An Act

ENROLLED SENATE
BILL NO. 383

By: Bice and Jolley of the Senate

and

Mulready and Roberts (Dustin) of the House

An Act relating to intoxicating liquors; providing short title; stating purpose and legislative declaration; specifying beverages subject to act; defining terms; recreating Alcoholic Beverage Laws Enforcement Commission; providing for membership, appointments, vacancies, qualifications, removal from office and duties; requiring oath; prohibiting appointment of and service by certain persons; requiring criminal history record check; providing for quorum, proceedings, travel expenses, offices, seal, records and rules; providing that act be deemed exercise of police powers; specifying powers and duties of ABLE Commission; providing for promulgation of act; providing for appointment of Director and other personnel; authorizing employing or contracting with attorneys; specifying powers and duties of Director; specifying powers and authority of members and employees of ABLE Commission; allowing certain employees to receive custody and possession of sidearm and badge; prohibiting certain acts by member or employee of ABLE Commission; providing penalties; allowing and permitting certain employees to obtain licenses; prohibiting licensure of certain persons or partnerships; authorizing and prohibiting certain persons from obtaining licenses or being engaged in alcoholic beverage business; specifying conditions of certain transactions; prohibiting licensure of certain persons; setting license fees and surcharges; setting forth acts authorized by and restricted by

various licenses; assigning responsibility for certain violations; requiring license, contract or agreement for certain sales; providing for suspension or revocation of license for violation; prohibiting purchase or receipt from unlicensed persons; providing for expiration of certain licenses; requiring filing of certain documents with ABLE Commission; authorizing sale of certain beverages; prohibiting requirement of license or permit by political subdivisions; specifying requirements for certain transactions; prohibiting certain locations of mixed beverage or beer and wine establishments or bottle clubs; authorizing certain waivers and exceptions; providing procedure to protest application on basis of location; providing for personal use permits; requiring publication of notice of intent to apply for certain licenses and providing procedures; allowing conditional license approval under certain circumstances; providing procedures for license application; requiring certain certificates; providing procedures in event of failure to maintain compliance with certain codes; setting forth restrictions on and procedures for license renewal; requiring corporation to submit certain documents and provide notification of change in corporate structure; prohibiting certain stock ownership; requiring limited liability company to submit certain documents and provide notification of change in organizational structure; providing that conviction of felony for which pardon granted not grounds for adverse license action; prohibiting granting of certain licenses for certain grounds; specifying grounds for license revocation or suspension; allowing imposition of in lieu monetary penalty; requiring notice of and providing procedures in event of license denial; requiring certain hearings; providing procedures for appeal of licensing decisions; setting forth conditions of licensure; specifying circumstances under which license is transferable; requiring display of license; stating effect of licensing actions upon certain premises; providing that liability not arise against Board or

Division for certain transfer; setting forth restrictions on issuance of certain licenses to certain business entities; prohibiting interest in multiple package stores; providing for determination of interests in business entities; restricting sales by package stores; specifying requirements for winery self-distribution; requiring certain notification to ABLE Commission; prohibiting certain transportation or distribution arrangements; providing penalties; allowing Governor to suspend licenses under certain conditions; prohibiting certain actions relating to alcoholic beverages except as specifically provided; allowing certain possession, transportation, production, dispensation and sale; prohibiting unauthorized sales; providing penalties; authorizing ABLE Commission to promulgate certain rules; requiring certain notice and procedures; defining terms; specifying procedures relating to sale of beer kegs; requiring identification seals and keeping of certain records; prohibiting certain acts; providing for shipping by Oklahoma wineries; providing for issuance of Direct Wine Shipper and Consumer permits and setting forth restrictions thereon; setting forth conditions under which brewer may terminate distribution sales agreement with nonresident seller; providing procedures in event of brand transfer; prohibiting inducements in connection with distribution sales agreement; stating legislative intent; providing for regulation of sales and distribution of brands in designated territories; specifying requirements applicable to brewers; providing for assignment of distribution rights; restricting transportation of beer; providing for sales of beer on same price basis and without discrimination and providing procedures; providing for termination of distributor agreements; providing for arbitration in certain circumstances; allowing recovery of damages under certain circumstances; providing procedures for resolution of certain disputes; providing for construction of certain provisions; specifying conditions for operation and maintenance of brewpubs; specifying authority and

requirements of small brewers; providing for service of free samples and providing limitations thereon; specifying conditions for retailers and brewpubs to sale beer for off premises consumption; providing penalties; requirement deposit of certain revenues; providing for stock withdrawals; requiring certain sales be made on same price basis and without discrimination or inducements; providing conditions on certain purchases; providing for packaging of alcoholic beverages with promotional items; requiring certain mark-up on sales of alcoholic beverages; providing exceptions; making certain acts unlawful; prohibiting interest in certain businesses by certain licensees; providing exception; defining terms; providing that certain provisions not be construed to prohibit licensing actions for certain entities under certain conditions; prohibiting certain price discrimination or inducements; authorizing promulgation of certain rules; allowing certain suspensions or revocations; providing procedures for county elections to allow sale of alcoholic beverages by the individual drink for on-premises consumption; restricting days and hours of such sales; specifying requirements applicable to bottle clubs; subjecting certain sales to sales tax; specifying authority of municipalities with respect to alcoholic beverages; allowing governing body of municipality to initiate license suspension or revocation proceeding; providing procedures; authorizing certain zoning classification and occupational taxes; requiring certain reports; providing for enforcement of Act; providing procedures in case of failure to perform duty; levying excise tax on alcoholic beverages; providing for rate, payment and collection thereof; providing for agency of state; subjecting certain sales to sales tax; providing for incidence of tax on ultimate retail consumer; providing exemptions; providing for apportionment of revenues; levying tax on gross receipts of certain license holders; defining terms; specifying requirements and procedures; providing for apportionment of revenues; requiring certain entities to obtain mixed beverage

tax permit from Oklahoma Tax Commission and providing procedures; providing for revocation or suspension of permits under certain circumstances; requiring Tax Commission to promulgate certain rules; requiring certain labels; providing procedure for payment of excise taxes; granting certain authority to Tax Commission and specifying requirements for certain applications; specifying requirements for payment of certain taxes and reports; prohibiting certain deductions; providing for distributor and wholesaler permits; requiring copies to be furnished to certain sellers and wholesalers; requiring maintenance of certain records; declaring certain property to be contraband and allowing seizure thereof; granting powers to Tax Commission; specifying prima facie presumption of nonpayment of excise taxes; applying provisions of Uniform Tax Procedure Code; allowing ABLE Commission and Tax Commission employees to enter and examine certain premises without warrant and seize certain property; granting such employees free access to premises; requiring hearing after such seizure and providing procedures; providing procedures for sale of forfeited alcoholic beverages; providing penalty for possession of certain amount of alcoholic beverage upon which tax unpaid; providing for packaging and shipment in cases and requiring sealing and numbering; requiring licensees to keep certain books and records for certain time period and make such available for certain inspection; requiring certain reports and bonds to Tax Commission; requiring certain documents to be made and delivered at time of sale of alcoholic beverages; requiring documents be in possession of carriers transporting such beverages; requiring records to be retained for certain period; specifying duty of county excise boards; creating certain funds and providing for deposits thereto and expenditures therefrom; authorizing ABLE Commission to promulgate certain rules; specifying grounds for license actions; providing procedures for labeling of alcoholic beverages; specifying fees; prohibiting refilling of certain containers; requiring certain license holders

to furnish surety bond and providing procedures; requiring certain tax permit holders to file monthly reports and providing procedures; providing for calculation and payment of gross receipts tax; authorizing certain audits; allowing retention of percentage by tax permit holder or taxpayer; prohibiting possession of unlisted containers; prohibiting certain acts and providing penalties; authorizing removal of certain persons from licensed premises and adjacent areas; providing for seizure and forfeiture of certain property; prohibiting admittance of persons under twenty-one years of age to certain premises and providing exceptions; providing procedures; prohibiting filing of false tax return or willful tax evasion; prohibiting misrepresentation of age; allowing court to order cancellation or denial of driving privileges; providing for substance abuse prevention programs; prohibiting furnishing of alcoholic beverages to certain persons; providing that payment of certain tax constitutes prima facie evidence of intent to violate certain provisions; providing penalty for selling or keeping package store open to sell alcoholic beverages during unauthorized hours; providing penalty for permitting person to be drunk or intoxicated on certain premises; providing general penalties; requiring law enforcement officers to notify ABLE Commission of certain arrests or acts; allowing issuance of certain search warrants; providing for forfeiture and destruction of certain property; providing procedures; providing procedures in case of certain witness refusals; providing for subpoena of witnesses; repealing 37 O.S. 2011, Section 8, as amended by Section 1, Chapter 210, O.S.L. 2013, Section 2, Chapter 210, O.S.L. 2013, 8.2, 163.1, 163.2, 163.3, 163.4, 163.5, as amended by Section 1, Chapter 357, O.S.L. 2012, 163.6, 163.7, as amended by Section 1, Chapter 120, O.S.L. 2012, 163.8, 163.9, 163.10, as amended by Section 2, Chapter 120, O.S.L. 2012, 163.11, as last amended by Section 1, Chapter 205, O.S.L. 2013, 163.11a, as amended by Section 2, Chapter 86, O.S.L. 2012,

163.12, 163.13, 163.14, 163.15, 163.16, 163.17, 163.18, 163.18A, 163.18B, 163.18C, 163.18D, 163.18E, 163.18F, 163.18G, 163.18H, 163.19, Section 1, Chapter 382, O.S.L. 2013, 163.20, 163.22, 163.23, 163.25, 163.26, 163.27, as amended by Section 1, Chapter 214, O.S.L. 2012, 163.28, 163.29, 213, 213.1, 213.2, 215, 216, 217, 219, 219.1, 220, 231, 232, 233, 241, 243, 244, 246, as amended by Section 1, Chapter 213, O.S.L. 2015, 247, 501, 502, 503, 504, 505, 506, as last amended by Section 1, Chapter 48, O.S.L. 2015, 506, as last amended by Section 1, Chapter 275, O.S.L. 2015, 506.1, as amended by Section 125, Chapter 304, O.S.L. 2012, 507.1, 507.2, 508, 509, 510, 510A, as amended by Section 126, Chapter 304, O.S.L. 2012, 511, 511A, 512, 513a, 514, as amended by Section 3, Chapter 120, O.S.L. 2012, 515, 516, 517, 518, as last amended by Section 2, Chapter 48, O.S.L. 2015, 518.1, as amended by Section 3, Chapter 298, O.S.L. 2014, 518.3, as amended by Section 2, Chapter 214, O.S.L. 2012, 520A, 521, as last amended by Section 3, Chapter 48, O.S.L. 2015, 521, as last amended by Section 2, Chapter 275, O.S.L. 2015, 521.1, 521.2, 521.3, 522, 523, as last amended by Section 3, Chapter 275, O.S.L. 2015, 523.1, as amended by Section 4, Chapter 275, O.S.L. 2015, 523.2, as amended by Section 5, Chapter 275, O.S.L. 2015, 524, as last amended by Section 2, Chapter 160, O.S.L. 2015, 525, Section 1, Chapter 160, O.S.L. 2015, 526.1, 527, 527.1, as last amended by Section 6, Chapter 275, O.S.L. 2015, 528, 528.1, as amended by Section 7, Chapter 298, O.S.L. 2014, 528.2, 529, 530, 530.1, 531, 532, 532.1, as amended by Section 8, Chapter 298, O.S.L. 2014, 532.2, 533, 534, 534.1, 535, as last amended by Section 7, Chapter 275, O.S.L. 2015, 535.1, as amended by Section 10, Chapter 298, O.S.L. 2014, 535.2, Section 11, Chapter 298, O.S.L. 2014, 535.3, 536, 536.1, 537, as amended by Section 12, Chapter 298, O.S.L. 2014, 537.1, as last amended by Section 8, Chapter 275, O.S.L. 2015, 537.2, 537.3, 538, as amended by Section 14, Chapter 298, O.S.L. 2014, 538.1, 538.2, 538.3, 539, 540, 541, 542, 543, 543.1, 543.2, 545, 546, 547, 548, 549, 550,

551, 552, 553, as amended by Section 2, Chapter 357, O.S.L. 2012, 554, as amended by Section 9, Chapter 275, O.S.L. 2015, 554.1, as amended by Section 15, Chapter 298, O.S.L. 2014, 554.2, as amended by Section 16, Chapter 298, O.S.L. 2014, 555, 556, 557, 559, 560, 561, as amended by Section 17, Chapter 298, O.S.L. 2014, 562, 563, 563.1, as last amended by Section 1, Chapter 283, O.S.L. 2015, 564, 565, 566, 567, as amended by Section 128, Chapter 304, O.S.L. 2012, 568, 569, 570, 571, 572, 573, 576, as last amended by Section 18, Chapter 298, O.S.L. 2014, 576.1, 577, as last amended by Section 10, Chapter 275, O.S.L. 2015, 578, as amended by Section 20, Chapter 298, O.S.L. 2014, 579, as amended by Section 21, Chapter 298, O.S.L. 2014, 580, 582, as amended by Section 22, Chapter 298, O.S.L. 2014, 584, as amended by Section 23, Chapter 298, O.S.L. 2014, 586, 588, 590, 591, as last amended by Section 11, Chapter 275, O.S.L. 2015, 592, 593, 594, as amended by Section 12, Chapter 275, O.S.L. 2015, 594.1, 595, 596, as last amended by Section 13, Chapter 275, O.S.L. 2015, 597, 598, and 599, as amended by Section 26, Chapter 298, O.S.L. 2014 (37 O.S. Supp. 2015, Sections 8, 8a, 163.5, 163.7, 163.10, 163.11, 163.11a, 163.19A, 163.27, 246, 506, 506, 506.1, 510A, 514, 518, 518.1, 518.3, 521, 521, 523, 523.1, 523.2, 524, 525A, 527.1, 528.1, 532.1, 535, 535.1, 535.2, 537, 537.1, 538, 553, 554, 554.1, 554.2, 561, 563.1, 567, 576, 577, 578, 579, 582, 584, 591, 594, 596 and 599), which relate to the Alcoholic Beverage Control Act; providing for codification; providing for recodification; providing for severability; providing conditional effectiveness; and providing effective dates.

SUBJECT: Alcoholic beverage regulation

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 1-101 of Title 37A, unless there is created a duplication in numbering, reads as follows:

Sections 1 through 168 of this act shall be known and may be cited as the "Oklahoma Alcoholic Beverage Control Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-102 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. The purpose of the Oklahoma Alcoholic Beverage Control Act is to implement the provisions of Article XVIIIA of the Oklahoma Constitution, as referred to the people for their approval or rejection by the Secretary of State pursuant to the provisions of Enrolled Senate Joint Resolution No. 68 of the 2nd Session of the 55th Oklahoma Legislature. The Legislature hereby declares that the Oklahoma Alcoholic Beverage Control Act is deemed to be a code, digest or revision of statutes pursuant to the provisions of Section 57 of Article V of the Oklahoma Constitution.

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

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-103 of Title 37A, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Alcoholic Beverage Control Act:

1. "ABLE Commission" or "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;

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

7. "Beer distributor" means and includes any person licensed to distribute beer for retail sale in the state, but does not include a holder of a small brewer self-distribution license or brewpub self-distribution license. The term "distributor", as used in this act, shall be construed to refer to a beer distributor;

8. "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;

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

10. "Brand extension" means:

a. after the effective date of this act, any brand of beer introduced by a manufacturer in this state which either:

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

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

b. any brand of beer that a manufacturer, the majority of whose total volume of all brands of beer distributed in this state by such manufacturer on January 1, 2016, was distributed as low-point beer, desires to sell, introduces, begins selling or theretofore has sold and desires to continue selling a strong beer in this state which either:

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

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

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

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

13. "Cider" means any alcoholic beverage obtained by the alcoholic fermentation of fruit juice, including but not limited to flavored, sparkling or carbonated cider. For the purposes of the

distribution of this product, cider may be distributed by either wine and spirits wholesalers or beer distributors;

14. "Convenience store" means any person primarily engaged in retailing a limited range of general household items and groceries, with extended hours of operation, whether or not engaged in retail sales of automotive fuels in combination with such sales;

15. "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;

16. "Director" means the Director of the ABLE Commission;

17. "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;

18. "Distributor agreement" means the written agreement between the distributor and manufacturer as set forth in Section 78 of this act;

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

20. "Dual strength beer" means a brand of beer that, immediately prior to the effective date of this act, was being sold and distributed in this state:

a. as a low-point beer pursuant to the Low-Point Beer Distribution Act in effect immediately prior to the effective date of this act, and

b. as strong beer pursuant to the Alcoholic Beverage Control Act in effect immediately prior to the effective date of this act.

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

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

22. "Good cause" means:

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

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

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

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

25. "Hotel" or "motel" means 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;

26. "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;

27. "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;

28. "Low-point beer" shall mean any 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 by barley or other grain, malt or similar products;

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

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

31. "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";

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

a. restricted by means of a locking device which requires the use of a key, magnetic card or similar device, or

b. controlled at all times by the licensee;

33. "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";

34. "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, public event, charitable event or special event license;

35. "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;

36. "Nonresident seller" means any person licensed pursuant to Section 47 of this act;

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

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

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

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

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

42. "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;

43. "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;

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

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

46. "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;

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

48. "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;

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

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

51. "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;

52. "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";

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

54. "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;

55. "Small farm winery" means a wine-making establishment that does not annually produce for sale more than fifteen thousand (15,000) 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);

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

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

58. "Spirits" means any beverage other than wine or 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;

59. "Strong beer" means beer which, prior to the effective date of this act, was distributed pursuant to the Oklahoma Alcoholic Beverage Control Act, Section 501 et seq. of Title 37 of the Oklahoma Statutes;

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

61. "Tax Commission" means the Oklahoma Tax Commission;

62. "Territory" means a geographic region with a specified boundary;

63. "Wine and spirits wholesaler" or "wine and spirits distributor" means and includes any sole proprietorship or partnership licensed to distribute wine and spirits in the state. The term "wholesaler", as used in this act, shall be construed to refer to a wine and spirits wholesaler; and

64. "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;

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 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-104 of Title 37A, unless there is created a duplication in numbering, reads as follows:

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

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

appoint a replacement, with the advice and consent of the State Senate, within ninety (90) days.

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

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

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

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

G. The Commission shall appoint a Director, whose duties shall be defined as provided in Section 8 of this act.

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

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

2. Package stores may install refrigerated coolers for the storage of beer and wine prior to October 1, 2018, provided the

refrigerated coolers shall not be used to cool product below room temperature until after October 1, 2018; and

3. An interim license shall allow all qualified wine and spirits wholesalers to perform all activities permissible under a full license including but not limited to selling and delivering wine and/or full-strength beer to all qualified retail wine and retail beer licensees. In order to qualify for an interim license, the wine and spirits wholesaler must comply with the provisions set forth in Article XXVIIIA of the Oklahoma Constitution and this act. The interim license shall convert to a full license on October 1, 2018.

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

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-105 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. Members of the ABLE Commission shall:

1. Be citizens of the United States;

2. Be qualified electors in this state;

3. Have been residents of this state for at least ten (10) consecutive years immediately preceding the date of their appointment and qualification; and

4. Be persons of outstanding character, experienced, efficient and successful in business affairs and of good reputation in their communities.

B. Members shall execute the loyalty oath required by law for elected state officials before assuming the duties of their office.

C. No person shall be appointed who:

1. Has been convicted of, or shall have pleaded guilty to, a felony or any violation of any federal or state law concerning the manufacture or sale of alcoholic beverages or cereal malt beverages prior or subsequent to the passage of the Oklahoma Alcoholic Beverage Control Act;

2. Has paid a fine or penalty in settlement in any prosecution against the person in any violation of such laws; or

3. Shall have forfeited a bond to appear in court to answer charges for any such violation.

D. No appointee shall serve if the appointee or any person related to the appointee in the third degree by consanguinity or affinity is an officer, director, employee or stockholder in any corporation or partnership which has as its business the manufacture, sale or distribution of an alcoholic beverage.

E. No member of the ABLE Commission shall own, mortgage or lease any retail or wholesale store or warehouse, any establishment selling alcoholic beverages by the individual drink for on-premises consumption, any establishment operated by a caterer who provides alcoholic beverages by the individual drink pursuant to a caterer's license or any bottle club as provided in the alcoholic beverage control laws of this state.

F. The provisions of the Oklahoma Alcoholic Beverage Control Act shall not prevent any member of the ABLE Commission from purchasing and possessing, for personal use or use by the members of the member's family or any guests, any alcoholic beverage which may be purchased or kept by any person by virtue of the provisions of the Oklahoma Alcoholic Beverage Control Act.

G. In order to establish the qualifications of members of the ABLE Commission, a national criminal history record check as defined in Section 150.9 of Title 74 of the Oklahoma Statutes shall be required for each member.

H. A majority of the members of the ABLE Commission shall constitute a quorum to transact business, but no vacancy shall impair the right of the remaining members to exercise all of the

powers of the Commission, and every act of a majority of the members shall be deemed to be the act of the ABLE Commission. The ABLE Commission shall appoint the Director as secretary who shall keep a record of all proceedings and official acts of the Commission and who shall be the custodian of all records and perform such other duties as the ABLE Commission shall prescribe.

I. Each member of the ABLE Commission shall receive reimbursement for travel expenses incurred in attending meetings as provided for in the State Travel Reimbursement Act.

J. The office of the ABLE Commission shall be in Oklahoma City in office space provided by the Office of Management and Enterprise Services. All meetings of the ABLE Commission shall be open to the public and all records of the ABLE Commission shall be public records and open for public inspection. The ABLE Commission shall hold regular meetings at least once a month at its office and may hold such special meetings as it deems necessary at any time and at any place within the state.

K. The ABLE Commission, for authentication of its records, process and proceedings, may adopt, keep and use a common seal, of which seal judicial notice shall be taken in all the courts of the state. Any process, notice or other paper which the ABLE Commission may be authorized by law to issue shall be deemed sufficient if signed by the secretary of the ABLE Commission and authenticated by such seal. All acts, orders, proceedings, rules, regulations, entries, minutes and other records of the ABLE Commission, and all reports and documents filed with the ABLE Commission may be proved in any court of this state by copy thereof certified by the secretary of the ABLE Commission with the seal of the ABLE Commission attached.

L. The ABLE Commission shall not adopt or promulgate any rule or regulation inconsistent with the provisions of the Oklahoma Alcoholic Beverage Control Act or any law of this state.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-106 of Title 37A, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Alcoholic Beverage Control Act shall be deemed an exercise of the police power of the State of Oklahoma for the protection of the welfare, health, peace, temperance and safety of the people of this state, and all provisions hereof shall be construed for the accomplishment of that purpose.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-107 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. The ABLE Commission shall have the following powers and duties:

1. To supervise, inspect and regulate every phase of the business of manufacturing, importing, exporting, transporting, storing, selling, distributing and possessing for the purpose of sale, all alcoholic beverages which shall be necessary and proper to carry out the purposes of the Oklahoma Alcoholic Beverage Control Act;

2. To promulgate rules, in the manner herein provided, to carry out the purposes of the Oklahoma Alcoholic Beverage Control Act;

3. To have the sole authority to issue any license provided for in the Oklahoma Alcoholic Beverage Control Act and except as provided in Sections 101 and 102 of this act 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 other agency, instrumentality or political subdivision of this state shall be authorized to issue any license or permit allowing any licensee to engage in any activity covered by the Oklahoma Alcoholic Beverage Control Act anywhere within the State of Oklahoma;

4. To refuse to issue any license provided for in the Oklahoma Alcoholic Beverage Control Act for cause provided for in the Oklahoma Alcoholic Beverage Control Act;

5. To revoke or suspend, for cause after hearing, any license issued under the authority of the Oklahoma Alcoholic Beverage Control Act;

6. To prescribe the forms of all reports which it deems necessary in administering the Oklahoma Alcoholic Beverage Control Act;

7. To fix standards not in conflict with those prescribed by any law of this state or of the United States, to secure the use of proper ingredients and methods of manufacture and dispensing of alcoholic beverages;

8. To make seizures of alcoholic beverages manufactured, sold, possessed, imported or transported in violation of the Oklahoma Alcoholic Beverage Control Act, and apply for the confiscation thereof whenever required by the Oklahoma Alcoholic Beverage Control Act, and cooperate in the prosecution of offenders before any court of competent jurisdiction;

9. To submit to the Governor and members of the State Legislature annual or semiannual reports upon request of the Governor;

10. To inspect or cause to be inspected any premises where alcoholic beverages are manufactured, stored, distributed, sold, dispensed or served;

11. In the conduct of any hearing authorized to be held by the ABLE Commission:

a. to examine or cause to be examined, under oath, any person,

b. to examine or cause to be examined books and records of any licensee,

c. to hear testimony and take proof material for the ABLE Commission's information and the discharge of its duties hereunder,

d. to administer or cause to be administered oaths, and

e. to issue subpoenas for the attendance of witnesses and the production of books or records which shall be effective in any part of the state. Any district

court or any judge thereof, either in term or vacation, may by order duly entered require the attendance of witnesses and the production of relevant books or records subpoenaed by the ABLE Commission, and the court or judge may compel obedience to the order by proceedings for contempt;

12. To prescribe the kind and size of retail containers of alcoholic beverages which may be purchased, possessed and sold by a licensee;

13. To prescribe by rule, in addition to those herein required, the kinds of records to be kept and reports to be rendered by licensees, and the information to be shown therein; provided, that the period for which all such records and reports be retained shall not be less than five (5) years;

14. To gather, compile and print such statistical data as may in the opinion of the ABLE Commission be needed or useful, and prescribe charges or fees to be collected from any person or company to whom such data shall be provided. No reports shall contain sales information by name or license number;

15. To educate persons employed by licensees to sell or serve alcoholic beverages as to the provisions of Article XXVIIIA of the Oklahoma Constitution and the Oklahoma Alcoholic Beverage Control Act, with emphasis on recognizing and preventing intoxication and particular emphasis on those provisions prohibiting the selling or serving of alcoholic beverages to minors. The ABLE Commission may contract with one or more entities, including but not limited to the Oklahoma Department of Mental Health and Substance Abuse Services, to perform the duties specified in this paragraph;

16. To purchase motor vehicles necessary for use in its operations. Such motor vehicles shall not be required to have any type of identifying marking thereon;

17. To purchase insurance on the motor vehicles owned and operated by the ABLE Commission in accordance with statutory provisions, subject to the approval of the Risk Management Administrator as provided for in Section 85.58A of Title 74 of the Oklahoma Statutes;

18. To approve or reject any official bond required to be filed with the ABLE Commission; and

19. To exercise all other powers and duties conferred by the Oklahoma Alcoholic Beverage Control Act, and all powers incidental, convenient or necessary to enable it to administer or carry out any of the provisions of the Oklahoma Alcoholic Beverage Control Act.

B. The ABLE Commission shall promulgate rules, pursuant to the Administrative Procedures Act, to carry out the purposes of the Oklahoma Alcoholic Beverage Control Act.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-108 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. The ABLE Commission shall appoint a Director, who shall employ an Assistant Director and such other personnel as are necessary to properly enforce and administer the Oklahoma Alcoholic Beverage Control Act. The Director shall require bonds in such instances and amounts as the ABLE Commission may direct, and shall be in direct charge of all records. The Director shall further have the following specific powers and duties:

1. To issue licenses provided for in the Oklahoma Alcoholic Beverage Control Act, and to approve or reject any official bond required to be filed with the Director or the ABLE Commission;

2. To appoint and employ, supervise and discharge such employees as may be determined necessary for the proper discharge of the duties of the office of Director, upon duties and salary fixed and determined by the ABLE Commission and subject to all the rules that may be promulgated by the ABLE Commission. The Director and the ABLE Commission, in appointing and employing personnel, shall give preference to honorably discharged members of the Armed Forces of the United States;

3. To conduct such investigations and make such reports as may be necessary to keep the ABLE Commission advised concerning any violations of the provisions of the Oklahoma Alcoholic Beverage Control Act and make orders for its enforcement;

4. To make recommendations to the ABLE Commission concerning the suspension or revocation of any licenses, the levying of fines against licensees for violations of the provisions of the Oklahoma Alcoholic Beverage Control Act or rules of the ABLE Commission or any action that should be filed or commenced against any official bond theretofore approved by the Director or the ABLE Commission;

5. To regularly inspect all places of business of licensees, and all other persons, firms or corporations dealing in the manufacture, distribution, transportation, sale or service of alcoholic beverages under the provisions of the Oklahoma Alcoholic Beverage Control Act and report to the ABLE Commission concerning any and all violations with a recommendation to the ABLE Commission for its determination;

6. To refer any evidence of a violation of any provision of the Oklahoma Alcoholic Beverage Control Act which carries a criminal penalty to the appropriate law enforcement authority for action;

7. To aid the enforcement authorities of this state or any county or municipality of the state, or the federal government, in prosecutions of violations of the Oklahoma Alcoholic Beverage Control Act; and

8. To enforce the provisions of the Prevention of Youth Access to Tobacco Act including but not limited to the levying of administrative fines against persons violating the provisions of the Prevention of Youth Access to Tobacco Act, and to at least annually conduct random unannounced inspections at locations where tobacco products are sold or distributed and conduct targeted inspections at those locations which have been in violation of the provisions of the Prevention of Youth Access to Tobacco Act.

B. The Director may employ or contract with attorneys, as needed, to advise the Director and the ABLE Commission on all legal matters and shall appear for and represent the Director and the ABLE Commission in all administrative hearings and all litigation or other proceedings which may arise in the discharge of their duties. At the request of the ABLE Commission, such attorneys shall assist district attorneys in prosecuting charges of violators of the Oklahoma Alcoholic Beverage Control Act.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-109 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. The members of the ABLE Commission, the Director and such agents and inspectors as the ABLE Commission appoints in writing shall have all the powers and authority of peace officers of this state for the purpose of enforcing the provisions of the Oklahoma Alcoholic Beverage Control Act.

B. The Director or any agent or inspector duly appointed, as provided in subsection A of this section, shall be authorized to arrest violators for offenses against laws of this state committed in the presence of the Director or such agents or inspectors, and further, upon the request of a sheriff or another peace officer of this state or any political subdivision thereof, assist in apprehension and arrest of a violator or suspected violator of any of the laws of this state.

C. 1. A commissioned employee of the ABLE Commission shall be entitled to receive, upon retirement by reason of length of service, the continued custody and possession of the sidearm and badge carried by such employee immediately prior to retirement;

2. A commissioned employee of the ABLE Commission may be entitled to receive, upon retirement by reason of disability, the continued custody and possession of the sidearm and badge carried by such employee immediately prior to retirement, upon approval of the Director;

3. Custody and possession of the sidearm and badge of a commissioned employee of the ABLE Commission, killed in the line of duty, may be awarded by the Director to the spouse or next of kin of the deceased employee.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-110 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. No member or employee of the ABLE Commission shall:

1. Be appointed or serve who has been convicted of a felony or of any violation of any federal or state law relating to alcoholic beverages;

2. Directly or indirectly, individually or as a member of a partnership, or as a shareholder of a corporation, have any interest whatsoever in the manufacture, sale or distribution of alcoholic beverages;

3. Receive any compensation or profit therefrom, nor have any interest, directly or indirectly, in any business authorized by a license issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act. The holding of membership or elective or appointed office in fraternal organizations which obtain licenses authorized by the Oklahoma Alcoholic Beverage Control Act shall not be considered to be engagement in the alcoholic beverage business;

4. Solicit or accept any gift, gratuity, emolument or employment from any person subject to the provisions of the Oklahoma Alcoholic Beverage Control Act, or from any officer, agent or employee thereof;

5. Solicit, request from or recommend, directly or indirectly, to any such person or to any officer, agent or employee thereof, the appointment of any person to any place or position, and every such person, and every officer, agent or employee thereof, is hereby forbidden to offer to any member or employee of the ABLE Commission any gift, gratuity, emolument or employment;

6. Accept employment within the alcoholic beverage industry for any holder of a license issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act; or

7. Represent, directly or indirectly, any such licensee in any proceedings before the Director, the ABLE Commission or the Tax Commission within two (2) years following separation from the ABLE Commission.

B. Violation of any provision of subsection A of this section shall constitute a misdemeanor. In addition to the penal provisions, any person convicted shall be immediately removed from the office or position he or she holds.

C. No license of any kind shall be granted to or retained by any person or any partnership containing any partner who is related to any member or employee of the ABLE Commission by affinity or consanguinity within the third degree. If a license is held in violation of the provisions of this subsection, the member or employee of the ABLE Commission shall not be entitled to receive any compensation or other monies from the State of Oklahoma while a license is held in violation of the provisions of this subsection.

D. It shall be unlawful for any member or employee of the ABLE Commission to lend, expend or contribute any money, funds, property or other thing of value, or use his or her official position for the purpose of securing the nomination or election or the defeat of any candidate for public office in the State of Oklahoma.

E. Any person who shall violate the provisions of subsection D of this section shall, upon conviction, be fined not less than Two Thousand Five Hundred Dollars ($2,500.00) nor more than Five Thousand Dollars ($5,000.00), or be imprisoned in the county jail for not more than one (1) year, or by both such fine and imprisonment. Any person found guilty of violating the provisions of this subsection shall, upon conviction, in addition to the criminal penalty imposed herein, be discharged from the office or position he or she holds and shall not be rehired to any state position.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-111 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. Employees of the State of Oklahoma and its political subdivisions are hereby permitted to obtain licenses from the ABLE Commission and to be involved in the alcoholic beverage business unless such involvement and licensing is prohibited by law.

B. The following officers and employees of the State of Oklahoma and its political subdivisions are hereby prohibited from engaging in the alcoholic beverage business:

1. All judges, district attorneys, assistant district attorneys and any public official who sits in a judicial capacity with jurisdiction over the Oklahoma Alcoholic Beverage Control Act;

2. All employees certified as peace officers engaging in law enforcement activities; and

3. All employees of the Oklahoma Tax Commission who engage in the auditing, enforcement and collection of alcoholic beverage taxes.

C. The holding of membership or elective or appointed office in fraternal organizations which obtain mixed beverage or bottle club licenses by employees of the state or a political subdivision shall not be considered to be engagement in the alcoholic beverage business.

D. If the voters of a county in which a state lodge is located approve sale of alcoholic beverages by the individual drink for on-premises consumption, then such sale of alcoholic beverages on the premises of such lodge shall be authorized if a license for such sale, issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act, is obtained. Provided, further, that a bottle club may be licensed on the premises of a state lodge located in a county where sale of alcoholic beverages by the individual drink for on-premises consumption is not authorized.

E. The provisions of subsection D of this section shall not prohibit the state or a political subdivision of the state from leasing a public building or facility to a person who obtains a mixed beverage license, bottle club license, special event license, contracts for the services of a licensed caterer or subleases the building or facility to a person who obtains a mixed beverage license, bottle club license, special event license or contracts for the services of a licensed caterer.

F. Provided, that nothing in this section shall prohibit the sale of alcoholic beverage legally confiscated as provided by law.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-112 of Title 37A, unless there is created a duplication in numbering, reads as follows:

The ABLE Commission shall not issue a license to any person not in good standing with the Oklahoma Tax Commission with respect to the payment of all taxes due to this state or any political subdivision thereof. The ABLE Commission shall not issue a license to any business entity if the entity or any officer or director thereof is not in good standing with the Tax Commission with respect to the payment of all taxes due to this state or any political subdivision thereof. Any license issued before or after the effective date of this act which is deemed to have been issued in violation of the provisions of this section shall be immediately revoked, and the holder thereof shall not be eligible to receive any license issued by the ABLE Commission until such time as the Tax Commission determines that the holder is in good standing with the Tax Commission with respect to the payment of all taxes due to this state or any political subdivision thereof, including payment of any interest or penalties due.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-101 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. Except as otherwise provided in this section, the licenses issued by the ABLE Commission, and the annual fees therefor, shall be as follows:

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

2. Small Brewer License..... $125.00

3. Distiller License..... $3,125.00

4. Winemaker License..... $625.00

5. Small Farm Winery License..... $75.00

6. Rectifier License..... $3,125.00

7. Wine and Spirits Wholesaler License..... $3,000.00

8. Beer Distributor License..... $750.00

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

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

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

c. Retail Spirits License for cities and towns over 5,000 population.....$905.00

10. Retail Wine License.....$1,000.00

11. Retail Beer License.....$500.00

12. Mixed Beverage License.....$1,005.00

(initial license)

$905.00

(renewal)

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

14. On Premises Beer and Wine License.....$500.00

(initial license)

$450.00

(renewal)

15. Bottle Club License.....$1,000.00

(initial license)

$900.00

(renewal)

16. Caterer License..... $1,005.00

(initial license)

$905.00

(renewal)

17. Annual Special Event License..... $55.00

18. Quarterly Special Event License..... $55.00

19. Hotel Beverage License..... $1,005.00

(initial license)

$905.00

(renewal)

20. Airline/Railroad Beverage License..... $1,005.00

(initial license)

$905.00

(renewal)

21. Agent License..... $55.00

22. Employee License..... $30.00

23. Industrial License..... $23.00

24. Carrier License..... $23.00

25. Private Carrier License..... $23.00

26. Bonded Warehouse License..... $190.00

27. Storage License..... $23.00

28. Nonresident, Seller License or Manufacturer's License.....$750.00

29. Manufacturer's Agent License.....$55.00

30. Sacramental Wine Supplier License.....$100.00

31. Charitable Auction License.....$1.00

32. Charitable Alcoholic Beverage License.....$55.00

33. Winemaker Self-Distribution License.....$750.00

34. Annual Public Event License.....$1,005.00

35. One-Time Public Event License.....$255.00

36. Small Brewer Self-Distribution License.....$750.00

37. Brewpub License.....$1,005.00

38. Brewpub Self-Distribution License.....$750.00

B. 1. 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 subsection A of this section; 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.

2. 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 subsection A of this section.

C. 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; and

2. 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).

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

E. 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 shall be valid for two (2) years.

F. 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 an on-premises beer and wine license and operate the licensed premises as a mixed beverage establishment or an on-premises 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 on-premises beer and wine license issued shall expire one (1) year from the date of issuance of the original bottle club license.

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

1. Nonresident Seller or Manufacturer License..... $2,500.00

2. Wine and Spirits Wholesaler License..... $2,500.00

3. Beer Distributor..... $1,000.00

4. Retail Spirits License for cities and towns over 5,000 population..... $250.00

5. Retail Spirits License for cities and towns from 2,501 to 5,000 population..... $200.00

6. Retail Spirits License for cities and towns from 200 to 2,500 population..... $150.00

7. Retail Wine License..... $250.00

8. Retail Beer License..... $250.00

9. Mixed Beverage License..... $25.00

10. Mixed Beverage/Caterer Combination License..... $25.00

11. Caterer License..... $25.00

12. On-Premises Beer and Wine License..... $25.00

13. Annual Public Event License..... $25.00

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

15. Small Brewer License..... $35.00

The surcharge shall be paid concurrent with the licensee's annual licensing fee and shall be deposited in the Alcoholic Beverage Governance Revolving Fund established pursuant to Section 131 of this act.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-102 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. A brewer license shall authorize the holder thereof:

1. To manufacture, bottle, package and store beer on the licensed premises; and

2. To sell beer in this state to holders of beer distributor licenses and to sell beer out of this state to qualified persons.

B. A small brewer license shall authorize the holder thereof:

1. To manufacture, bottle, package and store beer produced by the licensee on licensed premises;

2. To sell beer in this state to holders of beer distributor licenses and retail licenses or to sell beer out of this state to qualified persons;

3. To serve free samples of beer produced by the licensee to visitors twenty-one (21) years of age or older;

4. To sell beer produced by the licensee for either on-premises or off-premises consumption to consumers on the brewery premises, or on premises located contiguous thereto; and

5. To sell beer at public events such as trade shows or festivals.

C. Nothing in this act shall prohibit the holder of a small brewer license from also holding or owning an interest in the holder of a brewpub license.

D. 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 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 of beer served by a brewery under this section shall not be considered a sale of beer within the meaning of Article XXVIIIA of the Oklahoma Constitution or Section 3 of this act; however, such samples of beer shall be considered beer removed or withdrawn from the brewery for use or consumption within the meaning of Section 113 of this act for excise tax determination and reporting requirements;

E. A small brewer self-distribution license shall authorize holders of a small brewer license to distribute beer produced only by such licensee to a holder of a retail beer license, retail spirits license, mixed beverage license, beer and wine license, caterer's license, special event license, public event license, charitable auction license or brewpub license. A small brewer shall elect whether it will distribute through a distributor or self-distribute in a subject territory; however, a small brewer may not elect to do both simultaneously in a subject territory. The election shall be made through notice to the ABLE Commission. Any changes to the election shall require immediate notification to the ABLE Commission before the change in election will take effect. A small brewer that elects to self-distribute in multiple territories shall only be required to have one small brewer self-distribution license.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-103 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A distiller license shall authorize the holder thereof:

1. To manufacture, bottle, package and store spirits on licensed premises;

2. To sell spirits in this state to licensed wholesalers and manufacturers only;

3. 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; and

4. To serve free samples of spirits produced only by the licensee to visitors twenty-one (21) years of age and older. For purposes of this section, no visitor may sample more than a total of three (3) fluid ounces of spirits per day. The distiller shall restrict the distribution and consumption of spirits samples to an area within the licensed premises designated by the distiller. A current floor plan that includes the designated sampling area shall be on file with the ABLE Commission. No visitor under twenty-one (21) years of age shall be permitted to enter the designated

sampling area when samples are being distributed and consumed. Samples of spirits served by a distiller under this section shall not be considered a sale of spirits within the meaning of Article XXVIIIA of the Oklahoma Constitution or Section 3 of this act; provided, such samples of spirits shall be considered removed or withdrawn from the distillery for use or consumption within the meaning of Section 113 of this act for excise tax determination and reporting requirements.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-104 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A winemaker license shall authorize the holder thereof:

1. 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;

2. To sell wine in this state to licensed wholesalers and manufacturers;

3. 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;

4. To serve free samples of wine produced at the winery to visitors twenty-one (21) years of age and older. For purposes of this section, no visitor may sample more than a total of six (6) fluid ounces of wine per day. The winery shall restrict the distribution and consumption of wine samples to an area within the licensed premises designated by the winery. A current floor plan that includes the designated sampling area shall be on file with the ABLE Commission. No visitor under twenty-one (21) years of age shall be permitted to enter the designated sampling area when samples are being distributed and consumed. Samples of wine served by a winery under this section shall not be considered a sale of wine within the meaning of Article XXVIIIA of the Oklahoma Constitution or Section 3 of this act; provided, such samples of

wine shall be considered removed or withdrawn from the winery for use or consumption within the meaning of Section 113 of this act for excise tax determination and reporting requirements;

5. To serve samples of wine produced at the winery at public events such as festivals and trade shows;

6. To sell wine produced at the winery, in original sealed containers, at public events such as festivals and trade shows;

7. To sell wine out of this state to qualified persons; and

8. 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.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-105 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. A winemaker self-distribution license shall authorize a licensed winemaker within or without this state which is permitted by Article XXVIIIA of the Oklahoma Constitution and this section:

1. To distribute its wine directly to retail spirits, retail wine and retail beer licensees and restaurants in this state; and

2. If such a winemaker 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 promulgate.

B. A winemaker either within or without this state that annually produces no more than fifteen thousand (15,000) 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; provided:

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, non-package store retailers or restaurants in this state.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-106 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A rectifier license shall authorize the holder thereof:

1. To rectify spirits and wines and to bottle, package and store same on the licensed premises;

2. To sell spirits and wines in this state to licensed wholesalers and manufacturers only;

3. To sell spirits and wines out of this state to qualified persons;

4. To purchase from licensed manufacturers in this state; and

5. To import into this state for manufacturing purposes spirits and wines in accordance with federal laws and regulations.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-107 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. A wine and spirits wholesaler license shall authorize the holder thereof:

1. To purchase and import into this state spirits and wines from persons authorized to sell same who are the holders of a manufacturer or nonresident seller license, and their agents who are the holders of manufacturer's agent licenses;

2. To purchase spirits and wines from licensed distillers, rectifiers and winemakers in this state;

3. To purchase spirits and wines from licensed wholesalers, to the extent set forth in subsections B and C of this section;

4. 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;

5. To sell to licensed wholesalers, to the extent set forth in subsections B and C of this section, spirits and wines which have been received and unloaded at the bonded warehouse facilities of the wholesaler before such sale; and

6. 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.

B. A wholesaler may sell spirits and wine to other wholesalers or purchase spirits and wines from other wholesalers without complying with subsection B 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.

C. 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.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-108 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. A beer distributor license shall authorize the holder thereof:

1. To purchase and import into this state beer from persons authorized to sell the same who are the holders of manufacturer's licenses, and their agents who are the holders of manufacturer's agent licenses;

2. To purchase beer from licensed brewers and beer distributors in this state;

3. 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 received, unloaded and stored at the holder's self-owned or leased and self-operated warehouse facilities before such sale, unless otherwise permitted by this section; and

4. To sell beer in this state to beer distributors 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.

B. In the event that no in-state beer distributor for a particular brewer is willing to deliver beer to a county or counties located within the state, the ABLE Commission may grant an economic hardship exemption to an out-of-state beer distributor for a particular brewer and waive the at-rest requirement set forth in this section, upon a good-faith showing that:

1. It is economically infeasible or impractical for an in-state beer distributor for a particular brewer to deliver to the county or counties due to remoteness, or population, or both;

2. No in-state beer distributor of a particular manufacturer objects to the waiver within thirty (30) days of receiving written notice of the economic hardship application sent by the ABLE Commission; and

3. The out-of-state beer distributor agrees to pay all necessary licensing fees and remit all applicable taxes to the State of Oklahoma.

C. The economic hardship exemption provided for in subsection B of this section shall renew annually, provided that no in-state beer distributor for a particular brewer submits an executed distribution agreement to assume responsibility to distribute the beer in the subject county or counties at least sixty (60) days prior to the renewal date of the exemption. The in-state beer distributor who has executed a distribution agreement to assume responsibility to distribute beer in the subject territory shall compensate the out-of-state distributor the fair market value of the distribution rights of the territory as determined pursuant to Section 78 of this act.

D. Provided, nothing in this section shall require an Oklahoma licensed beer distributor with an Oklahoma designated territory on the effective date of this act to meet the hardship provisions in subsections B and C of this section to continue to operate as a licensed Oklahoma beer distributor.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-109 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. A retail spirits license shall authorize the holder thereof:

1. To purchase wine or spirits from a wine and spirits wholesaler;

2. To purchase beer from a beer distributor or from the holder of a small brewer self-distribution license; and

3. To sell same on the licensed premises in such containers to consumers for off-premises consumption only and not for resale; provided, spirits, wine and beer may be sold to charitable organizations that are holders of charitable alcoholic beverage auction or charitable alcoholic beverage event licenses.

B. A retail wine license shall authorize the holder thereof:

1. To purchase wine from a wine and spirits wholesaler;

2. To purchase wine from a small farm winemaker who is permitted and has elected to self-distribute as provided in Article XXVIIIA of the Oklahoma Constitution; and

3. 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 alcoholic beverage auction or charitable alcoholic beverage event licenses.

Provided, no holder of a Retail Wine License may sell wine with alcohol beverage volume in excess of fifteen percent (15%).

C. A retail beer license shall authorize the holder thereof:

1. To purchase beer from a beer distributor;

2. To purchase beer from the holder of a small brewer self-distribution license; and

3. To sell same on the licensed premises in such containers to consumers for off-premises consumption only and not for resale; provided, beer may be sold to charitable organizations that are holders of charitable alcoholic beverage auction or charitable alcoholic beverage event licenses.

Provided, no holder of a Retail Beer License may sell a malt beverage with alcohol beverage volume in excess of eight and ninety-nine/one hundredths percent (8.99%).

SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-110 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A mixed beverage license shall authorize the holder thereof:

1. To purchase alcohol, spirits, beer and/or wine in retail containers from the holder of a wine and spirits wholesaler and beer distributor license as specifically provided by law; and

2. 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 and beer directly from a small brewer who is permitted and has elected to self-distribute as provided in Article XXVIIIA 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.

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-111 of Title 37A, unless there is created a duplication in numbering, reads as follows:

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.

SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-112 of Title 37A, unless there is created a duplication in numbering, reads as follows:

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.

SECTION 25. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-113 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. 1. A caterer license may be issued to any person for the purpose of sale, delivery or distribution of alcoholic beverages incidental to the sale or distribution of food on a premises not licensed by the ABLE Commission. For purposes of this section, "incidental to the sale or distribution of food" means food sales constituting at least thirty-five percent (35%) of the caterer's total combined annual sales. A caterer license shall not be issued to a person whose main purpose is the sale of alcoholic beverages.

2. A caterer license may only be issued to those persons that prepare, sell and distribute food for consumption either on licensed or unlicensed premises. In order to renew a caterer license, annual food sales must constitute at least thirty-five percent (35%) of the caterer's total combined sales based on the most recent calendar year. A caterer shall not be required to prepare, sell and distribute food at every catered event as long as the caterer satisfies the requirement set forth in this section.

3. Each caterer shall submit an annual sales report containing revenue attributable to alcoholic beverages, food and all other revenues attributable to the catering service. The annual sales report must be submitted thirty (30) days prior to expiration of the caterer license on forms prescribed by the ABLE Commission. The caterer license may not be renewed if the caterer fails to provide complete or sufficient financial data.

4. Each caterer shall submit a monthly event report containing information on all events scheduled for the subsequent month. If an event is scheduled after the first day of the month for an event to occur in the same month, then the caterer shall report that event within twenty-four (24) hours of scheduling the event or within twenty-four (24) hours prior to the event, whichever occurs first. The monthly event report shall be submitted on the first day of each month.

5. All reports shall be submitted electronically on forms prescribed by the ABLE Commission. Provided, if the caterer does not have access to the Internet, then monthly reports must be submitted by facsimile to the ABLE Commission's office in Oklahoma City, in which case the caterer must retain a copy of the facsimile confirmation sheet for at least twelve (12) months.

6. Any caterer who fails to submit a monthly report shall have the caterer license automatically suspended until such time that the caterer has fully complied with all reporting requirements. Any caterer whose annual food sales do not exceed thirty-five percent (35%) of his or her total annual combined sales shall not have the caterer's license renewed.

B. The ABLE Commission shall promulgate rules governing the application for and the issuance of caterer licenses.

C. The restrictions and rules which apply to the sale of mixed beverages on the premises of a mixed beverage licensee also apply to the sale under the authority of a caterer license. Any act which if done on the premises of a mixed beverage licensee would be a ground for revocation or suspension of the mixed beverage license is a ground for revocation or suspension of a caterer license.

D. If the premises where the event being catered is held are already operating pursuant to another type of license issued by the ABLE Commission, the caterer and the other licensee shall both be responsible for the actions of the caterer and shall both be subject to penalties for violations by the caterer of the Oklahoma Alcoholic Beverage Control Act and any rules promulgated thereto.

E. A caterer licensee may not store alcoholic beverages unless the licensee has a storage license issued by the ABLE Commission.

F. A caterer may provide alcoholic beverage sales on the premises of a person currently applying for a mixed beverage license, provided the following terms have been satisfied:

1. The caterer shall take reasonable steps to ensure that the mixed beverage applicant uses only licensed employees to perform licensable activities while using the caterer's license. The caterer shall use his or her best efforts to attempt to have a licensed employee on-site supervising the sale of such caterer's alcoholic beverages at all times, but the caterer shall not be disciplined for failing to have a licensed employee on-site. The caterer expressly acknowledges that he or she is liable for all violations of the Oklahoma Alcoholic Beverage Control Act and rules of the ABLE Commission that are committed by the mixed beverage applicant and its employees during this period;

2. The caterer and mixed beverage applicant must submit to the ABLE Commission a written agreement setting forth all the terms of the catering agreement at least twenty-four (24) hours prior to the commencement of the catered event; and

3. The caterer may not provide alcoholic beverage sales on the unlicensed premises of the mixed beverage applicant for more than sixty (60) days, or after the applicant's license has been denied, whichever occurs first.

G. A caterer may provide alcoholic beverage services for temporary public events which have been licensed and approved by the ABLE Commission.

H. A caterer may provide alcoholic beverage services for a mixed beverage licensee which holds a live performing arts presentation and is open to the public not more than one hundred twenty (120) days per year.

SECTION 26. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-114 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. 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 subsection, 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.

B. 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 subsection, 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.

C. 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. The applicant for an annual public event license, who does not already hold a license issued by the ABLE Commission, shall make application not less than sixty (60) days before its first event. The ABLE Commission shall have the authority to waive the sixty-day requirement at its discretion. For purposes of this subsection, 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.

D. 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. The applicant for a one-time public event license, who does not already hold a license issued by the ABLE Commission, shall make application not less than sixty (60) days before the event. The ABLE Commission shall have the authority to waive the sixty-day requirement at its discretion. 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.

SECTION 27. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-115 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. A special event license may be issued to an organization, association or nonprofit corporation organized for political, fraternal, charitable, religious or social purposes. The holder of a special event license is authorized to sell and distribute alcoholic beverage on the premises for which the license is issued.

B. The ABLE Commission shall promulgate rules governing the application for and the issuance of special event licenses.

C. The restrictions and rules which apply to the sale of mixed beverages on the premises of a mixed beverage licensee also apply to the sale of such beverages under the authority of a special event license. Any act which if done on the premises of a mixed beverage licensee would be a ground for revocation or suspension of the mixed beverage license is a ground for revocation or suspension of a special event license.

D. No special event license may be issued for any premises already licensed by the ABLE Commission.

SECTION 28. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-116 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A hotel beverage license shall authorize the holder thereof to sell or serve alcoholic beverages in fifty (50) milliliter spirits, one hundred eighty-seven (187) milliliter wine and twelve (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 3 of this act 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.

SECTION 29. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-117 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. A hotel beverage license may be issued to a hotel or motel which is also the holder of a mixed beverage license. Provided, that application may be made simultaneously for both such licenses.

B. The ABLE Commission shall promulgate rules governing the application for and the issuance of hotel beverage licenses.

C. Notwithstanding any other provision of the Oklahoma Alcoholic Beverage Control Act, a hotel may sell alcoholic beverages to its registered guests by means of a mini-bar located in the guestrooms of those registered guests; provided:

1. Access to any mini-bar shall only be by a key, magnetic card or similar device;

2. Access to a mini-bar in a particular guestroom is provided, whether by furnishing a key, magnetic card or similar device only to a registered guest over twenty-one (21) years of age registered to stay in the guestroom;

3. The licensee shall verify that each registered guest to whom a key, magnetic card or similar device to access a mini-bar is to be provided is over twenty-one (21) years of age; and

4. All employees handling the alcoholic beverages to be placed in the mini-bar possess an employee license issued by the ABLE Commission.

SECTION 30. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-118 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. An airline/railroad beverage license shall authorize the holder thereof:

1. 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

2. 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 ABLE Commission.

B. 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 104 of this act.

SECTION 31. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-119 of Title 37A, unless there is created a duplication in numbering, reads as follows:

An airline/railroad beverage license may be issued to any corporation operating a commercial airline or railroad in or through this state. Application and payment of the license fee shall be made directly to the ABLE Commission.

SECTION 32. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-120 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A wholesaler's agent license shall authorize the holder thereof:

1. To represent only the holders of licenses within this state, other than retailers, authorized to sell alcoholic beverages to retail dealers in Oklahoma; and

2. 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.

SECTION 33. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-121 of Title 37A, unless there is created a duplication in numbering, reads as follows:

An employee license shall authorize the holder thereof to work in a licensed package store, retail spirits, retail wine or retail beer establishment, brewpub, mixed beverage establishment, beer and wine establishment, bottle club, public event or any establishment where alcohol or alcoholic beverages are sold, mixed or served. Persons employed by a mixed beverage, on-premises beer and wine, retail wine, retail beer, public event or a bottle club licensee 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 be at least eighteen (18) years of age and have a health card issued by the county in which they are employed, if the county issues such a card; provided, the provisions of this section shall not be construed to permit any person under twenty-one

(21) years of age to be employed to sell spirits. Employees of a special event, caterer, unless catering a mixed beverage-licensed premise 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. As a prerequisite to the issuance of an employee license, the applicant shall be required to have successfully completed a training program conducted by the ABLE Commission, or by another entity approved by the ABLE Commission, including an in-house training program conducted by the employer.

SECTION 34. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-122 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. 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.

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

C. 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.

D. 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.

SECTION 35. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-123 of Title 37A, unless there is created a duplication in numbering, reads as follows:

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 rule.

SECTION 36. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-124 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. A private carrier license may be issued to any carrier other than a common carrier described in Section 35 of this act. 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 rule. No carrier license or private carrier license shall be required of licensed brewers, distillers, winemakers, rectifiers, wholesalers or beer distributors, 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.

B. No carrier license or private carrier license shall be required of the holder of a retail spirits, retail wine, retail beer, mixed beverage, caterer, special event, hotel beverage, public event or airline/railroad license to pick up alcoholic beverage orders from the licensee's wholesaler, beer distributor or holder of a small brewer self-distribution license or brewpub self-

distribution license 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.

SECTION 37. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-125 of Title 37A, unless there is created a duplication in numbering, reads as follows:

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.

SECTION 38. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-126 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A storage license may be issued to a holder of a brewer, distiller, winemaker, rectifier, wine or spirits wholesaler, beer distributor, nonresident seller, 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. The holder of a small brewer license or brewpub license shall not be required to obtain a storage license to store beer within the limits set forth in Section 3 of this act. 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 beer distributor shall permit the storage of 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 this section or any other provision of this act, 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.

SECTION 39. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-127 of Title 37A, unless there is created a duplication in numbering, reads as follows:

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.

SECTION 40. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-128 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. An on-premises beer and wine license shall authorize the holder thereof:

1. To purchase beer and wine in retail containers from the holder of a wholesaler, beer distributor, small brewer self-distribution or brewpub self-distribution license or as specifically provided by law; and

2. To sell, offer for sale and possess beer and wine for on-premises consumption only; provided, the holder of an on-premises 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 Article XXVIIIA of the Oklahoma Constitution.

B. Sales and service of beer and wine by holders of on-premises beer and wine licenses shall be limited to the licensed premises of the licensee unless the holder of the on-premises beer and wine license also obtains a caterer license. An on-premises 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 spirits shall be stored, possessed or consumed on the licensed premises of an on-premises beer and wine license.

SECTION 41. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-129 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. 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), (6), (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.

B. A charitable alcoholic beverage event shall be conducted solely to raise funds for charitable purposes. A charitable alcoholic beverage license shall 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.

C. 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.

D. 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.

E. 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, beer and spirits 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.

SECTION 42. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-130 of Title 37A, unless there is created a duplication in numbering, reads as follows:

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.

SECTION 43. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-131 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. A small farm winery license shall authorize the holder thereof:

1. To manufacture and bottle wines produced by that small farm winery; and

2. 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.

B. A small farm wine may display the trademarked "Oklahoma Grown" sticker available from the Oklahoma Grape Industry Council.

SECTION 44. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-132 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. A brewpub license shall authorize a small brewer to:

1. Manufacture, bottle, package and store beer on the licensed premises;

2. Sell beer produced by the licensee for either on-premises or off-premises consumption to consumers on the brewery premises, or premises located contiguous thereto;

3. Sell beer at public events such as trade shows or festivals;

4. Also hold a mixed beverage license, beer and wine license or caterer's license; and

5. Hold a brewpub self-distribution license.

B. A brewpub self-distribution license shall authorize holders of a brewpub license to distribute beer produced only by such licensee and operated by an entity which has common owners with such brewpub licensee, regardless of which place of business brews the beverage. "Common owners" means that the owners at each place or entity together own more than fifty percent (50%) of the interest in each place or entity that holds a type of license listed in this subsection.

SECTION 45. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-133 of Title 37A, unless there is created a duplication in numbering, reads as follows:

Each bottle club or mixed beverage, beer and wine, caterer, public event, charitable event or special event licensee shall be held responsible for violation of any alcoholic beverage law or administrative rule of the ABLE Commission affecting his or her license privileges and for any act or omission of his or her servant, agent, employee or representative in violation of any law, municipal ordinance or administrative rule affecting his or her license privileges.

SECTION 46. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-134 of Title 37A, unless there is created a duplication in numbering, reads as follows:

The ABLE Commission may issue an additional hours license to the holder of a caterer, public event or special event license. The

additional hours license shall authorize the holder thereof to sell, dispense or serve alcoholic beverages from 6:00 a.m. to 10:00 a.m.

SECTION 47. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-135 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. All out-of-state distillers, winemakers, brewers, importers, brokers and others who sell alcoholic beverages to wine and spirits wholesalers and beer distributors in Oklahoma, regardless of whether such sales are consummated within or without the state, must either obtain a manufacturer's license or contract with a person that maintains a nonresident seller license in order to sell alcoholic beverages intended for consumption within the State of Oklahoma.

A manufacturer's license or 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. A brewer not licensed in this state selling beer to a nonresident seller shall have a written distribution sales agreement with the nonresident seller. Such agreement shall be subject to inspection by the ABLE Commission.

C. The ABLE 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 manufacturer's license or nonresident seller license for any violation of the Oklahoma Alcoholic Beverage Control Act by the holder thereof.

D. 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 manufacturer's license or nonresident seller license. Every manufacturer's license or 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 manufacturer's license or nonresident seller license applied for after July 1 may be prorated through the following June 30 on a quarterly basis.

E. The holder of a manufacturer's license or 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 rule prescribe, showing the details of such shipment.

F. 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 or beer distributor 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 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 Fifty Dollars ($50.00), which fee shall permit the sale of only the alcoholic beverages detailed in the registration request. A wholesaler or beer distributor 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 or beer distributor shall not exceed four (4) lots.

SECTION 48. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-136 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A manufacturer's agent license shall authorize the holder thereof to represent only the holders of a manufacturer's license or nonresident seller license and to solicit and take orders for the

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

SECTION 49. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-137 of Title 37A, unless there is created a duplication in numbering, reads as follows:

Except as provided in Sections 101 and 102 of this act 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 regulation of the ABLE Commission, or the performance of a wholesaler with respect to the sale, distribution, possession, handling or marketing of alcoholic beverages on any premises of any licensee as defined in Section 3 of this act.

SECTION 50. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-138 of Title 37A, unless there is created a duplication in numbering, reads as follows:

The holder of a mixed beverage, beer and wine, caterer, special event, public event or airline/railroad beverage license shall purchase alcoholic beverages only from a licensed wine and spirits wholesaler or beer distributor, or as otherwise specifically provided by law; provided, the holder of a mixed beverage, beer and wine, caterer or special event license issued for an establishment

which is also a restaurant may purchase wine produced at small farm wineries or beer produced at small breweries in this state directly from a winemaker or craft brewer as provided in Article XXVIIIA of the Oklahoma Constitution.

A wine and spirits wholesaler, beer distributor or a holder of a small brewer self-distribution license or brewpub self-distribution license may deliver such products to licensees authorized to sell alcoholic beverages for on-premises consumption; provided, such licensees may also pick up alcoholic beverage orders if they hold a private carrier license issued by the ABLE Commission.

SECTION 51. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-139 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. It shall be unlawful for any mixed beverage establishment, beer and wine establishment or bottle club which has been licensed by the ABLE Commission and which has as its main purpose the selling or serving of alcoholic beverages for consumption on the premises, or package store, to be located within three hundred (300) feet of any public or private school or church property primarily and regularly used for worship services and religious activities; however, a college or university located within an improvement district created pursuant to Section 39-103.1 of Title 11 of the Oklahoma Statutes may waive the three-hundred-foot requirement by providing written notice to the establishment seeking the license and to the ABLE Commission. Provided, a college or university prior to waiving the three-hundred-foot requirement found in this subsection shall publish a notice of its intention to waive such requirement in a legal newspaper of general circulation within the state at least thirty (30) days but no more than forty (40) days prior to providing any written notice, waiving the three-hundred-foot requirement, to the establishment seeking the license or to the ABLE Commission. As used in this subsection "legal newspaper of general circulation within this state" means a newspaper meeting the requisites of a newspaper for publication of legal notices as prescribed in Section 106 of Title 25 of the Oklahoma Statutes in a majority of the counties in this state.

B. The distance indicated in this section shall be measured from the nearest property line of such public or private school or

church to the nearest perimeter wall of the premises of any such mixed beverage establishment, beer and wine establishment, bottle club or package store which has been licensed to sell alcoholic beverages.

C. The provisions of this section shall not apply to mixed beverage establishments, beer and wine establishments, or bottle clubs, which have been licensed to sell alcoholic beverages for on-premises consumption or retail package stores prior to November 1, 2000; provided, if at the time of application for license renewal the licensed location has not been in actual operation for a continuous period of more than sixty (60) days, the license shall not be renewed.

D. If any school or church shall be established within three hundred (300) feet of any package store, mixed beverage establishment, beer and wine establishment or bottle club subject to the provisions of this section after such package store, mixed beverage establishment, beer and wine establishment or bottle club has been licensed, the provisions of this section shall not be a deterrent to the renewal of such license if there has not been a lapse of more than sixty (60) days. When any mixed beverage establishment, beer and wine establishment or bottle club subject to the provisions of this section which has a license to sell alcoholic beverages for on-premises consumption, or package store, changes ownership or the operator thereof is changed and such change of ownership results in the same type of business being conducted on the premises, the provisions of this section shall not be a deterrent to the issuance of a license to the new owner or operator if he or she is otherwise qualified.

E. 1. Any interested party may protest the application for or granting of a license for a package store, or for a mixed beverage establishment, beer and wine establishment or bottle club which has as its main purpose the selling or serving of alcoholic beverages for consumption on the premises, based on an alleged violation of this section. To be considered by the ABLE Commission, the protest must:

a. be submitted in writing,

b. be signed by the person protesting,

c. contain the mailing address and address of residence, if different from the mailing address of the protester,

d. contain the title of the person signing the protest, if the person is acting in an official capacity as a church or school official, and

e. contain a concise statement explaining why the application is being protested.

2. Within thirty (30) days of the date of receipt of a written protest, the ABLE Commission shall conduct a hearing on the protest if the protest meets the requirements of paragraph 1 of this subsection.

3. As used in this subsection, "interested party" means:

a. a parent or legal guardian whose child or children attend the church or school which is alleged to be closer to the mixed beverage establishment or bottle club which has as its main purpose the selling or serving of alcoholic beverages for consumption on the premises, or package store, than is allowed by this section,

b. an official of a church which is alleged to be closer to the mixed beverage establishment or bottle club which has as its main purpose the selling or serving of alcoholic beverages for consumption on the premises, or package store, than is allowed by this section, or

c. an official of a school which is alleged to be closer to the mixed beverage establishment or bottle club which has as its main purpose the selling or serving of alcoholic beverages for consumption on the premises, or package store, than is allowed by this section.

SECTION 52. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-140 of Title 37A, unless there is created a duplication in numbering, reads as follows:

The ABLE Commission is authorized to issue, upon application of a person who is twenty-one (21) years of age or older, an annual personal use permit which when granted authorizes the holder thereof to make, store, possess and transport for personal use, beer, fermented non-distilled ciders and wine, as defined by Section 3 of this act. The total volume of each authorized beverage made and possessed for personal use in a given calendar year shall be limited to a volume less than two hundred (200) gallons. The term "personal use", as used in this act, means the individual making beverages pursuant to a valid personal use permit issued by the ABLE Commission produces such beverages solely for his or her use and consumption, for consumption by his or her family and guests, and for transport to and use at organized affairs, exhibitions or competitions, including but not limited to homemaker contests, tastings or judgings. No beverage made pursuant to a personal use permit shall be sold or offered for sale.

SECTION 53. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-141 of Title 37A, unless there is created a duplication in numbering, reads as follows:

Applicants for original brewer, distiller, winemaker, rectifier, wine and spirits wholesaler, beer distributor, mixed beverage, beer and wine, bottle club, caterer, retail spirits, retail wine or retail beer licenses shall, prior to applying for such license, twice publish, in such form and containing such information as the ABLE Commission shall by rule prescribe, a notice of its intention to apply for any such license, once a week for two (2) successive weeks in a legal newspaper of general circulation within the county where the proposed premises is to be located, and file proof of such publication with the ABLE Commission. Unless otherwise provided, the ABLE Commission shall give notice of approval or disapproval of an application for a license within thirty (30) days after the filing of the application. The ABLE Commission shall give notice of approval or disapproval of an application for a mixed beverage, beer and wine, bottle club or caterer license within sixty (60) days after the filing of the application. Provided, the ABLE Commission may extend the period for making a determination of whether to

approve or disapprove an application an additional thirty (30) days for good cause. The ABLE Commission may conditionally approve any application which is subject to Section 54 of this act if:

1. Construction, modification or alteration of premises proposed for licensed operations is not completed; and

2. The applicant furnishes a conditional certification issued by the municipality or county that the applicant's plans and specifications indicate that the proposed premises will comply with the municipality's or county's zoning, fire, safety and health codes.

The ABLE Commission shall issue its final notice of approval when the applicant furnishes final certificates required by Section 54 of this act.

SECTION 54. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-142 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. No license provided for in the Oklahoma Alcoholic Beverage Control Act shall be issued except pursuant to an application filed with the ABLE Commission. The ABLE Commission may, however, provide for a form of simplified application for renewal of a license. Payment of the prescribed fee shall accompany each application for a license.

B. Every applicant for an original license, except applicants for an employee, charitable event, special event or airline/railroad beverage license, shall also furnish the following:

1. A tax receipt proving payment of ad valorem taxes, including real and personal taxes, or furnish to the ABLE Commission satisfactory evidence that no taxes are due or delinquent;

2. A certificate of zoning issued by the municipality in which the applicant proposes to locate the applicant's principal place of business under the license, or by the county if the principal place of business is located outside the incorporated limits of a municipality, certifying that the applicant's proposed location and

use thereof comply with all municipal zoning ordinances or county zoning regulations if applicable;

3. A certificate issued by the municipality in which the applicant proposes to locate the applicant's principal place of business under the license, or by the county if the principal place of business is located outside the incorporated limits of a municipality, certifying that the applicant's existing or proposed operations under the license comply with all municipal or county fire codes, safety codes, or health codes, if applicable;

4. Authorization, on forms furnished by the ABLE Commission, for complete investigation of the applicant's current financial status as it relates to the application for a license, including but not limited to access to bank accounts, loan agreements and financial statements;

5. A deed, management agreement, purchasing agreement or lease; and

6. Proof of liability insurance covering both bodily injury and property damage.

C. The certificates required by paragraphs 2 and 3 of subsection B of this section shall be signed by the mayor of the municipality or the chair of the board of county commissioners issuing same, unless the municipality, by ordinance, or the county designates some other officer or entity to issue the certificates. Applications for such certificates shall be in writing and shall contain information in such detail as the municipality or county may reasonably require describing the location and nature of operations to be conducted under the license. Municipalities and counties shall be required to act on all applications for such certificates within twenty (20) days of receipt of the written application.

D. Municipalities and counties may grant conditional certificates for premises proposed for licensed operations for which construction, modification or alteration is not completed. Conditional certificates shall indicate that the proposed premises will comply with the municipal or county zoning, fire, safety and health codes. The granting of conditional certificates shall not relieve the applicant of the duty of obtaining the certificates

required by paragraphs 2 and 3 of subsection B of this section after completion of the construction, modification, or alteration.

E. A municipality or county shall issue the certificates required by paragraphs 2 and 3 of subsection B of this section within ten (10) days after all final inspections are completed.

Thereafter if a licensee fails to maintain compliance with municipal or county zoning ordinances and codes, the mayor or chair of the board of county commissioners or their designee, shall forthwith notify the ABLE Commission in writing setting forth details of the noncompliance.

F. Upon issuance of any license, the ABLE Commission shall furnish the Oklahoma Tax Commission with a list of such licenses.

G. In the event of denial of an application for a license, the ABLE Commission shall refund to the applicant the amount of the tendered fee, less ten percent (10%), which it shall retain as cost of processing the application.

H. Any licensee, except an employee licensee, who fails to renew the license prior to the expiration date of the license, shall be subject to a late renewal penalty as provided by rules of the ABLE Commission. Further, any licensee, except an employee licensee, who fails to renew the license within sixty (60) days of the expiration of the license shall be required to submit a new license application. An employee licensee who fails to renew prior to the expiration of the license shall be required to submit a new license application; provided, however, that under no circumstances shall any licensee, including an employee licensee, whose license to serve or sell alcoholic beverages has expired, continue to serve or sell alcoholic beverages.

I. The requirements in this section shall be required for a public event license applicant, except for those certificates required by paragraphs 2 and 3 of subsection B of this section as the events are temporary in nature and the locations are not permanently licensed.

SECTION 55. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-143 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. Any corporation applying for a mixed beverage, beer and wine, caterer, public event, beer distributor or bottle club, or as an equity partner in a wine and spirits wholesaler, shall submit to the ABLE Commission the following:

1. A certificate of good standing from the office of the Secretary of State;

2. A list of all corporate officers, directors, executive committee members or members of a similar governing body and their addresses, except for a charitable organization exempt from taxation under Section 501(c)(3),(4),(5),(6),(7),(8),(9),(10), or (19) of the United States Internal Revenue Code, which shall only be required to furnish its corporate officers; and

3. A list of all stockholders owning fifteen percent (15%) or more of the stock and their addresses.

B. Any corporation applying for a retail wine or retail beer license shall submit to the ABLE Commission the following:

1. A certificate of good standing from the office of the Secretary of State;

2. A list of all corporate officers and directors, except for a charitable organization exempt from taxation under Section 501(c)(3),(4),(5),(6),(7),(8),(9),(10), or (19) of the United States Internal Revenue Code, which shall only be required to furnish its corporate officers; and

3. A list of all stockholders owning fifty-one percent (51%) or more of the stock.

C. A corporate licensee shall notify the ABLE Commission in writing of any change in the officers or directors of the corporation or in the principal managers of premises licensed to the corporation and shall pay a fee of One Hundred Dollars ($100.00) for each notification of change. Provided, service organizations which

are exempt under Section 501(c)(8), (10), or (14) of the Internal Revenue Code shall be exempt from such fee.

D. A corporate licensee shall notify the ABLE Commission any time a person, any type of partnership, limited liability company or other entity acquires the percentages specified in paragraph 3 of subsection A or B of this section, or more, of the stock of the corporation. Such notification shall be within thirty (30) days of acquisition, and the corporation shall pay a fee of One Hundred Dollars ($100.00) for each notification of change.

E. The ABLE Commission may disapprove a change of officers, directors or principal managers or the acquisition of more than the percentages specified in paragraph 3 of subsection A or B of this section of the stock in a licensed corporation if the ABLE Commission feels that such change would materially affect the conditions under which the license was issued, such that the license would not have been issued had such change been in existence at the time of the original application. If such disapproval occurs, the ABLE Commission shall notify the licensee in writing and in the case of a publicly traded corporation, allow a reasonable time for the licensee to remove such officer, director or manager or for the stockholder to divest himself or herself of any stock held in excess of the percentages specified in paragraph 3 of subsection A or B of this section; provided, a reasonable time may not exceed a ninety-day period following notification of denial by the ABLE Commission. Failure to comply with the provisions of this subsection may result in revocation or suspension of such license.

F. Any person who was an officer or director or who has owned the percentages specified in paragraph 3 of subsection A or B of this section or more of the stock in a corporation which has been denied a license or had a license revoked or suspended pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act shall not own stock in any other corporation seeking a license pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act for a period of twelve (12) months from the date the license was revoked or suspended.

G. Any person who was a manager or a member of a limited liability company which has been denied a license or had a license revoked or suspended pursuant to the provisions of the Oklahoma

Alcoholic Beverage Control Act shall not own stock in any corporation seeking a license pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act for a period of twelve (12) months from the date the license was revoked or suspended.

SECTION 56. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-144 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. Any limited liability company, formed as provided for in the Limited Liability Company Act, may apply for a mixed beverage, beer and wine, bottle club, caterer, public event, beer distributor, retail wine or retail beer license issued pursuant to the Oklahoma Alcoholic Beverage Control Act. Any limited liability company applying for a license shall submit to the ABLE Commission, the following:

1. A Certificate of Good Standing from the Office of the Secretary of State;

2. The Articles of Organization with all amendments and corrections filed with the Office of the Secretary of State with proof that same has been filed in accordance with the Limited Liability Company Act;

3. The name and address of the resident agent;

4. The name and address of the manager;

5. The operating agreement;

6. A current list of the full name, social security number and address of each member; and

7. A copy of the issued Certificate of Membership Interest for each member.

B. A limited liability company licensee shall notify the ABLE Commission in writing of any change in the manager of the licensed company within thirty (30) days of the change and shall pay a fee of One Hundred Dollars ($100.00) for each notification of change.

C. A limited liability company shall notify the ABLE Commission in writing any time a membership is assigned or members are added or disassociated within thirty (30) days of the change. The limited liability company shall pay a fee of One Hundred Dollars ($100.00) for each notification of change.

D. The ABLE Commission may disapprove a change of manager or new membership in a licensed liability company if the ABLE Commission feels that such change would materially affect any conditions under which the license was issued, such that the license would not have been issued had such change been in existence at the time of the original application. If such disapproval occurs, the ABLE Commission shall notify the licensee in writing and allow a reasonable time for the licensee to remove such manager or for a member to be disassociated from the company; provided, a reasonable time not exceed a ninety-day period following notification of denial by the ABLE Commission. Failure to comply with the provisions of this subsection may result in revocation or suspension of such license.

E. Any person who has been a licensee, a partner in a license, an officer, director or fifteen percent (15%) or more stockholder of a corporation holding a license revoked or suspended, pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act, shall not serve as a manager or be a member in a limited liability company seeking a license pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act for a period of twelve (12) months from the date the license was revoked or suspended.

F. Any person who has been a manager, member or participant in any business entity which was a manager or member of a limited liability company which has been denied a license or has a license revoked or suspended, pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act shall not serve as a manager or member in a limited liability company seeking a license pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act for a period of twelve (12) months from date the license was revoked or suspended.

G. Any person who has been convicted of a felony for which a pardon has not been granted shall not be elected as a manager or be a member of a limited liability company.

SECTION 57. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-145 of Title 37A, unless there is created a duplication in numbering, reads as follows:

Conviction of a felony for which a pardon has been granted, shall not constitute grounds for the denial or revocation of any license issued by the ABLE Commission.

Unless otherwise provided by law, any person who has received a pardon for a felony conviction shall be eligible to apply for, receive and renew any license granted by the ABLE Commission, which by law is denied to a convicted felon, if:

1. The person meets all other qualifications and requirements for obtaining and maintaining the license; and

2. The person has not been convicted of any other felony or felonies for which a pardon has not been granted.

SECTION 58. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-146 of Title 37A, unless there is created a duplication in numbering, reads as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16. That, in the case of an application for a retail spirits, retail wine or retail beer license, the applicant or any partner is the holder or partner of the holder, or employee of such holder of any other class of license issued under the provisions of the Oklahoma Alcoholic Beverage Control Act, other than a storage license or an employee license for the proposed licensed premises of the applicant; or

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

B. The provisions of this section shall not operate to prohibit the issuance of a beer distributor license to a corporation.

SECTION 59. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-147 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. The ABLE Commission shall refuse to issue a mixed beverage, beer and wine, bottle club, public event, caterer, retail wine or retail beer license, either on an original application or a renewal application, if it has reasonable grounds to believe and finds any of the following to be true:

1. That the applicant, in the case of a natural person, is under twenty-one (21) years of age;

2. That the applicant, in the case of a corporation, has a stockholder who owns fifteen percent (15%) or more of the stock, an officer, or a director who is under twenty-one (21) years of age;

3. That the applicant, in the case of any type of partnership, has any partner who is under twenty-one (21) years of age;

4. That the applicant, in the case of a limited liability company, has a manager or member who is under twenty-one (21) years of age;

5. That the applicant or any type of partner has been convicted of a felony within fifteen (15) years prior to the application date;

6. That the applicant, in the case of a corporation, has a stockholder owning fifteen percent (15%) of the stock, an officer or a director who has been convicted of a felony within fifteen (15) years prior to the application date;

7. That the applicant, in the case of a limited liability company, has a manager or a member who has been convicted of a

felony within fifteen (15) years prior to the application date, and such manager or member has an ownership interest greater than fifty percent (50%);

8. That the applicant has made false statements to the ABLE Commission;

9. That the applicant is not the legitimate owner of the business for which a license is sought or that other persons have undisclosed ownership interests in the business;

10. That the applicant or any partner, within twelve (12) months after being issued a license, either on an original application or a renewal application, has violated any provision of the Oklahoma Alcoholic Beverage Control Act or rule of the ABLE Commission promulgated pursuant hereto. Provided, however, that if the ABLE Commission, during the twelve-month period, has suspended any license sought to be renewed, such renewal application may be approved if the term of the suspension has been completed and the applicant has complied with any special conditions imposed in connection with the suspension;

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

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

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

14. That the applicant or any partner, spouse, employee or other person affiliated with the applicant is not in compliance with the tax laws of this state as required in Article XXVIIIA of the Oklahoma Constitution.

B. 1. The ABLE Commission may refuse to issue a mixed beverage, beer and wine, bottle club, public event or caterer license, either on an original application or a renewal application, if it has reasonable grounds to believe and finds any of the following to be true:

a. that the applicant or any type of partner has been convicted of a felony described in paragraph 2 of this subsection,

b. that the applicant, in the case of a corporation, has a stockholder owning fifteen percent (15%) of the stock, an officer or a director who has been convicted of a felony described in paragraph 2 of this subsection, and

c. that the applicant, in the case of a limited liability company, has a manager or a member who has been convicted of a felony within twenty-five (25) years prior to the application date, who has been convicted of a felony described in paragraph 2 of this subsection.

2. The provisions of this section shall apply to the following felony offenses:

a. an alcohol-related offense,

b. a violent crime as defined in Section 142A-1 of Title 21 of the Oklahoma Statutes, or

c. a crime which would subject a person to registration pursuant to the Sex Offenders Registration Act.

SECTION 60. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-148 of Title 37A, unless there is created a duplication in numbering, reads as follows:

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

1. Violated any rule promulgated by the ABLE Commission;

2. Procured a license through fraud, or misrepresentation, or concealment of a material fact;

3. Made any false representation or statement to the ABLE Commission or the Oklahoma Tax Commission in order to prevent or induce action by the ABLE Commission or the Tax Commission;

4. Maintained an unsanitary establishment or has supplied impure or otherwise deleterious beverages or food;

5. Stored, possessed, mixed or served on the premises of a bottle club any alcoholic beverage upon which the tax levied by Section 104 of this act has not been paid as provided for in the Oklahoma Alcoholic Beverage Control Act, in a county of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has not been authorized;

6. Misrepresented to a customer or the public any alcoholic beverage sold by the licensee;

7. Had any permit or license issued by the Tax Commission and required by the Oklahoma Alcoholic Beverage Control Act, suspended or revoked by the Tax Commission; or

8. Is not in compliance with the tax laws of this state as required in Article XXVIIIA of the Oklahoma Constitution.

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

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

2. Is a manufacturer or wholesaler of alcoholic beverages;

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

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

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

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

7. Is not in compliance with the tax laws of this state as required in Article XXVIIIA of the Oklahoma Constitution.

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

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

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

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

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

E. If the ABLE Commission shall find by a preponderance of the evidence as in civil cases that a licensee has knowingly sold any

alcoholic beverage to any person under the age of twenty-one (21) years, after a public hearing, the ABLE Commission shall revoke such license and no discretion as to the revocation shall be exercised by the ABLE Commission.

F. The ABLE Commission shall have the authority to promulgate rules to establish a penalty schedule for violations of any provision of the Oklahoma Alcoholic Beverage Control Act or any rule of the ABLE Commission. The schedule shall provide for suspension or revocation of any license for major and minor violations as determined by the ABLE Commission. Penalties shall be increasingly severe with each violation by a licensee.

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

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

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

I. If the ABLE Commission or the Tax Commission finds that public health, safety or welfare require emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceeding for revocation or other action, pursuant to the provisions of Section 314 of Title 75 of the Oklahoma Statutes.

SECTION 61. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-149 of Title 37A, unless there is created a duplication in numbering, reads as follows:

In the case of denial of an application for an original license, the ABLE Commission shall give written notice to the applicant either by registered mail directed to the applicant's last-known address or by delivery, stating the reason for such denial. If the ABLE Commission proposes to deny renewal of any license or to suspend or revoke a license, it shall give written notice to the licensee addressed to the licensed premises by registered mail, by personal delivery or by posting of the notice on the outside entrance to the licensed premises, notifying the licensee of such contemplated denial, suspension or revocation, and of the time and place at which the licensee may be accorded a hearing before the ABLE Commission on the matter, which time shall not be less than fifteen (15) days from the date of mailing, delivery or posting of such notice. Such notice shall set forth the grounds for the proposed denial, suspension or revocation. The ABLE Commission may delegate any part of this function to the Director, but any person aggrieved by any order shall have the right to be heard by the ABLE Commission and the ABLE Commission shall provide adequate procedure to protect the right of persons desiring to do so.

SECTION 62. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-150 of Title 37A, unless there is created a duplication in numbering, reads as follows:

Any person aggrieved by the action of the ABLE Commission in denying an application for an original license may, within fifteen (15) days after receipt of notice thereof, file with the ABLE Commission written request for a hearing, and the ABLE Commission shall, pursuant to such request, set a time and place for a hearing on a denial of an application for an original license. At the time and place set in a notice by the ABLE Commission of contemplated denial of the renewal of a license or of a proposed suspension or revocation of a license, the ABLE Commission shall afford the applicant or the licensee an opportunity to be heard and to present evidence in the applicant's or licensee's behalf. The hearing shall be conducted within fifteen (15) days after receipt of the request by the ABLE Commission. In the conduct of any such hearing, the ABLE Commission shall have power to administer oaths, examine witnesses and subpoena records and documents pertaining to the issues involved. Upon request of and at the expense of the aggrieved party, the ABLE Commission shall make or cause to be made

a complete record of all testimony and other evidence taken or introduced at such hearing. Within fifteen (15) days after conclusion of any such hearing, unless the time shall be extended by the parties thereto in writing, the ABLE Commission shall enter an order affirming or modifying its denial of an original application, an order dismissing its notice of contemplated denial of renewal of license or affirming same, or an order dismissing its notice of contemplated suspension or revocation of a license or an order suspending or revoking same. The ABLE Commission shall, by written notice mailed to the applicant or licensee by certified mail or by delivery in person to the applicant or licensee, or the applicant's or licensee's attorney of record, advise of its action pursuant to the hearing.

SECTION 63. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-151 of Title 37A, unless there is created a duplication in numbering, reads as follows:

The ABLE Commission shall have the authority to conduct an initial hearing when a hearing is required by law. The Director of the ABLE Commission may employ such hearing officers and assistants as are necessary to conduct the hearings. If a hearing is conducted by a hearing officer, the hearing officer shall issue a report to the ABLE Commission. The report of the hearing officer shall include findings of fact and conclusions of law. Notice of the recommendation of the hearing officer shall be sent to the last-known address of the licensee. If the licensee disagrees with the recommendation of the hearing officer, the licensee may request a hearing before the ABLE Commission for a review of the record. If the licensee fails to request a review of the record within fifteen (15) days after the date of the notice of the hearing officer's decision, the recommendation of the hearing officer shall become a final order of the ABLE Commission. A failure to request a review of the record by the ABLE Commission in a timely manner shall constitute a failure to exhaust administrative remedies.

SECTION 64. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-152 of Title 37A, unless there is created a duplication in numbering, reads as follows:

Within thirty (30) days after a final order of the ABLE Commission, pursuant to a hearing as provided in Section 62 of this

act, an applicant or licensee may appeal from the order of the ABLE Commission to the district court of the county in which the premises licensed or sought to be licensed are located. At the time of filing such an appeal, the party appealing shall give bond for costs assessed against such party. The appeal shall be taken by filing with the clerk of the district court of the proper county a written notice stating that the party appeals from the action of the ABLE Commission and stating the pertinent grounds on which the appeal is founded. Such appeal shall consist of a hearing and review of the record only as set forth in the Administrative Procedures Act. The district court may affirm, reverse or modify the order of the ABLE Commission and shall issue its order within sixty (60) days after the appeal is heard. Appeals may be taken from a final order of the district court to the Supreme Court by the applicant, licensee or by the ABLE Commission. The ABLE Commission shall not be required to give bond on appeal. The licensee may file a supersedeas bond in an amount to be fixed by the ABLE Commission staying the order until the final determination of all issues on an appeal but the order of the ABLE Commission may not be stayed unless ordered by the judge of the district court. Permission to stay the order of the ABLE Commission shall not be granted by any court unless an application therefor be made in the written notice of the applicant's or licensee's intention to appeal from the order of the ABLE Commission, and then only after a hearing before the court upon notice to both parties wherein the court determines by a preponderance of the evidence that in denying a license or in ordering the suspension or a revocation of a license, the ABLE Commission acted without legal cause or upon insufficient evidence. Provided, that in all cases where the order of the ABLE Commission is stayed by a supersedeas bond and the licensee is unsuccessful in the appeal, and the action of the ABLE Commission becomes final, such bond shall be forfeited to the State of Oklahoma by the court considering such appeal if the court finds that the appeal was frivolous or was filed for the purpose of delaying the effect of the order. In such event, the Attorney General shall commence legal proceedings in the name of the State of Oklahoma to recover the amount of the bond, which money shall be placed to the credit of the General Revenue Fund of the state.

SECTION 65. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-153 of Title 37A, unless there is created a duplication in numbering, reads as follows:

Any license issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act shall be a purely personal privilege. It shall not constitute property nor be subject to attachment, garnishment or execution, or be alienable or transferable, either voluntarily or involuntarily; nor shall it descend by the laws of descent and distribution, but shall cease upon the death of the licensee. Provided, the ABLE Commission, under such regulations and subject to such restrictions as it may prescribe, may permit the executors or administrators of the estate of any deceased licensee, or the trustees of an insolvent or bankrupt licensee, or the legal guardian of a licensee who has been adjudged to be incompetent or insane, to exercise the privileges under any license held by such person for such period as the ABLE Commission may deem equitable during the administration of the deceased or bankrupt licensee's estate, but not to exceed two (2) years. A license may not be transferred to a new location, except upon application to the ABLE Commission and endorsement on the license by the ABLE Commission showing the new location. An application for transfer of license shall be accompanied by a certificate reflecting, as to the proposed new location, compliance with municipal zoning ordinances or county zoning regulations and municipal or county fire, safety and health codes as required by Section 54 of this act. A mixed beverage or bottle club licensee who transfers the license to a new location shall pay a transfer fee of One Hundred Dollars ($100.00) to the ABLE Commission.

SECTION 66. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-154 of Title 37A, unless there is created a duplication in numbering, reads as follows:

All licenses issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act shall be displayed in a conspicuous place at all times on the licensed premises. No licensee may consent to or allow the use or display of the license by a person other than the person to whom the license was issued. No person may use a license or exercise any privileges granted by the license except at the place, address, premises or location for which the license is issued, except as otherwise provided by the Oklahoma Alcoholic Beverage Control Act.

If the mixed beverage, caterer, public event or bottle club license for a licensed premises is suspended or revoked by the ABLE Commission, all other licenses issued by the ABLE Commission for such premises shall cease to be valid. If a mixed beverage, caterer, public event or bottle club license is suspended or revoked for any licensed premises, this shall not invalidate licenses held by the licensee for other licensed premises.

SECTION 67. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-155 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. If a mixed beverage licensee sells or otherwise transfers the licensee's financial interest in a licensed premises to another party who obtains a mixed beverage license for the premises, any alcoholic beverages on the premises may be transferred to the new licensee. Provided, if the premises are not in continuous operation as a mixed beverage establishment prior to and during the transfer of financial interest in the premises, the transfer of alcoholic beverages shall be limited to alcoholic beverages in the original container which have not been opened and which have not had the seal broken and the original cap or cork removed.

B. If an on-premises beer and wine licensee sells or otherwise transfers the licensee's financial interest in a licensed premises to another party who obtains an on-premises beer and wine license for the premises, any beer and wine on the premises may be transferred to the new licensee. Provided, if the premises are not in continuous operation as a beer and wine establishment prior to and during the transfer of financial interest in the premises, the transfer of beer and wine shall be limited to beer and wine in the original containers which have not been opened and which have not had the seal broken and the original cap or cork removed.

C. There shall be no liability on the part of, and no cause of action of any nature shall arise against the ABLE Commission for the contents of any alcoholic beverages transferred pursuant to the provisions of this section.

SECTION 68. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-156 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. No retail spirits license shall be issued to a corporation, limited liability company or similar business entity. No person may own any interest in more than two package stores. For the purpose only of establishing whether or not a person owns an interest in more than one package store, any person having a beneficial interest in any package store shall be deemed to be a partner in the package store except that the spouse of any retail spirits license holder or partner shall not be deemed to be a partner or have a beneficial interest in a package store unless his or her name appears on the license. A beneficial interest shall be any interest that benefits from any sales or profits of the package store.

B. For purposes of this section, any spouse of a retail spirits license holder shall not hold another license provided for pursuant to the Oklahoma Alcoholic Beverage Control Act, except a retail wine license, retail beer license, on-premises beer and wine license, mixed beverage license or a caterer's license.

C. Package stores licensed under the Oklahoma Alcoholic Beverage Control Act may sell only alcoholic beverages in retail containers as defined in Section 3 of this act, in the original package for consumption off the premises. All retail sales shall be made on the licensed premises and all deliveries off the premises, at retail, of intoxicating liquor or beer are hereby prohibited. Provided, a holder of a Retail Spirits License shall be permitted to sell at retail any item that may be purchased at a grocery store or convenience store, as defined by law, except for motor fuel, so long as the sale of items other than alcoholic beverages do not comprise more than twenty percent (20%) of the holder's monthly sales.

SECTION 69. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-157 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. Every winemaker or small farm winery electing to directly sell its wines to retailers and restaurants must obtain a winery self-distribution license and pay the applicable license fee and shall register its products and post its prices with the state in the same manner required of the holder of a nonresident seller license.

B. Every winemaker or small farm winery electing to directly sell its wines to retailers and restaurants shall report all sales to retail package stores and restaurants in this state to the ABLE Commission and to the Oklahoma Tax Commission at least monthly, or in accordance with such rules as the ABLE Commission shall promulgate and shall pay to the Tax Commission all excise and other taxes imposed by this state upon such wine in the same manner required of the holder of a nonresident seller license.

C. Any self-distributing winemaker within or without this state who shall, in any calendar year, exceed the production volume limit provided for in subsection B of Section 17 of this act, shall immediately notify the ABLE Commission of such fact and shall thereafter have the option to sell the wines they produce to every licensed wholesale distributor who desires to purchase the same, on the same price basis and without discrimination, and shall thereafter be allowed to sell such beverages only to such licensed wholesale distributors or cease to sell its products in this state.

D. All winemakers who conduct business in this state shall be prohibited from creating, forming or participating in any kind of a cooperative or pooled transportation or distribution arrangement.

E. Any licensed winemaker or winery that sells or distributes its wine directly to a retailer or restaurant in this state after having exceeded the production volume limit provided for in subsection B of Section 17 of this act in any calendar year shall be subject to a fine of Ten Thousand Dollars ($10,000.00). In addition, if the violation is a second or subsequent violation, the winemaker or winery shall not be allowed to transport wine to a retail package store or restaurant for three (3) years from the date of the second or subsequent violation.

F. If Section 2 of Article XXVIIIA of the Oklahoma Constitution is ruled to be unconstitutional by a court of competent jurisdiction, then any licensed winemaker or winery that then continues to sell or distribute its wine directly to a retail package store or restaurant in this state shall be subject to a fine of Ten Thousand Dollars ($10,000.00) per violation.

SECTION 70. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-158 of Title 37A, unless there is created a duplication in numbering, reads as follows:

In case of natural disaster or civil disturbance the Governor may, for the duration of such natural disaster or civil disturbance thereof, immediately suspend without notice any license granted under the provisions of the Oklahoma Alcoholic Beverage Control Act.

SECTION 71. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-101 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. No person shall manufacture, rectify, sell, possess, store, import into or export from this state, transport or deliver any alcoholic beverage except as specifically provided in the Oklahoma Alcoholic Beverage Control Act. Provided, that nothing herein shall prevent the possession and transportation of alcoholic beverages for the personal use of the possessor and his or her family and guests, so long as the Oklahoma excise tax has been paid thereon, except for beer. Provided, further, that nothing herein shall prevent a person from making beer, cider or wine, by simple fermentation and without distillation for personal use if the maker of such beverages has first applied for and possesses a valid personal use permit issued by the ABLE Commission and the total volume of beer, cider or wine produced in any given calendar year is less than two hundred (200) gallons. No beverages made pursuant to a personal use permit shall be sold or offered for sale.

B. 1. Any duly licensed physician or dentist may possess and use alcoholic beverages in the strict practice of the profession and any hospital or other institution caring for sick or diseased persons may possess and use alcoholic beverages for the treatment of bona fide patients of such hospital or institution. Any drugstore employing a licensed pharmacist may possess and use alcoholic beverages in the preparation of prescriptions of duly licensed physicians.

2. The possession, transportation and dispensation of wine by any authorized representative of any church for the conducting of a bona fide rite or religious ceremony conducted by such church shall not be prohibited by the Oklahoma Alcoholic Beverage Control Act;

nor shall such act prevent the sale, shipping or delivery of sacramental wine by any person holding a sacramental wine supplier license issued pursuant to the Oklahoma Alcoholic Beverage Control Act 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, 1954, and listed as an exempt organization in Section 501(c)(3) of the Internal Revenue Code, 1954, of the United States, as amended.

3. Provided further, that nothing in the Oklahoma Alcoholic Beverage Control Act shall prevent the possession, transportation and sale of alcoholic beverages within military reservations and in accordance with the laws and rules governing such military reservations, provided that the Oklahoma excise tax has been paid on such beverages.

C. 1. Except as otherwise authorized by law, it is unlawful for any manufacturer, wine and spirits wholesaler, beer distributor or retailer of alcoholic beverages, located and doing business from outside this state, to make retail sales of alcoholic beverages to purchasers located in this state or to ship alcoholic beverages sold at retail to persons located in this state. Any person who engages in the sale or shipping of alcoholic beverages in violation of the provisions of this subsection, upon conviction, shall be guilty of a felony punishable by imprisonment for not more than five (5) years, if the sale or delivery is made to a person under twenty-one (21) years of age, or a misdemeanor, if the sale or delivery is made to a person twenty-one (21) years of age or older.

2. The fine for a violation of this subsection shall be not more than Five Thousand Dollars ($5,000.00).

3. In addition, if the person holds a license issued by the ABLE Commission, the license shall be revoked pursuant to Section 60 of this act.

SECTION 72. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-102 of Title 37A, unless there is created a duplication in numbering, reads as follows:

The ABLE Commission is authorized to promulgate such rules with respect to packaging, marking, branding and labeling of alcoholic

beverages sold or possessed for sale within this state, including such rules:

1. As will prohibit deception of the consumer with respect to such products or the quantity thereof and as will prohibit, irrespective of falsity, such statement relating to age, manufacturing processes, analyses, guarantees, and scientific or irrelevant matter as the ABLE Commission finds likely to mislead or confuse the consumer;

2. As will provide the consumer with adequate information as to the identity and quality of the products, the net contents of the package, and the manufacturer or importer of the product; and

3. As will prohibit statements on the label that are false, misleading, obscene or indecent.

The ABLE Commission may promulgate, in whole or in part, or with such modification as it deems desirable, rules of the federal government relating to labeling of distilled spirits promulgated under the Federal Alcohol Administration Act (27 U.S.C. 205).

SECTION 73. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-103 of Title 37A, unless there is created a duplication in numbering, reads as follows:

All rules of the ABLE Commission shall be promulgated and filed pursuant to the provisions of the Administrative Procedures Act, and also shall be filed with the Secretary of State and the State Librarian pursuant to the provisions of Sections 251 through 253 of Title 75 of the Oklahoma Statutes. Copies of all rules shall be made available to each county clerk, district attorney, sheriff and chief of police in the state upon request.

The ABLE Commission shall send a notice of application for a license to sell alcohol, alcoholic beverage, wine or beer under the Oklahoma Alcoholic Beverage Control Act to the district attorney of the county wherein the premises is located at least fifteen (15) days prior to the approval or disapproval of the application.

For any applicant for a license issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act whose

place of business for which the license is being sought is located in a city or town, the ABLE Commission shall mail a notice of application to the city or town, the sheriff of the county in which the city or town is located, and the district attorney of the county in which the city or town is located. The city or town may make recommendations on whether or not the applicant should be issued a license by the ABLE Commission within twenty (20) days after the date the copies of the application were mailed.

For any applicant for a license issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act whose place of business for which the license is being sought is located outside of the incorporated boundaries of a city or town, the ABLE Commission shall mail a notice of application to the board of county commissioners of the county in which the place of business is located, the sheriff of the county and the district attorney of the county. The board of county commissioners shall make recommendations on whether or not the applicant should be issued a license by the ABLE Commission within twenty (20) days after the date the copies of the application were mailed.

SECTION 74. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-104 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. For purposes of this section:

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

2. "Licensed retailer" means a licensed package store; and

3. "Identification seal" means any device approved by the ABLE Commission which is designed to be affixed to beer kegs and which displays an identification number and any other information as may be prescribed by the ABLE Commission.

B. No licensed retailer shall sell beer kegs unless that retailer affixes an identification seal to each beer keg. An identification seal shall consist of durable material as determined by the ABLE Commission that is not easily removed or destroyed. Identification seals used may contain a nonpermanent adhesive

material in order to apply the seal directly to an outside surface of a beer keg at the time of sale. Identification seals shall be attached to beer kegs at the time of sale as determined by the ABLE Commission. The identification information contained on the seal shall include the licensed retailer's name, address, beer license number and telephone number; a unique beer keg number assigned by the licensed retailer; and a prominently visible warning that intentional removal or defacement of the seal is a misdemeanor. Upon return of a beer keg to the licensed retailer that sold the beer keg and attached the identification seal, the licensed retailer shall be responsible for the complete and thorough removal of the entire identification seal and any adhesive or attachment devices of the seal. The seal beer keg identification number must be kept on file with the retailer for not less than one (1) year from the date of return.

C. A licensed retailer shall not sell a beer keg unless the beer keg has attached a seal complying with the standards established by subsection B of this section.

D. 1. A licensed retailer who sells a beer keg must at the time of the sale record:

a. the purchaser's name and address and the number of the purchaser's driver license, identification card issued by the Department of Public Safety, military identification card or valid United States or foreign passport,

b. the date and time of the purchase,

c. the beer keg identification seal number required by subsection B of this section, and

d. the purchaser's signature.

2. The record shall be retained for not less than one (1) year after the date of the sale.

E. A licensed retailer required to retain records under subsection D of this section shall make the records available during

regular business hours for inspection by a law enforcement officer or an employee of the ABLE Commission.

F. 1. A person required to record information under subsection D of this section shall not knowingly make a materially false entry in the book or register required under subsection D of this section. In a prosecution under this subsection, it is a defense for the defendant to prove by a preponderance of the evidence that the defendant reasonably and in good faith relied upon the identification provided by the purchaser of a beer keg.

2. No person other than a licensed retailer, a licensed beer distributor, a law enforcement officer or an employee of the ABLE Commission may intentionally remove a seal placed on a beer keg in compliance with subsection C of this section. No person may intentionally deface or damage the seal on a beer keg to make it unreadable.

3. Any person who purchases a beer keg and who fails to return the keg or who returns a keg with a damaged or missing seal shall be subject to a fine of Five Hundred Dollars ($500.00).

4. Any licensed retailer who fails to report an individual provided for in paragraph 3 of this subsection to law enforcement shall be guilty of a misdemeanor and shall be subject to fines of not less than Five Hundred Dollars ($500.00) for first and second offenses. A third violation by a licensed retailer of the provisions of this paragraph shall result in the revocation of the retailer's license for up to one (1) year.

G. Any person who purchases a beer keg which is subsequently stolen from such person shall not be liable for any penalty imposed pursuant to the provisions of this section if such person properly reported the theft of the beer keg to law enforcement authorities within twenty-four (24) hours of the discovery of the theft.

H. The ABLE Commission shall promulgate rules for the implementation and application of this section.

SECTION 75. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-105 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. Oklahoma wineries may ship products manufactured in the state to consumers in other states, so long as the recipient is of legal age and the laws of the recipient's state allow such shipments.

B. Oklahoma wineries that ship products to consumers in other states shall submit a monthly report of all shipments to the ABLE Commission. The report shall contain the name, address and age of the recipient and shall list the common carrier used to ship the product. The contents of the reports shall be a matter of public record and shall be made available to the public as well as any law enforcement or regulatory official in Oklahoma or another state. The manufacturer shall also keep a copy of all such reports on its premises for a period of not less than five (5) years and shall make those reports available for inspection by any law enforcement officer of any state or federal agency upon request.

SECTION 76. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-106 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. A Direct Wine Shipper's Permit may be issued by the Oklahoma ABLE Commission to a winery licensed in this or any other state within the United States as a wine producer. A Direct Wine Shipper's Permit allows a winery to ship up to six nine-liter cases of wine annually directly to an Oklahoma resident who is twenty-one (21) years of age or older for such resident's personal use and not for resale. No resident shall be permitted to purchase more than thirty nine-liter cases of wine per year under the provisions of this section.

B. A Direct Wine Consumer's Permit may be issued by the ABLE Commission to a resident who is twenty-one (21) years of age or older and wishes to purchase wine directly from a winery pursuant to this section.

C. The ABLE Commission shall promulgate rules governing the application, issuance and renewal of Direct Wine Shipper's Permits, which shall include but not be limited to:

1. Proof of current licensure in this or any other state as a wine producer;

2. Payment of a registration fee of Three Hundred Dollars ($300.00) for original permits and One Hundred Fifty Dollars ($150.00) for renewal permits; and

3. Any other documentation that the ABLE Commission believes is reasonably necessary to verify the identity and physical location of the winery.

D. The ABLE Commission shall promulgate rules governing the application, issuance and renewal of Direct Wine Consumer's Permits, which shall include but not be limited to:

1. A sworn statement verifying that the applicant is at least twenty-one (21) years of age upon the date of application submission and that the wine is intended for personal use and not for resale; and

2. Any other documentation that the ABLE Commission believes is reasonably necessary to verify the identity or age of the applicant.

E. With regard to direct wine shipments permitted by this section, Direct Wine Shipper permit holders:

1. Shall not ship more than six nine-liter cases of wine annually to any person for his or her personal use;

2. Shall not ship wine intended for resale;

3. Shall ensure that all containers of wine shipped directly to a resident in this state include the Direct Wine Consumer's Permit Number issued by the ABLE Commission and are conspicuously labeled with the words "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY.";

4. Shall require the transporter or common carrier that delivers the wine to obtain the signature of a person twenty-one (21) years of age or older at the delivery address at the time of delivery. At the expense of the Direct Wine Shipper, the Direct Wine Shipper shall receive a delivery confirmation from the express

company, common carrier or contract carrier indicating the location of delivery, time of delivery and the name and signature of the individual who accepted the delivery. The ABLE Commission shall design and create a label or approve a label that must be affixed to the shipping container by the licensee;

5. Shall not ship wine otherwise available in Oklahoma;

6. Shall report to the ABLE Commission annually, by a method prescribed by the ABLE Commission, the total amount of wine shipped into the state the preceding calendar year;

7. Shall annually pay to the Oklahoma Tax Commission all applicable taxes due on sales authorized by this section to Oklahoma residents in the preceding calendar year. The amount of such taxes shall be calculated as if the sale were in Oklahoma at the location where delivery is made. Upon request, permit holders shall permit the Tax Commission to perform an audit of the permit holder's records in order to assure compliance; and

8. Shall be deemed to have consented to the jurisdiction of any agency or court of the State of Oklahoma tasked with the enforcement of or adjudication of controversies related to this section and any related laws or rules.

F. No express company, common carrier or contract carrier nor any representative, agent or employee on behalf of the same shall knowingly deliver any shipping container that contains an alcoholic beverage into this state, unless it complies with the provisions of this section. No express company, common carrier or contract carrier nor any representative, agent or employee on behalf of the same shall knowingly deliver any shipping container that is clearly labeled as containing an alcoholic beverage, including but not limited to the lawful shipment of wine under this section, to any person in this state who is under the age of twenty-one (21) at the time of delivery. Any express company, common carrier or contract carrier that carries or transports alcoholic beverages for delivery within this state in violation of this section shall be guilty of a misdemeanor and for the first offense be fined not more than Two Thousand Five Hundred Dollars ($2,500.00), for a second offense shall be fined not more than Five Thousand Dollars ($5,000.00) and for a third and subsequent offense be fined not more than Ten

Thousand Dollars ($10,000.00). An express company, common carrier and contract carrier shall be held vicariously liable for the actions of its representatives, agents and employees for actions in violation of this section.

SECTION 77. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-107 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. In order to provide for regulation of the sales and distribution of beer in this state by the ABLE Commission, this Legislature hereby declares it is necessary to implement the section.

B. Statutory regulation of the sales and distribution of designated brands in designated territories by distributors shall include but not be limited to:

1. A requirement for written distributor agreements between a manufacturer and distributor designating a specific territory within which the distributor may sell the designated brands of the manufacturer;

2. Provisions for prohibited acts applicable to the distributor and manufacturer; and

3. Provisions for penalties for violations.

SECTION 78. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-108 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. The provisions of this section shall be in effect except as otherwise provided in Article XXVIIIA of the Oklahoma Constitution.

B. Subject to the provisions of subsection D of this section, every licensed brewer authorized to sell its beer in this state shall:

1. Enter into a distributor agreement with a licensed distributor, as defined herein, to sell the designated brands, including brand extensions, of the brewer. The agreement shall

designate the sales territory of that licensed distributor and the designated brands to be sold by the licensed distributor. All such distributor agreements shall specifically authorize this sale of the designated brands by a licensed distributor within that sales territory. All such distributor agreements shall further provide that the licensed manufacturer who desires to sell a brand extension of a low-point beer in Oklahoma must assign the low-point beer brand extension to the licensed distributor to whom the licensed manufacturer granted the exclusive sales territory to the low-point beer brand from which the brand extension resulted;

2. Sell its registered and approved designated brands only to a licensed distributor with whom that brewer has a distributor agreement designating the sales territory of the licensed distributor and the designated brands to be sold by the licensed distributor;

3. Authorize only one licensed distributor for each designated sales territory. Such licensed distributor shall be the only licensed distributor for the designated brands of the authorizing brewer within that designated sales territory; and

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

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

D. 1. No later than sixty (60) days after the effective date of this act, a brewer shall assign the exclusive right to distribute a beer brand, including brand extensions thereof, to the low-point beer distributor who was, prior to the effective date of this act, assigned the exclusive distribution rights to the low-point beer from which the brand extension arose without charge or payment of compensation, unless the low-point beer distributor is, on the effective date of this act, a brewer of beer or low-point beer and has therefore been distributing low-point beer pursuant to a license

to so distribute, subject to the provisions of subsection E of this section. This subsection shall not apply to a small brewer as defined in Section 3 of this act.

2. With respect to brand extensions which arise after the effective date of this act, the brewer shall assign the exclusive right to distribute the brand extension to the distributor who has been assigned the exclusive distribution rights to the beer from which the brand extension arose, without charge or payment of compensation.

3. No later than sixty (60) days after the effective date of this act, with respect to dual strength beer, the brewer thereof shall assign the exclusive right to distribute the brands represented by the dual strength beer to either the low-point beer distributor or the nonresident seller who had theretofore been assigned the exclusive distribution rights in the territory to either version of the dual strength beer; provided, however, whichever party is selected by the brewer must compensate the party that was not selected by the brewer for the loss of the distribution rights with respect to that particular territory. Whichever party is selected shall obtain the requisite distributor license and shall be subject to the provisions of this act.

4. Compensation for the purposes of this provision shall be the fair market value of the party losing its distribution rights with respect to the beer within that specific territory. Fair market value shall be determined as set forth in Section 81 of this act and shall take into account all aspects of brand valuation, including but not limited to:

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

b. the expected annual sales and earnings of the distributor agreement,

c. the length of time the existing distributor held in the distribution sales agreement, and

d. any other relevant items of value, such as goodwill and going concern.

E. If a brewer, whether directly or through an affiliate, maintained one or more licenses to distribute low-point beer in this state prior to the effective date of this act, then up to two (2) of the brewer's low-point beer distribution licenses shall automatically convert to beer distribution licenses upon the effective date of this act, and such brewer shall be permitted to continue to distribute beer in two (2) territories within which it currently distributes without the appointment of a distributor for such period of time as determined by the Legislature and consistent with the Constitution of the State of Oklahoma; provided however, it shall not be permitted to distribute beer outside of the territory unless it enters into a distributor agreement with an independent licensed distributor as provided in paragraph 1 of subsection B of this section. This section shall not apply to small brewers that have elected to self-distribute.

SECTION 79. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-109 of Title 37A, unless there is created a duplication in numbering, reads as follows:

In order to regulate distribution of beer in this state and assure collection of all applicable taxes and fees, all beer sold in this state by a licensed distributor shall only be transported within this state to the licensed address and location of a licensed retailer or between the licensed addresses and locations of licensed retailers by a marked conveyance owned or leased by a licensed distributor.

SECTION 80. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-110 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. A licensed distributor designated as the licensed distributor for a beer brand within a designated sales territory shall present that beer brand for sale to all on-premise licensees on the same price basis and without discrimination and to all off-premise licensees on the same price basis within a particular county and without discrimination. A licensed distributor shall not sell, supply or deliver, either directly or indirectly through a third

party, a beer brand to a licensed retailer outside of the designated sales territory of the designated distributor nor to any person the licensed distributor has reason to believe will sell or supply any quantity of the beer brand to any retail location outside of the designated sales territory of the designated distributor.

B. All beer shall only be transported by a marked conveyance owned or leased by the licensed distributor and operated by the licensed distributor or an employee of the distributor for the products of a licensed manufacturer within the designated sales territory to the address and location of a licensed retailer within that designated sales territory.

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

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

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

SECTION 81. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-111 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. Except as provided in subsection F of this section, a small brewer is not subject to the termination provisions of this section.

B. 1. Except as provided in subsections C, D and E of this section, no brewer shall terminate a distributor agreement with any beer distributor unless all of the following occur:

a. the brewer establishes good cause for such termination,

b. the beer distributor receives written notification by certified mail, return receipt requested, from the brewer of the alleged noncompliance and is afforded no less than sixty (60) days in which to cure such noncompliance. If not capable of being cured within the sixty-day period, the beer distributor shall begin the cure within the sixty-day period and diligently pursue the cure as promptly as feasible,

c. the beer distributor fails to cure such noncompliance within the allotted cure period, and

d. the brewer provides written notice by certified mail, return receipt requested, to the beer distributor of such continued noncompliance. The notification shall contain a statement of the intention of the brewer to terminate the distributor agreement, the reasons for the termination and the date the termination shall take effect.

2. If a beer distributor cures an alleged noncompliance within the cure period provided in subparagraph b of paragraph 1 of this subsection, any notice of termination from a brewer to a beer distributor shall be null and void.

C. A brewer may immediately terminate a distributor agreement, effective upon furnishing written notification to the beer distributor by certified mail, return receipt requested, for any of the following reasons:

1. The beer distributor's failure to pay any account when due and upon written demand by the brewer for such payment, in accordance with agreed payment terms;

2. The assignment or attempted assignment by the beer distributor for the benefit of creditors, the institution of proceedings in bankruptcy by or against the beer distributor, the dissolution or liquidation of the beer distributor or the insolvency of the beer distributor;

3. The revocation or suspension of, or the failure to renew for a period of more than fourteen (14) days, a beer distributor's state, local or federal license or permit to sell beer in this state;

4. The beer distributor has been convicted of a felony that, in the brewer's sole judgment, adversely affects the goodwill of the beer distributor or brewer;

5. A beer distributor has been convicted of, found guilty of or pled guilty or nolo contendere to, a charge of violating a law or regulation of the United States or of this state if it materially and adversely affects the ability of the beer distributor or brewer to continue to sell its beer in this state;

6. Any attempted transfer of ownership of the beer distributor, stock of the beer distributor or stock of any parent corporation of the beer distributor, or any change in the beneficial ownership or control of any entity having control of the beer distributor, without obtaining the prior written approval of the brewer, which may not be unreasonably withheld, except as may otherwise be permitted pursuant to a written agreement between the parties;

7. Fraudulent conduct in the beer distributor's dealings with the brewer of beer, including the intentional sale of beer outside the brewer's established quality standards;

8. Cessation of the beer distributor to conduct business for five (5) consecutive business days, unless conducting the business is prevented or rendered impractical due to events beyond the distributor's reasonable control as a result of an act of God, an insured casualty, war or a condition of national, state or local emergency; or

9. Any sale of beer, directly or indirectly, to customers located outside the territory assigned to the beer distributor by the brewer unless expressly authorized by the brewer.

Provided, the beer distributor shall have the opportunity to sell the brewer's brands for one hundred twenty (120) days after termination in accordance with the distributor agreement.

D. The brewer shall have the right to terminate an agreement with a beer distributor at any time by giving the beer distributor at least ninety-days' written notice by certified mail, return receipt requested; provided, the brewer shall give a similar notice to all other beer distributors in all other states who have entered into the same distributor agreement with the brewer.

E. If a particular brand of beer is transferred by purchase or otherwise from a brewer to a successor brewer, the following shall occur:

1. The successor brewer shall become obligated to all of the terms and conditions of the agreement in effect on the date of succession. This subsection applies regardless of the character or form of the succession. A successor brewer has the right to contractually require its beer distributor to comply with operational standards of performance, if the standards are uniformly established for all of the successor brewer's distributors. A successor brewer may, upon written notice, terminate its agreement, in whole or in part, with a beer distributor of the brewer it succeeded, for the purpose of transferring the distribution rights in the beer distributor's territory to a new beer distributor, provided that the successor beer distributor first pays to the existing beer distributor the fair market value of the existing distributor's business with respect to the terminated brand or brands;

2. If the successor brewer decides to terminate its agreement with the existing beer distributor for purposes of transfer, the successor brewer shall notify the existing beer distributor in writing of the successor brewer's intent not to appoint the existing beer distributor for all or part of the existing beer distributor's territory. The successor brewer shall mail the notice of termination by certified mail, return receipt requested, to the existing beer distributor. The successor brewer shall include in the notice the names, addresses and telephone numbers of the successor beer distributor or distributors;

3. a. the successor beer distributor shall negotiate with the existing beer distributor to determine the fair market value of the existing beer distributor's right

to distribute in the existing beer distributor's territory. The successor beer distributor and the existing beer distributor shall negotiate the fair market value in good faith, and

b. the existing beer distributor shall continue to distribute in good faith until payment of the compensation agreed to under subparagraph a of this paragraph, or awarded under paragraph 4 of this subsection, is received; and

4. a. if the successor beer distributor and the existing beer distributor fail to reach a written agreement on the fair market value within thirty (30) days after the existing beer distributor receives the notice required pursuant to paragraph 2 of this subsection, the successor beer distributor or the existing beer distributor shall send a written notice to the other party requesting arbitration pursuant to the Uniform Arbitration Act, Part 2 of Article 22 of Title 13, C.R.S. Arbitration shall be held for the purpose of determining the fair market value of the existing beer distributor's right to distribute in the existing beer distributor territory,

b. notice of intent to arbitrate shall be sent, as provided in subparagraph a of this paragraph, not later than forty (40) days after the existing beer distributor receives the notice required pursuant to paragraph 2 of this subsection. The arbitration proceeding shall conclude not later than sixty (60) days after the date the notice of intent to arbitrate is mailed to a party, unless this time is extended by mutual agreement of the parties and the arbitrator,

c. any arbitration held pursuant to this subsection shall be conducted in a city within this state that:

(1) is closest to the existing beer distributor, and

(2) has a population of more than twenty thousand (20,000) people,

d. any arbitration held pursuant to this paragraph shall be conducted before one impartial arbitrator to be selected by the American Arbitration Association or its successor. The arbitration shall be conducted in accordance with the rules and procedures of the Uniform Arbitration Act, Part 2 of Article 22 of Title 13, C.R.S.,

e. an arbitrator's award in any arbitration held pursuant to this paragraph shall be monetary only and shall not enjoin or compel conduct. Any arbitration held pursuant to this paragraph shall be in lieu of all other remedies and procedures,

f. the cost of the arbitrator and any other direct costs of an arbitration held pursuant to this paragraph shall be equally divided by the parties engaged in the arbitration. All other costs shall be paid by the party incurring them,

g. the arbitrator in any arbitration held pursuant to this paragraph shall render a written decision not later than thirty (30) days after the conclusion of the arbitration, unless this time is extended by mutual agreement of the parties and the arbitrator. The decision of the arbitrator is final and binding on the parties. The arbitrator's award may be enforced by commencing a civil action in any court of competent jurisdiction. Under no circumstances may the parties appeal the decision of the arbitrator,

h. an existing beer distributor or successor beer distributor who fails to participate in the arbitration hearings in any arbitration held pursuant to this paragraph waives all rights the existing beer distributor or successor beer distributor would have had in the arbitration and is considered to have consented to the determination of the arbitrator, and

i. if the existing beer distributor does not receive payment from the successor beer distributor of the

settlement or arbitration award required under paragraph 2 or 3 of this subsection within thirty (30) days after the date of the settlement or arbitration award:

(1) the existing beer distributor shall remain the beer distributor in the existing beer distributor's territory to at least the same extent that the existing beer distributor distributed the beer immediately before the successor brewer acquired rights to the brand, and

(2) the existing beer distributor is not entitled to the settlement or arbitration award.

F. 1. In addition to termination rights that may be set forth in a distributor agreement, a small brewer who manufactures less than twenty-five thousand (25,000) barrels of beer annually may terminate a distributor agreement with any beer distributor provided that, prior to the effective date of the termination, the small brewer pays the beer distributor the fair market value of the distribution rights which will be lost or diminished by reason of the termination.

2. If such small brewer and beer distributor cannot mutually agree to the fair market value of the applicable distribution rights lost or diminished by reason of the termination, then the brewer shall pay the beer distributor a good faith estimate of the fair market value of the applicable distribution rights.

3. If the beer distributor being terminated under subparagraph 2 of this subsection disputes that the payment made by the small brewer was less than the fair market value of the distribution rights, then the beer distributor may within forty-five (45) days of termination submit the question of fair market value of the applicable distribution rights lost or diminished by reason of the termination to binding arbitration before a panel of three neutral arbitrators appointed in accordance with the commercial arbitration rules of the American Arbitration Association, which panel shall determine by majority decision whether the small brewer's payment meets the requirements of subparagraph 2 of this subsection.

4. If the arbitration panel rules that the payment made by the small brewer to the beer distributor upon termination was less than the fair market value of distribution rights lost or diminished by reason of the termination, then the small brewer must pay the beer distributor the difference between the payment made to the beer distributor and the determined fair market value plus interest.

5. If the arbitration panel rules that the payment made by the small brewer to the beer distributor upon termination was more than the fair market value of distribution rights lost or diminished by reason of the termination, then the beer distributor must pay the small brewer the difference between the payment made to the beer distributor and the determined fair market value, plus interest.

6. All arbitration fees and expenses shall be equally divided among the parties to the arbitration, except if the arbitration panel determines that the small brewer's payment upon termination was not a good faith estimate of the fair market value, then the panel may award up to one hundred percent (100%) of the arbitration costs to the small brewer.

G. 1. Any beer distributor or brewer who is aggrieved by a violation of any provision of subsections B and D of this section shall be entitled to recovery of damages caused by the violation. Except for a dispute arising under subsection E of this section, damages shall be sought in a civil action in any court of competent jurisdiction.

2. Any dispute arising under subsections B and D of this section may also be settled by such dispute resolution procedures as may be provided by a written agreement between the parties.

H. Nothing in this section shall be construed to limit or prohibit good-faith settlements voluntarily entered into by the parties.

I. Nothing in this section shall be construed to give a beer distributor any right to compensation if an agreement with the beer distributor is terminated by a brewer pursuant to subsections B, C and D of this section.

J. No brewer shall require any beer distributor to waive compliance with any provision of the Oklahoma Alcoholic Beverage Control Act.

K. No brewer shall charge or accept, and no beer distributor shall pay or provide, any money, property, gratuity, rebate, free goods, shipping charges different than those charged for all beer distributors, allowances, thing of value or inducement from a beer distributor in exchange for the brewer entering into a distributor agreement with the beer distributor. However, a brewer who also holds a beer distributor license and desires to sell all or a portion of its beer distribution rights and business, or a holder of small brewer license who desires to change its election from self-distribution to the use of a distributor agreement may accept a payment for the fair market value of its existing and established distribution business in the subject territory.

L. This section shall apply to any agreement entered into and any renewals, extensions, amendments or conduct constituting a modification of a distributor agreement by a brewer existing on or after the effective date of this act.

SECTION 82. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-112 of Title 37A, unless there is created a duplication in numbering, reads as follows:

The operation and maintenance of a brewpub is subject to the following conditions:

1. No person shall be permitted to own or operate a brewpub without first paying the required fees set forth in Section 13 of this act and obtaining a proper brewpub license from the ABLE Commission in the manner provided in the Oklahoma Alcoholic Beverage Control Act;

2. Each brewpub licensee shall comply with all other applicable state and local license and permit requirements; and

3. In order to qualify for a brewpub license, a manufacturer must meet the definition of a small brewer.

SECTION 83. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-113 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. A small brewer is authorized to sell to either licensed distributors or retailers. A small brewer shall elect whether it will distribute through a distributor or self-distribute to retailers; however, a small brewer may not elect to do both simultaneously. The election shall be made through notice to the ABLE Commission. Any changes to the election require immediate notification to the ABLE Commission before the change in election will take effect. A small brewer that elects to use a distributor shall be subject to the terms and conditions of the Oklahoma Alcoholic Beverage Control Act.

B. As a condition to the issuance of a Small Brewer License, such small brewer shall pay the annual fees as set forth in Section 13 of this act and shall qualify with the Secretary of State of the State of Oklahoma for a permit to do business within the State of Oklahoma.

C. A small brewer may sell directly to consumers in this state if it is the holder of a brewpub license. A licensed small brewer may serve free samples of beer produced by the small brewer in this state to visitors twenty-one (21) years of age or older. Samples may only be distributed or consumed between 10:00 a.m. and 2:00 a.m. Samples of beer served by a small brewer under this section shall not be considered a "sale" of beer within the meaning of Article XXVIIIA of the Oklahoma Constitution or the Oklahoma Alcoholic Beverage Control Act. However, such samples of beer shall be considered beer removed or withdrawn from the small brewer for "use or consumption" within the meaning of this title for excise tax determination and reporting requirements.

SECTION 84. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-114 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. This section applies to all retailers authorized to sell beer for consumption off the premises.

B. The holder of a retail beer or retail spirits license may resell beer only in the packaging in which the holder received the beer or may resell the contents of the packages as individual containers.

C. Except for purposes of resale as individual containers, the licensee shall not:

1. Mutilate, tear apart or cut apart original packaging in which beer was received; or

2. Repackage beer in a manner misleading to the consumer or that results in required labeling being omitted or obscured.

D. The ABLE Commission shall impose the following penalties for a violation of subsection B or C of this section:

1. After notice and hearing, immediately revoke the license of the licensee committing the violation; and

2. Impose a fine of not more than One Thousand Dollars ($1,000.00) for each violation.

Any licensee whose license is revoked pursuant to this subsection shall not be eligible to reapply for a license for at least three (3) months from the date of the revocation. Any stock of beer in undamaged original packaging in the possession of such licensee shall be repurchased by the distributor as long as the repurchased inventory falls within the date considered by the brewer of the product to be appropriate for sale to a consumer.

E. Administrative fines collected pursuant to this section shall be enforceable in the district courts of this state. All administrative fines collected by the ABLE Commission pursuant to this section shall be forwarded to the State Treasurer for deposit in the General Revenue Fund.

SECTION 85. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-115 of Title 37A, unless there is created a duplication in numbering, reads as follows:

To assure and control quality, a beer distributor or a holder of a small brewer self-distribution license or brewpub self-distribution license, at the time of a regular delivery, may withdraw with the permission of the retailer, a quantity of beer in undamaged original packaging from the retailer's stock if:

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

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

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

SECTION 86. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-116 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. Any manufacturer or subsidiary of a manufacturer who markets its products solely through a subsidiary or subsidiaries, a distiller, rectifier, bottler, winemaker or importer of alcoholic beverages, bottled or made in a foreign country, either within or without this state, may sell such brands or kinds of alcoholic beverages to every licensed wine and spirits wholesaler who desires to purchase the same, on the same price basis and without discrimination or inducements, and shall further be required to sell such beverages only to those persons licensed as wine and spirits wholesalers.

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

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

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

SECTION 87. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-117 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. A retailer may offer for sale and sell alcoholic beverages which are packaged or are to be packaged with nonalcoholic promotional items, if such packaging and all nonalcoholic promotional items are provided by the manufacturer or agent of the manufacturer at the expense of the manufacturer or agent of the manufacturer, regardless of where such packages are assembled.

B. The manufacturer or agent of the manufacturer may provide such packaging and any nonalcoholic promotional items to the retailer at the retailer's premises, or otherwise, and may deliver such packaging and all nonalcoholic promotional items provided by the manufacturer or agent to the retailer by means of common carrier, or otherwise, at no expense to the retailer, for the retailer to incorporate the alcoholic beverage product of the manufacturer into the manufacturer's packaging or with such promotional items.

C. The manufacturers of alcoholic beverages, through their agents, must make access to the packaging for such alcoholic beverages with nonalcoholic promotional items available equally to retailers in this state. Such access to the promotional packaging is subject to the reasonable supplies of such packaging and subject to the terms of the manufacturer's promotion. Such access to the manufacturer's packaging by the retailers shall be commensurate to the needs of the retailers based on the stock of the manufacturer's product carried by the retailer. The manufacturers shall only be required to carry reasonable supplies of such promotional packages and shall make a good faith effort to ratably distribute such packaging or items to those retailers who desire such packaging or items.

SECTION 88. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-118 of Title 37A, unless there is created a duplication in numbering, reads as follows:

No alcoholic beverages intended for off-premise or on-premise consumption shall be sold at retail for less than a six percent (6%) markup, unless the sale meets one or more of the following conditions:

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

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

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

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

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

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

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

SECTION 89. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-119 of Title 37A, unless there is created a duplication in numbering, reads as follows:

It shall be unlawful for any manufacturer, wine and spirits wholesaler, beer distributor or person authorized to sell alcoholic beverages to a wholesaler, or any employee, officer, director, stockholder owning fifteen percent (15%) or more of the stock, any type of partner, manager, member or agent thereof, to directly or indirectly:

1. Have any financial interest in any premises upon which any alcoholic beverage is sold at retail or in any business connected with the retailing of alcoholic beverages; provided, nothing in this act shall prohibit the operation of a mixed beverage licensee, beer and wine licensee or caterer licensee by an entity which has common

owners with the holder of a small brewer license or a brewpub license;

2. Lend any money or other thing of value, or to make any gift or offer any gratuity, to any package store, retail wine, retail beer, mixed beverage, beer and wine, public event or bottle club licensee or caterer;

3. Guarantee any loan or the repayment of any financial obligation of any retailer, mixed beverage, beer and wine, public event or bottle club licensee or caterer;

4. Require any wine and spirits wholesaler, beer distributor, retailer, mixed beverage, on premises beer and wine licensee, public event or caterer to purchase and dispose of any quota of alcoholic beverages, or to require any retailer to purchase any kind, type, size, container or brand of alcoholic beverages in order to obtain any other kind, type, size, container or brand of alcoholic beverages;

5. Sell to any retailer, mixed beverage, on-premises beer and wine licensee, public event or caterer any alcoholic beverage on consignment, or upon condition, or with the privilege of return, or on any condition other than a bona fide sale; provided, the delivery in good faith, through mistake, inadvertence or oversight, of an alcoholic beverage that was not ordered by a retailer, mixed beverage licensee, on-premises beer and wine licensee, caterer, public event or special event licensee to such licensee shall not be considered a violation of this paragraph, nor shall replacement of breakage that occurred while the alcoholic beverages were in transit from the wholesaler to the licensee, or replacement of product with torn or defective labels, short-filled cases or other defects that make the product unsaleable, as long as the licensee notifies the wine and spirits wholesaler or the beer distributor of the error, breakage or defect in writing within five (5) business days after delivery of the product; or

6. Extend credit to any retailer, other than holders of Federal Liquor Stamps on United States government reservations and installations, mixed beverage, public event or on-premises beer and wine licensee or caterer, other than a state lodge located in a county which has approved the retail sale of alcoholic beverages by

the individual drink for on-premises consumption. The acceptance of a postdated check or draft or the failure to deposit for collection a current check or draft by the second banking day after receipt shall be deemed an extension of credit. Violation of this section shall be grounds for suspension of the license.

SECTION 90. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-120 of Title 37A, unless there is created a duplication in numbering, reads as follows:

No mixed beverage, beer and wine, caterer, public event or bottle club licensee, partner in any type of partnership, manager or member of a limited liability company, officer, director or stockholder of any corporate licensee owning more than fifteen percent (15%) of the stock shall have any right, title, lien, claim or interest, financial or otherwise in, upon or to the premises, equipment, business or merchandise of any package store, beer distributor, manufacturer or wholesaler. The provisions of this section shall not prohibit a person who is an officer or director of a fraternal or veteran's organization which is a tax exempt organization under Section 501(c)(8),(10) or (19) of the Internal Revenue Code and which holds a license issued by the ABLE Commission from having a right, title, lien, claim or interest in the premises, equipment, business or merchandise of a package store.

SECTION 91. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-121 of Title 37A, unless there is created a duplication in numbering, reads as follows:

No manufacturer, wine and spirits wholesaler, beer distributor, partner in any type of partnership, manager or member of a limited liability company, or officer, director or stockholder of any nonresident seller or manufacturer licensee, owning more than fifteen percent (15%) of the stock shall have any right, title, claim or interest, financial or otherwise in, upon or to the premises, equipment, business or merchandise of any mixed beverage, beer and wine, caterer, public event or bottle club licensee.

SECTION 92. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-122 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Interactive entertainment facility" means premises that feature interactive computer and video entertainment attractions, themed merchandise, food and alcoholic beverages; and

2. "Main purpose of the business" means that the total gross income derived from interactive entertainment exceeds the total gross income derived from the sale, mixing, or serving of alcoholic beverages.

B. Nothing in Sections 89 or 90 of this act shall be construed as prohibiting the issuance, transfer or renewal of any mixed beverage license to any person or corporation with respect to premises that are an integral part of an interactive entertainment facility in which a manufacturer, nonresident seller, distiller or rectifier has an interest, directly or indirectly, of less than thirty percent (30%) if all the following conditions are met:

1. The main purpose of the business conducted within the facility is providing interactive entertainment, not the sale of alcoholic beverages;

2. The mixed beverage licensee shall serve other brands of wine, beer and alcoholic beverages in addition to the brands manufactured, produced or distributed by any distiller, rectifier, nonresident seller or manufacturer that has a direct or indirect interest in the mixed beverage license;

3. No more than twenty percent (20%) of the mixed beverage licensee's purchases of alcoholic beverages for sale on its licensed premises shall be products manufactured, produced or distributed by the manufacturer, distiller, rectifier or nonresident seller that has a direct or indirect interest in the licensed premises;

4. The licensee purchases all alcoholic beverages and beer sold on the premises from wholesalers that are licensed in Oklahoma;

5. The distiller, rectifier, nonresident seller or manufacturer does not control, directly or indirectly, the day-to-day operation of the licensed premises; and

6. Officers, directors and employees of the distiller, rectifier, nonresident seller or manufacturer do not serve as officers or directors of the entity operating the licensed premises.

SECTION 93. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-123 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. It shall be unlawful for any person privileged to sell alcoholic beverages to wholesalers or retailers:

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

2. To grant, directly or indirectly, any discount, rebate, free goods, allowance or other inducement.

B. The ABLE Commission is hereby authorized to promulgate rules which are necessary to carry out the purpose of this section and to prevent its circumvention by offering or giving of any rebate, allowance, free goods, discount or any other thing or service of value; provided, the posting or invoicing of charges per order for processing minimum orders or per case for the handling or repacking of goods by wine and spirits wholesalers and beer distributors for sales in less than full case lots shall not constitute a violation of this section.

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

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

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

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

SECTION 94. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-124 of Title 37A, unless there is created a duplication in numbering, reads as follows:

Sale of alcoholic beverages by the individual drink for on-premises consumption shall be unlawful in any county of this state unless the sale has been approved by a majority of the registered voters of the county voting thereon at a special election called by the board of county commissioners. Such election shall be called by the board of county commissioners upon receipt of a petition signed by registered voters constituting not less than fifteen percent (15%) of the total votes cast in the county in the last General Election for the Office of Governor, or such election may be called by the board of county commissioners upon its own motion. At the time such election is called, the proposition shall include those days or portions of days, if any, on which sales of alcoholic beverages by the individual drink are not authorized. If the proposition is the result of a motion of the board of county commissioners, then the ABLE Commission shall designate the days or portions of days, if any, on which the sales of alcoholic beverages are not authorized. If the proposition is the result of a petition, such petition shall specify days or portions of days, if any, on which the sales of alcoholic beverages are not authorized.

If, at the Special Election, the proposition to authorize the sale of alcoholic beverages by the individual drink for on-premises consumption fails to be approved by the registered voters of the county, the county shall not hold another election on whether or not to approve such sales, for at least two (2) years from the date the proposition failed to be approved.

SECTION 95. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-125 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. No alcoholic beverages may be sold, dispensed, served or consumed on the premises of a mixed beverage, caterer, public event, charitable event, special event, on-premises beer and wine, small

brewer or brewpub licensee between the hours of 2:00 a.m. and 10:00 a.m.

B. Counties that elect to authorize sales of alcoholic beverages by the individual drink may designate any or all of the following days as days or portions thereof on which the sales of alcoholic beverages are not authorized:

1. On the first day of the week, commonly called Sunday; and

2. On Decoration or Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

C. Counties that elect to authorize sales of alcoholic beverages by the individual drink shall not prohibit such sales on the day of any national, state, county or city election, including primary elections, provided that the election day does not occur on any day on which such sales may otherwise be prohibited by any other law.

SECTION 96. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-126 of Title 37A, unless there is created a duplication in numbering, reads as follows:

No alcoholic beverages may be dispensed, served or consumed on the premise of a bottle club licensee between the hours of 2:00 a.m. and 10:00 a.m.

SECTION 97. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-127 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. No person shall be allowed to enter or remain in the designated bar or lounge area of a bottle club unless that person possesses a valid membership card for that club issued by the club. Membership cards issued by a bottle club shall be purchased by the club from the ABLE Commission at a cost of Three Dollars ($3.00) per temporary membership card and Twenty-five Dollars ($25.00) per annual membership card. A temporary membership card shall be valid for a period of seventy-two (72) consecutive hours from issuance to the member. The date of issuance of a temporary membership shall be clearly and prominently marked upon the card. When the card is

issued to a member by the club, the club may require the member to reimburse the club for the cost of the card. No membership card shall be issued to any person under twenty-one (21) years of age. The ABLE Commission shall have the authority to promulgate rules concerning bottle club membership cards.

B. A bottle club license authorizes alcoholic beverages belonging to members of the club to be:

1. Stored, possessed and mixed on club premises; and

2. Served for on-premises consumption to members. Each member shall be served only from the member's individually owned bottle of alcoholic beverage which shall be marked with the owner's full name or code number. Such numbers shall be maintained on the club premises, available for inspection by employees of the ABLE Commission or by any peace officer.

Pool systems of storage and purchase of alcoholic beverages in a bottle club are specifically prohibited.

C. The sale, preparation or service of ice or nonalcoholic beverages that are sold, prepared or served for the purpose of being mixed with alcoholic beverages for consumption on the premises where such sale, preparation or service occurs shall be subject to the sales tax levied by the Oklahoma Sales Tax Code and to any municipal or county sales taxes.

D. Any bottle club licensee, or employee or agent of such a licensee who sells to a member any alcoholic beverage shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of One Thousand Dollars ($1,000.00) and the club license shall be revoked for a period of thirty (30) days. Any bottle club licensee, or employee or agent of such a licensee who delivers or furnishes to a member any alcoholic beverage that does not belong to the member shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than Five Hundred Dollars ($500.00) nor more than One Thousand Dollars ($1,000.00) and the club license shall be revoked for a period of thirty (30) days. Any bottle club licensee, or employee or agent of such a licensee who permits any person who is not a member to enter and remain in the designated bar or lounge area of the club premises

shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of One Thousand Dollars ($1,000.00) and the bottle club license shall be suspended for a period of thirty (30) days. No bottle club licensee, or employee or agent of such a licensee shall serve alcoholic beverages to any person that does not possess a valid membership card for that club issued by the club.

E. Any bottle club licensed under the provisions of the Oklahoma Alcoholic Beverage Control Act shall pay the license fee provided by law and obtain a separate license for each separate place of business.

F. In counties of this state where retail sale of alcoholic beverages by the individual drink has not been authorized, no person shall serve alcoholic beverages by the individual drink for on-premises consumption or permit the consumption of alcoholic beverages except in a bottle club licensed pursuant to this section or in a private residence; provided, this shall not prohibit a winery from serving visitors on the licensed premises free samples of wine produced on the premises. No member of a bottle club shall serve alcoholic beverages lawfully prepared for the member in the designated bar or lounge area of a bottle club to any person who does not possess a valid membership card for the bottle club.

SECTION 98. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4-101 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. Municipalities are authorized to enact ordinances consistent with the provisions of the Oklahoma Alcoholic Beverage Control Act. In municipalities with populations of thirty-five thousand (35,000) or more according to the most recent federal decennial census, these ordinances may provide for maximum penalties of fines not to exceed One Thousand Dollars ($1,000.00) plus court costs, an imprisonment not to exceed ninety (90) days, or both such fine and imprisonment.

B. All municipalities of this state may enact ordinances prohibiting or regulating nudity or drink solicitation in establishments licensed pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act.

C. The provisions of this section shall not authorize any municipality to regulate by ordinance or issue any licenses for activities for which a license is required to be issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act.

SECTION 99. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4-102 of Title 37A, unless there is created a duplication in numbering, reads as follows:

The governing body of any municipality, as to any mixed beverage, beer and wine, caterer, public event or bottle club licensee having its principal place of business in such municipality, and the board of county commissioners of any county, as to any mixed beverage, beer and wine, caterer, public event or bottle club licensee having its principal place of business in such county but outside the incorporated limits of a municipality, may initiate a license suspension or revocation proceeding as to such licensee by filing a written complaint with the ABLE Commission. The complaint shall set forth the grounds for the proposed suspension or revocation. Such complaint may be based on any ground that the ABLE Commission might have asserted. Upon receipt of such complaint, the ABLE Commission shall forward a copy of the complaint to the licensee together with written notice of the time and place of hearing thereon. If the complaint is filed by a municipality, the hearing shall be conducted within the corporate limits of the municipality. If the complaint is filed by a county, the hearing shall be conducted in the county. The hearing shall be held within the time limits and in the manner prescribed for suspension or revocation proceedings initiated by the ABLE Commission. In any proceeding initiated pursuant to this section, the municipality or county shall be deemed an interested party, shall have the right to be heard and to present evidence at the hearing on the complaint and shall be entitled to appeal from any final order entered by the ABLE Commission in the manner otherwise provided in the Oklahoma Alcoholic Beverage Control Act. Such municipality or county shall not be required to give bond on appeal.

SECTION 100. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4-103 of Title 37A, unless there is created a duplication in numbering, reads as follows:

Municipalities and counties are hereby authorized to create a new zoning classification to regulate the location of establishments that sell, serve, mix, dispense or allow consumption of alcoholic beverages on the premises. Such zoning classification may include but shall not be limited to reasonable parking, access regulations and other such zoning regulations as the local authorities may deem necessary for local control. This authority shall be in addition to the authority to enact ordinances established in Section 98 of this act.

Municipal courts are hereby authorized jurisdiction to hear violations of any ordinances enacted pursuant to the provisions of this section and Section 98 of this act.

SECTION 101. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4-104 of Title 37A, unless there is created a duplication in numbering, reads as follows:

Municipalities are hereby authorized to levy an annual occupational tax for the privilege of operating as a retailer, mixed beverage, beer and wine, caterer, public event or special event licensee, bottle club, manufacturer, wine and spirits wholesaler or beer distributor, within their respective jurisdictions, not to exceed the state license fee for such licensees; provided, the tax shall be levied only by the municipality in which such licensee has its principal place of business. This section shall not give any municipality any right to determine or regulate the issuance of any license, except as specifically provided for in this section, as the ABLE Commission shall have exclusive authority as to issuance and regulations of licenses. No municipality may prescribe rules or regulations in conflict with or in addition to the statutes of this state or the rules of the ABLE Commission.

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

SECTION 102. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4-105 of Title 37A, unless there is created a duplication in numbering, reads as follows:

Counties are hereby authorized to levy an annual occupational tax for the privilege of operating as a mixed beverage, beer and wine, caterer, public event or special event licensee or as a bottle club, within their respective jurisdictions and not located in a municipality levying an occupation tax as provided by Section 101 of this act, not to exceed the state license fee for such licensees; provided, the tax shall be levied only by the county in which such licensee has its principal place of business. All revenues derived from any such annual occupational tax shall be deposited in the general revenue fund of the county. This section shall not give any county any right to determine or regulate the issuance of any license, except as specifically provided for in this section, as the ABLE Commission shall have exclusive authority as to issuance and regulations of licenses. No county may prescribe rules or regulations in conflict with or in addition to the statutes of this state or the rules of the ABLE Commission.

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

SECTION 103. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4-106 of Title 37A, unless there is created a duplication in numbering, reads as follows:

All sheriffs, marshals and police officers, all district and city or town attorneys and all employees of the ABLE Commission, shall diligently enforce all provisions of the Oklahoma Alcoholic Beverage Control Act. If any such person shall fail or refuse to do or perform any duty required by the provisions of such statutes, he or she shall be removed from office as hereinafter provided. In all cases where any sheriff, marshal, police officer, district or city or town attorney shall fail or refuse to perform any such duty, a petition shall be filed in the district court of the county wherein such person resides, in the name of the state, upon the

recommendation of a grand jury or on the relation of the board of county commissioners or of any attorney appointed by the Governor under the provisions of applicable statutes. In all cases where an employee of the ABLE Commission fails to perform any duty imposed upon him or her, such failure shall constitute cause for the termination of any such employee as provided by law. The Oklahoma State Bureau of Investigation and the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall also have enforcement authority for the provisions of the Oklahoma Alcoholic Beverage Control Act with the power to initiate complaints with the ABLE Commission and by filing charges, if appropriate, with the district attorney in the county where the violation occurred.

SECTION 104. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-101 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. Except as provided in this subsection, an excise tax is hereby levied and imposed upon all alcoholic beverages imported or manufactured, for sale, use or distribution, or used or possessed in this state at the following rates:

1. One Dollar and forty-seven cents ($1.47) per liter, and a proportionate rate on fractions thereof, on each liter of spirits;

2. Nineteen cents ($0.19) per liter, and a proportionate rate on fractions thereof, on each liter of wine;

3. Fifty-five cents ($0.55) per liter, and a proportionate rate on fractions thereof, on each liter of sparkling wine; and

4. Twelve Dollars and fifty cents ($12.50) per barrel (thirty-one (31) wine gallons) and a proportionate rate on portions thereof, on each barrel of beer; provided, beer manufactured in this state for export shall not be taxed.

B. The excise tax levied on alcoholic beverages except beer under subsection A of this section shall be paid as follows:

1. Payment of the excise tax levied by this section with respect to all alcoholic beverages, other than beer, shall be made by the person shipping the same into Oklahoma, or in the case of

direct imports from foreign countries by the importer, or in the case of alcoholic beverages manufactured in Oklahoma by the first seller thereof;

2. The due and payable excise tax levied by this section shall be remitted electronically with tax returns electronically filed with the Oklahoma Tax Commission using procedures prescribed by the Tax Commission. The tax returns shall be made under oath by the person liable for the tax on forms prescribed and provided by the Tax Commission and shall be accompanied by payment of the taxes due and any additional sums due as provided by this section. Invoices describing all alcoholic beverages as described in this section which are shipped into this state or which are first sold in this state shall be delivered to the Tax Commission immediately following shipment of liquors into the state or delivery to the first purchaser. Tax returns and payment of excise tax and other sums due shall be electronically filed with the Tax Commission no later than the twentieth day of the month immediately succeeding the month of shipment, importation or first sale of the alcoholic beverages as provided in paragraph 1 of this subsection; and

3. Each person required to file a tax return pursuant to this section shall remit the excise tax due. Up to ten percent (10%) of each tax payment made under this subsection may be made in the form of revenue stamps previously purchased pursuant to Section 111 of this act.

C. For the purpose of collecting and remitting the excise tax imposed under this section, the person liable for such tax is hereby declared to be the agent of the state for such purposes.

D. Nothing herein shall be construed to impose an additional excise tax on alcoholic beverages held in inventory by wholesalers and retailers upon which the excise tax was paid prior to the effective date of any excise tax increase.

E. The retail sale of alcoholic beverages shall be subject to the sales tax statutes enacted by the Legislature.

SECTION 105. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-102 of Title 37A, unless there is created a duplication in numbering, reads as follows:

The excise tax levied by the Alcoholic Beverages Governance Act is hereby declared and intended to be a direct tax upon the ultimate retail consumer of alcoholic beverages in this state, and when such tax is paid by, or collected from, any other person, as herein provided for, such payment shall be considered as an advance payment for convenience and facility only, and such tax shall thereafter be added to the price of such alcoholic beverages and recovered from the ultimate retail consumer thereof.

SECTION 106. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-103 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. The excise tax levied by Section 104 of this act shall not apply to:

1. Alcohol used exclusively for industrial purposes by the holder of an industrial license;

2. Alcohol lawfully withdrawn and used free of tax under a tax-free permit issued by the United States government;

3. Alcoholic beverages used exclusively by licensed physicians and dentists in the bona fide practice of their professions or by licensed pharmacists in compounding prescriptions;

4. Beer, cider and wine made for personal use pursuant to a personal use permit issued as provided in Section 70 of this act;

5. Wine used exclusively for sacramental purposes in bona fide religious ceremonies;

6. Alcoholic beverages, not exceeding one (1) liter, imported into this state by the possessor for his or her own personal use;

7. Alcoholic beverages provided to attendees, free of charge, at charitable events licensed and approved by the ABLE Commission; and

8. Mixed beverage and public event licensees which utilize the services of a licensed caterer.

B. As a condition precedent to the allowance of any exemption authorized by subsection A of this section:

1. If a license or permit is required by the Oklahoma Alcoholic Beverage Control Act, for such use, the person claiming any such exemption must have obtained from the ABLE Commission the license or permit authorizing such exempt use; and

2. There must be furnished such proof of the exclusive use for such exempt purposes as the Oklahoma Tax Commission may require.

SECTION 107. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-104 of Title 37A, unless there is created a duplication in numbering, reads as follows:

All revenue accruing from the excise tax levied by Section 104 of this act shall be collected by the Oklahoma Tax Commission and distributed as follows:

1. Two-thirds of ninety-seven percent (2/3 of 97%) of such tax revenue shall be paid to the State Treasurer and placed to the credit of the General Revenue Fund of the state; provided, any amounts derived from the tax levied pursuant to paragraphs 2 and 3 of subsection A of Section 104 of this act that exceed an amount equal to the total amount collected from such tax levy for the fiscal year ending on June 30, 2010, shall be distributed to the Oklahoma Viticulture and Enology Center Development Revolving Fund created pursuant to Section 132 of this act, but in no event shall the distribution to the Oklahoma Viticulture and Enology Center Development Revolving Fund in any fiscal year exceed Three Hundred Fifty Thousand Dollars ($350,000.00);

2. One-third of ninety-seven percent (1/3 of 97%) of such revenue is hereby allocated to the counties of this state and shall be paid to the county treasurers on the basis of area and population (giving equal weight to area and population) wherein the sale of alcoholic beverages is lawful, and all of such funds shall be appropriated by the county commissioners of each county and apportioned by the county treasurer to all incorporated cities and towns in the county on the basis of population within each city and town on a per capita basis based on the last preceding Federal

Decennial Census. For the purpose of appropriating and paying the excise taxes collected under the Oklahoma Alcoholic Beverage Control Act, or any act which is amendatory thereof or supplemental thereto, to the incorporated cities and towns in any county, city or town, the corporate limits of which include territory within more than one county, shall be considered and treated as being a city or town in only the county within which more than fifty percent (50%) of the entire population of such city or town, as shown by the last preceding Federal Decennial Census, reside, and, for such purpose, shall not be considered or treated as being a city or town in any other county. In the event that the last preceding Federal Decennial Census fails to disclose information from which such fact may be determined by the board of county commissioners which is appropriating the tax money then involved to the cities and towns in its county, the board of county commissioners shall make an estimate, from the best information then available to it, as to the percentage of the entire population of such city or town then residing in the county. If such board of county commissioners determines, either from information disclosed by the last preceding Federal Decennial Census, or from the best information then available to the ABLE Commission (when such information is not disclosed by the last preceding Federal Decennial Census), that more than fifty percent (50%) of the population of such a city or town resides in that county, such city or town shall receive its pro rata share of such tax money on the basis of its entire population according to the last preceding Federal Decennial Census; but if such board of county commissioners so determines that more than fifty percent (50%) of the population of such city or town does not reside in that county, no part of such tax money shall be appropriated or paid to such city or town; and

3. The remaining three percent (3%) of such excise tax revenue shall be paid to the State Treasurer and placed to the credit of the Oklahoma Tax Commission Fund to be paid out of the fund pursuant to appropriations made by the State Legislature.

SECTION 108. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-105 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. A tax at the rate of thirteen and one-half percent (13.5%) is hereby levied and imposed on the total gross receipts of a holder

of an on-premises beer and wine, mixed beverage, caterer, public event or special event license issued by the ABLE Commission, from:

1. The sale, preparation or service of mixed beverages;

2. The total retail value of complimentary or discounted mixed beverages;

3. Ice or nonalcoholic beverages that are sold, prepared or served for the purpose of being mixed with alcoholic beverages and consumed on the premises where the sale, preparation or service occurs; and

4. Any charges for the privilege of admission to a mixed beverage establishment which entitle a person to complimentary mixed beverages or discounted prices for mixed beverages.

B. For purposes of this section:

1. "Mixed beverages" means mixed beverages as defined by Section 3 of this act;

2. "Total gross receipts" means the total amount of consideration received as charges for admission to a mixed beverage establishment, as provided in paragraph 4 of subsection A of this section, and the total retail sale price received for the sale, preparation or service of mixed beverages, ice and nonalcoholic beverages to be mixed with alcoholic beverages. The advertised price of a mixed beverage may be the sum of the total retail sale price and the gross receipts tax levied thereon; and

3. "Total retail value" means the total amount of consideration that would be required for the sale, preparation or service of mixed beverages.

C. The gross receipts tax levied by this section shall be in addition to the excise tax levied in Section 104 of this act, the sales tax levied in the Oklahoma Sales Tax Code and to any municipal or county sales taxes.

D. The gross receipts tax levied by this section is hereby declared to be a direct tax upon the receipt of consideration for

any charges for admission to a mixed beverage establishment, as provided in paragraph 4 of subsection A of this section, for the sale, preparation or service of mixed beverages, ice and nonalcoholic beverages to be mixed with alcoholic beverages, and the total retail value of complimentary or discounted mixed beverages.

E. The total of the retail sale price received for the sale, preparation or service of mixed beverages, ice and nonalcoholic beverages to be mixed with alcoholic beverages shall be the total gross receipts for purposes of calculating the sales tax levied in the Oklahoma Sales Tax Code.

SECTION 109. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-106 of Title 37A, unless there is created a duplication in numbering, reads as follows:

All revenues generated from the gross receipts tax levied pursuant to Section 108 of this act shall be paid to the State Treasurer and placed to the credit of the General Revenue Fund of the State of Oklahoma.

SECTION 110. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-107 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. Every holder of a mixed beverage, if not catered, beer and wine, caterer, hotel beverage, public event, if not catered, or special event license, issued by the ABLE Commission, shall obtain a mixed beverage tax permit from the Oklahoma Tax Commission prior to engaging within this state in the sale, preparation or service of mixed beverages, ice or nonalcoholic beverages that are sold, prepared or served to be mixed with alcoholic beverages. Each licensee shall file a verified application for a mixed beverage tax permit with the Tax Commission, setting forth information as may be required by the Tax Commission.

The Tax Commission, or its designated agent, shall issue, without any fees or charges therefor, a mixed beverage tax permit in the name of the licensee for the place of business set forth in the application upon verification that:

1. The applicant is a holder of a mixed beverage, if not catered, beer and wine, caterer, hotel beverage, public event, if not catered, or special event license issued by the ABLE Commission;

2. The applicant has posted a surety bond or other negotiable collateral to protect the proper payment of the gross receipts taxes;

3. The applicant is a holder of a sales tax permit for the place of business set forth in the application; and

4. The applicant is not delinquent in the payment of any gross receipts taxes or sales taxes.

A mixed beverage tax permit shall expire three (3) years after issuance; provided, if the holder thereof is also the holder of a sales tax permit, a mixed beverage tax permit shall be valid for three (3) years or until expiration of the sales tax permit, whichever is earlier, after which a renewal permit shall be valid for three (3) years.

B. A separate mixed beverage tax permit for each place of business to be operated must be obtained and no charge therefor shall be made by the Tax Commission. The Tax Commission shall grant and issue to each applicant a separate permit for each place of business in this state, upon proper application therefor and verification thereof by the Tax Commission.

C. A mixed beverage tax permit is not assignable and shall be valid only for the person in whose name it is issued and for the transaction of business at the place designated in the permit.

D. It shall be unlawful for any person to engage in a business subject to the provisions of this section prior to the issuance of a mixed beverage tax permit. Any person who engages in a business subject to the provisions of this section without a mixed beverage tax permit or permits, or after a permit has been suspended, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than One Thousand Dollars ($1,000.00) or incarcerated for not more than sixty (60) days, or by both such fine and imprisonment.

E. Any person operating under a mixed beverage tax permit as provided in this section shall, upon discontinuance of business by sale or otherwise, return such permit to the Tax Commission for cancellation, together with payment of any unpaid or accrued taxes. Failure to surrender a mixed beverage tax permit and pay any and all accrued taxes will be sufficient cause for the Tax Commission to refuse to issue a mixed beverage tax permit subsequently to such person to engage in or transact any business in this state subject to the provisions of this section. Notwithstanding the provisions of subsection H of Section 1364 of Title 68 of the Oklahoma Statutes, the Tax Commission shall not deny a purchaser of a business subject to the provisions of this section a mixed beverage or sales tax permit because of outstanding tax liabilities of the seller, provided the seller pays to the Tax Commission the estimated sales tax owed by the seller. Provided, further, upon completion of an audit by the Tax Commission and determination of actual sales tax owed, the difference between the estimated sales tax paid and the actual sales tax owed shall be paid by the seller to the Tax Commission if taxes were underpaid or returned to the seller by the Tax Commission if taxes were overpaid.

F. Whenever a holder of a mixed beverage tax permit fails to comply with any provisions of any state alcoholic beverage laws or tax laws, the Tax Commission, after giving ten-days' notice in writing of the time and place of hearing to show cause why this permit should not be revoked, may revoke or suspend the permit. A mixed beverage tax permit shall be renewed upon removal of cause or causes of revocation or suspension. Mixed beverage tax permits are conditioned upon the proper and timely payment of all taxes due and in the event a holder of a mixed beverage tax permit becomes delinquent in reporting or paying any tax due under the provisions of state tax law, any duly authorized agent of the Tax Commission may cancel the permit and it shall be renewed only upon the filing of proper reports and payment of all taxes due and application for renewal in accordance with subsection A of this section.

G. Upon revocation or suspension of the mixed beverage, beer and wine, caterer, hotel beverage, public event or special event license by the ABLE Commission, the Tax Commission, or its duly authorized agent, shall temporarily suspend the mixed beverage tax permit issued to the licensee in accordance with Section 212 of Title 68 of the Oklahoma Statutes.

SECTION 111. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-108 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Tax Commission shall promulgate rules to implement a reporting method of taxing all alcoholic beverages sold or delivered in this state to eliminate the use of any type of stamps.

B. Every manufacturer or brewer manufacturing or brewing any beer in this state, for sale in this state, and every manufacturer or brewer outside of the state, shipping any beer into this state, shall cause to be printed, upon an affixed label around and upon the body of each bottle or upon the top or the lid of each can of such beer, a symbol or other designation, approved by the Tax Commission, including such information as the Tax Commission may require. Brewers shall be required to submit samples of crowns, tops and labels to the Tax Commission for approval.

C. Payment of the excise tax levied by the Oklahoma Alcoholic Beverage Control Act, with respect to beer shall be made by the manufacturer or brewer as to all beer produced by such brewer within the state for sale within this state, and shall be made by the importing manufacturer or beer distributor who is the original consignee of beer manufactured or produced outside of this state as to all beer imported into this state by such importing licensee. It is the duty of each Oklahoma licensed brewer with respect to beer produced by such brewer within this state, and of each Oklahoma licensed beer distributor as to beer produced outside of this state and imported into this state by such beer distributor, to pay the excise tax on such beer to the Oklahoma Tax Commission as hereinafter provided.

D. Notwithstanding any other provision of law, the tax levied by the Oklahoma Alcoholic Beverage Control Act shall be part of the gross proceeds or gross receipts from the sale of alcoholic beverages, as those terms are defined in paragraph 12 of Section 1352 of Title 68 of the Oklahoma Statutes.

SECTION 112. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-109 of Title 37A, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Tax Commission shall have authority to allow credit for or make refunds of any money paid for stamps issued by the Tax Commission in payment of state excise tax by the manufacturer pursuant to authority granted by the Tax Commission. All applications to the Tax Commission for credit or replacement under the provisions of this section shall be verified by affidavit and all proof and evidence supporting such application shall be made in strict conformity with the rules of the Tax Commission setting forth the requirements in connection with such evidence and application.

SECTION 113. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-110 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. Payment of the excise tax levied by Section 104 of this act with respect to beer shall be made by the brewer or the beer distributor as herein provided. The tax shall be due and payable on the first day of each month for the preceding calendar month and if not paid on or before the tenth day of each month shall thereafter be delinquent.

B. Every brewer and beer distributor shall make and transmit to the Oklahoma Tax Commission on or before the tenth day of each calendar month, upon a form prescribed and furnished by the Tax Commission, an itemized and verified report, for the preceding calendar month, showing the following information:

1. Total quantity and description of opening inventory of beer as of the first day of the month;

2. Total receipts and acquisitions during month from every source. This shall be itemized showing:

a. imports and purchases within and without this state separately,

b. the kind and quantity of each type of beer as shown by the shipper's or seller's invoices thereof,

c. the date of each purchase,

d. the quantities purchased,

e. the date received,

f. the person from whom purchased,

g. the manifest, bill of lading or delivery invoice number of each shipment, which number shall be the number used by the original seller as shown on the basic shipping records which accompany the shipment,

h. the point of origin and point of destination of each shipment, and

i. the name and ABLE Commission license number of the carrier if shipped by carrier;

3. The kind and quantity of all beer sold or withdrawn from stock for sale, use or consumption in the State of Oklahoma during the preceding calendar month; the date of each sale; the kind and quantity of beer in each sale; the name, address and ABLE Commission license number of each purchaser; the manifest, bill of lading or delivery invoice number, which number shall be the number as shown on the basic shipping records which accompany the delivery; and the name and ABLE Commission license number of the carrier if shipped by carrier;

4. All nontaxable sales and dispositions made during the month, including exports and sales and deliveries to military installations located within this state, shall be reported and information in reference to each such nontaxable sale, disposition and export shall be shown in detail as is required for sales in the State of Oklahoma and shall be supported by evidence satisfactory to the Tax Commission;

5. Closing inventory of beer as of the last day of the calendar month; and

6. Such other information pertaining to the brewer's and beer distributor's beginning inventory of beer, receipts or acquisitions thereof, sales and dispositions thereof, and the closing inventory, as the Tax Commission may by form or rule require.

C. Every brewer and beer distributor, at the time of making the monthly report required by this section, shall remit to the Tax Commission the total amount of the excise tax due as shown by the report. It shall be unlawful for any brewer or beer distributor to sell or offer for sale any beer while delinquent in the payment of any excise tax due the state.

D. Reports and remittances, as required herein, which are mailed on the tenth day of the month and received by the Tax Commission subsequent to the tenth of the month in which the excise tax is payable, shall be deemed to have been received by the Tax Commission before becoming delinquent. Postmark or registry receipt showing deposit in the United States mails shall be conclusive evidence of the date of mailing. The time for filing returns and paying the excise tax levied by the Oklahoma Alcoholic Beverage Control Act shall not be extended.

E. If upon investigation it is determined by the Tax Commission that any nontaxable disposition or sale claimed by any brewer or beer distributor is not supported by a valid invoice, or is fraudulently or falsely claimed in any manner by such brewer or beer distributor or any agent of such licensee, the Tax Commission shall disallow any such deduction and shall assess and collect the tax, together with the penalty and interest thereon, on the total amount of the disallowed deduction taken by the licensee.

F. The taking and claiming of any deduction not authorized by law, upon a report by any brewer or beer distributor, or the failure to file monthly reports or to pay any excise tax due, shall constitute grounds for the revocation of such person's license by the ABLE Commission and the Tax Commission shall promptly notify the ABLE Commission of all such cases.

SECTION 114. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-111 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. Every wine and spirits wholesaler and/or other person authorized under the Oklahoma Alcoholic Beverage Control Act to import alcoholic beverages into this state, shall make and transmit to the Oklahoma Tax Commission on or before the tenth day of each month, upon a form prescribed and furnished by the Tax Commission, an itemized and verified report for the preceding calendar month, showing the following information:

1. Opening inventory of alcoholic beverages other than beer;

2. Total receipts and acquisitions during month from every source. This shall be itemized showing:

a. imports and purchases from within and without this state separately,

b. the kind, proof and quantity of each type of alcoholic beverage as shown by the shipper's or seller's invoices thereof,

c. the date of each purchase,

d. the amount purchased,

e. the date received,

f. the person from whom purchased,

g. the manifest, bill of lading or delivery invoice number of each shipment, which number shall be the number used by the original seller as shown on the basic shipping records which accompany the shipment, and

h. the point of origin and point of destination of each shipment;

3. The kind and quantity of all alcoholic beverages sold or withdrawn from inventory for sale, use or consumption during the calendar month; the date of each sale; and the kind, proof and quantity of alcoholic beverages in each sale; the name, address and ABLE Commission license number of each purchaser; and the manifest,

bill of lading or delivery invoice number, which number shall be the number as shown on the basic shipping records which accompany the delivery;

4. All nontaxable sales and dispositions made during the month, supported by evidence satisfactory to the Tax Commission;

5. Closing inventory of alcoholic beverages as of the last day of the calendar month; and

6. Such other information pertaining to the wholesaler's beginning inventory of alcoholic beverages, receipts or acquisitions thereof, sales and dispositions thereof, and closing inventory, as the Tax Commission may by form or rule require.

B. If upon investigation it is determined by the Tax Commission that any nontaxable disposition or sale claimed by any licensee is not supported by a valid invoice, or is fraudulently or falsely claimed in any manner by such licensee or any agent of such licensee, the Tax Commission shall disallow any such deduction and shall assess and collect the excise tax, together with the penalty and interest thereon, on the total amount of the disallowed deduction taken by the licensee.

C. The taking and claiming of any deduction not authorized by law, upon a report by any wholesaler or the failure to file monthly reports or pay any excise tax due, shall constitute grounds for the revocation of such person's license, distributor permit or wholesaler permit by the ABLE Commission and the Tax Commission shall promptly notify the ABLE Commission of all such cases.

SECTION 115. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-112 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. All manufacturers, importers, brokers and others who sell alcoholic beverages to a wholesaler in Oklahoma, regardless of whether the sale is consummated within or without the State of Oklahoma, shall obtain a distributor permit from the Oklahoma Tax Commission.

B. Any person having a wholesaler's license shall obtain a wholesaler permit from the Tax Commission.

C. A distributor permit or wholesaler permit may be obtained by filing a verified permit application with the Tax Commission on a form furnished by the Tax Commission.

SECTION 116. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-113 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Tax Commission, as provided by the Uniform Tax Procedure Code, may issue a distributor permit or wholesaler permit to any person who sells alcoholic beverages to a wine and spirits wholesaler or beer distributor or to any person having a wholesaler license.

B. Each wholesaler shall furnish a copy of the wholesaler permit to manufacturers, importers, brokers and others who sell alcoholic beverages prior to purchasing alcoholic beverages from a holder of a distributor permit. Each manufacturer, importer, broker and other who sells alcoholic beverages shall furnish a copy of the distributor permit to the wine and spirits wholesaler or beer distributor prior to selling alcoholic beverages to a wholesaler.

C. Holders of distributor permits or wholesaler permits shall maintain an itemized and verified record for the preceding calendar month of all sales or purchases of alcoholic beverages and shall transmit the verified record to the Tax Commission on or before the tenth day of each month, upon a form prescribed and furnished by the Tax Commission. Permit holders shall maintain records of sales and purchases of alcoholic beverages for three (3) years.

SECTION 117. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-114 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. All bottles or other original containers of alcoholic beverages in the possession of any person upon which the taxes have not been paid as required by the Oklahoma Alcoholic Beverage Control Act and the rules thereunder are declared to be contraband. Any duly authorized employee of the ABLE Commission or the Oklahoma Tax

Commission is authorized to seize the same, and such containers of alcoholic beverages so seized shall be subject to confiscation and forfeiture by the Tax Commission as hereinafter provided.

B. If, upon examination of invoices or from other investigation, the Tax Commission finds that any alcoholic beverages have been sold without tax payment as required by the Oklahoma Alcoholic Beverage Control Act, the Tax Commission shall have the power to require such person to pay to the Tax Commission as such tax a sum equal to twice the amount of the tax due. If any person is unable to furnish evidence to the Tax Commission of excise tax payment to cover purchases of alcoholic beverages made by such person, the prima facie presumption shall arise that such alcoholic beverages were sold without excise tax payment.

It is expressly provided, except where specific provisions of the Oklahoma Alcoholic Beverage Control Act require otherwise, that the procedures and remedies contained in the Uniform Tax Procedure Code of the Oklahoma Statutes in connection with the making of assessments, and the enforcement and collection thereof, the penalties and interest to be applied, all lien and tax warrant provisions, all incidental remedies, including procedure for an injunction, and all other provisions of the Uniform Tax Procedure Code which may be applied or used to enforce the provisions of the Oklahoma Alcoholic Beverage Control Act, shall be applicable and available to the Tax Commission in administering the provisions hereof and collecting the taxes herein levied on alcoholic beverages.

SECTION 118. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-115 of Title 37A, unless there is created a duplication in numbering, reads as follows:

Any employee of the ABLE Commission or the Oklahoma Tax Commission shall have power and authority, without a warrant, to enter and examine the licensed premises of all licensees to determine whether any licensee possesses any container of alcoholic beverage upon which the taxes have not been paid as required by the Oklahoma Alcoholic Beverage Control Act and the rules thereunder, and if such employee shall find any such container of alcoholic beverages, he or she shall immediately seize the same. Such employees of the ABLE Commission or the Tax Commission shall be

given free access to and shall not be hindered or interfered with in their examination of the licensed premises of any licensees, and, in case any such employee is denied free access or is hindered or interfered with in making such examination, any license held by the person preventing such free access or interfering with or hindering such employee shall be subject to suspension or revocation.

SECTION 119. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-116 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. After the seizure of such container of alcoholic beverage upon which the taxes have not been paid, any officer or employee of the ABLE Commission, designated in writing by the Director, shall hold a hearing to determine whether the container of alcoholic beverage seized did not have the necessary taxes paid as required by the Oklahoma Alcoholic Beverage Control Act and the rules thereunder. The ABLE Commission shall give not less than seven-days' notice of the time and place of such hearing to the owner of such container of alcoholic beverage, if known, and also to the person in whose possession such container was found, if such person is known, and if such person in possession is not the owner of the property. The Director, or any employee of the ABLE Commission, designated to conduct such hearing, shall have power to administer oaths and the power to issue subpoenas requiring the attendance of and the giving of testimony by witnesses and subpoenas duces tecum requiring the production of books, papers, records and memoranda.

B. Pursuant to such hearing, the ABLE Commission shall determine whether the container of alcoholic beverage seized did not have the taxes paid as required by the Oklahoma Alcoholic Beverage Control Act and the rules thereunder, and upon a decision to that effect, an order shall be entered that such container of alcoholic beverage is confiscated and forfeited to the State of Oklahoma. The ABLE Commission shall give notice of such order to the owner of such container of alcoholic beverage, if known, and also to the person in whose possession the property so taken was found, if such person is known, and if such person in possession is not the owner of the property.

SECTION 120. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-117 of Title 37A, unless there is created a duplication in numbering, reads as follows:

After an order of forfeiture, and when a proceeding for judicial review of the order has been concluded or the time for judicial review has expired, the ABLE Commission, to the extent that its order is sustained on review, shall sell such forfeited alcoholic beverage at such time and place and in such manner as it deems advisable. Proceeds of such sales shall be deposited with the State Treasurer for the credit of the General Revenue Fund of the State of Oklahoma.

SECTION 121. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-118 of Title 37A, unless there is created a duplication in numbering, reads as follows:

Every person who shall possess more than one (1) liter of alcoholic beverage, the bottle or other original container upon which the excise tax levied by Section 104 of this act has not been paid as provided for by the Oklahoma Alcoholic Beverage Control Act, shall be guilty of a misdemeanor, and if such person is the holder of a license under the Oklahoma Alcoholic Beverage Control Act, such license shall be subject to revocation or suspension by the ABLE Commission. The Oklahoma Tax Commission may promulgate rules for hearings on a revocation of a license for violation of the provisions of this section. Provided, the ABLE Commission may suspend any license for a violation of this section for a period of thirty (30) days with notice of hearing as the ABLE Commission may determine.

SECTION 122. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-119 of Title 37A, unless there is created a duplication in numbering, reads as follows:

Every manufacturer of alcoholic beverages other than beer shall package, ship, store and deliver same in cases, and no alcoholic beverage other than beer shall be sold, shipped, stored or delivered by any such manufacturer except in sealed cases. Every manufacturer of alcoholic beverages other than beer shall serially number such cases on the end of the case where the brand and product are identified. All such cases shall be sealed by tape or such other

method as the ABLE Commission by rule may provide so that the contents of such cases cannot be removed without breaking or destroying such seal. It shall be unlawful for any person to remove the alcoholic beverage contents of a case so sealed without breaking or destroying such seal. No wholesaler or beer distributor shall receive or accept any alcoholic beverages other than beer in this state except in sealed cases so numbered. Any holder of a license or permit violating the provisions of this section shall be subject to revocation or suspension of the license.

SECTION 123. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-120 of Title 37A, unless there is created a duplication in numbering, reads as follows:

All licensees under the Oklahoma Alcoholic Beverage Control Act shall keep books and records with regard to alcoholic beverages which shall contain such information and itemization thereof as the ABLE Commission may prescribe by rule. All books, records, inventories, invoices and other accounting documents required by the Oklahoma Alcoholic Beverage Control Act shall be kept for three (3) years and shall at all times be available for inspection by duly authorized representatives of the ABLE Commission or the Oklahoma Tax Commission.

SECTION 124. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-121 of Title 37A, unless there is created a duplication in numbering, reads as follows:

Every holder of a nonresident seller license, when applicable, shall make and transmit to the Oklahoma Tax Commission, on or before the tenth day of each month upon a form prescribed and furnished by the Tax Commission, an itemized and verified report for the preceding calendar month, showing each shipment or sale of alcoholic beverages into Oklahoma. Such report shall show:

1. The date of the shipment;

2. The total quantity of the shipment;

3. The name and ABLE Commission license number of the Oklahoma purchaser; and

4. The manifest, bill of lading or invoice number of each shipment.

Such report shall be accompanied by duplicate original copies of each manifest, invoice, bill of lading or other document showing the details, including the proof of all spirits, of all shipments during such calendar month.

SECTION 125. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-122 of Title 37A, unless there is created a duplication in numbering, reads as follows:

Every manufacturer, subject to licensing hereunder, shall make and transmit to the Oklahoma Tax Commission, on or before the tenth day of each calendar month, upon a form prescribed and furnished by the Tax Commission, an itemized and verified report, for the preceding calendar month, showing:

1. The kind and quantity of all alcoholic beverages manufactured within this state during the month, including:

a. the proof of all spirits,

b. the kind and quantity of all alcoholic beverages purchased within this state, including the proof of all spirits,

c. the kind and quantity of all alcoholic beverages imported into this state during the month, including the proof of all spirits,

d. the name and ABLE Commission license number of the person from whom purchased or received,

e. the manifest, bill of lading or invoice number of each shipment, which number shall be the number used by the original seller as shown by the basic shipping records which accompanied the shipment,

f. the date of receipt of each shipment,

g. the name and ABLE Commission license number of the carrier, if transported by carrier; and

2. All sales of alcoholic beverages made by such manufacturer during such calendar month, both within and without Oklahoma, including in detail the kind and quantity of all alcoholic beverages sold, including:

a. the proof of all spirits, as shown by the invoice covering each such sale,

b. the invoice number,

c. the date of each sale,

d. the name, address and the ABLE Commission license number of the purchaser,

e. the name and ABLE Commission license number of the carrier, if shipped by carrier, and

f. such other information as the Tax Commission may require.

SECTION 126. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-123 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. It shall be the duty of every railroad company, express company, common or contract carrier, and of every firm or corporation that shall bring, carry or transport wine, beer or distilled spirits for delivery to any person in the state, except wine or spirit wholesalers or beer distributors, to prepare and file monthly with the Oklahoma Tax Commission, a report containing:

1. The name of the company, carrier, person, firm or corporation making the report;

2. The period of time covered by the report;

3. The name and business address of each shipper of such alcoholic beverages;

4. The name and address of each recipient of such alcoholic beverages;

5. The quantity of alcoholic beverages delivered to each consignee; and

6. The date of delivery.

Reports received by the Tax Commission shall be made available to the public by the Oklahoma Open Records Act.

B. Upon the Tax Commission's request, the records supporting the report shall be made available to the Tax Commission within thirty (30) calendar days. The books, records, supporting papers and documents containing information and data relating to such reports shall be kept and preserved for a period of three (3) years, unless their destruction sooner is authorized, in writing, by the Tax Commission, and shall be open and available to inspection by the Tax Commission at all times during business hours of the day. Reports shall also be made available to any law enforcement or regulatory body in the state in which a carrier included in a report resides or does business.

C. Any person who knowingly violates any of the provisions of this section or any of the rules of the Tax Commission for the administration and enforcement of the provisions of this section is subject to a written reprimand for the first offense. In the case of a subsequent violation within the same calendar year, the carrier shall be subject to a monetary fine of Two Thousand Five Hundred Dollars ($2,500.00) for a second offense, Five Thousand Dollars ($5,000.00) for a third offense and Ten Thousand Dollars ($10,000.00) for all subsequent offenses.

SECTION 127. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-124 of Title 37A, unless there is created a duplication in numbering, reads as follows:

Every manufacturer, importer, broker or other who sells alcoholic beverages to a wine and spirits wholesaler, or beer distributor in Oklahoma, after having been issued a license by the ABLE Commission, shall, before manufacturing, purchasing or selling

any alcoholic beverage within this state, file with the Oklahoma Tax Commission a bond issued by a surety company authorized to transact business in this state, in such amount as the Tax Commission may fix, but which shall be at least equal to the estimated amount of the tax liability of such licensee for a three-month period, to secure the payment of all excise taxes due from sales of alcoholic beverages to a wholesaler, or beer distributor, under the provisions of the Oklahoma Alcoholic Beverage Control Act. Provided, the amount of the bond for every wholesaler or beer distributor shall be not less than One Thousand Dollars ($1,000.00). Such bonds shall be payable to the State of Oklahoma and conditioned upon compliance with the excise tax provisions of the Oklahoma Alcoholic Beverage Control Act and the rules of the Tax Commission relating thereto. In lieu of such surety bond, any such manufacturer, wine and spirits wholesaler, or beer distributor, may deposit cash or negotiable securities, approved by the Tax Commission, in such amount as it may prescribe.

SECTION 128. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-125 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. Every manufacturer, wine and spirits wholesaler, beer distributor or nonresident seller, selling alcoholic beverages in this state, or selling alcoholic beverages for shipment into this state shall, at the time such sale is made, make and deliver to the purchaser or transporter an invoice, bill of lading, manifest or other document describing such alcoholic beverages, showing:

1. The date of such sale or delivery;

2. The name and ABLE Commission license number of the seller;

3. The point of origin of the movement of such alcoholic beverages and the destination of same;

4. The kind and quantity and a description of such alcoholic beverages, including the proof of all spirits;

5. The name and ABLE Commission license number of the purchaser;

6. The sale price; and

7. Such other information as the Oklahoma Tax Commission may, by form or rule, require.

Every such invoice, bill of lading, manifest or other document describing such alcoholic beverages, except beer, must be identified by consecutive numbers printed upon the invoice or document, and each such seller and purchaser must account for each copy of his or her invoice and each number thereof.

B. Every common carrier and private carrier, and every person who transports any alcoholic beverages from any point within this state to any other point within or without this state, or who transports alcoholic beverages into this state, shall at all times while such alcoholic beverages are in transit have in the possession of the driver or operator of the transporting carrier or vehicle the invoice, bill of lading, manifest or other document describing such alcoholic beverages being transported.

C. Every manufacturer, wine and spirits wholesaler or beer distributor importing into or purchasing in this state any alcoholic beverage, and any retailer purchasing any alcoholic beverage in this state, shall at the time of delivery or acceptance of such alcoholic beverage, demand and receive a proper bill of lading, invoice, manifest or other document, particularly describing such alcoholic beverage and showing the proof of all spirits.

D. Every manufacturer, wine and spirits wholesaler, beer distributor, nonresident seller and retailer shall retain one copy of each invoice, bill of lading, manifest or similar document covering all such sales and purchases by such licensee, as a part of the permanent records of such licensee for a period of at least three (3) years.

E. Any person violating any of the provisions of this section, whether acting for himself or herself or as the agent or employee of any licensee hereunder, shall be guilty of a misdemeanor and, upon conviction, shall be punished as provided by law. Any violation of the provisions of this section shall also constitute grounds for the revocation by the ABLE Commission of any license issued under the Oklahoma Alcoholic Beverage Control Act.

SECTION 129. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-126 of Title 37A, unless there is created a duplication in numbering, reads as follows:

Every manufacturer, wine and spirits wholesaler, beer distributor, nonresident seller, retailer, mixed beverage, caterer, public event and special event licensee shall keep a record of all alcoholic beverages imported, purchased, received, manufactured, produced, sold, delivered or otherwise disposed of, and the amount of all alcoholic beverages on hand, as herein provided. Such records must be kept for a period of at least three (3) years and shall include:

1. The date;

2. The number of the invoice, manifest, bill of lading or similar type document; and

3. The total amount of alcoholic beverages purchased, imported, received, manufactured, produced, sold, delivered or otherwise disposed of, by such licensee in each transaction.

Each such licensee shall keep and maintain such other records in details as the Oklahoma Tax Commission may require.

SECTION 130. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-127 of Title 37A, unless there is created a duplication in numbering, reads as follows:

The county excise board of each county in the state, in approving the estimates of needs for cities and towns for each fiscal year, shall make reasonable estimates of the revenue to be derived under the provisions of the Oklahoma Alcoholic Beverage Control Act.

SECTION 131. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-128 of Title 37A, unless there is created a duplication in numbering, reads as follows:

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 ABLE Commission pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act; provided, the first Three Hundred Thousand Dollars ($300,000.00) of such revenues collected each fiscal year shall be deposited to the Community-Based Substance Abuse Revolving Fund and the next Twenty Thousand Dollars ($20,000.00) of such revenues collected each fiscal year shall be deposited in the Prevention of Youth Access to Alcohol Revolving Fund. 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 the fund by the Oklahoma State Legislature for the ensuing fiscal year.

All such monies collected by the ABLE 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 ABLE Commission to be designated the "Alcoholic Beverage Governance 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 Tax Commission pursuant to subsection F of Section 13 of this act and any other sources of funds provided by law. All monies accruing to the credit of the fund shall be budgeted and expended by the ABLE Commission for general operations. Expenditures from the 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 Management and Enterprise Services for approval and payment.

SECTION 132. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-129 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created in the State Treasury a revolving fund for the Oklahoma Department of Agriculture, Food, and Forestry to be designated the "Oklahoma Viticulture and Enology Center Development Revolving Fund".

B. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies distributed to the fund:

1. From the apportionment provided in paragraph 1 of Section 107 of this act; and

2. From any other source in accordance with state and federal law.

C. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Department for the purpose of:

1. Establishing a Viticulture and Enology Center on the campus of Redlands Community College;

2. Developing viticulture-related and enology-related education programs;

3. Developing technologies, strategies or practices that aid in the production of grapes and wine in Oklahoma; and

4. Increasing the positive economic impact of the Oklahoma wine industry on this state.

D. Expenditures from the 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 Management and Enterprise Services for approval and payment.

SECTION 133. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-130 of Title 37A, unless there is created a duplication in numbering, reads as follows:

The ABLE Commission is hereby authorized to promulgate rules governing the labeling of alcoholic beverages bottled, packaged, sold or possessed for sale within this state, not inconsistent with the provisions of the Oklahoma Alcoholic Beverage Control Act.

SECTION 134. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-131 of Title 37A, unless there is created a duplication in numbering, reads as follows:

The bottling, packaging, sale or possession by any licensee of any alcoholic beverage not labeled in conformity with such rules and the provisions of the Oklahoma Alcoholic Beverage Control Act shall be grounds for suspension, revocation or cancellation of the license.

SECTION 135. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-132 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. Except as provided in subsection D of this section, no alcoholic beverage shall be labeled, offered or advertised for sale in this state unless in accordance with rules promulgated pursuant to the provisions of Section 133 of this act and unless the brand label shall have been registered with and approved by the ABLE 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 and fees paid by the manufacturer or brewer of the brand if the manufacturer or brewer is licensed by the ABLE Commission; however, if the manufacturer is represented by a manufacturer's agent or licensed nonresident seller, then the manufacturer's agent or nonresident seller shall submit each label for each product the manufacturer offers for sale in this state. Cordials and wines which differ only as to age or vintage year, as defined by such rules, 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 spirits 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 Tax 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 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.

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

SECTION 136. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-133 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. No holder of a mixed beverage, beer and wine, caterer, special event, public event or airline/railroad beverage license shall refill with any substance a container which contained any alcoholic beverage on which the tax levied by Section 104 of this act has been paid.

B. A mixed beverage licensee shall not be prohibited from preparing and selling infused drinks on the licensed premises, provided the licensee complies with this section. "Infusion" is the process in which a distilled spirit has one or more ingredients including but not limited to fruits, vegetables, spices or nuts added to the distilled spirit. Provided, it shall not be lawful for a distilled spirit to be infused with any hallucinogenic substances or to have pure or supplemental caffeine or other stimulants added, including but not limited to guarana, ginseng or taurine. A mixed beverage licensee who prepares and sells infused drinks shall comply with the following requirements:

1. The infusion shall be mixed and stored on the licensed premises;

2. The container that the infusion is stored in cannot exceed five (5) gallons, must have a lid, and be maintained in sanitary condition;

3. The infusion shall not be aged more than fourteen (14) days;

4. The infusion must be used or destroyed within twenty-one (21) days after the end of the aging process;

5. Cleaning reports for the container must be available for inspection by the ABLE Commission; and

6. The container in which the infusion is stored must have a label affixed to the container that provides the production date of the infusion, the base spirit of the infusion, the date the infusion will finish the aging process and the date in which the infusion must be destroyed.

SECTION 137. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-134 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. Every holder of a mixed beverage, beer and wine, caterer, public event or special event license issued by the ABLE Commission, as a condition precedent to the issuance of a mixed beverage tax permit, shall furnish to the Oklahoma Tax Commission a bond from a surety company chartered or authorized to do business in this state,

cash bond, certificates of deposits, certificates of savings or U.S. Treasury bond, or an assignment of negotiable stocks or bonds, as the Tax Commission may deem necessary to secure payment of the gross receipts tax levied upon gross receipts of the licensees.

B. Any surety bond furnished under this section shall be a continuing instrument and shall constitute a new and separate obligation in the sum stated therein for each calendar year or a portion thereof while such bond is in force. Such bond shall remain in effect until the surety or sureties are released and discharged by the Tax Commission.

C. The Tax Commission, or its duly authorized agent, shall fix the amount of such bond or other security for each licensee for each place of business after considering the estimated gross receipts tax liability of such licensee. Such bond shall be no less than an amount equal to the average estimated quarterly gross receipts tax liability and no greater than an amount equal to three times the amount of the average estimated quarterly gross receipts tax liability. The minimum bond required for a new permit holder shall be not less than One Thousand Five Hundred Dollars ($1,500.00).

D. Notwithstanding the provisions of subsection C of this section, if the permit holder has held the permit for at least four (4) years and is not delinquent in the payment of mixed beverage taxes, the Tax Commission shall not require any increase in the bond so long as the permit holder remains current in the payment of such taxes.

E. Any bond or other security shall be such as will protect this state against failure of the taxpayer or licensee to pay the tax levied by Section 108 of this act. The forfeiture or cancellation of such bond or security, for any reason whatsoever, shall automatically revoke the mixed beverage tax permit issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act.

SECTION 138. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-135 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. Every mixed beverage tax permit holder, or any person transacting business subject to the gross receipts tax levied by Section 108 of this act, shall file with the Oklahoma Tax Commission a monthly report for each place or location of business, on or before the twentieth day of the month immediately following the month of receipt. The reports shall be made under oath, on forms prescribed by the Tax Commission, which shall include the following information:

1. Name of mixed beverage tax permit holder;

2. Mixed beverage tax permit number;

3. Sales tax permit number;

4. Mixed beverage, caterer, public event or special event license number;

5. Gross receipts for the month for the sale, preparation or service of mixed beverages, ice and nonalcoholic beverages mixed with alcoholic beverages;

6. Gross receipts for the month from charges for the privilege of admission to a mixed beverage establishment which entitles a person to complimentary mixed beverages or discounted prices for mixed beverages;

7. Total retail value of complimentary or discounted alcoholic beverages served for the month; and

8. Such other information as may be required by the Tax Commission to enable it to collect taxes imposed as provided by law.

B. The gross receipts tax levied by Section 108 of this act shall be calculated by multiplying the tax rate, thirteen and one-half percent (13.5%), and the total gross receipts for each month from the sale, preparation or service of mixed beverages, ice and nonalcoholic beverages mixed with alcoholic beverages, the total gross receipts of charges received for admission to mixed beverage establishments, as provided in paragraph 6 of subsection A of this section, and the total retail value of complimentary or discounted mixed beverages. Gross receipts from the sale of food prepared with

alcoholic beverages shall not be included in the calculation of the monthly tax liability. The tax due for the preceding month shall accompany the report required in subsection A of this section. All taxes, penalties and interest imposed by the Oklahoma Alcoholic Beverage Control Act may be paid in the form of electronic funds transfer or by a personal or company check, cashier's check, certified check or postal money order payable to the Tax Commission.

C. If the gross receipts tax levied pursuant to the provisions of Section 108 of this act is not paid on or before the twentieth day of each month, the tax shall be delinquent, and interest and penalty shall accrue on and from the twenty-first day of each month, pursuant to the provisions of the Uniform Tax Procedure Code.

D. Every licensed wholesaler of alcoholic beverages in this state shall file with the Tax Commission a monthly report, under oath, on forms prescribed by the Tax Commission, which shall include the name, location and mixed beverage tax permit number of each mixed beverage, caterer, public event or special event licensee to whom the licensed wholesaler sold alcoholic beverages during the report month.

E. If the report required by subsection A of this section is not filed with the Tax Commission on or before the twentieth day of the month, the Tax Commission may assess an additional penalty of Five Dollars ($5.00) for each day thereafter that the report is not filed pursuant to the provisions of this section. The Tax Commission may waive the penalty assessed pursuant to the provisions of the Uniform Tax Procedure Code; provided, however, the additional penalty, if assessed, shall not exceed an amount equal to twice the amount of tax due for the period for which such report was required to be filed, or the sum of Three Hundred Dollars ($300.00), whichever is greater.

F. Taxes paid as provided by law represented by accounts receivable which are found to be worthless or uncollectible may be credited upon subsequent reports and remittances of such tax, in accordance with rules promulgated by the Tax Commission. If such accounts are thereafter collected, the same shall be reported and the tax shall be paid upon the amount so collected.

G. In addition to any other authority granted by law, the Tax Commission is hereby authorized to audit any mixed beverage, beer and wine, caterer, public event or special event licensee to determine if the correct amount of tax payable under Section 108 of this act has been collected; provided, if such an audit reveals that the amount collected is within the following percentages of the amount of tax payable, the taxpayer shall be deemed to be in compliance:

1. For spirits, eighty-four percent (84%) to one hundred sixteen percent (116%);

2. For wine, ninety percent (90%) to one hundred ten percent (110%);

3. For beer sold at draft and not in original packages, eighty-six percent (86%) to one hundred fourteen percent (114%); and

4. For beer sold in original packages, ninety-five percent (95%) to one hundred five percent (105%).

SECTION 139. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-136 of Title 37A, unless there is created a duplication in numbering, reads as follows:

The mixed beverage tax permit holder or taxpayer may retain one percent (1%) of the tax due and timely reported and paid, in accordance with the provisions of Section 138 of this act, as remuneration for establishing and maintaining the records required by the Oklahoma Alcoholic Beverage Control Act. If such tax becomes delinquent, such taxpayer forfeits his or her claim to the one percent (1%) discount.

SECTION 140. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-137 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. No mixed beverage, beer and wine, caterer, public event 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, public event 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 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, public event 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 141. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-101 of Title 37A, unless there is created a duplication in numbering, reads as follows:

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 package store, grocery store, convenience store or drug store, unless otherwise permitted by law;

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. Consume spirits in public except on the premises of a licensee of the ABLE Commission who is authorized to sell or serve spirits 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 a law enforcement officer or an employee of the ABLE Commission, when such person knows or should know that such acts are being performed by a state, county or municipal officer or employee 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 ABLE 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;

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 ABLE Commission; or

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

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

1. Any person who is convicted of a violation of the provisions of paragraph 13 of subsection A of this section shall be deemed guilty of a misdemeanor for the first offense and be punished by a fine of not more than Five Hundred Dollars ($500.00);

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

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

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

c. in a municipal criminal court of record for the violation of a municipal ordinance prohibiting the

offense provided for in paragraph 13 of subsection A of this section,

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

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

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

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

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

d. or any combination of two or more thereof,

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

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

D. Except as provided in subsection C of Section 166 of this act, any person who shall engage in any of the following and disturb the peace of any person:

1. In any public place, or in or upon any passenger coach, streetcar, or in or upon any other vehicle commonly used for the

transportation of passengers, or in or about any depot, platform, waiting station or room, drink or otherwise consume any intoxicating liquor unless authorized by this act, intoxicating substance or intoxicating compound of any kind, or inhale glue, paint or other intoxicating substance;

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

3. Be drunk or intoxicated from any cause,

shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than Ten Dollars ($10.00), nor more than One Hundred Dollars ($100.00) or by imprisonment for not less than five (5) days nor more than thirty (30) days or by both such fine and imprisonment.

SECTION 142. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-102 of Title 37A, unless there is created a duplication in numbering, reads as follows:

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 eighteen (18) years of age in the selling of beer or wine or employ any person under twenty-one (21) years of age in the selling of spirits. Provided:

a. a mixed beverage, beer and wine, caterer, public event, special event, bottle club, retail wine or retail beer licensee may employ servers or sales clerks 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

b. a mixed beverage, beer and wine, caterer, public event, special event or bottle club licensee may employ or hire musical bands who have musicians who are under eighteen (18) 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 employee of the ABLE Commission 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. Use any of the following means or inducements to stimulate the consumption of alcoholic beverages, including but not limited to:

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 that is less than six percent (6%) below the markup of the cost to the mixed beverage licensee; provided, a mixed beverage licensee shall be permitted to offer these drink specials on any particular hour of any particular day and shall not be required to offer these drink specials for an entire calendar week or from open to close,

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 or portion thereof 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, 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;

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

7. Permit any person to be drunk or intoxicated on the licensee's licensed premises.

SECTION 143. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-103 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. No retail spirits licensee shall:

1. Purchase or receive any alcoholic beverage other than from a wine and spirits wholesaler, beer distributor, winery or small brewer self-distribution licensee who elects to self-distribute;

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

3. Sell any alcoholic beverages at any hour other than between the hours of 10:00 a.m. and midnight Monday through Saturday, and shall not be permitted to be open on Thanksgiving Day or Christmas Day. Retail spirits licensees shall be permitted to sell 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. Sell spirits in a city or town, unless such city or town has 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 licensee 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 over one hundred retail locations;

6. Offer or furnish any prize, premium, gift or similar inducement to a consumer in connection with the sale of alcoholic beverages, 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 retailer 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; or

7. 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.

B. No retail spirits licensee shall permit any person under twenty-one (21) years of age to enter into or remain within or about the licensed premises.

SECTION 144. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-104 of Title 37A, unless there is created a duplication in numbering, reads as follows:

No wholesaler licensee shall:

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

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

SECTION 145. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-105 of Title 37A, unless there is created a duplication in numbering, reads as follows:

No mixed beverage, public event, special event or on-premises beer and wine licensee shall:

1. Purchase or receive any alcoholic beverage other than from a person holding a wine and spirit wholesaler or beer distributor license issued pursuant to the Oklahoma Alcoholic Beverage Control Act; provided, a mixed beverage or on-premises beer and wine licensee whose premises are a restaurant may purchase wine produced

at wineries in this state directly from a winemaker as provided in Section 2 of Article XXVIIIA 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 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.

SECTION 146. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-106 of Title 37A, unless there is created a duplication in numbering, reads as follows:

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 Section 142 of this act 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.

SECTION 147. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-107 of Title 37A, unless there is created a duplication in numbering, reads as follows:

No special event or caterer licensee shall:

1. Purchase or receive any alcoholic beverage other than from a person holding a wine and spirits wholesaler or beer distributor 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 small farm wineries or beer produced by a small brewer in this state directly from a winemaker or small brewer as provided in Section 2 of Article XXVIIIA of the Oklahoma Constitution or in this act; 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.

SECTION 148. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-108 of Title 37A, unless there is created a duplication in numbering, reads as follows:

No holder of a Retail Wine License or a Retail Beer License shall:

1. Purchase or receive any alcoholic beverage other than from a wine and spirits wholesaler, beer distributor, winery or small brewer self-distribution licensee;

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

3. Sell any beer or wine at any hour other than between the hours of 7:00 a.m. and 2:00 a.m. the following day, Monday through Sunday. Retail wine and retail beer licensees shall be permitted to sell beer and wine on the day of any General, Primary, Runoff Primary or Special Election whether on a national, state, county or city election;

4. Sell any beer and wine on credit; provided, that acceptance by a grocery store, convenience store or drug 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 retail locations;

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

6. Pay for beer or wine 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.

SECTION 149. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-109 of Title 37A, unless there is created a duplication in numbering, reads as follows:

No mixed beverage, beer and wine, bottle club, caterer, charitable event, public event 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 or she is on duty. For the purposes of this section, licensees will be deemed to be on duty from the time the licensee first comes on duty until the time the licensee 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, 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 employee of the ABLE 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 employee of the ABLE Commission or a peace officer. This provision shall not be construed to deny employees of the ABLE Commission or peace officers 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 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 on-premises 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 150. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-110 of Title 37A, unless there is created a duplication in numbering, reads as follows:

No owner, operator, partner, manager or person having supervisory control of any establishment licensed to sell or serve intoxicating beverages shall permit any of the following on or about any commercial premises where intoxicating beverages are dispensed or consumed:

1. The performance by any person of acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are otherwise prohibited by law;

2. The actual intentional touching or caressing or fondling by any person of the breasts, anus or genitals;

3. Any person on the licensed premises while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the areola of the female breast or any portion of the pubic hair, buttocks or genitals; or

4. Any person to perform acts of, or acts which simulate, sexual acts which are prohibited by law, or permit any person to use artificial devices or inanimate objects to depict any prohibited activities or permit the showing of films, still pictures, electronic reproductions or other visual reproductions depicting any of the prohibited activities described in this paragraph.

SECTION 151. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-111 of Title 37A, unless there is created a duplication in numbering, reads as follows:

An agent, inspector or any peace officer while making arrests incidental to investigating violations of state law may remove from licensed premises and adjacent areas customers, employees and those individuals who may pose a threat to public safety or a threat to the safety of agents, inspectors or peace officers for the period of time necessary to effect the arrests and complete the pending investigation.

SECTION 152. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-112 of Title 37A, unless there is created a duplication in numbering, reads as follows:

Any person who erases, removes, obliterates, destroys or renders illegible in any manner any serial numbers, marks, brands, legends, license numbers, case numbers or other information required by the Oklahoma Alcoholic Beverage Control Act or by Acts of Congress to be attached or placed upon any original containers or cases containing alcoholic beverages before the contents of such packages or cases have been entirely removed is guilty of a misdemeanor.

SECTION 153. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-113 of Title 37A, unless there is created a duplication in numbering, reads as follows:

It shall be unlawful for any person, firm or corporation to possess any alcoholic beverages with the intent to sell the same without having first procured a license therefor from the ABLE Commission as now provided for by law. All alcoholic beverages found in the possession or under the control of any person or persons, firm or corporation who, on the same date, or within fifteen (15) days prior thereto, has violated Section 153 of this act, shall be seized by the arresting officer and shall be forfeited to the State of Oklahoma, as provided for in Section 167 of this act; provided, property seized by a county or municipal law enforcement officer shall be forfeited to the county or municipality in which the seizure of the property took place, whichever is appropriate, as provided for in Section 167 of this act.

SECTION 154. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-114 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. 1. If the premises of a licensee of the ABLE Commission contains a separate or enclosed lounge or bar area, which has as its main purpose the sale or distribution of alcoholic beverages for on-premises consumption, notwithstanding that as an incidental service, meals or short order foods are made available therein, no person under twenty-one (21) years of age shall be admitted to such area, except for members of a musical band employed or hired as provided in paragraph 2 of Section 142 of this act when the band is to perform within such area, or persons under twenty-one (21) years of age who are on the licensed premises for the limited purpose of performing maintenance, construction, remodeling, painting or other similar services relating to the building or equipment installation, repair or maintenance on the premises during those hours when the licensed establishment is closed for business. The provisions of this section shall not prohibit persons under twenty-one (21) years of age from being admitted to an area which has as its main purpose some objective other than the sale or mixing or serving of alcoholic beverages, in which sales or serving of alcoholic beverages are incidental to the main purpose, as long as the persons under twenty-one (21) years of age are not sold or served alcoholic beverages. The incidental service of food in the bar area shall not exempt a licensee from the provisions of this section. The ABLE Commission shall have the authority to designate the portions of the premises

of a licensee where persons under twenty-one (21) years of age shall not be admitted pursuant to this section. When determining a licensee's main purpose, a licensee that operates a full kitchen, sells food items from a full menu, and has thirty-five percent (35%) or more of its monthly gross sales attributable to food items, shall have as its main purpose other than the sale of alcoholic beverages. The main purpose of those mixed beverage establishments whose main purpose was other than the sale of alcoholic beverages prior to October 1, 2018, shall not automatically lose that designation upon the elimination of low-point beer in the state. If the ABLE Commission wishes to change said mixed beverage establishments' main purpose designation, it shall be the burden of the ABLE Commission to prove by clear and convincing evidence that said mixed beverage establishments no longer qualify for that designation.

2. A new licensee that claims as its main purpose some objective other than the sale of alcoholic beverages may be granted a separate or enclosed lounge or bar area for a period of ninety (90) days. At the end of that ninety-day period, the licensee shall have the burden of showing that the business continues to qualify for a separate or enclosed bar area. If the licensee fails to satisfy this burden, then that licensee's main purpose shall automatically convert to the sale of alcoholic beverages.

B. Except as otherwise provided, an admission charge shall not be considered in any calculation designed to determine the main purpose of an establishment pursuant to subsection A of this section. As used in this section, "admission charge" means any form of consideration received by an establishment from a person in order for that person to gain entrance into the establishment.

C. The provisions of subsection B of this section shall not apply:

1. If only persons eighteen (18) years of age or older are permitted to enter the licensed premises; provided, if the licensee is claiming an exception from the requirements of subsection B of this section pursuant to this paragraph and fails to restrict the entry by persons under age eighteen (18) into the licensed premises, the ABLE Commission shall designate that only persons twenty-one (21) years of age or older are allowed on the licensed premises;

2. If the licensed premises are owned or operated by a service organization or fraternal establishment which is exempt under Section 501(c)(19), (8), or (10) of the Internal Revenue Code; or

3. To a public event held in a facility owned or operated by any agency, political subdivision or public trust of this state.

D. The ABLE Commission shall promulgate rules necessary to implement the provisions of this section.

SECTION 155. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-115 of Title 37A, unless there is created a duplication in numbering, reads as follows:

Any person who shall operate a whiskey still with intent to produce alcoholic beverages or any person who shall carry on the business of a distiller without possessing a valid and existing distiller's license issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act shall be guilty of a felony and upon conviction, be fined not less than Two Thousand Five Hundred Dollars ($2,500.00) nor more than Five Thousand Dollars ($5,000.00), or imprisoned in the State Penitentiary for not more than three (3) years, or by both such fine and imprisonment.

SECTION 156. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-116 of Title 37A, unless there is created a duplication in numbering, reads as follows:

Any person who shall file a false or fraudulent return in connection with any tax imposed by the Oklahoma Alcoholic Beverage Control Act, or willfully evade, or attempt to evade, any tax herein levied shall be guilty of a felony and upon conviction, be fined not less than Two Thousand Five Hundred Dollars ($2,500.00) nor more than Five Thousand Dollars ($5,000.00), or imprisoned in the State Penitentiary for not more than three (3) years, or by both such fine and imprisonment.

SECTION 157. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-117 of Title 37A, unless there is created a duplication in numbering, reads as follows:

Any person who shall knowingly engage in any activity or perform any transaction or act for which a license is required under the Oklahoma Alcoholic Beverage Control Act, not having such license, shall be guilty of a misdemeanor and for the first offense, upon conviction, be fined not more than Two Thousand Five Hundred Dollars ($2,500.00) and imprisoned for not less than thirty (30) days nor more than six (6) months, and for a second or subsequent offense shall be guilty of a felony and be fined not more than Two Thousand Five Hundred Dollars ($2,500.00), or imprisoned in the State Penitentiary for not more than one (1) year, or by both such fine and imprisonment.

SECTION 158. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-118 of Title 37A, unless there is created a duplication in numbering, reads as follows:

Any person holding a license issued pursuant to the Oklahoma Alcoholic Beverage Control Act who shall sell or deliver alcoholic beverage to any person not entitled to purchase or receive same, except as provided in Section 160 of this act, or who shall possess for sale any alcoholic beverage which he or she is not entitled to sell under the license, or any person who buys any alcoholic beverage, either retail or wholesale, from any person other than a licensed dealer under the terms of the Oklahoma Alcoholic Beverage Control Act, shall be guilty of a misdemeanor and upon conviction, be fined not more than One Thousand Five Hundred Dollars ($1,500.00), or imprisoned in the county jail for not more than six (6) months, or by both such fine and imprisonment.

SECTION 159. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-119 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. Any person under twenty-one (21) years of age who shall misrepresent his or her age in writing or by presenting false documentation of age for the purpose of inducing any person to sell or serve him or her alcoholic beverage or issue him or her a bottle club membership card, or who enters or attempts to enter a package store or a separate or enclosed bar area as designated by the ABLE Commission, shall be guilty of a misdemeanor and fined not more than Fifty Dollars ($50.00).

B. In addition, if a person is convicted or pleads guilty to a violation of the provisions of this subsection in any court having jurisdiction over the offense, the court may order the Department of Public Safety to cancel or deny the offender's privilege to operate a motor vehicle and, upon such order, shall require that the operator's or chauffeur's license, if any, be surrendered to the Department pursuant to Section 6-209 of Title 47 of the Oklahoma Statutes. The cancellation or denial period shall be for one (1) year, or until the person reaches twenty-one (21) years of age, whichever is longer.

C. Any person whose driving privileges are ordered cancelled or denied pursuant to this section may petition the court of original jurisdiction for review of the order. Upon notice and hearing, the court may modify or withdraw the order as the court deems appropriate except:

1. A court may not withdraw an order for at least ninety (90) days following the issuance of the order if it is the first such order issued regarding the person named; and

2. A court may not withdraw an order for at least six (6) months following the issuance of the order if it is the second or subsequent such order issued regarding the person named. If the Department receives written notice from the court of original jurisdiction that it has withdrawn such an order, the Department shall immediately reinstate any driving privileges that have been canceled or denied under this section, without requiring payment of a reinstatement fee.

D. In addition to any other penalty provided by law, a person convicted of a violation of the provisions of this section shall be required to complete a substance abuse prevention program conducted by the Department of Mental Health and Substance Abuse Services or a private entity approved by the Department. Such program shall include at least two sessions, each of which shall be not less than two (2) hours in length. The cost of the program shall be paid by the person required to complete the program.

SECTION 160. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-120 of Title 37A, unless there is created a duplication in numbering, reads as follows:

Any person who shall sell, furnish or give alcoholic beverage to a person under twenty-one (21) years of age shall be guilty of a misdemeanor for a first violation, and upon conviction shall be fined not more than Five Hundred Dollars ($500.00), or imprisoned in the county jail for not more than one (1) year, or by both such fine and imprisonment. Any person convicted of a second or subsequent violation shall be guilty of a felony, and shall be fined not less than Two Thousand Five Hundred Dollars ($2,500.00) nor more than Five Thousand Dollars ($5,000.00), or imprisoned in the State Penitentiary for not more than five (5) years, or by both such fine and imprisonment. The ABLE Commission shall revoke the license of any person convicted of a violation of this section.

SECTION 161. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-121 of Title 37A, unless there is created a duplication in numbering, reads as follows:

Any person who shall knowingly sell, furnish or give alcoholic beverage to an insane, mentally deficient or intoxicated person shall be guilty of a misdemeanor for a first violation, and upon conviction shall be fined not more than Five Hundred Dollars ($500.00), or imprisoned in the county jail for not more than one (1) year, or by both such fine and imprisonment. Any person convicted of a second or subsequent violation shall be guilty of a felony, and shall be fined not less than Two Thousand Five Hundred Dollars ($2,500.00) nor more than Five Thousand Dollars ($5,000.00), or imprisoned in the State Penitentiary for not more than five (5) years, or by both such fine and imprisonment. The ABLE Commission shall revoke the license of any person convicted of a violation of this section.

SECTION 162. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-122 of Title 37A, unless there is created a duplication in numbering, reads as follows:

The payment of the special tax required of liquor dealers by the United States by any person within this state without a corresponding state license shall constitute prima facie evidence of an intention to violate the provisions of the Oklahoma Alcoholic Beverage Control Act.

SECTION 163. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-123 of Title 37A, unless there is created a duplication in numbering, reads as follows:

Any person selling or keeping a package store open to sell any alcoholic beverage during any day or hours not authorized by the Oklahoma Alcoholic Beverage Control Act, and any person selling or permitting the sale of alcoholic beverages at a grocery store, convenience store or drug store during any day or hours not authorized by the Oklahoma Alcoholic Beverage Control Act shall be guilty of a misdemeanor for a first violation, and upon conviction shall be fined not more than Five Hundred Dollars ($500.00), or imprisoned in the county jail for not more than one (1) year, or by both such fine and imprisonment. Any person convicted of a second or subsequent violation shall be guilty of a felony, and shall be fined not less than Two Thousand Five Hundred Dollars ($2,500.00) nor more than Five Thousand Dollars ($5,000.00), or imprisoned in the State Penitentiary for not more than five (5) years, or by both such fine and imprisonment. The ABLE Commission shall revoke the license of any person convicted of a violation of this section.

SECTION 164. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-124 of Title 37A, unless there is created a duplication in numbering, reads as follows:

Any licensee permitting a person to be drunk or intoxicated on the licensee's licensed premises shall be guilty of a misdemeanor, and upon conviction punishable by a fine in an amount not exceeding One Hundred Dollars ($100.00), by imprisonment in the county jail for a term not more than thirty (30) days, or by both such fine and imprisonment.

SECTION 165. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-125 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. Any person who shall violate any provision of the Oklahoma Alcoholic Beverage Control Act for which no specific penalty is prescribed shall be guilty of a misdemeanor and be fined not more than Five Hundred Dollars ($500.00), or imprisoned in the county jail for not more than six (6) months, or by both such fine and imprisonment.

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

SECTION 166. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-126 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. All law enforcement officers, upon the arrest of any holder of a license issued by the ABLE Commission for a violation of any state law or municipal ordinance in which the violation of any alcoholic beverage law had any part, shall immediately notify the ABLE Commission thereof. Such officers shall notify the ABLE Commission of any acts, practices or other conduct of any such licensee which may be subversive to the general welfare or contrary to the spirit of the Oklahoma Alcoholic Beverage Control Act and shall recommend appropriate action to be taken by the ABLE Commission or the Oklahoma Tax Commission.

B. A peace officer may not take a person into custody based solely on the commission of an offense involving alcohol described in subsection C of this section if the law enforcement officer, after making a reasonable determination and considering the facts and surrounding circumstances, reasonably believes that all of the following apply:

1. The law enforcement officer has contact with the person because the person requested emergency medical assistance for an individual who reasonably appeared to be in need of medical assistance due to alcohol consumption; and

2. The person:

a. provided the person's full name and any other relevant information requested by the law enforcement officer,

b. remained at the scene with the individual who reasonably appeared to be in need of medical assistance due to alcohol consumption until emergency medical assistance arrived, and

c. cooperated with emergency medical assistance personnel and law enforcement officers at the scene.

C. A person who meets the criteria of subsection B of this section is immune from criminal prosecution for an offense under subsection D of Section 141 of this act if the offense involved a state of intoxication caused by the person's use of alcohol or if the offense involved the person being, or becoming, intoxicated as a result of the person's use of alcohol.

D. A person may not initiate or maintain an action against a peace officer or the employing political subdivision based on the officer's compliance or failure to comply with this section.

E. For the purposes of this section, "peace officer" shall have the same meaning as defined in Section 99 of Title 21 of the Oklahoma Statutes.

SECTION 167. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-127 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. A search warrant may be issued pursuant to the provisions of Sections 1221 through 1264 of Title 22 of the Oklahoma Statutes, as amended, for the purpose of:

1. Searching for, seizing, destroying or holding any alcoholic beverages possessed, sold, transported, manufactured, kept or stored in violation of the Oklahoma Alcoholic Beverage Control Act; or

2. Searching for and seizing any apparatus, vehicle, equipment or instrumentality used for, or intended for use in, manufacturing or transporting any alcoholic beverage in violation of the Oklahoma Alcoholic Beverage Control Act.

All such property shall be forfeited to the State of Oklahoma. This section shall not be construed to require a search warrant for

duly authorized employees of the ABLE Commission to enter upon and inspect any licensed premises, but such right of entry and inspection shall be a condition on which every license shall be issued and the application for, and acceptance of, any license hereunder shall conclusively be deemed to be consent of the applicant and licensee to such entry and inspection.

B. Any alcoholic beverages upon which the appropriate federal excise tax has not been paid at the time of seizure under this section shall be destroyed by the sheriff who seized the same or to whom the same has been delivered in accordance with the provisions of Section 1261 of Title 22 of the Oklahoma Statutes, as amended, after the same is no longer needed as evidence in any criminal prosecution. All other property, including alcoholic beverages upon which the appropriate federal excise tax has been paid, seized under this section, shall be forfeited to the State of Oklahoma by order of the court issuing the process by virtue of which such property was seized, or before which the persons violating the law, or to which such property was taken by the officer or officers making the seizure. The court shall, without a jury, order an immediate hearing as to whether the property so seized was subject to seizure under this section, and take such legal evidence as is offered, and determine the same as in civil cases. If the court finds from a preponderance of the evidence that the property so seized was subject to seizure under this section, it shall render judgment accordingly and order the property forfeited to the State of Oklahoma unless seized by county or municipal law enforcement officers, in which case the property shall be forfeited to the county or municipality, whichever is appropriate, in which the seizure of the property took place. Such seized property shall be sold by the officer having the same in charge, after giving ten-days' notice by one publication in a legal newspaper of the county or, if no legal newspaper is published in the county, after five notices of such sale have been posted in conspicuous places in the city or town wherein such sale is to be made, at least ten (10) days before such sale. Appeal from such an order may be taken as in civil cases. When such property is sold under the provisions of this section, the proceeds thereof shall be distributed as follows: first, to the payment of the costs of the case in which the order of forfeiture was made and the actual expenses of preserving the property; and second, the remainder to be deposited with the county or municipal treasurer of the county or municipality in which the

seizure took place if the property was seized by county or municipal law enforcement officials or with the State Treasurer to the credit of the General Revenue Fund of the State of Oklahoma in all other cases.

SECTION 168. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-128 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. If a witness in attendance before the Director of the ABLE Commission refuses without reasonable cause to be examined or to answer a legal or pertinent question, or to produce a book, record or paper when ordered to do so by the Director, the Director may apply to the judge of the district court of any county where such witness is in attendance, upon proof by affidavit of the fact, for a rule or order returnable in not less than two (2) nor more than five (5) days, directing such witness to show cause before the judge who made the order, or any other district judge of the county, why he or she should not be punished for contempt. Upon the return of such order, the judge before whom the matter shall come for hearing shall examine under oath such witness or person, and such person shall be given an opportunity to be heard. If the judge shall determine that such person has refused, without reasonable cause or legal excuse, to be examined or answer a legal or pertinent question, or to produce a book, record or paper which he or she was ordered to bring or produce, the judge may punish the offender as for contempt of court and shall fix the penalty in any sum not less than Two Hundred Fifty Dollars ($250.00) but not to exceed Five Hundred Dollars ($500.00) or require him or her to serve a maximum of thirty (30) days in jail, or by both such fine and imprisonment.

B. Subpoenas shall be served and witness fees and mileage paid as in civil cases in the district court in the county to which such witness shall be called. Witnesses subpoenaed at the instance of the Director shall be paid their fees and mileage by the Director out of funds appropriated by the Legislature. Court costs in the contempt proceedings shall be paid as taxed by the court.

SECTION 169. REPEALER 37 O.S. 2011, Section 8, as amended by Section 1, Chapter 210, O.S.L. 2013, Section 2, Chapter 210, O.S.L. 2013, 8.2, 163.1, 163.2, 163.3, 163.4, 163.5, as amended by Section 1, Chapter 357, O.S.L. 2012, 163.6, 163.7, as amended by

Section 1, Chapter 120, O.S.L. 2012, 163.8, 163.9, 163.10, as amended by Section 2, Chapter 120, O.S.L. 2012, 163.11, as last amended by Section 1, Chapter 205, O.S.L. 2013, 163.11a, as amended by Section 2, Chapter 86, O.S.L. 2012, 163.12, 163.13, 163.14, 163.15, 163.16, 163.17, 163.18, 163.18A, 163.18B, 163.18C, 163.18D, 163.18E, 163.18F, 163.18G, 163.18H, 163.19, Section 1, Chapter 382, O.S.L. 2013, 163.20, 163.22, 163.23, 163.25, 163.26, 163.27, as amended by Section 1, Chapter 214, O.S.L. 2012, 163.28, 163.29, 213, 213.1, 213.2, 215, 216, 217, 219, 219.1, 220, 231, 232, 233, 241, 243, 244, 246, as amended by Section 1, Chapter 213, O.S.L. 2015, 247, 501, 502, 503, 504, 505, 506, as last amended by Section 1, Chapter 48, O.S.L. 2015, 506, as last amended by Section 1, Chapter 275, O.S.L. 2015, 506.1, as amended by Section 125, Chapter 304, O.S.L. 2012, 507.1, 507.2, 508, 509, 510, 510A, as amended by Section 126, Chapter 304, O.S.L. 2012, 511, 511A, 512, 513a, 514, as amended by Section 3, Chapter 120, O.S.L. 2012, 515, 516, 517, 518, as last amended by Section 2, Chapter 48, O.S.L. 2015, 518.1, as amended by Section 3, Chapter 298, O.S.L. 2014, 518.3, as amended by Section 2, Chapter 214, O.S.L. 2012, 520A, 521, as last amended by Section 3, Chapter 48, O.S.L. 2015, 521, as last amended by Section 2, Chapter 275, O.S.L. 2015, 521.1, 521.2, 521.3, 522, 523, as last amended by Section 3, Chapter 275, O.S.L. 2015, 523.1, as amended by Section 4, Chapter 275, O.S.L. 2015, 523.2, as amended by Section 5, Chapter 275, O.S.L. 2015, 524, as last amended by Section 2, Chapter 160, O.S.L. 2015, 525, Section 1, Chapter 160, O.S.L. 2015, 526.1, 527, 527.1, as last amended by Section 6, Chapter 275, O.S.L. 2015, 528, 528.1, as amended by Section 7, Chapter 298, O.S.L. 2014, 528.2, 529, 530, 530.1, 531, 532, 532.1, as amended by Section 8, Chapter 298, O.S.L. 2014, 532.2, 533, 534, 534.1, 535, as last amended by Section 7, Chapter 275, O.S.L. 2015, 535.1, as amended by Section 10, Chapter 298, O.S.L. 2014, 535.2, Section 11, Chapter 298, O.S.L. 2014, 535.3, 536, 536.1, 537, as amended by Section 12, Chapter 298, O.S.L. 2014, 537.1, as last amended by Section 8, Chapter 275, O.S.L. 2015, 537.2, 537.3, 538, as amended by Section 14, Chapter 298, O.S.L. 2014, 538.1, 538.2, 538.3, 539, 540, 541, 542, 543, 543.1, 543.2, 545, 546, 547, 548, 549, 550, 551, 552, 553, as amended by Section 2, Chapter 357, O.S.L. 2012, 554, as amended by Section 9, Chapter 275, O.S.L. 2015, 554.1, as amended by Section 15, Chapter 298, O.S.L. 2014, 554.2, as amended by Section 16, Chapter 298, O.S.L. 2014, 555, 556, 557, 559, 560, 561, as amended by Section 17, Chapter 298, O.S.L. 2014, 562, 563, 563.1, as last amended by Section 1, Chapter 283, O.S.L. 2015, 564, 565, 566, 567,

as amended by Section 128, Chapter 304, O.S.L. 2012, 568, 569, 570, 571, 572, 573, 576, as last amended by Section 18, Chapter 298, O.S.L. 2014, 576.1, 577, as last amended by Section 10, Chapter 275, O.S.L. 2015, 578, as amended by Section 20, Chapter 298, O.S.L. 2014, 579, as amended by Section 21, Chapter 298, O.S.L. 2014, 580, 582, as amended by Section 22, Chapter 298, O.S.L. 2014, 584, as amended by Section 23, Chapter 298, O.S.L. 2014, 586, 588, 590, 591, as last amended by Section 11, Chapter 275, O.S.L. 2015, 592, 593, 594, as amended by Section 12, Chapter 275, O.S.L. 2015, 594.1, 595, 596, as last amended by Section 13, Chapter 275, O.S.L. 2015, 597, 598, and 599, as amended by Section 26, Chapter 298, O.S.L. 2014 (37 O.S. Supp. 2015, Sections 8, 8a, 163.5, 163.7, 163.10, 163.11, 163.11a, 163.19A, 163.27, 246, 506, 506, 506.1, 510A, 514, 518, 518.1, 518.3, 521, 521, 523, 523.1, 523.2, 524, 525A, 527.1, 528.1, 532.1, 535, 535.1, 535.2, 537, 537.1, 538, 553, 554, 554.1, 554.2, 561, 563.1, 567, 576, 577, 578, 579, 582, 584, 591, 594, 596 and 599), are hereby repealed.

SECTION 170. RECODIFICATION 37 O.S. 2011, Section 600.1, shall be recodified as Section 1-229.11 of Title 63 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 171. RECODIFICATION 37 O.S. 2011, Section 600.2, as amended by Section 3, Chapter 162, O.S.L. 2014 (37 O.S. Supp. 2015, Section 600.2), shall be recodified as Section 1-229.12 of Title 63 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 172. RECODIFICATION 37 O.S. 2011, Section 600.3, as amended by Section 4, Chapter 162, O.S.L. 2014 (37 O.S. Supp. 2015, Section 600.3), shall be recodified as Section 1-229.13 of Title 63 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 173. RECODIFICATION 37 O.S. 2011, Section 600.5, as amended by Section 6, Chapter 162, O.S.L. 2014 (37 O.S. Supp. 2015, Section 600.5), shall be recodified as Section 1-229.15 of Title 63 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 174. RECODIFICATION 37 O.S. 2011, Section 600.6, as amended by Section 7, Chapter 162, O.S.L. 2014 (37 O.S. Supp.

2015, Section 600.6), shall be recodified as Section 1-229.16 of Title 63 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 175. RECODIFICATION 37 O.S. 2011, Section 600.7, as amended by Section 8, Chapter 162, O.S.L. 2014 (37 O.S. Supp. 2015, Section 600.7), shall be recodified as Section 1-229.17 of Title 63 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 176. RECODIFICATION 37 O.S. 2011, Section 600.8, as amended by Section 9, Chapter 162, O.S.L. 2014 (37 O.S. Supp. 2015, Section 600.8), shall be recodified as Section 1-229.18 of Title 63 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 177. RECODIFICATION 37 O.S. 2011, Section 600.9, shall be recodified as Section 1-229.19 of Title 63 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 178. RECODIFICATION 37 O.S. 2011, Section 600.10, as amended by Section 10, Chapter 162, O.S.L. 2014 (37 O.S. Supp. 2015, Section 600.10), shall be recodified as Section 1-229.20 of Title 63 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 179. RECODIFICATION 37 O.S. 2011, Section 600.10A, as amended by Section 11, Chapter 162, O.S.L. 2014 (37 O.S. Supp. 2015, Section 600.10A), shall be recodified as Section 1-229.21 of Title 63 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 180. RECODIFICATION 37 O.S. 2011, Section 600.11, as amended by Section 12, Chapter 162, O.S.L. 2014 (37 O.S. Supp. 2015, Section 600.11), shall be recodified as Section 1-229.22 of Title 63 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 181. RECODIFICATION 37 O.S. 2011, Section 600.11a, shall be recodified as Section 1-229.23 of Title 63 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 182. RECODIFICATION 37 O.S. 2011, Section 600.11b, shall be recodified as Section 1-229.24 of Title 63 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 183. RECODIFICATION 37 O.S. 2011, Section 600.12, shall be recodified as Section 1-229.25 of Title 63 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 184. RECODIFICATION 37 O.S. 2011, Section 600.13, as amended by Section 13, Chapter 162, O.S.L. 2014 (37 O.S. Supp. 2015, Section 600.13), shall be recodified as Section 1-229.26 of Title 63 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 185. RECODIFICATION 37 O.S. 2011, Section 600.21, shall be recodified as Section 2315 of Title 62 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 186. RECODIFICATION 37 O.S. 2011, Section 600.22, shall be recodified as Section 2316 of Title 62 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 187. RECODIFICATION 37 O.S. 2011, Section 600.23, shall be recodified as Section 2317 of Title 62 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 188. RECODIFICATION 37 O.S. 2011, Section 601, shall be recodified as Section 1-229.27 of Title 63 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 189. RECODIFICATION 37 O.S. 2011, Section 602, shall be recodified as Section 1-229.28 of Title 63 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 190. RECODIFICATION 37 O.S. 2011, Section 603, shall be recodified as Section 1-229.29 of Title 63 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 191. RECODIFICATION 37 O.S. 2011, Section 604, shall be recodified as Section 1-229.30 of Title 63 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 192. RECODIFICATION 37 O.S. 2011, Section 605, shall be recodified as Section 1-229.31 of Title 63 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 193. RECODIFICATION 37 O.S. 2011, Section 606, shall be recodified as Section 1-229.32 of Title 63 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 194. RECODIFICATION 37 O.S. 2011, Section 608, as amended by Section 129, Chapter 304, O.S.L. 2012 (37 O.S. Supp. 2015, Section 608), shall be recodified as Section 1-229.33 of Title 63 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 195. RECODIFICATION 37 O.S. 2011, Section 609, shall be recodified as Section 1-229.34 of Title 63 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 196. The provisions of this act are severable and if any part or provision shall be held void the decision of the court so holding shall not affect or impair any of the remaining parts or provisions of this act.

SECTION 197. This act shall only become effective upon certification of election returns favoring passage of the Constitutional Amendment proposed in Senate Joint Resolution No. 68 of the 2nd Session of the 55th Oklahoma Legislature.

SECTION 198. Section 4 of this act shall become effective October 1, 2017. Sections 1 through 3 and 5 through 195 of this act shall become effective October 1, 2018.

Passed the Senate the 26th day of May, 2016.

Eddie Fields
Presiding Officer of the Senate

Passed the House of Representatives the 26th day of May, 2016.

Lee R. Denney
Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 27th day of May, 2016, at 7:21 o'clock P M.

By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 10th day of June, 2016, at 3:43 o'clock P M.

Mary Fallin
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 6th day of June, 2016, at 4:53 o'clock P. M.

By: Chris Benge