  
8 wholesaler licenses and retail licenses and to sell beer out of this  
9 state to qualified persons; to sell beer produced by the licensee to  
10 consumers twenty-one (21) years of age or older on the premises of  
11 the brewery; and to serve free samples of beer produced by the  
12 licensee to visitors twenty-one (21) years of age or older. For  
13 purposes of this section, no visitor may sample more than a total of  
14 twelve (12) fluid ounces of beer per day. The brewer must restrict  
15 the distribution and consumption of beer samples to an area within  
16 the licensed premises designated by the brewer. A current floor  
17 plan that includes the designated sampling area must be on file with  
18 the Oklahoma Alcoholic Beverage Laws Enforcement (ABLE) Commission.  
19 No visitor under twenty-one (21) years of age shall be permitted to  
20 enter this designated sampling area when samples are being  
21 distributed or consumed. Samples and sales may only be distributed  
22 or consumed between 10:00 a.m. and 9:00 p.m. Samples and sales of  
23 beer made or served by a brewery under this section shall not be  
24 considered a "sale" of beer within the meaning of Article XXVIII of

1 the Oklahoma Constitution or Section 506 of this title; however,  
2 such samples and sales of beer shall be considered beer removed or  
3 withdrawn from the brewery for "use or consumption" within the  
4 meaning of Section 542 of this title for excise tax determination  
5 and reporting requirements.

6 B. A distiller license shall authorize the holder thereof: To  
7 manufacture, bottle, package, and store spirits on licensed  
8 premises; to sell spirits in this state to licensed wholesalers and  
9 manufacturers only; to sell spirits out of this state to qualified  
10 persons; to purchase from licensed distillers and rectifiers in this  
11 state, and import spirits from without this state for manufacturing  
12 purposes in accordance with federal laws and regulations.

13 C. A winemaker license shall authorize the holder thereof: To  
14 manufacture (including such mixing, blending and cellar treatment as  
15 authorized by federal law), bottle, package, and store on licensed  
16 premises wine containing not more than twenty-four percent (24%)  
17 alcohol by volume, provided the bottle or package sizes authorized  
18 shall be limited to the capacities approved by the United States  
19 Alcohol and Tobacco Tax and Trade Bureau; to sell wine in this state  
20 to licensed wholesalers and manufacturers; to sell bottles of wine  
21 produced at the winery from grapes and other fruits and berries  
22 grown in this state, if available, to consumers on the premises of  
23 the winery; to serve visitors on the licensed premises samples of  
24 wine produced on the premises; to serve samples of wine produced at

1 the winery at festivals and trade shows; to sell wine produced at  
2 the winery, in original sealed containers, at festivals and trade  
3 shows; to sell wine out of this state to qualified persons; to  
4 purchase from licensed winemakers, distillers and rectifiers in this  
5 state, and to import into this state wine, brandy and fruit spirits  
6 for use in manufacturing in accordance with federal laws and  
7 regulations; provided, a winemaker either within or without this  
8 state that annually produces no more than ten thousand (10,000)  
9 gallons of wine may elect to sell and self-distribute the wine  
10 produced by such winemaker directly to licensed retail package  
11 stores and restaurants in this state; and provided further that:

12 1. Any such winemaker which elects to directly sell its wine to  
13 package stores and restaurants shall not also use a licensed  
14 wholesale distributor as a means of distribution, and shall be  
15 required to sell its wines to every package store and restaurant  
16 licensee who desires to purchase the same, on the same price basis  
17 and without discrimination;

18 2. If a winemaker or winery sells directly to a retail package  
19 store or restaurant, the winemaker shall transport the wine from the  
20 winemaker's winery to the premises where the wine is to be delivered  
21 only in vehicles owned or leased by the winemaker and not by common  
22 or private contract carrier and shall obtain all necessary permits  
23 as required by the Oklahoma Alcoholic Beverage Control Act; and  
24

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

5           D. A winemaker self-distribution license shall authorize a  
6 licensed winemaker within or without this state which is permitted  
7 by Section 3 of Article XXVIII of the Oklahoma Constitution and  
8 subsection C of this section, to distribute its wine directly to  
9 retail package stores and restaurants in this state and that elects  
10 to do so, to sell and deliver its wines directly to licensed retail  
11 package stores and restaurants in this state in full case lots only,  
12 and in accordance with the provisions of the Oklahoma Alcoholic  
13 Beverage Control Act and such rules as the ABLE Commission shall  
14 adopt.

15           E. A rectifier license shall authorize the holder thereof: To  
16 rectify spirits and wines, bottle, package, and store same on the  
17 licensed premises; to sell spirits and wines in this state to  
18 licensed wholesalers and manufacturers only; to sell spirits and  
19 wines out of this state to qualified persons; to purchase from  
20 licensed manufacturers in this state; and to import into this state  
21 for manufacturing purposes spirits and wines in accordance with  
22 federal laws and regulations.

23           F. 1. A wholesaler license shall authorize the holder thereof:  
24 To purchase and import into this state spirits and wines from

1 persons authorized to sell same who are the holders of a designating  
2 wine and spirits manufacturer's license, nonresident seller license,  
3 and their agents who are the holders of manufacturers agent  
4 licenses; to purchase spirits and wines from licensed distillers,  
5 rectifiers and winemakers in this state; to purchase spirits and  
6 wines from licensed wholesalers, to the extent set forth in  
7 ~~paragraphs~~ paragraph 2 and 3 of this subsection; to sell in retail  
8 containers in this state to retailers, mixed beverage, caterer,  
9 special event, public event, hotel beverage or airline/railroad  
10 beverage licensees, spirits and wines which have been received and  
11 unloaded at the bonded warehouse facilities of the wholesaler before  
12 such sale; to sell to licensed wholesalers, to the extent set forth  
13 in ~~paragraphs~~ paragraph 2 and 3 of this subsection, spirits and  
14 wines which have been received and unloaded at the bonded warehouse  
15 facilities of the wholesaler before such sale; and to sell spirits  
16 and wines out of this state to qualified persons. Provided,  
17 however, sales of spirits and wine in containers with a capacity of  
18 less than one-twentieth (1/20) gallon by a holder of a wholesaler  
19 license shall be in full case lots and in the original unbroken  
20 case. Wholesalers shall be authorized to place such signs outside  
21 their place of business as are required by Acts of Congress and by  
22 such laws and regulations promulgated under such Acts.

23 2. ~~Wholesalers are prohibited from purchasing annually in~~  
24 ~~excess of fifteen percent (15%) of their total spirits inventory and~~

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

- ~~a. the total volume of spirits sales of the wholesaler, by liter, from the previous calendar year, and~~
- ~~b. the total volume of wine sales of the wholesaler, by liter, from the previous calendar year, and~~
- ~~c. the volume of sales of each brand of spirits or wine of the wholesaler, by liter, from the previous calendar year.~~

~~A wholesaler who did not post any sales of spirits, wine or of a particular brand in the previous calendar year shall be deemed to have sold the same volume of spirits, wine or of a particular brand as the wholesaler posting the smallest volumes of sales in spirits, wine or of a particular brand for that year for the purposes of this paragraph. Notwithstanding the foregoing, wholesalers shall not purchase any inventory in spirits or wine from any other wholesaler until such time that the purchasing wholesaler possesses an inventory valued at no less than Two Hundred Fifty Thousand Dollars~~

1 ~~(\$250,000.00). Inventory valuation shall be based on the original~~  
2 ~~actual price paid by the purchasing wholesaler to the nonresident~~  
3 ~~seller for the inventory.~~

4 ~~3.~~ A wholesaler may sell spirits and wine to other wholesalers  
5 or purchase spirits and wines from other wholesalers ~~without~~  
6 ~~complying with paragraph 2 of this subsection~~ in the case of the  
7 sale, purchase, or other transfer or acquisition of the entire  
8 business of a wholesaler, including the inventory of spirits and  
9 wine.

10 ~~4.~~ 3. A wholesaler license shall authorize the holder thereof  
11 to operate a single bonded warehouse with a single central office  
12 together with delivery facilities at a location in this state only  
13 at the principal place of business for which the wholesaler license  
14 was granted.

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

1 ~~Commission, unless a wholesaler shall have in its warehouse a~~  
2 ~~fifteen-day supply of merchandise on such purchase order.~~

3 ~~In order to allow the ABLE Commission to determine the top~~  
4 ~~eighteen brands, wholesalers must submit to the ABLE Commission~~  
5 ~~every sixty (60) days a sworn affidavit listing their top twenty-~~  
6 ~~five brands in sales for the previous sixty (60) days, excluding~~  
7 ~~sales to wholesalers. Such affidavits shall be submitted in~~  
8 ~~conjunction with the original price postings of wholesalers.~~

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

24

1 G. A Class B wholesaler license shall authorize the holder  
2 thereof: To purchase and import into this state beer from persons  
3 authorized to sell same who are the holders of nonresident seller  
4 licenses, and their agents who are the holders of manufacturers  
5 agent licenses; to purchase beer from licensed brewers and Class B  
6 wholesalers in this state; to sell in retail containers to  
7 retailers, mixed beverage, caterer, special event, public event,  
8 hotel beverage, and airline/railroad beverage licensees in this  
9 state, beer which has been unloaded and stored at the holder's self-  
10 owned or leased and self-operated warehouse facilities for a period  
11 of at least twenty-four (24) hours before such sale; and to sell  
12 beer in this state to Class B wholesalers and out of this state to  
13 qualified persons, including federal instrumentalities and voluntary  
14 associations of military personnel on federal enclaves in this state  
15 over which this state has ceded jurisdiction.

16 H. A package store license shall authorize the holder thereof:  
17 To purchase alcohol, spirits, beer, and wine in retail containers  
18 from the holder of a brewer, wholesaler or Class B wholesaler  
19 license and to purchase wine from a winemaker who is permitted and  
20 has elected to self-distribute as provided in Section 3 of Article  
21 XXVIII of the Oklahoma Constitution and to sell same on the licensed  
22 premises in such containers to consumers for off-premises  
23 consumption only and not for resale; provided, wine, beer, and  
24 spirits may be sold to charitable organizations that are holders of

1 charitable alcoholic beverage auction or charitable alcoholic  
2 beverage event licenses. All alcoholic beverages that are sold by a  
3 package store are to be sold at ordinary room temperature.

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

13 Sales and service of mixed beverages by holders of mixed  
14 beverage licenses shall be limited to the licensed premises of the  
15 licensee unless the holder of the mixed beverage license also  
16 obtains a caterer license or a mixed beverage/caterer combination  
17 license. A mixed beverage license shall only be issued in counties  
18 of this state where the sale of alcoholic beverages by the  
19 individual drink for on-premises consumption has been authorized. A  
20 separate license shall be required for each place of business. Upon  
21 application, a mixed beverage license shall be issued for any place  
22 of business functioning as a motion picture theater, as defined by  
23 Section 506 of this title. Provided, that upon proof of legal age  
24 to consume alcohol, every patron being served alcoholic beverages

1 shall be required to wear a wrist bracelet or receive a hand stamp  
2 identifying the patron as being of legal age to consume alcohol.  
3 This requirement shall only apply inside a motion picture theater  
4 auditorium where individuals under the legal age to consume alcohol  
5 are allowed. A mixed beverage licensee whose main purpose is  
6 hosting live performance art presentations may utilize the services  
7 of a licensed caterer for its alcoholic beverage service as long as  
8 it is not open to the public more than one hundred twenty (120) days  
9 per year.

10 J. A bottle club license shall authorize the holder thereof: To  
11 store, possess and mix alcoholic beverages belonging to members of  
12 the club and to serve such alcoholic beverages for on-premises  
13 consumption to club members. A bottle club license shall only be  
14 issued in counties of this state where the sale of alcoholic  
15 beverages by the individual drink for on-premises consumption has  
16 not been authorized. A separate license shall be required for each  
17 place of business.

18 K. A caterer license shall authorize the holder thereof: To  
19 sell mixed beverages for on-premises consumption incidental to the  
20 sale or distribution of food at particular functions, occasions, or  
21 events which are private and temporary in nature. A caterer license  
22 shall not be issued in lieu of a mixed beverage license. A caterer  
23 license shall only be issued or utilized in counties of this state  
24 where the sale of alcoholic beverages by the individual drink for

1 on-premises consumption has been authorized. A separate license  
2 shall be required for each place of business.

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

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

22 2. A quarterly special event license shall authorize the holder  
23 thereof: To sell and distribute mixed beverages for consumption on  
24 the premises for which the license has been issued for up to three

1 events to be held over a period not to exceed three (3) months. For  
2 purposes of this paragraph, an event shall not exceed a period of  
3 ten (10) consecutive days. A quarterly special event license shall  
4 only be issued in counties of this state where the sale of alcoholic  
5 beverages by the individual drink for on-premises consumption has  
6 been authorized. The holder of a quarterly special event license  
7 shall provide written notice to the ABLE Commission of each special  
8 event not less than ten (10) days before the event is held.

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

1 used in lieu of a mixed beverage license. The holder of an annual  
2 public event license may choose to utilize the services of a  
3 licensed caterer to provide and distribute the alcoholic beverages  
4 at their events. When the applicant chooses to utilize the services  
5 of a licensed caterer, the applicant shall declare upon application  
6 which licensed caterer will be used. The licensed caterer shall be  
7 responsible for payment of all applicable mixed beverage taxes  
8 through the existing Mixed Beverage Tax Permit issued to his or her  
9 business by the Oklahoma Tax Commission.

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

1 at his or her event. When the applicant chooses to utilize the  
2 services of a licensed caterer, the applicant shall declare upon  
3 application which licensed caterer will be used. The licensed  
4 caterer shall be responsible for payment of all applicable mixed  
5 beverage taxes through the existing Mixed Beverage Tax Permit issued  
6 to his or her business by the Oklahoma Tax Commission.

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

19 N. An airline/railroad beverage license shall authorize the  
20 holder thereof: To sell or serve alcoholic beverages in or from any  
21 size container on a commercial passenger airplane or railroad  
22 operated in compliance with a valid license, permit or certificate  
23 issued under the authority of the United States or this state, even  
24 though the airplane or train, in the course of its travel, may cross

1 an area in which the sale of alcoholic beverages by the individual  
2 drink is not authorized and to store alcoholic beverages in sealed  
3 containers of any size at any airport or station regularly served by  
4 the licensee, in accordance with rules promulgated by the Alcoholic  
5 Beverage Laws Enforcement Commission. Alcoholic beverages purchased  
6 by the holder of an airline/railroad license from the holder of a  
7 wholesaler license shall be presumed to be purchased for consumption  
8 outside the State of Oklahoma or in interstate commerce, and shall  
9 be exempt from the excise tax provided for in Section 553 of this  
10 title.

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

23 P. An employee license shall authorize the holder thereof: To  
24 work in a package store, mixed beverage establishment, beer and wine

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

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

21 1. Manufacture of patent, proprietary, medicinal,  
22 pharmaceutical, antiseptic, and toilet preparations;

23 2. Manufacture of extracts, syrups, condiments, and food  
24 products; and

1       3. For use in scientific, chemical, mechanical, industrial, and  
2 medicinal products and purposes.

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

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

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

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

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

16 No carrier license or private carrier license shall be required  
17 of the holder of a package store, mixed beverage, caterer, special  
18 event, hotel beverage, public event or airline/railroad license to  
19 pick up alcoholic beverage orders from the licensees' wholesaler or  
20 Class B wholesaler from whom they are purchased, and to transport  
21 such alcoholic beverages from the place of purchase or acquisition  
22 to the licensed premise of such licensees in vehicles owned or under  
23 the control of such licensee or a licensed employee of such licensee  
24

1 under such terms, conditions, limitations and restrictions as the  
2 ABLE Commission may prescribe.

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

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

24

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

4 2. Any licensee who is the holder of a mixed beverage/caterer  
5 combination license or the holder of a mixed beverage license and a  
6 hotel beverage license who is issued a storage license shall store  
7 all inventories of alcoholic beverages either on the premises of the  
8 mixed beverage establishment or in the warehouse;

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

11 4. A storage license shall be required for a public event  
12 licensee storing alcoholic beverages for use at a subsequent event;  
13 and

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

1 notice shall clearly show the quantity, brand and size of every  
2 transferred bottle or case.

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

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

19 Sales and service of beer and wine by holders of beer and wine  
20 licenses shall be limited to the licensed premises of the licensee  
21 unless the holder of the beer and wine license also obtains a  
22 caterer license. A beer and wine license shall only be issued in  
23 counties of this state where the sale of alcoholic beverages by the  
24 individual drink for on-premises consumption has been authorized. A

1 separate license shall be required for each place of business.  
2 Provided, that upon proof of legal age to consume alcohol, every  
3 patron being served alcoholic beverages shall be required to wear a  
4 wrist bracelet or receive a hand stamp identifying the patron as  
5 being of legal age to consume alcohol. This requirement shall only  
6 apply inside a motion picture theater auditorium where individuals  
7 under the legal age to consume alcohol are allowed. No spirits  
8 shall be stored, possessed or consumed on the licensed premises of a  
9 beer and wine licensee.

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

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

22 2. The holders of tickets are allowed to bid online for a  
23 period not exceeding thirty (30) days prior to the event; or  
24

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

3           A charitable alcoholic beverage event shall be conducted solely  
4 to raise funds for charitable purposes. A charitable alcoholic  
5 beverage license will allow the event attendees access to tastings,  
6 samples, dinners, and alcoholic beverages as parts of their entrance  
7 fee or ticket price. Wine, spirits and/or beer used in, served, or  
8 consumed at a charitable alcoholic beverage event may be purchased  
9 by the charitable organization or donated by any person or entity.  
10 The charitable alcoholic beverage event license shall be issued for  
11 a period not exceeding four (4) days. Only eight such licenses may  
12 be issued to an organization in any twelve-month period. The  
13 charitable organization holding a charitable alcoholic beverage  
14 event license shall not be required to obtain a special event  
15 license. Charitable auction and charitable alcoholic beverage event  
16 license holders may also utilize a licensed caterer to provide  
17 additional alcohol services at the event and on the premises. The  
18 charitable auction license shall authorize the holder thereof to  
19 auction wine, spirits, and/or beer purchased from a retail package  
20 store or received as a gift from an individual if the auction is  
21 conducted to raise funds for charitable purposes. The charitable  
22 auction license shall be issued for a period not to exceed two (2)  
23 days. Only four such licenses shall be issued to an organization in  
24 any twelve-month period. The maximum amount of wine, spirits,

1 and/or beer auctioned pursuant to the charitable auction license  
2 shall not exceed fifty (50) gallons. All wine, beer, and spirits  
3 auctioned pursuant to the charitable auction license shall be  
4 registered and all fees and taxes shall be paid in accordance with  
5 the Oklahoma Alcoholic Beverage Control Act.

6 Y. A mixed beverage/caterer combination license shall authorize  
7 the holder thereof: To purchase or sell mixed beverages as  
8 specifically provided by law for the holder of a mixed beverage  
9 license or a caterer license. All provisions of the Oklahoma  
10 Alcoholic Beverage Control Act applicable to mixed beverage licenses  
11 or caterer licenses, or the holders thereof, shall also be  
12 applicable to mixed beverage/caterer combination licenses or the  
13 holders thereof, except where specifically otherwise provided. A  
14 mixed beverage/caterer combination license shall only be issued in  
15 counties of this state where the sale of alcoholic beverages by the  
16 individual drink for on-premises consumption has been authorized. A  
17 separate license shall be required for each place of business.

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

1       Z. A small farm winery license shall authorize the holder  
2 thereof: To manufacture and bottle wines produced by that small  
3 farm winery. In addition, a small farm winery license authorizes  
4 the holder of that permit to bottle and sell wines produced by  
5 another small farm winery. In order for a small farm winery to  
6 bottle and sell another small farm winery's products, both the  
7 selling winery and the buying winery shall be small farm winery  
8 permit holders. A small farm wine may display the trademarked  
9 "Oklahoma Grown" sticker available from the Oklahoma Grape Industry  
10 Council.

11       AA. In the event any portion of this section is declared  
12 invalid for any reason, the invalid portion shall be severed and the  
13 rest and remainder of the section shall be saved and given full  
14 force and application.

15       BB. Except as provided in Sections 554.1 and 554.2 of this  
16 title with respect to cities, towns and counties, and except as may  
17 be provided under Title 68 of the Oklahoma Statutes with respect to  
18 the Oklahoma Tax Commission, no license or permit other than  
19 licenses as provided under the Oklahoma Alcoholic Beverage Control  
20 Act shall be required of any licensee by any agency, instrumentality  
21 or political subdivision of this state to engage in any activity  
22 covered by the Oklahoma Alcoholic Beverage Control Act anywhere  
23 within the State of Oklahoma and no agency, instrumentality or  
24 political subdivision of this state shall interfere with the ABLE

1 Commission's regulation of, or a wholesaler's performance of, the  
2 sale, distribution, possession, handling or marketing of alcoholic  
3 beverages on any premises of any licensee as defined in Section 506  
4 of this title.

5 SECTION 2. AMENDATORY 37 O.S. 2011, Section 573, is  
6 amended to read as follows:

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

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

23 C. The application for registration of a brand label shall be  
24 filed on a form prescribed by the ABLE Commission, and shall contain

1 such information as the ABLE Commission shall require. Such  
2 application shall be accompanied by a certified check, bank  
3 officers' check or draft, or money order in the amount of the annual  
4 registration fee, or the properly prorated portion thereof  
5 prescribed by this section.

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

14 2. Each brand label registered and approved pursuant to this  
15 section shall be valid for a term of up to one (1) year, expiring on  
16 the June 30 next following registration, and may be renewed for  
17 subsequent terms of one (1) year beginning on the July 1 following  
18 the initial registration. Brand registration fees for labels  
19 registered after July 1 may be prorated through the following June  
20 30 on a quarterly basis. The brand registration fee shall not be  
21 transferable, unless otherwise allowed by law. A nonresident seller  
22 may transfer its brand registrations to the distiller, winery,  
23 importer or broker that produces those brands, provided the  
24 distiller, winery, importer or broker has obtained a designating

1 wine and spirits manufacturer's license, at no expense to the  
2 nonresident seller, distiller, winery, importer or broker.

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

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

11 SECTION 3. AMENDATORY Section 2, Chapter 366, O.S.L.  
12 2016 (37A O.S. Supp. 2017, Section 1-102), is amended to read as  
13 follows:

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

23 B. All alcoholic beverages as herein defined except alcohol  
24 produced for use as a motor fuel under a permit issued by the

1 Oklahoma State Department of Agriculture, Food, and Forestry shall  
2 be subject to the provisions of the Oklahoma Alcoholic Beverage  
3 Control Act.

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

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

- 9 1. "ABLE Commission" or "Commission" means the Alcoholic  
10 Beverage Laws Enforcement Commission;
- 11 2. "Alcohol" means and includes hydrated oxide of ethyl, ethyl  
12 alcohol, ethanol or spirits of wine, from whatever source or by  
13 whatever process produced. It does not include wood alcohol or  
14 alcohol which has been denatured or produced as denatured in  
15 accordance with Acts of Congress and regulations promulgated  
16 thereunder;
- 17 3. "Alcoholic beverage" means alcohol, spirits, beer and wine  
18 as those terms are defined herein and also includes every liquid or  
19 solid, patented or not, containing alcohol, spirits, wine or beer  
20 and capable of being consumed as a beverage by human beings;
- 21 4. "Applicant" means any individual, legal or commercial  
22 business entity, or any individual involved in any legal or  
23 commercial business entity allowed to hold any license issued in  
24 accordance with the Oklahoma Alcoholic Beverage Control Act;

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 introduced by a manufacturer in this state which  
3 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. "Designating wine and spirits manufacturer" means a  
22 distiller, winery, importer or broker that has designated a wine and  
23 spirits wholesaler to distribute one or more of its products to  
24 retailers within the state;

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

2        ~~17.~~ 18. "Distiller" means any person who produces spirits from  
3 any source or substance, or any person who brews or makes mash, wort  
4 or wash, fit for distillation or for the production of spirits  
5 (except a person making or using such material in the authorized  
6 production of wine or beer, or the production of vinegar by  
7 fermentation), or any person who by any process separates alcoholic  
8 spirits from any fermented substance, or any person who, making or  
9 keeping mash, wort or wash, has also in his or her possession or use  
10 a still;

11        ~~18.~~ 19. "Distributor agreement" means the written agreement  
12 between the distributor and manufacturer as set forth in Section 3-  
13 108 of this title;

14        ~~19.~~ 20. "Drug store" means a person primarily engaged in  
15 retailing prescription and nonprescription drugs and medicines;

16        ~~20.~~ 21. "Dual-strength beer" means a brand of beer that,  
17 immediately prior to the effective date of this act, was being sold  
18 and distributed in this state:

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

22            b.    as strong beer pursuant to the Alcoholic Beverage  
23                    Control Act in effect immediately prior to the  
24                    effective date of this act.

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

3 ~~21.~~ 22. "Fair market value" means the value in the subject  
4 territory covered by the written agreement with the distributor or  
5 wholesaler that would be determined in an arm's length transaction  
6 entered into without duress or threat of termination of the  
7 distributor's or wholesaler's rights and shall include all elements  
8 of value, including goodwill and going-concern value;

9 ~~22.~~ 23. "Good cause" means:

- 10 a. failure by the distributor to comply with the material  
11 and reasonable provisions of a written agreement or  
12 understanding with the manufacturer, or  
13 b. failure by the distributor to comply with the duty of  
14 good faith;

15 ~~23.~~ 24. "Good faith" means the duty of each party to any  
16 distributor agreement and all officers, employees or agents thereof  
17 to act with honesty in fact and within reasonable standards of fair  
18 dealing in the trade;

19 ~~24.~~ 25. "Grocery store" means a person primarily engaged in  
20 retailing a general line of food, such as canned or frozen foods,  
21 fresh fruits and vegetables, and fresh and prepared meats, fish and  
22 poultry;

23 ~~25.~~ 26. "Hotel" or "motel" means an establishment which is  
24 licensed to sell alcoholic beverages by the individual drink and

1 which contains guestroom accommodations with respect to which the  
2 predominant relationship existing between the occupants thereof and  
3 the owner or operator of the establishment is that of innkeeper and  
4 guest. For purposes of this section, the existence of other legal  
5 relationships as between some occupants and the owner or operator  
6 thereof shall be immaterial;

7 ~~26.~~ 27. "Legal newspaper" means a newspaper meeting the  
8 requisites of a newspaper for publication of legal notices as  
9 prescribed in Sections 101 through 114 of Title 25 of the Oklahoma  
10 Statutes;

11 ~~27.~~ 28. "Licensee" means any person holding a license under the  
12 Oklahoma Alcoholic Beverage Control Act, and any agent, servant or  
13 employee of such licensee while in the performance of any act or  
14 duty in connection with the licensed business or on the licensed  
15 premises;

16 ~~28.~~ 29. "Low-point beer" shall mean any beverages containing  
17 more than one-half of one percent (1/2 of 1%) alcohol by volume, and  
18 not more than three and two-tenths percent (3.2%) alcohol by weight,  
19 including but not limited to, beer or cereal malt beverages obtained  
20 by the alcoholic fermentation of an infusion by barley or other  
21 grain, malt or similar products;

22 ~~29.~~ 30. "Manufacturer" means a brewer, distiller, winemaker,  
23 rectifier or bottler of any alcoholic beverage and its subsidiaries,  
24 affiliates and parent companies;

1       ~~30.~~ 31. "Manufacturer's agent" means a salaried or commissioned  
2 salesperson who is the agent authorized to act on behalf of the  
3 manufacturer or nonresident seller in the state;

4       ~~31.~~ 32. "Meals" means foods commonly ordered at lunch or dinner  
5 and at least part of which is cooked on the licensed premises and  
6 requires the use of dining implements for consumption. Provided,  
7 that the service of only food such as appetizers, sandwiches, salads  
8 or desserts shall not be considered "meals";

9       ~~32.~~ 33. "Mini-bar" means a closed container, either  
10 refrigerated in whole or in part, or nonrefrigerated, and access to  
11 the interior of which is:

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

15       ~~33.~~ 34. "Mixed beverage cooler" means any beverage, by whatever  
16 name designated, consisting of an alcoholic beverage and fruit or  
17 vegetable juice, fruit or vegetable flavorings, dairy products or  
18 carbonated water containing more than one-half of one percent (1/2  
19 of 1%) of alcohol measured by volume but not more than seven percent  
20 (7%) alcohol by volume at sixty (60) degrees Fahrenheit and which is  
21 packaged in a container not larger than three hundred seventy-five  
22 (375) milliliters. Such term shall include but not be limited to  
23 the beverage popularly known as a "wine cooler";

1       ~~34.~~ 35. "Mixed beverages" means one or more servings of a  
2 beverage composed in whole or part of an alcoholic beverage in a  
3 sealed or unsealed container of any legal size for consumption on  
4 the premises where served or sold by the holder of a mixed beverage,  
5 beer and wine, caterer, public event, charitable event or special  
6 event license;

7       ~~35.~~ 36. "Motion picture theater" means an establishment which  
8 is licensed by Section 2-110 of this title to sell alcoholic  
9 beverages by the individual drink and where motion pictures are  
10 exhibited, and to which the general public is admitted;

11       ~~36.~~ 37. "Nonresident seller" means ~~any person licensed a~~  
12 distiller, winery, importer or broker that has not designated a wine  
13 and spirits wholesaler pursuant to Section 2-135 of this title;

14       ~~37.~~ 38. "Retail salesperson" means a salesperson soliciting  
15 orders from and calling upon retail alcoholic beverage stores with  
16 regard to his or her product;

17       ~~38.~~ 39. "Occupation" as used in connection with "occupation  
18 tax" means the sites occupied as the places of business of the  
19 manufacturers, wholesalers, beer distributors, retailers, mixed  
20 beverage licensees, on-premises beer and wine licensees, bottle  
21 clubs, caterers, public event and special event licensees;

22       ~~39.~~ 40. "Original package" means any container of alcoholic  
23 beverage filled and stamped or sealed by the manufacturer;

1       ~~40.~~ 41. "Package store" means any sole proprietor or  
2 partnership that qualifies to sell wine, beer and/or spirits for  
3 off-premise consumption and that is not a grocery store, convenience  
4 store or drug store, or other retail outlet that is not permitted to  
5 sell wine or beer for off-premise consumption;

6       ~~41.~~ 42. "Patron" means any person, customer or visitor who is  
7 not employed by a licensee or who is not a licensee;

8       ~~42.~~ 43. "Person" means an individual, any type of partnership,  
9 corporation, association, limited liability company or any  
10 individual involved in the legal structure of any such business  
11 entity;

12       ~~43.~~ 44. "Premises" means the grounds and all buildings and  
13 appurtenances pertaining to the grounds including any adjacent  
14 premises if under the direct or indirect control of the licensee and  
15 the rooms and equipment under the control of the licensee and used  
16 in connection with or in furtherance of the business covered by a  
17 license. Provided that the ABLE Commission shall have the authority  
18 to designate areas to be excluded from the licensed premises solely  
19 for the purpose of:

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

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

4 ~~44.~~ 45. "Private event" means a social gathering or event  
5 attended by invited guests who share a common cause, membership,  
6 business or task and have a prior established relationship. For  
7 purposes of this definition, advertisement for general public  
8 attendance or sales of tickets to the general public shall not  
9 constitute a private event;

10 ~~45.~~ 46. "Public event" means any event that can be attended by  
11 the general public;

12 ~~46.~~ 47. "Rectifier" means any person who rectifies, purifies or  
13 refines spirits or wines by any process (other than by original and  
14 continuous distillation, or original and continuous processing, from  
15 mash, wort, wash or other substance, through continuous closed  
16 vessels and pipes, until the production thereof is complete), and  
17 any person who, without rectifying, purifying or refining spirits,  
18 shall by mixing (except for immediate consumption on the premises  
19 where mixed) such spirits, wine or other liquor with any material,  
20 manufactures any spurious, imitation or compound liquors for sale,  
21 under the name of whiskey, brandy, rum, gin, wine, spirits, cordials  
22 or any other name;

23 ~~47.~~ 48. "Regulation" or "rule" means a formal rule of general  
24 application promulgated by the ABLE Commission as herein required;

1       ~~48.~~ 49. "Restaurant" means an establishment that is licensed to  
2 sell alcoholic beverages by the individual drink for on-premises  
3 consumption and where food is prepared and sold for immediate  
4 consumption on the premises;

5       ~~49.~~ 50. "Retail container for spirits and wines" means an  
6 original package of any capacity approved by the United States  
7 Bureau of Alcohol, Tobacco and Firearms;

8       ~~50.~~ 51. "Retailer" means a package store, grocery store,  
9 convenience store or drug store licensed to sell alcoholic beverages  
10 for off-premise consumption pursuant to a Retail Spirits License,  
11 Retail Wine License or Retail Beer License;

12       ~~51.~~ 52. "Sale" means any transfer, exchange or barter in any  
13 manner or by any means whatsoever, and includes and means all sales  
14 made by any person, whether as principal, proprietor or as an agent,  
15 servant or employee. The term "sale" is also declared to be and  
16 include the use or consumption in this state of any alcoholic  
17 beverage obtained within or imported from without this state, upon  
18 which the excise tax levied by the Oklahoma Alcoholic Beverage  
19 Control Act has not been paid or exempted;

20       ~~52.~~ 53. "Short-order food" means food other than full meals  
21 including but not limited to sandwiches, soups and salads. Provided  
22 that popcorn, chips and other similar snack food shall not be  
23 considered "short-order food";

24

1       ~~53.~~ 54. "Small brewer" means a brewer who manufactures less  
2 than twenty-five thousand (25,000) barrels of beer annually pursuant  
3 to a validly issued Small Brewer License hereunder;

4       ~~54.~~ 55. "Small farm wine" means a wine that is produced by a  
5 small farm winery with seventy-five percent (75%) or more Oklahoma-  
6 grown grapes, berries, other fruits, honey or vegetables;

7       ~~55.~~ 56. "Small farm winery" means a wine-making establishment  
8 that does not annually produce for sale more than fifteen thousand  
9 (15,000) gallons of wine as reported on the United States Department  
10 of the Treasury, Alcohol and Tobacco Tax and Trade Bureau, Report of  
11 Wine Premises Operations (TTB Form 5120.17);

12       ~~56.~~ 57. "Sparkling wine" means champagne or any artificially  
13 carbonated wine;

14       ~~57.~~ 58. "Special event" means an entertainment, recreation or  
15 marketing event that occurs at a single location on an irregular  
16 basis and at which alcoholic beverages are sold;

17       ~~58.~~ 59. "Spirits" means any beverage other than wine or beer,  
18 which contains more than one-half of one percent (1/2 of 1%) alcohol  
19 measured by volume, and obtained by distillation, whether or not  
20 mixed with other substances in solution and includes those products  
21 known as whiskey, brandy, rum, gin, vodka, liqueurs, cordials and  
22 fortified wines and similar compounds, but shall not include any  
23 alcohol liquid completely denatured in accordance with the Acts of  
24 Congress and regulations pursuant thereto;

1       ~~59.~~ 60. "Strong beer" means beer which, prior to the effective  
2 date of this act, was distributed pursuant to the Oklahoma Alcoholic  
3 Beverage Control Act, Section 501 et seq. of Title 37 of the  
4 Oklahoma Statutes;

5       ~~60.~~ 61. "Successor manufacturer" means a primary source of  
6 supply, a brewer or an importer that acquires rights to a beer brand  
7 from a predecessor manufacturer;

8       ~~61.~~ 62. "Tax Commission" means the Oklahoma Tax Commission;

9       ~~62.~~ 63. "Territory" means a geographic region with a specified  
10 boundary;

11       ~~63.~~ 64. "Wine and spirits wholesaler" or "wine and spirits  
12 distributor" means and includes any sole proprietorship or  
13 partnership licensed to distribute wine and spirits in the state.  
14 The term "wholesaler", as used in this act, shall be construed to  
15 refer to a wine and spirits wholesaler; and

16       ~~64.~~ 65. "Wine" means and includes any beverage containing more  
17 than one-half of one percent (1/2 of 1%) alcohol by volume and not  
18 more than twenty-four percent (24%) alcohol by volume at sixty (60)  
19 degrees Fahrenheit obtained by the fermentation of the natural  
20 contents of fruits, vegetables, honey, milk or other products  
21 containing sugar, whether or not other ingredients are added, and  
22 includes vermouth and sake, known as Japanese rice wine.

23

24

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

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

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

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

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

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

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

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

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

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

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

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

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

10 3. An interim license shall allow all qualified wine and  
11 spirits wholesalers and beer distributors to perform all activities  
12 permissible under a full license including but not limited to  
13 selling and delivering wine and/or full-strength beer to all  
14 qualified retail wine and retail beer licensees. A wine and spirits  
15 wholesaler that has been designated by a manufacturer as a  
16 distributor of its wine or spirits may post those designated  
17 products by line-item, consistent with Section 3-116.2 of this  
18 title, on September 15, 2018, for sale effective October 1, 2018.

19 In order to qualify for an interim license, the wine and spirits  
20 wholesaler and beer distributor must comply with the provisions set  
21 forth in Article XXVIII A of the Oklahoma Constitution and this act.  
22 The interim license shall convert to a full license on October 1,  
23 2018.

24

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

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

5            b.    the beer distributor either must be assigned a beer  
6 distributor territory by the manufacturer pursuant to  
7 a distributor agreement to begin October 1, 2018, or  
8 be a brewer or an affiliate of a brewer that will be  
9 permitted to distribute beer within two territories  
10 pursuant to the provisions of subsection E of Section  
11 3-108 of ~~the~~ this title, and

12           c.    the interim license only permits sales to retailers by  
13 the interim licensee either in the distribution  
14 territory as set forth in the distributor agreement or  
15 in the two territories permitted pursuant to the  
16 provisions of subsection E of Section 3-108 of this  
17 title.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

24

- 1       6. Retail Spirits License for cities and towns
- 2             from 200 to 2,500 population..... \$150.00
- 3       7. Retail Wine License..... \$250.00
- 4       8. Retail Beer License..... \$250.00
- 5       9. Mixed Beverage License..... \$25.00
- 6       10. Mixed Beverage/Caterer Combination License..... \$25.00
- 7       11. Caterer License..... \$25.00
- 8       12. On-Premises Beer and Wine License..... \$25.00
- 9       13. Annual Public Event License..... \$25.00
- 10       14. Small Farm Winery License..... \$25.00
- 11       15. Small Brewer License..... \$35.00
- 12       16. Designating Wine and Spirits Manufacturer's License:
- 13             a. 50 cases or less sold in Oklahoma in
- 14                 last calendar year..... \$125.00
- 15             b. 51 to 500 cases sold in Oklahoma in
- 16                 last calendar year..... \$250.00
- 17             c. 501 cases or more sold in Oklahoma in
- 18                 last calendar year..... \$375.00

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

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

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

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

23       this title.

24

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

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

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

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

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

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

21 4. To sell in retail containers in this state to retailers,  
22 mixed beverage, caterer, special event, public event, hotel beverage  
23 or airline/railroad beverage licensees, spirits and wines which have  
24

1 | been received and unloaded at the bonded warehouse facilities of the  
2 | wholesaler before such sale;

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

7 |       6. To sell spirits and wines out of this state to qualified  
8 | persons.

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

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

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

22 |       1. Transport wine, spirits and beer in vehicles owned, leased  
23 | or operated by the wholesaler, a subsidiary of the wholesaler, or  
24 | its agent, in addition to any nonalcoholic items. Provided, if the

1 wholesaler transports beer, a valid beer distributor license must be  
2 maintained by the wholesaler or affiliated entity having common  
3 ownership with the licensed wholesaler;

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

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

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

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

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

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

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

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

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

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

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

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

23 B. A brewer not licensed in this state selling beer to a  
24 ~~nonresident seller~~ beer distributor shall have a written

1 distribution sales agreement with the ~~nonresident seller~~ beer  
2 distributor. Such agreement shall be subject to inspection by the  
3 ABLE Commission.

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

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

23 E. The holder of a manufacturer's license, designating wine and  
24 spirits manufacturer's license or nonresident seller license shall,

1 promptly upon consignment of any alcoholic beverages to an importer  
2 in Oklahoma, forward to the ABLE Commission a true copy of the  
3 invoice, bill of lading or other document as the ABLE Commission may  
4 by rule prescribe, showing the details of such shipment.

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

1 price without regard to current posted prices; provided, the total  
2 of the lots sold by the wholesaler or beer distributor shall not  
3 exceed four (4) lots.

4 SECTION 12. AMENDATORY Section 48, Chapter 366, O.S.L.  
5 2016 (37A O.S. Supp. 2017, Section 2-136), is amended to read as  
6 follows:

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

23  
24

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

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

- 9 1. Violated any rule promulgated by the ABLE Commission;
- 10 2. Procured a license through fraud, or misrepresentation, or  
11 concealment of a material fact;
- 12 3. Made any false representation or statement to the ABLE  
13 Commission or the Oklahoma Tax Commission in order to prevent or  
14 induce action by the ABLE Commission or the Tax Commission;
- 15 4. Maintained an unsanitary establishment or has supplied  
16 impure or otherwise deleterious beverages or food;
- 17 5. Stored, possessed, mixed or served on the premises of a  
18 bottle club any alcoholic beverage upon which the tax levied by  
19 Section ~~404~~ 5-101 of this ~~act~~ title has not been paid as provided  
20 for in the Oklahoma Alcoholic Beverage Control Act, in a county of  
21 this state where the sale of alcoholic beverages by the individual  
22 drink for on-premises consumption has not been authorized;
- 23 6. Misrepresented to a customer or the public any alcoholic  
24 beverage sold by the licensee;

1 7. Had any permit or license issued by the Tax Commission and  
2 required by the Oklahoma Alcoholic Beverage Control Act, suspended  
3 or revoked by the Tax Commission; or

4 8. Is not in compliance with the tax laws of this state as  
5 required in Article XXVIII A of the Oklahoma Constitution.

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

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

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

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

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

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

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

23 ~~7.~~ 6. Is not in compliance with the tax laws of this state as  
24 required in Article XXVIII A of the Oklahoma Constitution.

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

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

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

13 2. That the licensee, any general or limited partner of the  
14 licensee, or in the case of a corporation, an officer or director of  
15 the corporation, has been convicted of a felony or is not in  
16 compliance with the tax laws of this state as required in Article  
17 XXVIII A of the Oklahoma Constitution;

18 3. That, in the case of a wine and spirits wholesaler, beer  
19 distributor, retail spirits, retail wine or retail beer licensee,  
20 the holder of the license or any member of a general or limited  
21 partnership which is the holder of such a license, has been  
22 convicted of a prohibitory law relating to the sale, manufacture or  
23 transportation of alcoholic beverages which constitutes a felony.

24

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

7 ~~F.~~ The ABLE Commission shall have the authority to promulgate  
8 rules to establish a penalty schedule for violations of any  
9 provision of the Oklahoma Alcoholic Beverage Control Act or any rule  
10 of the ABLE Commission. The schedule shall provide for suspension  
11 or revocation of any license for major and minor violations as  
12 determined by the ABLE Commission. Penalties shall be increasingly  
13 severe with each violation by a licensee.

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

19 ~~G.~~ F. The ABLE Commission or the Tax Commission may impose a  
20 monetary penalty in lieu of or in addition to suspension of a  
21 license. The amount of the fine for a major violation shall be  
22 computed by multiplying the proposed number of days of the  
23 suspension period by One Hundred Dollars (\$100.00). The amount of  
24 the fine for a minor violation shall be computed by multiplying the

1 number of days of the proposed suspension period by Fifty Dollars  
2 (\$50.00).

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

6 ~~F.~~ H. If the ABLE Commission or the Tax Commission finds that  
7 public health, safety or welfare require emergency action, and  
8 incorporates a finding to that effect in its order, summary  
9 suspension of a license may be ordered pending proceeding for  
10 revocation or other action, pursuant to the provisions of Section  
11 314 of Title 75 of the Oklahoma Statutes.

12 SECTION 14. AMENDATORY Section 79, Chapter 366, O.S.L.  
13 2016 (37A O.S. Supp. 2017, Section 3-109), is amended to read as  
14 follows:

15 Section 3-109. In order to regulate distribution of beer in  
16 this state and assure collection of all applicable taxes and fees,  
17 all beer sold in this state by a licensed distributor shall only be  
18 transported within this state to the licensed address and location  
19 of a licensed retailer or between the licensed addresses and  
20 locations of licensed retailers ~~by a marked conveyance owned or~~  
21 ~~leased by a licensed distributor~~ in the manner as permitted by law.

22 SECTION 15. AMENDATORY Section 80, Chapter 366, O.S.L.  
23 2016, as amended by Section 15, Chapter 364, O.S.L. 2017 (37A O.S.  
24 Supp. 2017, Section 3-110), is amended to read as follows:

1 Section 3-110. A. A licensed distributor designated as the  
2 licensed distributor for a beer brand within a designated sales  
3 territory shall present that beer brand for sale to all on-premise  
4 licensees on the same price basis and without discrimination and to  
5 all off-premise licensees on the same price basis within a  
6 particular county and without discrimination. A licensed  
7 distributor shall not sell, supply or deliver, either directly or  
8 indirectly through a third party, a beer brand to a licensed  
9 retailer outside of the designated sales territory of the designated  
10 distributor nor to any person the licensed distributor has reason to  
11 believe will sell or supply any quantity of the beer brand to any  
12 retail location outside of the designated sales territory of the  
13 designated distributor.

14 B. All beer shall only be transported by:

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

16 a. the licensed beer distributor and operated by the  
17 licensed beer distributor or an employee of the beer  
18 distributor ~~for~~, or

19 b. a licensed wine and spirits wholesaler having common  
20 ownership with the licensed beer distributor and  
21 operated by the commonly owned wine and spirits  
22 wholesaler or an employee of the commonly owned wine  
23 and spirits wholesaler; and

24

1        2. For the products of a licensed manufacturer within the  
2 designated sales territory to the address and location of a licensed  
3 retailer within that designated sales territory.

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

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

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

19        SECTION 16.        AMENDATORY        Section 86, Chapter 366, O.S.L.  
20 2016, as amended by Section 17, Chapter 364, O.S.L. 2017 (37A O.S.  
21 Supp. 2017, Section 3-116), is amended to read as follows:

22        Section 3-116. A. 1. Any manufacturer or subsidiary of a  
23 manufacturer who markets its products solely through a subsidiary or  
24 subsidiaries, a distiller, rectifier, bottler, winemaker or importer

1 of alcoholic beverages, bottled or made in a foreign country, either  
2 within or without this state, may sell such brands or kinds of  
3 alcoholic beverages to every licensed wine and spirits wholesaler  
4 who desires to purchase the same, on the same price basis and  
5 without discrimination or inducements, and shall further be required  
6 to sell such beverages only to those persons licensed as wine and  
7 spirits wholesalers; or, that a manufacturer may designate a wine  
8 and spirits wholesaler to distribute its brands, hereafter referred  
9 to as a designating wine and spirits manufacturer.

10 2. A designating wine and spirits manufacturer may transfer the  
11 right to distribute its brands to a different wine and spirits  
12 wholesaler, provided the designating manufacturer provides the  
13 current designated wholesaler sixty (60) days written notice of its  
14 intent to transfer the brand. The parties may agree upon an earlier  
15 transfer date.

16 3. The designated wholesaler shall be the only person lawfully  
17 entitled to distribute the product as designated, consistent with  
18 the other provisions of this act, effective October 1, 2018.

19 B. The provisions of subsection A of this section shall not  
20 apply to a brewer.

21 C. No manufacturer shall require a wine and spirits wholesaler  
22 or beer distributor to purchase any alcoholic beverages or any  
23 goods, wares or merchandise as a condition to the wine and spirits  
24

1 wholesaler or beer distributor obtaining or being entitled to  
2 purchase any alcoholic beverages.

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

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

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

20 2. When a new item is registered, or an old item is  
21 discontinued, or any change is made by a manufacturer or nonresident  
22 seller as to price, age, proof, label or type of bottle of any item  
23 offered for sale in this state, such new item, discontinued item or  
24 change in price, age, proof, label or type of bottle of any item

1 shall be listed separately on the cover page of the price schedule  
2 and, in the case of prices changed, shall reflect both the old and  
3 the new price of the item changed. All new items and changes as to  
4 age, proof, label or type of bottle in which any item is offered for  
5 sale shall first be submitted in writing to the ABLE Commission for  
6 approval under such requirements as it may deem proper. Approval or  
7 disapproval of price changes shall not be required if filed in  
8 conformity with the provisions of this subsection.

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

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

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

24

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

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

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

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

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

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

5           8. This subsection shall not apply to a manufacturer that has  
6 designated a wine and spirits wholesaler to sell its product in the  
7 state.

8           SECTION 17.           AMENDATORY           Section 19, Chapter 364, O.S.L.  
9 2017 (37A O.S. Supp. 2017, Section 3-116.2), is amended to read as  
10 follows:

11           Section 3-116.2 A. In the event a manufacturer has designated  
12 a wine and spirits wholesaler to sell its product in the state, the  
13 wine and spirits wholesaler shall comply with the following posting  
14 requirements: The wine and spirits wholesaler shall submit its  
15 line-item price posting for that product no later than the fifteenth  
16 day of each month. If the fifteenth day of the month falls on a  
17 Saturday, Sunday or a holiday then the wine and spirits wholesaler  
18 shall submit its price posting on the next business day. The price  
19 posting submitted by the wine and spirits wholesaler shall list the  
20 line-item price, handling cost, transportation cost and any other  
21 costs that may be associated with the sale or delivery of that item.  
22 All prices shall become effective on the first business day of the  
23 month following posting and shall remain in effect and unchanged in  
24 one-month increments. No change or modification of the posted price

1 shall be permitted except upon written permission from the ABLE  
2 Commission based on good cause shown.

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

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

7 SECTION 18. AMENDATORY Section 98, Chapter 366, O.S.L.  
8 2016 (37A O.S. Supp. 2017, Section 4-101), is amended to read as  
9 follows:

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

20 B. All municipalities of this state may enact ordinances  
21 prohibiting or regulating nudity or drink solicitation in  
22 establishments licensed pursuant to the provisions of the Oklahoma  
23 Alcoholic Beverage Control Act.

24

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

5 SECTION 19. AMENDATORY Section 135, Chapter 366, O.S.L.  
6 2016, as amended by Section 23, Chapter 364, O.S.L. 2017 (37A O.S.  
7 Supp. 2017, Section 5-132), is amended to read as follows:

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

15 B. An application for registration of a brand label shall be  
16 filed by and fees paid by the manufacturer or brewer of the brand ~~if~~  
17 ~~the manufacturer or brewer is licensed by the ABLE Commission;~~  
18 ~~however, if the manufacturer is represented by a manufacturer's~~  
19 ~~agent, licensed nonresident seller,~~ The designated wine and  
20 spirits wholesaler, nonresident seller or beer distributor, ~~then the~~  
21 ~~manufacturer's agent, nonresident seller, wine and spirits~~  
22 ~~wholesaler or beer distributor shall~~ may submit each label for each  
23 product the designating wine and spirits manufacturer or brewer  
24 offers for sale in this state, along with payment of the brand

1 registration fee, on behalf of the manufacturer or brewer; provided,  
2 the manufacturer or brewer must fully reimburse the ~~manufacturer's~~  
3 ~~agent, licensed nonresident seller, wine and spirits~~ designated  
4 wholesaler or beer distributor for the cost of the brand  
5 registration fee within forty-five (45) days of the time the  
6 original brand registration fee is paid. Cordials and wines which  
7 differ only as to age or vintage year, as defined by such rules,  
8 shall be considered the same brand, and those that differ as to type  
9 or class may be considered the same brand by the ABLE Commission  
10 where consistent with the purposes of this section.

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

18 D. 1. The annual fee for registration of any brand label for  
19 spirits shall be Three Hundred Seventy-five Dollars (\$375.00). The  
20 annual fee for registration of any brand label for beer shall be Two  
21 Hundred Dollars (\$200.00). The annual fee for registration of any  
22 brand label for wine made in the United States, or for registration  
23 of any category of imported wine as defined by the Tax Commission,  
24

1 shall be Two Hundred Dollars (\$200.00). Beer manufactured in this  
2 state shall be exempt from brand label registration fees.

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

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

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

24

1 G. No private labels or control labels shall be approved for  
2 sale in this state.

3 SECTION 20. AMENDATORY Section 141, Chapter 366, O.S.L.  
4 2016 (37A O.S. Supp. 2017, Section 6-101), is amended to read as  
5 follows:

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

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

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

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

15 4. Import into this state, except as provided for in the  
16 Oklahoma Alcoholic Beverage Control Act, any alcoholic beverages;  
17 provided, that nothing herein shall prohibit the importation or  
18 possession for personal use of not more than one (1) liter of  
19 alcoholic beverages upon which the Oklahoma excise tax is  
20 delinquent;

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

23 6. Transport into, within or through this state more than one  
24 (1) liter of alcoholic beverages upon which the Oklahoma excise tax

1 has not been paid unless the person accompanying or in charge of the  
2 vehicle transporting same shall possess a true copy of a bill of  
3 lading, invoice, manifest or other document particularly identifying  
4 the alcoholic beverages being transported and showing the name and  
5 address of the consignor and consignee; provided, this prohibition  
6 shall not apply to the first one hundred eighty (180) liters of  
7 alcoholic beverages classified as household goods by military  
8 personnel, age twenty-one (21) or older, when entering Oklahoma from  
9 temporary active assignment outside the contiguous United States;

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

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

1           9. Forcibly resist lawful arrest, or by physical contact  
2 interfere with an investigation of any infringement of the Oklahoma  
3 Alcoholic Beverage Control Act or with any lawful search or seizure  
4 being made by a law enforcement officer or an employee of the ABLE  
5 Commission, when such person knows or should know that such acts are  
6 being performed by a state, county or municipal officer or employee  
7 of the ABLE Commission;

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

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

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

18           13. Knowingly and willfully permit any individual under twenty-  
19 one (21) years of age who is an invitee to the person's residence,  
20 any building, structure or room owned, occupied, leased or otherwise  
21 procured by the person or on any land owned, occupied, leased or  
22 otherwise procured by the person, to possess or consume any  
23 alcoholic beverage as defined by Section 3 of this act, any  
24

1 controlled dangerous substance as defined in the Uniform Controlled  
2 Dangerous Substances Act, or any combination thereof, in such place.

3 B. Except as provided for in subsection C of this section,  
4 punishment for violation of paragraph 13 of subsection A of this  
5 section shall be as follows:

6 1. Any person who is convicted of a violation of the provisions  
7 of paragraph 13 of subsection A of this section shall be deemed  
8 guilty of a misdemeanor for the first offense and be punished by a  
9 fine of not more than Five Hundred Dollars (\$500.00);

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

12 a. of paragraph 13 of subsection A of this section,

13 b. of the provisions of any law of another state  
14 prohibiting the offense provided for in paragraph 13  
15 of subsection A of this section, or

16 c. in a municipal criminal court of record for the  
17 violation of a municipal ordinance prohibiting the  
18 offense provided for in paragraph 13 of subsection A  
19 of this section,

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

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

24 a. of paragraph 13 of subsection A of this section,

1           b.    of the provisions of any law of another state  
2                    prohibiting the offense provided for in paragraph 13  
3                    of subsection A of this section, or

4           c.    in a municipal criminal court of record for the  
5                    violation of a municipal ordinance prohibiting the  
6                    offense provided for in paragraph 13 of subsection A  
7                    of this section, or

8           d.    ~~or~~ of any combination of two or more thereof,

9 shall be guilty of a felony and shall be punished by a fine of not  
10 more than Two Thousand Five Hundred Dollars (\$2,500.00), or by  
11 imprisonment in the custody of the Department of Corrections for not  
12 more than five (5) years, or by both such fine and imprisonment.

13           C.    Any person who violates paragraph 13 of subsection A of  
14 this section, and such actions cause great bodily injury or the  
15 death of a person, shall, in addition to any other penalty provided  
16 by law, be guilty of a felony, punishable by imprisonment in the  
17 custody of the Department of Corrections for not more than five (5)  
18 years, a fine of not less than Two Thousand Five Hundred Dollars  
19 (\$2,500.00) nor more than Five Thousand Dollars (\$5,000.00), or both  
20 such fine and imprisonment.

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

1 1. In any public place, or in or upon any passenger coach,  
2 streetcar, or in or upon any other vehicle commonly used for the  
3 transportation of passengers, or in or about any depot, platform,  
4 waiting station or room, drink or otherwise consume any intoxicating  
5 liquor unless authorized by this act, intoxicating substance or  
6 intoxicating compound of any kind, or inhale glue, paint or other  
7 intoxicating substance;

8 2. Be drunk or intoxicated in any public or private road, or in  
9 any passenger coach, streetcar or any public place or building, or  
10 at any public gathering, from drinking or consuming such  
11 intoxicating liquor, intoxicating substance or intoxicating compound  
12 or from inhalation of glue, paint or other intoxicating substance;  
13 or

14 3. Be drunk or intoxicated from any cause,  
15 shall be guilty of a misdemeanor, and upon conviction thereof shall  
16 be punished by a fine of not less than Ten Dollars (\$10.00), nor  
17 more than One Hundred Dollars (\$100.00) or by imprisonment for not  
18 less than five (5) days nor more than thirty (30) days or by both  
19 such fine and imprisonment.

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

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

- 1           1. Purchase or receive any alcoholic beverage other than from a  
2 person holding a wine and spirit wholesaler or beer distributor  
3 license issued pursuant to the Oklahoma Alcoholic Beverage Control  
4 Act; provided, a mixed beverage or on-premises beer and wine  
5 licensee whose premises are a restaurant may purchase wine produced  
6 at wineries in this state directly from a winemaker as provided in  
7 Section 2 of Article XXVIII A of the Oklahoma Constitution;
- 8           2. Transport alcoholic beverages from the place of purchase to  
9 the licensed premises unless the licensee also holds a private  
10 carrier license issued by the ABLE Commission;
- 11           3. Use or allow the use of any mark or label on a container of  
12 alcoholic beverage which is kept for sale which does not clearly and  
13 precisely indicate the nature of the contents or which might deceive  
14 or conceal the nature, composition, quantity, age or quality of such  
15 beverage;
- 16           4. Keep or knowingly permit any alcoholic beverage to be kept,  
17 brought or consumed on the licensed premises which is not allowed to  
18 be sold or served upon such premises; or
- 19           5. Allow any person under twenty-one (21) years of age to enter  
20 into, remain within or loiter about the designated bar area of the  
21 licensed premises, except for persons who incidentally pass through  
22 the designated area.

23  
24

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

4 a. if the licensed premises are closed to the public  
5 during a time the premises are legally permitted to be  
6 open for business and the premises are used for a  
7 private party at which alcoholic beverages may be  
8 served to persons twenty-one (21) years of age or  
9 older. Any alcoholic beverages served at a private  
10 party on the licensed premises may be purchased from  
11 the licensee at a negotiated price or purchased  
12 privately and served at the private party on the  
13 licensed premises. Any licensee who desires to  
14 conduct such a private party shall notify the ABLE  
15 Commission, in writing, at least ten (10) calendar  
16 days prior to the private party. The notification  
17 shall include the date, time and purpose of the  
18 private party and any other information the ABLE  
19 Commission may deem necessary, or

20 b. to a designated bar area which is a concessions stand  
21 serving beer ~~and~~, wine or spirits, in addition to food  
22 and nonalcoholic beverages, which concession stand is  
23 located at, in, or on the premises of a sports, music  
24

1 or entertainment venue, convention center, fairgrounds  
2 or similar facility.

3 SECTION 22. AMENDATORY Section 165, Chapter 366, O.S.L.  
4 2016 (37A O.S. Supp. 2017, Section 6-125), is amended to read as  
5 follows:

6 Section 6-125. ~~A.~~ Any person who shall violate any provision  
7 of the Oklahoma Alcoholic Beverage Control Act for which no specific  
8 administrative or civil penalty is prescribed shall be guilty of a  
9 misdemeanor and be fined not more than Five Hundred Dollars  
10 (\$500.00), or imprisoned in the county jail for not more than six  
11 (6) months, or by both such fine and imprisonment.

12 ~~B. Provided, however, notwithstanding any provision of law to~~  
13 ~~the contrary, any offense, including traffic offenses, in violation~~  
14 ~~of any of the provisions of the Oklahoma Alcoholic Beverage Control~~  
15 ~~Act which is not otherwise punishable by a term of imprisonment or~~  
16 ~~confinement shall be punishable by a term of imprisonment not to~~  
17 ~~exceed one day in the discretion of the court, in addition to any~~  
18 ~~fine prescribed by law.~~

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

22 SECTION 24. Section 17 of this act shall become effective  
23 September 1, 2018.



1 ENGROSSED SENATE  
2 BILL NO. 1173

By: David of the Senate

3 and

4 Hall of the House

5  
6 An Act relating to alcoholic beverages; amending  
7 Section 80, Chapter 366, O.S.L. 2016, as amended by  
8 Section 15, Chapter 364, O.S.L. 2017 (37A O.S. Supp.  
9 2017, Section 3-110), which relates to licensed beer  
10 distributor; removing requirement for certain person  
11 to operate certain conveyance; and providing an  
12 effective date.

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

14 SECTION 26. AMENDATORY Section 80, Chapter 366, O.S.L.  
15 2016, as amended by Section 15, Chapter 364, O.S.L. 2017 (37A O.S.  
16 Supp. 2017, Section 3-110), is amended to read as follows:

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

1 believe will sell or supply any quantity of the beer brand to any  
2 retail location outside of the designated sales territory of the  
3 designated distributor.

4 B. All beer shall only be transported by a marked conveyance  
5 owned or leased by the licensed distributor ~~and operated by the~~  
6 ~~licensed distributor or an employee of the distributor~~ for the  
7 products of a licensed manufacturer within the designated sales  
8 territory to the address and location of a licensed retailer within  
9 that designated sales territory.

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

14 D. With the approval of the licensed manufacturer, a licensed  
15 distributor may sell the designated brands to a licensed retailer  
16 located in a designated sales territory of another licensed  
17 distributor if that licensed distributor is temporarily unable for  
18 any reason to provide the designated brands of the licensed  
19 manufacturer within its designated sales territory.

20 E. All beer purchased by a licensed distributor for resale in  
21 this state shall physically come into the possession of the licensed  
22 distributor and be unloaded in and distributed from the licensed  
23 warehouses of the licensed distributor located in this state prior  
24 to being resold in this state.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

SECTION 27. This act shall become effective October 1, 2018.

Passed the Senate the 14th day of March, 2018.

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

Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
2018.

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