

By: Stipe of the Senate  
and  
Fields of the House

An Act relating to low-point beer; amending 37 O.S. 1991, Sections 163.7 and 231, as last amended by Sections 6 and 7, Chapter 3, O.S.L. 1996 (37 O.S. Supp. 1999, Sections 163.7 and 231), which relate to permits and licenses and unlawful acts; modifying certain provision relating to permits obtained to retail dealer who manufactures low-point beer; deleting obsolete language; modifying circumstances not precluded by certain provisions; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 37 O.S. 1991, Section 163.7, as last amended by Section 6, Chapter 3, O.S.L. 1996 (37 O.S. Supp. 1999, Section 163.7), is amended to read as follows:

Section 163.7 In addition to the excise tax payable under Section 163.1 et seq. of this title, and in addition to the license required to be procured from the judge of the district court, the following permits shall be required and the following annual license taxes shall be payable to the Oklahoma Tax Commission with respect to low-point beer; provided, any such permit issued prior to ~~the effective date of this act~~ November 1, 1995, with respect to nonintoxicating beverages shall be valid until it expires:

1. Manufacturers: Every manufacturer, located and doing business in this state, shall, before commencing the manufacture of low-point beer, obtain from the ~~Oklahoma~~ Tax Commission a permit to engage in such manufacture. As a condition of the issuance of this permit such manufacturer shall pay to the Tax Commission a license tax of Five Hundred Dollars (\$500.00), which shall cover a one-year period commencing with the effective date of such permit. This

permit must be renewed and the license tax paid annually thereafter at the expiration of the preceding permit and license tax period. Each and every other manufacturer of such beverages, coming within the provisions of Section 163.1 et seq. of this title, shall before selling or offering for sale such beverages within the State of Oklahoma, qualify with the Secretary of State of the State of Oklahoma for a permit to do business within the State of Oklahoma and, after so qualifying, shall obtain a permit or license from the ~~Oklahoma~~ Tax Commission and, in addition to any other license, taxes or fees, pay therefor a license tax of Five Hundred Dollars (\$500.00), which shall cover a one-year period commencing with the effective date of such permit. The ~~said~~ permit or license shall be for the privilege of doing business in Oklahoma as a manufacturer of low-point beer. The permit must be renewed and the license tax paid annually thereafter at the expiration of the preceding permit and license tax period. The receipt of payment of such permit or license shall be on file with the ~~Oklahoma~~ Tax Commission before such manufacturer shall sell, or offer for sale, such beverages to any person within the State of Oklahoma.

Every manufacturer, located and doing business outside the State of Oklahoma, desiring to pay the excise tax on sales to retail dealers, as provided for in Section 163.1 et seq. of this title, shall procure annually a permit and pay annually the license tax required of wholesalers, as provided for under this section. The payment of such fee shall be in addition to the payment of the license fee or tax in the sum of Five Hundred Dollars (\$500.00) as provided herein;

2. Wholesalers: Every wholesaler, located and doing business in this state, must annually obtain from the ~~Oklahoma~~ Tax Commission a permit to sell low-point beer. As a condition of the issuance of this permit such wholesaler shall pay to the Tax Commission a license fee of Two Hundred Fifty Dollars (\$250.00) which shall cover

a one-year period commencing with the effective date of such permit. The permit must be renewed and the license tax paid annually thereafter at the expiration of the preceding permit and license tax period.

Every wholesaler, located and doing business outside the state desiring to pay the excise tax on sales to retail dealers, as provided for in Section 163.1 et seq. of this title, shall procure annually a permit and pay annually the license tax required of wholesalers located and doing business in this state.

Wholesalers within this state shall be required to secure an annual permit and must pay an annual license tax for each city or incorporated town from which deliveries of low-point beer are made to retail dealers.

Permits issued to wholesalers shall not be transferable from one person to another person but shall be transferable from one location to another location; and

3. Retail Dealers: Every retail dealer shall, before offering low-point beer for sale to the public, obtain from the ~~Oklahoma~~ Tax Commission a permit to engage in such sales, and shall pay to the ~~Oklahoma~~ Tax Commission, in advance of the issuance of ~~said~~ the permit, the license tax, as follows:

- a. each retail dealer who sells low-point beer, on draught and in original packages, for consumption on or off the premises, shall obtain a permit which shall be valid for a period of three (3) years and shall pay a license tax of Three Hundred Dollars (\$300.00),
- b. each retail dealer who sells such beverages in original packages only for consumption on or off the premises shall obtain a permit which shall be valid for a period of three (3) years and shall pay a license tax of One Hundred Fifty Dollars (\$150.00),

- c. each retail dealer who sells low-point beer purchased from a licensed manufacturer or licensed wholesaler for consumption on or off the premises and who sells low-point beer manufactured by ~~said~~ the retail dealer for consumption on or off the premises shall obtain a permit which shall be valid for a period of three (3) years and shall pay a license fee of Four Hundred Fifty Dollars (\$450.00). Provided, a retail dealer licensed pursuant to this subparagraph shall not manufacture more than five thousand (5,000) barrels of low-point beer per year. A retail dealer, that has obtained a permit pursuant to this subparagraph, may sell low-point beer manufactured by the retail dealer, at any of the retail dealer's places of business, as defined in Section 163.8 of this title, or any other place owned and operated by an entity which has common owners with the licensed dealer, regardless of which place of business brews the beverage. "Common owners" means that the owners at each place or entity together own more than fifty percent (50%) of the interest in each place or entity that has a permit issued pursuant to this subparagraph. A retail dealer, that has obtained a permit pursuant to this subparagraph, may sell low-point beer manufactured by the same retailer pursuant to special licenses issued pursuant to subparagraph d of this paragraph,
- d. special licenses, as provided, may be issued for the sum of Five Dollars (\$5.00) per day for each license; provided, that in the event any state or county fair association shall meet for more than five (5) days in any year, a special license for the sale of such

beverages shall be issued for the sum of Twenty-five Dollars (\$25.00),

- e. each retail dealer who sells such beverages in original packages and not for consumption on the premises, shall obtain a permit which shall be valid for a period of three (3) years and shall pay a license tax of Thirty Dollars (\$30.00). It shall be unlawful for such off-premise dealer to allow any bottle, can, or original package to be broken or opened, or to allow any of such low-point beer to be consumed, in or upon the premises described in such permit, and
- f. ~~a permit issued prior to September 1, 1994, shall be valid until it expires. Upon expiration of such permit, the retail dealer to whom such permit was issued may obtain a renewal permit which shall be valid for three (3) years or until expiration of the dealer's sales tax permit, whichever is earlier, after which a renewal permit shall be valid for three (3) years. The manner and prorated fee for renewals of less than three (3) years shall be prescribed by the Oklahoma Tax Commission, and~~
- ~~g.~~ a retail dealer who has obtained a permit pursuant to this paragraph and who ceases to offer low-point beer for sale to the public shall be entitled to receive a refund of the permit fee from the ~~Oklahoma~~ Tax Commission prorated with respect to the amount of time remaining until expiration of the permit. The manner and prorated refund shall be prescribed by the ~~Oklahoma~~ Tax Commission.

SECTION 2. AMENDATORY 37 O.S. 1991, Section 231, as last amended by Section 7, Chapter 3, O.S.L. 1996 (37 O.S. Supp. 1999, Section 231), is amended to read as follows:

Section 231. A. It shall be unlawful for any person, firm, corporation, or others associated therein or employed thereby, engaged in business as a brewer, importer, or wholesaler, or other holder of a basic permit from the United States Secretary of the Treasury, of low-point beer, individually or through or by affiliates, subsidiaries, associates, agents, or stockholders, directly or indirectly, to do or cause to be done any of the following acts:

1. Acquire, hold, or own any interest in the permit, license, premises, or business of a retail dealer in low-point beer;

2. Acquire, hold, or own any interest in the real or personal property owned, occupied, or used by a retail dealer in low-point beer in the conduct of his or her business;

3. Furnish, give, rent, lend, or sell to a retail dealer in low-point beer any equipment, fixture, outside signs, supplies, or other things having a real or substantial value. Provided that this paragraph shall not be construed to prohibit the furnishing of normal point of purchase advertising matter to such retail dealer in low-point beer;

4. Pay or credit a retail dealer in low-point beer for any advertising display or distribution service;

5. Guarantee or procure another to guarantee any loan or the payment of any financial obligation of a retail dealer in low-point beer;

6. Extend credit to a retail dealer in low-point beer;

7. Offer or give any bonus, premium, or compensation to an officer, employee, associate, relative, or representative of a retail dealer in low-point beer;

8. Sell, offer for sale, or contract to sell to any retail dealer in low-point beer any low-point beer on consignment, or with the privilege of return, or on any basis other than a bona fide cash sale;

9. Use or employ any device or scheme to subsidize in any manner any retail dealer in low-point beer; or

10. Permit any retail dealer in low-point beer to do for such brewer, importer, wholesaler, or other holder of a basic permit from the United States Secretary of the Treasury, of low-point beer any of the above acts hereby made unlawful to be done on behalf of such retail dealer in low-point beer.

B. The provisions of this section shall not preclude a retail dealer from manufacturing low-point beer for consumption on or off the licensed premises of the retail dealer. As used in this subsection, "licensed premises" means any place of business, as defined by Section 163.8 of this title, for which a retail dealer has obtained a permit pursuant to subparagraph c of paragraph 3 of Section 163.7 of this title or any location for which a retail dealer has obtained a special license pursuant to subparagraph d of paragraph 3 of Section 163.7 of this title.

SECTION 3. This act shall become effective July 1, 2000.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 6th day of March, 2000.

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President of the Senate

Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
2000.

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Speaker of the House of  
Representatives