An Act

ENROLLED SENATE
BILL NO. 420

By: Fields of the Senate

and

Enns of the House

An Act relating to the Oklahoma Alcoholic Beverage Control Act; amending 37 O.S. 2011, Sections 506, as amended by Section 1, Chapter 298, O.S.L. 2014, 518, as amended by Section 2, Chapter 298, O.S.L. 2014, and 521, as last amended by Section 4, Chapter 298, O.S.L. 2014 (37 O.S. Supp. 2014, Sections 506, 518 and 521), which relate to the Alcoholic Beverage Control Act; adding definition; creating the Small Farm Winery License; providing for fee; authorizing a small farm winery licensee to manufacture and bottle wines it produces; authorizing a small farm winery licensee to bottle and sell wines produced by other small wineries; updating language; and providing an effective date.

SUBJECT: Winery licensing

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

SECTION 1. AMENDATORY 37 O.S. 2011, Section 506, as amended by Section 1, Chapter 298, O.S.L. 2014 (37 O.S. Supp. 2014, Section 506), is amended to read as follows:

Section 506. When used in the Oklahoma Alcoholic Beverage Control Act, the following words and phrases shall have the following meaning:

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

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

3. "Alcoholic beverage" means alcohol, spirits, beer, and wine as those terms are defined herein and also includes every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed as a beverage by human beings, but does not include low-point beer as that term is defined in Section 163.2 of this title;

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

5. "Beer" means any beverage containing more than three and two-tenths percent (3.2%) of alcohol by weight and obtained by the alcoholic fermentation of an infusion or decoction of barley, or other grain, malt or similar products. "Beer" may or may not contain hops or other vegetable products. "Beer" includes, among other things, beer, ale, stout, lager beer, porter and other malt or brewed liquors, but does not include sake, known as Japanese rice wine;

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

7. "Brewer" means any person who produces beer in this state;

8. "Class B wholesaler" means and includes any person doing any such acts or carrying on any such business that would require such person to obtain a Class B wholesaler license hereunder;

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

10. "Director" means the Director of the Alcoholic Beverage Laws Enforcement Commission under the supervision of ~~said~~ the Commission;

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

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

13. "Legal newspaper" means a newspaper meeting the requisites of a newspaper for publication of legal notices as prescribed in Sections 101 through 114 of Title 25 of the Oklahoma Statutes;

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

15. "Light beer" means a low-point beer controlled under this title;

16. "Light wine" means any wine containing not more than fourteen percent (14%) alcohol measured by volume at sixty (60) degrees Fahrenheit;

17. "Manufacturer's agent" means a salaried or commissioned salesman who sells to a wholesaler or Class B wholesaler only;

18. "Manufacturer" means a brewer, distiller, winemaker, rectifier, or bottler of any alcoholic beverage;

19. "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";

20. "Mini-bar" means a closed container, either refrigerated, in whole or in part, or nonrefrigerated, and access to the interior of which is (1) restricted by means of a locking device which requires the use of a key, magnetic card, or similar device, or (2) controlled at all times by the licensee;

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

22. "Mixed beverages" means one or more servings of a beverage composed in whole or part of an alcoholic beverage in a sealed or unsealed container of any legal size for consumption on the premises where served or sold by the holder of a mixed beverage, beer and wine, caterer, or special event license;

23. "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 over twenty-one (21) years of age are admitted;

24. "Retail salesperson" means a salesperson soliciting orders from and calling upon retail alcoholic beverage stores with regard to his or her product;

25. "Occupation" as used in connection with "occupation tax" means the sites occupied as the places of business of the manufacturers, wholesalers, Class B wholesalers, retailers, mixed beverage licensees, beer and wine licensees, bottle clubs, caterers, and special event licensees;

26. "Original package" means any container of alcoholic beverage filled and stamped or sealed by the manufacturer;

27. "Patron" means any person, customer, or visitor who is not employed by a licensee or who is not a licensee;

28. "Person" means an individual, any type of partnership, corporation, association, limited liability company or any individual involved in the legal structure of any such business entity;

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

a. allowing the presence and consumption of alcoholic beverages by private parties which are closed to the general public, or

b. allowing the services of a caterer serving alcoholic beverages provided by a private party.

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

30. "Public event" means any event that can be attended by the general public;

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

32. "Regulation" or "rule" means a formal rule of general application promulgated by the ABLE Commission as herein required;

33. "Restaurant" means an establishment that is licensed to sell alcoholic beverages by the individual drink for on-premises consumption and where food is prepared and sold for immediate consumption on the premises;

34. "Retail container for spirits and wines" means an original package of any capacity approved by the United States Bureau of Alcohol, Tobacco and Firearms;

35. "Retailer" means the holder of a Package Store License;

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

37. "Short order food" means food other than full meals including but not limited to sandwiches, soups, and salads. Provided that popcorn, chips, and other similar snack food shall not be considered "short order food";

38. "Small Farm Wine" means a wine that is produced by a small farm winery with seventy-five percent (75%) or more Oklahoma-grown grapes, berries, other fruits, honey or vegetables;

39. "Small Farm Winery" means a wine-making establishment that does not annually produce for sale more than ten thousand (10,000) gallons of wine as reported on the United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau, Report of Wine Premises Operations (TTB Form 5120.17);

40. "Sparkling wine" means champagne or any artificially carbonated wine;

~~39.~~ 41. "Spirits" means any beverage other than wine, beer or light beer, which contains more than one-half of one percent (1/2 of 1%) alcohol measured by volume and obtained by distillation, whether or not mixed with other substances in solution and includes those products known as whiskey, brandy, rum, gin, vodka, liqueurs, cordials and fortified wines and similar compounds; but shall not include any alcohol liquid completely denatured in accordance with the Acts of Congress and regulations pursuant thereto;

~~40.~~ 42. "Wholesaler" means and includes any person doing any such acts or carrying on any such business or businesses that would require such person to obtain a wholesaler's license or licenses hereunder;

~~41.~~ 43. "Wine" means and includes any beverage containing more than one-half of one percent (1/2 of 1%) alcohol by volume and not more than twenty-four percent (24%) alcohol by volume at sixty (60) degrees Fahrenheit obtained by the fermentation of the natural contents of fruits, vegetables, honey, milk or other products containing sugar, whether or not other ingredients are added, and includes vermouth and sake, known as Japanese rice wine;

~~42.~~ 44. "Winemaker" means any person who produces wine; and

~~43.~~ 45. "Oklahoma winemaker" means a business premises in Oklahoma licensed pursuant to the Oklahoma Alcoholic Beverage Control Act wherein wine is produced by the licensee who must be a resident of the state. The wine product fermented in ~~said~~ the licensed premises shall be of grapes, berries and other fruits and vegetables imported into this state and processed herein or shall be of grapes, berries and other fruits and vegetables grown in Oklahoma.

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

SECTION 2. AMENDATORY 37 O.S. 2011, Section 518, as amended by Section 2, Chapter 298, O.S.L. 2014 (37 O.S. Supp. 2014, 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. Charitable Alcoholic Beverage License..... $55.00

31. Winemaker Self-distribution License..... $750.00

32. Small Farm Winery License..... $1.00

33. Annual Public Event License.....$1005.00

~~33.~~

34. One-time Public Event License..... $255.00

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

12. Annual Public Event License..... $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. 2011, Section 521, as last amended by Section 4, Chapter 298, O.S.L. 2014 (37 O.S. Supp. 2014, Section 521), is amended to read as follows:

Section 521. A. A brewer license shall authorize the holder thereof: To manufacture, bottle, package, and store beer on licensed premises; to sell beer in this state to holders of Class B wholesaler licenses and retail licenses and to sell beer out of this state to qualified persons; and to serve free samples of beer produced by the licensee to visitors twenty-one (21) years of age or older. For purposes of this section, no visitor may sample more than a total of twelve (12) fluid ounces of beer per day. The

brewer must restrict the distribution and consumption of beer samples to an area within the licensed premises designated by the brewer. A current floor plan that includes the designated sampling area must be on file with the Oklahoma Alcoholic Beverage Laws Enforcement (ABLE) Commission. No visitor under twenty-one (21) years of age shall be permitted to enter this designated sampling area when samples are being distributed or consumed. Samples may only be distributed or consumed between ~~ten~~ 10:00 a.m. and ~~nine~~ 9:00 p.m. Samples of beer served by a brewery under this section shall not be considered a "sale" of beer within the meaning of Article XXVIII of the Oklahoma Constitution or Section 506 of this title; however, such samples of beer shall be considered beer removed or withdrawn from the brewery for "use or consumption" within the meaning of Section 542 of this title for excise tax determination and reporting requirements.

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

C. A winemaker license shall authorize the holder thereof: To manufacture (including such mixing, blending and cellar treatment as authorized by federal law), bottle, package, and store on licensed premises wine containing not more than twenty-four percent (24%) alcohol by volume, provided the bottle or package sizes authorized shall be limited to the capacities approved by the United States Alcohol and Tobacco Tax and Trade Bureau; to sell wine in this state to licensed wholesalers and manufacturers; to sell bottles of wine produced at the winery from grapes and other fruits and berries grown in this state, if available, to consumers on the premises of the winery; to serve visitors on the licensed premises samples of wine produced on the premises; to serve samples of wine produced at the winery at festivals and trade shows; to sell wine produced at the winery, in original sealed containers, at festivals and trade shows; to sell wine out of this state to qualified persons; to purchase from licensed winemakers, distillers and rectifiers in this state, and to import into this state wine, brandy and fruit spirits for use in manufacturing in accordance with federal laws and

regulations; provided, a winemaker either within or without this state that annually produces no more than ten thousand (10,000) gallons of wine may elect to sell and self-distribute the wine produced by such winemaker directly to licensed retail package stores and restaurants in this state; and provided further that:

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

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

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

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

E. A rectifier license shall authorize the holder thereof: To rectify spirits and wines, bottle, package, and store same on the licensed premises; to sell spirits and wines in this state to licensed wholesalers and manufacturers only; to sell spirits and wines out of this state to qualified persons; to purchase from licensed manufacturers in this state; and to import into this state

for manufacturing purposes spirits and wines in accordance with federal laws and regulations.

F. 1. A wholesaler license shall authorize the holder thereof: To purchase and import into this state spirits and wines from persons authorized to sell same who are the holders of a nonresident seller license, and their agents who are the holders of manufacturers agent licenses; to purchase spirits and wines from licensed distillers, rectifiers and winemakers in this state; to purchase spirits and wines from licensed wholesalers, to the extent set forth in paragraphs 2 and 3 of this subsection; to sell in retail containers in this state to retailers, mixed beverage, caterer, special event, public event, hotel beverage or airline/railroad beverage licensees, spirits and wines which have been received and unloaded at the bonded warehouse facilities of the wholesaler before such sale; to sell to licensed wholesalers, to the extent set forth in paragraphs 2 and 3 of this subsection, spirits and wines which have been received and unloaded at the bonded warehouse facilities of the wholesaler before such sale; and to sell spirits and wines out of this state to qualified persons. Provided, however, sales of spirits and wine in containers with a capacity of less than one-twentieth (1/20) gallon by a holder of a wholesaler license shall be in full case lots and in the original unbroken case. Wholesalers shall be authorized to place such signs outside their place of business as are required by Acts of Congress and by such laws and regulations promulgated under such Acts.

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

a. the total volume of spirits sales of the wholesaler, by liter, from the previous calendar year, and

b. the total volume of wine sales of the wholesaler, by liter, from the previous calendar year, and

c. the volume of sales of each brand of spirits or wine of the wholesaler, by liter, from the previous calendar year.

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

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

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

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

only be canceled with prior approval of the Director of the ABLE Commission, unless a wholesaler shall have in its warehouse a fifteen-day supply of merchandise on such purchase order.

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

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

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

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

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

Sales and service of mixed beverages by holders of mixed beverage licenses shall be limited to the licensed premises of the licensee unless the holder of the mixed beverage license also obtains a caterer license or a mixed beverage/caterer combination license. A mixed beverage license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. A separate license shall be required for each place of business. No mixed beverage license shall be issued for any place of business functioning as a motion picture theater, as defined by Section 506 of this title.

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

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

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

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

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

3. An annual public event license shall authorize the holder thereof: to sell and distribute mixed beverages for consumption on the premises for which the license has been issued for up to six events to be held over a period not to exceed one (1) calendar year.

For purposes of this paragraph, an event shall not exceed a period of three (3) consecutive days. An annual public event license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. The holder of an annual public event license shall provide written notice to the ABLE Commission of each promoted public event not less than ten (10) days before the event is held. A public event license shall not be used in lieu of a mixed beverage license.

4. A one-time public event license shall authorize the holder thereof: to sell and distribute mixed beverages for consumption on the premises for which the license has been issued. For purposes of this paragraph, an event shall not exceed a period of three (3) consecutive days. A public event license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. The holder of a public event license shall provide written notice to the ABLE Commission of each public event not less than ten (10) days before the event is held. A public event license shall not be used in lieu of a mixed beverage license.

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

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

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

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

P. An employee license shall authorize the holder thereof: To work in a package store, mixed beverage establishment, bottle club, public event or any establishment where alcohol or alcoholic beverages are sold, mixed, or served. Persons employed by a mixed beverage licensee, public event licensee or a bottle club who do not participate in the service, mixing, or sale of mixed beverages shall not be required to have an employee license. Provided, however, that a manager employed by a mixed beverage licensee, public event licensee or a bottle club shall be required to have an employee license whether or not the manager participates in the service, mixing or sale of mixed beverages. Applicants for an employee license must have a health card issued by the county in which they are employed, if the county issues such a card. Employees of special event, caterer or airline/railroad beverage licensees shall not be required to obtain an employee license. Persons employed by a hotel licensee who participate in the stocking of hotel room mini-bars or in the handling of alcoholic beverages to be placed in such devices shall be required to have an employee license.

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

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

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

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

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

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

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

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

S. A private carrier license may be issued to any carrier other than a common carrier described in subsection Q of this section. Such license shall authorize the holder thereof to transport alcoholic beverages other than wine sold directly by a winemaker or

winery to a retail package store or restaurant into, within, or out of this state under such terms, conditions, limitations, and restrictions as the ABLE Commission may prescribe by order issuing such license and by regulations. No carrier license or private carrier license shall be required of licensed brewers, distillers, winemakers, rectifiers, wholesalers, or Class B wholesalers, to transport alcoholic beverages from the place of purchase or acquisition to the licensed premises of such licensees and from such licensed premises to the licensed premises of the purchaser in vehicles owned or leased by such licensee when such transportation is for a lawful purpose and not for hire.

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

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

U. A storage license may be issued to a holder of a brewer, distiller, winemaker, rectifier, wholesaler, Class B wholesaler, nonresident seller, package store, mixed beverage, caterer, public event or hotel beverage license, and shall authorize the holder thereof: To store alcoholic beverages in a public warehouse holding a bonded warehouse license, and no goods, wares or merchandise other than alcoholic beverages may be stored in the same warehouse with

alcoholic beverages in private warehouses owned or leased and operated by such licensees elsewhere than on their licensed premises. Provided:

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

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

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

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

5. Notwithstanding the provisions of subsection I of this section or any other provision of this title, a licensee who wholly owns more than one licensed mixed beverage establishment may store alcoholic beverages for each of the licensed establishments in one location under one storage license. Alcoholic beverages purchased and stored pursuant to the provisions of a storage license, for one licensed mixed beverage establishment may be transferred by a licensee to another licensed mixed beverage establishment which is wholly owned by the same licensee. Notice of such a transfer shall be given in writing to the Oklahoma Tax Commission and the ABLE Commission within three (3) business days of the transfer. The notice shall clearly show the quantity, brand and size of every transferred bottle or case.

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

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

Sales and service of beer and wine by holders of beer and wine licenses shall be limited to the licensed premises of the licensee unless the holder of the beer and wine license also obtains a caterer license. A beer and wine license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. A separate license shall be required for each place of business. No beer and wine license shall be issued for any place of business functioning as a motion picture theater, as defined by Section 506 of this title. No spirits shall be stored, possessed or consumed on the licensed premises of a beer and wine licensee.

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

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

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

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

A charitable alcoholic beverage event shall be conducted solely to raise funds for charitable purposes. A charitable alcoholic beverage license will allow the event attendees access to tastings, samples, dinners and alcoholic beverages as parts of their entrance fee or ticket price. Wine, spirits and/or beer used in, served, or consumed at a charitable alcoholic beverage event may be purchased by the charitable organization or donated by any person or entity. The charitable alcoholic beverage event license shall be issued for a period not exceeding four (4) days. Only eight such licenses may be issued to an organization in any twelve-month period. The charitable organization holding a charitable alcoholic beverage event license shall not be required to obtain a special event license. Charitable auction and charitable alcoholic beverage event license holders may also utilize a licensed caterer to provide additional alcohol services at the event and on the premises. The charitable auction license shall authorize the holder thereof to auction wine, spirits and/or beer purchased from a retail package store or received as a gift from an individual if the auction is conducted to raise funds for charitable purposes. The charitable auction license shall be issued for a period not to exceed two (2) days. Only four such licenses shall be issued to an organization in any twelve-month period. The maximum amount of wine, spirits and/or beer auctioned pursuant to the charitable auction license shall not exceed fifty (50) gallons. All wines auctioned pursuant to the charitable auction license shall be registered and all fees and taxes shall be paid in accordance with the Oklahoma Alcoholic Beverage Control Act.

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

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

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

~~AA.~~ BB. Except as provided in Sections 554.1 and 554.2 of this title with respect to cities, towns and counties, and except as may be provided under Title 68 of the Oklahoma Statutes with respect to the Oklahoma Tax Commission, no license or permit other than licenses as provided under the Oklahoma Alcoholic Beverage Control Act shall be required of any licensee by any agency, instrumentality or political subdivision of this state to engage in any activity covered by the Oklahoma Alcoholic Beverage Control Act anywhere within the State of Oklahoma and no agency, instrumentality or political subdivision of this state shall interfere with the ABLE Commission's regulation of, or a wholesaler's performance of, the sale, distribution, possession, handling or marketing of alcoholic beverages on any premises of any licensee as defined in Section 506 of this title.

SECTION 4. This act shall become effective November 1, 2015.

Passed the Senate the 10th day of March, 2015.

Presiding Officer of the Senate

Passed the House of Representatives the 1st day of April, 2015.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 10th day of April, 2015, at 4:00 o'clock P M.

By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 10th day of April, 2015, at 9:25 o'clock A M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 10th day of April, 2015, at 1:48 o'clock P. M.

By: Chris Warren