

ENGROSSED SENATE  
BILL NO. 797

By: Easley of the Senate

and

Satterfield of the House

[ intoxicating liquors - amending 37 O.S., Section  
506 - Oklahoma Alcoholic Beverage Control Act -  
nightclubs - codification -  
emergency ]

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

SECTION 1. AMENDATORY 37 O.S. 1991, Section 506, is  
amended to read as follows:

Section 506. When used in the Oklahoma Alcoholic Beverage  
Control Act, Section 501 et seq. of this title, the following words  
and phrases shall have the following meaning:

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

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

3. "Alcoholic beverage" means alcohol, spirits, beer, and wine  
as those terms are defined herein and also includes every liquid or  
solid, patented or not, containing alcohol, spirits, wine or beer  
and capable of being consumed as a beverage by human beings, but

does not include nonintoxicating beverages as that term is defined in Section 163.2 of this title.

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

5. "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.

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

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

8. "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.

9. "Director" means the Director of the Alcoholic Beverage Laws Enforcement Commission under the supervision of said Commission.

10. "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 possession or use a still.

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

12. "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.

13. "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.

14. "Light beer" means a nonintoxicating malt beverage controlled under this title.

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

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

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

18. "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".

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

20. "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".

21. "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, caterer, or special event license.

22. "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.

23. "Nightclub" means an entity that charges an admission fee to enter, and features either live music or prerecorded music as entertainment to its customers.

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

~~24.~~ 25. "Occupation" as used in connection with "occupation tax" means the sites occupied as the places of business of the

manufacturers, wholesalers, Class B wholesalers, retailers, mixed beverage licensees, bottle clubs, caterers, and special event licensees.

~~25.~~ 26. "Original package" means any container of alcoholic beverage filled and stamped or sealed by the manufacturer.

~~26.~~ 27. "Patron" means any person, customer, or visitor who is not employed by a licensee or who is not a licensee.

~~27.~~ 28. "Person" means and includes an individual, partnership, corporation, or association.

~~28.~~ 29. "Premises" means the grounds and all buildings and appurtenances pertaining to the grounds including any adjacent premises if under the direct or indirect control of the licensee and the rooms and equipment under the control of the licensee and used in connection with or in furtherance of the business covered by a license. Provided that the ABLE Commission shall have the authority to designate areas to be excluded from the licensed premises solely for the purpose of:

- a. allowing the presence and consumption of alcoholic beverages, not bearing serially numbered identification stamps issued by the Oklahoma Tax Commission, 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 this act occurring on the licensed premises.

~~29.~~ 30. "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.

~~30.~~ 31. "Regulation" or "rule" means a formal rule of general application promulgated by the ABLE Commission as herein required.

~~31.~~ 32. "Retail container for spirits and wines" means an original package of a capacity not less than one-twentieth (1/20) gallon specified by the ABLE Commission in its regulations for the alcoholic beverage concerned, or an original package with a capacity of less than one-twentieth (1/20) gallon, referred to as miniatures.

~~32.~~ 33. "Retailer" means the holder of a Package Store License.

~~33.~~ 34. "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.

~~34.~~ 35. "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".

~~35.~~ 36. "Sparkling wine" means champagne or any artificially carbonated wine.

~~36.~~ 37. "Spirits" means any beverage other than wine, beer or light beer, which contains more than one-half of one percent (1/2 of 1%) alcohol measured by volume and obtained by distillation, whether or not mixed with other substances in solution and includes those

products known as whiskey, brandy, rum, gin, vodka, liqueurs, cordials and fortified wines and similar compounds; but shall not include any alcohol liquid completely denatured in accordance with the Acts of Congress and regulations pursuant thereto.

~~37.~~ 38. "Wholesaler" means and includes any person doing any such acts or carrying on any such business or businesses that would require such person to obtain a wholesaler's license or licenses hereunder.

~~38.~~ 39. "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.

~~39.~~ 40. "Winemaker" means any person who produces wine.

~~40.~~ 41. "Oklahoma winemaker" means a business premises in Oklahoma licensed pursuant to the Oklahoma Alcoholic Beverage Control Act wherein wine is produced by the licensee who must be a resident of the state. The wine product fermented in said licensed premises shall be of grapes, berries and other fruits and vegetables imported into this state and processed herein or shall be of grapes, berries and other fruits and vegetables grown in Oklahoma.

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

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 600 of Title 37, unless there is created a duplication in numbering, reads as follows:

No nightclub which holds either a mixed beverage license or a license to sell nonintoxicating beverages as defined in Section 163.2 of Title 37 of the Oklahoma Statutes shall allow any person

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

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 9th day of March, 1994.

President of the Senate

Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_, 1994.

Speaker of the House of Representatives