An Act

ENROLLED HOUSE
BILL NO. 3383

By: Terrill of the House

and

Barrington of the Senate

An Act relating to intoxicating liquors; amending 37 O.S. 2001, Section 163.2, as amended by Section 1, Chapter 144, O.S.L. 2009 (37 O.S. Supp. 2009, Section 163.2), which relates to low-point beer; modifying certain definition; amending 37 O.S. 2001, Section 518, as last amended by Section 1, Chapter 349, O.S.L. 2008 (37 O.S. Supp. 2009, Section 518), which relates to fees; creating certain surcharges; amending 37 O.S. 2001, Section 524, which relates to nonresident seller licenses; providing for certain expiration and renewal dates; allowing fee to be prorated; amending 37 O.S. 2001, Section 537, as last amended by Section 2 of Enrolled Senate Bill No. 2210 of the 2nd Session of the 52nd Oklahoma Legislature, which relates to prohibiting certain actions with alcoholic beverages; allowing certain military personnel exception to prohibition on transporting alcohol into state; amending 37 O.S. 2001, Section 537.1, which relates to prohibiting certain actions by licensees; expanding provision to permit certain behavior by certain agencies, political subdivisions or public trusts; amending 37 O.S. 2001, Section 567, which relates to the Oklahoma Alcoholic Beverage Control Fund; creating the ABLE Commission Revolving Fund; providing fund be continuing; directing specific source of funding; providing purpose for expenditure of funds; providing expenditure procedures; amending 37 O.S. 2001, Section 573, as amended by Section 8, Chapter 484, O.S.L. 2003 (37 O.S. Supp. 2009, Section 573), which relates to registration of brand labels; updating reference; clarifying certain fee category; modifying label registration terms; allowing brand registration fees

to be prorated; amending 37 O.S. 2001, Section 582, which relates to unlicensed containers; providing general exception; and declaring an emergency.

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

SECTION 1. AMENDATORY 37 O.S. 2001, Section 163.2, as amended by Section 1, Chapter 144, O.S.L. 2009 (37 O.S. Supp. 2009, Section 163.2), is amended to read as follows:

Section 163.2 In the administration of Section 163.1 et seq. of this title, the following words and phrases are given the meanings respectively indicated:

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

2. "Person" means and includes an individual, a trust or estate, a partnership, an association or a corporation;

3. "Manufacturer" means and includes any person who prepares for human consumption by the use of raw materials or other ingredients any low-point beer, as defined herein, upon which a license fee and a tax are imposed by any law of this state;

4. "Wholesaler" means and includes any person who sells any low-point beer, as defined herein, to a licensed retail dealer, as hereinafter defined, for resale;

5. "Retail dealer" means and includes any person who sells any low-point beer, as defined herein, at retail for consumption or use, and such definitions include state and county fair associations, and special licenses may be issued for the sale of low-point beer, as herein defined, by such associations, and to other persons for the sale of such low-point beer at rodeos, picnics, or other organized temporary assemblages of people. The term "retail dealer" also includes railways for the sale of such beverages, and licenses may be issued for each dining car or railway train, which railways and

dining cars shall pay the same license fees as regular retail dealers;

6. "Sale" or "sales", for the purpose of the collection of the taxes imposed by any law of the state upon low-point beer, as defined herein, is hereby defined to mean and include all sales by all wholesalers within this state, for money or any other valuable consideration, to retail dealers for resale; and, also, the term "sale" or "sales" taxable under Section 163.1 et seq. of this title means and includes all sales from manufacturers or wholesalers from outside this state, to retail dealers for resale to consumers or otherwise. The term "sale" or "sales" shall also include sales from manufacturers without the state to wholesalers located within the state;

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

8. "Motion picture theater" means a place where motion pictures are exhibited and to which the general public is admitted, but does not include a place where meals, as defined by this section, are served, if only persons twenty-one (21) years of age or older are admitted;

9. "Existing wholesaler" means a wholesaler who distributes a particular brand of low-point beer at the time a successor manufacturer acquires rights to manufacture or import the particular brand of low-point beer;

10. "Fair market value" means the value that would be determined in a transaction entered into without duress or threat of termination of the existing wholesaler's right and shall include all elements of value, including goodwill and going-concern value;

11. "Good cause" means:

a. failure by the wholesaler to comply with the provisions of a written agreement or understanding with the manufacturer, or

b. failure by the wholesaler to comply with the duty of good faith;

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

13. "Successor manufacturer" means a primary source of supply, a brewer or an importer that acquires rights to a low-point beer brand from a predecessor manufacturer; ~~and~~

14. "Successor wholesaler" means one or more wholesalers designated by a successor manufacturer to replace the existing wholesaler, for all or part of the existing wholesaler's territory, in the distribution of the existing low-point beer brand or brands; and

15. "On-premise consumption" shall include consumption within a single building owned or operated by any agency, political subdivision or public trust of this state, if the building or a part thereof is defined as a common drinking area for consumption of low-point beer by resolution of the governing body that owns or operates the building.

SECTION 2. AMENDATORY 37 O.S. 2001, Section 518, as last amended by Section 1, Chapter 349, O.S.L. 2008 (37 O.S. Supp. 2009, Section 518), is amended to read as follows:

Section 518. A. Except as otherwise provided in this section, the licenses issued by the Alcoholic Beverage Laws Enforcement Commission, and the annual fees therefor, shall be as follows:

1. Brewer License..... $1,250.00

2. Oklahoma Brewer License..... $125.00

3. Distiller License

   a. For each fiscal year ending after June 30, 2010..... $3,125.00

   b. For the fiscal years ending June 30, 2008, 2009 and 2010..... $1,250.00

4. Winemaker License..... $625.00

5. Oklahoma Winemaker License..... $75.00

6. Rectifier License

a. For each fiscal year ending after June 30, 2010..... $3,125.00

b. For the fiscal years ending June 30, 2008, 2009 and 2010..... $1,250.00

7. Wholesaler License..... $3,500.00

8. Class B Wholesaler License..... $625.00

9. The following package store license fees shall be determined by the latest Federal Decennial Census:

a. Package Store License for cities and towns from 200 to 2,500 population..... $305.00

b. Package Store License for cities and towns from 2,501 to 5,000 population..... $605.00

c. Package Store License for cities and towns over 5,000 population..... $905.00

10. Mixed Beverage License..... $1,005.00
(initial license)

$905.00
(renewal)

11. Mixed Beverage/Caterer Combination License..... $1,250.00

12. Beer and Wine License..... $500.00
(initial license)

$450.00
(renewal)

13. Bottle Club License..... $1,000.00
(initial license)

$900.00
(renewal)

14. Caterer License..... $1,005.00
(initial license)

$905.00
(renewal)

15. Annual Special Event License..... $55.00

16. Quarterly Special Event License..... $55.00

17. Hotel Beverage License..... $1,005.00
(initial license)

$905.00
(renewal)

18. Airline/Railroad Beverage License..... $1,005.00
(initial license)

$905.00
(renewal)

19. Agent License..... $55.00

20. Employee License..... $30.00

21. Industrial License..... $23.00

22. Carrier License..... $23.00

23. Private Carrier License..... $23.00

24. Bonded Warehouse License..... $190.00

25. Storage License..... $23.00

26. Nonresident Seller License..... $750.00

27. Manufacturers Agent License..... $55.00

28. Sacramental Wine Supplier License..... $100.00

29. Charitable Auction License..... $1.00

30. Winemaker Self-distribution License $750.00

There shall be added to the initial or renewal fees for a Mixed Beverage License an administrative fee, which shall not be deemed to be a license fee, in the amount of Five Hundred Dollars ($500.00), which shall be paid at the same time and in the same manner as the license fees prescribed by paragraph 10 of this subsection; provided, this fee shall not be assessed against service organizations or fraternal beneficiary societies which are exempt under Section 501(c)(19), (8) or (10) of the Internal Revenue Code. There shall be added to the fee for a Mixed Beverage/Caterer Combination License an administrative fee, which shall not be deemed to be a license fee, in the amount of Two Hundred Fifty Dollars ($250.00), which shall be paid at the same time and in the same manner as the license fee prescribed by paragraph 11 of this subsection.

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

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

2. The fees provided for in subsection A of this section for a brewer license and for a Class B wholesaler license shall be reduced by seventy-five percent (75%) if the applicant therefor is also the holder of a license to manufacture or wholesale any low-point beer as provided for in this title; and

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

C. An applicant may apply for and receive both a beer and wine license and a caterer license.

D. All licenses, except as otherwise provided, shall be valid for one (1) year from date of issuance unless revoked or surrendered. Provided, all employee licenses issued on or after September 1, 1993, shall be valid for two (2) years.

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

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

1. Nonresident Seller	$2,500.00
2. Wholesaler	$2,500.00
3. Class B Wholesaler without an active low-point beer license	$1,000.00
4. Class B Wholesaler with an active low-point beer license	$1,500.00
5. Package Store for cities and towns over 5,000 population	$250.00
6. Package Store for cities and towns from 2,501 to 5,000 population	$200.00
7. Package Store for cities and towns from 200 to 2,500 population	$150.00
8. Mixed Beverage	$25.00
9. Mixed Beverage/Caterer Combination	$25.00
10. Caterer	$25.00
11. Beer and Wine	$25.00

The surcharge shall be paid concurrent with the licensee's annual licensing fee and shall be deposited in the ABLE Commission Revolving Fund established pursuant to Section 567 of this title.

SECTION 3. AMENDATORY 37 O.S. 2001, Section 524, is amended to read as follows:

Section 524. A. A nonresident seller license shall be required of all out-of-state distillers, winemakers, brewers, importers, brokers and others who sell alcoholic beverages to wholesalers and Class B wholesalers in Oklahoma regardless of whether such sales are consummated within or without the State of Oklahoma.

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

B. The Alcoholic Beverage Laws Enforcement Commission may, subject to the provisions of the Oklahoma Alcoholic Beverage Control Act requiring notice and hearing in the case of sanctions against holders of licenses, suspend or revoke a nonresident seller license for any violation of the Oklahoma Alcoholic Beverage Control Act by the holder thereof.

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

D. The holder of a nonresident seller license shall, promptly upon consignment of any alcoholic beverages to an importer in Oklahoma, forward to the ABLE Commission a true copy of the invoice, bill of lading, or other document as the ABLE Commission may by regulations prescribe, showing the details of such shipment.

E. Any person, not otherwise a dealer in alcoholic beverages, coming into possession of any alcoholic beverages as security for or

in payment of a debt, or as an insurer (or its transferee or assignee) for the salvage or liquidation of an insured casualty or damage or loss, or as an executor, administrator, trustee or other fiduciary may sell the beverages in one lot or parcel to a duly licensed wholesaler. However, immediately after taking possession of the alcoholic beverages, the person shall register with the Director and furnish to him a detailed list of the alcoholic beverages and post with the Director a bond in such amount as the Director deems sufficient to protect the state from any taxes due on the alcoholic beverages. The person shall pay to the Director a registration fee of Ten Dollars ($10.00), which fee shall permit the sale of only the alcoholic beverages detailed in the registration request.

SECTION 4. AMENDATORY 37 O.S. 2001, Section 537, as last amended by Section 2 of Enrolled Senate Bill No. 2210 of the 2nd Session of the 52nd Oklahoma Legislature, is amended to read as follows:

Section 537. A. No person shall:

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

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

3. Open a retail container or consume alcoholic beverages on the premises of a retail package store;

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

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

6. Transport into, within, or through this state more than one (1) liter of alcoholic beverages upon which the Oklahoma excise tax has not been paid unless the person accompanying or in charge of the vehicle transporting same shall possess a true copy of a bill of

lading, invoice, manifest or other document particularly identifying the alcoholic beverages being transported and showing the name and address of the consignor and consignee; provided, this prohibition shall not apply to the first one hundred eighty (180) liters of alcoholic beverages classified as household goods by military personnel, age twenty-one (21) or older when entering Oklahoma from temporary active assignment outside the contiguous United States;

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

8. Drink intoxicating liquor in public except on the premises of a licensee of the Alcoholic Beverage Laws Enforcement Commission who is authorized to sell or serve alcoholic beverages by the individual drink or be intoxicated in a public place. This provision shall be cumulative and in addition to existing law;

9. Forcibly resist lawful arrest, or by physical contact interfere with an investigation of any infringement of the Oklahoma Alcoholic Beverage Control Act or with any lawful search or seizure being made by an inspector or agent of the ABLE Commission, when such person knows or should know that such acts are being performed by a state, county, or municipal officer, inspector or agent of the ABLE Commission;

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

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

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

B. No licensee of the ABLE Commission shall:

1. Receive, possess, or sell any alcoholic beverage except as authorized by the Oklahoma Alcoholic Beverage Control Act and by the license or permit which the licensee holds;

2. Employ any person under the age of twenty-one (21) in the selling or handling of alcoholic beverages. Provided, that a mixed beverage, beer and wine, caterer, special event or bottle club licensee may employ servers who are at least eighteen (18) years of age, except persons under twenty-one (21) years of age may not serve in designated bar or lounge areas, and a mixed beverage, beer and wine, caterer, special event or bottle club licensee may employ or hire musical bands who have musicians who are under twenty-one (21) years of age if each such musician is either accompanied by a parent or legal guardian or has on their person, to be made available for inspection upon demand by any ABLE Commission officer or law enforcement officer, a written, notarized affidavit from the parent or legal guardian giving the underage musician permission to perform in designated bar or lounge areas;

3. Give any alcoholic beverage as a prize, premium or consideration for any lottery, game of chance or skill or any type of competition;

4. Advertise or offer "happy hours" or any other means or inducements to stimulate the consumption of alcoholic beverages including:

a. deliver more than two drinks to one person at one time,

b. sell or offer to sell to any person or group of persons any drinks at a price less than the price regularly charged for such drinks during the same calendar week, except at private functions not open to the public,

c. sell or offer to sell to any person an unlimited number of drinks during any set period of time for a fixed price, except at private functions not open to the public,

d. sell or offer to sell drinks to any person or group of persons on any one day at prices less than those

charged the general public on that day, except at private functions not open to the public,

e. increase the volume of alcoholic beverages contained in a drink without increasing proportionately the price regularly charged for such drink during the same calendar week, or

f. encourage or permit, on the licensed premises, any game or contest which involves drinking or the awarding of drinks as prizes.

Provided that the provisions of this paragraph shall not prohibit the advertising or offering of food or entertainment in licensed establishments;

5. Permit or allow any patron or person to exit the licensed premises with an open container of any alcoholic beverage. Provided, that this prohibition shall not be applicable to closed original containers of alcoholic beverages which are carried from the licensed premises of a bottle club by a patron, closed original wine containers removed from the premises of restaurants, hotels, and motels, or to closed original containers of alcoholic beverages transported to and from the place of business of a licensed caterer by the caterer or an employee of the caterer; or

6. Serve or sell alcoholic beverages with an expired license issued by the ABLE Commission.

C. No package store licensee shall:

1. Purchase or receive any alcoholic beverage other than from a person holding a brewer, wholesaler or Class B wholesaler license issued pursuant to the Oklahoma Alcoholic Beverage Control Act;

2. Suffer or permit any retail container to be opened, or any alcoholic beverage to be consumed, on the licensed premises;

3. Sell, or keep package store premises open for the purpose of selling, any alcoholic beverages at any hour other than between the hours of 10:00 a.m. and 9:00 p.m. Monday through Saturday; provided, that no such sales shall be made, or package store premises be allowed to remain open for the purpose of making such sales on New Year's Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving Day or Christmas Day. Package store licensees shall be

permitted to sell, or keep package store premises open for the purpose of selling, alcoholic beverages on the day of any General, Primary, Runoff Primary or Special Election whether on a national, state, county or city election, provided that the election day does not occur on any day on which such sales are otherwise prohibited by law;

4. Operate a retail package store unless such store shall be located in a city or town having a population in excess of two hundred (200) according to the latest Federal Decennial Census;

5. Sell any alcoholic beverage on credit; provided that acceptance by a retail liquor store of a cash or debit card, or a nationally recognized credit card, in lieu of actual cash payment does not constitute the extension of credit; provided further, as used in this section:

a. "cash or debit card" means any instrument or device whether known as a debit card or by any other name, issued with or without fee by an issuer for the use of the cardholder in depositing, obtaining or transferring funds from a consumer banking electronic facility, and

b. "nationally recognized credit card" means any instrument or device, whether known as a credit card, credit plate, charge plate or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services or anything else of value on credit which is accepted by over one hundred merchants;

6. Offer or furnish any prize, premium, gift or similar inducement to a consumer in connection with the sale of alcoholic beverage, except that goods or merchandise included by the manufacturer in packaging with alcoholic beverages or for packaging with alcoholic beverages shall not be included in this prohibition, but no wholesaler or package store shall sell any alcoholic beverage prepackaged with other goods or merchandise at a price which is greater than the price at which the alcoholic beverage alone is sold;

7. Permit any person under twenty-one (21) years of age to enter into, remain within or loiter about the licensed premises; or

8. Pay for alcoholic beverages by a check or draft which is dishonored by the drawee when presented to such drawee for payment; and the ABLE Commission may cancel or suspend the license of any retailer who has given a check or draft, as maker or endorser, which is so dishonored upon presentation.

D. No wholesaler licensee shall:

1. Sell or deliver any amount of spirits or wines to any package store licensee on Saturday or Sunday; or

2. Sell or deliver any amount of spirits or wines to any package store licensee on New Year's Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving Day or Christmas Day.

E. No mixed beverage or beer and wine licensee shall:

1. Purchase or receive any alcoholic beverage other than from a person holding a wholesaler or Class B wholesaler license issued pursuant to the Oklahoma Alcoholic Beverage Control Act; provided, a mixed beverage or beer and wine licensee whose premises are a restaurant may purchase wine produced at wineries in this state directly from an Oklahoma winemaker as provided in Section 3 of Article XXVIII of the Oklahoma Constitution;

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

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

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

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

The prohibition in this subsection against persons under twenty-one (21) years of age entering or remaining within the designated bar area of the licensed premises shall not apply, if the licensed premises are closed to the public during a time the premises are legally permitted to be open for business and the premises are used for a private party at which alcoholic beverages may be served to persons twenty-one (21) years of age of older. Any alcoholic beverages served at a private party on the licensed premises may be purchased from the licensee at a negotiated price or purchased privately and served at the private party on the licensed premises. Any licensee who desires to conduct such a private party shall notify the ABLE Commission, in writing, at least ten (10) calendar days prior to the private party. The notification shall include the date, time, and purpose of the private party and any other information the ABLE Commission may deem necessary.

F. No bottle club licensee shall:

1. Use or allow the use of any mark or label on a container of alcoholic beverage which does not clearly and precisely indicate the nature of the contents or which might deceive or conceal the nature, composition, quantity, age or quality of any such beverage;

2. Act as an agent for any bottle club member and purchase any alcoholic beverage for the member;

3. Use or allow the use of any pool system of storage or purchase of alcoholic beverages;

4. Allow any person to enter or remain in the designated bar or lounge area of the club unless that person possesses a valid membership card for that club issued by the club;

5. Sell any alcoholic beverage;

6. Deliver or furnish to any club member any alcoholic beverage that does not belong to the member;

7. Serve alcoholic beverages to any person who does not possess a valid membership card for that club issued by the club;

8. Issue a membership card for the club to a person under twenty-one (21) years of age; or

9. Allow any person under twenty-one (21) years of age to enter into, remain within or loiter about the designated bar area of the licensed premises, except for members of a musical band employed or hired as provided in paragraph 2 of subsection B of this section when the band is to perform within such area.

The prohibition in this subsection against persons under twenty-one (21) years of age entering or remaining within the designated bar area of the licensed premises shall not apply, if the licensed premises are closed to the public during a time the premises are legally permitted to be open for business and the premises are used for a private party at which alcoholic beverages may be served to persons twenty-one (21) years of age or older. Any alcoholic beverages served at a private party on the licensed premises may be purchased from the licensee at a negotiated price or purchased privately and served at the private party on the licensed premises. Any licensee who desires to conduct such a private party shall notify the ABLE Commission, in writing, at least ten (10) calendar days prior to the private party. The notification shall include the date, time, and purpose of the private party and any other information the ABLE Commission may deem necessary.

G. No special event or caterer licensee shall:

1. Purchase or receive any alcoholic beverage other than from a person holding a wholesaler or Class B wholesaler license issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act; provided, a special event or caterer licensee may purchase wine produced at wineries in this state directly from an Oklahoma winemaker as provided in Section 3 of Article XXVIII of the Oklahoma Constitution; or

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

H. No person operating a cafe, restaurant, club, or any place of recreation shall permit any person to be drunk or intoxicated in the person's place of business.

SECTION 5. AMENDATORY 37 O.S. 2001, Section 537.1, is amended to read as follows:

Section 537.1 No mixed beverage, beer and wine, bottle club, caterer or special event licensee or any employee, manager, operator or agent thereof shall:

1. Consume or be under the influence of alcoholic beverages during the hours he is on duty. For the purposes of this section, licensees will be deemed to be on duty from the time he first comes on duty until the time he goes off duty at the end of the shift, including any break periods permitted by management. This paragraph shall not apply to any person who works on the premises as an entertainer only;

2. Permit or tolerate any conduct or language which is intended to threaten another with physical harm or any fighting or offensive physical contact, in or upon the licensed premises or areas just outside the licensed premises which are controlled by the licensee;

3. Permit empty or discarded alcoholic beverage containers to be in public view outside the licensed premises. All empty or discarded containers shall be disposed of in accordance with ABLE Commission rules and regulations;

4. Permit any illegal gambling activity, violations of the state narcotic and dangerous drug laws, or prostitution activity or any other criminal conduct to occur on the licensed premises;

5. Refuse or fail to promptly open a door to the licensed premises upon request of an agent or inspector of the Alcoholic Beverage Laws Enforcement Commission or any other peace officer to enter the premises, when the licensee or employee knows or should know that such request is made by an agent or inspector of the ABLE Commission or any other peace officer. This provision shall not be construed to deny agents of the ABLE Commission or any other peace officer access at any time to any licensed premises;

6. Permit a sealed or unsealed container of alcoholic beverage to be removed from the licensed premises. Provided that restaurants, hotels and motels may permit the removal of closed original wine containers the contents of which have been partially consumed and bottle clubs may permit the removal by a club member of closed original containers of alcoholic beverages belonging to said members. The provisions of this paragraph shall not be construed to prohibit or restrict:

(a) hotels or motels who are holders of mixed beverage or beer and wine licenses from allowing alcoholic beverages to be served away from the bar area anywhere on the licensed premises, or

(b) licensees, who are lawfully operating at an event held in a facility owned or operated by any agency, political subdivision or public trust of this state, from allowing persons to transport alcoholic beverages from one licensed premises to another within the same building, provided that the building or a part thereof is defined as a common drinking area for consumption of alcohol by resolution of the governing body of the agency, political subdivision or public trust of this state; or

7. Destroy, damage, alter, remove or conceal potential evidence, or attempt to do so, or refuse to surrender evidence when lawfully requested to do so by an inspector, agent or any other peace officer or incite another person to do any of the above.

SECTION 6. AMENDATORY 37 O.S. 2001, Section 567, is amended to read as follows:

Section 567. A. There is hereby created in the State Treasury a fund to be known as the Alcoholic Beverage Control Fund which shall consist of revenues collected by the state from license and registration fees, with any interest, fines or penalties levied and collected by the Alcoholic Beverage Laws Enforcement Commission pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act. Any unappropriated balance in the Oklahoma Alcoholic Beverage Control Fund at the close of each fiscal year shall revert to the General Revenue Fund of the State of Oklahoma, except for the amount necessary to satisfy any appropriations made or to be made from said fund by the Oklahoma State Legislature for the ensuing fiscal year.

Beginning July 1, 1984, all such monies collected by the Alcoholic Beverage Laws Enforcement Commission pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act shall be deposited in the State Treasury for credit to the General Revenue Fund of the state, except as provided in subsection B of this section.

B. There is hereby created in the State Treasury a revolving fund for the Oklahoma Alcoholic Beverage Laws Enforcement Commission to be designated the "ABLE Commission Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of any monies received from the surcharge collected by the Alcoholic Beverage Laws Enforcement Commission pursuant to subsection F of Section 518 of this title and any other sources of funds provided by law. All monies accruing to the credit of said fund shall be budgeted and expended by the Oklahoma Alcoholic Beverage Laws Enforcement Commission for general operations of the agency. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of State Finance for approval and payment.

SECTION 7. AMENDATORY 37 O.S. 2001, Section 573, as amended by Section 8, Chapter 484, O.S.L. 2003 (37 O.S. Supp. 2009, 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 vintage year, as defined by such regulations, shall be considered the same brand; and those that differ as to type or class may be considered the same brand by the ABLE Commission where consistent with the purposes of this section.

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

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

2. Each brand label registered and approved pursuant to this section shall be valid for a term ~~which shall run concurrently with the term of the license of the brand owner, or nonresident seller representing the brand owner, registering such label and shall be valid for such licensee and~~ of up to one (1) year, expiring on the June 30 next following registration, and may be renewed for subsequent terms of one (1) year beginning on the July 1 following the initial registration. Brand registration fees for labels registered after July 1 may be prorated through the following June 30 on a quarterly basis. The brand registration fee shall not be transferable.

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

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

SECTION 8. AMENDATORY 37 O.S. 2001, Section 582, is amended to read as follows:

Section 582. A. No mixed beverage, beer and wine, caterer or special event licensee nor any officer, agent or employee of such licensee may possess or permit to be possessed on the premises, for which such license was issued, any container of an alcoholic beverage which is not listed on an invoice from the wholesaler from whom the alcoholic beverage was purchased, unless otherwise permitted by statute.

B. All containers of alcoholic beverages which are on the premises of a mixed beverage, beer and wine, caterer or special event licensee and which are not listed on an invoice from the

wholesaler pursuant to the provisions of this section are declared contraband. Any duly authorized officer or employee of the ABLE Commission or the Oklahoma Tax Commission is authorized to seize such containers or cases and such seized containers or cases shall be subject to confiscation and forfeiture pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act.

C. Any holder of a wholesaler, mixed beverage, beer and wine, caterer or special event license who violates the provisions of this section shall, upon conviction, be guilty of a misdemeanor and shall be subject to revocation or suspension of such license issued by the ABLE Commission pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act.

SECTION 9. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 24th day of May, 2010.

Presiding Officer of the House of Representatives

Passed the Senate the 27th day of May, 2010.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Governor this 28th **day of** May, 20 10, **at** 11:27 **o'clock** A **M.**

By:

Approved by the Governor of the State of Oklahoma the 28th **day of** May, 20 10, **at** 6:37 **o'clock** P **M.**

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this 28th **day of** May, 20 10, **at** 7:15 **o'clock** P **M.**

By: M. Susan Savage