

1 ENGROSSED SENATE
2 BILL NO. 646

By: Bice of the Senate

3 and

4 Mulready of the House

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6 An Act relating to alcoholic beverages; amending
7 Sections 4, 13, 101 and 102, Chapter 366, O.S.L. 2016
8 (37A O.S. Supp. 2016, Sections 1-104, 2-101, 4-104
9 and 4-105), which relate to licenses and taxation;
10 modifying acts authorized by interim licenses which
11 may be issued by Alcoholic Beverage Laws Enforcement
12 Commission; providing that licenses may be relied
13 upon as valid and providing that other licenses not
14 under obligation to determine validity or be held
15 liable for other licensee's act or failure to act;
16 clarifying references; and providing effective dates.

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

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

Section 1-104. A. The Alcoholic Beverage Laws Enforcement
Commission created in Section 1 of Article XXVIII of the Oklahoma
Constitution is hereby recreated. The purpose of the Commission
shall be to enforce the alcoholic beverage laws of the State, and
the Commission shall have such power and authority to enforce such
laws, rules and regulations as shall be prescribed by the Oklahoma
Alcoholic Beverage Control Act.

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

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

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

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

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

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1 G. The Commission shall appoint a Director, whose duties shall
2 be defined as provided in Section § 1-108 of this ~~act~~ title.

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

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

18 2. Package stores may install refrigerated coolers for the
19 storage of beer and wine prior to October 1, 2018, provided the
20 refrigerated coolers shall not be used to cool product below room
21 temperature until on or after October 1, 2018; and

22 3. An interim license shall allow all qualified wine and
23 spirits wholesalers and beer distributors to perform all activities
24 permissible under a full license including but not limited to

1 selling and delivering wine and/or full-strength beer to all
2 qualified retail wine and retail beer licensees. In order to
3 qualify for an interim license, the wine and spirits wholesaler and
4 beer distributor must comply with the provisions set forth in
5 Article XXVIII A of the Oklahoma Constitution and this act. The
6 interim license shall convert to a full license on October 1, 2018.

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

13 SECTION 2. AMENDATORY Section 13, Chapter 366, O.S.L.
14 2016 (37A O.S. Supp. 2016, Section 2-101), is amended to read as
15 follows:

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

- 19 1. Brewer License..... \$1,250.00
- 20 2. Small Brewer License..... \$125.00
- 21 3. Distiller License..... \$3,125.00
- 22 4. Winemaker License..... \$625.00
- 23 5. Small Farm Winery License..... \$75.00
- 24 6. Rectifier License..... \$3,125.00

1	7.	Wine and Spirits Wholesaler License.....	\$3,000.00
2	8.	Beer Distributor License.....	\$750.00
3	9.	The following retail spirits license fees shall be	
4		determined by the latest Federal Decennial Census:	
5	a.	Retail Spirits License for cities and towns from 200	
6		to 2,500 population.....	\$305.00
7	b.	Retail Spirits License for cities and towns from 2,501	
8		to 5,000 population.....	\$605.00
9	c.	Retail Spirits License for cities and towns over 5,000	
10		population.....	\$905.00
11	10.	Retail Wine License.....	\$1,000.00
12	11.	Retail Beer License.....	\$500.00
13	12.	Mixed Beverage License.....	\$1,005.00
14			(initial license)
15			\$905.00
16			(renewal)
17	13.	Mixed Beverage/Caterer Combination License.....	\$1,250.00
18	14.	On Premises Beer and Wine License.....	\$500.00
19			(initial license)
20			\$450.00
21			(renewal)
22	15.	Bottle Club License.....	\$1,000.00
23			(initial license)
24			\$900.00

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

1	29.	Manufacturer's Agent License.....	\$55.00
2	30.	Sacramental Wine Supplier License.....	\$100.00
3	31.	Charitable Auction License.....	\$1.00
4	32.	Charitable Alcoholic Beverage License.....	\$55.00
5	33.	Winemaker Self-Distribution License.....	\$750.00
6	34.	Annual Public Event License.....	\$1,005.00
7	35.	One-Time Public Event License.....	\$255.00
8	36.	Small Brewer Self-Distribution License.....	\$750.00
9	37.	Brewpub License.....	\$1,005.00
10	38.	Brewpub Self-Distribution License.....	\$750.00

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

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

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

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

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

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

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

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

1 establishment or an on-premises beer and wine establishment subject
2 to the provisions of the Oklahoma Alcoholic Beverage Control Act.
3 There shall be no additional fee for such exchange and the mixed
4 beverage license or on-premises beer and wine license issued shall
5 expire one (1) year from the date of issuance of the original bottle
6 club license.

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

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

1 14. Small Farm Winery License..... \$25.00

2 15. Small Brewer License..... \$35.00

3 The surcharge shall be paid concurrent with the licensee's
4 annual licensing fee and shall be deposited in the Alcoholic
5 Beverage Governance Revolving Fund established pursuant to Section
6 ~~131~~ 5-128 of this ~~act~~ title.

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

13 SECTION 3. AMENDATORY Section 101, Chapter 366, O.S.L.
14 2016 (37A O.S. Supp. 2016, Section 4-104), is amended to read as
15 follows:

16 Section 4-104. Municipalities are hereby authorized to levy an
17 annual occupational tax for the privilege of operating as a
18 retailer, mixed beverage, beer and wine, caterer, public event or
19 special event licensee, bottle club, manufacturer, wine and spirits
20 wholesaler or beer distributor, within their respective
21 jurisdictions, not to exceed the state license fee for such
22 licensees; provided, the tax shall be levied only by the
23 municipality in which such licensee has its principal place of
24 business. This section shall not give any municipality any right to

1 determine or regulate the issuance of any license, except as
2 specifically provided for in this section, as the ABLE Commission
3 shall have exclusive authority as to issuance and regulations of
4 licenses. No municipality may prescribe rules or regulations in
5 conflict with or in addition to the statutes of this state or the
6 rules of the ABLE Commission. No licensee shall be held liable for
7 engaging in business otherwise authorized under this title with any
8 other retailer, mixed beverage, beer and wine, caterer, public event
9 or special event licensee, bottle club, manufacturer, wine and
10 spirits wholesaler or beer distributor solely because such other
11 party has failed to pay any occupational tax due under this section.

12 Municipalities which levy an occupational tax under this section
13 shall make an annual report to the ABLE Commission, covering the
14 fiscal year, showing the number and class of licensees subject to
15 the tax authorized by this section, and the amount of money received
16 therefrom, which information is to be included in the annual report
17 of the ABLE Commission submitted to the Governor, and transmitted to
18 the Legislature.

19 SECTION 4. AMENDATORY Section 102, Chapter 366, O.S.L.
20 2016 (37A O.S. Supp. 2016, Section 4-105), is amended to read as
21 follows:

22 Section 4-105. Counties are hereby authorized to levy an annual
23 occupational tax for the privilege of operating as a mixed beverage,
24 beer and wine, caterer, public event or special event licensee or as

1 a bottle club, within their respective jurisdictions and not located
2 in a municipality levying an occupation tax as provided by Section
3 ~~401~~ 4-104 of this ~~act~~ title, not to exceed the state license fee for
4 such licensees; provided, the tax shall be levied only by the county
5 in which such licensee has its principal place of business. All
6 revenues derived from any such annual occupational tax shall be
7 deposited in the general revenue fund of the county. This section
8 shall not give any county any right to determine or regulate the
9 issuance of any license, except as specifically provided for in this
10 section, as the ABLE Commission shall have exclusive authority as to
11 issuance and regulations of licenses. No county may prescribe rules
12 or regulations in conflict with or in addition to the statutes of
13 this state or the rules of the ABLE Commission. No licensee shall
14 be held liable for engaging in business otherwise authorized under
15 this act with any other mixed beverage, beer and wine, caterer,
16 public event or special event licensee or bottle club solely because
17 such other party has failed to pay any occupational tax due under
18 this section.

19 Counties which levy an occupational tax under this section shall
20 make an annual report to the ABLE Commission, covering the fiscal
21 year, showing the number and class of licensees subject to the tax,
22 and the amount of money received therefrom, which information is to
23 be included in the annual report of the ABLE Commission submitted to
24 the Governor, and transmitted to the Legislature.

1 SECTION 5. Section 1 of this act shall become effective October
2 1, 2017. Sections 2, 3 and 4 of this act shall become effective
3 October 1, 2018.

4 Passed the Senate the 22nd day of March, 2017.

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Presiding Officer of the Senate

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8 Passed the House of Representatives the ____ day of _____,
9 2017.

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Presiding Officer of the House
of Representatives

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