

SB 1543

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**THE STATE SENATE**  
**Tuesday, February 17, 2004**

**Senate Bill No. 1543**

SENATE BILL NO. 1543 - By: MORGAN of the Senate and RICE of the House.

An Act relating to intoxicating liquors; amending 37 O.S. 2001, Sections 163.8 and 163.11, which relate to certain licenses and permits for retail sale of low-point beer; allowing for a single special license and special permit under certain circumstances; and providing an effective date.

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

SECTION 1. AMENDATORY 37 O.S. 2001, Section 163.8, is amended to read as follows:

Section 163.8 Prior to applying to the Oklahoma Tax Commission for a permit to engage in the retail sale of low-point beer, the applicant shall first obtain and furnish proof to the Oklahoma Tax Commission of a county permit as required by Section 163.11 of this title. Said proof shall include the effective and expiration dates of the permit. On approval of the application and payment of the license tax imposed by Sections 163.1 through 163.21 of this title, the Oklahoma Tax Commission shall grant the applicant a permit to conduct business in the state. Provided, however, that when a retailer has qualified for and secured a permit to sell low-point beer in original packages only for consumption off the premises and subsequently applies for a permit to sell said beverages on draught

1 and in original packages for consumption on or off the premises,  
2 before the expiration of the former permit, the Tax Commission is  
3 authorized to credit such retailer with the value of the unused  
4 portion of the former permit, prorated in an amount specified by the  
5 Oklahoma Tax Commission. The permit must be renewed and the license  
6 tax paid thereafter at the expiration of the preceding permit and  
7 license tax period.

8 The permits issued to retail dealers shall not be transferable  
9 from one person to another person, but shall be transferable from  
10 one location to another location, provided that such transfer is  
11 made with the approval of the Tax Commission and the judge of the  
12 district court.

13 Retail dealers shall be required to secure a permit and must pay  
14 a license tax for each place of business at which low-point beer is  
15 sold. "Place of business" as herein used shall mean each room, bar  
16 or other service unit from which low-point beer is served, delivered  
17 or otherwise furnished. Provided, retail dealers applying for a  
18 special license under the provisions of Section 163.7 of this title  
19 shall not be required to obtain a special permit for each bar or  
20 service unit within the same enclosed area or within the general  
21 vicinity of each other for events held outside a physical structure.

22 Application for the issuance of the initial and renewal permits  
23 required and provided for by this section shall be filed with the

1 Tax Commission and must be accompanied by the required license tax  
2 payment in the form of cash, cashier's check, bank draft, or money  
3 order payable to the Tax Commission. Permits shall be issued and  
4 renewed in the discretion of the Tax Commission upon full compliance  
5 with the provisions of Section 163.1 et seq. of this title by the  
6 applicant. Proof of the issuance of a permit by the district court  
7 clerk, including the effective and expiration dates of the permit,  
8 shall entitle the applicant to a permit from the Oklahoma Tax  
9 Commission and the revocation of any such permit shall be cause for  
10 cancellation of the permit issued by the Oklahoma Tax Commission.

11 SECTION 2. AMENDATORY 37 O.S. 2001, Section 163.11, is  
12 amended to read as follows:

13 Section 163.11 A. It shall be unlawful for any person to  
14 maintain or operate any place where low-point beer, as herein  
15 defined, is sold for consumption on or off the premises without  
16 first securing a permit issued by the district court clerk of the  
17 county in which the premises are located.

18 B. 1. The person applying for a permit must file a verified  
19 application every three (3) years and that he or she has never been  
20 convicted of violating any of the laws prohibiting the traffic in  
21 any spirituous, vinous, fermented or malt liquors, or of any of the  
22 gambling laws of this state, or of any other state of the United  
23 States, within three (3) years immediately preceding the date of his

1 or her petition, or any of the laws commonly called "Prohibition  
2 Laws", or had any permit or license to sell low-point beer revoked  
3 in any county of this state within twelve (12) months.

4 2. A person who has been convicted of a felony shall not be  
5 eligible for a permit unless the person received a pardon for the  
6 felony or a period of ten (10) years has elapsed since the  
7 completion of the sentence imposed for the felony.

8 C. No permit shall be issued to sell low-point beer for on-  
9 premises consumption unless the person applying for such permit  
10 shall have signed an affidavit stating that the location of the  
11 building in which low-point beer is to be sold is not prohibited by  
12 the provisions of Section 163.27 of this title.

13 D. A fee of One Hundred Fifty Dollars (\$150.00) shall be  
14 charged for the issuance or renewal of such three-year permit, which  
15 fee shall be deposited in the county court fund, in addition to  
16 other fees required by law.

17 E. Upon petition being filed, the district court clerk shall  
18 give fifteen (15) days' notice for an initial application, and it is  
19 the applicant's responsibility to cause the same to be posted by the  
20 entrance on the front of the building in which said low-point beer  
21 is to be sold and to file proof of posting in such case; and a copy  
22 of said notice shall also be mailed to the district attorney, the  
23 sheriff and the chief of police or marshal of any city or town in

1 which said business is to be operated. Said notice shall contain  
2 the name of the applicant and the location of said place of  
3 business. The initial permit shall be valid for a period of three  
4 (3) years and shall expire if not renewed with proper showing  
5 required by subsection B of this section, and upon payment of proper  
6 fees. A permit may be renewed within ten (10) days of expiration,  
7 upon proper application pursuant to subsection B of this section and  
8 payment of the proper fees, but without the payment of any late  
9 fees. Provided, however, that if a proper application under  
10 subsection B of this section is filed within eleven (11) days but  
11 not more than thirty (30) days after the expiration date of the  
12 permit, upon payment of a fee of One Hundred Dollars (\$100.00) in  
13 addition to the initial permit fee, the court clerk is authorized to  
14 treat said application as one for renewal and to issue a renewal  
15 permit to the applicant, if all requirements have otherwise been met  
16 by the applicant. A renewal permit granted during the thirty-day  
17 grace period shall become effective upon the date of its issuance by  
18 the court clerk.

19 F. A permit issued prior to September 1, 1994, shall be valid  
20 until it expires and shall be renewed for a period of three (3)  
21 years or until expiration of the sales tax permit issued by the  
22 Oklahoma Tax Commission, if any, held by the person at the time of  
23 such renewal, whichever is earlier. The manner and prorated fee for

1 renewals of less than three (3) years shall be prescribed by the  
2 court clerk.

3 G. A person who has obtained a permit pursuant to this section  
4 and who ceases to maintain or operate any place where low-point beer  
5 is sold for consumption on or off the premises shall be entitled to  
6 receive a refund of the permit fee from the district court clerk  
7 prorated with respect to the amount of time remaining until  
8 expiration of the permit, upon surrender of the existing permit to  
9 the district court clerk. The manner and prorated refund shall be  
10 prescribed by the Administrative Director of the Courts.

11 H. If there are no protests and the petition is sufficient on  
12 its face, then said permit shall be granted by the district court  
13 clerk. Provided, that if any citizen of the county files a written  
14 protest setting forth objections, then the district court clerk  
15 shall advise the chief judge who shall assign such petition to a  
16 district judge or associate district judge for hearing.

17 I. The application for such permit must be verified and in  
18 writing, contain the information above required, and must be set for  
19 hearing on a date named in the notice required to be posted.

20 J. All testimony before the district court shall be under oath.

21 K. A judge of the district court, upon five (5) days' notice to  
22 the person holding such permit, shall revoke such permit for any one  
23 of the following reasons:

- 1           1. Drunkenness of the person holding such permit or permitting  
2 any intoxicated person to loiter in or around his or her place of  
3 business;
- 4           2. Person under the influence of drugs holding such permit or  
5 permitting any drugged person to loiter in or around his or her  
6 place of business;
- 7           3. The sale to any person under twenty-one (21) years of age of  
8 low-point beer;
- 9           4. Permitting persons under the age of twenty-one (21) in a  
10 separate or enclosed bar area which has as its main purpose the  
11 selling or serving of low-point beer for consumption on the premises  
12 unless said person's parent or legal guardian is present, in  
13 violation of the provisions of Sections 241 through 246 of this  
14 title;
- 15           5. Nonpayment of any of the taxes or license fees imposed by  
16 the provisions of Section 163.1 et seq. of this title on complaint  
17 of the Oklahoma Tax Commission;
- 18           6. Violating any of the laws of the state commonly called  
19 "Prohibition Laws" or violating any of the gambling laws of the  
20 state or permitting anyone to violate any of said laws in such  
21 places or violating any of the provisions of Section 163.1 et seq.  
22 of this title;

1           7. Conviction for the violation of any of the laws of this  
2 state or the United States for the sale or possession of  
3 intoxicating liquors within three (3) years immediately preceding  
4 the issuance of such dealer's license; or

5           8. Violating any law pertaining to the use, possession, or sale  
6 of drugs or narcotics or the violation of the narcotics laws of the  
7 State of Oklahoma or the United States.

8           L. After the revocation of any such permit, for any of the  
9 above reasons, except paragraph 5 of subsection K of this section  
10 for nonpayment of taxes, or license fees, no new permit shall be  
11 issued to the same person for the same location or premises prior to  
12 the expiration of a period of one (1) year from the date of such  
13 revocation.

14           M. On or before the tenth day of each month each district court  
15 clerk shall file with the Oklahoma Tax Commission, on forms  
16 prescribed and furnished by the Commission, a report showing the  
17 name, address, and county permit number of each such person to whom  
18 a county permit has been issued or whose permit has been revoked, or  
19 who shall have been refused a county permit, during the previous  
20 calendar month. In case of the revocation of a permit by a judge of  
21 the district court, the district court clerk shall within five (5)  
22 days report such action to the Oklahoma Tax Commission. If county  
23 permits shall have been issued, revoked or refused during the month,

1 the district court clerk shall make a report accordingly to the  
2 Commission.

3 N. Upon application to and approval by the court clerk of the  
4 district court, a retail dealer as defined by Section 163.2 of this  
5 title who meets the requirements of this section and Section 163.11a  
6 of this title may be granted a special event permit without the  
7 requirement of notice or posting, after payment of a fee of Twenty-  
8 five Dollars (\$25.00) in addition to other fees required by law,  
9 which fees shall not be refundable or apportionable. A special  
10 event permit issued under this subsection shall authorize the holder  
11 thereof to sell and distribute low-point beer for a period not to  
12 exceed ten (10) consecutive days from the date of issuance. A  
13 separate permit shall be required for each individual place of  
14 business, whether permanent or a temporary assemblage. Provided,  
15 retail dealers shall not be required to obtain a special permit for  
16 each bar or service unit within the same enclosed area or within the  
17 general vicinity of each other for events held outside a physical  
18 structure. A special event permit shall not be renewable. A  
19 municipality shall not, by ordinance or otherwise, refuse to issue a  
20 special event permit or special event license on the basis that the  
21 applicant already possesses a permit or license in the applicant's  
22 same name.

23 SECTION 3. This act shall become effective November 1, 2004.

1 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 2-10-04 - DO PASS,  
2 As Coauthored.