

3 ENGROSSED
4 House Bill No. 3056
5 As Amended

6 ENGROSSED HOUSE BILL NO. 3056 - By: BALKMAN, GILBERT, JACKSON, KERN,
7 COODY, MILLER (Ken), COX, SHERRER, LINDLEY, BILLY, BLACKBURN, DANK,
8 DENNEY, DEUTSCHENDORF, McDANIEL, NANCE and ROUSSELOT of the House
9 and RABON, JOHNSON (Constance) and LEFTWICH of the Senate.

10 [crimes and punishments - Prevention of Youth Access to
11 Alcohol Act - noncodification - effective date -
12 emergency]

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

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

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

18 SECTION 2. AMENDATORY 11 O.S. 2001, Section 14-111, as
19 last amended by Section 1, Chapter 173, O.S.L. 2004 (11 O.S. Supp.
20 2005, Section 14-111), is amended to read as follows:

21 Section 14-111. A. The governing body of a municipality may
22 provide for enforcement of its ordinances and establish fines,
23 penalties, or imprisonment, as authorized by subsections B through D
24 of this section, for any offense in violation of its ordinances,
25 which shall be recoverable together with costs of suit. The
26 governing body may provide that any person fined for violation of a

1 municipal ordinance who is financially able but refuses or neglects
2 to pay the fine or costs may be compelled to satisfy the amount owed
3 by working on the streets, alleys, avenues, areas, and public
4 grounds of the municipality, subject to the direction of the street
5 commissioner or other proper officer, at a rate per day as the
6 governing body may prescribe by ordinance, but not less than Twenty-
7 five Dollars (\$25.00) per day for useful labor, until the fine or
8 costs are satisfied.

9 B. 1. Except for municipal ordinances related to prostitution
10 and as otherwise provided in this section, cities having a municipal
11 criminal court of record may enact ordinances prescribing maximum
12 fines of One Thousand Two Hundred Dollars (\$1,200.00) and costs or
13 imprisonment not exceeding six (6) months or both the fine and
14 imprisonment, but shall not have authority to enact any ordinance
15 making unlawful an act or omission declared by state statute to be
16 punishable as a felony; ~~provided, that cities.~~ Cities having a
17 municipal criminal court of record may enact ordinances prescribing
18 maximum fines of One Thousand Dollars (\$1,000.00) and costs or
19 imprisonment not exceeding six (6) months or both such fine and
20 imprisonment for violations of municipal ordinances regulating the
21 pretreatment of wastewater and regulating stormwater discharges.
22 Cities having a municipal criminal court of record may enact
23 ordinances prescribing maximum fines of One Thousand Two Hundred

1 Fifty Dollars (\$1,250.00) and costs or imprisonment not exceeding
2 six (6) months or both such fine and imprisonment for alcohol-
3 related or drug-related traffic offenses. The court shall remit
4 Fifty Dollars (\$50.00) of each alcohol fine or deferral fee to a
5 fund of the municipality that shall be used to defray costs for
6 enforcement of laws relating to juvenile access to alcohol, other
7 laws relating to alcohol and other intoxicating substances, and
8 traffic-related offenses involving alcohol or other intoxicating
9 substances.

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

1 C. Municipalities having a municipal court not of record may
2 enact ordinances prescribing maximum fines pursuant to the
3 provisions of this subsection. A municipal ordinance may not impose
4 a penalty, including fine or deferral fee in lieu of a fine and
5 costs, which is greater than that established by statute for the
6 same offense. The maximum fine or deferral fee in lieu of a fine
7 for traffic-related offenses relating to speeding or parking shall
8 not exceed Two Hundred Dollars (\$200.00). The maximum fine or
9 deferral fee in lieu of a fine for alcohol-related or drug-related
10 offenses shall not exceed Eight Hundred Dollars (\$800.00). For all
11 other offenses, the maximum fine or deferral fee in lieu of a fine
12 shall not exceed Seven Hundred Fifty Dollars (\$750.00). The court
13 shall remit Fifty Dollars (\$50.00) of each alcohol fine or deferral
14 fee to a fund of the municipality that shall be used to defray costs
15 for enforcement of laws relating to juvenile access to alcohol,
16 other laws relating to alcohol and other intoxicating substances,
17 and traffic-related offenses involving alcohol or other intoxicating
18 substances. The ordinances may prescribe costs pursuant to the
19 provisions of Section 27-126 of this title or imprisonment not
20 exceeding sixty (60) days or both the fine and imprisonment;
21 provided, that municipalities having only a municipal court not of
22 record shall not have authority to enact any ordinance making
23 unlawful any act or omission declared by state statute to be

1 punishable as a felony; provided further, that municipalities having
2 a municipal court not of record may enact ordinances prescribing
3 maximum fines of One Thousand Dollars (\$1,000.00) and costs or
4 imprisonment not exceeding ninety (90) days or both such fine and
5 imprisonment for violations of municipal ordinances regulating the
6 pretreatment of wastewater and regulating stormwater discharges. If
7 imprisonment is available for the offense, then that person charged
8 shall have a right to a jury trial.

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

12 E. No municipality may levy a fine or deferral fee in lieu of a
13 fine of over Fifty Dollars (\$50.00) until it has compiled and
14 published its penal ordinances as required in Sections 14-109 and
15 14-110 of this title.

16 F. No municipality may levy a fine of more than Ten Dollars
17 (\$10.00) nor court costs of more than Fifteen Dollars (\$15.00) for
18 exceeding the posted speed limit by no more than ten (10) miles per
19 hour upon any portion of the National System of Interstate and
20 Defense Highways, federal-aid primary highways, and the state
21 highway system which are located on the outskirts of any
22 municipality as determined in Section 2-117 of Title 47 of the
23 Oklahoma Statutes.

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

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

10 SECTION 4. AMENDATORY 11 O.S. 2001, Section 28-102, as
11 last amended by Section 6, Chapter 173, O.S.L. 2004 (11 O.S. Supp.
12 2005, Section 28-102), is amended to read as follows:

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

18 B. Except in cases when the penalty provided for the violation
19 of an ordinance is a fine in the amount of Two Hundred Dollars
20 (\$200.00) or less, excluding court costs, or by imprisonment, or by
21 both such fine and imprisonment, all persons charged before such
22 municipal criminal court of record shall be entitled to a trial by
23 jury, unless waived by the defendant. Judgment and sentence imposed

1 by the judge shall be as effective as if the same had been rendered
2 and imposed by a jury.

3 C. The maximum punishment that may be levied in any municipal
4 criminal court of record is a fine not exceeding One Thousand Two
5 Hundred Dollars (\$1,200.00) and costs, an imprisonment not to exceed
6 six (6) months, or both such fine and imprisonment. Provided, the
7 maximum punishment that may be levied in any municipal criminal
8 court of record for violations of municipal traffic ordinances not
9 including ordinances relating to driving a motor vehicle under the
10 influence of alcohol or drugs is a fine not exceeding ~~Seven Hundred~~
11 ~~Fifty Dollars (\$750.00)~~ One Thousand Two Hundred Fifty Dollars
12 (\$1,250.00) and costs, an imprisonment not to exceed ninety (90)
13 days, or both such fine and imprisonment. If a fine exceeding Seven
14 Hundred Fifty Dollars (\$750.00) is imposed for an alcohol-related or
15 drug-related traffic offense, the amount in excess of Seven Hundred
16 Fifty Dollars (\$750.00) shall be used to defray costs for
17 enforcement of laws relating to juvenile access to alcohol, other
18 laws relating to alcohol and other intoxicating substances, and
19 traffic-related offenses involving alcohol or other intoxicating
20 substances. Provided, further that any municipal criminal court of
21 record may levy a fine not to exceed One Thousand Dollars
22 (\$1,000.00) and costs, an imprisonment not to exceed six (6) months,
23 or both such fine and imprisonment for violations of municipal

1 ordinances regulating the pretreatment of wastewater and regulating
2 stormwater discharges. Provided, further, that for violations of
3 municipal ordinances relating to prostitution, including but not
4 limited to engaging in prostitution or soliciting or procuring
5 prostitution, any municipal criminal court of record in cities with
6 more than two hundred thousand (200,000) in population may levy an
7 imprisonment not to exceed six (6) months, and fines as follows: a
8 fine not to exceed Two Thousand Five Hundred Dollars (\$2,500.00)
9 upon the first conviction for violation of any such ordinances, a
10 fine of not more than Five Thousand Dollars (\$5,000.00) upon the
11 second conviction for violation of any of such ordinances, and a
12 fine of not more than Seven Thousand Five Hundred Dollars
13 (\$7,500.00) upon the third or subsequent convictions for violation
14 of any of such ordinances, or both such fine and imprisonment, as
15 well as a term of community service of not less than forty (40) nor
16 more than eighty (80) hours. If imprisonment is available for the
17 offense, then that person charged shall have a right to a jury
18 trial.

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

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

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

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

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

- 20 1. For each defendant convicted of exceeding
21 the speed limit by at least one (1)
22 mile per hour but not more than ten

1 (10) miles per hour, whether charged
2 individually or conjointly with others.....\$77.00
3 2. For each defendant convicted of a
4 misdemeanor traffic violation other
5 than an offense provided for in
6 paragraph 1 or 5 of this subsection,
7 whether charged individually or
8 conjointly with others.....\$98.00
9 3. For each defendant convicted of a
10 misdemeanor, other than for driving
11 under the influence of alcohol or other
12 intoxicating substance or an offense
13 provided for in paragraph 1 or 2 of
14 this subsection, whether charged
15 individually or conjointly with others.....\$93.00
16 4. For each defendant convicted of a felony,
17 other than for driving under the
18 influence of alcohol or other
19 intoxicating substance, whether charged
20 individually or conjointly with others.....\$103.00
21 5. For each defendant convicted of the
22 misdemeanor of driving under the
23 influence of alcohol or other

1 alcohol or other intoxicating substance; the sum of Twenty-five
2 Dollars (\$25.00) shall be assessed and collected in every felony
3 case for each offense; and the sum of Twenty-five Dollars (\$25.00)
4 shall be assessed and collected in every felony case for each
5 offense for driving under the influence of alcohol or other
6 intoxicating substance.

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

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

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

18 1. A court clerk issuing a misdemeanor warrant is entitled to
19 ten percent (10%) of the sheriff's service fee, provided for in
20 paragraph 9 of subsection A of this section, collected on a warrant
21 referred to the contractor for the misdemeanor warrant notification
22 program governed by Sections 514.4 and 514.5 of Title 19 of the
23 Oklahoma Statutes. This ten-percent sum shall be deposited into the

1 issuing Court Clerk's Revolving Fund, created pursuant to Section
2 220 of Title 19 of the Oklahoma Statutes, of the court clerk issuing
3 the warrant with the balance of the sheriff's service fee to be
4 deposited into the Sheriff's Service Fee Account, created pursuant
5 to the provisions of Section 514.1 of Title 19 of the Oklahoma
6 Statutes, of the sheriff in the county in which service is made or
7 attempted. Otherwise, the sheriff's service fee, when collected,
8 shall be deposited in its entirety into the Sheriff's Service Fee
9 Account of the sheriff in the county in which service is made or
10 attempted;

11 2. The sheriff's fee provided for in Section 153.2 of this
12 title;

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

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

22 5. The following amounts of the fees provided for in paragraphs
23 2, 3, 5 and 6 of subsection A of this section, when collected, shall

1 be deposited in the Trauma Care Assistance Revolving Fund, created
2 pursuant to the provisions of Section ~~1-2522~~ 1-2530.9 of Title 63 of
3 the Oklahoma Statutes:

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

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

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

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

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

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

5 I. A court clerk may accept in payment for any fee, fine, or
6 cost for violation of any traffic law a nationally recognized credit
7 card issued to the applicant. The court clerk may add an amount
8 equal to the amount of the service charge incurred, not to exceed
9 four percent (4%) of the amount of the payment as a service charge
10 for the acceptance of the credit card. For purposes of this
11 paragraph, "nationally recognized credit card" means any instrument
12 or device, whether known as a credit card, credit plate, charge
13 plate, or by any other name, issued with or without fee by an issuer
14 for the use of the cardholder in obtaining goods, services, or
15 anything else of value and which is accepted by over one thousand
16 (1,000) merchants in this state. The court clerk shall determine
17 which nationally recognized credit cards will be accepted as payment
18 for fees; provided, the court clerk must ensure that no loss of
19 state revenue will occur by the use of such cards.

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

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

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

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

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

22 C. No permit shall be issued to sell low-point beer for on-
23 premises consumption unless the person applying for such permit

1 shall have signed an affidavit stating that the location of the
2 building in which low-point beer is to be sold is not prohibited by
3 the provisions of Section 163.27 of this title.

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

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

1 subsection B of this section is filed within eleven (11) days but
2 not more than thirty (30) days after the expiration date of the
3 permit, upon payment of a fee of One Hundred Dollars (\$100.00) in
4 addition to the initial permit fee, the court clerk is authorized to
5 treat said application as one for renewal and to issue a renewal
6 permit to the applicant, if all requirements have otherwise been met
7 by the applicant. A renewal permit granted during the thirty-day
8 grace period shall become effective upon the date of its issuance by
9 the court clerk.

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

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

1 the district court clerk. The manner and prorated refund shall be
2 prescribed by the Administrative Director of the Courts.

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

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

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

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

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

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

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

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

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

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

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

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

22 L. After the revocation of any such permit, for any of the
23 above reasons, except paragraph 5 of subsection K of this section

1 for nonpayment of taxes, or license fees, or except as otherwise
2 provided in this subsection, no new permit shall be issued to the
3 same person or to a relative of such person for the same location or
4 premises prior to the expiration of a period of one (1) year from
5 the date of such revocation. Upon the fourth or subsequent
6 revocation of a permit for a violation of paragraph 3 or 4 of
7 subsection K of this section, no new permit shall be issued to the
8 same person or to a relative of such person for the same location or
9 premises prior to the expiration of a period of three (3) years from
10 the date of such revocation.

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

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

21 O. That the person demanded, was shown, and reasonably relied
22 upon proof of age shall be a rebuttable presumption to any action
23 brought pursuant to this section. A person cited for violating this

1 section shall be deemed to have reasonably relied upon proof of age,
2 and such person shall not be found guilty of such violation if:

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

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

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

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

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

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

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

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

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

22 E. That the person demanded, was shown, and reasonably relied
23 upon proof of age shall be a rebuttable presumption to any action

1 brought pursuant to this section. A person cited for violating this
2 section shall be deemed to have reasonably relied upon proof of age,
3 and such person shall not be found guilty of such violation if:

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

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

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

21 F. Upon violation of any of the provisions of this section by
22 any agent, servant, or employee, the law enforcement agency shall
23 notify the owner of the premises of the violation, the Oklahoma Tax

1 Commission, and the district court clerk of the county in which the
2 premises are located. For purposes of this subsection, notification
3 to the owner of the premises shall be deemed given if the law
4 enforcement agency mails, by mail with delivery confirmation, the
5 notification to the address which is on file with the Oklahoma Tax
6 Commission of the owner of the location at which the violation
7 occurred and the law enforcement agency received delivery
8 confirmation from the United States Postal Service.

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

11 Section 244. A. The violation by any person of the provisions
12 of ~~Sections~~ Section 241 or 243 of this title or any statute
13 pertaining to the sale of low-point beer, as defined in Section
14 163.2 of this title, shall be sufficient ground for mandatory
15 suspension or revocation by the judge of the district court of any
16 permit held by such person authorizing the sale of low-point beer.
17 The permit shall be ~~revoked if the person is convicted of a~~
18 ~~violation of the provisions of Section 241 or 243 of this title~~
19 ~~after a prior conviction of the provisions of Section 241 or 243 of~~
20 ~~this title~~ suspended as follows:

21 1. A first conviction of a violation of the provisions of
22 Section 241 or 243 of this title, may result in a suspension of not
23 more than thirty (30) days; provided, however, the court shall waive

1 suspension of the permit upon proof that the employees of the permit
2 holder have participated in an alcohol compliance education program
3 within the past twenty-four (24) months;

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

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

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

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

1 ~~convicted of a prior violation of the provisions of Section 241 or~~
2 ~~243 of this title within the previous twelve (12) months.~~

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

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

10 Section 246. A. No person under twenty-one (21) years of age
11 shall consume or possess with the intent to consume low-point beer,
12 as defined in Section 163.2 of this title. It shall be unlawful for
13 any person under twenty-one (21) years of age to purchase or attempt
14 to purchase low-point beer, as defined in Section 163.2 of this
15 title, except under supervision of law enforcement officers. Any
16 person violating any of the provisions of this ~~section~~ subsection
17 shall be guilty, upon conviction, of a misdemeanor and punished by a
18 fine not to exceed ~~One Hundred Dollars (\$100.00)~~ Three Hundred
19 Dollars (\$300.00) or ~~by appropriate~~ ordered to perform community
20 service not to exceed ~~twenty (20)~~ thirty (30) hours, or both such
21 fine and community service. In addition, if the person has an
22 Oklahoma driver license issued by the Department of Public Safety,
23 that license shall be revoked for the period of time provided in

1 Section 6-107.1 of Title 47 of the Oklahoma Statutes. If the person
2 does not have an Oklahoma driver license, the person shall be
3 ineligible to obtain an Oklahoma driver license for the period of
4 time provided in Section 6-107.1 of Title 47 of the Oklahoma
5 Statutes. For a second offense, any person who is convicted of
6 violating the provisions of this subsection shall be guilty of a
7 misdemeanor and punished by a fine of not to exceed Six Hundred
8 Dollars (\$600.00) or ordered to perform community service not to
9 exceed sixty (60) hours or both such fine and community service. In
10 addition, if the person has an Oklahoma driver license issued by the
11 Department of Public Safety, that license shall be revoked for the
12 period of time provided in Section 6-107.1 of Title 47 of the
13 Oklahoma Statutes. If the person does not have an Oklahoma driver
14 license, the person shall be ineligible to obtain an Oklahoma driver
15 license for the period of time provided in Section 6-107.1 of Title
16 47 of the Oklahoma Statutes. For a third offense, any person who is
17 convicted of violating the provisions of this subsection shall be
18 guilty of a misdemeanor and punished by a fine of not to exceed Nine
19 Hundred Dollars (\$900.00) or ordered to perform community service
20 not to exceed ninety (90) hours or both such fine and community
21 service. In addition, if the person has an Oklahoma driver license
22 issued by the Department of Public Safety, that license shall be
23 revoked for the period of time provided in Section 6-107.1 of Title

1 47 of the Oklahoma Statutes. If the person does not have an
2 Oklahoma driver license, the person shall be ineligible to obtain an
3 Oklahoma driver license for the period of time provided in Section
4 6-107.1 of Title 47 of the Oklahoma Statutes. Provided, the
5 provisions of this ~~section~~ subsection shall not apply when such
6 persons are under the direct supervision of their parent or
7 guardian, but in no instance shall this exception be interpreted to
8 allow such persons to consume such beverages in any place licensed
9 to dispense low-point beer as provided in Section 163.11 of this
10 title.

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

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

1 purpose some objective other than the sale or serving of low-point
2 beer, in which sales or serving of said beverages are incidental to
3 the main purpose, if the persons under twenty-one (21) years of age
4 are not sold or served or do not consume low-point beer anywhere on
5 the premises; however, the incidental service of food in the bar
6 area shall not exempt persons under twenty-one (21) years of age
7 from the provisions of this subsection. Any person convicted of
8 violating the provisions of this subsection shall be guilty of a
9 misdemeanor and punished by a fine not to exceed One Hundred Dollars
10 (\$100.00).

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

18 C. Except as otherwise provided, an admission charge shall not
19 be considered in any calculation designed to determine the main
20 purpose of an area pursuant to subsection B of this section. For
21 purposes of this section, an "admission charge" shall mean any form
22 of consideration received by an establishment from a person in order

1 for that person to gain entry into the establishment or an area
2 thereof.

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

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

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

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

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

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

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

8 1. It is a misdemeanor for any licensee:

- 9 a. to lend one's own license or identification card to
10 any other person or knowingly permit the use thereof
11 by another,
- 12 b. to display or cause or permit to be displayed or to
13 possess a license or identification card issued to
14 oneself which bears altered information concerning the
15 date of birth, expiration date, sex, height, eye
16 color, weight or license or card number,
- 17 c. to permit any unlawful use of a license or
18 identification card issued to oneself, or
- 19 d. to add to, delete from, alter, or deface the required
20 information on a driver license or identification
21 card.

22 2. It is a felony for any person:

- 1 a. to create, publish or otherwise manufacture an
2 Oklahoma or other state license or identification card
3 or facsimile thereof, or to create, manufacture or
4 possess an engraved plate or other such device, card,
5 laminated, digital image or file, or software for the
6 printing of an Oklahoma or other state license or
7 identification card or facsimile thereof, except as
8 authorized pursuant to Title 47 of the Oklahoma
9 Statutes,
- 10 b. to display or cause or permit to be displayed or to
11 knowingly possess any state counterfeit or fictitious
12 license or identification card,
- 13 c. to display or cause to be displayed or to knowingly
14 possess any state license or identification card
15 bearing a fictitious or forged name or signature,
- 16 d. to display or cause to be displayed or to knowingly
17 possess any state license or identification card
18 bearing the photograph of any person, other than the
19 person named thereon as licensee,
- 20 e. to display or represent as one's own, any license or
21 identification card not issued to the person, for the
22 purpose of committing a fraud in any commercial

1 transaction or to mislead a peace officer in the
2 performance of his or her duties, or

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

8 3. Any person who violates any of the provisions of paragraph 1
9 of this section shall, upon conviction, be guilty of a misdemeanor
10 and shall be punished by a fine of not less than Twenty-five Dollars
11 (\$25.00), nor more than Two Hundred Dollars (\$200.00). Any person
12 who violates any of the provisions of paragraph 2 of this section
13 shall, upon conviction, be guilty of a felony and shall be punished
14 by a fine of not more than Ten Thousand Dollars (\$10,000.00), or by
15 a term of imprisonment in the custody of the Department of
16 Corrections for not more than seven (7) years, or by both such fine
17 and imprisonment.

18 4. Notwithstanding any provision of this section, the
19 Commissioner of the Department of Public Safety may, upon the
20 request of the chief administrator of a law enforcement, military,
21 or intelligence agency, authorize the issuance to and display, and
22 possession by a person of a license which would otherwise be a
23 violation of this section, for the sole purpose of aiding in a

1 criminal investigation or a military or intelligence operation.
2 While acting pursuant to such authorization by the Commissioner,
3 such person shall not be prosecuted for a violation under this
4 section. Upon termination of such investigation or operation or
5 upon request of the Commissioner, the chief administrator shall
6 forthwith cause such license to be returned to the Commissioner.

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

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

19 B. The notice shall include the name, date of birth, physical
20 description and, if known, the driver license number of the person.
21 The notice shall contain ~~a recommendation~~ an order to the Department
22 to cancel or deny driving privileges for a specified period of time,

1 ~~in the discretion of the court,~~ except as otherwise provided by law,
2 as follows:

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

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

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

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

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

21 C. In addition to the administrative revocation of driving
22 privileges pursuant to Section 754 of this title, and the mandatory
23 revocation of driving privileges pursuant to Section 6-205.1 of this

1 title, this section applies to any crime, violation, infraction,
2 traffic offense or other offense involving or relating to the
3 possession, use, sale, purchase, transportation, distribution,
4 manufacture, or consumption of beer, alcohol, or any beverage
5 containing alcohol and to any crime, violation, infraction, traffic
6 offense or other offense involving or relating to the possession,
7 use, sale, purchase, transportation, distribution, manufacture,
8 trafficking, cultivation, consumption, ingestion, inhalation,
9 injection, or absorption of any controlled dangerous substance as
10 defined by paragraph 8 of Section 2-101 of Title 63 of the Oklahoma
11 Statutes or any substance which is capable of being ingested,
12 inhaled, injected, or absorbed into the human body and is capable of
13 adversely affecting the central nervous system, vision, hearing, or
14 other sensory or motor functions.

15 SECTION 13. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 6-107.7 of Title 47, unless
17 there is created a duplication in numbering, reads as follows:

18 There is hereby created in the State Treasury a revolving fund
19 for the Department of Mental Health and Substance Abuse Services to
20 be designated the "Prevention of Youth Access to Alcohol Revolving
21 Fund". The fund shall be a continuing fund, not subject to fiscal
22 year limitations, and shall consist of all monies received by the
23 Department of Mental Health and Substance Abuse Services from fines

1 collected pursuant to Section 241 of Title 37 of the Oklahoma
2 Statutes. All monies accruing to the credit of said fund are hereby
3 appropriated and may be budgeted and expended by the Department of
4 Mental Health and Substance Abuse Services for the purpose of
5 programs and campaigns to educate the public and law enforcement
6 about the dangers and consequences of providing alcohol to minors.
7 Expenditures from said fund shall be made upon warrants issued by
8 the State Treasurer against claims filed as prescribed by law with
9 the Director of State Finance for approval and payment.

10 SECTION 14. This act shall become effective July 1, 2006.

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

15 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 4-5-06 - DO
16 PASS, As Amended and Coauthored.