

ENGROSSED HOUSE AMENDMENT

TO

ENGROSSED SENATE BILL NO. 501

By: Morgan of the Senate

and

Fields of the House

( intoxicating liquors - tax imposed on certain

alcoholic beverages -

effective date )

AMENDMENT NO. 1. Strike the stricken title, enacting clause and entire bill and insert

"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, 518, as last amended by Section 1, Chapter 360, O.S.L. 2000, 518.1, as amended by Section 4, Chapter 361, O.S.L. 1994, 521, as last amended by Section 2, Chapter 360, O.S.L. 2000, 537, as last amended by Section 3, Chapter 364, O.S.L. 1997, 540, as last amended by Section 2, Chapter 390, O.S.L. 1999, 543.1, 576, 579, 582, as amended by Section 21, Chapter 361, O.S.L. 1994 and 586 (37 O.S. Supp. 2000, Sections 506, 518, 518.1, 521, 537, 540 and 582), which relate to the Oklahoma Alcoholic Beverage Control Act; modifying and adding definitions; modifying certain fees; modifying entities from which certain licensees may purchase wine; modifying authority of package store, mixed beverage, beer and wine, and special event or caterer licensees with regard to purchase of wine; requiring Oklahoma Tax Commission to promulgate certain rules; clarifying process for obtaining a distributor license or a wholesaler permit; modifying tax imposed on certain gross receipts; modifying content of certain reports; modifying form of payment of certain taxes; deleting provisions relating to identification stamps; authorizing the Oklahoma Tax Commission to promulgate certain rules and conduct certain audits; repealing 37 O.S. 1991, Sections 581, 581.1 and 583, as amended by Section 22, Chapter 361, O.S.L. 1994, 585 and 587, as last amended by Section 330, Chapter 5, 1st Extraordinary Session, O.S.L. 1999 (37 O.S. Supp. 2000, Sections 583 and 587), which relate to identification stamps, apportionment of certain revenues and counterfeit 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. 2000, 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~~ salesperson" means a ~~salesman~~ salesperson 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. "Restaurant" means an establishment that is licensed to sell alcoholic beverages by the individual drink for on-premises consumption and where food is prepared and sold for immediate consumption on the premises;

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

~~34.~~ 35. "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.~~ 36. "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.~~ 37. "Sparkling wine" means champagne or any artificially carbonated wine;

~~37.~~ 38. "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.~~ 39. "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.~~ 40. "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.~~ 41. "Winemaker" means any person who produces wine; and

~~41.~~ 42. "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 518, as last amended by Section 1, Chapter 360, O.S.L. 2000 (37 O.S. Supp. 2000, Section 518), 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~~  

\$1,505.00  
 (initial license)  
~~\$905.00~~  
\$1,405.00  
 (renewal)
- 10. Mixed Beverage/Caterer Combination License .... \$1,250.00
- 11. Beer and Wine License ..... \$500.00  

(initial license)  
 \$450.00  
 (renewal)
- 12. Bottle Club License ..... \$1,000.00  

(initial license)  
 \$900.00  
 (renewal)
- 13. Caterer License ..... \$1,005.00

	(initial license)	
		\$905.00
	(renewal)	
14.	Annual Special Event License .....	\$55.00
15.	Quarterly Special Event License .....	\$55.00
16.	Hotel Beverage License .....	\$1,005.00
	(initial license)	
		\$905.00
	(renewal)	
17.	Airline/Railroad Beverage License.....	\$1,005.00
	(initial license)	
		\$905.00
	(renewal)	
18.	Agent License.....	\$55.00
19.	Employee License.....	\$30.00
20.	Industrial License .....	\$23.00
21.	Carrier License.....	\$23.00
22.	Private Carrier License .....	\$23.00
23.	Bonded Warehouse License .....	\$190.00
24.	Storage License.....	\$23.00
25.	Nonresident Seller License .....	\$750.00
26.	Manufacturers Agent License .....	\$55.00
27.	Sacramental Wine Supplier License.....	\$100.00
28.	Charitable Auction License .....	\$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 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, 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 3. AMENDATORY 37 O.S. 1991, Section 518.1, as amended by Section 4, Chapter 361, O.S.L. 1994 (37 O.S. Supp. 2000, Section 518.1), is amended to read as follows:

Section 518.1 ~~All holders~~ The holder of a mixed beverage, beer and wine, caterer, special event, or airline/railroad beverage license shall purchase alcoholic beverages only from a licensed wholesaler or Class B wholesaler or as specifically provided by law; provided, the holder of a mixed beverage, beer and wine, caterer or special event license issued for an establishment which is also a restaurant may purchase wine produced at wineries in this state directly from an Oklahoma winemaker as provided in Section 3 of Article XXVIII of the Oklahoma Constitution.

A wholesaler or Class B wholesaler may deliver such products to licensees authorized to sell alcoholic beverages for on-premises consumption. ~~Provided;~~ provided, such licensees may pick up alcoholic beverage orders if they hold a private carrier license issued by the Alcoholic Beverage Laws Enforcement Commission.

SECTION 4. AMENDATORY 37 O.S. 1991, Section 521, as last amended by Section 2, Chapter 360, O.S.L. 2000 (37 O.S. Supp. 2000, Section 521), 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,~~ provided, an Oklahoma winemaker may sell and ship wine produced at a winery in this state directly to retail package stores and restaurants in this state; 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 purchase wine produced at a winery in this state from an Oklahoma winemaker 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 or as specifically provided by law and to sell, offer for sale and possess mixed beverages for on-premises consumption only; provided, the holder of a mixed beverage license issued for an establishment which is also a restaurant may purchase wine produced at wineries in this state directly from an Oklahoma winemaker as provided in Section 3 of Article XXVIII of the Oklahoma Constitution.

Sales and service of mixed beverages by holders of mixed beverage licenses shall be limited to the licensed premises of ~~said~~ the 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. 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 one (1) year, not to exceed two such events in any three-month period. 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~~ the employee's 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~~ the 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 ~~licensees~~ licensees' 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:

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;

2. Any licensee who is the holder of a mixed beverage/caterer combination license or the holder of 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 or as specifically provided by law and to sell, offer for sale and possess beer and wine for on-premises consumption only; provided, the holder of a beer and wine license issued for an establishment which is also a restaurant may purchase wine produced at wineries in this state directly from an Oklahoma winemaker as provided in Section 3 of Article XXVIII of the Oklahoma Constitution.

Sales and service of beer and wine by holders of beer and wine licenses shall be limited to the licensed premises of ~~said~~ the 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 5. AMENDATORY 37 O.S. 1991, Section 537, as last amended by Section 3, Chapter 364, O.S.L. 1997 (37 O.S. Supp. 2000, Section 537), is amended to read as follows:

Section 537. A. No person shall:

1. Knowingly sell, deliver, or furnish alcoholic beverages to any person under twenty-one (21) years of age;
2. Sell, deliver or knowingly furnish alcoholic beverages to an intoxicated person or to any person who has been adjudged insane or mentally deficient;
3. Open a retail container or consume alcoholic beverages on the premises of a retail package store;
4. Import into this state, except as provided for in the Oklahoma Alcoholic Beverage Control Act, any alcoholic beverages; provided, that nothing herein shall prohibit the importation or

possession for personal use of not more than one (1) liter of alcoholic beverages upon which the Oklahoma excise tax is delinquent;

5. Receive, possess, or use any alcoholic beverage in violation of the provisions of the Oklahoma Alcoholic Beverage Control Act;

6. Transport into, within, or through this state more than one (1) liter of alcoholic beverages upon which the Oklahoma excise tax has not been paid unless the person accompanying or in charge of the vehicle transporting same shall ~~have in his possession~~ possess a true copy of a bill of lading, invoice, manifest or other document particularly identifying the alcoholic beverages being transported and showing the name and address of the consignor and consignee;

7. Knowingly transport in any vehicle upon a public highway, street or alley any alcoholic beverage except in the original container which shall not have been opened and the seal upon which shall not have been broken and from which the original cap or cork shall not have been removed, unless the opened container be in the rear trunk or rear compartment, which shall include the spare tire compartment in a vehicle commonly known as a station wagon and panel truck, or any outside compartment which is not accessible to the driver or any other person in ~~said~~ the vehicle while it is in motion;

8. Drink intoxicating liquor in public except on the premises of a licensee of the Alcoholic Beverage Laws Enforcement Commission who is authorized to sell or serve alcoholic beverages by the individual drink or be intoxicated in a public place. This provision shall be cumulative and in addition to existing law;

9. Forcibly resist lawful arrest, or by physical contact interfere with an investigation of any infringement of the Oklahoma Alcoholic Beverage Control Act or with any lawful search or seizure being made by an inspector or agent of the ABLE Commission, when such person knows or should know that such acts are being performed

by a state, county, or municipal officer, inspector or agent of the ABLE Commission;

10. Manufacture, duplicate, counterfeit or in any way imitate any bottle club membership card required to be issued by the ABLE Commission without the permission of ~~said~~ the Commission;

11. Consume or possess alcoholic beverages on the licensed premises of a bottle club unless such person possesses a valid membership card for that club issued by the club; or

12. Knowingly possess any bottle club membership card required to be issued by the ABLE Commission, which has been manufactured, counterfeited, imitated or in any way duplicated without the permission of ~~said~~ the Commission.

B. No licensee of the ABLE Commission shall:

1. Receive, possess, or sell any alcoholic beverage except as authorized by the Oklahoma Alcoholic Beverage Control Act and by the license or permit which ~~he~~ the licensee holds;

2. Employ any person under the age of twenty-one (21) in the selling or handling of alcoholic beverages. Provided, that a mixed beverage, beer and wine, caterer, special event or bottle club licensee may employ servers who are at least eighteen (18) years of age, except persons under twenty-one (21) years of age may not serve in designated bar or lounge areas, and a mixed beverage, beer and wine, caterer, special event or bottle club licensee may employ or hire musical bands who have musicians who are under twenty-one (21) years of age if each such musician is either accompanied by a parent or legal guardian or has on their person, to be made available for inspection upon demand by any ABLE Commission officer or law enforcement officer, a written, notarized affidavit from the parent or legal guardian giving the underage musician permission to perform in designated bar or lounge areas;

3. Give any alcoholic beverage as a prize, premium or consideration for any lottery, game of chance or skill or any type of competition;

4. Advertise or offer "happy hours" or any other means or inducements to stimulate the consumption of alcoholic beverages including:

- a. deliver more than two drinks to one person at one time;
- b. sell or offer to sell to any person or group of persons any drinks at a price less than the price regularly charged for such drinks during the same calendar week, except at private functions not open to the public;
- c. sell or offer to sell to any person an unlimited number of drinks during any set period of time for a fixed price, except at private functions not open to the public;
- d. sell or offer to sell drinks to any person or group of persons on any one day at prices less than those charged the general public on that day, except at private functions not open to the public;
- e. increase the volume of alcoholic beverages contained in a drink without increasing proportionately the price regularly charged for such drink during the same calendar week; or
- f. encourage or permit, on the licensed premises, any game or contest which involves drinking or the awarding of drinks as prizes.

Provided that the provisions of this paragraph shall not prohibit the advertising or offering of food or entertainment in licensed establishments;

5. Permit or allow any patron or person to exit the licensed premises with an open container of any alcoholic beverage.

Provided, that this prohibition shall not be applicable to closed original containers of alcoholic beverages which are carried from the licensed premises of a bottle club by a patron, closed original wine containers removed from the premises of restaurants, hotels, and motels, or to closed original containers of alcoholic beverages transported to and from the place of business of a licensed caterer by the caterer or ~~his~~ an employee of the caterer; or

6. Serve or sell alcoholic beverages with an expired license issued by the ABLE Commission.

C. No package store licensee shall:

1. Purchase or receive any alcoholic beverage other than from a person holding a brewer, wholesaler or Class B wholesaler license issued pursuant to the Oklahoma Alcoholic Beverage Control Act;

2. Suffer or permit any retail container to be opened, or any alcoholic beverage to be consumed, on ~~his~~ the licensed premises;

3. Sell, or keep package store premises open for the purpose of selling, any alcoholic beverages at any hour other than between the hours of 10:00 a.m. and 9:00 p.m. Monday through Saturday; provided, that no such sales shall be made, or package store premises be allowed to remain open for the purpose of making such sales, on the day of any General, Primary, Runoff Primary or Special Election while the polls are open whether on a national, state, county or city election or on New Year's Day, Memorial Day, the Fourth of July, Labor Day, Veterans Day, Thanksgiving Day or Christmas Day;

4. Operate a retail package store unless such store shall be located in a city or town having a population in excess of two hundred (200) according to the latest Federal Decennial Census;

5. Sell any alcoholic beverage on credit; provided that acceptance by a retail liquor store of a cash or debit card, or a nationally recognized credit card, in lieu of actual cash payment

does not constitute the extension of credit; provided further, as used in this section:

- a. "cash or debit card" means any instrument or device whether known as a debit card or by any other name, issued with or without fee by an issuer for the use of the cardholder in depositing, obtaining or transferring funds from a consumer banking electronic facility,
- b. "nationally recognized credit card" means any instrument or device, whether known as a credit card, credit plate, charge plate or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services or anything else of value on credit which is accepted by over one hundred (100) merchants;

6. Offer or furnish any prize, premium, gift or similar inducement to a consumer in connection with the sale of alcoholic beverage, except that goods or merchandise included by the manufacturer in packaging with alcoholic beverages or for packaging with alcoholic beverages shall not be included in this prohibition, but no wholesaler or package store shall sell any alcoholic beverage prepackaged with other goods or merchandise at a price which is greater than the price at which the alcoholic beverage alone is sold;

7. Permit any person under twenty-one (21) years of age to enter into, remain within or loiter about the licensed premises; or

8. Pay for alcoholic beverages by a check or draft which is dishonored by the drawee when presented to such drawee for payment; and the ABLE Commission may cancel or suspend the license of any retailer who has given a check or draft, as maker or endorser, which is so dishonored upon presentation.

D. No wholesaler licensee shall:

1. Sell or deliver any amount of spirits or wines to any package store licensee on Saturday or Sunday; or

2. Sell or deliver any amount of spirits or wines to any package store licensee on New Year's Day, Memorial Day, the Fourth of July, Labor Day, Veterans Day, Thanksgiving Day or Christmas Day.

E. No mixed beverage or beer and wine licensee shall:

1. Purchase or receive any alcoholic beverage other than from a person holding a wholesaler or Class B wholesaler license issued pursuant to the Oklahoma Alcoholic Beverage Control Act; provided, a mixed beverage or beer and wine licensee whose premises are a restaurant may purchase wine produced at wineries in this state directly from an Oklahoma winemaker as provided in Section 3 of Article XXVIII of the Oklahoma Constitution;

2. Transport alcoholic beverages from the place of purchase to ~~his~~ the licensed premises unless ~~said~~ the licensee also holds a private carrier license issued by the ABLE Commission;

3. Use or allow the use of any mark or label on a container of alcoholic beverage which is kept for sale which does not clearly and precisely indicate the nature of the contents or which might deceive or conceal the nature, composition, quantity, age or quality of such beverage;

4. Keep or knowingly permit any alcoholic beverage to be kept, brought or consumed on ~~his~~ the licensed premises which is not allowed to be sold or served upon such premises; or

5. Allow any person under twenty-one (21) years of age to enter into, remain within or loiter about the designated bar area of the licensed premises, except for members of a musical band employed or hired as provided in paragraph 2 of subsection B of this section when the band is to perform within such area.

F. No bottle club licensee shall:

1. Use or allow the use of any mark or label on a container of alcoholic beverage which does not clearly and precisely indicate the

nature of the contents or which might deceive or conceal the nature, composition, quantity, age or quality of any such beverage;

2. Act as an agent for any bottle club member and purchase any alcoholic beverage for ~~said~~ the member;

3. Use or allow the use of any pool system of storage or purchase of alcoholic beverages;

4. Allow any person to enter or remain in the designated bar or lounge area of the club unless that person possesses a valid membership card for that club issued by the club;

5. Sell any alcoholic beverage;

6. Deliver or furnish to any club member any alcoholic beverage that does not belong to ~~said~~ the member;

7. Serve alcoholic beverages to any person who does not possess a valid membership card for that club issued by the club;

8. Issue a membership card for the club to a person under twenty-one (21) years of age; or

9. Allow any person under twenty-one (21) years of age to enter into, remain within or loiter about the designated bar area of the licensed premises, except for members of a musical band employed or hired as provided in paragraph 2 of subsection B of this section when the band is to perform within such area.

G. No special event or caterer licensee shall:

1. Purchase or receive any alcoholic beverage other than from a person holding a wholesaler or Class B wholesaler license issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act; provided, a special event or caterer licensee may purchase wine produced at wineries in this state directly from an Oklahoma winemaker as provided in Section 3 of Article XXVIII of the Oklahoma Constitution; or

2. Transport alcoholic beverages from the place of purchase to ~~his~~ the licensed premises unless ~~said~~ the licensee also holds a private carrier license issued by the ABLE Commission.

H. No person operating a cafe, restaurant, club, or any place of recreation shall permit any person to be drunk or intoxicated in ~~said~~ the person's place of business.

SECTION 6. AMENDATORY 37 O.S. 1991, Section 540, as last amended by Section 2, Chapter 390, O.S.L. 1999 (37 O.S. Supp. 2000, Section 540), is amended to read as follows:

Section 540. A. The Oklahoma Tax Commission shall ~~adopt~~ promulgate rules and regulations essential to the implementation of to implement a reporting method of taxing all alcoholic beverages sold or delivered in this state to eliminate the use of any type of stamps, ~~except stamps authorized by the provisions of Section 581 of this title.~~

B. Every manufacturer or brewer manufacturing or brewing any beer in this state, for sale in this state, and every manufacturer or brewer outside of the state, shipping any beer into this state, shall cause to be printed, upon an affixed label around and upon the body of each bottle or upon the top or the lid of each can of such beer, a symbol or other designation, approved by the Tax Commission, that will serve to indicate that the beer has an alcoholic content in excess of three and two-tenths percent (3.2%) by weight, and such other information as the Tax Commission may require. Brewers shall be required to submit samples of crowns, tops and labels to the Tax Commission for approval.

C. Payment of the excise tax levied by the Oklahoma Alcoholic Beverage Control Act, Section 501 et seq. of this title, with respect to beer shall be made by the manufacturer or brewer as to all beer produced by such brewer within the state for sale within this state, and shall be made by the importing manufacturer or Class B wholesaler who is the original consignee of beer manufactured or produced outside of this state as to all beer imported into this state by such importing licensee. It is the duty of each Oklahoma licensed brewer with respect to beer produced by such brewer within

this state, and of each Oklahoma licensed Class B wholesaler as to beer produced outside of this state and imported into this state by such Class B wholesaler, to pay the excise tax on such beer to the Oklahoma Tax Commission as hereinafter provided.

D. Notwithstanding any other provision of law, the tax levied by the Oklahoma Alcoholic Beverage Control Act shall be part of the gross proceeds or gross receipts from the sale of alcoholic beverages, as those terms are defined in paragraph 7 of Section 1352 of Title 68 of the Oklahoma Statutes.

SECTION 7. AMENDATORY 37 O.S. 1991, Section 543.1, is amended to read as follows:

Section 543.1 ~~(a)~~ A. All manufacturers, importers, brokers and others who sell alcoholic beverages to a wholesaler in Oklahoma, regardless of whether the sale is consummated within or without the State of Oklahoma, shall obtain a distributor permit from the Oklahoma Tax Commission.

~~(b)~~ B. Any person having a Wholesaler's License shall obtain a wholesaler permit from the ~~Oklahoma~~ Tax Commission.

~~(c)~~ C. A distributor permit or wholesaler permit may be obtained by filing a verified permit application with the ~~Alcohol-Tobacco Tax Division of the Oklahoma~~ Tax Commission on a form furnished by the Tax Commission.

SECTION 8. 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%)~~ thirteen and one-half percent (13.5%) 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.

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

Section 579. A. Every mixed beverage 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 ~~15<sup>th</sup>~~ fifteenth day of the month immediately following the month of receipt. 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 tax permit holder;
2. Mixed beverage tax permit number;
3. Sales tax permit number;
4. Mixed beverage, caterer or special event license number;
5. Gross receipts 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; and

8. Such other information as may be required by the Tax Commission to enable it to collect taxes imposed as provided by law.

B. The gross receipts tax levied by Section 576 of this title shall be calculated by multiplying the tax rate, ~~twelve percent (12%)~~ thirteen and one-half percent (13.5%), 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. Gross 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.

F. Taxes paid as provided by law represented by accounts receivable which are found to be worthless or uncollectable 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.

G. In addition to any other authority granted by law, the Tax Commission is hereby authorized to audit any mixed beverage, beer and wine, caterer or special event licensee to determine if the correct amount of tax payable under Section 576 of this title has

been collected; provided, if such an audit reveals that the amount collected is within the following percentages of the amount of tax payable, the taxpayer shall be deemed to be in compliance:

1. For spirits, eighty-four percent (84%) to one hundred sixteen percent (116%);

2. For wine, ninety percent (90%) to one hundred ten percent (110%);

3. For beer sold at draft and not in original packages, eighty-six percent (86%) to one hundred fourteen percent (114%); and

4. For beer sold in original packages, ninety-five percent (95%) to one hundred five percent (105%).

SECTION 10. AMENDATORY 37 O.S. 1991, Section 582, as amended by Section 21, Chapter 361, O.S.L. 1994 (37 O.S. Supp. 2000, 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.

~~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 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, upon conviction, 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 11. 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 12. REPEALER 37 O.S. 1991, Sections 581, 581.1, 583, as amended by Section 22, Chapter 361, O.S.L. 1994, 585 and 587, as last amended by Section 330, Chapter 5, 1st Extraordinary Session, O.S.L. 1999 (37 O.S. Supp. 2000, Sections 583 and 587), are hereby repealed.

SECTION 13. This act shall become effective November 1, 2001."

Passed the House of Representatives the 4th day of April, 2001.

\_\_\_\_\_  
Presiding Officer of the House of  
Representatives

Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2001.

\_\_\_\_\_  
Presiding Officer of the Senate