ENROLLED HOUSE
BILL NO. 1106

By: Balkman of the House

and

Monson of the Senate

An Act relating to intoxicating beverages; amending 37 O.S. 2001, Section 163.7, which relates to state low-point beer permits; increasing certain permit fees; making fee increases incremental; providing for distribution of certain portion of fees; providing when increase is effective for existing permits; creating the Community-based Substance Abuse Revolving Fund; stating purpose; providing for funding; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 37 O.S. 2001, Section 163.7, is amended to read as follows:

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

1. Manufacturers: Every manufacturer, located and doing business in this state, shall, before commencing the manufacture of low-point beer, obtain from the Tax Commission a permit to engage in such manufacture. As a condition of the issuance of this permit such manufacturer shall pay to the Tax Commission a license tax of Five Hundred Dollars ($500.00), which shall cover a one-year period commencing with the effective date of such permit. This permit must be renewed and the license tax paid annually thereafter at the expiration of the preceding permit and license tax period. Each and every other manufacturer of such beverages, coming within the provisions of Section 163.1 et seq. of this title, shall before selling or offering for sale such beverages within the State of Oklahoma, qualify with the Secretary of State of the State of Oklahoma for a permit to do business within the State of Oklahoma and, after so qualifying, shall obtain a permit or license from the Tax Commission and, in addition to any other license, taxes or fees, pay therefor a license tax of Five Hundred Dollars ($500.00), which shall cover a one-year period commencing with the effective date of such permit. The permit or license shall be for the privilege of doing business in Oklahoma as a manufacturer of low-point beer. The

permit must be renewed and the license tax paid annually thereafter at the expiration of the preceding permit and license tax period. The receipt of payment of such permit or license shall be on file with the Tax Commission before such manufacturer shall sell, or offer for sale, such beverages to any person within the State of Oklahoma.

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

2. Wholesalers: Every wholesaler, located and doing business in this state, must annually obtain from the Tax Commission a permit to sell low-point beer. As a condition of the issuance of this permit such wholesaler shall pay to the Tax Commission a license fee of Two Hundred Fifty Dollars ($250.00) which shall cover a one-year period commencing with the effective date of such permit. The permit must be renewed and the license tax paid annually thereafter at the expiration of the preceding permit and license tax period.

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

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

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

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

a. each retail dealer who sells low-point beer, on draught and in original packages, for consumption on or off the premises, shall obtain a permit which shall be valid for a period of three (3) years and shall pay a license tax of ~~Three Hundred Dollars ($300.00)~~ Four Hundred Dollars ($400.00) for every permit issued or renewed on or after July 1, 2003, but prior to July 1, 2006, of which One Hundred Dollars ($100.00) shall be deposited in the Community-based Substance Abuse Revolving Fund established in Section 2 of this act. The fee for every permit issued or renewed on or after July 1, 2006, shall be Five Hundred Dollars ($500.00), of which Two Hundred Dollars ($200.00) shall be

deposited in the Community-based Substance Abuse Revolving Fund,

b. each retail dealer who sells such beverages in original packages only for consumption on or off the premises shall obtain a permit which shall be valid for a period of three (3) years and shall pay a license tax of ~~One Hundred Fifty Dollars ($150.00)~~ Two Hundred Fifty Dollars ($250.00) for each permit issued or renewed on or after July 1, 2003, but before July 1, 2006, of which One Hundred Dollars ($100.00) shall be deposited in the Community-based Substance Abuse Revolving Fund. The fee for every permit issued on or after July 1, 2006, shall be Three Hundred Fifty Dollars ($350.00), of which Two Hundred Dollars ($200.00) shall be deposited in the Community-based Substance Abuse Revolving Fund,

c. each retail dealer who sells low-point beer purchased from a licensed manufacturer or licensed wholesaler for consumption on or off the premises and who sells low-point beer manufactured by the retail dealer for consumption on or off the premises shall obtain a permit which shall be valid for a period of three (3) years and shall pay a license fee of ~~Four Hundred Fifty Dollars ($450.00)~~ Five Hundred Fifty Dollars ($550.00) for each permit issued or renewed on or after July 1, 2003, but before July 1, 2006, of which One Hundred Dollars ($100.00) shall be deposited in the Community-based Substance Abuse Revolving Fund. The fee for every permit issued on or after July 1, 2006, shall be Six Hundred Fifty Dollars ($650.00), of which Two Hundred Dollars ($200.00) shall be deposited in the Community-based Substance Abuse Revolving Fund. Provided, a retail dealer licensed pursuant to this subparagraph shall not manufacture more than five thousand (5,000) barrels of low-point beer per year. A retail dealer, that has obtained a permit pursuant to this subparagraph, may sell low-point beer manufactured by the retail dealer, at any of the retail dealer's places of business, as defined in Section 163.8 of this title, or any other place owned and operated by an entity which has common owners with the licensed dealer, regardless of which place of business brews the beverage. "Common owners" means that the owners at each place or entity together own more than fifty percent (50%) of the interest in each place or entity that has a permit issued pursuant to this subparagraph. A retail dealer, that has obtained a permit pursuant to this subparagraph, may sell low-point beer manufactured by the same retailer pursuant to special licenses issued pursuant to subparagraph d of this paragraph,

d. special licenses, as provided, may be issued for the sum of Five Dollars ($5.00) per day for each license; provided, that in the event any state or county fair association shall meet for more than five (5) days in any year, a special license for the sale of such

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

e. each retail dealer who sells such beverages in original packages and not for consumption on the premises, shall obtain a permit which shall be valid for a period of three (3) years and shall pay a license tax of ~~Thirty Dollars ($30.00)~~ One Hundred Thirty Dollars ($130.00) for each permit issued or renewed on or after July 1, 2003, but prior to July 1, 2006, of which One Hundred Dollars ($100.00) shall be deposited in the Community-based Substance Abuse Revolving Fund. The fee for every permit issued or renewed on or after July 1, 2006, shall be Two Hundred Thirty Dollars ($230.00), of which Two Hundred Dollars ($200.00) shall be deposited in the Community-based Substance Abuse Revolving Fund. It shall be unlawful for such off-premise dealer to allow any bottle, can, or original package to be broken or opened, or to allow any of such low-point beer to be consumed, in or upon the premises described in such permit, ~~and~~

f. a retail dealer who has obtained a permit pursuant to this paragraph and who ceases to offer low-point beer for sale to the public shall be entitled to receive a refund of the permit fee from the Tax Commission prorated with respect to the amount of time remaining until expiration of the permit, upon surrender of the permit to the Oklahoma Tax Commission. The manner and prorated refund shall be prescribed by the Tax Commission, and

g. a retail dealer who has obtained a permit pursuant to this paragraph prior to July 1, 2003, shall not be subject to the increased fees provided for in subparagraphs a, b, c or e until the permit is renewed.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-311 of Title 43A, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Department of Mental Health and Substance Abuse Services to be designated the Community-based Substance Abuse Revolving Fund. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Department of Mental Health and Substance Abuse Services from low-point beer permits pursuant to Section 163.7 of Title 37 of the Oklahoma Statutes. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Department of Mental Health and Substance Abuse Services for the purpose of contracting with private facilities, organizations and tribal programs to provide treatment, counseling, rehabilitation, and other related services directed toward alcohol- and drug-dependent persons. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

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

Passed the House of Representatives the 21st day of May, 2003.

Presiding Officer of the House of Representatives

Passed the Senate the 23rd day of May, 2003.

Presiding Officer of the Senate