

2ND ENROLLED SENATE
BILL NO. 1037

By: Littlefield of the Senate

and

Fields of the House

An Act relating to intoxicating liquors; amending 37 O.S. 1991, Sections 518 and 521, as last amended by Sections 1 and 2 of Enrolled House Bill No. 1970 of the 2nd Session of the 47th Oklahoma Legislature, 535, as last amended by Section 10, Chapter 192, O.S.L. 1995, and 577, as last amended by Section 12, Chapter 1, O.S.L. 1995 (37 O.S. Supp. 1999, Sections 535 and 577), which relate to the Oklahoma Alcoholic Beverage Control Act; modifying certain license fees; imposing fee for certain additional licenses; creating annual and quarterly special event licenses; specifying period of validity for certain licenses; specifying authority of holder of certain licenses; modifying authority of holder of storage license; providing for transfer of certain alcoholic beverages; requiring certain notice; providing that certain delivery of alcoholic beverages in error not be considered violation of certain provisions; deleting obsolete language; prohibiting denial of mixed beverage or sales tax permit due to certain circumstances providing certain actions are taken; repealing 37 O.S. 1991, Sections 518 and 521, as last amended by Sections 1 and 2 of Enrolled Senate Bill No. 808 of the 2nd Session of the 47th Oklahoma Legislature, which are duplicate sections and which relate to the Oklahoma Alcoholic Beverage Control Act; 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 518, as last amended by Section 1 of Enrolled House Bill No. 1970 of the 2nd Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 518. The licenses issued by the Alcoholic Beverage Laws Enforcement Commission, and the annual fees therefor, shall be as follows:

1. Brewer License.....\$1,250.00

- 2. Distiller License.....\$3,125.00
- 3. Winemaker License.....\$625.00
- 4. Oklahoma Winemaker License.....\$75.00
- 5. Rectifier License.....\$3,125.00
- 6. Wholesaler License.....\$3,500.00
- 7. Class B Wholesaler License.....\$625.00
- 8. The following package store license fees shall be determined by the latest Federal Decennial Census:
 - a. Package Store License for cities and towns from 200 to 2,500 population.....\$305.00
 - b. Package Store License for cities and towns from 2,501 to 5,000 population.....\$605.00
 - c. Package Store License for cities and towns over 5,000 population.....\$905.00
- 9. Mixed Beverage License..... \$1,005.00
 (initial license)
 \$905.00
 (renewal)
- 10. Mixed Beverage/Caterer Combination License.....\$1,250.00
- 11. Beer and Wine License.....\$500.00
 (initial license)
 \$450.00
 (renewal)
- ~~11.~~ 12. Bottle Club License.....\$1,000.00
 (initial license)
 \$900.00
 (renewal)
- ~~12.~~ 13. Caterer License..... \$1,005.00
 (initial license)
 \$905.00
 (renewal)

13. <u>14.</u>	<u>Annual Special Event License</u> fee per day	\$55.00
14. <u>15.</u>	<u>Quarterly Special Event License</u>	\$55.00
<u>16.</u>	<u>Hotel Beverage License</u>	\$1,005.00 (initial license)
		\$905.00 (renewal)
15. <u>17.</u>	<u>Airline/Railroad Beverage License</u>	\$1,005.00 (initial license)
		\$905.00 (renewal)
16. <u>18.</u>	<u>Agent License</u>	\$55.00
17. <u>19.</u>	<u>Employee License</u>	\$30.00
18. <u>20.</u>	<u>Industrial License</u>	\$23.00
19. <u>21.</u>	<u>Carrier License</u>	\$23.00
20. <u>22.</u>	<u>Private Carrier License</u>	\$23.00
21. <u>23.</u>	<u>Bonded Warehouse License</u>	\$190.00
22. <u>24.</u>	<u>Storage License</u>	\$23.00
23. <u>25.</u>	<u>Nonresident Seller License</u>	\$750.00
24. <u>26.</u>	<u>Manufacturers Agent License</u>	\$55.00
25. <u>27.</u>	<u>Sacramental Wine Supplier License</u>	\$100.00
26. <u>28.</u>	<u>Charitable Auction License</u>	\$1.00

The license fee for a mixed beverage or bottle club license for those service organizations or fraternal beneficiary societies which are exempt under Section 501(c)(19), (8) and (10) of the Internal Revenue Code shall be Five Hundred Dollars (\$500.00) per year.

The fees provided for in this subsection for a brewer license and for a Class B wholesaler license shall be reduced by seventy-five percent (75%) if the applicant therefor is also the holder of a license to manufacture or wholesale any low-point beer as provided for in this title.

~~An applicant may apply for and receive both a mixed beverage license and a caterer license.~~ An applicant may apply for and receive both a beer and wine license and a caterer license.

All licenses, except as otherwise provided, shall be valid for one (1) year from date of issuance unless revoked or surrendered. ~~Provided, that a special event license shall be valid for a period~~

~~not to exceed ten (10) consecutive days from the first day the license is valid; said date to be specified on the license.~~
Provided ~~further~~, all employee licenses issued on or after September 1, 1993, shall be valid for two (2) years.

The holder of a license, issued by the ABLE Commission, for a bottle club located in a county of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized, may exchange the bottle club license for a mixed beverage license or a beer and wine license and operate the licensed premises as a mixed beverage establishment or a beer and wine establishment subject to the provisions of the Oklahoma Alcoholic Beverage Control Act, Section 501 et seq. of this title. There shall be no additional fee for such exchange and the mixed beverage license or beer and wine license issued shall expire one (1) year from the date of issuance of the original bottle club license.

SECTION 2. AMENDATORY 37 O.S. 1991, Section 521, as last amended by Section 2 of Enrolled House Bill No. 1970 of the 2nd Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 521. A. A brewer license shall authorize the holder thereof: To manufacture, bottle, package, and store beer on licensed premises; to sell beer in this state to holders of Class B wholesaler licenses and retail licenses and to sell beer out of this state to qualified persons.

B. A distiller license shall authorize the holder thereof: To manufacture, bottle, package, and store spirits on licensed premises; to sell spirits in this state to licensed wholesalers and manufacturers only; to sell spirits out of this state to qualified persons; to purchase from licensed distillers and rectifiers in this state, and import spirits from without this state for manufacturing purposes in accordance with federal laws and regulations.

C. A winemaker license shall authorize the holder thereof: To manufacture (including such mixing, blending and cellar treatment as authorized by federal law), bottle, package, and store on licensed premises wine containing not more than twenty-four percent (24%) alcohol by volume; to sell wine in this state to licensed wholesalers and manufacturers only; to sell bottles of wine produced at the winery from grapes and other fruits and berries grown in this state to consumers on the premises of the winery; to serve visitors on the licensed premises free samples of wine produced on the premises; to serve free samples of wine produced at the winery at festivals and trade shows; to sell wine out of this state to qualified persons; to purchase from licensed winemakers, distillers and rectifiers in this state, and to import into this state wine, brandy and fruit spirits for use in manufacturing in accordance with federal laws and regulations.

D. A rectifier license shall authorize the holder thereof: To rectify spirits and wines, bottle, package, and store same on the licensed premises; to sell spirits and wines in this state to licensed wholesalers and manufacturers only; to sell spirits and

wines out of this state to qualified persons; to purchase from licensed manufacturers in this state; and to import into this state for manufacturing purposes spirits and wines in accordance with federal laws and regulations.

E. A wholesaler license shall authorize the holder thereof: To purchase and import into this state spirits and wines from persons authorized to sell same who are the holders of a nonresident seller license, and their agents who are the holders of manufacturers agent licenses; to purchase spirits and wines from licensed distillers, rectifiers, winemakers and wholesalers in this state; to sell spirits and wines in retail containers in this state to retailers, mixed beverage, caterer, special event, hotel beverage or airline/railroad beverage licensees; to sell spirits and wines in containers with a capacity of less than one-twentieth (1/20) gallon in full case lots and in the original unbroken case to hotel beverage or airline/railroad beverage licensees only; to sell spirits and wines to wholesalers authorized to sell same; and to sell spirits and wines out of this state to qualified persons. Wholesalers shall be authorized to place such signs outside their place of business as are required by Acts of Congress and by such laws and regulations promulgated under such Acts.

A wholesaler license shall authorize the holder thereof to operate a single bonded warehouse with a single central office together with delivery facilities at a location in this state only at the principal place of business for which the wholesaler license was granted.

F. A Class B wholesaler license shall authorize the holder thereof: To purchase and import into this state beer from persons authorized to sell same who are the holders of nonresident seller licenses, and their agents who are the holders of manufacturers agent licenses to purchase beer from licensed brewers and Class B wholesalers in this state; to sell in retail containers to retailers, mixed beverage, caterer, special event, hotel beverage and airline/railroad beverage licensees in this state, beer which has been unloaded and stored at the holder's self-owned or leased and self-operated warehouse facilities for a period of at least twenty-four (24) hours before such sale; and to sell beer in this state to Class B wholesalers and out of this state to qualified persons, including federal instrumentalities and voluntary associations of military personnel on federal enclaves in this state over which this state has ceded jurisdiction.

G. A package store license shall authorize the holder thereof: To purchase alcoholic beverages in retail containers with a capacity of more than one-twentieth (1/20) gallon from the holder of a brewer, wholesaler or Class B wholesaler license and to sell same on the licensed premises in such containers to consumers for off-premises consumption only and not for resale; provided, wine may be sold to charitable organizations that are holders of charitable auction licenses. All alcoholic beverages that are sold by a package store are to be sold at ordinary room temperature. No package store licensee may purchase or sell alcoholic beverages in retail containers with a capacity of less than one-twentieth (1/20) gallon.

H. A mixed beverage license shall authorize the holder thereof: To purchase alcoholic beverages in retail containers with a capacity of more than one-twentieth (1/20) gallon from the holder of a wholesaler or Class B wholesaler license and to sell, offer for sale and possess mixed beverages for on-premises consumption only. Sales and service of mixed beverages by holders of mixed beverage licenses shall be limited to the licensed premises of said licensee unless the holder of the mixed beverage license also obtains a caterer license or a mixed beverage/caterer combination license. A mixed beverage license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. A separate license shall be required for each place of business. No mixed beverage license shall be issued for any place of business functioning as a motion picture theater, as defined by Section 506 of this title.

I. A bottle club license shall authorize the holder thereof: To store, possess and mix alcoholic beverages belonging to members of the club and to serve such alcoholic beverages for on-premises consumption to club members. A bottle club license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has not been authorized. A separate license shall be required for each place of business.

J. A caterer license shall authorize the holder thereof: To sell mixed beverages for on-premises consumption incidental to the sale or distribution of food at particular functions, occasions, or events which are temporary in nature. A caterer license shall not be issued in lieu of a mixed beverage license. A caterer license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. A separate license shall be required for each place of business.

K. A 1. An annual special event license shall authorize the holder thereof: To sell and distribute mixed beverages for consumption on the premises for which the license has been issued for up to four events to be held over a period not to exceed ~~ten~~ one (1) year, not to exceed two such events in any three-month period. A For purposes of this paragraph, an event shall not exceed a period of ten (10) consecutive days. An annual special event license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. The holder of an annual special event license shall provide written notice to the ABLE Commission of each special event not less than ten (10) days before the event is held.

2. A quarterly special event license shall authorize the holder thereof: To sell and distribute mixed beverages for consumption on the premises for which the license has been issued for up to three events to be held over a period not to exceed three (3) months. For purposes of this paragraph, an event shall not exceed a period of ten (10) consecutive days. A quarterly special event license shall only be issued in counties of this state where the sale of alcoholic

beverages by the individual drink for on-premises consumption has been authorized. The holder of a quarterly special event license shall provide written notice to the ABLE Commission of each special event not less than ten (10) days before the event is held.

L. A hotel beverage license shall authorize the holder thereof: To sell or serve alcoholic beverages in 50 milliliter spirits, 187 milliliter wine, and 12-ounce malt beverage containers which are distributed from a hotel room mini-bar. A hotel beverage license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. A hotel beverage license shall only be issued to a hotel or motel as defined by Section 506 of this title which is also the holder of a mixed beverage license. Provided, that application may be made simultaneously for both such licenses. A separate license shall be required for each place of business.

M. An airline/railroad beverage license shall authorize the holder thereof: To sell or serve alcoholic beverages in or from any size container on a commercial passenger airplane or railroad operated in compliance with a valid license, permit or certificate issued under the authority of the United States or this state, even though the airplane or train, in the course of its travel, may cross an area in which the sale of alcoholic beverages by the individual drink is not authorized and to store alcoholic beverages in sealed containers of any size at any airport or station regularly served by the licensee, in accordance with rules and regulations promulgated by the Alcoholic Beverage Laws Enforcement Commission. Alcoholic beverages purchased by the holder of an airline/railroad license from the holder of a wholesaler license shall be presumed to be purchased for consumption outside the State of Oklahoma or in interstate commerce, and shall be exempt from the excise tax provided for in Section 553 of this title.

N. An agent license shall authorize the holder thereof: To represent only the holders of licenses within this state, other than retailers, authorized to sell alcoholic beverages to retail dealers in Oklahoma, and to solicit and to take orders for the purchase of alcoholic beverages from retailers including licensees authorized to sell alcoholic beverages by the individual drink for on-premises consumption. Such license shall be issued only to agents and employees of the holder of a license under the Oklahoma Alcoholic Beverage Control Act, Section 501 et seq. of this title but no such license shall be required of an employee making sales of alcoholic beverages on licensed premises of his principal. No person holding an agent license shall be entitled to a manufacturers agent license.

O. An employee license shall authorize the holder thereof: To work in a brewery, distillery, winery, package store, mixed beverage establishment, bottle club, or any establishment where alcohol, alcoholic beverage, wine or beer is made, blended, rectified, sold, mixed, or served. Persons employed by a mixed beverage licensee or a bottle club who do not participate in the service, mixing, or sale of mixed beverages shall not be required to have an employee license. Provided, however, that a manager employed by a mixed beverage licensee or a bottle club shall be required to have an

employee license whether or not said manager participates in the service, mixing or sale of mixed beverages. Applicants for an employee license must have a health card issued by the county in which they are employed, if the county issues such a card. Employees of special event, caterer or airline/railroad beverage licensees shall not be required to obtain an employee license. Persons employed by a hotel licensee who participate in the stocking of hotel room mini-bars or in the handling of alcoholic beverages to be placed in such devices shall be required to have an employee license.

P. An industrial license may be issued to persons desiring to import, transport, and use alcohol for the following purposes:

1. Manufacture of patent, proprietary, medicinal, pharmaceutical, antiseptic, and toilet preparations;
2. Manufacture of extracts, syrups, condiments, and food products; and
3. For use in scientific, chemical, mechanical, industrial, and medicinal products and purposes.

No other provisions of the Oklahoma Alcoholic Beverage Control Act shall apply to alcohol intended for industrial, medical, mechanical, or scientific use.

Any person receiving alcohol under authority of an industrial license who shall use, permit, or cause same to be used for purposes other than authorized purposes specified above, and all such alcohol, shall be liable to all provisions of the Oklahoma Alcoholic Beverage Control Act, including payment of tax thereon.

No provisions of the Oklahoma Alcoholic Beverage Control Act shall apply to alcohol withdrawn by any person free of federal tax under a tax-free permit issued by the United States government, if such alcohol is received, stored, and used as authorized by federal laws.

Q. A carrier license may be issued to any common carrier operating under a certificate of convenience and necessity issued by any duly authorized federal or state regulatory agency. Such license shall authorize the holder thereof to transport alcoholic beverages into, within, and out of this state under such terms, conditions, limitations, and restrictions as the ABLE Commission may prescribe by order issuing such license and by regulations.

R. A private carrier license may be issued to any carrier other than a common carrier described in subsection P of this section. Such license shall authorize the holder thereof to transport alcoholic beverages into, within, or out of this state under such terms, conditions, limitations, and restrictions as the ABLE Commission may prescribe by order issuing such license and by regulations. No carrier license or private carrier license shall be required of licensed brewers, distillers, winemakers, rectifiers, wholesalers, or Class B wholesalers, to transport alcoholic beverages from the place of purchase or acquisition to the licensed

premises of such licensees and from such licensed premises to the licensed premises of the purchaser in vehicles owned or leased by such licensee when such transportation is for a lawful purpose and not for hire.

No carrier license or private carrier license shall be required of the holder of a package store, mixed beverage, caterer, special event, hotel beverage or airline/railroad license to pick up alcoholic beverage orders from the licensee wholesaler or Class B wholesaler from whom they are purchased, and to transport such alcoholic beverages from the place of purchase or acquisition to the licensed premise of such licensees in vehicles owned or under the control of such licensee or a licensed employee of such licensee under such terms, conditions, limitations and restrictions as the ABLE Commission may prescribe.

S. A bonded warehouse license shall authorize the holder thereof: To receive and store alcoholic beverages for the holders of storage licenses on the licensed premises of the bonded warehouse licensee. No goods, wares or merchandise other than alcoholic beverages may be stored in the same bonded warehouse with alcoholic beverages. The holder of a bonded warehouse license shall furnish and file with the ABLE Commission a bond running to all bailers of alcoholic beverages under proper storage licenses and their assignees (including mortgagees or other bona fide lienholders) conditioned upon faithful performance of the terms and conditions of such bailments.

T. A storage license may be issued to a holder of a brewer, distiller, winemaker, rectifier, wholesaler, Class B wholesaler, nonresident seller, package store, mixed beverage, caterer, or hotel beverage license, and shall authorize the holder thereof: To store alcoholic beverages in a public warehouse holding a bonded warehouse license, and no goods, wares or merchandise other than alcoholic beverages may be stored in the same warehouse with alcoholic beverages in private warehouses owned or leased and operated by such licensees elsewhere than on their licensed premises. ~~Provided, that~~
a:

1. A storage license issued to a Class B wholesaler shall permit the storage of light beer and permit the sale and delivery to retailers from the premises covered by such license. ~~Provided further, that any;~~

2. Any licensee who is the holder of ~~both a mixed beverage license and a caterer license~~ a mixed beverage/caterer combination license or the holder of ~~or~~ a mixed beverage license and a hotel beverage license who is issued a storage license shall store all inventories of alcoholic beverages either on the premises of the mixed beverage establishment or in the warehouse;

3. A storage license shall not be required for a special event licensee storing alcoholic beverages for use at a subsequent event; and

4. Notwithstanding the provisions of subsection H of this section or any other provision of this title, a licensee who wholly

owns more than one licensed mixed beverage establishment may store alcoholic beverages for each of the licensed establishments in one location under one storage license. Alcoholic beverages purchased and stored pursuant to the provisions of a storage license, for one licensed mixed beverage establishment may be transferred by a licensee to another licensed mixed beverage establishment which is wholly owned by the same licensee. Notice of such a transfer shall be given in writing to the Oklahoma Tax Commission and the ABLE Commission within three (3) business days of the transfer. The notice shall clearly show the quantity, brand, size, and number of each identification stamp issued by the Tax Commission on every transferred bottle or case.

U. A sacramental wine supplier license shall authorize the holder thereof: To sell, ship or deliver sacramental wine 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, 1986, and listed as an exempt organization in Section 501(c) (3) of the Internal Revenue Code, 1986, of the United States, as amended.

V. A beer and wine license shall authorize the holder thereof: To purchase beer and wine in retail containers with a capacity of more than one-twentieth (1/20) gallon from the holder of a wholesaler or Class B wholesaler license and to sell, offer for sale and possess beer and wine for on-premises consumption only. Sales and service of beer and wine by holders of beer and wine licenses shall be limited to the licensed premises of said licensee unless the holder of the beer and wine license also obtains a caterer license. A beer and wine license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. A separate license shall be required for each place of business. No beer and wine license shall be issued for any place of business functioning as a motion picture theater, as defined by Section 506 of this title. No spirits shall be stored, possessed or consumed on the licensed premises of a beer and wine licensee.

W. A charitable auction license may be issued to a charitable organization exempt from taxation under Section 501(c) (3), (4), (5), (7), (8), (9), (10), or (19) of the United States Internal Revenue Code. The license shall authorize the holder thereof to auction wine purchased from a retail package store or received as a gift from an individual, if the auction is conducted to raise funds for charitable purposes. The license shall be issued for a period not exceeding two (2) days. Only one such license may be issued to an organization in any twelve-month period. The maximum amount of wine auctioned pursuant to the license shall not exceed fifty (50) gallons. All wines auctioned shall be registered and all fees and taxes shall be paid in accordance with the Oklahoma Alcoholic Beverage Control Act. The auction may be either a live auction conducted by an auctioneer or a silent auction for which bid sheets are accepted from interested bidders.

X. A mixed beverage/caterer combination license shall authorize the holder thereof: To purchase or sell mixed beverages as specifically provided by law for the holder of a mixed beverage

license or a caterer license. All provisions of the Oklahoma Alcoholic Beverage Control Act applicable to mixed beverage licenses or caterer licenses, or the holders thereof, shall also be applicable to mixed beverage/caterer combination licenses or the holders thereof, except where specifically otherwise provided. A mixed beverage/caterer combination license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. A separate license shall be required for each place of business.

SECTION 3. AMENDATORY 37 O.S. 1991, Section 535, as last amended by Section 10, Chapter 192, O.S.L. 1995 (37 O.S. Supp. 1999, Section 535), is amended to read as follows:

Section 535. It shall be unlawful for any manufacturer, wholesaler, Class B wholesaler, or person authorized to sell alcoholic beverages to a wholesaler, or any employee, officer, director, stockholder owning fifteen percent (15%) or more of the stock, any type of partner, manager, member or agent thereof, to directly or indirectly:

1. Have any financial interest in any premises upon which any alcoholic beverage or light beer is sold at retail or in any business connected with the retailing of alcoholic beverages or light beer as defined in Section 506 of this title;

2. Lend any money or other thing of value, or to make any gift or offer any gratuity, to any package store, mixed beverage, beer and wine or bottle club licensee or caterer;

3. Guarantee any loan or the repayment of any financial obligation of any retailer, mixed beverage, beer and wine or bottle club licensee or caterer;

4. Require any wholesaler, Class B wholesaler, retailer, mixed beverage, beer and wine licensee or caterer to purchase and dispose of any quota of alcoholic beverages, or to require any retailer to purchase any kind, type, size container, or brand of alcoholic beverages in order to obtain any other kind, type, size container, or brand of alcoholic beverages;

5. Sell to any retailer, mixed beverage, beer and wine licensee or caterer any alcoholic beverage on consignment, or upon condition, or with the privilege of return, or on any condition other than a bona fide sale; provided, the delivery in good faith, through mistake, inadvertence, or oversight, of alcoholic beverage that was not ordered by a retailer, mixed beverage licensee, beer and wine licensee, caterer or special event licensee to such licensee shall not be considered a violation of this paragraph, as long as action is taken to correct the error and all invoices and records of the transaction are corrected. There shall be no time period imposed by the ABLE Commission for notification of or correction of the error;
or

6. Extend credit to any retailer, other than holders of Federal Liquor Stamps on United States government reservations and installations, mixed beverage or beer and wine licensee or caterer

other than a state lodge located in a county which has approved the retail sale of alcoholic beverages by the individual drink for on-premises consumption. The acceptance of a postdated check or draft or the failure to deposit for collection a current check or draft by the second banking day after receipt shall be deemed an extension of credit. Violation of this subsection shall be grounds for suspension of the license.

SECTION 4. AMENDATORY 37 O.S. 1991, Section 577, as last amended by Section 12, Chapter 1, O.S.L. 1995 (37 O.S. Supp. 1999, Section 577), is amended to read as follows:

Section 577. A. Every holder of a mixed beverage, beer and wine, caterer, hotel beverage or special event license, issued by the Alcoholic Beverage Laws Enforcement Commission, shall obtain a mixed beverage tax permit from the Oklahoma Tax Commission prior to engaging, within this state, in the sale, preparation or service of mixed beverages, ice, or nonalcoholic beverages that are sold, prepared or served to be mixed with alcoholic beverages. Each licensee shall file a verified application for a mixed beverage tax permit with the Tax Commission, setting forth information as may be required by the Tax Commission.

The Tax Commission, or its designated agent, shall issue, without any fees or charges therefor, a mixed beverage tax permit in the name of the licensee for the place of business set forth in the application upon verification that:

1. The applicant is a holder of a mixed beverage, beer and wine, caterer, hotel beverage or special event license issued by the Alcoholic Beverage Laws Enforcement Commission;
2. The applicant has posted a surety bond or other negotiable collateral to protect the proper payment of the gross receipts taxes;
3. The applicant is a holder of a sales tax permit for the place of business set forth in the application; and
4. The applicant is not delinquent in the payment of any gross receipts taxes or sales taxes.

A mixed beverage tax permit ~~issued prior to September 1, 1994,~~ shall expire three (3) years after ~~September 1, 1994~~ issuance; provided, if the holder thereof is also the holder of a sales tax permit, a mixed beverage tax permit ~~issued prior to September 1, 1994,~~ shall be valid for three (3) years or until expiration of the sales tax permit, whichever is earlier, after which a renewal permit shall be valid for three (3) years. ~~The manner for renewals of less than three (3) years shall be prescribed by the Tax Commission.~~

B. A separate mixed beverage tax permit for each place of business to be operated must be obtained and no charge therefor shall be made by the Tax Commission. The Tax Commission shall grant and issue to each applicant a separate permit for each place of business in this state, upon proper application therefor and verification thereof by the Tax Commission.

C. A mixed beverage tax permit is not assignable and shall be valid only for the person in whose name it is issued and for the transaction of business at the place designated in the permit.

D. It shall be unlawful for any person to engage in a business subject to the provisions of this section prior to the issuance of a mixed beverage tax permit. Any person who engages in a business subject to the provisions of this section without a mixed beverage tax permit or permits, or after a permit has been suspended, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than One Thousand Dollars (\$1,000.00) or incarcerated for not more than sixty (60) days, or by both such fine and imprisonment.

E. Any person operating under a mixed beverage tax permit as provided in this section shall, upon discontinuance of business by sale or otherwise, return such permit to the Tax Commission for cancellation, together with payment of any unpaid or accrued taxes. Failure to surrender a mixed beverage tax permit and pay any and all accrued taxes will be sufficient cause for the Tax Commission to refuse to issue a mixed beverage tax permit subsequently to such person to engage in or transact any business in this state subject to the provisions of this section. Notwithstanding the provisions of subsection H of Section 1364 of Title 68 of the Oklahoma Statutes, the Tax Commission shall not deny a purchaser of a business subject to the provisions of this section a mixed beverage or sales tax permit because of outstanding tax liabilities of the seller, provided the seller pays to the Tax Commission the estimated sales tax owed by the seller. Provided further, upon completion of an audit by the Tax Commission and determination of actual sales tax owed, the difference between the estimated sales tax paid and the actual sales tax owed shall be paid by the seller to the Tax Commission if taxes were underpaid or returned to the seller by the Tax Commission if taxes were overpaid.

F. Whenever a holder of a mixed beverage tax permit fails to comply with any provisions of any state alcoholic beverage laws or tax laws, the Tax Commission, after giving ten (10) days' notice in writing of the time and place of hearing to show cause why this permit should not be revoked, may revoke or suspend the permit. A mixed beverage tax permit shall be renewed upon removal of cause or causes of revocation or suspension. Mixed beverage tax permits are conditioned upon the proper and timely payment of all taxes due and in the event a holder of a mixed beverage tax permit becomes delinquent in reporting or paying any tax due under the provisions of state tax law, any duly authorized agent of the Tax Commission may cancel the permit and it shall be renewed only upon the filing of proper reports and payment of all taxes due and application for renewal in accordance with subsection A of this section.

G. Upon revocation or suspension of the mixed beverage, beer and wine, caterer, hotel beverage or special event license by the ABLE Commission, the Tax Commission, or its duly authorized agent, shall temporarily suspend the mixed beverage tax permit issued to ~~said~~ the licensee in accordance with Section 212 of Title 68 of the Oklahoma Statutes.

SECTION 5. REPEALER 37 O.S. 1991, Sections 518 and 521, as last amended by Sections 1 and 2 of Enrolled Senate Bill No. 808 of the 2nd Session of the 47th Oklahoma Legislature, are hereby repealed.

SECTION 6. This act shall become effective July 1, 2000.

SECTION 7. 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 25th day of May, 2000.

President of the Senate

Passed the House of Representatives the 26th day of May, 2000.

Speaker of the House of Representatives

