

SHORT TITLE: Intoxicating liquors; Nonintoxicating Beverage
Distribution Act; providing for agreements between manufacturers and
wholesalers; codification, effective date.

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

SENATE BILL NO. 337

By: Williams (Don)

AS INTRODUCED

An Act relating to intoxicating liquors; creating the Nonintoxicating Beverage Distribution Act; providing short title; defining terms; providing for certain agreements between manufacturers and wholesalers and specifying contents thereof; specifying certain duties of manufacturers and wholesalers; providing procedures for transportation and distribution of nonintoxicating beverages; prohibiting certain acts; authorizing certain exception to agreement; providing for termination or cancellation of agreement; providing penalties; requiring Oklahoma Tax Commission to promulgate certain rules; providing for codification; and providing an effective date.

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

This act shall be known and may be cited as the "Nonintoxicating Beverage Distribution Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 163.27 of Title 37, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Manufacturer" means a manufacturer of nonintoxicating beverages who has obtained a permit from the Oklahoma Tax Commission pursuant to the provisions of subsection (a) of Section 163.7 of Title 37 of the Oklahoma Statutes;

2. "Wholesaler" means a wholesaler of nonintoxicating beverages who has obtained a permit from the Oklahoma Tax Commission pursuant to the provisions of subsection (b) of Section 163.7 of Title 37 of the Oklahoma Statutes; and

3. "Retailer" means a retailer of nonintoxicating beverages who has obtained a permit from the Oklahoma Tax Commission pursuant to the provisions of subsection (c) of Section 163.7 of Title 37 of the Oklahoma Statutes and who has obtained a county permit pursuant to the provisions of Section 163.11 of Title 37 of the Oklahoma Statutes.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 163.28 of Title 37, unless there is created a duplication in numbering, reads as follows:

Every manufacturer shall:

1. Enter into an agreement with a wholesaler to sell registered and approved designated brands of the manufacturer within a particular sales territory. All such agreements shall specifically authorize the sale of such designated brands by the wholesaler named in the agreement within that particular sales territory;

2. Sell its designated brands only to a wholesaler with whom the manufacturer has entered into an agreement pursuant to the provisions of this section;

3. Authorize only one wholesaler to sell the designated brands in a particular sales territory; and

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

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 163.29 of Title 37, unless there is created a duplication in numbering, reads as follows:

In order to regulate the distribution of nonintoxicating beverages in this state and assure the collection of all taxes and fees required by law, all nonintoxicating beverages sold in this state by a wholesaler shall be transported to an authorized place of business of a retailer, or between authorized places of business of a retailer, by a marked conveyance owned or leased by the wholesaler. Such conveyance shall be operated by the wholesaler or by an employee of the wholesaler. The wholesaler shall only be authorized to transport the designated brands of the manufacturer with whom he has entered into an agreement pursuant to the provisions of Section 3 of this act and shall only be permitted to deliver to the place of business of a retailer located in the particular sales territory specified in the agreement.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 163.30 of Title 37, unless there is created a duplication in numbering, reads as follows:

A. A wholesaler who has entered into an agreement pursuant to the provisions of Section 3 of this act shall present the designated brand of the manufacturer to all retailers within the particular sales territory specified in the agreement without discrimination. Such a wholesaler shall not sell, supply or deliver, either directly or indirectly through a third party, a nonintoxicating beverage to:

1. A retailer whose place of business is outside the particular sales territory; or

2. A person the wholesaler has reason to believe will sell or supply any quantity of the nonintoxicating beverage to any retailer whose place of business is outside the particular sales territory.

B. No nonintoxicating beverages sold by a wholesaler shall be delivered to, received by or stored at any location other than an authorized place of business of a retailer.

C. With the approval of the manufacturer, a wholesaler who has entered into an agreement pursuant to the provisions of Section 3 of this act may sell the brands designated in the agreement to a retailer located in the particular sales territory of another wholesaler if that wholesaler is temporarily unable for any reason to provide such brands within his particular sales territory.

D. All nonintoxicating beverages purchased by a wholesaler for resale in this state shall physically come into the possession of the wholesaler and be unloaded in and distributed from an authorized place of business of the wholesaler prior to being resold in this state.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 163.31 of Title 37, unless there is created a duplication in numbering, reads as follows:

A manufacturer may terminate or cancel an agreement entered into pursuant to the provisions of Section 3 of this act or refuse to provide designated brands pursuant to such an agreement if the wholesaler named in the agreement has sold nonintoxicating beverages supplied by the manufacturer in violation of this act. Such termination or cancellation shall be effective immediately upon receipt of notification thereof by the wholesaler.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 163.32 of Title 37, unless there is created a duplication in numbering, reads as follows:

Any person violating the provisions of this act shall be punishable as provided by Section 163.20 of Title 37 of the Oklahoma Statutes and shall be subject to revocation of license pursuant to the provisions of Section 163.16 of Title 37 of the Oklahoma Statutes.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 163.33 of Title 37, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Tax Commission shall promulgate rules for implementing the provisions of this act and Sections 163.1 through 163.25 and Section 231 of Title 37 of the Oklahoma Statutes.

SECTION 9. This act shall become effective September 1, 1993.

44-1-0539 CD