ENROLLED SENATE
BILL NO. 123

By: Smith of the Senate

and

Steidley of the House

An Act relating to nonintoxicating liquors; amending 37 O.S. 1991, Section 163.11, as last amended by Section 3, Chapter 258, O.S.L. 1994 (37 O.S. Supp. 1994, Section 163.11), which relates to permits for sale of nonintoxicating beverages; eliminating certain requirement for issuance of certain retail permit; raising fee for issuance and renewal of certain retail permit; providing for requirements for renewal of such permit; eliminating certain basis for revoking such permit; clarifying language; and providing an effective date.

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

SECTION 1. AMENDATORY 37 O.S. 1991, Section 163.11, as last amended by Section 3, Chapter 258, O.S.L. 1994 (37 O.S. Supp. 1994, Section 163.11), is amended to read as follows:

Section 163.11 A. It shall be unlawful for any person to maintain or operate any place where nonintoxicating beverages, as herein defined, are sold for consumption on or off the premises without first securing a permit issued by the district court clerk of the county in which the premises are located.

B. The person applying for a permit must make a showing every three (3) years, and must satisfy the district court clerk that he or she is a person of good moral character and that he or she has never been convicted of violating any of the laws prohibiting the traffic in any spirituous, vinous, fermented or malt liquors, or of any of the gambling laws of this state, or of any other state of the United States, within three (3) years immediately preceding the date of his or her petition, or any of the laws commonly called "Prohibition Laws", or had any permit or license to sell nonintoxicating liquors revoked in any county of this state within twelve (12) months.

C. No permit shall be issued to sell nonintoxicating beverages for on-premises consumption unless the person applying for such permit shall have signed an affidavit stating that the location of

the building in which nonintoxicating beverages are to be sold is not prohibited by the provisions of Section 163.24 of this title.

D. A fee of One Hundred Fifty Dollars ($150.00) shall be charged for the issuance or renewal of such three-year permit, which fee shall be deposited in the county court fund, in addition to other fees required by law.

E. Upon petition being filed, the district court clerk shall give fifteen (15) days' notice for an initial application, and it is the applicant's responsibility to cause the same to be posted by the entrance on the front of the building in which said nonintoxicating beverages are to be sold and to file proof of posting in such case; and a copy of said notice shall also be mailed to the district attorney, the sheriff and the chief of police or marshal of any city or town in which said business is to be operated. Said notice shall contain the name of the applicant and the location of said place of business. The initial permit shall be valid for a period of three (3) years and shall expire if not renewed with proper showing required by subsection B of this section, and upon payment of proper fees. A permit may be renewed within ten (10) days of expiration, upon proper application pursuant to subsection B of this section and payment of the proper fees, but without the payment of any late fees. Provided, however, that if a proper application under subsection B of this section is filed within eleven (11) days but not more than thirty (30) days after the expiration date of the permit, upon payment of a fee of One Hundred Dollars ($100.00) in addition to the initial permit fee, the court clerk is authorized to treat said application as one for renewal and to issue a renewal permit to the applicant, if all requirements have otherwise been met by the applicant. A renewal permit granted during the thirty-day grace period shall become effective upon the date of its issuance by the court clerk.

F. A permit issued prior to the effective date of this act shall be valid until it expires and shall be renewed for a period of three (3) years or until expiration of the sales tax permit issued by the Oklahoma Tax Commission, if any, held by the person at the time of such renewal, whichever is earlier. The manner and prorated fee for renewals of less than three (3) years shall be prescribed by the court clerk.

G. A person who has obtained a permit pursuant to this section and who ceases to maintain or operate any place where nonintoxicating beverages are sold for consumption on or off the premises shall be entitled to receive a refund of the permit fee from the district court clerk prorated with respect to the amount of time remaining until expiration of the permit. The manner and prorated refund shall be prescribed by the Administrative Director of the Courts.

H. If there are no protests and the petition is sufficient on its face, then said permit shall be granted by the district court clerk. Provided, that if any citizen of the county files a written protest setting forth objections, then the district court clerk shall advise the chief judge who shall assign such petition to a district judge or associate district judge for hearing.

I. The application for such permit must be verified and in writing, contain the information above required, and must be set for hearing on a date named in the notice required to be posted.

J. All testimony before the district court shall be under oath.

K. A judge of the district court, upon five (5) days' notice to the person holding such permit, shall revoke such permit for any one of the following reasons:

1. Drunkenness of the person holding such permit or permitting any intoxicated person to loiter in or around his or her place of business;

2. Person under the influence of drugs holding such permit or permitting any drugged person to loiter in or around his or her place of business;

3. The sale to any person under twenty-one (21) years of age of nonintoxicating beverages for consumption on the premises;

4. Permitting persons under the age of twenty-one (21) in a separate or enclosed bar area which has as its main purpose the selling or serving of nonintoxicating beverages for consumption on the premises unless said person's parent or legal guardian is present, in violation of the provisions of Sections 241 through 246 of this title;

5. Nonpayment of any of the taxes or license fees imposed by the provisions of this act on complaint of the Oklahoma Tax Commission;

6. Violating any of the laws of the state commonly called "Prohibition Laws" or violating any of the gambling laws of the state or permitting anyone to violate any of said laws in such places or violating any of the provisions of this act;

7. Conviction for the violation of any of the laws of this state or the United States for the sale or possession of intoxicating liquors within three (3) years immediately preceding the issuance of such dealer's license; or

8. Violating any law pertaining to the use, possession, or sale of drugs or narcotics or the violation of the narcotics laws of the State of Oklahoma or the United States.

L. After the revocation of any such permit, for any of the above reasons, except paragraph 5 of subsection K of this section for nonpayment of taxes, or license fees, no new permit shall be issued to the same person for the same location or premises prior to the expiration of a period of one (1) year from the date of such revocation.

M. On or before the tenth day of each month each district court clerk shall file with the Oklahoma Tax Commission, on forms prescribed and furnished by the Commission, a report showing the name, address, and county permit number of each such person to whom a county permit has been issued or whose permit has been revoked, or who shall have been refused a county permit, during the previous calendar month. In case of the revocation of a permit by a judge of the district court, the district court clerk shall within five (5) days report such action to the Oklahoma Tax Commission. If county permits shall have been issued, revoked or refused during the month, the district court clerk shall make a report accordingly to the Commission.

SECTION 2. This act shall become effective September 1, 1995.