

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

SENATE BILL 884

By: Jolley

AS INTRODUCED

An Act relating to intoxicating liquors; amending 37 O.S. 2001, Sections 518, as last amended by Section 5, Chapter 484, O.S.L. 2003, 518.1, 521, as last amended by Section 1, Chapter 72, O.S.L. 2004, 523, 584, 588 and 597 (37 O.S. Supp. 2004, Sections 518 and 521), which relate to licenses; clarifying references; changing name of the airline/railroad beverage license to the transportation beverage license throughout act; providing such license is to include airplane, railroad, chartered bus or limousine; making language gender-neutral; and providing an effective date.

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

SECTION 1. AMENDATORY 37 O.S. 2001, Section 518, as last amended by Section 5, Chapter 484, O.S.L. 2003 (37 O.S. Supp. 2004, Section 518), is amended to read as follows:

Section 518. A. Except as otherwise provided in this section, the licenses issued by the Alcoholic Beverage Laws Enforcement Commission, and the annual fees therefor, shall be as follows:

- 1. Brewer License..... \$1,250.00
- 2. Oklahoma Brewer License..... \$125.00
- 3. Distiller License..... \$3,125.00
- 4. Winemaker License..... \$625.00
- 5. Oklahoma Winemaker License..... \$75.00
- 6. Rectifier License..... \$3,125.00
- 7. Wholesaler License..... \$3,500.00
- 8. Class B Wholesaler License..... \$625.00

9. The following package store license fees shall be determined by the latest Federal Decennial Census:

- a. Package Store License for cities and towns from 200 to 2,500 population..... \$305.00
- b. Package Store License for cities and towns from 2,501 to 5,000 population..... \$605.00
- c. Package Store License for cities and towns over 5,000 population..... \$905.00
- 10. Mixed Beverage License..... \$1,005.00
 - (initial license)
 - \$905.00
 - (renewal)
- 11. Mixed Beverage/Caterer Combination License..... \$1,250.00
- 12. Beer and Wine License..... \$500.00
 - (initial license)
 - \$450.00
 - (renewal)
- 13. Bottle Club License..... \$1,000.00
 - (initial license)
 - \$900.00
 - (renewal)
- 14. Caterer License..... \$1,005.00
 - (initial license)
 - \$905.00
 - (renewal)
- 15. Annual Special Event License..... \$55.00
- 16. Quarterly Special Event License..... \$55.00
- 17. Hotel Beverage License..... \$1,005.00
 - (initial license)
 - \$905.00
 - (renewal)
- 18. ~~Airline/Railroad~~ Airline/Railroad Transportation Beverage License..... \$1,005.00

	(initial license)	
		\$905.00
	(renewal)	
19.	Agent License.....	\$55.00
20.	Employee License.....	\$30.00
21.	Industrial License.....	\$23.00
22.	Carrier License.....	\$23.00
23.	Private Carrier License.....	\$23.00
24.	Bonded Warehouse License.....	\$190.00
25.	Storage License.....	\$23.00
26.	Nonresident Seller License.....	\$750.00
27.	Manufacturers Agent License.....	\$55.00
28.	Sacramental Wine Supplier License.....	\$100.00
29.	Charitable Auction License.....	\$1.00

There shall be added to the initial or renewal fees for a Mixed Beverage License an administrative fee, which shall not be deemed to be a license fee, in the amount of Five Hundred Dollars (\$500.00), which shall be paid at the same time and in the same manner as the license fees prescribed by paragraph 10 of this subsection; provided, this fee shall not be assessed against service organizations or fraternal beneficiary societies which are exempt under Section 501(c)(19), (8) or (10) of the Internal Revenue Code, 26 U.S.C.A., Section 501. There shall be added to the fee for a Mixed Beverage/Caterer Combination License an administrative fee, which shall not be deemed to be a license fee, in the amount of Two Hundred Fifty Dollars (\$250.00), which shall be paid at the same time and in the same manner as the license fee prescribed by paragraph 11 of this subsection.

B. Notwithstanding the provisions of subsection A of this section:

1. The license fee for a mixed beverage or bottle club license for those service organizations or fraternal beneficiary societies

which are exempt under Section 501(c)(19), (8) or (10) of the Internal Revenue Code, 26 U.S.C.A., Section 501, shall be Five Hundred Dollars (\$500.00) per year;

2. The fees provided for in subsection A of this section for a brewer license and for a Class B wholesaler license shall be reduced by seventy-five percent (75%) if the applicant therefor is also the holder of a license to manufacture or wholesale any low-point beer as provided for in this title; and

3. The renewal fee for ~~an airline/railroad~~ a transportation beverage license held by a railroad described in Section 24301 of Title 49 of the United States Code, 49 U.S.C., Section 24301, shall be One Hundred Dollars (\$100.00).

C. An applicant may apply for and receive both a beer and wine license and a caterer license.

D. All licenses, except as otherwise provided, shall be valid for one (1) year from date of issuance unless revoked or surrendered. Provided, all employee licenses issued on or after September 1, 1993, shall be valid for two (2) years.

E. The holder of a license, issued by the ABLE Commission, for a bottle club located in a county of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized, may exchange the bottle club license for a mixed beverage license or a beer and wine license and operate the licensed premises as a mixed beverage establishment or a beer and wine establishment subject to the provisions of the Oklahoma Alcoholic Beverage Control Act. There shall be no additional fee for such exchange and the mixed beverage license or beer and wine license issued shall expire one (1) year from the date of issuance of the original bottle club license.

SECTION 2. AMENDATORY 37 O.S. 2001, Section 518.1, is amended to read as follows:

Section 518.1. The holder of a mixed beverage, beer and wine, caterer, special event or ~~airline/railroad~~ transportation beverage license shall purchase alcoholic beverages only from a licensed wholesaler or Class B wholesaler or as specifically provided by law; provided, the holder of a mixed beverage, beer and wine, caterer or special event license issued for an establishment which is also a restaurant may purchase wine produced at wineries in this state directly from an Oklahoma winemaker as provided in Section 3 of Article XXVIII of the Oklahoma Constitution.

A wholesaler or Class B wholesaler may deliver such products to licensees authorized to sell alcoholic beverages for on-premises consumption; provided, such licensees may pick up alcoholic beverage orders if they hold a private carrier license issued by the Alcoholic Beverage Laws Enforcement Commission.

SECTION 3. AMENDATORY 37 O.S. 2001, Section 521, as last amended by Section 1, Chapter 72, O.S.L. 2004 (37 O.S. Supp. 2004, Section 521), is amended to read as follows:

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

B. A distiller license shall authorize the holder thereof: To manufacture, bottle, package, and store spirits on licensed premises; to sell spirits in this state to licensed wholesalers and manufacturers only; to sell spirits out of this state to qualified persons; to purchase from licensed distillers and rectifiers in this state, and import spirits from without this state for manufacturing purposes in accordance with federal laws and regulations.

C. A winemaker license shall authorize the holder thereof: To manufacture (including such mixing, blending and cellar treatment as authorized by federal law), bottle, package, and store on licensed

premises wine containing not more than twenty-four percent (24%) alcohol by volume, provided the bottle or package sizes authorized shall be limited to the capacities approved by the United States Bureau of Alcohol, Tobacco and Firearms; to sell wine in this state to licensed wholesalers and manufacturers, provided, an Oklahoma winemaker may sell and ship wine produced at a winery in this state directly to retail package stores and restaurants in this state; to sell bottles of wine produced at the winery from grapes and other fruits and berries grown in this state, if available, to consumers on the premises of the winery; to serve visitors on the licensed premises free samples of wine produced on the premises; to serve free samples of wine produced at the winery at festivals and trade shows; to sell wine produced at the winery, in original sealed containers, at festivals and trade shows; to sell wine out of this state to qualified persons; to purchase from licensed winemakers, distillers and rectifiers in this state, and to import into this state wine, brandy and fruit spirits for use in manufacturing in accordance with federal laws and regulations.

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

E. A wholesaler license shall authorize the holder thereof: To purchase and import into this state spirits and wines from persons authorized to sell same who are the holders of a nonresident seller license, and their agents who are the holders of manufacturers agent licenses; to purchase spirits and wines from licensed distillers, rectifiers, winemakers and wholesalers in this state; to sell

spirits and wines in retail containers in this state to retailers, mixed beverage, caterer, special event, hotel beverage or ~~airline/railroad~~ transportation beverage licensees; to sell spirits in containers with a capacity of less than one-twentieth (1/20) gallon in full case lots and in the original unbroken case to hotel beverage or ~~airline/railroad~~ transportation beverage licensees only; to sell wines in containers with a capacity of less than one-twentieth (1/20) gallon in full case lots and in the original unbroken case; to sell spirits and wines to wholesalers authorized to sell same; to sell spirits and wines out of this state to qualified persons; provided, a wholesaler license shall authorize the holder thereof to sell alcoholic beverages in containers with a capacity of less than one-twentieth (1/20) gallon, if the containers are packaged with other containers and the total capacity is greater than one-twentieth (1/20) gallon. Wholesalers shall be authorized to place such signs outside their place of business as are required by Acts of Congress and by such laws and regulations promulgated under such Acts.

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

F. A Class B wholesaler license shall authorize the holder thereof: To purchase and import into this state beer from persons authorized to sell same who are the holders of nonresident seller licenses, and their agents who are the holders of manufacturers agent licenses; to purchase beer from licensed brewers and Class B wholesalers in this state; to sell in retail containers to retailers, mixed beverage, caterer, special event, hotel beverage and ~~airline/railroad~~ transportation beverage licensees in this state, beer which has been unloaded and stored at the holder's self-

owned or leased and self-operated warehouse facilities for a period of at least twenty-four (24) hours before such sale; and to sell beer in this state to Class B wholesalers and out of this state to qualified persons, including federal instrumentalities and voluntary associations of military personnel on federal enclaves in this state over which this state has ceded jurisdiction.

G. A package store license shall authorize the holder thereof: To purchase alcohol, spirits and beer in retail containers with a capacity of more than one-twentieth (1/20) gallon or in retail containers with a capacity of less than one-twentieth (1/20) gallon if the containers are packaged with other containers and the total capacity is greater than one-twentieth (1/20) gallon, and wine in retail containers with any capacity approved by the United States Bureau of Alcohol, Tobacco and Firearms from the holder of a brewer, wholesaler or Class B wholesaler license and to purchase wine produced at a winery in this state from an Oklahoma winemaker and to sell same on the licensed premises in such containers to consumers for off-premises consumption only and not for resale; provided, wine may be sold to charitable organizations that are holders of charitable auction licenses. All alcoholic beverages that are sold by a package store are to be sold at ordinary room temperature. No package store licensee may purchase or sell alcohol, spirits or beer in retail containers with a capacity of less than one-twentieth (1/20) gallon, except that a package store licensee may sell alcoholic beverages in retail containers with a capacity of less than one-twentieth (1/20) gallon, if the containers are packaged with other containers and the total capacity is greater than one-twentieth (1/20) gallon.

H. A mixed beverage license shall authorize the holder thereof: To purchase alcohol, spirits or beer in retail containers with a capacity of more than one-twentieth (1/20) gallon and wine in retail containers with a capacity approved by the United States Bureau of

Alcohol, Tobacco and Firearms from the holder of a wholesaler or Class B wholesaler license or as specifically provided by law and to sell, offer for sale and possess mixed beverages for on-premises consumption only; provided, the holder of a mixed beverage license issued for an establishment which is also a restaurant may purchase wine produced at wineries in this state directly from an Oklahoma winemaker as provided in Section 3 of Article XXVIII of the Oklahoma Constitution.

Sales and service of mixed beverages by holders of mixed beverage licenses shall be limited to the licensed premises of the licensee unless the holder of the mixed beverage license also obtains a caterer license or a mixed beverage/caterer combination license. A mixed beverage license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. A separate license shall be required for each place of business. No mixed beverage license shall be issued for any place of business functioning as a motion picture theater, as defined by Section 506 of this title.

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

J. A caterer license shall authorize the holder thereof: To sell mixed beverages for on-premises consumption incidental to the sale or distribution of food at particular functions, occasions, or events which are temporary in nature. A caterer license shall not be issued in lieu of a mixed beverage license. A caterer license

shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. A separate license shall be required for each place of business.

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

2. A quarterly special event license shall authorize the holder thereof: To sell and distribute mixed beverages for consumption on the premises for which the license has been issued for up to three events to be held over a period not to exceed three (3) months. For purposes of this paragraph, an event shall not exceed a period of ten (10) consecutive days. A quarterly special event license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. The holder of a quarterly special event license shall provide written notice to the ABLE Commission of each special event not less than ten (10) days before the event is held.

L. A hotel beverage license shall authorize the holder thereof: To sell or serve alcoholic beverages in 50 milliliter spirits, 187 milliliter wine, and 12-ounce malt beverage containers which are distributed from a hotel room mini-bar. A hotel beverage license shall only be issued in counties of this state where the sale of

alcoholic beverages by the individual drink for on-premises consumption has been authorized. A hotel beverage license shall only be issued to a hotel or motel as defined by Section 506 of this title which is also the holder of a mixed beverage license. Provided, that application may be made simultaneously for both such licenses. A separate license shall be required for each place of business.

M. ~~An airline/railroad~~ A transportation beverage license shall authorize the holder thereof: To sell or serve alcoholic beverages in or from any size container on a commercial passenger airplane, ~~or~~ railroad, chartered bus or limousine operated in compliance with a valid license, permit or certificate issued under the authority of the United States or this state, even though the airplane ~~or train,~~ railroad, chartered bus or limousine, in the course of its travel, may cross an area in which the sale of alcoholic beverages by the individual drink is not authorized and to store alcoholic beverages in sealed containers of any size at any airport ~~or,~~ railroad station, chartered bus terminal or limousine terminal/garage regularly served by the licensee, in accordance with rules promulgated by the Alcoholic Beverage Laws Enforcement Commission. Alcoholic beverages purchased by the holder of ~~an airline/railroad~~ a transportation beverage license from the holder of a wholesaler license shall be presumed to be purchased for consumption outside the State of Oklahoma or in interstate commerce, and shall be exempt from the excise tax provided for in Section 553 of this title.

N. An agent license shall authorize the holder thereof: To represent only the holders of licenses within this state, other than retailers, authorized to sell alcoholic beverages to retail dealers in Oklahoma, and to solicit and to take orders for the purchase of alcoholic beverages from retailers including licensees authorized to sell alcoholic beverages by the individual drink for on-premises consumption. Such license shall be issued only to agents and

employees of the holder of a license under the Oklahoma Alcoholic Beverage Control Act, ~~Section 502 et seq. of this title~~ but no such license shall be required of an employee making sales of alcoholic beverages on licensed premises of the employee's principal. No person holding an agent license shall be entitled to a manufacturers agent license.

O. An employee license shall authorize the holder thereof: To work in a package store, mixed beverage establishment, bottle club, or any establishment where alcohol or alcoholic beverages are sold, mixed, or served. Persons employed by a mixed beverage licensee or a bottle club who do not participate in the service, mixing, or sale of mixed beverages shall not be required to have an employee license. Provided, however, that a manager employed by a mixed beverage licensee or a bottle club shall be required to have an employee license whether or not the manager participates in the service, mixing or sale of mixed beverages. Applicants for an employee license must have a health card issued by the county in which they are employed, if the county issues such a card. Employees of special event, caterer or ~~airline/railroad~~ transportation beverage licensees shall not be required to obtain an employee license. Persons employed by a hotel licensee who participate in the stocking of hotel room mini-bars or in the handling of alcoholic beverages to be placed in such devices shall be required to have an employee license.

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

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

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

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

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

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

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

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

R. A private carrier license may be issued to any carrier other than a common carrier described in subsection P of this section. Such license shall authorize the holder thereof to transport alcoholic beverages into, within, or out of this state under such terms, conditions, limitations, and restrictions as the ABLE Commission may prescribe by order issuing such license and by regulations. No carrier license or private carrier license shall be required of licensed brewers, distillers, winemakers, rectifiers, wholesalers, or Class B wholesalers, to transport alcoholic beverages from the place of purchase or acquisition to the licensed premises of such licensees and from such licensed premises to the licensed premises of the purchaser in vehicles owned or leased by

such licensee when such transportation is for a lawful purpose and not for hire.

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

S. A bonded warehouse license shall authorize the holder thereof: To receive and store alcoholic beverages for the holders of storage licenses on the licensed premises of the bonded warehouse licensee. No goods, wares or merchandise other than alcoholic beverages may be stored in the same bonded warehouse with alcoholic beverages. The holder of a bonded warehouse license shall furnish and file with the ABLE Commission a bond running to all bailors of alcoholic beverages under proper storage licenses and their assignees (including mortgagees or other bona fide lienholders) conditioned upon faithful performance of the terms and conditions of such bailments.

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

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

2. Any licensee who is the holder of a mixed beverage/caterer combination license or the holder of a mixed beverage license and a hotel beverage license who is issued a storage license shall store all inventories of alcoholic beverages either on the premises of the mixed beverage establishment or in the warehouse;

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

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

U. A sacramental wine supplier license shall authorize the holder thereof: To sell, ship or deliver sacramental wine to any religious corporation or society of this state holding a valid exemption from taxation issued pursuant to Section 501(a) of the Internal Revenue Code, 1986, and listed as an exempt organization in Section 501(c)(3) of the Internal Revenue Code, 1986, of the United States, as amended.

V. A beer and wine license shall authorize the holder thereof: To purchase beer and wine in retail containers with a capacity of more than one-twentieth (1/20) gallon from the holder of a wholesaler or Class B wholesaler license or as specifically provided by law and to sell, offer for sale and possess beer and wine for on-premises consumption only; provided, the holder of a beer and wine license issued for an establishment which is also a restaurant may purchase wine produced at wineries in this state directly from an Oklahoma winemaker as provided in Section 3 of Article XXVIII of the Oklahoma Constitution.

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

W. A charitable auction license may be issued to a charitable organization exempt from taxation under Section 501(c)(3), (4), (5), (7), (8), (9), (10), or (19) of the United States Internal Revenue Code. The license shall authorize the holder thereof to auction wine purchased from a retail package store or received as a gift from an individual, if the auction is conducted to raise funds for charitable purposes. The license shall be issued for a period not exceeding two (2) days. Only one such license may be issued to an organization in any twelve-month period. The maximum amount of wine auctioned pursuant to the license shall not exceed fifty (50) gallons. All wines auctioned shall be registered and all fees and

taxes shall be paid in accordance with the Oklahoma Alcoholic Beverage Control Act. The auction may be either a live auction conducted by an auctioneer or a silent auction for which bid sheets are accepted from interested bidders.

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

SECTION 4. AMENDATORY 37 O.S. 2001, Section 523, is amended to read as follows:

Section 523. A. No license provided for in the Oklahoma Alcoholic Beverage Control Act shall be issued except pursuant to an application filed with the Alcoholic Beverage Laws Enforcement Commission. The ABLE Commission may, however, provide for a form of simplified application for renewal of license. Payment of the prescribed fee shall accompany each application for a license.

B. Every applicant for an original license, except applicants for an employee, special event or ~~airline/railroad~~ transportation beverage license, shall also furnish the following:

1. A tax receipt proving payment of ad valorem taxes, including real and personal taxes, or furnish to the ABLE Commission satisfactory evidence that no taxes are due or delinquent;

2. A certificate of zoning issued by the municipality in which the applicant proposes to locate the applicant's principal place of

business under the license, or by the county if said principal place of business is located outside the incorporated limits of a municipality, certifying that the applicant's proposed location and use thereof comply with all municipal zoning ordinances or county zoning regulations if applicable;

3. A certificate issued by the municipality in which the applicant proposes to locate the applicant's principal place of business under the license, or by the county if said principal place of business is located outside the incorporated limits of a municipality, certifying that the applicant's existing or proposed operations under the license comply with all municipal or county fire codes, safety codes, or health codes, if applicable;

4. Authorization, on forms furnished by the ABLE Commission, for complete investigation of the applicant's current financial status as it relates to the application for a license, including but not limited to access to bank accounts, loan agreements, and financial statements; and

5. A deed, management agreement, purchasing agreement, or lease.

C. The certificates required by paragraphs 2 and 3 of subsection B of this section shall be signed by the mayor of the municipality or the ~~chairman~~ chair of the board of county commissioners issuing same, unless the municipality, by ordinance, or the county designates some other officer or entity to issue the certificates. Applications for such certificates shall be in writing and shall contain information in such detail as the municipality or county may reasonably require describing the location and nature of operations to be conducted under the ABLE license. Municipalities and counties shall be required to act on all applications for such certificates within twenty (20) days of receipt of the written application.

D. Municipalities and counties may grant conditional certificates for premises proposed for licensed operations for which construction, modification, or alteration is not completed. Conditional certificates shall indicate that the proposed premises will comply with the municipal or county zoning, fire, safety, and health codes. The granting of conditional certificates shall not relieve the applicant of the duty of obtaining the certificates required by paragraphs 2 and 3 of subsection B of this section after completion of the construction, modification, or alteration.

E. A municipality or county shall issue the certificates required by paragraphs 2 and 3 of subsection B of this section within ten (10) days after all final inspections are completed.

Thereafter if a licensee fails to maintain compliance with municipal or county zoning ordinances and codes, the mayor or ~~chairman~~ chair of the board of county commissioners or their designee, shall forthwith notify the ABLE Commission in writing setting forth details of the noncompliance.

F. Upon issuance of any license, the ABLE Commission shall furnish the Oklahoma Tax Commission with a list of such licenses.

G. In the event of denial of an application for a license, the ABLE Commission shall refund to the applicant the amount of the tendered fee, less ten percent (10%), which it shall retain as cost of processing the application.

H. Any licensee, except an employee licensee, who fails to renew his or her license prior to the expiration date of said license shall be subject to a late renewal penalty as provided by ABLE Commission rules and regulations. Further, any licensee, except an employee licensee, who fails to renew his or her license within sixty (60) days of the expiration of said license shall be required to submit a new license application. An employee licensee who fails to renew prior to the expiration of the license shall be required to submit a new license application; provided, however,

that under no circumstances shall any licensee, including an employee licensee, whose license to serve or sell alcoholic beverages has expired, continue to serve or sell alcoholic beverages.

SECTION 5. AMENDATORY 37 O.S. 2001, Section 584, is amended to read as follows:

Section 584. No holder of a mixed beverage, beer and wine, caterer, special event, or ~~airline/railroad~~ transportation beverage license shall refill with any substance a container which contained any alcoholic beverage on which the tax levied by Section 553 of this title has been paid.

SECTION 6. AMENDATORY 37 O.S. 2001, Section 588, is amended to read as follows:

Section 588. Any establishment which, upon the effective date of this act, is operating as a private club pursuant to a permit or license issued by a municipality may continue to operate pursuant to such permit or license until July 1, 1985.

Until September 1, 1985, the ABLE Commission shall be authorized to issue interim licenses to applicants for mixed beverage, caterer, bottle club, and ~~airline/railroad~~ transportation beverage licenses, prior to issuance of permanent licenses. The issuance of interim licenses may take place before all the procedures required by the Oklahoma Alcoholic Beverage Control Act for such licensing are completed.

To obtain an interim license an applicant shall file an application for a license authorized by this section with the ABLE Commission and shall furnish all other information required by the Oklahoma Alcoholic Beverage Control Act and rules and regulations promulgated by the ABLE Commission, except that, if certificates of zoning or compliance with fire, safety, or health codes, required pursuant to Section 523 of this title, have not been issued by the applicable municipality or county, proof of application for said

certificates shall be sufficient for issuance of the interim license. The certificates shall be furnished to the ABLE Commission prior to issuance of a permanent license. The interim license shall remain valid until final action either issuing a license or denying the application for a license is taken by the ABLE Commission on the application for a license, on which date the interim license shall expire.

SECTION 7. AMENDATORY 37 O.S. 2001, Section 597, is amended to read as follows:

Section 597. ~~An airline/railroad~~ A transportation beverage license may be issued to any corporation operating a commercial airline, ~~or~~ or railroad, chartered bus or limousine in or through this state. Application and payment of the license fee shall be made directly to the Alcoholic Beverage Laws Enforcement Commission.

SECTION 8. This act shall become effective November 1, 2005.

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