ENROLLED HOUSE
BILL NO. 1597

By: Fields of the House

and

Littlefield of the Senate

An Act relating to intoxicating liquors; amending 37 O.S. 1991, Sections 523, as amended by Section 5, Chapter 192, O.S.L. 1995, 527, as last amended by Section 9, Chapter 3, O.S.L. 1996, 527.1, as last amended by Section 9, Chapter 192, O.S.L. 1995 (37 O.S. Supp. 1996, Sections 523, 527 and 527.1), which relate to the Oklahoma Alcoholic Beverage Control Act; modifying leasing requirements; 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, as amended by Section 5, Chapter 192, O.S.L. 1995 (37 O.S. Supp. 1996, 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 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;

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; and

5. A deed, management agreement, purchasing agreement, or lease ~~for a period of at least one (1) year to run concurrent with the license issuance~~.

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

G. 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. 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 527, as last amended by Section 9, Chapter 3, O.S.L. 1996 (37 O.S. Supp. 1996, Section 527), is amended to read as follows:

Section 527. The Alcoholic Beverage Laws Enforcement Commission shall refuse to issue a wholesaler, Class B wholesaler or package store 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 not a citizen of the United States or is not a qualified elector in this state, or has not been a continuous resident of this state for the ten (10) years next preceding the application for the license;

2. That the applicant is under twenty-one (21) years of age;

3. That the applicant or any partner, or spouse of the applicant or any partner, has been convicted of a felony;

4. That the applicant or any partner, or spouse of the applicant or any partner, has been convicted of a violation of any state or federal law relating to alcoholic beverages, has forfeited a bond while any charge of such violation was pending, nor may any license be granted for any purpose under the Oklahoma Alcoholic Beverage Control Act, Section 501 et seq. of this title, to an Oklahoma resident, who has held or whose spouse has held a Federal Liquor Stamp in Oklahoma before the adoption of Article XXVII of the Oklahoma Constitution unless said Liquor Stamp was granted for supplying alcoholic beverages to a federal military installation, or was granted under this title;

5. That the applicant or any partner has, within twelve (12) months next preceding the date of the application, 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 has, during said twelve-month period, 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;

6. That the applicant is not of good moral character, or that the applicant is in the habit of using alcoholic beverages to excess, or is mentally incapacitated. Provided, that the record in any municipal court showing a conviction of violation of any municipal ordinances or state statutes involving moral character or public nuisance obtained after passage and approval of the Oklahoma Alcoholic Beverage Control Act shall be received in evidence by the ABLE Commission;

7. That the applicant does not own or have a written lease ~~for at least a period of one (1) year to run concurrent with the license term~~ for the premises for which a license is sought;

8. That the applicant has, within twelve (12) months next preceding the date of application, been the holder of a license revoked for cause;

9. 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;

10. That the applicant, in the case of an application for renewal of any license, would not be eligible for such license on a first application;

11. 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;

12. That the proposed location of the licensed premises would violate a valid municipal nondiscriminatory zoning ordinance;

13. That, in the case of an application for a wholesaler license, or Class B wholesaler license, any manufacturer, including an officer, director or principal stockholder thereof, or any partner, has any financial interest in the business to be conducted under the license;

14. That the issuance of the license applied for would result in a violation of any provision of the Oklahoma Alcoholic Beverage Control Act;

15. That, in the case of an application for a wholesaler or Class B wholesaler license, the applicant or any partner, or spouse of the applicant or any partner, is the holder or partner of the holder of any other class of license issued under the provisions of the Oklahoma Alcoholic Beverage Control Act, other than an agent or employee license for employment by the applicant, or a storage license, bonded warehouse license, carrier license or private carrier license; or

16. That, in the case of an application for a package store license the applicant or any partner, or the spouse of the applicant or any partner, is the holder or partner of the holder, or employee of such holder of any other class of license issued under the provisions of the Oklahoma Alcoholic Beverage Control Act, other than a storage license or an employee license for the proposed licensed premises of the applicant or of a retail dealer's permit for the same location issued by the Oklahoma Tax Commission for the sale of low-point beer for consumption on the premises as provided by Section 163.7 of this title.

SECTION 3. AMENDATORY 37 O.S. 1991, Section 527.1, as last amended by Section 9, Chapter 192, O.S.L. 1995 (37 O.S. Supp. 1996, 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, in the case of a natural person, is under twenty-one (21) years of age;

2. That the applicant, in the case of a corporation, has a stockholder who owns fifteen percent (15%) or more of the stock, officer, or director who is under twenty-one (21) years of age;

3. That the applicant, in the case of any type of partnership, has any partner who is under twenty-one (21) years of age;

4. That the applicant, in the case of a limited liability company, has a manager or member who is under twenty-one (21) years of age;

5. That the applicant or any type of partner has been convicted of a felony;

6. That the applicant, in the case of a corporation, has a stockholder owning fifteen percent (15%) of the stock, officer or director who has been convicted of a felony;

7. That the applicant, in the case of a limited liability company, has a manager or a member who has been convicted of a felony;

8. That the applicant has made false statements to the ABLE Commission;

9. 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;

10. 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;

11. 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;

12. 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; or

13. That the applicant does not own or have a written lease ~~for at least a period of one (1) year, to run concurrent with the license term~~ for the premises for which a license is sought.

SECTION 4. This act shall become effective November 1, 1997.

Passed the House of Representatives the 4th day of March, 1997.

Speaker of the House of Representatives

Passed the Senate the 7th day of April, 1997.

President of the Senate