

3 Senate Bill No. 1845

4 SENATE BILL NO. 1845 - By: CORN of the Senate and LAMONS of the
5 House.

6 An Act relating to intoxicating liquors; amending 37 O.S.
7 2001, Section 521, as last amended by Section 2, Chapter
8 173, O.S.L. 2005 (47 O.S. Supp. Section 521), which relates
9 to acts authorized by certain licenses; changing name of
10 certain license; modifying acts authorized by the license;
11 and providing an effective date.

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

13 SECTION 1. AMENDATORY 37 O.S. 2001, Section 521, as last
14 amended by Section 2, Chapter 173, O.S.L. 2005 (37 O.S. Supp. 2005,
15 Section 521), is amended to read as follows:

16 Section 521. A. A brewer license shall authorize the holder
17 thereof: To manufacture, bottle, package, and store beer on
18 licensed premises; to sell beer in this state to holders of Class B
19 wholesaler licenses and retail licenses and to sell beer out of this
20 state to qualified persons.

21 B. A distiller license shall authorize the holder thereof: To
22 manufacture, bottle, package, and store spirits on licensed
23 premises; to sell spirits in this state to licensed wholesalers and
24 manufacturers only; to sell spirits out of this state to qualified
25 persons; to purchase from licensed distillers and rectifiers in this

1 state, and import spirits from without this state for manufacturing
2 purposes in accordance with federal laws and regulations.

3 C. A winemaker license shall authorize the holder thereof: To
4 manufacture (including such mixing, blending and cellar treatment as
5 authorized by federal law), bottle, package, and store on licensed
6 premises wine containing not more than twenty-four percent (24%)
7 alcohol by volume, provided the bottle or package sizes authorized
8 shall be limited to the capacities approved by the United States
9 Bureau of Alcohol, Tobacco and Firearms; to sell wine in this state
10 to licensed wholesalers and manufacturers, provided, an Oklahoma
11 winemaker may sell and ship wine produced at a winery in this state
12 directly to retail package stores and restaurants in this state; to
13 sell bottles of wine produced at the winery from grapes and other
14 fruits and berries grown in this state, if available, to consumers
15 on the premises of the winery; to serve visitors on the licensed
16 premises samples of wine produced on the premises; to serve samples
17 of wine produced at the winery at festivals and trade shows; to sell
18 wine produced at the winery, in original sealed containers, at
19 festivals and trade shows; to sell wine out of this state to
20 qualified persons; to purchase from licensed winemakers, distillers
21 and rectifiers in this state, and to import into this state wine,
22 brandy and fruit spirits for use in manufacturing in accordance with
23 federal laws and regulations.

1 D. A rectifier license shall authorize the holder thereof: To
2 rectify spirits and wines, bottle, package, and store same on the
3 licensed premises; to sell spirits and wines in this state to
4 licensed wholesalers and manufacturers only; to sell spirits and
5 wines out of this state to qualified persons; to purchase from
6 licensed manufacturers in this state; and to import into this state
7 for manufacturing purposes spirits and wines in accordance with
8 federal laws and regulations.

9 E. A wholesaler license shall authorize the holder thereof: To
10 purchase and import into this state spirits and wines from persons
11 authorized to sell same who are the holders of a nonresident seller
12 license, and their agents who are the holders of manufacturers agent
13 licenses; to purchase spirits and wines from licensed distillers,
14 rectifiers, winemakers and wholesalers in this state; to sell
15 spirits and wines in retail containers in this state to retailers,
16 mixed beverage, caterer, special event, hotel beverage or
17 airline/railroad beverage licensees; to sell spirits and wines to
18 wholesalers authorized to sell same; and to sell spirits and wines
19 out of this state to qualified persons. Provided, however, sales of
20 spirits and wine in containers with a capacity of less than one-
21 twentieth (1/20) gallon by a holder of a wholesaler license shall be
22 in full case lots and in the original unbroken case. Wholesalers
23 shall be authorized to place such signs outside their place of

1 business as are required by Acts of Congress and by such laws and
2 regulations promulgated under such Acts.

3 A wholesaler license shall authorize the holder thereof to
4 operate a single bonded warehouse with a single central office
5 together with delivery facilities at a location in this state only
6 at the principal place of business for which the wholesaler license
7 was granted.

8 F. A Class B wholesaler license shall authorize the holder
9 thereof: To purchase and import into this state beer from persons
10 authorized to sell same who are the holders of nonresident seller
11 licenses, and their agents who are the holders of manufacturers
12 agent licenses; to purchase beer from licensed brewers and Class B
13 wholesalers in this state; to sell in retail containers to
14 retailers, mixed beverage, caterer, special event, hotel beverage
15 and airline/railroad beverage licensees in this state, beer which
16 has been unloaded and stored at the holder's self-owned or leased
17 and self-operated warehouse facilities for a period of at least
18 twenty-four (24) hours before such sale; and to sell beer in this
19 state to Class B wholesalers and out of this state to qualified
20 persons, including federal instrumentalities and voluntary
21 associations of military personnel on federal enclaves in this state
22 over which this state has ceded jurisdiction.

1 G. A package store license shall authorize the holder thereof:
2 To purchase alcohol, spirits, beer and wine in retail containers
3 from the holder of a brewer, wholesaler or Class B wholesaler
4 license and to purchase wine produced at a winery in this state from
5 an Oklahoma winemaker and to sell same on the licensed premises in
6 such containers to consumers for off-premises consumption only and
7 not for resale; provided, wine may be sold to charitable
8 organizations that are holders of charitable auction or charitable
9 wine event licenses. All alcoholic beverages that are sold by a
10 package store are to be sold at ordinary room temperature.

11 H. A mixed beverage license shall authorize the holder thereof:
12 To purchase alcohol, spirits, beer or wine in retail containers from
13 the holder of a wholesaler or Class B wholesaler license or as
14 specifically provided by law and to sell, offer for sale and possess
15 mixed beverages for on-premises consumption only; provided, the
16 holder of a mixed beverage license issued for an establishment which
17 is also a restaurant may purchase wine produced at wineries in this
18 state directly from an Oklahoma winemaker as provided in Section 3
19 of Article XXVIII of the Oklahoma Constitution.

20 Sales and service of mixed beverages by holders of mixed
21 beverage licenses shall be limited to the licensed premises of the
22 licensee unless the holder of the mixed beverage license also
23 obtains a caterer license or a mixed beverage/caterer combination

1 license. A mixed beverage license shall only be issued in counties
2 of this state where the sale of alcoholic beverages by the
3 individual drink for on-premises consumption has been authorized. A
4 separate license shall be required for each place of business. No
5 mixed beverage license shall be issued for any place of business
6 functioning as a motion picture theater, as defined by Section 506
7 of this title.

8 I. A bottle club license shall authorize the holder thereof:
9 To store, possess and mix alcoholic beverages belonging to members
10 of the club and to serve such alcoholic beverages for on-premises
11 consumption to club members. A bottle club license shall only be
12 issued in counties of this state where the sale of alcoholic
13 beverages by the individual drink for on-premises consumption has
14 not been authorized. A separate license shall be required for each
15 place of business.

16 J. A caterer license shall authorize the holder thereof: To
17 sell mixed beverages for on-premises consumption incidental to the
18 sale or distribution of food at particular functions, occasions, or
19 events which are temporary in nature. A caterer license shall not
20 be issued in lieu of a mixed beverage license. A caterer license
21 shall only be issued in counties of this state where the sale of
22 alcoholic beverages by the individual drink for on-premises

1 consumption has been authorized. A separate license shall be
2 required for each place of business.

3 K. 1. An annual special event license shall authorize the
4 holder thereof: To sell and distribute mixed beverages for
5 consumption on the premises for which the license has been issued
6 for up to four events to be held over a period not to exceed one (1)
7 year, not to exceed two such events in any three-month period. For
8 purposes of this paragraph, an event shall not exceed a period of
9 ten (10) consecutive days. An annual special event license shall
10 only be issued in counties of this state where the sale of alcoholic
11 beverages by the individual drink for on-premises consumption has
12 been authorized. The holder of an annual special event license
13 shall provide written notice to the ABLE Commission of each special
14 event not less than ten (10) days before the event is held.

15 2. A quarterly special event license shall authorize the holder
16 thereof: To sell and distribute mixed beverages for consumption on
17 the premises for which the license has been issued for up to three
18 events to be held over a period not to exceed three (3) months. For
19 purposes of this paragraph, an event shall not exceed a period of
20 ten (10) consecutive days. A quarterly special event license shall
21 only be issued in counties of this state where the sale of alcoholic
22 beverages by the individual drink for on-premises consumption has
23 been authorized. The holder of a quarterly special event license

1 shall provide written notice to the ABLE Commission of each special
2 event not less than ten (10) days before the event is held.

3 L. A hotel beverage license shall authorize the holder thereof:
4 To sell or serve alcoholic beverages in 50 milliliter spirits, 187
5 milliliter wine, and 12-ounce malt beverage containers which are
6 distributed from a hotel room mini-bar. A hotel beverage license
7 shall only be issued in counties of this state where the sale of
8 alcoholic beverages by the individual drink for on-premises
9 consumption has been authorized. A hotel beverage license shall
10 only be issued to a hotel or motel as defined by Section 506 of this
11 title which is also the holder of a mixed beverage license.
12 Provided, that application may be made simultaneously for both such
13 licenses. A separate license shall be required for each place of
14 business.

15 M. An airline/railroad beverage license shall authorize the
16 holder thereof: To sell or serve alcoholic beverages in or from any
17 size container on a commercial passenger airplane or railroad
18 operated in compliance with a valid license, permit or certificate
19 issued under the authority of the United States or this state, even
20 though the airplane or train, in the course of its travel, may cross
21 an area in which the sale of alcoholic beverages by the individual
22 drink is not authorized and to store alcoholic beverages in sealed
23 containers of any size at any airport or station regularly served by

1 the licensee, in accordance with rules promulgated by the Alcoholic
2 Beverage Laws Enforcement Commission. Alcoholic beverages purchased
3 by the holder of an airline/railroad license from the holder of a
4 wholesaler license shall be presumed to be purchased for consumption
5 outside the State of Oklahoma or in interstate commerce, and shall
6 be exempt from the excise tax provided for in Section 553 of this
7 title.

8 N. An agent license shall authorize the holder thereof: To
9 represent only the holders of licenses within this state, other than
10 retailers, authorized to sell alcoholic beverages to retail dealers
11 in Oklahoma, and to solicit and to take orders for the purchase of
12 alcoholic beverages from retailers including licensees authorized to
13 sell alcoholic beverages by the individual drink for on-premises
14 consumption. Such license shall be issued only to agents and
15 employees of the holder of a license under the Oklahoma Alcoholic
16 Beverage Control Act, Section 502 et seq. of this title but no such
17 license shall be required of an employee making sales of alcoholic
18 beverages on licensed premises of the employee's principal. No
19 person holding an agent license shall be entitled to a manufacturers
20 agent license.

21 O. An employee license shall authorize the holder thereof: To
22 work in a package store, mixed beverage establishment, bottle club,
23 or any establishment where alcohol or alcoholic beverages are sold,

1 mixed, or served. Persons employed by a mixed beverage licensee or
2 a bottle club who do not participate in the service, mixing, or sale
3 of mixed beverages shall not be required to have an employee
4 license. Provided, however, that a manager employed by a mixed
5 beverage licensee or a bottle club shall be required to have an
6 employee license whether or not the manager participates in the
7 service, mixing or sale of mixed beverages. Applicants for an
8 employee license must have a health card issued by the county in
9 which they are employed, if the county issues such a card.

10 Employees of special event, caterer or airline/railroad beverage
11 licensees shall not be required to obtain an employee license.

12 Persons employed by a hotel licensee who participate in the stocking
13 of hotel room mini-bars or in the handling of alcoholic beverages to
14 be placed in such devices shall be required to have an employee
15 license.

16 P. An industrial license may be issued to persons desiring to
17 import, transport, and use alcohol for the following purposes:

18 1. Manufacture of patent, proprietary, medicinal,
19 pharmaceutical, antiseptic, and toilet preparations;

20 2. Manufacture of extracts, syrups, condiments, and food
21 products; and

22 3. For use in scientific, chemical, mechanical, industrial, and
23 medicinal products and purposes.

1 No other provisions of the Oklahoma Alcoholic Beverage Control
2 Act shall apply to alcohol intended for industrial, medical,
3 mechanical, or scientific use.

4 Any person receiving alcohol under authority of an industrial
5 license who shall use, permit, or cause same to be used for purposes
6 other than authorized purposes specified above, and all such
7 alcohol, shall be liable to all provisions of the Oklahoma Alcoholic
8 Beverage Control Act, including payment of tax thereon.

9 No provisions of the Oklahoma Alcoholic Beverage Control Act
10 shall apply to alcohol withdrawn by any person free of federal tax
11 under a tax-free permit issued by the United States government, if
12 such alcohol is received, stored, and used as authorized by federal
13 laws.

14 Q. A carrier license may be issued to any common carrier
15 operating under a certificate of convenience and necessity issued by
16 any duly authorized federal or state regulatory agency. Such
17 license shall authorize the holder thereof to transport alcoholic
18 beverages into, within, and out of this state under such terms,
19 conditions, limitations, and restrictions as the ABLE Commission may
20 prescribe by order issuing such license and by regulations.

21 R. A private carrier license may be issued to any carrier other
22 than a common carrier described in subsection P of this section.
23 Such license shall authorize the holder thereof to transport

1 alcoholic beverages into, within, or out of this state under such
2 terms, conditions, limitations, and restrictions as the ABLE
3 Commission may prescribe by order issuing such license and by
4 regulations. No carrier license or private carrier license shall be
5 required of licensed brewers, distillers, winemakers, rectifiers,
6 wholesalers, or Class B wholesalers, to transport alcoholic
7 beverages from the place of purchase or acquisition to the licensed
8 premises of such licensees and from such licensed premises to the
9 licensed premises of the purchaser in vehicles owned or leased by
10 such licensee when such transportation is for a lawful purpose and
11 not for hire.

12 No carrier license or private carrier license shall be required
13 of the holder of a package store, mixed beverage, caterer, special
14 event, hotel beverage or airline/railroad license to pick up
15 alcoholic beverage orders from the licensees' wholesaler or Class B
16 wholesaler from whom they are purchased, and to transport such
17 alcoholic beverages from the place of purchase or acquisition to the
18 licensed premise of such licensees in vehicles owned or under the
19 control of such licensee or a licensed employee of such licensee
20 under such terms, conditions, limitations and restrictions as the
21 ABLE Commission may prescribe.

22 S. A bonded warehouse license shall authorize the holder
23 thereof: To receive and store alcoholic beverages for the holders

1 of storage licenses on the licensed premises of the bonded warehouse
2 licensee. No goods, wares or merchandise other than alcoholic
3 beverages may be stored in the same bonded warehouse with alcoholic
4 beverages. The holder of a bonded warehouse license shall furnish
5 and file with the ABLE Commission a bond running to all bailers of
6 alcoholic beverages under proper storage licenses and their
7 assignees (including mortgagees or other bona fide lienholders)
8 conditioned upon faithful performance of the terms and conditions of
9 such bailments.

10 T. A storage license may be issued to a holder of a brewer,
11 distiller, winemaker, rectifier, wholesaler, Class B wholesaler,
12 nonresident seller, package store, mixed beverage, caterer, or hotel
13 beverage license, and shall authorize the holder thereof: To store
14 alcoholic beverages in a public warehouse holding a bonded warehouse
15 license, and no goods, wares or merchandise other than alcoholic
16 beverages may be stored in the same warehouse with alcoholic
17 beverages in private warehouses owned or leased and operated by such
18 licensees elsewhere than on their licensed premises. Provided:

19 1. A storage license issued to a Class B wholesaler shall
20 permit the storage of light beer and permit the sale and delivery to
21 retailers from the premises covered by such license;

22 2. Any licensee who is the holder of a mixed beverage/caterer
23 combination license or the holder of a mixed beverage license and a

1 hotel beverage license who is issued a storage license shall store
2 all inventories of alcoholic beverages either on the premises of the
3 mixed beverage establishment or in the warehouse;

4 3. A storage license shall not be required for a special event
5 licensee storing alcoholic beverages for use at a subsequent event;
6 and

7 4. Notwithstanding the provisions of subsection H of this
8 section or any other provision of this title, a licensee who wholly
9 owns more than one licensed mixed beverage establishment may store
10 alcoholic beverages for each of the licensed establishments in one
11 location under one storage license. Alcoholic beverages purchased
12 and stored pursuant to the provisions of a storage license, for one
13 licensed mixed beverage establishment may be transferred by a
14 licensee to another licensed mixed beverage establishment which is
15 wholly owned by the same licensee. Notice of such a transfer shall
16 be given in writing to the Oklahoma Tax Commission and the ABLE
17 Commission within three (3) business days of the transfer. The
18 notice shall clearly show the quantity, brand and size of every
19 transferred bottle or case.

20 U. A sacramental wine supplier license shall authorize the
21 holder thereof: To sell, ship or deliver sacramental wine to any
22 religious corporation or society of this state holding a valid
23 exemption from taxation issued pursuant to Section 501(a) of the

1 Internal Revenue Code, 1986, and listed as an exempt organization in
2 Section 501(c) (3) of the Internal Revenue Code, 1986, of the United
3 States, as amended.

4 V. A beer and wine license shall authorize the holder thereof:
5 To purchase beer and wine in retail containers from the holder of a
6 wholesaler or Class B wholesaler license or as specifically provided
7 by law and to sell, offer for sale and possess beer and wine for on-
8 premises consumption only; provided, the holder of a beer and wine
9 license issued for an establishment which is also a restaurant may
10 purchase wine produced at wineries in this state directly from an
11 Oklahoma winemaker as provided in Section 3 of Article XXVIII of the
12 Oklahoma Constitution.

13 Sales and service of beer and wine by holders of beer and wine
14 licenses shall be limited to the licensed premises of the licensee
15 unless the holder of the beer and wine license also obtains a
16 caterer license. A beer and wine license shall only be issued in
17 counties of this state where the sale of alcoholic beverages by the
18 individual drink for on-premises consumption has been authorized. A
19 separate license shall be required for each place of business. No
20 beer and wine license shall be issued for any place of business
21 functioning as a motion picture theater, as defined by Section 506
22 of this title. No spirits shall be stored, possessed or consumed on
23 the licensed premises of a beer and wine licensee.

1 W. A charitable auction, ~~or~~ charitable wine event or charitable
2 beer event license may be issued to a charitable organization exempt
3 from taxation under Section 501(c)(3), (4), (5), (7), (8), (9),
4 (10), or (19) of the United States Internal Revenue Code. The
5 charitable wine event license or charitable beer event license shall
6 authorize the holder thereof to conduct a wine or beer event which
7 may consist of one or more of a wine or beer tasting event, a wine
8 or beer dinner event or a wine or beer auction. A charitable wine
9 event or charitable beer event shall be conducted solely to raise
10 funds for charitable purposes. Wine or beer used in or served at a
11 charitable wine or beer event may be purchased by the charitable
12 organization or donated by any person or entity. The charitable
13 wine event license or charitable beer event license shall be issued
14 for a period not exceeding four (4) days. Only one such license may
15 be issued to an organization in any twelve-month period. The
16 charitable organization holding a charitable wine event license or
17 charitable beer event license shall not be required to obtain a
18 special event license. The charitable auction license shall
19 authorize the holder thereof to auction wine purchased from a retail
20 package store or received as a gift from an individual if the
21 auction is conducted to raise funds for charitable purposes. The
22 charitable auction license shall be issued for a period not to
23 exceed two (2) days. Only one such license shall be issued to an

1 organization in any twelve-month period. The maximum amount of wine
2 auctioned pursuant to the charitable auction license shall not
3 exceed fifty (50) gallons. All wines auctioned pursuant to the
4 charitable auction license shall be registered and all fees and
5 taxes shall be paid in accordance with the Oklahoma Alcoholic
6 Beverage Control Act. The auction may be either a live auction
7 conducted by an auctioneer or a silent auction for which bid sheets
8 are accepted from interested bidders.

9 X. A mixed beverage/caterer combination license shall authorize
10 the holder thereof: To purchase or sell mixed beverages as
11 specifically provided by law for the holder of a mixed beverage
12 license or a caterer license. All provisions of the Oklahoma
13 Alcoholic Beverage Control Act applicable to mixed beverage licenses
14 or caterer licenses, or the holders thereof, shall also be
15 applicable to mixed beverage/caterer combination licenses or the
16 holders thereof, except where specifically otherwise provided. A
17 mixed beverage/caterer combination license shall only be issued in
18 counties of this state where the sale of alcoholic beverages by the
19 individual drink for on-premises consumption has been authorized. A
20 separate license shall be required for each place of business.

21 SECTION 2. This act shall become effective November 1, 2006.

22 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND LABOR, dated 2-27-06
23 - DO PASS, As Coauthored.