

ENGROSSED HOUSE
BILL NO. 1014

By: Worthen, Adkins, Askins, Balkman, Benge, Blackwell, Boren, Calvey, Carey, Case, Claunch, Coleman, Cox, Dank, Davis, Deutschendorf, DeWitt, Dorman, Ellis, Ericson, Erwin, Ferguson, Graves, Greenwood, Hamilton, Harrison, Hastings, Hiett, Hutchison, Ingmire, Jones, Lindley, Liotta, Maddux, McCarter, Miller (Doug), Miller (Ray), Morgan (Fred), Nance, Nations, Newport, O'Neal, Paulk, Perry, Peterson, Pettigrew, Phillips, Piatt, Pope, Reynolds, Rice, Roan, Roberts, Roggow, Smaligo, Smith (Hopper), Staggs, Steele, Sullivan, Tibbs, Toure, Trebilcock, Turner, Tyler, Vaughn, Walker, Wilt, Winchester, Wright, Young, Cargill, Easley, Adair, Mitchell and Lamons of the House

and

Easley of the Senate

An Act relating to intoxicating beverages; requiring licensed retail sellers of low-point beer kegs and beer kegs to attach identification seals to kegs sold for off-premises consumption; defining terms; requiring the keeping of certain record; providing contents of record; providing for access to records; prohibiting certain acts; providing certain defense; providing penalties; providing for the promulgation of rules; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 163.29 of Title 37, unless there is created a duplication in numbering, reads as follows:

A. For purposes of this section:

1. "Beer keg" means any brewery-sealed, single container that contains not less than four (4) gallons of low-point beer, as defined by Section 163.2 of Title 37 of the Oklahoma Statutes;

2. "Licensed retailer" means a retail dealer licensed to sell low-point beer in original containers for consumption off the premises;

3. "Commission" means the Oklahoma Tax Commission; and

4. "Identification seal" means any device approved by the Commission which is designed to be affixed to beer kegs and which displays an identification number and any other information as may be prescribed by the Commission.

B. No licensed retailer shall sell beer kegs unless that retailer affixes an identification seal to each beer keg. An identification seal shall consist of durable material as determined by the Commission that is not easily removed or destroyed.

Identification seals used may contain a nonpermanent adhesive material in order to apply the seal directly to an outside surface of a beer keg at the time of sale. Identification seals shall be attached to beer kegs at the time of sale as determined by the Commission. The identification information contained on the seal shall include the licensed retailer's name, address, beer license number, and telephone number; a unique beer keg number assigned by the licensed retailer; and a prominently visible warning that intentional removal or defacement of the seal is a misdemeanor. Upon return of a beer keg to the licensed retailer that sold the beer keg and attached the identification seal, the licensed retailer shall be responsible for the complete and thorough removal of the entire identification seal, and any adhesive or attachment devices of the seal. The seal beer keg identification number must be kept on file with the retailer for not less than one (1) year from the date of return.

C. A licensed retailer shall not sell a beer keg unless the beer keg has attached a seal complying with the standards established by subsection B of this section.

D. 1. A licensed retailer who sells a beer keg must at the time of the sale record:

- a. the purchaser's name and address and the number of the purchaser's driver license, identification card issued by the Department of Public Safety, military identification card, or valid United States or foreign passport,
- b. the date and time of the purchase,
- c. the beer keg identification seal number required by subsection B of this section, and
- d. the purchaser's signature.

2. The record shall be retained for not less than one (1) year after the date of the sale.

E. A licensed retailer required to retain records under subsection D of this section shall make the records available during regular business hours for inspection by a law enforcement officer or an agent of the Commission.

F. 1. A person required to record information under subsection D of this section shall not knowingly make a materially false entry in the book or register required under subsection D of this section. In a prosecution under this subsection, it is a defense for the defendant to prove by a preponderance of the evidence that the defendant reasonably and in good faith relied upon the identification provided by the purchaser of a beer keg.

2. No person other than a licensed retailer, a licensed wholesaler of low-point beer, a law enforcement officer, or an agent of the Commission may intentionally remove a seal placed on a beer keg in compliance with subsection C of this section. No person may intentionally deface or damage the seal on a beer keg to make it unreadable.

3. Any person who purchases a beer keg and who fails to return the keg or who returns a keg with a damaged or missing seal shall be subject to a fine of Five Hundred Dollars (\$500.00).

4. Any licensed retailer who fails to report an individual provided for in paragraph 3 of this subsection to law enforcement shall be guilty of a misdemeanor and shall be subject to fines of not less than Five Hundred Dollars (\$500.00) for first and second offenses. A third violation by a licensed retailer of the provisions of this paragraph shall result in the revocation of the retailer's license to sell low-point beer for up to one (1) year.

G. The Commission shall promulgate rules for the implementation and application of this section.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 521.1 of Title 37, unless there is created a duplication in numbering, reads as follows:

A. For purposes of this section:

1. "Beer keg" means any brewery-sealed, single container that contains not less than four (4) gallons of beer, as defined by Section 506 of Title 37 of the Oklahoma Statutes;

2. "Licensed retailer" means a licensed package store;

3. "Commission" means the Oklahoma Beverage Laws Enforcement Commission; and

4. "Identification seal" means any device approved by the Commission which is designed to be affixed to beer kegs and which displays an identification number and any other information as may be prescribed by the Commission.

B. No licensed retailer shall sell beer kegs unless that retailer affixes an identification seal to each beer keg. An identification seal shall consist of durable material as determined by the Commission that is not easily removed or destroyed. Identification seals used may contain a nonpermanent adhesive material in order to apply the seal directly to an outside surface

of a beer keg at the time of sale. Identification seals shall be attached to beer kegs at the time of sale as determined by the Commission. The identification information contained on the seal shall include the licensed retailer's name, address, beer license number, and telephone number; a unique beer keg number assigned by the licensed retailer; and a prominently visible warning that intentional removal or defacement of the seal is a misdemeanor. Upon return of a beer keg to the licensed retailer that sold the beer keg and attached the identification seal, the licensed retailer shall be responsible for the complete and thorough removal of the entire identification seal, and any adhesive or attachment devices of the seal. The seal beer keg identification number must be kept on file with the retailer for not less than one (1) year from the date of return.

C. A licensed retailer shall not sell a beer keg unless the beer keg has attached a seal complying with the standards established by subsection B of this section.

D. 1. A licensed retailer who sells a beer keg must at the time of the sale record:

- a. the purchaser's name and address and the number of the purchaser's driver license, identification card issued by the Department of Public Safety, military identification card, or valid United States or foreign passport,
- b. the date and time of the purchase,
- c. the beer keg identification seal number required by subsection B of this section, and
- d. the purchaser's signature.

2. The record shall be retained for not less than one (1) year after the date of the sale.

E. A licensed retailer required to retain records under subsection D of this section shall make the records available during

regular business hours for inspection by a law enforcement officer or an agent of the Commission.

F. 1. A person required to record information under subsection D of this section shall not knowingly make a materially false entry in the book or register required under subsection D of this section. In a prosecution under this subsection, it is a defense for the defendant to prove by a preponderance of the evidence that the defendant reasonably and in good faith relied upon the identification provided by the purchaser of a beer keg.

2. No person other than a licensed retailer, a licensed Class B wholesaler, a law enforcement officer, or an agent of the Commission may intentionally remove a seal placed on a beer keg in compliance with subsection C of this section. No person may intentionally deface or damage the seal on a beer keg to make it unreadable.

3. Any person who purchases a beer keg and who fails to return the keg or who returns a keg with a damaged or missing seal shall be subject to a fine of Five Hundred Dollars (\$500.00).

4. Any licensed retailer who fails to report an individual provided for in paragraph 3 of this subsection to law enforcement shall be guilty of a misdemeanor and shall be subject to fines of not less than Five Hundred Dollars (\$500.00) for first and second offenses. A third violation by a licensed retailer of the provisions of this paragraph shall result in the revocation of the retailer's license for up to one (1) year.

G. The Commission shall promulgate rules for the implementation and application of this section.

SECTION 3. This act shall become effective November 1, 2003.

Passed the House of Representatives the 27th day of February,
2003.

Presiding Officer of the House of
Representatives

Passed the Senate the ____ day of _____, 2003.

Presiding Officer of the Senate