

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 995

By: Coates of the Senate

3 and

4 Morgan of the House

5
6
7
8 (intoxicating liquors - various licenses -
9 conditional effective date)

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11
12 AUTHORS: Add the following House Coauthors: Cannaday and Collins

13 AMENDMENT NO. 1. Strike the stricken title, enacting clause and
14 entire bill and insert

15 "(intoxicating liquors - various licenses -
16 codification -
17 conditional effective date)

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

21 SECTION 1. AMENDATORY 37 O.S. 2001, Section 521, as last
22 amended by Section 1, Chapter 73, O.S.L. 2006 (37 O.S. Supp. 2007,
23 Section 521), is amended to read as follows:
24

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

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

13 C. A winemaker license shall authorize the holder thereof: To
14 manufacture (including such mixing, blending and cellar treatment as
15 authorized by federal law), bottle, package, and store on licensed
16 premises wine containing not more than twenty-four percent (24%)
17 alcohol by volume~~;~~; provided~~,~~, the bottle or package sizes authorized
18 shall be limited to the capacities approved by the United States
19 Bureau of Alcohol, Tobacco and Firearms; to sell wine in this state
20 to licensed wholesalers and manufacturers~~;~~; provided, ~~an Oklahoma~~
21 ~~winemaker~~ unless distribution volume limits are ruled to be
22 unconstitutional by an appellate court of this state, a federal
23 district court, a federal circuit court of appeals or the United
24 States Supreme Court, winemakers within and without this state may

1 sell and ship up to ten thousand (10,000) gallons annually of wine
2 produced at a the winery in this state directly to retail package
3 stores and restaurants in this state; provided further, if a winery
4 sells directly to a retail package storage or restaurant, the winery
5 shall transport the wine from the winery to the premises where the
6 wine is to be delivered in vehicles owned or leased by the winery
7 and obtain all necessary permits as required by the Oklahoma
8 Alcoholic Beverage Control Act and shall not use any common or
9 private carrier to transport such wine; to sell bottles of wine
10 produced at the winery from grapes and other fruits and berries
11 grown in this state, if available, to consumers on the premises of
12 the winery; to serve visitors on the licensed premises samples of
13 wine produced on the premises; to serve samples of wine produced at
14 the winery at festivals and trade shows; to sell wine produced at
15 the winery, in original sealed containers, at festivals and trade
16 shows; to sell wine out of this state to qualified persons; to
17 purchase from licensed winemakers, distillers and rectifiers in this
18 state, and to import into this state wine, brandy and fruit spirits
19 for use in manufacturing in accordance with federal laws and
20 regulations.

21 D. A rectifier license shall authorize the holder thereof: To
22 rectify spirits and wines, bottle, package, and store same on the
23 licensed premises; to sell spirits and wines in this state to
24 licensed wholesalers and manufacturers only; to sell spirits and

1 wines out of this state to qualified persons; to purchase from
2 licensed manufacturers in this state; and to import into this state
3 for manufacturing purposes spirits and wines in accordance with
4 federal laws and regulations.

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

22 A wholesaler license shall authorize the holder thereof to
23 operate a single bonded warehouse with a single central office
24 together with delivery facilities at a location in this state only

1 at the principal place of business for which the wholesaler license
2 was granted.

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

18 G. A package store license shall authorize the holder thereof:
19 To purchase alcohol, spirits, beer and wine in retail containers
20 from the holder of a brewer, wholesaler or Class B wholesaler
21 license and to purchase wine produced at a winery in this state from
22 an Oklahoma winemaker and to sell same on the licensed premises in
23 such containers to consumers for off-premises consumption only and
24 not for resale; provided, wine may be sold to charitable

1 organizations that are holders of charitable auction or charitable
2 wine event licenses. All alcoholic beverages that are sold by a
3 package store are to be sold at ordinary room temperature.

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

13 Sales and service of mixed beverages by holders of mixed
14 beverage licenses shall be limited to the licensed premises of the
15 licensee unless the holder of the mixed beverage license also
16 obtains a caterer license or a mixed beverage/caterer combination
17 license. A mixed beverage license shall only be issued in counties
18 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. No
21 mixed beverage license shall be issued for any place of business
22 functioning as a motion picture theater, as defined by Section 506
23 of this title.

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

9 J. A caterer license shall authorize the holder thereof: To
10 sell mixed beverages for on-premises consumption incidental to the
11 sale or distribution of food at particular functions, occasions, or
12 events which are temporary in nature. A caterer license shall not
13 be issued in lieu of a mixed beverage license. A caterer license
14 shall only be issued in counties of this state where the sale of
15 alcoholic beverages by the individual drink for on-premises
16 consumption has been authorized. A separate license shall be
17 required for each place of business.

18 K. 1. An annual special event license shall authorize the
19 holder thereof: To sell and distribute mixed beverages for
20 consumption on the premises for which the license has been issued
21 for up to four events to be held over a period not to exceed one (1)
22 year, not to exceed two such events in any three-month period. For
23 purposes of this paragraph, an event shall not exceed a period of
24 ten (10) consecutive days. An annual special event license shall

1 only be issued in counties of this state where the sale of alcoholic
2 beverages by the individual drink for on-premises consumption has
3 been authorized. The holder of an annual special event license
4 shall provide written notice to the ABLE Commission of each special
5 event not less than ten (10) days before the event is held.

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

17 L. A hotel beverage license shall authorize the holder thereof:
18 To sell or serve alcoholic beverages in 50 milliliter spirits, 187
19 milliliter wine, and 12-ounce malt beverage containers which are
20 distributed from a hotel room mini-bar. A hotel beverage 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
23 consumption has been authorized. A hotel beverage license shall
24 only be issued to a hotel or motel as defined by Section 506 of this

1 title which is also the holder of a mixed beverage license.

2 Provided, that application may be made simultaneously for both such
3 licenses. A separate license shall be required for each place of
4 business.

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

21 N. An agent license shall authorize the holder thereof: To
22 represent only the holders of licenses within this state, other than
23 retailers, authorized to sell alcoholic beverages to retail dealers
24 in Oklahoma, and to solicit and to take orders for the purchase of

1 alcoholic beverages from retailers including licensees authorized to
2 sell alcoholic beverages by the individual drink for on-premises
3 consumption. Such license shall be issued only to agents and
4 employees of the holder of a license under the Oklahoma Alcoholic
5 Beverage Control Act, Section 502 et seq. of this title, but no such
6 license shall be required of an employee making sales of alcoholic
7 beverages on licensed premises of the employee's principal. No
8 person holding an agent license shall be entitled to a manufacturers
9 agent license.

10 O. An employee license shall authorize the holder thereof: To
11 work in a package store, mixed beverage establishment, bottle club,
12 or any establishment where alcohol or alcoholic beverages are sold,
13 mixed, or served. Persons employed by a mixed beverage licensee or
14 a bottle club who do not participate in the service, mixing, or sale
15 of mixed beverages shall not be required to have an employee
16 license. Provided, however, that a manager employed by a mixed
17 beverage licensee or a bottle club shall be required to have an
18 employee license whether or not the manager participates in the
19 service, mixing or sale of mixed beverages. Applicants for an
20 employee license must have a health card issued by the county in
21 which they are employed, if the county issues such a card.
22 Employees of special event, caterer or airline/railroad beverage
23 licensees shall not be required to obtain an employee license.
24 Persons employed by a hotel licensee who participate in the stocking

1 of hotel room mini-bars or in the handling of alcoholic beverages to
2 be placed in such devices shall be required to have an employee
3 license.

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

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

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

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

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

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

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

1 Q. A carrier license may be issued to any common carrier
2 operating under a certificate of convenience and necessity issued by
3 any duly authorized federal or state regulatory agency. Such
4 license shall authorize the holder thereof to transport alcoholic
5 beverages other than wine sold by a winery to a retail package store
6 or restaurant into, within, and out of this state under such terms,
7 conditions, limitations, and restrictions as the ABLE Commission may
8 prescribe by order issuing such license and by regulations.

9 R. A private carrier license may be issued to any carrier other
10 than a common carrier described in subsection P Q of this section.
11 Such license shall authorize the holder thereof to transport
12 alcoholic beverages other than wine sold by a winery to a retail
13 package store or restaurant into, within, or out of this state under
14 such terms, conditions, limitations, and restrictions as the ABLE
15 Commission may prescribe by order issuing such license and by
16 regulations. No carrier license or private carrier license shall be
17 required of licensed brewers, distillers, winemakers, rectifiers,
18 wholesalers, or Class B wholesalers, to transport alcoholic
19 beverages from the place of purchase or acquisition to the licensed
20 premises of such licensees and from such licensed premises to the
21 licensed premises of the purchaser in vehicles owned or leased by
22 such licensee when such transportation is for a lawful purpose and
23 not for hire.

24

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

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

22 T. A storage license may be issued to a holder of a brewer,
23 distiller, winemaker, rectifier, wholesaler, Class B wholesaler,
24 nonresident seller, package store, mixed beverage, caterer, or hotel

1 beverage license, and shall authorize the holder thereof: To store
2 alcoholic beverages in a public warehouse holding a bonded warehouse
3 license, and no goods, wares or merchandise other than alcoholic
4 beverages may be stored in the same warehouse with alcoholic
5 beverages in private warehouses owned or leased and operated by such
6 licensees elsewhere than on their licensed premises. Provided:

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

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

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

18 4. Notwithstanding the provisions of subsection H of this
19 section or any other provision of this title, a licensee who wholly
20 owns more than one licensed mixed beverage establishment may store
21 alcoholic beverages for each of the licensed establishments in one
22 location under one storage license. Alcoholic beverages purchased
23 and stored pursuant to the provisions of a storage license, for one
24 licensed mixed beverage establishment may be transferred by a

1 licensee to another licensed mixed beverage establishment which is
2 wholly owned by the same licensee. Notice of such a transfer shall
3 be given in writing to the Oklahoma Tax Commission and the ABLE
4 Commission within three (3) business days of the transfer. The
5 notice shall clearly show the quantity, brand and size of every
6 transferred bottle or case.

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

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

23 Sales and service of beer and wine by holders of beer and wine
24 licenses shall be limited to the licensed premises of the licensee

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

10 W. A charitable auction or charitable wine event license may be
11 issued to a charitable organization exempt from taxation under
12 Section 501(c)(3), (4), (5), (7), (8), (9), (10), or (19) of the
13 United States Internal Revenue Code. The charitable wine event
14 license shall authorize the holder thereof to conduct a wine event
15 which may consist of one or more of a wine tasting event, a wine
16 dinner event or a wine auction, which may be either a live auction
17 conducted by an auctioneer or a silent auction for which:

18 1. Bid sheets are accepted from interested bidders at the
19 event;

20 2. The holders of tickets are allowed to bid online for a
21 period not exceeding thirty (30) days prior to the event; or

22 3. Both bid sheets are accepted at the event and online bids
23 are accepted pursuant to paragraph 2 of this subsection.

24

1 A charitable wine event shall be conducted solely to raise funds
2 for charitable purposes. Wine used in, served, or consumed at a
3 charitable wine event may be purchased by the charitable
4 organization or donated by any person or entity. The charitable
5 wine event license shall be issued for a period not exceeding four
6 (4) days. Only one such license may be issued to an organization in
7 any twelve-month period. The charitable organization holding a
8 charitable wine event license shall not be required to obtain a
9 special event license. The charitable auction license shall
10 authorize the holder thereof to auction wine purchased from a retail
11 package store or received as a gift from an individual if the
12 auction is conducted to raise funds for charitable purposes. The
13 charitable auction license shall be issued for a period not to
14 exceed two (2) days. Only one such license shall be issued to an
15 organization in any twelve-month period. The maximum amount of wine
16 auctioned pursuant to the charitable auction license shall not
17 exceed fifty (50) gallons. All wines auctioned pursuant to the
18 charitable auction license shall be registered, and all fees and
19 taxes shall be paid in accordance with the Oklahoma Alcoholic
20 Beverage Control Act.

21 X. A mixed beverage/caterer combination license shall authorize
22 the holder thereof: To purchase or sell mixed beverages as
23 specifically provided by law for the holder of a mixed beverage
24 license or a caterer license. All provisions of the Oklahoma

1 Alcoholic Beverage Control Act applicable to mixed beverage licenses
2 or caterer licenses, or the holders thereof, shall also be
3 applicable to mixed beverage/caterer combination licenses or the
4 holders thereof, except where specifically otherwise provided. A
5 mixed beverage/caterer combination license shall only be issued in
6 counties of this state where the sale of alcoholic beverages by the
7 individual drink for on-premises consumption has been authorized. A
8 separate license shall be required for each place of business.

9 SECTION 2. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 537.3 of Title 37, unless there
11 is created a duplication in numbering, reads as follows:

12 Unless ruled unconstitutional by an appellate court of this
13 state, a federal district court, a federal circuit court of appeals,
14 or the United States Supreme Court, any licensed winery that
15 violates the distribution volume limit provided for in subsection C
16 of Section 521 of Title 37 of the Oklahoma Statutes shall be subject
17 to a fine of Ten Thousand Dollars (\$10,000.00). In addition, if the
18 violation is a second or subsequent violation, the winery shall not
19 be allowed to transport wine to a retail package store or restaurant
20 for three (3) years from the date of the second or subsequent
21 violation.

22 SECTION 3. This act shall become effective upon certification
23 of election returns favoring passage of the Constitutional Amendment
24

