ENROLLED HOUSE
BILL NO. 3056

By: Balkman, Gilbert, Jackson, Kern, Coody, Miller (Ken), Cox, Sherrer, Lindley, Billy, Blackburn, Dank, Denney, Deutschendorf, McDaniel, Nance and Rousselot of the House

and

Rabon, Johnson (Constance) and Leftwich of the Senate

An Act relating to crimes and punishments; creating the Prevention of Youth Access to Alcohol Act; providing short title; amending 11 O.S. 2001, Sections 14-111, as last amended by Section 1, Chapter 173, O.S.L. 2004, 27-126 and 28-102, as last amended by Section 6, Chapter 173, O.S.L. 2004 (11 O.S. Supp. 2005, Sections 14-111 and 28-102), which relate to enforcement of violations of municipal ordinances and costs; modifying maximum allowable fines and costs for certain offenses; providing that portion of such fines and costs be used for certain purposes; amending 21 O.S. 2001, Section 1215, which relates to possession of intoxicating beverages by under-age person; prohibiting certain possession of low-point beer; amending 28 O.S. 2001, Section 153, as last amended by Section 4, Chapter 208, O.S.L. 2005 (28 O.S. Supp. 2005, Section 153), which relates to fees and costs in criminal cases; modifying certain fees; amending 37 O.S. 2001, Section 163.11, as amended by Section 2, Chapter 170, O.S.L. 2004 (37 O.S. Supp. 2005, Section 163.11), which relates to low-point beer permits; modifying length of time for mandatory revocation of permit under certain circumstances; providing rebuttable presumption for persons cited for violations; amending 37 O.S. 2001, Sections 241, 244 and 246, which relate to laws pertaining to low-point beer and persons under twenty-one years of age; deleting certain exception; providing penalties for first, second, and third offenses; requiring deposit of one-half of fine in certain revolving fund; providing rebuttable presumption for persons cited for violations; requiring notification of violation to certain persons and entities; establishing notification procedure; clarifying and providing time limitations for reissuance of permits; providing penalties for first, second, and third violation of certain prohibited act; requiring revocation of driver licenses and denial of driving privileges for certain persons; requiring alcohol assessment under certain circumstances; requiring revocation of driver

licenses and denial of driving privileges for certain persons; making certain actions unlawful; providing penalties; authorizing the issuance, display or possession of a license under certain circumstances; amending 47 O.S. 2001, Section 6-107.1, which relates to cancellation or denial of driving privileges for certain persons; modifying periods of cancellation or denial; creating a revolving fund and stating purpose therefor; providing for codification; providing for noncodification; providing an effective date; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "Prevention of Youth Access to Alcohol Act".

SECTION 2. AMENDATORY 11 O.S. 2001, Section 14-111, as last amended by Section 1, Chapter 173, O.S.L. 2004 (11 O.S. Supp. 2005, Section 14-111), is amended to read as follows:

Section 14-111. A. The governing body of a municipality may provide for enforcement of its ordinances and establish fines, penalties, or imprisonment, as authorized by subsections B through D of this section, for any offense in violation of its ordinances, which shall be recoverable together with costs of suit. The governing body may provide that any person fined for violation of a municipal ordinance who is financially able but refuses or neglects to pay the fine or costs may be compelled to satisfy the amount owed by working on the streets, alleys, avenues, areas, and public grounds of the municipality, subject to the direction of the street commissioner or other proper officer, at a rate per day as the governing body may prescribe by ordinance, but not less than Twenty-five Dollars ($25.00) per day for useful labor, until the fine or costs are satisfied.

B. 1. Except for municipal ordinances related to prostitution and as otherwise provided in this section, cities having a municipal criminal court of record may enact ordinances prescribing maximum fines of One Thousand Two Hundred Dollars ($1,200.00) and costs or imprisonment not exceeding six (6) months or both the fine and imprisonment, but shall not have authority to enact any ordinance making unlawful an act or omission declared by state statute to be punishable as a felony~~; provided, that cities~~. Cities having a municipal criminal court of record may enact ordinances prescribing maximum fines of One Thousand Dollars ($1,000.00) and costs or imprisonment not exceeding six (6) months or both such fine and imprisonment for violations of municipal ordinances regulating the pretreatment of wastewater and regulating stormwater discharges. Cities having a municipal criminal court of record may enact ordinances prescribing maximum fines of One Thousand Two Hundred Fifty Dollars ($1,250.00) and costs or imprisonment not exceeding six (6) months or both such fine and imprisonment for alcohol-related or drug-related traffic offenses. The court shall remit

Fifty Dollars ($50.00) of each alcohol fine or deferral fee to a fund of the municipality that shall be used to defray costs for enforcement of laws relating to juvenile access to alcohol, other laws relating to alcohol and other intoxicating substances, and traffic-related offenses involving alcohol or other intoxicating substances.

2. For violations of municipal ordinances relating to prostitution, including but not limited to engaging in prostitution or soliciting or procuring prostitution, a municipal criminal court of record may enact ordinances prescribing an imprisonment not to exceed six (6) months, and fines as follows: a fine not to exceed Two Thousand Five Hundred Dollars ($2,500.00) upon the first conviction for violation of any such ordinances, a fine of not more than Five Thousand Dollars ($5,000.00) upon the second conviction for violation of any of such ordinances, and a fine of not more than Seven Thousand Five Hundred Dollars ($7,500.00) upon the third or subsequent convictions for violation of any of such ordinances, or both such fine and imprisonment as well as a term of community service of not less than forty (40) nor more than eighty (80) hours.

C. Municipalities having a municipal court not of record may enact ordinances prescribing maximum fines pursuant to the provisions of this subsection. A municipal ordinance may not impose a penalty, including fine or deferral fee in lieu of a fine and costs, which is greater than that established by statute for the same offense. The maximum fine or deferral fee in lieu of a fine for traffic-related offenses relating to speeding or parking shall not exceed Two Hundred Dollars ($200.00). The maximum fine or deferral fee in lieu of a fine for alcohol-related or drug-related offenses shall not exceed Eight Hundred Dollars ($800.00). For all other offenses, the maximum fine or deferral fee in lieu of a fine shall not exceed Seven Hundred Fifty Dollars ($750.00). The court shall remit Fifty Dollars ($50.00) of each alcohol fine or deferral fee to a fund of the municipality that shall be used to defray costs for enforcement of laws relating to juvenile access to alcohol, other laws relating to alcohol and other intoxicating substances, and traffic-related offenses involving alcohol or other intoxicating substances. The ordinances may prescribe costs pursuant to the provisions of Section 27-126 of this title or imprisonment not exceeding sixty (60) days or both the fine and imprisonment; provided, that municipalities having only a municipal court not of record shall not have authority to enact any ordinance making unlawful any act or omission declared by state statute to be punishable as a felony; provided further, that municipalities having a municipal court not of record may enact ordinances prescribing maximum fines of One Thousand Dollars ($1,000.00) and costs or imprisonment not exceeding ninety (90) days or both such fine and imprisonment for violations of municipal ordinances regulating the pretreatment of wastewater and regulating stormwater discharges. If imprisonment is available for the offense, then that person charged shall have a right to a jury trial.

D. Municipalities having both municipal criminal courts of record and municipal courts not of record may enact ordinances, within the authority of this section, for each court.

E. No municipality may levy a fine or deferral fee in lieu of a fine of over Fifty Dollars ($50.00) until it has compiled and

published its penal ordinances as required in Sections 14-109 and 14-110 of this title.

F. No municipality may levy a fine of more than Ten Dollars ($10.00) nor court costs of more than Fifteen Dollars ($15.00) for exceeding the posted speed limit by no more than ten (10) miles per hour upon any portion of the National System of Interstate and Defense Highways, federal-aid primary highways, and the state highway system which are located on the outskirts of any municipality as determined in Section 2-117 of Title 47 of the Oklahoma Statutes.

SECTION 3. AMENDATORY 11 O.S. 2001, Section 27-126, is amended to read as follows:

Section 27-126. ~~Subject to the provisions of subsection F of~~ Except as provided in Section 14-111 of this title and subject to other limitations or exceptions imposed by law, the municipal governing body shall determine by ordinance the costs that may be charged and collected by the clerk of the court, but these costs shall not exceed the sum of Twenty-five Dollars ($25.00) plus the fees and mileage of jurors and witnesses.

SECTION 4. AMENDATORY 11 O.S. 2001, Section 28-102, as last amended by Section 6, Chapter 173, O.S.L. 2004 (11 O.S. Supp. 2005, Section 28-102), is amended to read as follows:

Section 28-102. A. The municipal criminal courts of record shall have original jurisdiction to hear and determine all prosecutions when a violation of any of the ordinances of the city where the court is established is charged, as provided by Article VII, Section 1 of the Oklahoma Constitution.

B. Except in cases when the penalty provided for the violation of an ordinance is a fine in the amount of Two Hundred Dollars ($200.00) or less, excluding court costs, or by imprisonment, or by both such fine and imprisonment, all persons charged before such municipal criminal court of record shall be entitled to a trial by jury, unless waived by the defendant. Judgment and sentence imposed by the judge shall be as effective as if the same had been rendered and imposed by a jury.

C. The maximum punishment that may be levied in any municipal criminal court of record is a fine not exceeding One Thousand Two Hundred Dollars ($1,200.00) and costs, an imprisonment not to exceed six (6) months, or both such fine and imprisonment. Provided, the maximum punishment that may be levied in any municipal criminal court of record for violations of municipal traffic ordinances not including ordinances relating to driving a motor vehicle under the influence of alcohol or drugs is a fine not exceeding ~~Seven Hundred Fifty Dollars ($750.00)~~ One Thousand Two Hundred Fifty Dollars ($1,250.00) and costs, an imprisonment not to exceed ninety (90) days, or both such fine and imprisonment. If a fine exceeding Seven Hundred Fifty Dollars ($750.00) is imposed for an alcohol-related or drug-related traffic offense, the amount in excess of Seven Hundred Fifty Dollars ($750.00) shall be used to defray costs for enforcement of laws relating to juvenile access to alcohol, other laws relating to alcohol and other intoxicating substances, and traffic-related offenses involving alcohol or other intoxicating substances. Provided, further that any municipal criminal court of

record may levy a fine not to exceed One Thousand Dollars ($1,000.00) and costs, an imprisonment not to exceed six (6) months, or both such fine and imprisonment for violations of municipal ordinances regulating the pretreatment of wastewater and regulating stormwater discharges. Provided, further, that for violations of municipal ordinances relating to prostitution, including but not limited to engaging in prostitution or soliciting or procuring prostitution, any municipal criminal court of record in cities with more than two hundred thousand (200,000) in population may levy an imprisonment not to exceed six (6) months, and fines as follows: a fine not to exceed Two Thousand Five Hundred Dollars ($2,500.00) upon the first conviction for violation of any such ordinances, a fine of not more than Five Thousand Dollars ($5,000.00) upon the second conviction for violation of any of such ordinances, and a fine of not more than Seven Thousand Five Hundred Dollars ($7,500.00) upon the third or subsequent convictions for violation of any of such ordinances, or both such fine and imprisonment, as well as a term of community service of not less than forty (40) nor more than eighty (80) hours. If imprisonment is available for the offense, then that person charged shall have a right to a jury trial.

D. A defendant who has been in jeopardy for the same or any lesser included offense in the municipal criminal court of record or district court shall not be prosecuted in any other court for the same or a lesser included offense.

SECTION 5. AMENDATORY 21 O.S. 2001, Section 1215, is amended to read as follows:

Section 1215. It shall be unlawful for any person under the age of twenty-one (21) years to be in the possession of any intoxicating beverage containing more than three and two-tenths percent (3.2%) alcohol by weight <u>or any low-point beer as defined by Section 163.2 of Title 37 of the Oklahoma Statutes</u> while such person is upon any public street, road, or highway or in any public building or place.

SECTION 6. AMENDATORY 28 O.S. 2001, Section 153, as last amended by Section 4, Chapter 208, O.S.L. 2005 (28 O.S. Supp. 2005, Section 153), is amended to read as follows:

Section 153. A. The clerks of the courts shall collect as costs in every criminal case for each offense of which the defendant is convicted, irrespective of whether or not the sentence is deferred, the following flat charges and no more, except for standing and parking violations and for charges otherwise provided for by law, which fee shall cover docketing of the case, filing of all papers, issuance of process, warrants, orders, and other services to the date of judgment:

1. For each defendant convicted of exceeding the speed limit by at least one (1) mile per hour but not more than ten (10) miles per hour, whether charged individually or conjointly with others.....$77.00

2. For each defendant convicted of a misdemeanor traffic violation other than an offense provided for in paragraph 1 or 5 of this subsection,

whether charged individually or conjointly with others.....$98.00

3. For each defendant convicted of a misdemeanor, other than for driving under the influence of alcohol or other intoxicating substance or an offense provided for in paragraph 1 or 2 of this subsection, whether charged individually or conjointly with others.....$93.00

4. For each defendant convicted of a felony, other than for driving under the influence of alcohol or other intoxicating substance, whether charged individually or conjointly with others.....$103.00

5. For each defendant convicted of the misdemeanor of driving under the influence of alcohol or other intoxicating substance, whether charged individually or conjointly with others.....~~$383.00~~

$433.00

6. For each defendant convicted of the felony of driving under the influence of alcohol or other intoxicating substance, whether charged individually or conjointly with others.....~~$383.00~~

$433.00

7. For the services of a court reporter at each preliminary hearing and trial held in the case.....$20.00

8. For each time a jury is requested..... $30.00

9. A sheriff's fee for serving or endeavoring to serve each writ, warrant, order, process, command, or notice or pursuing any fugitive from justice

a. within the county..... $50.00, or mileage as established by the Oklahoma Statutes, whichever is greater, or

b. outside of the county..... $50.00, or actual, necessary expenses, whichever is greater

10. For the services of a language interpreter, other than an interpreter appointed pursuant to the provisions of the Oklahoma Interpreter for the Deaf Act, at each hearing held in the case, the actual cost of the interpreter.

B. In addition to the amount collected pursuant to paragraphs 2 through 5 of subsection A of this section, the sum of Six Dollars ($6.00) shall be assessed and credited to the Law Library Fund pursuant to Section 1201 et seq. of Title 20 of the Oklahoma Statutes.

C. In addition to the amount collected pursuant to subsection A of this section, the sum of Ten Dollars ($10.00) shall be assessed and collected in every traffic case for each offense other than for driving under the influence of alcohol or other intoxicating substance; the sum of Fifteen Dollars ($15.00) shall be assessed and collected in every misdemeanor case for each offense; the sum of Fifteen Dollars ($15.00) shall be assessed and collected in every misdemeanor case for each offense for driving under the influence of alcohol or other intoxicating substance; the sum of Twenty-five Dollars ($25.00) shall be assessed and collected in every felony case for each offense; and the sum of Twenty-five Dollars ($25.00) shall be assessed and collected in every felony case for each offense for driving under the influence of alcohol or other intoxicating substance.

D. In addition to the amounts collected pursuant to subsections A and B of this section, the sum of Ten Dollars ($10.00) shall be assessed and credited to the Oklahoma Court Information System Revolving Fund created pursuant to Section 1315 of Title 20 of the Oklahoma Statutes.

E. Prior to conviction, parties in criminal cases shall not be required to pay, advance, or post security for the services of a language interpreter or for the issuance or service of process to obtain compulsory attendance of witnesses.

F. The fees collected pursuant to this section shall be deposited into the court fund, except the following:

1. A court clerk issuing a misdemeanor warrant is entitled to ten percent (10%) of the sheriff’s service fee, provided for in paragraph 9 of subsection A of this section, collected on a warrant referred to the contractor for the misdemeanor warrant notification program governed by Sections 514.4 and 514.5 of Title 19 of the Oklahoma Statutes. This ten-percent sum shall be deposited into the issuing Court Clerk’s Revolving Fund, created pursuant to Section 220 of Title 19 of the Oklahoma Statutes, of the court clerk issuing the warrant with the balance of the sheriff’s service fee to be deposited into the Sheriff’s Service Fee Account, created pursuant to the provisions of Section 514.1 of Title 19 of the Oklahoma Statutes, of the sheriff in the county in which service is made or attempted. Otherwise, the sheriff’s service fee, when collected, shall be deposited in its entirety into the Sheriff’s Service Fee Account of the sheriff in the county in which service is made or attempted;

2. The sheriff’s fee provided for in Section 153.2 of this title;

3. The witness fees paid by the district attorney pursuant to the provisions of Section 82 of this title which, if collected by the court clerk, shall be transferred to the district attorney's office in the county where witness attendance was required. Fees transferred pursuant to this paragraph shall be deposited in the district attorney's maintenance and operating expense account;

4. The fees provided for in subsection C of this section shall be forwarded to the District Attorneys Council Revolving Fund to defray the costs of prosecution; and

5. The following amounts of the fees provided for in paragraphs 2, 3, 5 and 6 of subsection A of this section, when collected, shall be deposited in the Trauma Care Assistance Revolving Fund, created pursuant to the provisions of Section ~~1-2522~~ 1-2530.9 of Title 63 of the Oklahoma Statutes:

a. Ten Dollars ($10.00) of the Ninety-eight-Dollar fee provided for in paragraph 2 of subsection A of this section,

b. Ten Dollars ($10.00) of the Ninety-three-Dollar fee provided for in paragraph 3 of subsection A of this section,

c. One Hundred Dollars ($100.00) of the ~~Three-Hundred-Eighty-three-Dollar~~ Four-Hundred-Thirty-three-Dollar fee provided for in paragraph 5 of subsection A of this section, and

d. One Hundred Dollars ($100.00) of the ~~Three-Hundred-Eighty-three-Dollar~~ Four-Hundred-Thirty-three-Dollar fee provided for in paragraph 6 of subsection A of this section.

G. Costs required to be collected pursuant to this section shall not be dismissed or waived; provided, if the court determines that a person needing the services of a language interpreter is indigent, the court may waive all or part of the costs or require the payment of costs in installments.

H. As used in this section, "convicted" means any final adjudication of guilt, whether pursuant to a plea of guilty or nolo contendere or otherwise, and any deferred judgment or suspended sentence.

I. A court clerk may accept in payment for any fee, fine, or cost for violation of any traffic law a nationally recognized credit card issued to the applicant. The court clerk may add an amount equal to the amount of the service charge incurred, not to exceed four percent (4%) of the amount of the payment as a service charge for the acceptance of the credit card. For purposes of this paragraph, "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 goods, services, or anything else of value and which is accepted by over one thousand (1,000) merchants in this state. The court clerk shall determine which nationally recognized credit cards will be accepted as payment

for fees; provided, the court clerk must ensure that no loss of state revenue will occur by the use of such cards.

J. Upon receipt of payment of fines and costs for offenses charged prior to July 1, 1992, the court clerk shall apportion and pay Thirteen Dollars ($13.00) per conviction to the court fund.

SECTION 7. AMENDATORY 37 O.S. 2001, Section 163.11, as amended by Section 2, Chapter 170, O.S.L. 2004 (37 O.S. Supp. 2005, Section 163.11), is amended to read as follows:

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

B. 1. The person applying for a permit must file a verified application every three (3) years and that he or she has never been convicted of violating any of the laws prohibiting the traffic in any spirituous, vinous, fermented or malt liquors, or of any of the gambling laws of this state, or of any other state of the United States, within three (3) years immediately preceding the date of his or her petition, or any of the laws commonly called "Prohibition Laws", or had any permit or license to sell low-point beer revoked in any county of this state within twelve (12) months.

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

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

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

E. Upon petition being filed, the district court clerk shall give fifteen (15) days' notice for an initial application, and it is the applicant's responsibility to cause the same to be posted by the entrance on the front of the building in which said low-point beer is to be sold and to file proof of posting in such case; and a copy of said notice shall also be mailed to the district attorney, the sheriff and the chief of police or marshal of any city or town in which said business is to be operated. Said notice shall contain the name of the applicant and the location of said place of business. The initial permit shall be valid for a period of three (3) years and shall expire if not renewed with proper showing required by subsection B of this section, and upon payment of proper fees. A permit may be renewed within ten (10) days of expiration, upon proper application pursuant to subsection B of this section and payment of the proper fees, but without the payment of any late fees. Provided, however, that if a proper application under subsection B of this section is filed within eleven (11) days but

not more than thirty (30) days after the expiration date of the permit, upon payment of a fee of One Hundred Dollars ($100.00) in addition to the initial permit fee, the court clerk is authorized to treat said application as one for renewal and to issue a renewal permit to the applicant, if all requirements have otherwise been met by the applicant. A renewal permit granted during the thirty-day grace period shall become effective upon the date of its issuance by the court clerk.

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

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

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

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

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

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

1. Drunkenness of the person holding such permit or permitting any intoxicated person to loiter in or around his or her place of business;

2. Person under the influence of drugs holding such permit or permitting any drugged person to loiter in or around his or her place of business;

3. The sale to any person under twenty-one (21) years of age of low-point beer;

4. Permitting persons under the age of twenty-one (21) in a separate or enclosed bar area which has as its main purpose the selling or serving of low-point beer for consumption on the premises ~~unless said person's parent or legal guardian is present~~, in violation of the provisions of Sections 241 through 246 of this title;

5. Nonpayment of any of the taxes or license fees imposed by the provisions of Section 163.1 et seq. of this title on complaint of the Oklahoma Tax Commission;

6. Violating any of the laws of the state commonly called "Prohibition Laws" or violating any of the gambling laws of the state or permitting anyone to violate any of said laws in such places or violating any of the provisions of Section 163.1 et seq. of this title;

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

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

L. After the revocation of any such permit, for any of the above reasons, except paragraph 5 of subsection K of this section for nonpayment of taxes, or license fees, <u>or except as otherwise provided in this subsection,</u> no new permit shall be issued to the same person <u>or to a relative of such person</u> for the same location or premises prior to the expiration of a period of one (1) year from the date of such revocation. <u>Upon the fourth or subsequent revocation of a permit for a violation of paragraph 3 or 4 of subsection K of this section, no new permit shall be issued to the same person or to a relative of such person for the same location or premises prior to the expiration of a period of three (3) years from the date of such revocation.</u>

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

N. Upon application to and approval by the court clerk of the district court, a retail dealer as defined by Section 163.2 of this title who meets the requirements of this section and Section 163.11a of this title may be granted a special event permit without the requirement of notice or posting, after payment of a fee of Twenty-five Dollars ($25.00) in addition to other fees required by law, which fees shall not be refundable or apportionable. A special event permit issued under this subsection shall authorize the holder thereof to sell and distribute low-point beer for a period not to exceed ten (10) consecutive days from the date of issuance. A separate permit shall be required for each individual place of business, whether permanent or a temporary assemblage. Provided, retail dealers shall not be required to obtain a special permit for each bar or service unit within the same enclosed area or within the

general vicinity of each other for events held outside a physical structure. A special event permit shall not be renewable. A municipality shall not, by ordinance or otherwise, refuse to issue a special event permit or special event license on the basis that the applicant already possesses a permit or license in the applicant's same name.

O. That the person demanded, was shown, and reasonably relied upon proof of age shall be a rebuttable presumption to any action brought pursuant to this section. A person cited for violating this section shall be deemed to have reasonably relied upon proof of age, and such person shall not be found guilty of such violation if:

1. The individual who purchased or received the low-point beer presented what a reasonable person would have believed was a driver license or other government-issued photo identification purporting to establish that such individual was twenty-one (21) years of age or older; or

2. The person cited for the violation confirmed the validity of the driver license or other government-issued photo identification presented by such individual by performing a transaction scan by means of a transaction scan device.

Provided, that this defense shall not relieve from liability any person cited for a violation of this section if such person failed to exercise reasonable diligence to determine whether the physical description and picture on the driver license or other government-issued photo identification was that of the individual who presented it. The availability of the defense described in this subsection does not affect the availability of any other defense under any other provision of law.

SECTION 8. AMENDATORY 37 O.S. 2001, Section 241, is amended to read as follows:

Section 241. A. It shall be unlawful for any person to sell, barter, or give to any person under twenty-one (21) years of age any low-point beer, as defined in Section 163.2 of this title.

B. It shall be unlawful for any person who holds a license to sell and dispense low-point beer for consumption on the premises, or any agent, servant, or employee of said license holder, to permit any person under twenty-one (21) years of age to be admitted to or remain in a separate or enclosed bar area of the licensed premises ~~unless said person's parent or legal guardian is present~~, which has as its main purpose the selling or serving of low-point beer for consumption on the premises. The provisions of this section shall not prohibit persons under twenty-one (21) years of age from being admitted to an area which has as its main purpose some objective other than the sale or serving of low-point beer, in which sales or serving of said beverages are incidental to the main purpose, as long as persons under twenty-one (21) years of age are not sold or served said beverages; however, the incidental service of food in the bar area shall not exempt a licensee, agent, servant, or employee from the provisions of this section.

C. It shall be unlawful for any person who holds a license to sell and dispense low-point beer, for consumption on the premises, or any agent, servant or employee of said license holder to permit

any person under twenty-one (21) years of age to consume any low-point beer on the licensed premises.

D. Any person violating the provisions of subsection A, B or C of this section shall upon conviction be guilty of a misdemeanor for a first violation and shall be punished by a fine of not more than Five Hundred Dollars ($500.00), or imprisoned in the county jail for not more than one (1) year, or by both such fine and imprisonment. Any person convicted of a second violation within one (1) year of the first violation shall be guilty of a misdemeanor and shall be punished by a fine of not more than Two Thousand Five Hundred Dollars ($2,500.00), or imprisoned in the county jail for not more than one (1) year, or by both such fine and imprisonment. Any person convicted of a third violation within one (1) year of the first violation shall be guilty of a felony and shall be punished by a fine of not more than Five Thousand Dollars ($5,000.00), or by imprisonment in the custody of the Department of Corrections for not more than five (5) years, or by both such fine and imprisonment. The filing of a supplemental information shall be subject to the discretion of the district attorney. One-half (1/2) of any fine collected shall be deposited in the Prevention of Youth Access to Alcohol Revolving Fund established by Section 13 of this act.

E. That the person demanded, was shown, and reasonably relied upon proof of age shall be a rebuttable presumption to any action brought pursuant to this section. A person cited for violating this section shall be deemed to have reasonably relied upon proof of age, and such person shall not be found guilty of such violation if:

1. The individual who purchased or received the low-point beer presented what a reasonable person would have believed was a driver license or other government-issued photo identification purporting to establish that the individual was twenty-one (21) years of age or older; or

2. The person cited for the violation confirmed the validity of the driver license or other government-issued photo identification presented by the individual by performing a transaction scan by means of a transaction scan device.

Provided, that this defense shall not relieve from liability any person cited for a violation of this section if such person failed to exercise reasonable diligence to determine whether the physical description and picture on the driver license or other government-issued photo identification was that of the individual who presented it. The availability of the defense described in this subsection does not affect the availability of any other defense under any other provision of law.

F. Upon violation of any of the provisions of this section by any agent, servant, or employee, the law enforcement agency shall notify the owner of the premises of the violation, the Oklahoma Tax Commission, and the district court clerk of the county in which the premises are located. For purposes of this subsection, notification to the owner of the premises shall be deemed given if the law enforcement agency mails, by mail with delivery confirmation, the notification to the address which is on file with the Oklahoma Tax Commission of the owner of the location at which the violation occurred and the law enforcement agency received delivery confirmation from the United States Postal Service.

SECTION 9. AMENDATORY 37 O.S. 2001, Section 244, is amended to read as follows:

Section 244. A. The violation by any person of the provisions of ~~Sections~~ Section 241 or 243 of this title or any statute pertaining to the sale of low-point beer, as defined in Section 163.2 of this title, shall be sufficient ground for mandatory suspension or revocation by the judge of the district court of any permit held by such person authorizing the sale of low-point beer. The permit shall be ~~revoked if the person is convicted of a violation of the provisions of Section 241 or 243 of this title after a prior conviction of the provisions of Section 241 or 243 of this title~~ suspended as follows:

1. A first conviction of a violation of the provisions of Section 241 or 243 of this title, may result in a suspension of not more than thirty (30) days; provided, however, the court shall waive suspension of the permit upon proof that the employees of the permit holder have participated in an alcohol compliance education program within the past twenty-four (24) months;

2. A second conviction of a violation of the provisions of Section 241 or 243 of this title, within twenty-four (24) months shall result in a mandatory suspension of thirty (30) days, if both violations were committed by the same person or employee or if the court finds that the violations are of an egregious nature;

3. A third conviction of a violation of the provisions of Section 241 or 243 of this title, within twenty-four (24) months shall result in a mandatory suspension of thirty (30) days. If all three convictions were committed by the same person or employee, the period of suspension shall be for one hundred eighty (180) days; or

4. A fourth or subsequent conviction of a violation of the provisions of Section 241 or 243 of this title, within twenty-four (24) months, shall result in a mandatory revocation of the permit.

B. No new permit shall be issued to such person or to a relative of such person for ~~a period of twelve (12) months after such revocation~~ the period of suspension or revocation. ~~The permit shall be revoked if a servant, agent, employee or representative of the permit holder is convicted of a violation of the provisions of Section 241 or 243 of this title after that person has been convicted of a prior violation of the provisions of Section 241 or 243 of this title within the previous twelve (12) months.~~

~~B.~~ C. Each holder of a retail license or permit to sell and dispense low-point beer, as defined in Section 163.2 of this title, shall be held responsible for any violation of Section 241 or 243 of this title committed by a servant, agent, employee or representative of the license or permit holder.

SECTION 10. AMENDATORY 37 O.S. 2001, Section 246, is amended to read as follows:

Section 246. A. No person under twenty-one (21) years of age shall consume or possess with the intent to consume low-point beer, as defined in Section 163.2 of this title. It shall be unlawful for any person under twenty-one (21) years of age to purchase or attempt

to purchase low-point beer, as defined in Section 163.2 of this title, except under supervision of law enforcement officers. Any person violating any of the provisions of this ~~section~~ subsection shall be guilty, upon conviction, of a misdemeanor and punished by a fine not to exceed ~~One Hundred Dollars ($100.00)~~ Three Hundred Dollars ($300.00) or ~~by appropriate~~ ordered to perform community service not to exceed ~~twenty (20)~~ thirty (30) hours, or both such fine and community service. In addition, if the person has an Oklahoma driver license issued by the Department of Public Safety, that license shall be revoked for the period of time provided in Section 6-107.1 of Title 47 of the Oklahoma Statutes. If the person does not have an Oklahoma driver license, the person shall be ineligible to obtain an Oklahoma driver license for the period of time provided in Section 6-107.1 of Title 47 of the Oklahoma Statutes. For a second offense, any person who is convicted of violating the provisions of this subsection shall be guilty of a misdemeanor and punished by a fine of not to exceed Six Hundred Dollars ($600.00) or ordered to perform community service not to exceed sixty (60) hours or both such fine and community service. In addition, if the person has an Oklahoma driver license issued by the Department of Public Safety, that license shall be revoked for the period of time provided in Section 6-107.1 of Title 47 of the Oklahoma Statutes. If the person does not have an Oklahoma driver license, the person shall be ineligible to obtain an Oklahoma driver license for the period of time provided in Section 6-107.1 of Title 47 of the Oklahoma Statutes. For a third offense, any person who is convicted of violating the provisions of this subsection shall be guilty of a misdemeanor and punished by a fine of not to exceed Nine Hundred Dollars ($900.00) or ordered to perform community service not to exceed ninety (90) hours or both such fine and community service. In addition, if the person has an Oklahoma driver license issued by the Department of Public Safety, that license shall be revoked for the period of time provided in Section 6-107.1 of Title 47 of the Oklahoma Statutes. If the person does not have an Oklahoma driver license, the person shall be ineligible to obtain an Oklahoma driver license for the period of time provided in Section 6-107.1 of Title 47 of the Oklahoma Statutes. Provided, the provisions of this ~~section~~ subsection shall not apply when such persons are under the direct supervision of their parent or guardian, but in no instance shall this exception be interpreted to allow such persons to consume such beverages in any place licensed to dispense low-point beer as provided in Section 163.11 of this title.

In addition to any penalty or condition imposed pursuant to the provisions of this subsection, the person shall be subject to an assessment of the person's degree of alcohol abuse, in the same manner as prescribed in subsection G of Section 11-902 of Title 47 of the Oklahoma Statutes, which may result in treatment as deemed appropriate by the court.

B. If the premises of a holder of a license to sell low-point beer contains a separate or enclosed bar area which has as its main purpose the sale or serving of low-point beer for consumption on the premises, no person under twenty-one (21) years of age shall enter, attempt to enter, or remain in said area. The provisions of this subsection shall not prohibit persons under twenty-one (21) years of age from entering or remaining in an area which has as its main purpose some objective other than the sale or serving of low-point beer, in which sales or serving of said beverages are incidental to

the main purpose, if the persons under twenty-one (21) years of age are not sold or served or do not consume low-point beer anywhere on the premises; however, the incidental service of food in the bar area shall not exempt persons under twenty-one (21) years of age from the provisions of this subsection. Any person convicted of violating the provisions of this subsection shall be guilty of a misdemeanor and punished by a fine not to exceed One Hundred Dollars ($100.00).

In addition, if the person has an Oklahoma driver license issued by the Department of Public Safety, that license shall be revoked for the period of time provided in Section 6-107.1 of Title 47 of the Oklahoma Statutes. If the person does not have an Oklahoma driver license, the person shall be ineligible to obtain an Oklahoma driver license for the period of time provided in Section 6-107.1 of Title 47 of the Oklahoma Statutes.

C. Except as otherwise provided, an admission charge shall not be considered in any calculation designed to determine the main purpose of an area pursuant to subsection B of this section. For purposes of this section, an "admission charge" shall mean any form of consideration received by an establishment from a person in order for that person to gain entry into the establishment or an area thereof.

D. The provisions of subsection C of this section shall not apply:

1. If only persons eighteen (18) years of age or older are permitted to enter the licensed premises;

2. If the licensed premises are owned or operated by a service organization or fraternal establishment which is exempt under Section 501(c)(19), (8), or (10) of the Internal Revenue Code; or

3. To a public event held in a facility owned or operated by any agency, political subdivision or public trust of this state.

E. A violation of the provisions of this section shall not be a basis for instituting juvenile proceedings to determine if a person under eighteen (18) years of age is a delinquent child; however, if a person under eighteen (18) years of age habitually violates the provisions of this section, juvenile proceedings may be brought to determine if the person is a delinquent child. A person under eighteen (18) years of age who has been convicted of violating the provisions of this section shall be subject to the penalty provisions provided in this section.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 607 of Title 37, unless there is created a duplication in numbering, reads as follows:

It shall be unlawful for any person to commit any of the acts specified in paragraph 1 or 2 of this section in relation to an Oklahoma driver license or identification card authorized to be issued by the Department of Public Safety pursuant to the provisions of Sections 6-101 through 6-309 of Title 47 of the Oklahoma Statutes or any driver license or other evidence of driving privilege or identification card authorized to be issued by the state of origin.

1. It is a misdemeanor for any licensee:

a. to lend one's own license or identification card to any other person or knowingly permit the use thereof by another,

b. to display or cause or permit to be displayed or to possess a license or identification card issued to oneself which bears altered information concerning the date of birth, expiration date, sex, height, eye color, weight or license or card number,

c. to permit any unlawful use of a license or identification card issued to oneself, or

d. to add to, delete from, alter, or deface the required information on a driver license or identification card.

2. It is a felony for any person:

a. to create, publish or otherwise manufacture an Oklahoma or other state license or identification card or facsimile thereof, or to create, manufacture or possess an engraved plate or other such device, card, laminate, digital image or file, or software for the printing of an Oklahoma or other state license or identification card or facsimile thereof, except as authorized pursuant to Title 47 of the Oklahoma Statutes,

b. to display or cause or permit to be displayed or to knowingly possess any state counterfeit or fictitious license or identification card,

c. to display or cause to be displayed or to knowingly possess any state license or identification card bearing a fictitious or forged name or signature,

d. to display or cause to be displayed or to knowingly possess any state license or identification card bearing the photograph of any person, other than the person named thereon as licensee,

e. to display or represent as one's own, any license or identification card not issued to the person, for the purpose of committing a fraud in any commercial transaction or to mislead a peace officer in the performance of his or her duties, or

f. to use a false or fictitious name in any application for a license or identification card or to knowingly make a false statement or to knowingly conceal a material fact or otherwise commit a fraud in any such application.

3. Any person who violates any of the provisions of paragraph 1 of this section shall, upon conviction, be guilty of a misdemeanor and shall be punished by a fine of not less than Twenty-five Dollars ($25.00), nor more than Two Hundred Dollars ($200.00). Any person

who violates any of the provisions of paragraph 2 of this section shall, upon conviction, be guilty of a felony and shall be punished by a fine of not more than Ten Thousand Dollars ($10,000.00), or by a term of imprisonment in the custody of the Department of Corrections for not more than seven (7) years, or by both such fine and imprisonment.

4. Notwithstanding any provision of this section, the Commissioner of the Department of Public Safety may, upon the request of the chief administrator of a law enforcement, military, or intelligence agency, authorize the issuance to and display, and possession by a person of a license which would otherwise be a violation of this section, for the sole purpose of aiding in a criminal investigation or a military or intelligence operation. While acting pursuant to such authorization by the Commissioner, such person shall not be prosecuted for a violation under this section. Upon termination of such investigation or operation or upon request of the Commissioner, the chief administrator shall forthwith cause such license to be returned to the Commissioner.

SECTION 12. AMENDATORY 47 O.S. 2001, Section 6-107.1, is amended to read as follows:

Section 6-107.1 A. When any district court, municipal court of record or any municipal court in a city or town in which the judge is an attorney licensed to practice law in this state has determined that a person under the age of eighteen (18) years has committed any offense described in subsection C of this section, or that a person eighteen (18), nineteen (19), or twenty (20) years of age has committed an offense described in Section ~~1~~ 11-906.4 of this ~~act~~ title, the court shall notify the Department of Public Safety on a form prescribed by the Department as provided in Section 6-107.2 of this title.

B. The notice shall include the name, date of birth, physical description and, if known, the driver license number of the person. The notice shall contain ~~a recommendation~~ an order to the Department to cancel or deny driving privileges for a specified period of time, ~~in the discretion of the court,~~ except as otherwise provided by law, as follows:

1. For a period ~~not to exceed~~ of six (6) months for a first offense, from the date of the offense or from the date the person reaches sixteen (16) years of age, whichever period of time is longer;

2. For a period ~~not to exceed~~ of one (1) year for a second offense, from the date of the offense or from the date the person reaches sixteen (16) years of age, whichever period of time is longer; ~~or~~

3. For a period ~~not to exceed~~ of two (2) years for a third or subsequent offense, from the date of the offense or from the date the person reaches sixteen (16) years of age, whichever period of time is longer; or

4. ~~Until~~ In the discretion of the court, until the person attains twenty-one (21) years of age, if that period of time would be longer than the period of time provided in paragraph 1, 2 or 3 of this subsection.

The court shall send a copy of the notice to the person first class, postage prepaid.

C. In addition to the administrative revocation of driving privileges pursuant to Section 754 of this title, and the mandatory revocation of driving privileges pursuant to Section 6-205.1 of this title, this section applies to any crime, violation, infraction, traffic offense or other offense involving or relating to the possession, use, sale, purchase, transportation, distribution, manufacture, or consumption of beer, alcohol, or any beverage containing alcohol and to any crime, violation, infraction, traffic offense or other offense involving or relating to the possession, use, sale, purchase, transportation, distribution, manufacture, trafficking, cultivation, consumption, ingestion, inhalation, injection, or absorption of any controlled dangerous substance as defined by paragraph 8 of Section 2-101 of Title 63 of the Oklahoma Statutes or any substance which is capable of being ingested, inhaled, injected, or absorbed into the human body and is capable of adversely affecting the central nervous system, vision, hearing, or other sensory or motor functions.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-107.7 of Title 47, 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 "Prevention of Youth Access to Alcohol 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 fines collected pursuant to Section 241 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 programs and campaigns to educate the public and law enforcement about the dangers and consequences of providing alcohol to minors. 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 14. This act shall become effective July 1, 2006.

SECTION 15. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 6th day of March, 2006.

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Presiding Officer of the House of Representatives

Passed the Senate the 11th day of April, 2006.

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Presiding Officer of the Senate