

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

HOUSE BILL NO. 2585

By: Voskuhl

AS INTRODUCED

An Act relating to intoxicating liquors; amending 37 O.S. 1991, Sections 523 and 573, which relate to the Oklahoma Alcoholic Beverage Control Act; modifying information required to be submitted by applicants for Oklahoma winemaker licenses; exempting Oklahoma winemakers from label registration fee; and providing an effective date.

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

SECTION 1. AMENDATORY 37 O.S. 1991, Section 523, is amended to read as follows:

Section 523. A. No license provided for in the Oklahoma Alcoholic Beverage Control Act shall be issued except pursuant to an application filed with the Alcoholic Beverage Laws Enforcement Commission. The ABLE Commission may, however, provide for a form of simplified application for renewal of license. Payment of the prescribed fee shall accompany each application for a license.

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

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

2. A certificate of zoning issued by the municipality in which the applicant proposes to locate the applicant's principal place of business under the license, or by the county if said principal place of business is located outside the incorporated limits of a municipality, certifying that the applicant's proposed location and use thereof comply with all municipal zoning ordinances or county zoning regulations if applicable;

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

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

C. An applicant for an Oklahoma winemaker license shall provide the same information to the ABLE Commission that is required for a retail liquor dealer's permit or license issued by the United States government.

D. The certificates required by paragraphs 2 and 3 of subsection B of this section shall be signed by the mayor of the municipality or the chairman of the board of county commissioners

issuing same, unless the municipality, by ordinance, or the county designates some other officer or entity to issue the certificates. Applications for such certificates shall be in writing and shall contain information in such detail as the municipality or county may reasonably require describing the location and nature of operations to be conducted under the ABLE license. Municipalities and counties shall be required to act on all applications for such certificates within twenty (20) days of receipt of the written application.

~~D.~~ E. Municipalities and counties may grant conditional certificates for premises proposed for licensed operations for which construction, modification, or alteration is not completed. Conditional certificates shall indicate that the proposed premises will comply with the municipal or county zoning, fire, safety, and health codes. The granting of conditional certificates shall not relieve the applicant of the duty of obtaining the certificates required by paragraphs 2 and 3 of subsection B of this section after completion of the construction, modification, or alteration.

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

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

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

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

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

SECTION 2. AMENDATORY 37 O.S. 1991, Section 573, is amended to read as follows:

Section 573. A. No liquor, wine, or beer shall be labeled, offered or advertised for sale unless in accordance with such regulations and unless the brand label shall have been registered with and approved by the Alcoholic Beverage Laws Enforcement Commission and the appropriate fee paid as provided for in this section.

B. An application for registration of a brand label shall be filed by the owner of the brand if such owner is licensed by the ABLE Commission, however, if the owner is not licensed but is represented by a licensed nonresident seller, the nonresident seller licensee shall submit each label for each product he offers for sale in this state. Cordials and wines which differ only as to age or vintage year, as defined by such regulations, shall be considered the same brand; and those that differ as to type or class may be considered the same brand by the ABLE Commission where consistent with the purposes of this section.

C. The application for registration of a brand label shall be filed on a form prescribed by the ABLE Commission, and shall contain

such information as the ABLE Commission shall require. Such application, except for an application by an Oklahoma winemaker licensee, shall be accompanied by a certified check, bank officers' check or draft, or money order in the amount of the annual registration fee prescribed by this section.

D. The annual fee for registration of any brand label for liquor shall be Three Hundred Seventy-five Dollars (\$375.00); the annual fee for registration of any brand label for beer shall be Two Hundred Dollars (\$200.00); the annual fee for registration of any brand label for wine shall be Two Hundred Dollars (\$200.00).

Each brand label registered and approved pursuant to this section shall be valid for a term which shall run concurrently with the term of the license of the brand owner, or nonresident seller representing the brand owner, registering such label and shall be valid for such licensee and shall not be transferable.

The annual registration fee provided for in this subsection shall not be required of an Oklahoma winemaker licensee.

E. If the ABLE Commission shall deny the application for registration of a brand label it shall return the registration fee to the applicant, less twenty-five percent (25%) of such fee.

F. The ABLE Commission may at any time exempt any discontinued brand from fee provisions of this section where a manufacturer or wholesaler has an inventory of one hundred cases or less of liquor or wine and five hundred cases or less of beer, and certifies to the ABLE Commission in writing that such brand is being discontinued.

SECTION 3. This act shall become effective September 1, 1994.

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