

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)
CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 2807

By: Davis of the House

and

Smith of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to intoxicating liquors; prohibiting retail sales or retail shipments of low-point beer from out-of-state seller; amending 37 O.S. 1991, Section 163.20, as amended by Section 32, Chapter 274, O.S.L. 1995 (37 O.S. Supp. 1997, Section 163.20), which relates to low-point beer; providing penalties; amending 37 O.S. 1991, Section 505, which relates to the Oklahoma Alcoholic Beverage Control Act; prohibiting retail sales or retail shipment of alcoholic beverages from out-of-state seller and providing penalties therefor; 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:

It is unlawful for any manufacturer, wholesaler or retailer of low-point beer, located and doing business from outside this state, to make retail sales of low-point beer to purchasers located in this state or to ship low-point beer sold at retail to persons located in this state.

SECTION 2. AMENDATORY 37 O.S. 1991, Section 163.20, as amended by Section 32, Chapter 274, O.S.L. 1995 (37 O.S. Supp. 1997, Section 163.20), is amended to read as follows:

Section 163.20 A. Any person who shall engage in the sale of low-point beer in violation of the provisions of ~~Section~~ Sections 163.1 ~~et seq.~~ through 163.25 of this title shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished

for such misdemeanor as provided for by the general statutes of this state.

B. Any person who engages in the sale or shipping of low-point beer in violation of the provisions of Section 1 of this act on or after the effective date of Section 20.1 of Title 21 of the Oklahoma Statutes, upon conviction, shall be guilty of a Schedule D-1 felony if the sale or delivery is made to a person under twenty-one (21) years of age, or a Schedule G felony if the sale or delivery is made to a person twenty-one (21) years of age or older. Any person who engages in the sale or shipping of low-point beer in violation of the provisions of Section 1 of this act before the effective date of Section 20.1 of Title 21 of the Oklahoma Statutes shall be guilty of a felony punishable by imprisonment for not more than two (2) years, if the sale or delivery is made to a person under twenty-one (21) years of age, or imprisonment for not more than one (1) year, if the sale or delivery is made to a person twenty-one (21) years of age or older. The fine for a violation of Section 1 of this act shall be not more than Ten Thousand Dollars (\$10,000.00). In addition, if such person holds a permit issued by the Oklahoma Tax Commission pursuant to Section 163.7 of this title, the permit shall be revoked and shall not be subject to renewal.

SECTION 3. AMENDATORY 37 O.S. 1991, Section 505, is amended to read as follows:

Section 505. A. No person shall manufacture, rectify, sell, possess, store, import into or export from this state, transport, or deliver any alcoholic beverage except as specifically provided in the Oklahoma Alcoholic Beverage Control Act. Provided, that nothing herein shall prevent the possession and transportation of alcoholic beverages for the personal use of the possessor, his family and guests, so long as the Oklahoma excise tax has been paid thereon, except for beer. Provided, that nothing herein shall prevent the making of cider or of wine, not to exceed two hundred (200) gallons in any one (1) year pursuant to a license first obtained from the Alcoholic Beverage Laws Enforcement Commission,

by simple fermentation and without distillation, if made solely for the use of the maker, his family and guests.

B. 1. Any duly licensed physician or dentist may possess and use alcoholic beverages in the strict practice of his profession and any hospital or other institution caring for sick and diseased persons may possess and use alcoholic beverages for the treatment of bona fide patients of such hospital or institution. Any drugstore employing a licensed pharmacist may possess and use alcoholic beverages in the preparation of prescriptions of duly licensed physicians.

2. The possession, transportation and dispensation of wine by any authorized representative of any church for the conducting of a bona fide rite or religious ceremony conducted by such church shall not be prohibited by the Oklahoma Alcoholic Beverage Control Act; nor shall said act prevent the sale, shipping or delivery of sacramental wine by any person holding a sacramental wine supplier license issued pursuant to the Oklahoma Alcoholic Beverage Control Act 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, 1954, and listed as an exempt organization in Section 501(c)(3) of the Internal Revenue Code, 1954, of the United States, as amended.

3. Provided further, that nothing in the Oklahoma Alcoholic Beverage Control Act shall prevent the possession, transportation and sale of alcoholic beverages, including beer as defined by Section 506 of this title and beer containing not more than three and two-tenths percent (3.2%) of alcohol by weight, within military reservations and in accordance with the laws, rules and regulations governing such military reservations, provided that the Oklahoma excise tax has been paid on spirits and wines.

C. 1. It is unlawful for any manufacturer, wholesaler or retailer of alcoholic beverages, located and doing business from outside this state, to make retail sales of alcoholic beverages to purchasers located in this state or to ship alcoholic beverages sold at retail to persons located in this state. Any person who engages in the sale or shipping of alcoholic beverages in

violation of the provisions of this subsection on or after the effective date of Section 20.1 of Title 21 of the Oklahoma Statutes, upon conviction, shall be guilty of a Schedule D-1 felony if the sale or delivery is made to a person under twenty-one (21) years of age or a schedule G felony if the sale or delivery is made to a person twenty-one (21) years of age or older. Any person who engages in the sale or shipping of alcoholic beverages in violation of the provisions of this subsection before the effective date of Section 20.1 of Title 21 of the Oklahoma Statutes shall be guilty of a felony punishable by imprisonment for not more than five (5) years, if the sale or delivery is made to a person under twenty-one (21) years of age, or imprisonment for not more than one (1) year, if the sale or delivery is made to a person twenty-one (21) years of age or older.

2. The fine for a violation of this subsection shall be not more than Ten Thousand Dollars (\$10,000.00).

3. In addition, if such person holds a license issued by the Oklahoma Alcoholic Beverage Laws Enforcement Commission, the license shall be revoked and shall not be subject to renewal.

SECTION 4. This act shall become effective November 1, 1998.

46-2-11405 SD