

ENROLLED HOUSE
BILL NO. 2554

By: Glover and Roach of the
House

and

Williams (Don) of the
Senate

An Act relating to intoxicating liquors; authorizing retail package store licensees to offer for sale and sell alcoholic beverages which are packaged or are to be packaged with nonalcoholic, promotional items, under certain conditions; authorizing manufacturers and agents of manufacturers to provide packaging and items to the retail package store licensee; providing access requirements; amending 37 O.S. 1991, Sections 506, 518, as amended by Section 15, Chapter 243, O.S.L. 1993, 518.1, 518.2, as amended by Section 1, Chapter 180, O.S.L. 1993, 521, as last amended by Section 13, Chapter 357, O.S.L. 1992, 522, 523.1, 527.1, 528.1, 532.2, 535, 535.1, 535.2, 537, 537.1, 554.1, 554.2, 577, 578, 582, 583, 584, 591 and 596 (37 O.S. Supp. 1993, Sections 518, 518.2 and 521), which relate to the Oklahoma Alcoholic Beverage Control Act; creating new category of licensing; providing license fees; providing location restrictions; providing acts authorized by license; providing procedures and requirements of the Oklahoma Alcoholic Beverage Control Act that apply to beer and wine licensees; modifying prohibition relating to promotional packaging; amending 37 O.S. 1991, Section 163.24, which relates to location restrictions for places selling nonintoxicating beverages; providing that certain establishments are subject to other zoning provisions; and providing for codification.

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 534.1 of Title 37, unless there is created a duplication in numbering, reads as follows:

A. A retail package store 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 retail package store licensee at the retail package store premises, or otherwise, and may deliver such packaging and all nonalcoholic

promotional items provided by the manufacturer or agent to the retail package store licensee by means of common carrier, or otherwise, at no expense to the retailer, for the retail package store licensee 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 retail package store licensees 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 retail package store licensees shall be commensurate to the needs of the retail package store licensee 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 retail package store licensees who desire such packaging or items.

SECTION 2. 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, beer and wine, 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. "Retail salesman" means a salesman soliciting orders from and calling upon retail alcoholic beverage stores with regard to his product.

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

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

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

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

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

31. "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. "Retailer" means the holder of a Package Store License.

33. "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. "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. "Sparkling wine" means champagne or any artificially carbonated wine.

36. "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. "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. "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. "Winemaker" means any person who produces wine.

40. "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 3. AMENDATORY 37 O.S. 1991, Section 518, as amended by Section 15, Chapter 243, O.S.L. 1993 (37 O.S. Supp. 1993, Section 518), is amended to read as follows:

Section 518. The licenses issued by the Alcoholic Beverage Laws Enforcement Commission, and the annual fees therefor, shall be as follows:

1. Brewer License.....\$1,250.00
2. Distiller License.....\$3,125.00
3. Winemaker License.....\$625.00
4. Oklahoma Winemaker License.....\$75.00
5. Rectifier License.....\$3,125.00
6. Wholesaler License.....\$3,500.00
7. Class B Wholesaler License.....\$625.00
8. The following package store license fees shall be determined by the latest Federal Decennial Census:

- a. Package Store License

for cities and towns
from 200 to 2,500
population.....\$305.00

b. Package Store License
for cities and towns
from 2,501 to 5,000
population.....\$605.00

c. Package Store License
for cities and towns
over 5,000 population.....\$905.00

9. Mixed Beverage License..... \$1,005.00
(initial license)
\$905.00
(renewal)

10. Beer and Wine License.....\$500.00
(initial license)
\$450.00
(renewal)

11. Bottle Club License.....\$1,000.00
(initial license)
\$900.00
(renewal)

~~11.~~ 12. Caterer License.....
\$1,005.00
(initial license)
\$905.00
(renewal)

~~12.~~ 13. Special Event License-fee per
day.....\$55.00

~~13.~~ 14. Hotel Beverage License.....
\$1,005.00
(initial license)
\$905.00
(renewal)

~~14.~~ 15. Airline/Railroad
Beverage License..... \$1,005.00
(initial license)
\$905.00
(renewal)

~~15.~~ 16. Agent
License.....\$55.00

~~16.~~ 17. Employee
License.....\$30.00

~~17.~~ 18. Industrial
License.....\$23.00

~~18.~~ 19. Carrier
License.....\$23.00

~~19.~~ 20. Private Carrier
License.....\$23.00

~~20.~~ 21. Bonded Warehouse
 License.....\$190.00
~~21.~~ 22. Storage
 License.....\$23.00
~~22.~~ 23. Nonresident Seller
 License.....\$750.00
~~23.~~ 24. Manufacturers Agent
 License.....\$55.00
~~24.~~ 25. Sacramental Wine Supplier
 License.....\$100.00

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) and (10) of the Internal Revenue Code shall be Five Hundred Dollars (\$500.00) per year.

The fees provided for in this subsection for a brewer license and for a Class B wholesaler license shall be reduced by seventy-five percent (75%) if the applicant therefor is also the holder of a license to manufacture or wholesale any nonintoxicating malt beverages as provided for in this title.

An applicant may apply for and receive both a mixed beverage license and a caterer license. An applicant may apply for and receive both a beer and wine license and a caterer license.

All licenses, except as otherwise provided, shall be valid for one (1) year from date of issuance unless revoked or surrendered. Provided, that a special event license shall be valid for a period not to exceed ten (10) consecutive days from the first day the license is valid; said date to be specified on the license. Provided further, all employee licenses issued on or after September 1, 1993, shall be valid for two (2) years.

The holder of a license, issued by the ABLE Commission, for a bottle club located in a county of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized, may exchange the bottle club license for a mixed beverage license or a beer and wine license and operate the licensed premises as a mixed beverage establishment or a beer and wine establishment subject to the provisions of the Oklahoma Alcoholic Beverage Control Act, Section 501 et seq. of this title. There shall be no additional fee for such exchange and the mixed beverage license or beer and wine license issued shall expire one (1) year from the date of issuance of the original bottle club license.

SECTION 4. AMENDATORY 37 O.S. 1991, Section 518.1, is amended to read as follows:

Section 518.1 All holders of a mixed beverage, beer and wine, caterer, special event, or airline/railroad beverage license shall purchase alcoholic beverages only from a licensed wholesaler or Class B wholesaler.

A wholesaler or Class B wholesaler may deliver such products to licensees authorized to sell alcoholic beverages for on-premises consumption. Provided such licensees may pick up alcoholic beverage orders if they hold a private carrier license issued by the Alcoholic Beverage Laws Enforcement Commission.

SECTION 5. AMENDATORY 37 O.S. 1991, Section 518.2, as amended by Section 1, Chapter 180, O.S.L. 1993 (37 O.S. Supp. 1993, Section 518.2), is amended to read as follows:

Section 518.2 A. The location of a retail package store, mixed beverage establishment or bottle club shall be subject to the nondiscriminatory zoning ordinances of the town or city in which located, and the location of such entities is specifically prohibited within three hundred (300) feet from any church property

primarily and regularly used for worship services and religious activities, or public school. Provided, that if any such church, or school, shall be established within three hundred (300) feet of any licensed premises after such premises have been licensed, this shall not be a bar to the renewal of such license so long as it has been in continuous force and effect. The distance indicated in this ~~section~~ subsection shall be measured from the nearest property line of such church or school to the nearest public entrance door of the premises of such package store, mixed beverage establishment or bottle club along the street right-of-way line providing the nearest direct route usually traveled by pedestrians between such points. For purposes of determining measured distance, property situated on the opposite side of the street from such church or school shall be considered as if it were located on the same side of the street with such church or school. Furthermore, a license shall not be issued for a location on any city or town block where a school or church is located. Provided, the above shall not bar the future issuance or renewal of a retail package store license to any retail package store license holder or subsequent transferee of any said license holder for a retail package store location that was approved and licensed by the predecessor of the ABLE Commission, the Oklahoma Alcoholic Beverage Control Board, prior to January 7, 1976, so long as such license has been in continuous force and effect. Provided further, the above shall not bar the issuance or renewal of a mixed beverage or bottle club license to any mixed beverage or bottle club license holder or applicant for a mixed beverage or bottle club license for any location that was approved and licensed as a private club by a city or town prior to the effective date of this act, March 14, 1985, so long as a municipal license, bottle club license or mixed beverage license covering any portion of such premises or location has been in continuous force and effect.

B. The location of a beer and wine establishment shall be subject to the nondiscriminatory zoning ordinances of the town or city in which located, and any such ordinance shall provide that the location of a beer and wine establishment shall not be within three hundred (300) feet of any church property primarily and regularly used for worship services and religious activities, or public school. Provided, that if any such church, or school, shall be established within three hundred (300) feet of any licensed premises of a beer and wine establishment after such premises have been licensed, this subsection shall not be a bar to the renewal of such license so long as it has been in continuous force and effect. Provided further, this subsection shall not bar the future issuance or renewal of a beer and wine license to any beer and wine license holder or subsequent transferee of any said license holder for a beer and wine location that was approved and licensed by the ABLE Commission. The distance indicated in this subsection shall be measured from the nearest property line of such church or school to the nearest public entrance door of the premises of such beer and wine establishment along the street right-of-way line providing the nearest direct route usually traveled by pedestrians between such points. For purposes of determining measured distance, property situated on the opposite side of the street from such church or school shall be considered as if it were located on the same side of the street with such church or school.

SECTION 6. AMENDATORY 37 O.S. 1991, Section 521, as last amended by Section 13, Chapter 357, O.S.L. 1992 (37 O.S. Supp. 1993, Section 521), is amended to read as follows:

Section 521. A. A brewer license shall authorize the holder thereof: To manufacture, bottle, package, and store beer on

licensed premises; to sell beer in this state to holders of Class B wholesaler licenses and retail licenses and to sell beer out of this state to qualified persons.

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

C. A winemaker license shall authorize the holder thereof: To manufacture (including such mixing, blending and cellar treatment as authorized by federal law), bottle, package, and store on licensed premises wine containing not more than twenty-four percent (24%) alcohol by volume; to sell wine in this state to licensed wholesalers and manufacturers only; to sell bottles of wine produced at the winery from grapes and other fruits and berries grown in this state to consumers on the premises of the winery; to serve visitors on the licensed premises free samples of wine produced on the premises; to sell wine out of this state to qualified persons; to purchase from licensed winemakers, distillers and rectifiers in this state, and to import into this state wine, brandy and fruit spirits for use in manufacturing in accordance with federal laws and regulations.

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

E. A wholesaler license shall authorize the holder thereof: To purchase and import into this state spirits and wines from persons authorized to sell same who are the holders of a nonresident seller license, and their agents who are the holders of manufacturers agent licenses; to purchase spirits and wines from licensed distillers, rectifiers, winemakers and wholesalers in this state; to sell spirits and wines in retail containers in this state to retailers, mixed beverage, caterer, special event, hotel beverage or airline/railroad beverage licensees; to sell spirits and wines in containers with a capacity of less than one-twentieth (1/20) gallon in full case lots and in the original unbroken case to hotel beverage or airline/railroad beverage licensees only; to sell spirits and wines to wholesalers authorized to sell same; and to sell spirits and wines out of this state to qualified persons. 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.

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.

F. A Class B wholesaler license shall authorize the holder thereof: To purchase and import into this state beer from persons authorized to sell same who are the holders of nonresident seller licenses, and their agents who are the holders of manufacturers agent licenses to purchase beer from licensed brewers and Class B wholesalers in this state; to sell in retail containers to

retailers, mixed beverage, caterer, special event, hotel beverage and airline/railroad beverage licensees in this state, beer which has been unloaded and stored at the holder's self-owned or leased and self-operated warehouse facilities for a period of at least twenty-four (24) hours before such sale; and to sell beer in this state to Class B wholesalers and out of this state to qualified persons, including federal instrumentalities and voluntary associations of military personnel on federal enclaves in this state over which this state has ceded jurisdiction.

G. A package store license shall authorize the holder thereof: To purchase alcoholic beverages in retail containers with a capacity of more than one-twentieth (1/20) gallon from the holder of a brewer, wholesaler or Class B wholesaler license and to sell same on the licensed premises in such containers to consumers for off-premises consumption only and not for resale; provided, all alcoholic beverages are to be sold at ordinary room temperature. No package store licensee may purchase or sell alcoholic beverages in retail containers with a capacity of less than one-twentieth (1/20) gallon.

H. A mixed beverage license shall authorize the holder thereof: To purchase alcoholic beverages in retail containers with a capacity of more than one-twentieth (1/20) gallon from the holder of a wholesaler or Class B wholesaler license and to sell, offer for sale and possess mixed beverages for on-premises consumption only. Sales and service of mixed beverages by holders of mixed beverage licenses shall be limited to the licensed premises of said licensee unless the holder of the mixed beverage license also obtains a caterer license. A mixed beverage license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. A separate license shall be required for each place of business. No mixed beverage license shall be issued for any place of business functioning as a motion picture theater, as defined by Section 506 of this title.

I. 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.

J. 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.

K. A 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 a period not to exceed ten (10) consecutive days. A 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.

L. A hotel beverage license shall authorize the holder thereof: To sell or serve alcoholic beverages in 50 milliliter spirits, 187

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

M. An airline/railroad beverage license shall authorize the holder thereof: To sell or serve alcoholic beverages in or from any size container on a commercial passenger airplane or railroad operated in compliance with a valid license, permit or certificate issued under the authority of the United States or this state, even though the airplane or train, in the course of its travel, may cross an area in which the sale of alcoholic beverages by the individual drink is not authorized and to store alcoholic beverages in sealed containers of any size at any airport or station regularly served by the licensee, in accordance with rules and regulations promulgated by the Alcoholic Beverage Laws Enforcement Commission. Alcoholic beverages purchased by the holder of an airline/railroad license from the holder of a wholesaler license shall be presumed to be purchased for consumption outside the State of Oklahoma or in interstate commerce, and shall be exempt from the excise tax provided for in Section 553 of this title.

N. An agent license shall authorize the holder thereof: To represent only the holders of licenses within this state, other than retailers, authorized to sell alcoholic beverages to retail dealers in Oklahoma, and to solicit and to take orders for the purchase of alcoholic beverages from retailers including licensees authorized to sell alcoholic beverages by the individual drink for on-premises consumption. Such license shall be issued only to agents and employees of the holder of a license under the Oklahoma Alcoholic Beverage Control Act, Section 501 et seq. of this title but no such license shall be required of an employee making sales of alcoholic beverages on licensed premises of his principal. No person holding an agent license shall be entitled to a manufacturers agent license.

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

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

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

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

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

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

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

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

Q. 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 into, within, and out of this state under such terms, conditions, limitations, and restrictions as the ABLE Commission may prescribe by order issuing such license and by regulations.

R. A private carrier license may be issued to any carrier other than a common carrier described in subsection P of this section. Such license shall authorize the holder thereof to transport alcoholic beverages into, within, or out of this state under such terms, conditions, limitations, and restrictions as the ABLE Commission may prescribe by order issuing such license and by regulations. No carrier license or private carrier license shall be required of licensed brewers, distillers, winemakers, rectifiers, wholesalers, or Class B wholesalers, to transport alcoholic beverages from the place of purchase or acquisition to the licensed premises of such licensees and from such licensed premises to the licensed premises of the purchaser in vehicles owned or leased by such licensee when such transportation is for a lawful purpose and not for hire.

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

S. 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.

T. A storage license may be issued to a holder of a brewer, distiller, winemaker, rectifier, wholesaler, Class B wholesaler, nonresident seller, package store, mixed beverage, caterer, or hotel beverage license, and shall authorize the holder thereof: To store alcoholic beverages in a public warehouse holding a bonded warehouse license, and no goods, wares or merchandise other than alcoholic beverages may be stored in the same warehouse with alcoholic beverages in private warehouses owned or leased and operated by such licensees elsewhere than on their licensed premises. Provided, that a storage license issued to a Class B wholesaler shall permit the storage of light beer and permit the sale and delivery to retailers from the premises covered by such license. Provided further, that any licensee who is the holder of both a mixed beverage license and a caterer license or 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.

U. 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.

V. A beer and wine license shall authorize the holder thereof: To purchase beer and wine in retail containers with a capacity of more than one-twentieth (1/20) gallon from the holder of a wholesaler or Class B wholesaler license and to sell, offer for sale and possess beer and wine for on-premises consumption only. Sales and service of beer and wine by holders of beer and wine licenses shall be limited to the licensed premises of said licensee unless the holder of the beer and wine license also obtains a caterer license. A beer and wine license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. A separate license shall be required for each place of business. No beer and wine license shall be issued for any place of business functioning as a motion picture theater, as defined by Section 506 of this title. No spirits shall be stored, possessed or consumed on the licensed premises of a beer and wine licensee.

SECTION 7. AMENDATORY 37 O.S. 1991, Section 522, is amended to read as follows:

Section 522. Applicants for original brewer, distiller, winemaker, rectifier, wholesaler, Class B wholesaler, mixed beverage, beer and wine, bottle club, caterer or package store licenses shall, prior to applying for such license, twice publish, in such form and containing such information as the Alcoholic Beverage Laws Enforcement Commission shall by regulation 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 said 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 said 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 523 of this title 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 523 of this title.

SECTION 8. AMENDATORY 37 O.S. 1991, Section 523.1, is amended to read as follows:

Section 523.1 A. Any corporation applying for a mixed beverage, beer and wine, caterer, or bottle club license shall submit to the Alcoholic Beverage Laws Enforcement 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; and
3. A list of all stockholders owning fifteen percent (15%) or more of the stock and their addresses.

B. A corporate licensee shall notify the ABLE Commission in writing of any change in the officers or directors of said corporation or in the principal managers of premises licensed to said 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 said fee.

C. A corporate licensee shall notify the ABLE Commission any time a person acquires fifteen percent (15%) or more of the stock of said corporation. Such notification shall be within thirty (30) days of acquisition.

D. The ABLE Commission may disapprove a change of officers, directors or principal managers or the acquisition of more than fifteen percent (15%) 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 of any stock held in excess of fifteen percent (15%) of the stock. Provided that 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.

E. Any person who has owned fifteen percent (15%) 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 said license was revoked or suspended.

SECTION 9. AMENDATORY 37 O.S. 1991, Section 527.1, is amended to read as follows:

Section 527.1 The Alcoholic Beverage Laws Enforcement Commission shall refuse to issue a mixed beverage, beer and wine, bottle club, 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:

1. That the applicant is under twenty-one (21) years of age;
2. That the applicant or any general or limited partner has been convicted of a felony;
3. That the applicant, in the case of a corporation, has an officer or director who has been convicted of a felony;
4. That the applicant has made false statements to the ABLE Commission;
5. 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;
6. 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 regulation of the ABLE Commission issued pursuant hereto. Provided, however, that if the ABLE Commission, during said 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;
7. 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; or
8. That the applicant is a person who appoints or is a law enforcement official or is an employee of the ABLE Commission or of the Director.

SECTION 10. AMENDATORY 37 O.S. 1991, Section 528.1, is amended to read as follows:

Section 528.1 The governing board of any municipality, as to any mixed beverage, beer and wine, caterer, 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, 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, setting 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 said municipality. If the complaint is filed by a county, the hearing shall be conducted in said 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 11. AMENDATORY 37 O.S. 1991, Section 532.2, is amended to read as follows:

Section 532.2 A. If a mixed beverage licensee sells or otherwise transfers his financial interest in a licensed premises to another party who obtains a mixed beverage license for the premises, any alcoholic beverages on said 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, said 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 a beer and wine licensee sells or otherwise transfers his financial interest in a licensed premises to another party who obtains a beer and wine license for the premises, any beer and wine on said 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, said 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, the Director, or the staff of the ABLE Commission for the contents of any alcoholic beverages transferred pursuant to the provisions of this section.

SECTION 12. AMENDATORY 37 O.S. 1991, Section 535, is amended to read as follows:

Section 535. It shall be unlawful for any manufacturer, wholesaler, Class B wholesaler, or person authorized to sell alcoholic beverages to a wholesaler, or any employee, officer, partner, or agent thereof, to directly or indirectly:

1. Have any financial interest in any premises upon which any alcoholic beverage or light beer is sold at retail or in any business connected with the retailing of alcoholic beverages or light beer as defined in Section 506 of this title;

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

4. Require any wholesaler, Class B wholesaler, retailer, mixed beverage, beer and wine licensee 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, beer and wine licensee 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; or

6. Extend credit to any retailer, other than holders of Federal Liquor Stamps on United States government reservations and installations, mixed beverage or 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 subsection shall be grounds for suspension of the license.

SECTION 13. AMENDATORY 37 O.S. 1991, Section 535.1, is amended to read as follows:

Section 535.1 No mixed beverage, beer and wine, caterer or bottle club licensee, 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, 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 14. AMENDATORY 37 O.S. 1991, Section 535.2, is amended to read as follows:

Section 535.2 No manufacturer, wholesaler, 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 or bottle club licensee.

SECTION 15. AMENDATORY 37 O.S. 1991, Section 537, is amended to read as follows:

Section 537. 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 retail package store;
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 have in his possession 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;
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 said vehicle while it is in motion;

8. Drink intoxicating liquor in public except on the premises of a licensee of the Alcoholic Beverage Laws Enforcement Commission who is authorized to sell or serve alcoholic beverages 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 an inspector or agent of the ABLE Commission, when such person knows or should know that such acts are being performed by a state, county, or municipal officer, inspector or agent 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 said 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; or

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 said Commission.

B. 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 he holds;

2. Employ any person under the age of twenty-one (21) in the selling or handling of alcoholic beverages. Provided, that a mixed beverage, beer and wine, caterer, special event or bottle club licensee may employ servers who are eighteen (18) years of age or older, except 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. Advertise or offer "happy hours" or any other means or inducements to stimulate the consumption of alcoholic beverages including:

- 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 less than the price regularly charged for such drinks during the same calendar week, except at private functions not open to the public;
- 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 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, that 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 his employee; or

6. Serve or sell alcoholic beverages with an expired license issued by the ABLE Commission.

C. No package store licensee shall:

1. Purchase or receive any alcoholic beverage other than from a person holding a brewer, wholesaler or Class B wholesaler license issued pursuant to the Oklahoma Alcoholic Beverage Control Act;

2. Suffer or permit any retail container to be opened, or any alcoholic beverage to be consumed, on his licensed premises;

3. Sell, or keep package store premises open for the purpose of selling, any alcoholic beverages at any hour other than between the hours of 10:00 a.m. and 9:00 p.m. Monday through Saturday; provided, that no such sales shall be made, or package store premises be allowed to remain open for the purpose of making such sales, on the day of any General, Primary, Runoff Primary or Special Election while the polls are open whether on a national, state, county or city election or on New Year's Day, Memorial Day, the Fourth of July, Labor Day, Veterans Day, Thanksgiving Day or Christmas Day;

4. Operate a retail package store unless such store shall be located in a city or town having 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 retail liquor 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,

- 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 (100) merchants;

6. Offer or furnish any prize, premium, gift or similar inducement to a consumer in connection with the sale of alcoholic beverage, 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 package store 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;

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

8. 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.

D. No wholesaler licensee shall:

1. Sell or deliver any amount of spirits or wines to any package store licensee on Saturday or Sunday; or

2. Sell or deliver any amount of spirits or wines to any package store licensee on New Year's Day, Memorial Day, the Fourth of July, Labor Day, Veterans Day, Thanksgiving Day or Christmas Day.

E. No mixed beverage or beer and wine licensee shall:

1. Purchase or receive any alcoholic beverage other than from a person holding a wholesaler or Class B wholesaler license issued pursuant to the Oklahoma Alcoholic Beverage Control Act;

2. Transport alcoholic beverages from the place of purchase to his licensed premises unless said 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 his 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.

F. 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 said 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 said 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.

G. No special event or caterer licensee shall:

1. Purchase or receive any alcoholic beverage other than from a person holding a wholesaler or Class B wholesaler license issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act; or

2. Transport alcoholic beverages from the place of purchase to his licensed premises unless said licensee also holds a private carrier license issued by the ABLE Commission.

H. No person operating a cafe, restaurant, club, or any place of recreation shall permit any person to be drunk or intoxicated in said place of business.

SECTION 16. AMENDATORY 37 O.S. 1991, Section 537.1, is amended to read as follows:

Section 537.1 No mixed beverage, beer and wine, bottle club, caterer 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 is on duty. For the purposes of this section, licensees will be deemed to be on duty from the time he first comes on duty until the time he 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, or 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 agent or inspector of the Alcoholic Beverage Laws Enforcement 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 agent or inspector of the ABLE Commission or any other peace officer. This provision shall not be construed to deny agents of the ABLE Commission or any other peace officer 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 said members. The provisions of this paragraph shall not be construed to prohibit or restrict hotels or motels who are holders of mixed beverage or beer and wine licenses from allowing alcoholic beverages to be served away from the bar area anywhere on the licensed premises; 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 17. AMENDATORY 37 O.S. 1991, Section 554.1, is amended to read as follows:

Section 554.1 Cities and towns are hereby authorized to levy an annual occupational tax for the privilege of operating as a retailer, mixed beverage, beer and wine, caterer or special event licensee, bottle club, manufacturer, wholesaler or Class B wholesaler, within their respective jurisdictions, not to exceed the state license fee for such licensees; provided that the

aforementioned tax shall be levied only by the city or town in which such licensee has his principal place of business. This section shall not give any city or town any right to determine or regulate the issuance of any license, except as specifically provided for in this section, as the Alcoholic Beverage Laws Enforcement Commission shall have exclusive authority as to issuance and regulations of said licenses and no city or town may prescribe rules or regulations in conflict with or in addition to the statutes of this state or the rules of the ABLE Commission.

Cities or towns 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 said 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 18. AMENDATORY 37 O.S. 1991, Section 554.2, is amended to read as follows:

Section 554.2 Counties are hereby authorized to levy an annual occupational tax for the privilege of operating as a mixed beverage, beer and wine, caterer or special event licensee or as a bottle club, within their respective jurisdictions and not located in a city or town levying an occupation tax as provided by Section 554.1 of this title, not to exceed the state license fee for such licensees; provided that the aforementioned tax shall be levied only by the county in which such licensee has his 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 Alcoholic Beverage Laws Enforcement Commission shall have exclusive authority as to issuance and regulations of said licenses and 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 said 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 19. AMENDATORY 37 O.S. 1991, Section 577, is amended to read as follows:

Section 577. A. Every holder of a mixed beverage, beer and wine, caterer, hotel beverage or special event license, issued by the Alcoholic Beverage Laws Enforcement 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, beer and wine, caterer, hotel beverage or special event license issued by the Alcoholic Beverage Laws Enforcement 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.

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.

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 (10) 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 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 said licensee in accordance with Section 212 of Title 68 of the Oklahoma Statutes.

SECTION 20. AMENDATORY 37 O.S. 1991, Section 578, is amended to read as follows:

Section 578. A. Every holder of a mixed beverage, beer and wine, caterer or special event license issued by the Alcoholic Beverage Laws Enforcement 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.

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 ~~77~~ 576 of this ~~act~~ title. 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 21. AMENDATORY 37 O.S. 1991, Section 582, is amended to read as follows:

Section 582. A. No mixed beverage, beer and wine, caterer or special event licensee may possess or permit any person to possess on the premises any alcoholic beverage, other than mixed beverage coolers, beer or light beer, in any container that does not bear a serially numbered identification stamp issued by the Oklahoma Tax Commission. No mixed beverage, beer and wine, caterer or special event licensee may possess or permit any person to possess on the premises any container of mixed beverage cooler or beer which did not come from a case bearing a serially numbered identification stamp issued by the Tax Commission.

B. No wholesaler may knowingly sell, ship or deliver to any mixed beverage, beer and wine, caterer or special event licensee any alcoholic beverage, other than mixed beverage coolers, beer or light beer, in any container or any case of beer or case of mixed beverage coolers that does not bear a serially numbered identification stamp issued by the Tax Commission.

C. No mixed beverage, beer and wine, caterer 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.

D. All containers of alcoholic beverages, other than mixed beverage coolers, beer or light beer, or any case of mixed beverage coolers or beer on the premises of a holder of a mixed beverage, beer and wine, caterer or special event license which do not bear a serially numbered identification stamp pursuant to the provisions of this section are declared to be contraband. All containers of alcoholic beverages which are on the premises of a mixed beverage, beer and wine, caterer 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 officer or 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.

E. Any holder of a wholesaler, mixed beverage, beer and wine, caterer or special event license who violates the provisions of this section shall 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 22. AMENDATORY 37 O.S. 1991, Section 583, is amended to read as follows:

Section 583. A. A holder of a mixed beverage, beer and wine, caterer or special event license or any person employed by the holder of such license who empties a bottle containing alcoholic beverages, other than beer or light beer, on which the tax levied by Section 553 of ~~Title 37 of the Oklahoma Statutes~~ this title has been paid, shall immediately after emptying the bottle invalidate the identification stamp on the bottle in the manner prescribed by rule and regulation of the Alcoholic Beverage Laws Enforcement Commission. A holder of a mixed beverage, beer and wine, caterer or special event license or any person employed by the holder of such license who empties a case of beer on which the tax levied by Section 553 of ~~Title 37 of the Oklahoma Statutes~~ this title has been paid, shall immediately after emptying the case invalidate the identification stamp on the case in the manner prescribed by rule and regulation of the ABLE Commission.

B. Each holder of a mixed beverage, beer and wine, caterer or special event license shall provide at all service counters where alcoholic beverages, other than beer or light beer, are poured from bottles the necessary facilities for the invalidation of identification stamps on bottles so that persons emptying bottles of such alcoholic beverages may immediately invalidate the identification stamps on them.

C. A holder of a mixed beverage, beer and wine, caterer or special event license or any of his officers, agents, or employees who is found in possession of an empty bottle of alcoholic beverages, other than beer or light beer, which contained such alcoholic beverages on which the tax levied by Section 553 of ~~Title 37 of the Oklahoma Statutes~~ this title has been paid and on which the identification stamp has not been invalidated in accordance with this section commits a separate offense for each bottle so possessed. A holder of a mixed beverage, beer and wine, caterer or special event license or any person employed by the holder of such license who is found in possession of an empty case of beer on which the tax levied by Section 533 of ~~Title 37 of the Oklahoma Statutes~~ this title has been paid and on which the identification stamp has not been invalidated in accordance with this section commits a separate offense for each case so possessed.

SECTION 23. AMENDATORY 37 O.S. 1991, Section 584, is amended to read as follows:

Section 584. No holder of a mixed beverage, beer and wine, caterer, special 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 553 of ~~Title 37 of the Oklahoma Statutes~~ this title has been paid.

SECTION 24. AMENDATORY 37 O.S. 1991, Section 591, is amended to read as follows:

Section 591. A. No alcoholic beverages may be sold, dispensed, served or consumed on the premises of a mixed beverage or beer and wine 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;
2. On the day of any national, state, county or city election, including primary elections, during the hours the polls are open; and
3. On Decoration or Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

SECTION 25. AMENDATORY 37 O.S. 1991, Section 596, is amended to read as follows:

Section 596. Each bottle club or mixed beverage, beer and wine, caterer or special event licensee shall be held responsible for violation of any alcoholic beverage law or administrative rule of the Alcoholic Beverage Laws Enforcement Commission affecting his license privileges and for any act or omission of his servant, agent, employee or representative in violation of any law, municipal ordinance or administrative rule affecting his license privileges.

SECTION 26. AMENDATORY 37 O.S. 1991, Section 163.24, is amended to read as follows:

Section 163.24 From and after the effective date of this act, it shall be unlawful for any place licensed to sell nonintoxicating beverages as defined in paragraph (a) of Section 163.2 of this title, for ~~on-premise~~ on-premises consumption to be located within three hundred (300) feet from any public school or church property primarily and regularly used for worship services and religious activities. Provided, if any public school or church shall be established within three hundred (300) feet of any place which sells nonintoxicating beverages for ~~on-premise~~ on-premises consumption after such place has been licensed, this shall not be a deterrent to the renewal of such license so long as there has not been a lapse of more than sixty (60) days.

When any place which has a permit to sell nonintoxicating beverages for ~~on-premise~~ on-premises consumption changes ownership and such change of ownership results in the same type of business being conducted on the premises, the prohibition of this section shall not be a deterrent to the issuance of a permit to the new owner, if otherwise qualified to sell nonintoxicating beverages for ~~on-premise~~ on-premises consumption.

The distance indicated in this section shall be measured from the nearest property line of such public school or church to the nearest public entrance door of the premises of any place licensed to sell such nonintoxicating beverages for ~~on-premise~~ on-premises consumption along the street right-of-way line providing the nearest direct route usually traveled by pedestrians between such points. For purposes of determining measured distance, property situated on the opposite side of the street from such public school or church shall be considered as if it were located on the same side of the street with the school or church. Provided further, the above restrictions shall not affect premises already licensed to sell nonintoxicating beverages for ~~on-premise~~ on-premises consumption or premises which may presently or in the future be licensed to sell nonintoxicating beverages for ~~on-premise~~ on-premises consumption even though a school or church is subsequently established within three hundred (300) feet of such licensed premises.

If an establishment selling nonintoxicating beverages also is the holder of a mixed beverage or beer and wine license issued by the Alcoholic Beverage Laws Enforcement Commission, the establishment shall be subject to the zoning provisions of Section 518.2 of this title rather than the provisions of this section.

Passed the House of Representatives the 20th day of May, 1994.

Speaker of the House of
Representatives

Passed the Senate the 26th day of May, 1994.

President of the Senate