

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 CONFERENCE COMMITTEE SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL 1173

6 By: Bice of the Senate

7 and

8 Echols of the House

9 CONFERENCE COMMITTEE SUBSTITUTE

10 An Act relating to alcoholic beverages; amending 37
11 O.S. 2011, Section 573, which relates to brand
12 labels; amending Section 2, Chapter 366, O.S.L. 2016,
13 Section 3, Chapter 366, O.S.L. 2016, as amended by
14 Section 5, Chapter 381, O.S.L. 2017, Sections 4, 13
15 and 19, Chapter 366, O.S.L. 2016, as amended by
16 Sections 9, 10 and 11, Chapter 364, O.S.L. 2017,
17 Sections 32, 33, 37, 47, 48, 58 and 60, Chapter 366,
18 O.S.L. 2016, Section 78, Chapter 366, O.S.L. 2016, as
19 amended by Section 14, Chapter 364, O.S.L. 2017,
20 Sections 79, Chapter 366, O.S.L. 2016, Section 80,
21 Chapter 366, O.S.L. 2016, as amended by Section 15,
22 Chapter 364, O.S.L. 2017, Section 85, Chapter 366,
23 O.S.L. 2016, Section 86, Chapter 366, O.S.L. 2016, as
24 amended by Section 17, Chapter 364, O.S.L. 2017,
Section 19, Chapter 364, O.S.L. 2017, Sections 88 and
93, Chapter 366, O.S.L. 2016, Section 135, Chapter
366, O.S.L. 2016, as amended by Section 23, Chapter
364, O.S.L. 2017, Section 141, Chapter 366, O.S.L.
2016, Section 145, Chapter 366, O.S.L. 2016, as
amended by Section 2, Chapter 366, O.S.L. 2017,
Section 165, Chapter 366, O.S.L. 2016 (37A O.S. Supp.
2017, Sections 1-102, 1-103, 1-104, 2-101, 2-107, 2-
120, 2-121, 2-125, 2-135, 2-136, 2-146, 2-148, 3-108,
3-109, 3-110, 3-115, 3-116, 3-116.2, 3-118, 3-123, 5-
132, 6-101, 6-105 and 6-125), which relate to the
Oklahoma Alcoholic Beverage Control Act; amending 37
O.S. 2011, Section 521, as last amended by Section 4,
Chapter 381, O.S.L. 2017 (37 O.S. Supp. 2017, Section

1 521), which relates to acts authorized by various
2 licenses; modifying circumstances under which brand
3 registrations and fees may be transferred; correcting
4 statutory reference; defining terms; granting certain
5 authority to wine and spirits wholesaler; modifying
6 powers and duties of ABLE Commission; specifying
7 additional license fees; modifying fund to which
8 certain license fees deposited; modifying acts
9 authorized by wine and spirits wholesaler license,
10 wholesaler license, wholesaler's agent license,
11 employee license and bonded warehouse license,
12 modifying items that may be stored in bonded
13 warehouse with alcoholic beverages; requiring certain
14 persons to obtain certain type of license; modifying
15 acts authorized by manufacturer's license or
16 nonresident seller license; specifying acts
17 authorized by designating wine and spirits
18 manufacturer's license or nonresident seller license;
19 requiring brewer making certain sales to have written
20 distribution sales agreement; modifying licenses
21 which may be suspended or revoked by ABLE Commission;
22 modifying persons from whom certain licensees may
23 purchase or receive alcoholic beverages; providing
24 for expiration of certain licenses; requiring certain
documents to be forwarded to ABLE Commission;
modifying acts authorized by manufacturer's agent
license; modifying circumstances under which ABLE
Commission shall refuse to issue certain licenses;
allowing applicant for certain licenses to maintain
other licenses under certain conditions; allowing
certain license to be issued to limited liability
company or partnership; modifying acts for which ABLE
Commission may revoke or suspend certain licenses;
modifying entities subject to certain provisions
relating to sales of beer or cider; modifying manner
in which certain beer may be transported; modifying
provisions relating to withdrawal of beer or cider
from retail stock; allowing manufacturer to designate
wine and spirits wholesaler to distribute its brands;
specifying provisions applicable to designating wine
and spirits manufacturer; modifying effective date of
certain provisions; modifying price at which certain
alcoholic beverages may be sold at retail; modifying
acts deemed to be unlawful; modifying certain
authority of ABLE Commission; modifying acts in which
certain licensees permitted to engage in; modifying
provisions relating to ordinances which may be

1 enacted by municipalities; modifying provisions
2 applicable to application for registration of brand
3 label; providing for transferability of brand
4 registration and fee; modifying acts deemed to be
5 unlawful; modifying circumstances to which certain
6 prohibition not applicable; modifying offenses for
7 which person deemed guilty of misdemeanor; modifying
8 acts authorized; repealing 37 O.S 2011, Sections 521
9 as last amended by Section 26 of this act, and 573,
10 as last amended by Section 1 of this act, which
11 relate to certain authorized acts and registration
12 labels; providing effective dates; and declaring an
13 emergency.

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

SECTION 1. AMENDATORY 37 O.S. 2011, Section 573, is
amended to read as follows:

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

B. An application for registration of a brand label shall be
filed by the owner of the brand if such owner is licensed by the
ABLE Commission, however, if the owner is not licensed but is
represented by a licensed nonresident seller, the nonresident seller
licensee shall submit each label for each product he offers for sale
in this state. Cordials and wines which differ only as to age or

1 vintage year, as defined by such regulations, shall be considered
2 the same brand; and those that differ as to type or class may be
3 considered the same brand by the ABLE Commission where consistent
4 with the purposes of this section.

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

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

20 2. Each brand label registered and approved pursuant to this
21 section shall be valid for a term of up to one (1) year, expiring on
22 the June 30 next following registration, and may be renewed for
23 subsequent terms of one (1) year beginning on the July 1 following
24 the initial registration. Brand registration fees for labels

1 registered after July 1 may be prorated through the following June
2 30 on a quarterly basis. The brand registration fee shall not be
3 transferable, unless otherwise allowed by law. A nonresident seller
4 may transfer its brand registrations to the distiller, winery,
5 importer or broker that produces those brands, provided the
6 distiller, winery, importer or broker has obtained a designating
7 wine and spirits manufacturer's license or nonresident seller's
8 license, at no expense to the nonresident seller, distiller, winery,
9 importer or broker.

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

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

18 SECTION 2. AMENDATORY Section 2, Chapter 366, O.S.L.
19 2016 (37A O.S. Supp. 2017, Section 1-102), is amended to read as
20 follows:

21 Section 1-102. A. The purpose of the Oklahoma Alcoholic
22 Beverage Control Act is to implement the provisions of Article
23 ~~XVIII~~ XXVIIIA of the Oklahoma Constitution, as referred to the
24 people for their approval or rejection by the Secretary of State

1 pursuant to the provisions of Enrolled Senate Joint Resolution No.
2 68 of the 2nd Session of the 55th Oklahoma Legislature. The
3 Legislature hereby declares that the Oklahoma Alcoholic Beverage
4 Control Act is deemed to be a code, digest or revision of statutes
5 pursuant to the provisions of Section 57 of Article V of the
6 Oklahoma Constitution.

7 B. All alcoholic beverages as herein defined except alcohol
8 produced for use as a motor fuel under a permit issued by the
9 Oklahoma State Department of Agriculture, Food, and Forestry shall
10 be subject to the provisions of the Oklahoma Alcoholic Beverage
11 Control Act.

12 SECTION 3. AMENDATORY Section 3, Chapter 366, O.S.L.
13 2016, as amended by Section 5, Chapter 381, O.S.L. 2017 (37A O.S.
14 Supp. 2017, Section 1-103), is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

10 10. "Brand extension" means:

11 a. ~~after the effective date of this act~~ October 1, 2018,
12 any brand of beer introduced by a manufacturer in this
13 state which either:

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

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

19 b. any brand of beer that a manufacturer, the majority of
20 whose total volume of all brands of beer distributed
21 in this state by such manufacturer on January 1, 2016,
22 was distributed as low-point beer, desires to sell,
23 introduces, begins selling or theretofore has sold and
24

1 desires to continue selling a strong beer in this
2 state which either:

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

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

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

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

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

23 14. "Convenience store" means any person primarily engaged in
24 retailing a limited range of general household items and groceries,

1 with extended hours of operation, whether or not engaged in retail
2 sales of automotive fuels in combination with such sales;

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

8 16. "Designating wine and spirits manufacturer" means a
9 distiller, winery, importer or broker that has designated a wine and
10 spirits wholesaler to distribute one or more of its products to
11 retailers within the state;

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

13 ~~17.~~ 18. "Distiller" means any person who produces spirits from
14 any source or substance, or any person who brews or makes mash, wort
15 or wash, fit for distillation or for the production of spirits
16 (except a person making or using such material in the authorized
17 production of wine or beer, or the production of vinegar by
18 fermentation), or any person who by any process separates alcoholic
19 spirits from any fermented substance, or any person who, making or
20 keeping mash, wort or wash, has also in his or her possession or use
21 a still;

22 ~~18.~~ 19. "Distributor agreement" means the written agreement
23 between the distributor and manufacturer as set forth in Section 3-
24 108 of this title;

1 ~~19.~~ 20. "Drug store" means a person primarily engaged in
2 retailing prescription and nonprescription drugs and medicines;

3 ~~20.~~ 21. "Dual-strength beer" means a brand of beer that,
4 immediately prior to ~~the effective date of this act~~ October 1, 2018,
5 was being sold and distributed in this state:

6 a. as a low-point beer pursuant to the Low-Point Beer
7 Distribution Act in effect immediately prior to ~~the~~
8 ~~effective date of this act~~ October 1, 2018, and

9 b. as strong beer pursuant to the Alcoholic Beverage
10 Control Act in effect immediately prior to ~~the~~
11 ~~effective date of this act~~ October 1, 2018.

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

14 ~~21.~~ 22. "Fair market value" means the value in the subject
15 territory covered by the written agreement with the distributor or
16 wholesaler that would be determined in an arm's length transaction
17 entered into without duress or threat of termination of the
18 distributor's or wholesaler's rights and shall include all elements
19 of value, including goodwill and going-concern value;

20 ~~22.~~ 23. "Good cause" means:

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

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

3 ~~23.~~ 24. "Good faith" means the duty of each party to any
4 distributor agreement and all officers, employees or agents thereof
5 to act with honesty in fact and within reasonable standards of fair
6 dealing in the trade;

7 ~~24.~~ 25. "Grocery store" means a person primarily engaged in
8 retailing a general line of food, such as canned or frozen foods,
9 fresh fruits and vegetables, and fresh and prepared meats, fish and
10 poultry;

11 ~~25.~~ 26. "Hotel" or "motel" means an establishment which is
12 licensed to sell alcoholic beverages by the individual drink and
13 which contains guestroom accommodations with respect to which the
14 predominant relationship existing between the occupants thereof and
15 the owner or operator of the establishment is that of innkeeper and
16 guest. For purposes of this section, the existence of other legal
17 relationships as between some occupants and the owner or operator
18 thereof shall be immaterial;

19 ~~26.~~ 27. "Legal newspaper" means a newspaper meeting the
20 requisites of a newspaper for publication of legal notices as
21 prescribed in Sections 101 through 114 of Title 25 of the Oklahoma
22 Statutes;

23 ~~27.~~ 28. "Licensee" means any person holding a license under the
24 Oklahoma Alcoholic Beverage Control Act, and any agent, servant or

1 employee of such licensee while in the performance of any act or
2 duty in connection with the licensed business or on the licensed
3 premises;

4 ~~28.~~ 29. "Low-point beer" shall mean any beverages containing
5 more than one-half of one percent (1/2 of 1%) alcohol by volume, and
6 not more than three and two-tenths percent (3.2%) alcohol by weight,
7 including but not limited to, beer or cereal malt beverages obtained
8 by the alcoholic fermentation of an infusion by barley or other
9 grain, malt or similar products;

10 ~~29.~~ 30. "Manufacturer" means a brewer, distiller, winemaker,
11 rectifier or bottler of any alcoholic beverage and its subsidiaries,
12 affiliates and parent companies;

13 ~~30.~~ 31. "Manufacturer's agent" means a salaried or commissioned
14 salesperson who is the agent authorized to act on behalf of the
15 manufacturer or nonresident seller in the state;

16 ~~31.~~ 32. "Meals" means foods commonly ordered at lunch or dinner
17 and at least part of which is cooked on the licensed premises and
18 requires the use of dining implements for consumption. Provided,
19 that the service of only food such as appetizers, sandwiches, salads
20 or desserts shall not be considered "meals";

21 ~~32.~~ 33. "Mini-bar" means a closed container, either
22 refrigerated in whole or in part, or nonrefrigerated, and access to
23 the interior of which is:

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

4 ~~33.~~ 34. "Mixed beverage cooler" means any beverage, by whatever
5 name designated, consisting of an alcoholic beverage and fruit or
6 vegetable juice, fruit or vegetable flavorings, dairy products or
7 carbonated water containing more than one-half of one percent (1/2
8 of 1%) of alcohol measured by volume but not more than seven percent
9 (7%) alcohol by volume at sixty (60) degrees Fahrenheit and which is
10 packaged in a container not larger than three hundred seventy-five
11 (375) milliliters. Such term shall include but not be limited to
12 the beverage popularly known as a "wine cooler";

13 ~~34.~~ 35. "Mixed beverages" means one or more servings of a
14 beverage composed in whole or part of an alcoholic beverage in a
15 sealed or unsealed container of any legal size for consumption on
16 the premises where served or sold by the holder of a mixed beverage,
17 beer and wine, caterer, public event, charitable event or special
18 event license;

19 ~~35.~~ 36. "Motion picture theater" means an establishment which
20 is licensed by Section 2-110 of this title to sell alcoholic
21 beverages by the individual drink and where motion pictures are
22 exhibited, and to which the general public is admitted;

23 ~~36.~~ 37. "Nonresident seller" means any person licensed pursuant
24 to Section 2-135 of this title, but shall not include a distiller,

1 winery, importer or broker that has designated a wine and spirits
2 wholesaler pursuant to Section 2-135 of this title;

3 ~~37.~~ 38. "Retail salesperson" means a salesperson soliciting
4 orders from and calling upon retail alcoholic beverage stores with
5 regard to his or her product;

6 ~~38.~~ 39. "Occupation" as used in connection with "occupation
7 tax" means the sites occupied as the places of business of the
8 manufacturers, wholesalers, beer distributors, retailers, mixed
9 beverage licensees, on-premises beer and wine licensees, bottle
10 clubs, caterers, public event and special event licensees;

11 ~~39.~~ 40. "Original package" means any container of alcoholic
12 beverage filled and stamped or sealed by the manufacturer;

13 ~~40.~~ 41. "Package store" means any sole proprietor or
14 partnership that qualifies to sell wine, beer and/or spirits for
15 off-premise consumption and that is not a grocery store, convenience
16 store or drug store, or other retail outlet that is not permitted to
17 sell wine or beer for off-premise consumption;

18 ~~41.~~ 42. "Patron" means any person, customer or visitor who is
19 not employed by a licensee or who is not a licensee;

20 ~~42.~~ 43. "Person" means an individual, any type of partnership,
21 corporation, association, limited liability company or any
22 individual involved in the legal structure of any such business
23 entity;

1 ~~43.~~ 44. "Premises" means the grounds and all buildings and
2 appurtenances pertaining to the grounds including any adjacent
3 premises if under the direct or indirect control of the licensee and
4 the rooms and equipment under the control of the licensee and used
5 in connection with or in furtherance of the business covered by a
6 license. Provided that the ABLE Commission shall have the authority
7 to designate areas to be excluded from the licensed premises solely
8 for the purpose of:

- 9 a. allowing the presence and consumption of alcoholic
10 beverages by private parties which are closed to the
11 general public, or
- 12 b. allowing the services of a caterer serving alcoholic
13 beverages provided by a private party.

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

17 ~~44.~~ 45. "Private event" means a social gathering or event
18 attended by invited guests who share a common cause, membership,
19 business or task and have a prior established relationship. For
20 purposes of this definition, advertisement for general public
21 attendance or sales of tickets to the general public shall not
22 constitute a private event;

23 ~~45.~~ 46. "Public event" means any event that can be attended by
24 the general public;

1 ~~46.~~ 47. "Rectifier" means any person who rectifies, purifies or
2 refines spirits or wines by any process (other than by original and
3 continuous distillation, or original and continuous processing, from
4 mash, wort, wash or other substance, through continuous closed
5 vessels and pipes, until the production thereof is complete), and
6 any person who, without rectifying, purifying or refining spirits,
7 shall by mixing (except for immediate consumption on the premises
8 where mixed) such spirits, wine or other liquor with any material,
9 manufactures any spurious, imitation or compound liquors for sale,
10 under the name of whiskey, brandy, rum, gin, wine, spirits, cordials
11 or any other name;

12 ~~47.~~ 48. "Regulation" or "rule" means a formal rule of general
13 application promulgated by the ABLE Commission as herein required;

14 ~~48.~~ 49. "Restaurant" means an establishment that is licensed to
15 sell alcoholic beverages by the individual drink for on-premises
16 consumption and where food is prepared and sold for immediate
17 consumption on the premises;

18 ~~49.~~ 50. "Retail container for spirits and wines" means an
19 original package of any capacity approved by the United States
20 Bureau of Alcohol, Tobacco and Firearms;

21 ~~50.~~ 51. "Retailer" means a package store, grocery store,
22 convenience store or drug store licensed to sell alcoholic beverages
23 for off-premise consumption pursuant to a Retail Spirits License,
24 Retail Wine License or Retail Beer License;

1 ~~51.~~ 52. "Sale" means any transfer, exchange or barter in any
2 manner or by any means whatsoever, and includes and means all sales
3 made by any person, whether as principal, proprietor or as an agent,
4 servant or employee. The term "sale" is also declared to be and
5 include the use or consumption in this state of any alcoholic
6 beverage obtained within or imported from without this state, upon
7 which the excise tax levied by the Oklahoma Alcoholic Beverage
8 Control Act has not been paid or exempted;

9 ~~52.~~ 53. "Short-order food" means food other than full meals
10 including but not limited to sandwiches, soups and salads. Provided
11 that popcorn, chips and other similar snack food shall not be
12 considered "short-order food";

13 ~~53.~~ 54. "Small brewer" means a brewer who manufactures less
14 than twenty-five thousand (25,000) barrels of beer annually pursuant
15 to a validly issued Small Brewer License hereunder;

16 ~~54.~~ 55. "Small farm wine" means a wine that is produced by a
17 small farm winery with seventy-five percent (75%) or more Oklahoma-
18 grown grapes, berries, other fruits, honey or vegetables;

19 ~~55.~~ 56. "Small farm winery" means a wine-making establishment
20 that does not annually produce for sale more than fifteen thousand
21 (15,000) gallons of wine as reported on the United States Department
22 of the Treasury, Alcohol and Tobacco Tax and Trade Bureau, Report of
23 Wine Premises Operations (TTB Form 5120.17);

1 ~~56.~~ 57. "Sparkling wine" means champagne or any artificially
2 carbonated wine;

3 ~~57.~~ 58. "Special event" means an entertainment, recreation or
4 marketing event that occurs at a single location on an irregular
5 basis and at which alcoholic beverages are sold;

6 ~~58.~~ 59. "Spirits" means any beverage other than wine or beer,
7 which contains more than one-half of one percent (1/2 of 1%) alcohol
8 measured by volume, and obtained by distillation, whether or not
9 mixed with other substances in solution and includes those products
10 known as whiskey, brandy, rum, gin, vodka, liqueurs, cordials and
11 fortified wines and similar compounds, but shall not include any
12 alcohol liquid completely denatured in accordance with the Acts of
13 Congress and regulations pursuant thereto;

14 ~~59.~~ 60. "Strong beer" means beer which, prior to ~~the effective~~
15 ~~date of this act~~ October 1, 2018, was distributed pursuant to the
16 Oklahoma Alcoholic Beverage Control Act, Section 501 et seq. of
17 Title 37 of the Oklahoma Statutes;

18 ~~60.~~ 61. "Successor manufacturer" means a primary source of
19 supply, a brewer or an importer that acquires rights to a beer brand
20 from a predecessor manufacturer;

21 ~~61.~~ 62. "Tax Commission" means the Oklahoma Tax Commission;

22 ~~62.~~ 63. "Territory" means a geographic region with a specified
23 boundary;

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1 ~~63.~~ 64. "Wine and spirits wholesaler" or "wine and spirits
2 distributor" means and includes any sole proprietorship or
3 partnership licensed to distribute wine and spirits in the state.
4 The term "wholesaler", as used in ~~this act~~ the Oklahoma Alcoholic
5 Beverage Control Act, shall be construed to refer to a wine and
6 spirits wholesaler; and

7 ~~64.~~ 65. "Wine" means and includes any beverage containing more
8 than one-half of one percent (1/2 of 1%) alcohol by volume and not
9 more than twenty-four percent (24%) alcohol by volume at sixty (60)
10 degrees Fahrenheit obtained by the fermentation of the natural
11 contents of fruits, vegetables, honey, milk or other products
12 containing sugar, whether or not other ingredients are added, and
13 includes vermouth and sake, known as Japanese rice wine.

14 Words in the plural include the singular, and vice versa, and
15 words imparting the masculine gender include the feminine, as well
16 as persons and licensees as defined in this section.

17 SECTION 4. AMENDATORY Section 4, Chapter 366, O.S.L.
18 2016, as amended by Section 9, Chapter 364, O.S.L. 2017 (37A O.S.
19 Supp. 2017, Section 1-104), is amended to read as follows:

20 Section 1-104. A. The Alcoholic Beverage Laws Enforcement
21 Commission created in Section 1 of Article XXVIII of the Oklahoma
22 Constitution is hereby re-created. The purpose of the Commission
23 shall be to enforce the alcoholic beverage laws of the state, and
24 the Commission shall have such power and authority to enforce such

1 laws, rules and regulations as shall be prescribed by the Oklahoma
2 Alcoholic Beverage Control Act.

3 B. The Commission shall consist of seven (7) members, to be
4 appointed by the Governor with the advice and consent of the State
5 Senate; provided, members serving on October 1, 2017, shall continue
6 to serve until such time as their terms would have expired pursuant
7 to the provisions of Section 1 of Article XXVIII of the Oklahoma
8 Constitution. Five of the members shall be at-large members
9 representing the lay citizenry. The remaining two members shall be
10 persons with law enforcement experience in this state. Any time
11 there is a vacancy on the Commission, the Governor shall appoint a
12 replacement, with the advice and consent of the State Senate, within
13 ninety (90) days.

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

16 D. No more than four members of the Commission shall be
17 appointed from the same political party. No more than two members
18 of the Commission shall be appointed from the same federal
19 congressional district.

20 E. No member of the Commission shall hold any license
21 authorized by the Oklahoma Alcoholic Beverage Control Act, or have
22 any interest in any capacity, in the manufacture, sale, distribution
23 or transportation of alcoholic beverages.

24

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

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

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

11 1. Except for the sale of wine or beer to the public, an
12 interim license shall allow all qualified retail wine and retail
13 beer licensees to perform all activities permissible under a full
14 license including but not limited to purchasing, stocking and
15 storing the wine and/or full-strength beer prior to October 1, 2018.
16 In order to qualify for an interim license, the licensee must
17 satisfy all the requirements set forth in Article XXVIII A of the
18 Oklahoma Constitution and ~~this act~~ the Oklahoma Alcoholic Beverage
19 Control Act. ~~The~~ This interim license shall convert to a full
20 license on October 1, 2018;

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

1 3. An interim license shall allow all qualified wine and
2 spirits wholesalers and beer distributors to perform all activities
3 permissible under a full license including but not limited to
4 selling and delivering wine and/or full-strength beer to all
5 qualified retail wine and retail beer licensees. A wine and spirits
6 wholesaler that has been designated by a manufacturer as a
7 distributor of its wine or spirits may post those designated
8 products by line-item, consistent with Section 3-116.2 of this
9 title, on September 15, 2018, for sale effective October 1, 2018.
10 In order to qualify for an interim license, the wine and spirits
11 wholesaler and beer distributor must comply with the provisions set
12 forth in Article XXVIII A of the Oklahoma Constitution and ~~this act~~
13 the Oklahoma Alcoholic Beverage Control Act. The interim license
14 shall convert to a full license on October 1, 2018.

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

- 18 a. such sales may begin no sooner than September 1, 2018,
- 19 b. the beer distributor either must be assigned a beer
20 distributor territory by the manufacturer pursuant to
21 a distributor agreement to begin October 1, 2018, or
22 be a brewer or an affiliate of a brewer that will be
23 permitted to distribute beer within two territories

24

1 pursuant to the provisions of subsection E of Section
2 3-108 of ~~the~~ this title, and

3 c. the interim license only permits sales to retailers by
4 the interim licensee either in the distribution
5 territory as set forth in the distributor agreement or
6 in the two territories permitted pursuant to the
7 provisions of subsection E of Section 3-108 of this
8 title.

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

15 SECTION 5. 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. Distiller License..... | \$3,125.00 |
| 24 4. Winemaker License..... | \$625.00 |

- 1 5. Small Farm Winery License..... \$75.00
- 2 6. Rectifier License..... \$3,125.00
- 3 7. Wine and Spirits Wholesaler License..... \$3,000.00
- 4 8. Beer Distributor License..... \$750.00
- 5 9. The following retail spirits license fees shall be
- 6 determined by the latest Federal Decennial Census:
- 7 a. Retail Spirits License for cities and
- 8 towns from 200 to 2,500 population..... \$305.00
- 9 b. Retail Spirits License for cities and
- 10 towns from 2,501 to 5,000 population..... \$605.00
- 11 c. Retail Spirits License for cities and
- 12 towns over 5,000 population..... \$905.00
- 13 10. Retail Wine License..... \$1,000.00
- 14 11. Retail Beer License..... \$500.00
- 15 12. Mixed Beverage License..... \$1,005.00
- 16 (initial license)
- 17 \$905.00
- 18 (renewal)
- 19 13. Mixed Beverage/Caterer Combination License..... \$1,250.00
- 20 14. On-Premises Beer and Wine License..... \$500.00
- 21 (initial license)
- 22 \$450.00
- 23 (renewal)
- 24 15. Bottle Club License..... \$1,000.00

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 6. 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 7. 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 and/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 8. AMENDATORY Section 33, Chapter 366, O.S.L.
10 2016 (37A O.S. Supp. 2017, Section 2-121), is amended to read as
11 follows:

12 Section 2-121. An employee license shall authorize the holder
13 thereof to work in a licensed package store, retail spirits, retail
14 wine or retail beer establishment, brewpub, mixed beverage
15 establishment, beer and wine establishment, bottle club, public
16 event or any establishment where alcohol or alcoholic beverages are
17 sold, mixed or served. Persons employed by a mixed beverage, on-
18 premises beer and wine, retail wine, retail beer, public event or a
19 bottle club licensee who do not participate in the service, mixing
20 or sale of mixed beverages shall not be required to have an employee
21 license. Provided, however, that a manager employed by a mixed
22 beverage licensee, public event licensee or a bottle club shall be
23 required to have an employee license whether or not the manager
24 participates in the service, mixing or sale of mixed beverages.

1 Applicants for an employee license must be at least eighteen (18)
2 years of age and have a health card issued by the county in which
3 they are employed, if the county issues such a card; provided, the
4 provisions of this section shall not be construed to permit any
5 person under twenty-one (21) years of age to be employed to sell
6 spirits. Employees of a beer distributor, wine and spirits
7 wholesaler, special event, caterer, unless catering a mixed
8 beverage-licensed premise or airline/railroad beverage licensees
9 shall not be required to obtain an employee license. Persons
10 employed by a hotel licensee who participate in the stocking of
11 hotel room mini-bars or in the handling of alcoholic beverages to be
12 placed in such devices shall be required to have an employee
13 license. As a prerequisite to the issuance of an employee license,
14 the applicant shall be required to have successfully completed a
15 training program conducted by the ABLE Commission, or by another
16 entity approved by the ABLE Commission, including an in-house
17 training program conducted by the employer.

18 SECTION 9. AMENDATORY Section 37, Chapter 366, O.S.L.
19 2016 (37A O.S. Supp. 2017, Section 2-125), is amended to read as
20 follows:

21 Section 2-125. A bonded warehouse license shall authorize the
22 holder thereof to receive and store alcoholic beverages and
23 nonalcoholic beverages for the holders of storage licenses on the
24 licensed premises of the bonded warehouse licensee. No goods, wares

1 or merchandise other than alcoholic beverages and nonalcoholic
2 beverages may be stored in the same bonded warehouse with alcoholic
3 beverages. The holder of a bonded warehouse license shall furnish
4 and file with the ABLE Commission a bond running to all bailers of
5 alcoholic beverages under proper storage licenses and their
6 assignees (including mortgagees or other bona fide lienholders)
7 conditioned upon faithful performance of the terms and conditions of
8 such bailments.

9 SECTION 10. AMENDATORY Section 47, Chapter 366, O.S.L.
10 2016 (37A O.S. Supp. 2017, Section 2-135), is amended to read as
11 follows:

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

1 shall authorize the holder thereof to solicit and take orders for
2 beer from the holders of licenses authorized to import the same into
3 this state, and to ship or deliver, or cause to be shipped or
4 delivered, beer into Oklahoma pursuant to such sales.

5 A designating wine and spirits manufacturer's license or
6 nonresident seller license shall authorize the holder thereof to
7 solicit and take orders for ~~alcoholic beverages~~ wine and spirits
8 from the holders of Oklahoma wine and spirits wholesaler licenses
9 authorized to import the same into this state, and to ship or
10 deliver, or cause to be shipped or delivered, ~~alcoholic beverages~~
11 wine or spirits into Oklahoma pursuant to such sales.

12 B. A brewer not licensed in this state selling beer to a
13 nonresident seller shall have a written distribution sales agreement
14 with the nonresident seller. Such agreement shall be subject to
15 inspection by the ABLE Commission.

16 C. The ABLE Commission may, subject to the provisions of the
17 Oklahoma Alcoholic Beverage Control Act requiring notice and hearing
18 in the case of sanctions against holders of licenses, suspend or
19 revoke a manufacturer's license, designating wine and spirit
20 manufacturer's license, ~~or~~ nonresident seller license, or brewer's
21 license for any violation of the Oklahoma Alcoholic Beverage Control
22 Act by the holder thereof.

23 D. No licensee in this state authorized to import alcoholic
24 beverages into this state shall purchase or receive any alcoholic

1 beverages from without this state from any person not holding a
2 valid and existing manufacturer's license ~~or~~, designating wine and
3 spirit manufacturer's license, or nonresident seller license. Every
4 manufacturer's license ~~or~~, designating wine and spirits
5 manufacturer's license, or nonresident seller license shall expire
6 on the June 30 following its issuance or renewal, and shall be
7 eligible for subsequent renewal terms of one (1) year beginning on
8 the July 1 following each expiration. License fees for a new or
9 initial manufacturer's license or nonresident seller license applied
10 for after July 1 may be prorated through the following June 30 on a
11 quarterly basis.

12 E. The holder of a manufacturer's license, designating wine and
13 spirits manufacturer's license or nonresident seller license shall,
14 promptly upon consignment of any alcoholic beverages to an importer
15 in Oklahoma, forward to the ABLE Commission a true copy of the
16 invoice, bill of lading or other document as the ABLE Commission may
17 by rule prescribe, showing the details of such shipment.

18 F. Any person, not otherwise a dealer in alcoholic beverages,
19 coming into possession of any alcoholic beverages as security for or
20 in payment of a debt, or as an insurer or its transferee or assignee
21 for the salvage or liquidation of an insured casualty or damage or
22 loss, or as an executor, administrator, trustee or other fiduciary,
23 may sell the beverages in one lot or parcel to a duly licensed
24 wholesaler or beer distributor at an agreed-upon price without

1 regard to current posted prices. However, immediately after taking
2 possession of the alcoholic beverages, the person shall register
3 with the Director and furnish a detailed list of the alcoholic
4 beverages and post with the Director a bond in such amount as the
5 Director deems sufficient to protect the state from any taxes due on
6 the alcoholic beverages. The person shall pay to the Director a
7 registration fee of Fifty Dollars (\$50.00), which fee shall permit
8 the sale of only the alcoholic beverages detailed in the
9 registration request. A wholesaler or beer distributor receiving a
10 lot or parcel of alcoholic beverages pursuant to this subsection may
11 sell it in one lot or parcel or more than one lot or parcel to a
12 licensed package store or mixed beverage licensee or more than one
13 licensed package store or mixed beverage licensee at an agreed-upon
14 price without regard to current posted prices; provided, the total
15 of the lots sold by the wholesaler or beer distributor shall not
16 exceed four (4) lots.

17 SECTION 11. AMENDATORY Section 48, Chapter 366, O.S.L.
18 2016 (37A O.S. Supp. 2017, Section 2-136), is amended to read as
19 follows:

20 Section 2-136. A manufacturer's agent license shall authorize
21 the holder thereof to represent only the holders of a manufacturer's
22 license, designating wine and spirits manufacturer's license or
23 nonresident seller license and to solicit and take orders for the
24 sale of wine and spirits for the purpose of resale. No such license

1 shall be issued to any person until it shall have been shown to the
2 satisfaction of the ABLE Commission that the applicant has been duly
3 authorized to act as the agent of the principal he or she proposes
4 to represent, and that the principal or principals he or she
5 proposes to represent ~~has~~ have been duly authorized to do business
6 in the State of Oklahoma, and ~~has~~ have appointed a service agent in
7 this state. No applicant for a manufacturer's agent license shall
8 also hold ~~an~~ a wholesaler's agent license. It shall be unlawful for
9 any person other than the holder of a manufacturer's agent license
10 or ~~an~~ a wholesaler's agent license to solicit or take orders in the
11 state from a wine and spirits wholesaler ~~or beer distributor~~.

12 SECTION 12. AMENDATORY Section 58, Chapter 366, O.S.L.
13 2016 (37A O.S. Supp. 2017, Section 2-146), is amended to read as
14 follows:

15 Section 2-146. A. The ABLE Commission shall refuse to issue a
16 wine and spirits wholesaler, beer distributor, retail spirits,
17 retail wine or retail beer license, either on an original
18 application or a renewal application, if it has reasonable grounds
19 to believe and finds any of the following to be true:

20 1. Except in the case of a beer distributor, that the applicant
21 is not a citizen of the United States or is not a qualified elector
22 in this state, or has not been a continuous resident of this state
23 for the five (5) years next preceding the application for the
24 license;

1 2. That the applicant is under twenty-one (21) years of age;

2 3. That the applicant or any partner, or spouse of the
3 applicant or any partner, has been convicted of a felony;

4 4. That the applicant or any partner, or spouse of the
5 applicant or any partner, has been convicted of a violation of any
6 state or federal law relating to alcoholic beverages, has forfeited
7 a bond while any charge of such violation was pending, nor may any
8 license be granted for any purpose under the Oklahoma Alcoholic
9 Beverage Control Act to an Oklahoma resident, who has held or whose
10 spouse has held a Federal Liquor Stamp in Oklahoma before the
11 adoption of Article XXVIII A of the Oklahoma Constitution unless the
12 Liquor Stamp was granted for supplying alcoholic beverages to a
13 federal military installation, or was granted under the Oklahoma
14 Alcoholic Beverage Control Act;

15 5. That the applicant or any partner has, within twelve (12)
16 months next preceding the date of the application, violated any
17 provision of the Oklahoma Alcoholic Beverage Control Act or rule of
18 the ABLE Commission promulgated pursuant hereto. Provided, however,
19 that if the ABLE Commission has, during such twelve-month period,
20 suspended any license sought to be renewed, such renewal application
21 may be approved if the term of the suspension has been completed and
22 the applicant has complied with any special conditions imposed in
23 connection with the suspension;

1 6. That the applicant is not of good moral character, or that
2 the applicant is in the habit of using alcoholic beverages to
3 excess, or is mentally incapacitated. Provided, that the record in
4 any municipal court showing a conviction of violation of any
5 municipal ordinances or state statutes involving moral character or
6 public nuisance obtained after passage and approval of the Oklahoma
7 Alcoholic Beverage Control Act shall be received in evidence by the
8 ABLE Commission;

9 7. That the applicant does not own or have a written lease for
10 the premises for which a license is sought;

11 8. That the applicant, within twelve (12) months next preceding
12 the date of application, has been the holder of a license revoked
13 for cause;

14 9. That the applicant is not the real party in interest, or
15 intends to carry on the business authorized by the license as the
16 agent of another;

17 10. That the applicant, in the case of an application for
18 renewal of any license, would not be eligible for such license on a
19 first application;

20 11. That the applicant is a person who appoints or is a law
21 enforcement official or is an employee of the ABLE Commission;

22 12. That the proposed location of the licensed premises would
23 violate a valid municipal nondiscriminatory zoning ordinance;

24

1 13. That, in the case of an application for a wine and spirits
2 wholesaler license or beer distributor license, any manufacturer,
3 including an officer, director or principal stockholder thereof or
4 any partner, has any financial interest in the business to be
5 conducted under the license, unless otherwise permitted by law;

6 14. That the issuance of the license applied for would result
7 in a violation of any provision of the Oklahoma Alcoholic Beverage
8 Control Act;

9 15. That, in the case of an application for a wine and spirits
10 wholesaler or beer distributor license, the applicant or any
11 partner, or spouse of the applicant or any partner, is the holder or
12 partner of the holder of any other class of license issued under the
13 provisions of the Oklahoma Alcoholic Beverage Control Act, other
14 than an agent or employee license for employment by the applicant,
15 or a storage license, bonded warehouse license, carrier license or
16 private carrier license; provided, nothing shall prohibit a wine and
17 spirits wholesaler, who is otherwise qualified, from maintaining
18 beer distributor licenses in the state, nor a beer distributor, who
19 is otherwise qualified, from maintaining a wine and spirits
20 wholesaler license in the state;

21 16. That, in the case of an application for a retail spirits,
22 retail wine or retail beer license, the applicant or any partner is
23 the holder or partner of the holder, or employee of such holder of
24 any other class of license issued under the provisions of the

1 Oklahoma Alcoholic Beverage Control Act, other than a storage
2 license or an employee license for the proposed licensed premises of
3 the applicant, provided, nothing in this title shall prohibit an
4 applicant for a retail wine and/or retail beer license from
5 maintaining a separate mixed beverage, caterer, mixed
6 beverage/caterer combination license, and/or an on-premise beer and
7 wine license, if the retail wine and/or retail beer license is not
8 situated within or adjacent to the same physical space wherein the
9 on-premises license is maintained; or

10 17. That the applicant or any partner, spouse, employee or
11 other person affiliated with the applicant is not in compliance with
12 the tax laws of this state as required in Article XXVIII A of the
13 Oklahoma Constitution.

14 B. The provisions of this section shall not operate to prohibit
15 the issuance of a beer distributor license to a corporation or
16 partnership.

17 SECTION 13. AMENDATORY Section 60, Chapter 366, O.S.L.
18 2016 (37A O.S. Supp. 2017, Section 2-148), is amended to read as
19 follows:

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

- 1 1. Violated any rule promulgated by the ABLE Commission;
- 2 2. Procured a license through fraud, or misrepresentation, or
3 concealment of a material fact;
- 4 3. Made any false representation or statement to the ABLE
5 Commission or the Oklahoma Tax Commission in order to prevent or
6 induce action by the ABLE Commission or the Tax Commission;
- 7 4. Maintained an unsanitary establishment or has supplied
8 impure or otherwise deleterious beverages or food;
- 9 5. Stored, possessed, mixed or served on the premises of a
10 bottle club any alcoholic beverage upon which the tax levied by
11 Section ~~104~~ 5-101 of this ~~act~~ title has not been paid as provided
12 for in the Oklahoma Alcoholic Beverage Control Act, in a county of
13 this state where the sale of alcoholic beverages by the individual
14 drink for on-premises consumption has not been authorized;
- 15 6. Misrepresented to a customer or the public any alcoholic
16 beverage sold by the licensee;
- 17 7. Had any permit or license issued by the Tax Commission and
18 required by the Oklahoma Alcoholic Beverage Control Act, suspended
19 or revoked by the Tax Commission; or
- 20 8. Is not in compliance with the tax laws of this state as
21 required in Article XXVIII A of the Oklahoma Constitution.

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

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

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

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

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

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

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

15 ~~7.~~ 6. Is not in compliance with the tax laws of this state as
16 required in Article XXVIII A of the Oklahoma Constitution.

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

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

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

5 2. That the licensee, any general or limited partner of the
6 licensee, or in the case of a corporation, an officer or director of
7 the corporation, has been convicted of a felony or is not in
8 compliance with the tax laws of this state as required in Article
9 XXVIII A of the Oklahoma Constitution;

10 3. That, in the case of a wine and spirits wholesaler, beer
11 distributor, retail spirits, retail wine or retail beer licensee,
12 the holder of the license or any member of a general or limited
13 partnership which is the holder of such a license, has been
14 convicted of a prohibitory law relating to the sale, manufacture or
15 transportation of alcoholic beverages which constitutes a felony.

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

22 ~~F.~~ The ABLE Commission shall have the authority to promulgate
23 rules to establish a penalty schedule for violations of any
24 provision of the Oklahoma Alcoholic Beverage Control Act or any rule

1 of the ABLE Commission. The schedule shall provide for suspension
2 or revocation of any license for major and minor violations as
3 determined by the ABLE Commission. Penalties shall be increasingly
4 severe with each violation by a licensee.

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

10 ~~G.~~ F. The ABLE Commission or the Tax Commission may impose a
11 monetary penalty in lieu of or in addition to suspension of a
12 license. The amount of the fine for a major violation shall be
13 computed by multiplying the proposed number of days of the
14 suspension period by One Hundred Dollars (\$100.00). The amount of
15 the fine for a minor violation shall be computed by multiplying the
16 number of days of the proposed suspension period by Fifty Dollars
17 (\$50.00).

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

21 ~~I.~~ H. If the ABLE Commission or the Tax Commission finds that
22 public health, safety or welfare require emergency action, and
23 incorporates a finding to that effect in its order, summary
24 suspension of a license may be ordered pending proceeding for

1 revocation or other action, pursuant to the provisions of Section
2 314 of Title 75 of the Oklahoma Statutes.

3 SECTION 14. AMENDATORY Section 78, Chapter 366, O.S.L.
4 2016, as amended by Section 14, Chapter 364, O.S.L. 2017 (37A O.S.
5 Supp. 2017, Section 3-108), is amended to read as follows:

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

9 B. Subject to the provisions of subsection D of this section,
10 every ~~licensed~~ brewer or cider manufacturer authorized to sell its
11 beer or cider in this state shall:

12 1. Enter into a distributor agreement with a licensed
13 distributor, as defined herein, to sell the designated brands,
14 including brand extensions, of the brewer or cider manufacturer.
15 The agreement shall designate the sales territory of that licensed
16 distributor and the designated brands to be sold by the licensed
17 distributor. All such distributor agreements shall specifically
18 authorize this sale of the designated brands by a licensed
19 distributor within that sales territory. All such distributor
20 agreements shall further provide that the licensed manufacturer who
21 desires to sell a brand extension of a low-point beer in Oklahoma
22 must assign the low-point beer brand extension to the licensed
23 distributor to whom the licensed manufacturer granted the exclusive
24

1 sales territory to the low-point beer brand from which the brand
2 extension resulted;

3 2. Sell its registered and approved designated brands only to a
4 licensed distributor with whom that brewer or cider manufacturer has
5 a distributor agreement designating the sales territory of the
6 licensed distributor and the designated brands to be sold by the
7 licensed distributor;

8 3. Authorize only one licensed distributor for each designated
9 sales territory. Such licensed distributor shall be the only
10 licensed distributor for the designated brands of the authorizing
11 brewer or cider manufacturer within that designated sales territory;
12 and

13 4. Designate who is responsible for the distribution of its
14 designated brands.

15 C. Subject to the provisions of subsection D of this section,
16 any and all licensed distributors possessing the rights to
17 distribute a low-point beer brand in a specific territory prior to
18 the introduction of that low-point beer's correlating beer brand
19 extension in that specific territory shall retain the right to
20 distribute the low-point beer from which the brand extension
21 resulted.

22 D. 1. No later than August 2, 2018, a brewer shall assign the
23 exclusive right to distribute a beer brand, including brand
24 extensions thereof, to the low-point beer distributor who was, prior

1 to ~~the effective date of this act~~ October 1, 2018, assigned the
2 exclusive distribution rights to the low-point beer from which the
3 brand extension arose without charge or payment of compensation,
4 unless the low-point beer distributor is, on ~~the effective date of~~
5 ~~this act~~ October 1, 2018, a brewer of beer or low-point beer and has
6 therefore been distributing low-point beer pursuant to a license to
7 so distribute, subject to the provisions of subsection E of this
8 section. This subsection shall not apply to a small brewer as
9 defined in Section 1-103 of this title.

10 2. With respect to brand extensions which arise after October
11 1, 2018, the brewer or cider manufacturer shall assign the exclusive
12 right to distribute the brand extension to the distributor who has
13 been assigned the exclusive distribution rights to the beer or cider
14 from which the brand extension arose, without charge or payment of
15 compensation.

16 3. With respect to a brand of beer or cider which was, prior to
17 April 15, 2017, distributed in this state only as strong beer or
18 cider pursuant to the Alcoholic Beverage Control Act then in effect,
19 if a low-point version of the brand is introduced after April 15,
20 2017, no later than August 2, 2018, the brewer or cider manufacturer
21 shall assign the exclusive rights to distribute the low-point
22 version of the brand to the distributor who was, immediately prior
23 to the introduction of the low-point version of the brand, assigned
24

1 the exclusive distribution rights to the strong version of the brand
2 without charge or payment of compensation.

3 4. No later than August 2, 2018, with respect to dual strength
4 beer, the brewer thereof shall assign the exclusive right to
5 distribute the brands represented by the dual strength beer to
6 either the low-point beer distributor or the nonresident seller who
7 had theretofore been assigned the exclusive distribution rights in
8 the territory to either version of the dual strength beer; provided,
9 however, whichever party is selected by the brewer must compensate
10 the party that was not selected by the brewer for the loss of the
11 distribution rights with respect to that particular territory.
12 Whichever party is selected shall obtain the requisite distributor
13 license and shall be subject to the provisions of ~~this act~~ the
14 Oklahoma Alcoholic Beverage Control Act.

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

21 a. the diminished value of the distribution of one
22 version of beer as a consequence of the subsequent
23 introduction of the other version,

24

- 1 b. the expected annual sales and earnings of the
2 distributor agreement,
3 c. the length of time the existing distributor held in
4 the distribution sales agreement, and
5 d. any other relevant items of value, such as goodwill
6 and going concern.

7 E. If a brewer, whether directly or through an affiliate,
8 maintained one or more licenses to distribute low-point beer in this
9 state prior to ~~the effective date of this act~~ October 1, 2018, then
10 up to two of the brewer's low-point beer distribution licenses shall
11 automatically convert to beer distribution licenses upon ~~the~~
12 ~~effective date of this act~~ October 1, 2018, and such brewer shall be
13 permitted to continue to distribute beer in two territories within
14 which it currently distributes without the appointment of a
15 distributor for such period of time as determined by the Legislature
16 and consistent with the Constitution of the State of Oklahoma;
17 provided however, it shall not be permitted to distribute beer
18 outside of the territory unless it enters into a distributor
19 agreement with an independent licensed distributor as provided in
20 paragraph 1 of subsection B of this section. This section shall not
21 apply to small brewers that have elected to self-distribute.

22 SECTION 15. AMENDATORY Section 79, Chapter 366, O.S.L.
23 2016 (37A O.S. Supp. 2017, Section 3-109), is amended to read as
24 follows:

1 Section 3-109. In order to regulate distribution of beer in
2 this state and assure collection of all applicable taxes and fees,
3 all beer sold in this state by a licensed distributor shall only be
4 transported within this state to the licensed address and location
5 of a licensed retailer or between the licensed addresses and
6 locations of licensed retailers ~~by a marked conveyance owned or~~
7 ~~leased by a licensed distributor~~ in the manner as permitted by law.

8 SECTION 16. AMENDATORY Section 80, Chapter 366, O.S.L.
9 2016, as amended by Section 15, Chapter 364, O.S.L. 2017 (37A O.S.
10 Supp. 2017, Section 3-110), is amended to read as follows:

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

24 B. All beer shall only be transported ~~by:~~

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

2 a. the licensed beer distributor or holder of a small
3 beer self-distribution license and operated by the
4 licensed beer distributor, holder of a small beer
5 self-distribution license or an employee of ~~the~~
6 ~~distributor for~~ such, or

7 b. a licensed wine and spirits wholesaler having common
8 ownership with the licensed beer distributor and
9 operated by the commonly owned wine and spirits
10 wholesaler or an employee of the commonly owned wine
11 and spirits wholesaler; and

12 2. For the products of a licensed manufacturer within the
13 designated sales territory to the address and location of a licensed
14 retailer within that designated sales territory.

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

19 D. With the approval of the licensed manufacturer, a licensed
20 distributor may sell the designated brands to a licensed retailer
21 located in a designated sales territory of another licensed
22 distributor if that licensed distributor is temporarily unable for
23 any reason to provide the designated brands of the licensed
24 manufacturer within its designated sales territory.

1 E. All beer purchased by a licensed distributor for resale in
2 this state shall physically come into the possession of the licensed
3 distributor and be unloaded in and distributed from the licensed
4 warehouses of the licensed distributor located in this state prior
5 to being resold in this state.

6 SECTION 17. AMENDATORY Section 85, Chapter 366, O.S.L.
7 2016, (37A O.S. Supp. 2017, Section 3-115), is amended to read as
8 follows:

9 Section 3-115. A. To assure and control quality, a beer
10 distributor or a holder of a small brewer self-distribution license
11 or brewpub self-distribution license, at the time of a regular
12 delivery, may withdraw with the permission of the retailer, a
13 quantity of beer in undamaged original packaging from the retailer's
14 stock if:

15 1. The beer distributor or holder of a small brewer self-
16 distribution license or brewpub self-distribution license replaces
17 the stock with beer of identical, equivalent value as the beer
18 withdrawn; or

19 2. The stock is withdrawn before the date, or immediately after
20 the date, considered by the brewer of the product to be the date the
21 product becomes inappropriate for sale to a consumer.

22 B. The provisions of this section shall not apply to beer or
23 cider that:

24

1 1. Has suffered damage at the retail licensee's location. Beer
2 distributors, small brewer self-distributors and brewpub self-
3 distributors are prohibited from giving a refund for or replacing
4 beer or cider that was damaged while in the possession of the retail
5 licensee. Retail licensees are prohibited from requesting or
6 requiring the beer distributor, small brewer self-distributor and
7 brewpub self-distributor to remove such damaged product as a
8 condition of continued business with the retail licensee; and

9 2. Has a date for recommended use that expired prior to October
10 1, 2018, except as provided herein. Distributor agreements entered
11 into pursuant to this title may not require the beer distributor to
12 pick up any beer or cider in violation of this section. Beer
13 distributors are provided a grace period beginning September 1,
14 2018, and continuing up to and until October 31, 2018, during which
15 the beer distributor may elect to pick up beer or cider with a date
16 for recommended use that has expired or will expire prior to October
17 1, 2018. The beer distributor then may, at the beer distributor's
18 election:

19 a replace the withdrawn stock with beer of equal value,

20 or

21 b reimburse the retailer at the retailer's most recently
22 invoiced cost.

23 The brewer of the expired beer or cider may reimburse the beer
24 distributor for the quantities picked-up during this grace period at

1 either the beer distributor's laid-in cost of the inventory replaced
2 or at the cost equal to the amounts reimbursed to the retailer, as
3 applicable. Beer that expired prior to October 1, 2018, shall not
4 be included in any quality control audits pursuant to distributor
5 agreements entered into pursuant to this title. Retail licensees
6 and brewers are prohibited from requesting or requiring the beer
7 distributor, small brewer self-distributor and brewpub self-
8 distributor to remove such expired beer or cider as a condition of
9 continued business with the retail licensee or brewer.

10 C. A consignment sale of beer is not authorized under this
11 section.

12 D. A licensee acting in violation of this Section will be
13 subject to a suspension or termination of its license for such time
14 as the Director or ABLE Commission deems appropriate.

15 SECTION 18. AMENDATORY Section 86, Chapter 366, O.S.L.
16 2016, as amended by Section 17, Chapter 364, O.S.L. 2017 (37A O.S.
17 Supp. 2017, Section 3-116), is amended to read as follows:

18 Section 3-116. A. 1. Any manufacturer or subsidiary of a
19 manufacturer who markets its products solely through a subsidiary or
20 subsidiaries, a distiller, rectifier, bottler, winemaker or importer
21 of alcoholic beverages, bottled or made in a foreign country, either
22 within or without this state, may sell such brands or kinds of
23 alcoholic beverages to every licensed wine and spirits wholesaler
24 who desires to purchase the same, on the same price basis and

1 without discrimination or inducements, and shall further be required
2 to sell such beverages only to those persons licensed as wine and
3 spirits wholesalers, or that a manufacturer may designate a wine and
4 spirits wholesaler to distribute its brands, hereafter referred to
5 as a designating wine and spirits manufacturer.

6 2. A designating wine and spirits manufacturer may transfer the
7 right to distribute its brands to a different wine and spirits
8 wholesaler, provided the designating manufacturer provides the
9 current designated wholesaler thirty-day written notice of its
10 intent to transfer the brand. The parties may agree upon an earlier
11 transfer date.

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

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

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

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

24

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

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

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

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

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

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

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

20 4. No brand of alcoholic beverage shall be listed on a price
21 list or posting in more than one place, or offered for sale by more
22 than one method, or at more than one price, except as provided
23 hereafter:
24

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

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

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

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

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

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

4 SECTION 19. AMENDATORY Section 19, Chapter 364, O.S.L.
5 2017 (37A O.S. Supp. 2017, Section 3-116.2), is amended to read as
6 follows:

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

1 B. This section shall not apply unless a product has been
2 designated by a manufacturer for distribution by a single wine and
3 spirits wholesaler in the ~~state~~ State of Oklahoma.

4 SECTION 20. AMENDATORY Section 88, Chapter 366, O.S.L.
5 2016 (37A O.S. Supp. 2017, Section 3-118), is amended to read as
6 follows:

7 Section 3-118. No alcoholic beverages intended for off-premise
8 or on-premise consumption shall be sold at retail for less than a
9 six percent (6%) markup after calculation of permissible discounts
10 and coupons, unless the sale meets one or more of the following
11 conditions:

12 1. Where seasonable merchandise is sold in bona fide clearance
13 sales, if advertised, marked and sold as such;

14 2. Where merchandise is imperfect or damaged or is being
15 discontinued and is advertised, marked and sold as such;

16 3. Where merchandise is sold upon the final liquidation of any
17 business;

18 4. Where merchandise is sold for charitable purposes or to
19 relief agencies;

20 5. Where merchandise is sold on contract to departments of the
21 government or governmental institutions;

22 6. Where merchandise is sold by any officer acting under the
23 order or direction of any court; or

24 7. Where merchandise is sold at any bona fide auction sale.

1 SECTION 21. AMENDATORY Section 93, Chapter 366, O.S.L.
2 2016 (37A O.S. Supp. 2017, Section 3-123), is amended to read as
3 follows:

4 Section 3-123. A. It shall be unlawful for any person
5 privileged to sell alcoholic beverages to wholesalers or retailers:

6 1. To discriminate, directly or indirectly, in price between
7 one wine and spirits wholesaler and another wine and spirits
8 wholesaler, when that manufacturer has not designated a single wine
9 and spirits wholesaler, or between one retailer and another retailer
10 purchasing alcoholic beverages bearing the same brand or trade name
11 and of like age and quality; or

12 2. To grant, directly or indirectly, any discount, rebate, free
13 goods, allowance, instant redeemable coupon or other inducement,
14 except mail-in rebates for alcoholic beverages and non-alcoholic
15 beverage merchandise items, funded by the manufacturer and redeemed
16 by the manufacturer (by itself or through a third-party fulfillment
17 company) for a discount or rebate on the alcoholic beverage and non-
18 alcoholic item.

19 B. The ABLE Commission is hereby authorized to promulgate rules
20 which are necessary to carry out the purpose of this section and to
21 prevent its circumvention by offering or giving of any rebate,
22 allowance, free goods, discount or any other thing or service of
23 value; provided, the posting or invoicing of charges per order for
24 processing minimum orders or per case for the handling or repacking

1 of goods by wine and spirits wholesalers and beer distributors for
2 sales in less than full case lots shall not constitute a violation
3 of this section.

4 C. For the violation of any provision of this section or of any
5 rule duly promulgated under this section, the ABLE Commission may
6 suspend or revoke a license as follows:

7 1. For a first offense, not exceeding ten (10) days' suspension
8 of license;

9 2. For a second offense, not exceeding thirty (30) days'
10 suspension of license; and

11 3. For a third offense, the ABLE Commission shall revoke the
12 license.

13 D. Manufacturers, brewers, nonresident sellers, wholesalers,
14 beer distributors, small brewer self-distributors, and brewpub self-
15 distributors shall be permitted to withdraw a quantity of beer in
16 undamaged original packaging from such retail licensee's stock,
17 provided that that such manufacturer, brewer, nonresident seller,
18 beer distributor, small brewer self-distributor or brewpub self
19 distributor manufactured or sold such beer, directly or indirectly,
20 to the retail licensee and such removal is otherwise permitted under
21 Section 3-115 of this title.

22 SECTION 22. AMENDATORY Section 135, Chapter 366, O.S.L.
23 2016, as amended by Section 23, Chapter 364, O.S.L. 2017 (37A O.S.
24 Supp. 2017, Section 5-132), is amended to read as follows:

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

8 B. An application for registration of a brand label shall be
9 filed by and fees paid by the manufacturer or brewer of the brand ~~if~~
10 ~~the manufacturer or brewer is licensed by the ABLE Commission;~~
11 ~~however, if the manufacturer is represented by a manufacturer's~~
12 ~~agent, licensed nonresident seller, wine and spirits.~~ A designated
13 wine and spirits wholesaler, nonresident seller, or beer
14 distributor, then the manufacturer's agent, nonresident seller, wine
15 and spirits wholesaler or beer distributor shall may submit each
16 label for each product the designating wine and spirits manufacturer
17 or brewer offers for sale in this state, along with payment of the
18 brand registration fee, on behalf of the manufacturer or brewer;
19 provided, the manufacturer or brewer must fully reimburse the
20 ~~manufacturer's agent, licensed nonresident seller, wine and spirits~~
21 designated wholesaler or beer distributor for the cost of the brand
22 registration fee within forty-five (45) days of the time the
23 original brand registration fee is paid. Cordials and wines which
24 differ only as to age or vintage year, as defined by such rules,

1 shall be considered the same brand, and those that differ as to type
2 or class may be considered the same brand by the ABLE Commission
3 where consistent with the purposes of this section.

4 C. The application for registration of a brand label shall be
5 filed on a form prescribed by the ABLE Commission, and shall contain
6 such information as the ABLE Commission shall require. Such
7 application shall be accompanied by a certified check, bank
8 officers' check or draft or money order in the amount of the annual
9 registration fee, or the properly prorated portion thereof
10 prescribed by this section.

11 D. 1. The annual fee for registration of any brand label for
12 spirits shall be Three Hundred Seventy-five Dollars (\$375.00). The
13 annual fee for registration of any brand label for beer shall be Two
14 Hundred Dollars (\$200.00). The annual fee for registration of any
15 brand label for wine made in the United States, or for registration
16 of any category of imported wine as defined by the Tax Commission,
17 shall be Two Hundred Dollars (\$200.00). Beer manufactured in this
18 state shall be exempt from brand label registration fees.

19 2. Each brand label registered and approved pursuant to this
20 section shall be valid for a term of up to one (1) year, expiring on
21 the June 30 next following registration, and may be renewed for
22 subsequent terms of one (1) year beginning on the July 1 following
23 the initial registration. Brand registration fees for labels
24 registered after July 1 may be prorated through the following June

1 30 on a quarterly basis. The brand registration fee shall not be
2 transferable, unless otherwise allowed by law. A nonresident seller
3 may transfer its brand registrations to the distiller, winery,
4 importer or broker that produces those brands, provided the
5 distiller, winery, importer or broker has obtained a designating
6 wine and spirits manufacturer's license, at no expense to the
7 nonresident seller, distiller, winery, importer or broker.

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

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

16 G. No private labels or control labels shall be approved for
17 sale in this state.

18 SECTION 23. AMENDATORY Section 141, Chapter 366, O.S.L.
19 2016 (37A O.S. Supp. 2017, Section 6-101), is amended to read as
20 follows:

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

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

24

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

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

7 4. Import into this state, except as provided for in the
8 Oklahoma Alcoholic Beverage Control Act, any alcoholic beverages;
9 provided, that nothing herein shall prohibit the importation or
10 possession for personal use of not more than one (1) liter of
11 alcoholic beverages upon which the Oklahoma excise tax is
12 delinquent;

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

15 6. Transport into, within or through this state more than one
16 (1) liter of alcoholic beverages upon which the Oklahoma excise tax
17 has not been paid unless the person accompanying or in charge of the
18 vehicle transporting same shall possess a true copy of a bill of
19 lading, invoice, manifest or other document particularly identifying
20 the alcoholic beverages being transported and showing the name and
21 address of the consignor and consignee; provided, this prohibition
22 shall not apply to the first one hundred eighty (180) liters of
23 alcoholic beverages classified as household goods by military
24

1 personnel, age twenty-one (21) or older, when entering Oklahoma from
2 temporary active assignment outside the contiguous United States;

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

12 8. Consume spirits in public except on the premises of a
13 licensee of the ABLE Commission who is authorized to sell or serve
14 spirits by the individual drink, or unless otherwise permitted by
15 law. No person shall be intoxicated in a public place. This
16 provision shall be cumulative and in addition to existing law;

17 9. Forcibly resist lawful arrest, or by physical contact
18 interfere with an investigation of any infringement of the Oklahoma
19 Alcoholic Beverage Control Act or with any lawful search or seizure
20 being made by a law enforcement officer or an employee of the ABLE
21 Commission, when such person knows or should know that such acts are
22 being performed by a state, county or municipal officer or employee
23 of the ABLE Commission;

24

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

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

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

11 13. Knowingly and willfully permit any individual under twenty-
12 one (21) years of age who is an invitee to the person's residence,
13 any building, structure or room owned, occupied, leased or otherwise
14 procured by the person or on any land owned, occupied, leased or
15 otherwise procured by the person, to possess or consume any
16 alcoholic beverage as defined by Section ~~3~~ 1-103 of this ~~act~~ title,
17 any controlled dangerous substance as defined in the Uniform
18 Controlled Dangerous Substances Act, or any combination thereof, in
19 such place.

20 B. Except as provided for in subsection C of this section,
21 punishment for violation of paragraph 13 of subsection A of this
22 section shall be as follows:

23 1. Any person who is convicted of a violation of the provisions
24 of paragraph 13 of subsection A of this section shall be deemed

1 guilty of a misdemeanor for the first offense and be punished by a
2 fine of not more than Five Hundred Dollars (\$500.00);

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

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

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

9 c. in a municipal criminal court of record for the
10 violation of a municipal ordinance prohibiting the
11 offense provided for in paragraph 13 of subsection A
12 of this section,

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

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

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

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

21 c. in a municipal criminal court of record for the
22 violation of a municipal ordinance prohibiting the
23 offense provided for in paragraph 13 of subsection A
24 of this section, or

1 d. or any combination of two or more thereof,
2 shall be guilty of a felony and shall be punished by a fine of not
3 more than Two Thousand Five Hundred Dollars (\$2,500.00), or by
4 imprisonment in the custody of the Department of Corrections for not
5 more than five (5) years, or by both such fine and imprisonment.

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

14 D. Except as provided in subsection C of Section ~~166~~ 6-126 of
15 this ~~act~~ title, any person who shall engage in any of the following
16 and disturb the peace of any person:

17 1. In any public place, or in or upon any passenger coach,
18 streetcar, or in or upon any other vehicle commonly used for the
19 transportation of passengers, or in or about any depot, platform,
20 waiting station or room, drink or otherwise consume any intoxicating
21 liquor unless authorized by ~~this act~~ the Oklahoma Alcoholic Beverage
22 Control Act, intoxicating substance or intoxicating compound of any
23 kind, or inhale glue, paint or other intoxicating substance;

1 2. Be drunk or intoxicated in any public or private road, or in
2 any passenger coach, streetcar or any public place or building, or
3 at any public gathering, from drinking or consuming such
4 intoxicating liquor, intoxicating substance or intoxicating compound
5 or from inhalation of glue, paint or other intoxicating substance;
6 or

7 3. Be drunk or intoxicated from any cause,
8 shall be guilty of a misdemeanor, and upon conviction thereof
9 shall be punished by a fine of not less than Ten Dollars (\$10.00),
10 nor more than One Hundred Dollars (\$100.00) or by imprisonment for
11 not less than five (5) days nor more than thirty (30) days or by
12 both such fine and imprisonment.

13 SECTION 24. AMENDATORY Section 145, Chapter 366, O.S.L.
14 2016, as amended by Section 2, Chapter 366, O.S.L. 2017 (37A O.S.
15 Supp. 2017, Section 6-105), is amended to read as follows:

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

18 1. Purchase or receive any alcoholic beverage other than from a
19 person holding a wine and spirit wholesaler or beer distributor
20 license issued pursuant to the Oklahoma Alcoholic Beverage Control
21 Act; provided, a mixed beverage or on-premises beer and wine
22 licensee whose premises are a restaurant may purchase wine produced
23 at wineries in this state directly from a winemaker as provided in
24 Section 2 of Article XXVIII A of the Oklahoma Constitution;

1 2. Transport alcoholic beverages from the place of purchase to
2 the licensed premises unless the licensee also holds a private
3 carrier license issued by the ABLE Commission;

4 3. Use or allow the use of any mark or label on a container of
5 alcoholic beverage which is kept for sale which does not clearly and
6 precisely indicate the nature of the contents or which might deceive
7 or conceal the nature, composition, quantity, age or quality of such
8 beverage;

9 4. Keep or knowingly permit any alcoholic beverage to be kept,
10 brought or consumed on the licensed premises which is not allowed to
11 be sold or served upon such premises; or

12 5. Allow any person under twenty-one (21) years of age to enter
13 into, remain within or loiter about the designated bar area of the
14 licensed premises, except for persons who incidentally pass through
15 the designated area.

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

- 19 a. if the licensed premises are closed to the public
20 during a time the premises are legally permitted to be
21 open for business and the premises are used for a
22 private party at which alcoholic beverages may be
23 served to persons twenty-one (21) years of age or
24 older. Any alcoholic beverages served at a private

1 party on the licensed premises may be purchased from
2 the licensee at a negotiated price or purchased
3 privately and served at the private party on the
4 licensed premises. Any licensee who desires to
5 conduct such a private party shall notify the ABLE
6 Commission, in writing, at least ten (10) calendar
7 days prior to the private party. The notification
8 shall include the date, time and purpose of the
9 private party and any other information the ABLE
10 Commission may deem necessary, or

11 b. to a designated bar area which is a ~~concessions~~
12 concession stand serving beer ~~and~~, wine, and/or
13 spirits in addition to food and non-alcoholic
14 beverages, which concession stand is located at, in,
15 or on the premises of a sports, music or entertainment
16 venue, convention center, fairgrounds or similar
17 facility.

18 SECTION 25. AMENDATORY Section 165, Chapter 366, O.S.L.
19 2016 (37A O.S. Supp. 2017, Section 6-125), is amended to read as
20 follows:

21 Section 6-125. A. Any person who shall violate any provision
22 of the Oklahoma Alcoholic Beverage Control Act for which no specific
23 administrative or civil penalty is prescribed shall be guilty of a
24 misdemeanor and be fined not more than Five Hundred Dollars

1 (\$500.00), or imprisoned in the county jail for not more than six
2 (6) months, or by both such fine and imprisonment.

3 B. Provided, however, notwithstanding any provision of law to
4 the contrary, any offense, including traffic offenses, in violation
5 of any of the provisions of the Oklahoma Alcoholic Beverage Control
6 Act which is not otherwise punishable by a term of imprisonment or
7 confinement shall be punishable by a term of imprisonment not to
8 exceed one day in the discretion of the court, in addition to any
9 fine prescribed by law.

10 SECTION 26. AMENDATORY 37 O.S. 2011, Section 521, as
11 last amended by Section 4, Chapter 381, O.S.L. 2017 (37 O.S. Supp.
12 2017, Section 521), is amended to read as follows:

13 Section 521. A. A brewer license shall authorize the holder
14 thereof: To manufacture, bottle, package, and store beer on
15 licensed premises; to sell beer in this state to holders of Class B
16 wholesaler licenses and retail licenses and to sell beer out of this
17 state to qualified persons; to sell beer produced by the licensee to
18 consumers twenty-one (21) years of age or older on the premises of
19 the brewery; and to serve free samples of beer produced by the
20 licensee to visitors twenty-one (21) years of age or older. For
21 purposes of this section, no visitor may sample more than a total of
22 twelve (12) fluid ounces of beer per day. The brewer must restrict
23 the distribution and consumption of beer samples to an area within
24 the licensed premises designated by the brewer. A current floor

1 plan that includes the designated sampling area must be on file with
2 the Oklahoma Alcoholic Beverage Laws Enforcement (ABLE) Commission.
3 No visitor under twenty-one (21) years of age shall be permitted to
4 enter this designated sampling area when samples are being
5 distributed or consumed. Samples and sales may only be distributed
6 or consumed between 10:00 a.m. and 9:00 p.m. Samples and sales of
7 beer made or served by a brewery under this section shall not be
8 considered a "sale" of beer within the meaning of Article XXVIII of
9 the Oklahoma Constitution or Section 506 of this title; however,
10 such samples and sales of beer shall be considered beer removed or
11 withdrawn from the brewery for "use or consumption" within the
12 meaning of Section 542 of this title for excise tax determination
13 and reporting requirements.

14 B. A distiller license shall authorize the holder thereof: To
15 manufacture, bottle, package, and store spirits on licensed
16 premises; to sell spirits in this state to licensed wholesalers and
17 manufacturers only; to sell spirits out of this state to qualified
18 persons; to purchase from licensed distillers and rectifiers in this
19 state, and import spirits from without this state for manufacturing
20 purposes in accordance with federal laws and regulations.

21 C. A winemaker license shall authorize the holder thereof: To
22 manufacture (including such mixing, blending and cellar treatment as
23 authorized by federal law), bottle, package, and store on licensed
24 premises wine containing not more than twenty-four percent (24%)

1 alcohol by volume, provided the bottle or package sizes authorized
2 shall be limited to the capacities approved by the United States
3 Alcohol and Tobacco Tax and Trade Bureau; to sell wine in this state
4 to licensed wholesalers and manufacturers; to sell bottles of wine
5 produced at the winery from grapes and other fruits and berries
6 grown in this state, if available, to consumers on the premises of
7 the winery; to serve visitors on the licensed premises samples of
8 wine produced on the premises; to serve samples of wine produced at
9 the winery at festivals and trade shows; to sell wine produced at
10 the winery, in original sealed containers, at festivals and trade
11 shows; to sell wine out of this state to qualified persons; to
12 purchase from licensed winemakers, distillers and rectifiers in this
13 state, and to import into this state wine, brandy and fruit spirits
14 for use in manufacturing in accordance with federal laws and
15 regulations; provided, a winemaker either within or without this
16 state that annually produces no more than ten thousand (10,000)
17 gallons of wine may elect to sell and self-distribute the wine
18 produced by such winemaker directly to licensed retail package
19 stores and restaurants in this state; and provided further that:

20 1. Any such winemaker which elects to directly sell its wine to
21 package stores and restaurants shall not also use a licensed
22 wholesale distributor as a means of distribution, and shall be
23 required to sell its wines to every package store and restaurant
24

1 licensee who desires to purchase the same, on the same price basis
2 and without discrimination;

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

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

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

23 E. A rectifier license shall authorize the holder thereof: To
24 rectify spirits and wines, bottle, package, and store same on the

1 licensed premises; to sell spirits and wines in this state to
2 licensed wholesalers and manufacturers only; to sell spirits and
3 wines out of this state to qualified persons; to purchase from
4 licensed manufacturers in this state; and to import into this state
5 for manufacturing purposes spirits and wines in accordance with
6 federal laws and regulations.

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

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

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

- 17 a. ~~the total volume of spirits sales of the wholesaler,~~
18 ~~by liter, from the previous calendar year, and~~
- 19 b. ~~the total volume of wine sales of the wholesaler, by~~
20 ~~liter, from the previous calendar year, and~~
- 21 c. ~~the volume of sales of each brand of spirits or wine~~
22 ~~of the wholesaler, by liter, from the previous~~
23 ~~calendar year.~~

24

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

13 ~~3.~~ A wholesaler may sell spirits and wine to other wholesalers
14 or purchase spirits and wines from other wholesalers without
15 complying with paragraph 2 of this subsection in the case of the
16 sale, purchase, or other transfer or acquisition of a particular
17 brand of wine or spirits or the entire business of a wholesaler,
18 including the inventory of spirits and wine.

19 ~~4.~~ 3. A wholesaler license shall authorize the holder thereof
20 to operate a single bonded warehouse with a single central office
21 together with delivery facilities at a location in this state only
22 at the principal place of business for which the wholesaler license
23 was granted.

24

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

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

19 ~~A fifteen-day supply of a particular brand for a particular~~
20 ~~wholesaler shall be based upon the market share of the wholesaler,~~
21 ~~determined by first multiplying the total number of liters of such~~
22 ~~brand sold by all wholesalers to all retailers during the previous~~
23 ~~calendar year by the percentage that the total sales of wine and~~
24 ~~spirits of the particular wholesaler, in liters, for such calendar~~

1 ~~year bears to the total sales of wine and spirits, in liters,~~
2 ~~reported by all wholesalers for such calendar year; and then~~
3 ~~dividing by twenty-four (24); provided, that a fifteen-day supply~~
4 ~~for a wholesaler who has not been in business for the entirety of~~
5 ~~the previous calendar year shall be deemed to be equal to that of~~
6 ~~the wholesaler who was in business for the entirety of the previous~~
7 ~~calendar year and who reported the lowest volume of sales of wine~~
8 ~~and spirits, in liters, of any wholesaler having been in business~~
9 ~~for such period.~~

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

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

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

22 Sales and service of mixed beverages by holders of mixed
23 beverage licenses shall be limited to the licensed premises of the
24 licensee unless the holder of the mixed beverage license also

1 obtains a caterer license or a mixed beverage/caterer combination
2 license. A mixed beverage license shall only be issued in counties
3 of this state where the sale of alcoholic beverages by the
4 individual drink for on-premises consumption has been authorized. A
5 separate license shall be required for each place of business. Upon
6 application, a mixed beverage license shall be issued for any place
7 of business functioning as a motion picture theater, as defined by
8 Section 506 of this title. Provided, that upon proof of legal age
9 to consume alcohol, every patron being served alcoholic beverages
10 shall be required to wear a wrist bracelet or receive a hand stamp
11 identifying the patron as being of legal age to consume alcohol.
12 This requirement shall only apply inside a motion picture theater
13 auditorium where individuals under the legal age to consume alcohol
14 are allowed. A mixed beverage licensee whose main purpose is
15 hosting live performance art presentations may utilize the services
16 of a licensed caterer for its alcoholic beverage service as long as
17 it is not open to the public more than one hundred twenty (120) days
18 per year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 Sales and service of beer and wine by holders of beer and wine
4 licenses shall be limited to the licensed premises of the licensee
5 unless the holder of the beer and wine license also obtains a
6 caterer license. A beer and wine license shall only be issued in
7 counties of this state where the sale of alcoholic beverages by the
8 individual drink for on-premises consumption has been authorized. A
9 separate license shall be required for each place of business.
10 Provided, that upon proof of legal age to consume alcohol, every
11 patron being served alcoholic beverages shall be required to wear a
12 wrist bracelet or receive a hand stamp identifying the patron as
13 being of legal age to consume alcohol. This requirement shall only
14 apply inside a motion picture theater auditorium where individuals
15 under the legal age to consume alcohol are allowed. No spirits
16 shall be stored, possessed or consumed on the licensed premises of a
17 beer and wine licensee.

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

1 a wine, spirit and/or beer dinner event or a wine, spirit and/or
2 beer auction, which may be either a live auction conducted by an
3 auctioneer or a silent auction for which:

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

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

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

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

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

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

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

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

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

22 BB. Except as provided in Sections 554.1 and 554.2 of this
23 title with respect to cities, towns and counties, and except as may
24 be provided under Title 68 of the Oklahoma Statutes with respect to

1 the Oklahoma Tax Commission, no license or permit other than
2 licenses as provided under the Oklahoma Alcoholic Beverage Control
3 Act shall be required of any licensee by any agency, instrumentality
4 or political subdivision of this state to engage in any activity
5 covered by the Oklahoma Alcoholic Beverage Control Act anywhere
6 within the State of Oklahoma and no agency, instrumentality or
7 political subdivision of this state shall interfere with the ABLE
8 Commission's regulation of, or a wholesaler's performance of, the
9 sale, distribution, possession, handling or marketing of alcoholic
10 beverages on any premises of any licensee as defined in Section 506
11 of this title.

12 SECTION 27. Sections 1, 4, 6 and 26 of this act shall become
13 effective July 1, 2018.

14 SECTION 28. Sections 17 and 19 of this act shall become
15 effective September 1, 2018.

16 SECTION 29. Sections 2, 3 and 5 and 7 through 16, 18, and 20
17 through 25 of this act shall become effective October 1, 2018.

18 SECTION 30. REPEALER 37 O.S. 2011, Section 521, as last
19 amended by Section 26 of this act and Section 573, as last amended
20 by Section 1 of this act (37 O.S. Supp. 2017, Sections 521 and 573),
21 are hereby repealed October 1, 2018.

22 SECTION 31. It being immediately necessary for the preservation
23 of the public peace, health or safety, an emergency is hereby
24

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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