

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

SENATE BILL NO. 635

By: Littlefield

AS INTRODUCED

An Act relating to intoxicating liquors; amending 37 O.S. 1991, Sections 506, as last amended by Section 8, Chapter 3, O.S.L. 1996, 576, 577, as last amended by Section 12, Chapter 1, O.S.L. 1995, 578, as amended by Section 20, Chapter 361, O.S.L. 1994, 579, 580, 581, 582, as amended by Section 21, Chapter 361, O.S.L. 1994, 585 and 586 (37 O.S. Supp. 1998, Sections 506, 577, 578 and 582), which relate to the Oklahoma Alcoholic Beverage Control Act; modifying definition; modifying tax imposed on certain alcoholic beverages; deleting gross receipts tax levied upon certain sales; imposing tax on certain sales by wholesalers and Class B wholesalers; specifying rate and incidence thereof; requiring certain tax permit and providing procedures related thereto; deleting obsolete language; requiring holder of wholesaler or Class B wholesaler license to furnish certain bond; requiring wholesale tax permit holders to make certain reports; providing for calculation of amount of tax due; allowing credit for certain taxes paid and providing procedures therefor; providing procedures for payment of tax and retention of certain amount; deleting provisions relating to identification stamps; requiring Oklahoma Tax Commission to promulgate certain rules; requiring tax to be paid upon certain inventory; requiring certain reports; providing for codification; repealing 37 O.S. 1991, Sections 581, 581.1 and 583, as amended by Section 22, Chapter 361, O.S.L. 1994 (37 O.S. Supp. 1998, Section 583), which relate to identification stamps; and providing an effective date.

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

SECTION 1. AMENDATORY 37 O.S. 1991, Section 506, as last amended by Section 8, Chapter 3, O.S.L. 1996 (37 O.S. Supp. 1998, Section 506), is amended to read as follows:

Section 506. When used in the Oklahoma Alcoholic Beverage Control Act, ~~Section 501 et seq. of this title,~~ the following words and phrases shall have the following meaning:

1. "ABLE Commission" means the Alcoholic Beverage Laws Enforcement Commission;

2. "Alcohol" means and includes hydrated oxide of ethyl, ethyl alcohol, ethanol, or spirits of wine, from whatever source or by whatever process produced. It does not include wood alcohol or alcohol which has been denatured or produced as denatured in accordance with Acts of Congress and regulations promulgated thereunder;

3. "Alcoholic beverage" means alcohol, spirits, beer, and wine as those terms are defined herein and also includes every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed as a beverage by human beings, but does not include low-point beer as that term is defined in Section 163.2 of this title;

4. "Applicant" means any individual, legal or commercial business entity, or any individual involved in any legal or commercial business entity allowed to hold any license issued in accordance with the Oklahoma Alcoholic Beverage Control Act;

5. "Beer" means any beverage containing more than three and two-tenths percent (3.2%) of alcohol by weight and obtained by the alcoholic fermentation of an infusion or decoction of barley, or other grain, malt or similar products. "Beer" may or may not contain hops or other vegetable products. "Beer" includes, among other things, beer, ale, stout, lager beer, porter and other malt or brewed liquors, but does not include sake, known as Japanese rice wine;

6. "Bottle club" means any establishment in a county which has not authorized the retail sale of alcoholic beverages by the individual drink, which is required to be licensed to keep, mix, and serve alcoholic beverages belonging to club members on club premises;

7. "Brewer" means any person who produces beer in this state;

8. "Class B wholesaler" means and includes any person doing any such acts or carrying on any such business that would require such person to obtain a Class B wholesaler license hereunder;

9. "Convicted" and "conviction" mean and include a finding of guilt resulting from a plea of guilty or nolo contendere, the decision of a court or magistrate or the verdict of a jury, irrespective of the pronouncement of judgment or the suspension thereof;

10. "Director" means the Director of the Alcoholic Beverage Laws Enforcement Commission under the supervision of said Commission;

11. "Distiller" means any person who produces spirits from any source or substance, or any person who brews or makes mash, wort, or wash, fit for distillation or for the production of spirits (except a person making or using such material in the authorized production of wine or beer, or the production of vinegar by fermentation), or any person who by any process separates alcoholic spirits from any fermented substance, or any person who, making or keeping mash, wort, or wash, has also in his or her possession or use a still;

12. "Hotel" or "motel" shall mean an establishment which is licensed to sell alcoholic beverages by the individual drink and which contains guestroom accommodations with respect to which the predominant relationship existing between the occupants thereof and the owner or operator of the establishment is that of innkeeper and guest. For purposes of this section, the existence of other legal relationships as between some occupants and the owner or operator thereof shall be immaterial;

13. "Legal newspaper" means a newspaper meeting the requisites of a newspaper for publication of legal notices as prescribed in Sections 101 through 114 of Title 25 of the Oklahoma Statutes;

14. "Licensee" means any person holding a license under the Oklahoma Alcoholic Beverage Control Act, and any agent, servant, or

employee of such licensee while in the performance of any act or duty in connection with the licensed business or on the licensed premises;

15. "Light beer" means a low-point beer controlled under this title;

16. "Light wine" means any wine containing not more than fourteen percent (14%) alcohol measured by volume at sixty (60) degrees Fahrenheit;

17. "Manufacturer's agent" means a salaried or commissioned salesman who sells to a wholesaler or Class B wholesaler only;

18. "Manufacturer" means a brewer, distiller, winemaker, rectifier, or bottler of any alcoholic beverage;

19. "Meals" means foods commonly ordered at lunch or dinner and at least part of which is cooked on the licensed premises and requires the use of dining implements for consumption. Provided, that the service of only food such as appetizers, sandwiches, salads or desserts shall not be considered "meals";

20. "Mini-bar" means a closed container, either refrigerated, in whole or in part, or nonrefrigerated, and access to the interior of which is (1) restricted by means of a locking device which requires the use of a key, magnetic card, or similar device, or (2) controlled at all times by the licensee;

21. "Mixed beverage cooler" means any beverage, by whatever name designated, consisting of an alcoholic beverage and fruit or vegetable juice, fruit or vegetable flavorings, dairy products or carbonated water containing more than one-half of one percent (1/2 of 1%) of alcohol measured by volume but not more than seven percent (7%) alcohol by volume at sixty (60) degrees Fahrenheit and which is packaged in a container not larger than three hundred seventy-five (375) milliliters. Such term shall include, but not be limited to, the beverage popularly known as a "wine cooler";

22. "Mixed beverages" means one or more servings of a beverage composed in whole or part of an alcoholic beverage in a sealed or unsealed container of any legal size for consumption on the premises where served or sold by the holder of a mixed beverage, beer and wine, caterer, or special event license;

23. "Motion picture theater" means a place where motion pictures are exhibited and to which the general public is admitted, but does not include a place where meals, as defined by this section, are served, if only persons over twenty-one (21) years of age are admitted;

24. "Retail salesman" means a salesman soliciting orders from and calling upon retail alcoholic beverage stores with regard to his or her product;

25. "Occupation" as used in connection with "occupation tax" means the sites occupied as the places of business of the manufacturers, wholesalers, Class B wholesalers, retailers, mixed beverage licensees, beer and wine licensees, bottle clubs, caterers, and special event licensees;

26. "Original package" means any container of alcoholic beverage filled and stamped or sealed by the manufacturer;

27. "Patron" means any person, customer, or visitor who is not employed by a licensee or who is not a licensee;

28. "Person" means an individual, any type of partnership, corporation, association, limited liability company or any individual involved in the legal structure of any such business entity;

29. "Premises" means the grounds and all buildings and appurtenances pertaining to the grounds including any adjacent premises if under the direct or indirect control of the licensee and the rooms and equipment under the control of the licensee and used in connection with or in furtherance of the business covered by a license. Provided that the ABLE Commission shall have the authority

to designate areas to be excluded from the licensed premises solely for the purpose of:

- a. allowing the presence and consumption of alcoholic beverages, ~~not bearing serially numbered identification stamps issued by the Oklahoma Tax Commission,~~ by private parties which are closed to the general public, or
- b. allowing the services of a caterer serving alcoholic beverages provided by a private party.

This exception shall in no way limit the licensee's concurrent responsibility for any violations of the Oklahoma Alcoholic Beverage Control Act occurring on the licensed premises;

30. "Rectifier" means any person who rectifies, purifies, or refines spirits or wines by any process (other than by original and continuous distillation, or original and continuous processing, from mash, wort, wash, or other substance, through continuous closed vessels and pipes, until the production thereof is complete), and any person who, without rectifying, purifying, or refining spirits, shall by mixing (except for immediate consumption on the premises where mixed) such spirits, wine, or other liquor with any material, manufactures any spurious, imitation, or compound liquors for sale, under the name of whiskey, brandy, rum, gin, wine, spirits, cordials, or any other name;

31. "Regulation" or "rule" means a formal rule of general application promulgated by the ABLE Commission as herein required;

32. "Retail container for spirits and wines" means an original package of a capacity not less than one-twentieth (1/20) gallon specified by the ABLE Commission in its regulations for the alcoholic beverage concerned, or an original package with a capacity of less than one-twentieth (1/20) gallon, referred to as miniatures;

33. "Retailer" means the holder of a Package Store License;

34. "Sale" means any transfer, exchange or barter in any manner or by any means whatsoever, and includes and means all sales made by any person, whether as principal, proprietor or as an agent, servant or employee. The term "sale" is also declared to be and include the use or consumption in this state of any alcoholic beverage obtained within or imported from without this state, upon which the excise tax levied by the Oklahoma Alcoholic Beverage Control Act has not been paid or exempted;

35. "Short order food" means food other than full meals including but not limited to sandwiches, soups, and salads. Provided that popcorn, chips, and other similar snack food shall not be considered "short order food";

36. "Sparkling wine" means champagne or any artificially carbonated wine;

37. "Spirits" means any beverage other than wine, beer or light beer, which contains more than one-half of one percent (1/2 of 1%) alcohol measured by volume and obtained by distillation, whether or not mixed with other substances in solution and includes those products known as whiskey, brandy, rum, gin, vodka, liqueurs, cordials and fortified wines and similar compounds; but shall not include any alcohol liquid completely denatured in accordance with the Acts of Congress and regulations pursuant thereto;

38. "Wholesaler" means and includes any person doing any such acts or carrying on any such business or businesses that would require such person to obtain a wholesaler's license or licenses hereunder;

39. "Wine" means and includes any beverage containing more than one-half of one percent (1/2 of 1%) alcohol by volume and not more than twenty-four percent (24%) alcohol by volume at sixty (60) degrees Fahrenheit obtained by the fermentation of the natural contents of fruits, vegetables, honey, milk or other products

containing sugar, whether or not other ingredients are added, and includes vermouth and sake, known as Japanese rice wine;

40. "Winemaker" means any person who produces wine; and

41. "Oklahoma winemaker" means a business premises in Oklahoma licensed pursuant to the Oklahoma Alcoholic Beverage Control Act wherein wine is produced by the licensee who must be a resident of the state. The wine product fermented in said licensed premises shall be of grapes, berries and other fruits and vegetables imported into this state and processed herein or shall be of grapes, berries and other fruits and vegetables grown in Oklahoma.

Words in the plural include the singular, and vice versa, and words imparting the masculine gender include the feminine, as well as persons and licensees as defined in this section.

SECTION 2. AMENDATORY 37 O.S. 1991, Section 576, is amended to read as follows:

Section 576. A. ~~A tax at the rate of twelve percent (12%) is hereby levied and imposed on the total gross receipts of a holder of a mixed beverage, caterer, or special event license, issued by the ABLE Commission, from:~~

~~1. The sale, preparation or service of mixed beverages;~~

~~2. The total retail value of complimentary or discounted mixed beverages;~~

~~3. Ice or nonalcoholic beverages that are sold, prepared or served for the purpose of being mixed with alcoholic beverages and consumed on the premises where the sale, preparation or service occurs; and~~

~~4. Any charges for the privilege of admission to a mixed beverage establishment which entitle a person to complimentary mixed beverages or discounted prices for mixed beverages~~ at the rate of seventy cents (\$0.70) per liter of alcoholic beverages sold by a wholesaler or Class B wholesaler. The legal incidence of such tax

shall be on the wholesaler or Class B wholesaler, and such tax shall be collected by the wholesaler or Class B wholesaler.

B. ~~For purposes of this section:~~

1. ~~"Mixed beverages" means mixed beverages as defined by Section 506 of this title;~~

2. ~~"Total gross receipts" means the total amount of consideration received as charges for admission to a mixed beverage establishment as provided in paragraph 4 of subsection A of this section and the total retail sale price received for the sale, preparation or service of mixed beverages, ice, and nonalcoholic beverages to be mixed with alcoholic beverages. The advertised price of a mixed beverage shall be the sum of the total retail sale price and the gross receipts tax levied thereon; and~~

3. ~~"Total retail value" means the total amount of consideration that would be required for the sale, preparation or service of mixed beverages.~~

C. ~~The gross receipts tax levied by this section shall be in addition to the excise tax levied in Section 553 of this title, the sales tax levied in the Oklahoma Sales Tax Code, Section 1350 et seq. of Title 68 of the Oklahoma Statutes and to any municipal or county sales taxes.~~

D. ~~The gross receipts tax levied by this section is hereby declared to be a direct tax upon the receipt of consideration for any charges for admission to a mixed beverage establishment as provided in paragraph 4 of subsection A of this section, for the sale, preparation or service of mixed beverages, ice, and nonalcoholic beverages to be mixed with alcoholic beverages, and the total retail value of complimentary or discounted mixed beverages.~~

E. ~~The total of the retail sale price received for the sale, preparation or service of mixed beverages, ice, and nonalcoholic beverages to be mixed with alcoholic beverages shall be the total gross receipts for purposes of calculating the sales tax levied in~~

~~the Oklahoma Sales Tax Code, Section 1350 et seq. of Title 68 of the Oklahoma Statutes.~~

SECTION 3. AMENDATORY 37 O.S. 1991, Section 577, as last amended by Section 12, Chapter 1, O.S.L. 1995 (37 O.S. Supp. 1998, 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~~ wholesaler or Class B wholesaler license, issued by the Alcoholic Beverage Laws Enforcement Commission, who makes sales of alcoholic beverages shall obtain a ~~mixed beverage~~ wholesale tax permit from the Oklahoma Tax Commission prior to engaging, in such sales 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~~ wholesale 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~~ wholesale 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~~ wholesaler or Class B wholesaler 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 imposed by Section 576 of this title;

3. The applicant is a holder of a sales tax permit for the place of business set forth in the application, if taxable sales are made at such place of business; and

4. The applicant is not delinquent in the payment of any ~~gross receipts~~ taxes imposed by Section 576 of this title or any sales taxes.

~~A mixed beverage tax permit issued prior to September 1, 1994, shall expire three (3) years after September 1, 1994; 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~~ wholesale 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~~ wholesale 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~~ wholesale tax permit. Any person who engages in a business subject to the provisions of this section without a ~~mixed beverage~~ wholesale 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~~ wholesale 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~~ wholesale tax permit and pay any and all accrued taxes will be sufficient cause for the Tax Commission to refuse to issue a ~~mixed beverage~~ wholesale tax permit subsequently to such person to engage in or transact any business in this state subject to the provisions of this section.

F. Whenever a holder of a ~~mixed beverage~~ wholesale 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~~ wholesale tax permit shall be renewed upon removal of cause or causes of revocation or suspension. ~~Mixed beverage~~ Wholesale tax permits are conditioned upon the proper and timely payment of all taxes due and in the event a holder of a ~~mixed beverage~~ wholesale 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 wholesaler or~~ Class B wholesaler license by the ABLE Commission, the Tax Commission, or its duly authorized agent, shall temporarily suspend the ~~mixed beverage~~ wholesale tax permit issued to ~~said~~ the licensee in accordance with Section 212 of Title 68 of the Oklahoma Statutes.

SECTION 4. AMENDATORY 37 O.S. 1991, Section 578, as amended by Section 20, Chapter 361, O.S.L. 1994 (37 O.S. Supp. 1998, Section 578), is amended to read as follows:

Section 578. A. Every holder of a ~~mixed beverage, beer and wine, caterer or special event~~ wholesaler or Class B wholesaler license issued by the Alcoholic Beverage Laws Enforcement Commission, as a condition precedent to the issuance of a ~~mixed beverage~~ wholesale tax permit, shall furnish to the Oklahoma Tax Commission a bond from a surety company chartered or authorized to do business in this state, cash bond, certificates of deposits, certificates of savings or U.S. Treasury bond, or an assignment of negotiable stocks or bonds, as the Tax Commission may deem necessary to secure payment of the ~~gross receipts tax levied upon gross receipts of the licensees~~ tax levied pursuant to the provisions of Section 576 of this title.

B. Any surety bond furnished under this section shall be a continuing instrument and shall constitute a new and separate obligation in the sum stated therein for each calendar year or a portion thereof while such bond is in force. Such bond shall remain in effect until the surety or sureties are released and discharged by the Tax Commission.

C. The Tax Commission, or its duly authorized agent, shall fix the amount of such bond or other security for each licensee for each place of business after considering the estimated ~~gross receipts tax~~ liability for the tax imposed pursuant to the provisions of Section 576 of this title of such licensee. Such bond shall be no less than an amount equal to the average estimated quarterly ~~gross receipts~~ tax liability and no greater than an amount equal to three times the amount of the average estimated quarterly ~~gross receipts~~ tax liability.

Any bond or other security shall be such as will protect this state against failure of the taxpayer or licensee to pay the tax levied by Section 576 of this title. The forfeiture or cancellation of such bond or security, for any reason whatsoever, shall automatically revoke the ~~mixed beverage~~ wholesale tax permit issued

pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act.

SECTION 5. AMENDATORY 37 O.S. 1991, Section 579, is amended to read as follows:

Section 579. A. Every ~~mixed beverage~~ wholesale tax permit holder, or any person transacting business subject to the ~~gross receipts~~ tax levied by Section 576 of this title, shall file with the Oklahoma Tax Commission a monthly report for each place or location of business, on or before the 15th fifteenth day of the month immediately following the month of ~~receipt~~ sale of any alcoholic beverage subject to such tax. The reports shall be made under oath, on forms prescribed by the Tax Commission, which shall include the following information:

1. Name of ~~mixed beverage~~ the wholesale tax permit holder;
2. ~~Mixed beverage~~ The wholesale tax permit number;
3. Sales tax permit number, if applicable;
4. ~~Mixed beverage, caterer or special event~~ Wholesaler or Class B wholesaler license number;
5. ~~Gross receipts~~ Number of liters of alcoholic beverages sold for the month ~~for the sale, preparation or service of mixed beverages, ice and nonalcoholic beverages mixed with alcoholic beverages;~~
6. ~~Gross receipts for the month from charges for the privilege of admission to a mixed beverage establishment which entitle a person to complimentary mixed beverages or discounted prices for mixed beverages; and~~
7. ~~Total retail value of complimentary or discounted alcoholic beverages served for the month~~ Such other information as may be required by the Tax Commission to enable it to collect the tax imposed by the provisions of Section 576 of this title.

B. The ~~gross receipts~~ tax levied by Section 576 of this title shall be calculated by multiplying the tax rate, ~~twelve percent~~

~~(12%), and the total gross receipts for each month from the sale, preparation or service of mixed beverages, ice and nonalcoholic beverages mixed with alcoholic beverages, the total gross receipts of charges received for admission to mixed beverage establishments as provided in paragraph 6 of subsection A of this section, and the total retail value of complimentary or discounted mixed beverages~~ seventy cents (\$0.70) per liter of alcoholic beverages, by the number of such liters sold. ~~Cross receipts from the sale of food prepared with alcoholic beverages shall not be included in the calculation of the monthly tax liability.~~ The tax due for the preceding month shall accompany the report required in subsection A of this section. All taxes, penalties and interest imposed by Section 501 et seq. of this act ~~title~~ may be paid in the form of electronic funds transfer or by a personal or company check, cashier's check, certified check or postal money order payable to the Tax Commission.

C. If the ~~gross receipts~~ tax levied pursuant to the provisions of Section 576 of this title is not paid on or before the ~~15th~~ fifteenth day of each month, the tax shall be delinquent and interest and penalty shall accrue on and from the ~~16th~~ sixteenth day of each month, pursuant to the provisions of the Uniform Tax Procedure Code, Section 201 et seq. of Title 68 of the Oklahoma Statutes.

D. ~~Every licensed wholesaler of alcoholic beverages in this state shall file with the Tax Commission a monthly report, under oath, on forms prescribed by the Tax Commission, which shall include the name, location and mixed beverage tax permit number of each mixed beverage, caterer or special event licensee to whom the licensed wholesaler sold alcoholic beverages during the report month, the container or case identification stamp numbers and the amount of fees collected for said identification stamps for all alcoholic beverages sold to such mixed beverage, caterer or special~~

~~event licensee during the report month. The wholesaler may retain one percent (1%) of the identification stamp fees collected pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act, Section 501 et seq. of this title, which are timely reported and paid, in accordance with the provisions of Section 581 of this title, as remuneration for collecting said fees. If said fees become delinquent, such wholesaler forfeits his claim to the one percent (1%) discount.~~

~~E.~~ If the report required by subsection A of this section is not filed with the Tax Commission on or before the ~~15th~~ fifteenth day of the month, an additional penalty of Five Dollars (\$5.00) shall accrue for each day thereafter that ~~said~~ the report is not filed pursuant to the provisions of this section, unless otherwise waived by the Tax Commission pursuant to the provisions of the Uniform Tax Procedure Code; provided, however, ~~said~~ the additional penalty, if assessed, shall not exceed an amount equal to twice the amount of ~~mixed beverage~~ wholesale tax due for the period for which such report was required to be filed, or the sum of Three Hundred Dollars (\$300.00), whichever is greater.

E. Taxes paid pursuant to the provisions of Section 576 of this title represented by accounts receivable which are found to be worthless or uncollectible may be credited upon subsequent reports and remittances of such tax, in accordance with rules promulgated by the Tax Commission. If such accounts are thereafter collected, the same shall be reported and the tax shall be paid upon the amount so collected.

SECTION 6. AMENDATORY 37 O.S. 1991, Section 580, is amended to read as follows:

Section 580. The ~~mixed beverage~~ wholesale tax permit holder or taxpayer may retain one percent (1%) of the wholesale tax due and timely reported and paid, in accordance with the provisions of Section ~~92~~ 579 or Section 581 of this ~~act~~ title, as remuneration for

establishing and maintaining the records required by the Oklahoma Alcoholic Beverage Control Act. If such tax becomes delinquent, such taxpayer forfeits his claim to the one percent (1%) discount.

SECTION 7. AMENDATORY 37 O.S. 1991, Section 582, as amended by Section 21, Chapter 361, O.S.L. 1994 (37 O.S. Supp. 1998, Section 582), is amended to read as follows:

~~Section 582. A. No mixed beverage, beer and wine, caterer or special event licensee may possess or permit any person to possess on the premises any alcoholic beverage, other than mixed beverage coolers, beer or light beer, in any container that does not bear a serially numbered identification stamp issued by the Oklahoma Tax Commission. No mixed beverage, beer and wine, caterer or special event licensee may possess or permit any person to possess on the premises any container of mixed beverage cooler or beer which did not come from a case bearing a serially numbered identification stamp issued by the Tax Commission.~~

~~B. No wholesaler may knowingly sell, ship or deliver to any mixed beverage, beer and wine, caterer or special event licensee any alcoholic beverage, other than mixed beverage coolers, beer or light beer, in any container or any case of beer or case of mixed beverage coolers that does not bear a serially numbered identification stamp issued by the Tax Commission.~~

~~C.~~ No mixed beverage, beer and wine, caterer or special event licensee nor any officer, agent or employee of such licensee may possess or permit to be possessed on the premises, for which such license was issued, any container of an alcoholic beverage which is not listed on an invoice from the wholesaler from whom the alcoholic beverage was purchased or on a receipt from a package store from which the alcoholic beverage was purchased.

~~D. B.~~ All containers of alcoholic beverages, other than mixed beverage coolers, beer or light beer, or any case of mixed beverage coolers or beer on the premises of a holder of a mixed beverage,

~~beer and wine, caterer or special event license which do not bear a serially numbered identification stamp pursuant to the provisions of this section are declared to be contraband.~~ All containers of alcoholic beverages which are on the premises of a mixed beverage, beer and wine, caterer or special event licensee and which are not listed on an invoice from the wholesaler or a receipt from a package store pursuant to the provisions of this section are declared contraband. Any duly authorized officer or employee of the ABLE Commission or the Oklahoma Tax Commission is authorized to seize such containers or cases and such seized containers or cases shall be subject to confiscation and forfeiture pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act.

~~E. C.~~ Any holder of a wholesaler, mixed beverage, beer and wine, caterer or special event license who violates the provisions of this section shall be guilty of a misdemeanor and shall be subject to revocation or suspension of such license issued by the ABLE Commission pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act.

SECTION 8. AMENDATORY 37 O.S. 1991, Section 585, is amended to read as follows:

Section 585. All revenues generated from the ~~mixed beverage tax levied pursuant to Section 576 of this title and the identification stamp fee levied pursuant to Section 581 of this title~~ shall be paid to the State Treasurer and placed to the credit of the General Revenue Fund of the State of Oklahoma.

SECTION 9. AMENDATORY 37 O.S. 1991, Section 586, is amended to read as follows:

Section 586. ~~Within sixty (60) days after the passage and approval of this act, the~~ The Oklahoma Tax Commission shall ~~adopt~~ promulgate rules and regulations as may be necessary to facilitate the uniform and orderly collection of the ~~gross receipts~~

taxes levied pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 576.1 of Title 37, unless there is created a duplication in numbering, reads as follows:

The tax levied pursuant to the provisions of Section 576 of Title 37 of the Oklahoma Statutes shall be applicable to all inventory held by a package store, mixed beverage, caterer, special event, beer and wine or hotel beverage license holder on November 1, 1999. A report showing the information required by the provisions of subsection A of Section 579 of Title 37 of the Oklahoma Statutes for such inventory shall be filed with the Oklahoma Tax Commission not later than January 1, 2000, and the tax shall be remitted at the time of filing such report.

SECTION 11. REPEALER 37 O.S. 1991, Sections 581, 581.1 and 583, as amended by Section 22, Chapter 361, O.S.L. 1994 (37 O.S. Supp. 1998, Section 583), are hereby repealed.

SECTION 12. This act shall become effective November 1, 1999.

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