

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

HOUSE BILL 1737

By: Gilbert

AS INTRODUCED

An Act relating to intoxicating liquors; ordering a legislative referendum pursuant to the Oklahoma Constitution; providing for levy of excise tax on the sale of low-point beer; requiring funds be deposited in Community-based Substance Abuse Revolving Fund; providing tax on alcoholic beverages; providing for payment of tax; increasing payment for first month tax collected; providing for refund of payment; designating agent for state; amending 37 O.S. 2001, Section 563, which relates to distribution of revenues; directing certain revenues to fund; amending Section 2, Chapter 354, O.S.L. 2003 (43A O.S. Supp. 2004, Section 2-311), which relates to the Community-based Substance Abuse Revolving Fund; allowing fund to accept monies raised by sales tax; providing for codification; providing an effective date; providing ballot title; and directing filing.

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

SECTION 1. Pursuant to Section 3 of Article V of the Oklahoma Constitution, there is hereby ordered the following legislative referendum which shall be filed with the Secretary of State and addressed to the Governor of the state, who shall submit the same to the people for their approval or rejection at the next General Election.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 163.3A of Title 37, unless there is created a duplication in numbering, reads as follows:

A. In addition to the levy provided in Section 163.3 of Title 37 of the Oklahoma Statutes, there is hereby levied on all low-point beer containing more than one-half of one percent (1/2 of 1%) of alcohol measured by volume and not more than three and two-tenths percent (3.2%) of alcohol measured by weight which are manufactured

and sold, or removed for consumption or sale, within this state a tax of Five Dollars (\$5.00) for every barrel containing not more than thirty-one (31) gallons, and at a like rate of tax for any other quantities or for a fractional part of a barrel. Provided, any low-point beer manufactured in this state for export shall not be taxed under this section.

B. Revenues derived pursuant to the tax levied in subsection A of this section shall be paid to the State Treasurer to be placed to the credit of the Community-based Substance Abuse Revolving Fund.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 553A of Title 37, unless there is created a duplication in numbering, reads as follows:

A. In addition to the excise tax levied in Section 553 of Title 37 of the Oklahoma Statutes, except as provided in paragraph 6 of this subsection, an excise tax is hereby levied and imposed upon all alcoholic beverages imported or manufactured, for sale, use or distribution, or used or possessed in this state at the following rates:

1. One Dollar and forty-seven cents (\$1.47) per liter, and a proportionate rate on fractions thereof, on each liter of spirits;
2. Nineteen cents (\$0.19) per liter, and a proportionate rate on fractions thereof, on each liter of light wine;
3. Thirty-seven cents (\$0.37) per liter, and a proportionate rate on fractions thereof, on each liter of wine containing more than fourteen percent (14%) of alcohol by volume;
4. Fifty-five cents (\$0.55) per liter, and a proportionate rate on fractions thereof, on each liter of sparkling wine;
5. Twelve Dollars and fifty cents (\$12.50) per barrel (thirty-one (31) wine gallons) and a proportionate rate on portions thereof, on each barrel of beer; and
6. Beer manufactured in this state for export shall not be taxed.

B. The excise tax levied on alcoholic beverages except beer under subsection A of this section shall be paid as follows:

1. Payment of the excise tax levied by this section with respect to all alcoholic beverages, other than beer, shall be made by the person shipping the same into Oklahoma, or in the case of direct imports from foreign countries by the importer, or in the case of alcoholic beverages manufactured in Oklahoma by the first seller thereof;

2. On and after January 1, 2007, the due and payable excise tax levied by this section shall be made by tax returns filed with the Oklahoma Tax Commission. The tax returns shall be made under oath by the person liable for the tax on forms prescribed and provided by the Oklahoma Tax Commission and shall be accompanied by payment of the taxes due and any additional sums due as provided by this section. Invoices describing all alcoholic beverages as described in this section which are shipped into this state or which are first sold in this state shall be delivered to the Oklahoma Tax Commission and to the Alcoholic Beverage Laws Enforcement Commission immediately following shipment of liquors into the state or delivery to the first purchaser. Tax returns and payment of excise tax and other sums due shall be delivered to the Oklahoma Tax Commission no later than the tenth day of the month immediately succeeding the month of shipment, importation or first sale of the alcoholic beverages as provided in paragraph 1 of this subsection;

3. All tax returns required to be filed during the twelve-month period beginning January 1, 2007, shall be accompanied by payment of the excise tax due plus an additional payment in the amount of twenty percent (20%) of said tax. Up to ten percent (10%) of the total payments made during said period may be made in the form of revenue stamps previously purchased pursuant to Section 540 of Title 37 of the Oklahoma Statutes; and

4. On and after February 1, 2007, each person required to file a tax return pursuant to this section shall remit the excise tax due, less an amount not to exceed two percent (2%) of the total of the additional payments made by said taxpayer pursuant to paragraph 3 of this subsection. The total of said deductions shall not exceed the total of the additional payments made pursuant to paragraph 3 of this subsection. Up to ten percent (10%) of each tax payment made under this subsection may be made in the form of revenue stamps previously purchased pursuant to Section 540 of Title 37 of the Oklahoma Statutes.

C. For the purpose of collecting and remitting the excise tax imposed under this section, the person liable for such tax is hereby declared to be the agent of the state for such purposes.

D. Nothing herein shall be construed to impose an additional excise tax on intoxicating beverages held in inventory by wholesalers and retailers upon which the excise tax was paid prior to the effective date of any excise tax increase.

SECTION 4. AMENDATORY 37 O.S. 2001, Section 563, is amended to read as follows:

Section 563. All revenue accruing from the excise tax levied by Section 553 of this title and Section 3 of this act shall be collected by the Oklahoma Tax Commission and distributed as follows:

1. Two-thirds of ninety-seven percent (2/3 of 97%) of such tax revenue shall be paid to the State Treasurer and placed to the credit of the General Revenue Fund of the state; however, of that amount, a majority of the revenue derived from the excise tax levy provided in Section 3 of this act may be apportioned to the credit of the Community-based Substance Abuse Revolving Fund;

2. One-third of ninety-seven percent (1/3 of 97%) of such revenue is hereby allocated to the counties of this state and shall be paid to the county treasurers on the basis of area and population (giving equal weight to area and population) wherein the sale of

alcoholic beverages is lawful, and all of said funds shall be appropriated by the county commissioners of each county and apportioned by the county treasurer to all incorporated cities and towns in said county on the basis of population within each city and town on a per capita basis based on the last preceding Federal Decennial Census. For the purpose of appropriating and paying the excise taxes collected under the Oklahoma Alcoholic Beverage Control Act, or any act which is amendatory thereof or supplemental thereto, to the incorporated cities and towns in any county, city or town, the corporate limits of which include territory within more than one county, shall be considered and treated as being a city or town in only the county within which more than fifty percent (50%) of the entire population of such city or town, as shown by the last preceding Federal Decennial Census, reside, and, for such purpose, shall not be considered or treated as being a city or town in any other county; and, in the event that the last preceding Federal Decennial Census fails to disclose information from which such fact may be determined by the board of county commissioners which is appropriating the tax money then involved to the cities and towns in its county, said board of county commissioners shall make an estimate, from the best information then available to it, as to the percentage of the entire population of such city or town then residing in said county. If such board of county commissioners determines, either from information disclosed by the last preceding Federal Decennial Census, or from the best information then available to said board (when such information is not disclosed by the last preceding Federal Decennial Census), that more than fifty percent (50%) of the population of such a city or town resides in that county, such city or town shall receive its pro rata share of such tax money, on the basis of its entire population according to the last preceding Federal Decennial Census; but if such board of county commissioners so determines that more than fifty percent

(50%) of the population of such city or town does not reside in that county, no part of such tax money shall be appropriated or paid to such city or town; and

3. The remaining three percent (3%) of such excise tax revenue shall be paid to the State Treasurer and placed to the credit of the Oklahoma Tax Commission Fund to be paid out of said fund pursuant to appropriations made by the State Legislature.

SECTION 5. AMENDATORY Section 2, Chapter 354, O.S.L. 2003 (43A O.S. Supp. 2004, Section 2-311), is amended to read as follows:

Section 2-311. 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 ~~Fund Name~~ Community-based Substance Abuse Revolving Fund. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Department of Mental Health and Substance Abuse Services from low-point beer permits pursuant to Section 163.7 of Title 37 of the Oklahoma Statutes and all monies received from the tax provided in subsection A of Section 2 of this act and monies received from the distributor. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Department of Mental Health and Substance Abuse Services for the purpose of contracting with private facilities, organizations and tribal programs to provide treatment, counseling, rehabilitation, and other related services directed toward alcohol- and drug-dependent persons. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 6. This act shall become effective July 1, 2007.

SECTION 7. The Ballot Title for the proposed amendments as set forth in SECTIONS 2 through 6 of this act shall be in the following form:

BALLOT TITLE

Legislative Referendum No. _____ State Question No. _____

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

The measure levies an excise tax on low-point beer and alcoholic beverages. The tax is for five dollars per hundred on low-point beer. The tax on alcoholic beverages is divided. The measure defines the term low-point beer. The measure places the monies raised by the tax in the Community-based Substance Abuse Revolving Fund. The measure allows the fund to accept the monies raised by the tax. The tax becomes effective July 1, 2007.

SHALL THE PROPOSAL BE APPROVED?

FOR THE PROPOSAL - YES _____

AGAINST THE PROPOSAL - NO _____

SECTION 8. The Chief Clerk of the House of Representatives, immediately after the passage of this act, shall prepare and file one copy thereof, including the Ballot Title set forth in SECTION 7 hereof, with the Secretary of State and one copy with the Attorney General.

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