STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

HOUSE BILL NO. 1298 BY: LARASON

AS INTRODUCED

AN ACT RELATING TO INTOXICATING LIQUORS; AMENDING 37 O.S. 1981, SECTION 528, AS AMENDED BY SECTION 25, CHAPTER 6, O.S.L. 1985 (37 O.S. SUPP. 1990, SECTION 528), WHICH RELATES TO THE OKLAHOMA ALCOHOLIC BEVERAGE CONTROL ACT; MODIFYING GROUNDS FOR REVOCATION OF LICENSE FOR CERTAIN LICENSEES; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. AMENDATORY 37 O.S. 1981, Section 528, as amended by Section 25, Chapter 6, O.S.L. 1985 (37 O.S. Supp. 1990, Section 528), is amended to read as follows:

Section 528. A. Any license issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act, by order of the Alcoholic Beverage Laws Enforcement 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 adopted 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 in order to prevent or induce action by the ABLE 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 553 of this title 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; or

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

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; or

6. Has been convicted on or after July 1, 1985, of a violation of any state or federal law relating to alcoholic beverage for which mandatory revocation or suspension is not required.

C. The ABLE Commission shall revoke the license of any licensee if said 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; provided, the provisions of this paragraph shall not apply to holders of employee licenses;

3. That, in the case of a employee licensee, the holder of the license has been convicted of a violent felony or a drug or alcohol related felony; provided, a conviction for any other felony shall be grounds for revocation during the time the licensee is in the custody of the Department of Corrections, is on probation, or is on parole and for a period of five (5) years from the date that the sentence is completed. As used in this paragraph, "violent felony" means any crime or attempted crime listed as an exception to the definition of a nonviolent offense in Section 571 of Title 57 of the Oklahoma Statutes;

4. That, in the case of a wholesaler, Class B wholesaler, or retail package store 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 or a misdemeanor.

D. If the ABLE Commission shall find by a preponderance of the evidence as in civil cases that the holder of a package store license has knowingly sold any alcoholic beverage to any person under the age of twenty-one (21) years, after a public hearing it

shall revoke said license and no discretion as to said revocation shall be exercised by the ABLE Commission.

E. The ABLE Commission shall have the authority to promulgate rules and regulations to establish a penalty schedule for violations of any provision of the Oklahoma Alcoholic Beverage Control Act or any rule or regulation 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 the penalty shall be mandatory revocation of license.

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

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

H. If the ABLE 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 2. This act shall become effective September 1, 1991.

43-1-5603 SD