An Act

ENROLLED SENATE
BILL NO. 789

By: Johnson (Rob) of the Senate

and

Jackson of the House

An Act relating to intoxicating liquors; prohibiting certain acts relating to low-point beer; providing for injunctive relief; prohibiting certain damages, costs and attorney fees; amending 37 O.S. 2011, Section 524, which relates to nonresident seller licenses; clarifying prices for certain goods; allowing wholesalers to sell certain quantities of alcoholic beverages at agreed-upon prices in certain circumstances; setting limits on total lots that can be sold; providing for codification; and providing an effective date.

SUBJECT: Intoxicating liquors

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 163.19A of Title 37, unless there is created a duplication in numbering, reads as follows:

A. No state agency or political subdivision thereof, county or political subdivision thereof, or municipality or political subdivision thereof shall use public or private funds, employees or resources to alter, obliterate, mark or modify low-point beer packaging on the premises of a retail dealer or to promote or support such alteration, obliteration, marking or modification of low-point beer packaging on the premises of a retail dealer.

B. If a state agency or political subdivision thereof, county or political subdivision thereof, or a municipality or political subdivision thereof is found to have violated the provisions of subsection A of this section, the party aggrieved by the actions of such entity may seek injunctive relief pursuant to Section 1381 et seq. of Title 12 of the Oklahoma Statutes. No party to a petition for injunctive relief authorized by this subsection shall be entitled to recover any damages, court costs or attorney fees incurred by any party in prosecuting or defending the action for injunctive relief. Each party shall bear their own costs and attorney fees for the action.

SECTION 2. AMENDATORY 37 O.S. 2011, 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 at an agreed-upon price without regard to current posted prices. 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. A wholesaler receiving a lot or parcel of alcoholic beverages pursuant to this subsection may sell it in one lot or parcel or more than one lot or parcel to a licensed package store or mixed beverage licensee or more than one licensed package store or mixed beverage licensee at an agreed-upon price without regard to current posted prices; provided, the total of the lots sold by the wholesaler shall not exceed four (4) lots.

SECTION 3. This act shall become effective November 1, 2013.

Passed the Senate the 21st day of May, 2013.

Presiding Officer of the Senate

Passed the House of Representatives the 24th day of May, 2013.

Presiding Officer of the House of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 24th day of May, 2013, at 10:18 o'clock P M.

By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 29th day of May, 2013, at 4:15 o'clock P M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 29th day of May, 2013, at 5:25 o'clock P. M.

By: Chris Braniss