

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 3158

6 By: Blackwell

7 COMMITTEE SUBSTITUTE

8 An Act relating to the Alcoholic Beverage Laws
9 Enforcement Commission; abolishing the Alcoholic
10 Beverage Laws Enforcement Commission; providing for
11 interpretation of certain statutory references;
12 transferring the duties of enforcement and
13 administration of alcoholic beverage laws to the
14 Oklahoma State Bureau of Narcotics and Dangerous
15 Drugs Control and the Oklahoma Tax Commission;
16 transferring certain personnel, funds, records,
17 encumbrances, equipment, and other items to the
18 Oklahoma State Bureau of Narcotics and Dangerous
19 Drugs Control and the Oklahoma Tax Commission;
20 providing requirements pertaining to transfer of
21 employees; providing for transition coordinators and
22 a transition team; providing duties of the transition
23 team; amending 2 O.S. 2001, Section 11-25, which
24 relates to alcohol producers; modifying agency
certain list is filed with; amending 3A O.S. 2001,
Sections 402, 403, 404, 405, 406, 407, 408, 408.1,
409, 410, 411, 412, 413, 414, 415, 416, 419, 422, as
amended by Section 2, Chapter 330, O.S.L. 2004, 423,
425, 426 and 427 (3A O.S. Supp. 2007, Section 422),
which relate to the Oklahoma Charity Games Act;
modifying the Oklahoma Charity Games Act to reflect
the transfer of administration and enforcement from
the Alcoholic Beverage Laws Enforcement Commission to
the Oklahoma State Bureau of Narcotics and Dangerous
Drugs Control; providing for continuation of
promulgated rules and regulations; amending 21 O.S.
2001, Sections 1040.54, Section 1, Chapter 358,
O.S.L. 2005 and 1550.43 (21 O.S. Supp. 2007, Section
1220.1), which relate to crimes and punishments;
updating references; transferring duties from the

1 Alcoholic Beverage Laws Enforcement Commission to the
2 Oklahoma State Bureau of Narcotics and Dangerous
3 Drugs Control; amending 37 O.S. 2001, Sections
4 163.27, 505, 506, as amended by Section 1, Chapter
5 173, O.S.L. 2005, 511, 511A, 514, 515, 517 and 518,
6 as last amended by Section 1, Chapter 353, O.S.L.
7 2007 (37 O.S. Supp. 2007, Sections 506 and 518),
8 which relate to intoxicating liquors; modifying
9 Oklahoma intoxicating liquors law to reflect the
10 transfer of administration and enforcement from the
11 Alcoholic Beverage Laws Enforcement Commission to the
12 Oklahoma State Bureau of Narcotics and Dangerous
13 Drugs Control; creating fee schedule for certain
14 wholesaler licenses; allowing for certain reduction
15 in fee; amending 37 O.S. 2001, Sections 518.1, 518.3,
16 521, as last amended by Section 1, Chapter 73, O.S.L.
17 2006, Section 2, Chapter 156, O.S.L. 2003, and
18 Sections 1 and 2, Chapter 46, O.S.L. 2007 (37 O.S.
19 Supp. 2007, Sections 521, 521.1, 521.2 and 521.3),
20 which relate to intoxicating liquors; modifying
21 Oklahoma intoxicating liquors law to reflect the
22 transfer of administration and enforcement from the
23 Alcoholic Beverage Laws Enforcement Commission to the
24 Oklahoma State Bureau of Narcotics and Dangerous
Drugs Control; providing application requirements for
certain licenses; amending 37 O.S. 2001, Section 522,
which relates to intoxicating liquors; modifying
Oklahoma intoxicating liquors law to reflect the
transfer of administration and enforcement from the
Alcoholic Beverage Laws Enforcement Commission to the
Oklahoma State Bureau of Narcotics and Dangerous
Drugs Control; providing application procedures for
certain wholesalers; amending 37 O.S. 2001, Sections
523.1, 523.2, 524, 525, 526.1, 527, 527.1, 528, as
amended by Section 1, Chapter 365, O.S.L. 2007,
528.1, 529, 530, 530.1, 531, 532, 532.1, 532.2, 535,
535.1, 536, 537, as last amended by Section 1,
Chapter 141, O.S.L. 2007, 537.1, 538, 583.3, 539,
542, 543, 545, 546, 547, 548, 549, 551, 552, 553, as
last amended by Section 7, Chapter 484, O.S.L. 2003,
554, 554.1, 554.2, 555, 556, 557, 559, 560, 565, 567,
568, 569, 571, 573, as amended by Section 8, Chapter
484, O.S.L. 2003, 576, 576.1, 577, 578, 582, 588,
593, 594, 594.1, 595, 596, 597, 598, as amended by
Section 29, Chapter 460, O.S.L. 2002, 599, 600.3, as
amended by Section 1, Chapter 253, O.S.L. 2004,
600.4, 600.5, as amended by Section 2, Chapter 253,

1 O.S.L. 2004, 600.8, as amended by Section 4, Chapter
253, O.S.L. 2004, 600.9, Section 5, Chapter 253,
2 O.S.L. 2004, 600.11, as amended by Section 6, Chapter
253, O.S.L. 2004, 600.11a, 600.11b and Section 1,
3 Chapter 375, O.S.L. 2004 (37 O.S. Supp. 2007,
Sections 528, 537, 553, 573, 598, 600.3, 600.5,
4 600.8, 600.10A, 600.11 and 600.13), which relate to
intoxicating liquors; modifying Oklahoma intoxicating
5 liquors law to reflect the transfer of administration
and enforcement from the Alcoholic Beverage Laws
6 Enforcement Commission to the Oklahoma State Bureau
of Narcotics and Dangerous Drugs Control; amending 47
7 O.S. 2001, Sections 2-303 and 156.1, as last amended
by Section 18, Chapter 326, O.S.L. 2007 (47 O.S.
8 Supp. 2007, Section 156.1), which relate to motor
vehicles; modifying Oklahoma intoxicating liquors law
9 to reflect the transfer of administration and
enforcement from the Alcoholic Beverage Laws
10 Enforcement Commission to the Oklahoma State Bureau
of Narcotics and Dangerous Drugs Control; amending 51
11 O.S. 2001, Section 24A.3, as last amended by Section
4, Chapter 199, O.S.L. 2005 (51 O.S. Supp. 2007,
12 Section 24A.3), which relates to officers; modifying
certain definition to reflect the transfer of
13 administration and enforcement from the Alcoholic
Beverage Laws Enforcement Commission to the Oklahoma
14 State Bureau of Narcotics and Dangerous Drugs
Control; amending 63 O.S. 2001, Sections 1-229.4 and
15 2-103, as last amended by Section 51, Chapter 1,
O.S.L. 2007 (63 O.S. Supp. 2007, Section 2-103),
16 which relate to public health and safety; modifying
public health and safety law to reflect the transfer
17 of administration and enforcement from the Alcoholic
Beverage Laws Enforcement Commission to the Oklahoma
18 State Bureau of Narcotics and Dangerous Drugs
Control; creating Bureau of Narcotics Alcohol
19 Enforcement and Education Revolving Fund; providing
source of funding; providing for expenditures;
20 stating purpose; creating Bureau of Narcotics Charity
Games Enforcement Revolving Fund; providing source of
21 funding; providing for expenditures; stating purpose;
amending 63 O.S. 2001, Sections 2-503, as last
22 amended by Section 5, Chapter 223, O.S.L. 2007, 2-
506, as last amended by Section 4, Chapter 248,
23 O.S.L. 2007 and 2-508, as last amended by Section 16,
Chapter 168, O.S.L. 2004 (63 O.S. Supp. 2007,
24 Sections 2-503, 2-506 and 2-508), which relate to

1 public health and safety; modifying public health and
2 safety law to reflect the transfer of administration
3 and enforcement from the Alcoholic Beverage Laws
4 Enforcement Commission to the Oklahoma State Bureau
5 of Narcotics and Dangerous Drugs Control; amending 74
6 O.S. 2001, Sections 18c, as last amended by Section
7 8, Chapter 405, O.S.L. 2005, 30b, 840-4.13, as last
8 amended by Section 1, Chapter 6, O.S.L. 2006 and 840-
9 5.5, as last amended by Section 3, Chapter 208,
10 O.S.L. 2007 (74 O.S. Supp. 2007, Sections 18c, 840-
11 4.13 and 840-5.5), which relate to state government;
12 modifying to reflect the transfer of administration
13 and enforcement from the Alcoholic Beverage Laws
14 Enforcement Commission to the Oklahoma State Bureau
15 of Narcotics and Dangerous Drugs Control; repealing
16 37 O.S. 2001, Sections 506.1, as amended by Section
17 4, Chapter 204, O.S.L. 2003, 507.1, 507.2, 508, 509,
18 510, 512, 513a and 570 (37 O.S. Supp. 2007, Section
19 506.1), which relate to the Alcoholic Beverage Laws
20 Enforcement Commission; providing for codification;
21 providing for noncodification; and providing
22 effective dates.

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

24 SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 504.1 of Title 37, unless there
is created a duplication in numbering, reads as follows:

A. The Alcoholic Beverage Laws Enforcement Commission is hereby
abolished. Except as provided in subsection D of this section, any
reference in the Oklahoma Statutes to the Alcoholic Beverage Laws
Enforcement Commission shall be deemed to be a reference to the
Oklahoma State Bureau of Narcotics and Dangerous Drugs Control
(OBND). Except as provided in subsection D of this section, any

1 reference in the Oklahoma Statutes to the Director of the Alcoholic
2 Beverage Laws Enforcement Commission shall be deemed to be a
3 reference to the Director of the Oklahoma State Bureau of Narcotics
4 and Dangerous Drugs Control.

5 B. Except as provided in subsection D of this section, all
6 assets, funds, liabilities, allotments, purchase orders, outstanding
7 financial obligations, encumbrances, records, aircraft, vehicles,
8 equipment, and other property of the Alcoholic Beverage Laws
9 Enforcement Commission is hereby transferred to the Oklahoma State
10 Bureau of Narcotics and Dangerous Drugs Control.

11 C. Except as provided in subsection D of this section,
12 personnel employed by the Alcoholic Beverage Laws Enforcement
13 Commission on July 1, 2009, shall be transferred to the Oklahoma
14 State Bureau of Narcotics and Dangerous Drugs Control pursuant to a
15 transition plan implemented by the Oklahoma State Bureau of
16 Narcotics and Dangerous Drugs Control as required by Section 2 of
17 this act.

18 D. 1. The responsibility of the Alcoholic Beverage Laws
19 Enforcement Commission for licensing alcohol wholesalers and
20 regulating alcohol wholesalers shall be transferred to the Oklahoma
21 Tax Commission.

22 2. Any reference in the Oklahoma Statutes to the Alcoholic
23 Beverage Laws Enforcement Commission with regard to licensing
24 alcohol wholesalers and regulating alcohol wholesalers shall be

1 deemed to be a reference to the Oklahoma Tax Commission. Any
2 reference in the Oklahoma Statutes to the Director of the Alcoholic
3 Beverage Laws Enforcement Commission with regard to licensing
4 alcohol wholesalers and regulating alcohol wholesalers shall be
5 deemed to be a reference to the Administrator of the Oklahoma Tax
6 Commission.

7 3. All assets, funds, liabilities, allotments, purchase orders,
8 outstanding financial obligations, encumbrances, records, aircraft,
9 vehicles, equipment, and other property of the Alcoholic Beverage
10 Laws Enforcement Commission used in licensing alcohol wholesalers
11 and regulating alcohol wholesalers is hereby transferred to the
12 Oklahoma Tax Commission.

13 4. Personnel employed exclusively for licensing alcohol
14 wholesalers and regulating alcohol wholesalers by the Alcoholic
15 Beverage Laws Enforcement Commission on January 1, 2009, shall be
16 transferred to the Oklahoma Tax Commission pursuant to a transition
17 plan implemented by the Oklahoma Tax Commission as required by
18 Section 2 of this act.

19 E. The classified and unclassified employees who are
20 transferred pursuant to this section shall be subject to the
21 following provisions:

22 1. Classified employees shall remain subject to the provisions
23 of the Merit System of Personnel Administration, as provided in the
24 Oklahoma Personnel Act;

1 2. Unclassified employees transferred to the Oklahoma State
2 Bureau of Narcotics and Dangerous Drugs Control shall remain in the
3 unclassified service and shall serve at the pleasure of the Director
4 of the Oklahoma State Bureau of Narcotics and Dangerous Drugs
5 Control. Unclassified employees transferred to the Oklahoma Tax
6 Commission shall remain in the unclassified service and shall serve
7 at the pleasure of the Administrator of the Oklahoma Tax Commission;

8 3. All employees who are transferred pursuant to this act shall
9 retain leave, sick and annual time earned and any retirement and
10 longevity benefits which have accrued during their employment with
11 the state. The salaries of employees who are transferred shall not
12 be reduced as a direct and immediate result of the transfer;

13 4. If the Oklahoma State Bureau of Narcotics and Dangerous
14 Drugs Control or the Oklahoma Tax Commission should implement a
15 reduction in force, all employees transferred pursuant to this act
16 shall be credited for the time they were employed by the Alcoholic
17 Beverage Laws Enforcement Commission; and

18 5. The transfer of personnel shall be coordinated with the
19 Office of Personnel Management.

20 SECTION 2. NEW LAW A new section of law not to be
21 codified in the Oklahoma Statutes reads as follows:

22 A. Effective January 1, 2009, the Director of the Oklahoma
23 State Bureau of Narcotics and Dangerous Drugs Control, the
24 Administrator of the Oklahoma Tax Commission, and the Director of

1 the Alcoholic Beverage Laws Enforcement Commission shall serve as
2 transition coordinators and shall establish a transition team to
3 coordinate the orderly transfer of duties, personnel, property,
4 funds, and encumbrances from the Alcoholic Beverage Laws Enforcement
5 Commission to the Oklahoma State Bureau of Narcotics and Dangerous
6 Drugs Control and the Oklahoma Tax Commission. Each Director and
7 the Administrator may assign personnel to the transition team from
8 their respective agency as deemed necessary.

9 B. The transition team shall:

10 1. In conjunction with the Department of Central Services, the
11 Office of State Finance and the Office of Personnel Management,
12 oversee and administer the orderly transfer of responsibilities,
13 liabilities, property, records, personnel and any outstanding
14 financial obligations or encumbrances to the Oklahoma State Bureau
15 of Narcotics and Dangerous Drugs Control and Oklahoma Tax Commission
16 from the Alcoholic Beverage Laws Enforcement Commission;

17 2. Review functions currently assigned to or managed by the
18 Alcoholic Beverage Laws Enforcement Commission;

19 3. Devise a proposal for an organizational framework within the
20 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control and
21 the Oklahoma Tax Commission for alcohol laws enforcement which shall
22 include a proposal for reduction of full-time-equivalent employees
23 by five percent (5%);

24

1 4. Establish a plan for the transfer of employees from the
2 Alcoholic Beverage Laws Enforcement Commission to the Oklahoma State
3 Bureau of Narcotics and Dangerous Drugs Control and the Oklahoma Tax
4 Commission. The plan shall include a list of positions to be
5 transferred. The plan also shall include a reduction-in-force plan
6 and a severance benefits plan that conform with the requirements of
7 the State Government Reduction-in-Force and Severance Benefits Act;
8 and

9 5. Take such other action as may be reasonably necessary and
10 appropriate to effectuate the orderly transition of functions as
11 provided by this act.

12 SECTION 3. AMENDATORY 2 O.S. 2001, Section 11-25, is
13 amended to read as follows:

14 Section 11-25. The Department of Agriculture shall maintain for
15 public information a current list of all alcohol producers
16 registered under the Oklahoma Fuel Alcohol Act. The list shall
17 specify the type permit issued to each producer. A copy of the list
18 shall monthly be filed with the ~~Alcoholic Beverage Laws Enforcement~~
19 ~~Commission~~ Oklahoma State Bureau of Narcotics and Dangerous Drugs
20 Control.

21 SECTION 4. AMENDATORY 3A O.S. 2001, Section 402, is
22 amended to read as follows:

23 Section 402. As used in the Oklahoma Charity Games Act, Section
24 401 et seq. of this title:

1 1. "Bingo" means a game in which each player receives a bingo
2 face and covers the squares according to the numbers, letters, or
3 combination of numbers and letters that have been announced by the
4 caller. The numbers and letters called are on an object selected at
5 random either manually or mechanically from a receptacle in which
6 have been placed the objects bearing the numbers, letters, or
7 combinations of numbers and letters corresponding to the system used
8 for designating the bingo face squares. The winner of each bingo
9 game is the player who first properly covers a predetermined and
10 announced pattern of squares upon the bingo face being used by the
11 player;

12 2. "Bingo face" means a flat piece of paper which is marked off
13 into any number of squares in any arrangement of rows, with each
14 square being designated by number, letter or combination of numbers
15 and letters and with one or more squares designated as a "free"
16 space with the word "Oklahoma" and a facsimile outline of a map of
17 Oklahoma in it, which cannot be reused after the game in which a
18 player has used it is over;

19 3. "Breakopen ticket card" means a single folded or banded
20 ticket or a card, the face of which is initially covered or
21 otherwise hidden from view to conceal a number, letter, symbol, or
22 set of letters or symbols, a few of which numbers, letters or
23 symbols out of every set of charity game tickets have been
24

1 designated in advance at random as prize winners and which is used
2 in a breakopen ticket game;

3 4. "Breakopen ticket game" means a game wherein a player
4 receives a breakopen ticket card. A breakopen ticket game shall
5 meet the following criteria:

6 a. the game shall be assembled so that no placement of
7 winners or losers exists that allows the possibility
8 of prize manipulation,

9 b. the concealed numbers, letters, or symbols shall not
10 be visible from the outside of the game using high
11 intensity lamps. Protection shall be provided by the
12 opaque paper stock employed, with the possible
13 addition of colors and printed blockout patterns or by
14 use of an aluminum foil laminate,

15 c. a unique symbol or printed security device, such as a
16 specific number keyed to particular winners or the
17 name of the symbol or some of the symbol colors
18 changed for a window, or other similar protection
19 shall be placed in the winning windows of prize
20 windows to ensure that the winner image is unique,

21 d. it shall not be possible to detect or pick out winning
22 from losing tickets through variations in printing
23 graphics, color, or use of different printing plates,

24

1 e. it shall not be possible to isolate winning or
2 potential winning tickets from minor variations in
3 size or cutting of the tickets comprising a particular
4 packet, and

5 f. each ticket in a game shall have a serial number. All
6 tickets in a game shall have the same serial number
7 appearing in a conspicuous place on the ticket;

8 5. "Bureau" or "OBNDD" means the Oklahoma State Bureau of
9 Narcotics and Dangerous Drugs Control;

10 6. "Business entity" means a person, company, corporation, or
11 partnership organized for profit;

12 ~~6.~~ 7. "Charity game" means a bingo game, U-PIK-EM bingo game,
13 or breakopen ticket game conducted by an organization pursuant to
14 the provisions of the Oklahoma Charity Games Act;

15 ~~7.~~ 8. "Charity game equipment" means any object uniquely
16 designed for use in the conducting of a charity game including, but
17 not limited to, bingo faces, U-PIK-EM bingo game sets, and breakopen
18 ticket cards. Items used in conducting charity games which are not
19 charity game equipment are ink markers, furniture and general
20 furnishings of rooms where charity games are conducted;

21 ~~8.~~ ~~"Commission" or "ABLE Commission" means the Alcoholic~~
22 ~~Beverage Laws Enforcement Commission;~~

1 9. "Day session" means the set time frame within which
2 conducting of charity games is authorized beginning no earlier than
3 10:00 a.m. and ending no later than 5:00 p.m.;

4 10. "Deal" means one series of breakopen ticket game cards
5 which has a stated number of winner payouts and a stated amount of
6 the payouts;

7 11. "Distributor" means a person or business entity that sells,
8 markets, or otherwise provides charity game equipment to an
9 organization;

10 12. "Doing business" means either conducting a charity game by
11 an organization or providing goods or services to an organization by
12 a business entity;

13 13. "Employee" means a person who works for compensation in a
14 licensed charity game establishment;

15 14. "Immediate family member" means a spouse, parent, child or
16 sibling or spouse of a parent, child or sibling of a resident of a
17 facility exempt from specific provisions of the Oklahoma Charity
18 Games Act as provided in subsection C of Section 405 of this title;

19 15. "Licensee" means any person, organization, or business
20 entity which has received a license from the Commission;

21 16. "Location" means the building, including the individual
22 rooms and equipment in the rooms, grounds, and appurtenances,
23 including adjacent premises if subject to the direct or indirect
24 control of the organization while conducting a charity game, which

1 are used in connection with or in furtherance of the conducting of a
2 charity game;

3 17. "Manager" means a person who:

4 a. is an employee of an organization,

5 b. has supervisory authority over other employees or over
6 the conduct of charity games, and

7 c. has been designated as such by the organization
8 pursuant to the provisions of subsection D of Section
9 408 of this title;

10 18. "Manufacturer" means a person or business entity that
11 assembles from raw materials, supplies, or subparts to form a
12 completed series of charity game equipment for use in charity games
13 and that sells, markets, or otherwise provides such equipment to a
14 distributor;

15 19. "Night session" means the set time frame within which
16 conducting of charity games is authorized beginning no earlier than
17 5:00 p.m. and ending no later than 12:00 p.m. midnight;

18 20. "Organization" means a religious, charitable, labor,
19 fraternal, educational, or other type of association or any branch,
20 lodge, chapter, or auxiliary of such association which:

21 a. operates without profit to its members,

22 b. has been in existence and been operating as a
23 nonprofit organization for not less than two (2) years
24 prior to applying for an organization license,

1 c. is exempt from taxation pursuant to the provisions of
2 paragraphs (3), (4), (5), (6), (7), (8), (9), (10), or
3 (19) of subsection (c) of Section 501 or paragraph (1)
4 of subsection (a) of Section 509 of the United States
5 Internal Revenue Code of 1986, as amended, 26 U.S.C.,
6 Section 501(c) et seq. or Section 509(a)(1), and

7 d. formulates bylaws which clearly identify and
8 establish:

9 (1) method of electing officers and their duties,

10 (2) method by which members are elected, initiated or
11 admitted,

12 (3) the rights and privileges of each member,

13 (4) that each member has one vote, and

14 (5) that membership rights are personal to the member
15 and not assignable;

16 21. "Progressive game" means a game in which prizes are allowed
17 to be carried over and increased from session to session;

18 22. "U-PIK-EM bingo game" means a game played wherein a player
19 writes the numbers on a U-PIK-EM bingo game set. The player retains
20 one sheet of the set and deposits the second sheet in a receptacle
21 in the control of the organization. The player then covers the
22 numbers as the caller announces a number. The numbers called are on
23 an object selected at random either manually or mechanically from a
24 receptacle in which have been placed the objects bearing the

1 numbers. The winner of each U-PIK-EM bingo game is the player who
2 first covers all the numbers appearing on the retained sheet in
3 accordance with the pattern as designated on the sheet; and

4 23. "U-PIK-EM bingo game set" means two paper sheets of
5 carbonless paper both bearing identical serial numbers on which a
6 player writes numbers or letters, wherein one sheet is retained by
7 the player and used for playing and one sheet is held by the
8 organization and used for verifying winners.

9 SECTION 5. AMENDATORY 3A O.S. 2001, Section 403, is
10 amended to read as follows:

11 Section 403. A. The ~~ABLE Commission~~ Oklahoma State Bureau of
12 Narcotics and Dangerous Drugs Control shall be the licensing
13 authority for the licensing of organizations, manufacturers, and
14 distributors conducting, supplying, or otherwise providing charity
15 games to the public in this state.

16 B. The ~~Commission~~ Bureau shall be responsible for the
17 administration and enforcement of the Oklahoma Charity Games Act.
18 In addition to such other duties as may be imposed on the ~~Commission~~
19 Bureau by law, and in order to perform that responsibility, the
20 ~~Commission~~ Bureau shall:

21 1. Adopt and promulgate rules for the purpose of administering
22 and enforcing the Oklahoma Charity Games Act, and until such rules
23 are promulgated, the rules and regulations promulgated by the
24

1 Alcoholic Beverage Laws Enforcement Commission shall remain in
2 effect;

3 2. Have the authority to issue, renew, suspend, or revoke any
4 license authorized by the Oklahoma Charity Games Act;

5 3. Conduct or direct the conducting of investigations relating
6 to issuing, renewing, suspending, or revoking any license authorized
7 by the Oklahoma Charity Games Act;

8 4. Institute proceedings as the complainant against both
9 licensees and nonlicensees for violations of the Oklahoma Charity
10 Games Act;

11 5. Maintain records of all proceedings including minutes of
12 meetings, applications for licenses and related documents of
13 applicants, and official documents filed in any hearings conducted
14 by the ~~Commission~~ Bureau arising out of any provision of the
15 Oklahoma Charity Games Act or the rules and regulations of the
16 ~~Commission~~ Bureau. Copies of such records certified by the Director
17 of the ~~Commission~~ Bureau shall be admissible as evidence in a civil
18 or criminal action;

19 6. Make such expenditures including employing such additional
20 staff as may be necessary for the administration and enforcement of
21 the Oklahoma Charity Games Act;

22 7. Establish a standard recordkeeping system for the conduct of
23 charity games;

24

1 8. Establish a model internal control system for use by
2 organizations;

3 9. Conduct all hearings including actions on investigations,
4 issuance, denial, revocation, or suspension of a license, adoption
5 of rules, and conduct meetings in accordance with the provisions of
6 the Administrative Procedures Act, Section 250 et seq. of Title 75
7 of the Oklahoma Statutes, and the Oklahoma Open Meeting Act, Section
8 301 et seq. of Title 25 of the Oklahoma Statutes; and

9 10. Be responsible for approving locations for the conducting
10 of charity games.

11 C. ~~The members of the Commission, the Director and such agents~~
12 ~~as the Commission appoints shall have all the powers and authority~~
13 ~~of peace officers of this state for purposes of enforcing the~~
14 ~~provisions of the Oklahoma Charity Games Act.~~

15 D. The ~~Commission~~ Bureau shall have the authority to regularly
16 inspect all locations or places of business of licensees and all
17 other persons, firms or corporations dealing in the manufacture,
18 distribution, transportation, sale or service of charity games or
19 charity game equipment within this state. Any peace officer or
20 employee of the ~~Commission~~ Bureau with responsibility for
21 enforcement of the Oklahoma Charity Games Act shall have the power
22 and authority, without a warrant, to enter and examine the location
23 or place of business of any licensee, during normal operating hours
24 thereof, to determine if any violation of the provisions of the

1 Oklahoma Charity Games Act or rules of the ~~Commission~~ Bureau is or
2 may be occurring. The right of entry and inspection shall be a
3 condition upon which every license shall be issued and the
4 application for and acceptance of any license hereunder shall
5 conclusively be deemed to be consent of the applicant and licensee
6 to such entry and inspection. ~~Officers~~ Peace officers and employees
7 of the ~~Commission~~ Bureau or the Oklahoma Tax Commission shall be
8 given free access to and shall not be hindered or interfered with in
9 their examination of the location or place of business of any
10 licensee, and in any case in which such peace officer or employee is
11 denied free access and entry or is hindered or interfered with in
12 making such examination, any license held for such location or place
13 of business shall be subject to suspension or revocation.

14 SECTION 6. AMENDATORY 3A O.S. 2001, Section 404, is
15 amended to read as follows:

16 Section 404. A. All licenses issued pursuant to the provisions
17 of the Oklahoma Charity Games Act shall be valid for one (1) year
18 from the date of issue.

19 B. A license issued by the ~~Commission~~ Oklahoma State Bureau of
20 Narcotics and Dangerous Drugs Control shall not be transferable,
21 sold, leased or assigned under any circumstances.

22 C. A license shall not be issued to any organization if an
23 officer thereof has been convicted of or pled guilty or nolo
24 contendere to any felony, or a misdemeanor related to gambling or

1 gaming, pursuant to the laws of the United States, the District of
2 Columbia or any state or territory of the United States.

3 D. A license shall not be issued to any person who has been
4 convicted of or pled guilty or nolo contendere to any felony, or a
5 misdemeanor related to gambling or gaming, pursuant to the laws of
6 the United States, the District of Columbia or any state or
7 territory of the United States.

8 E. The initial and renewal fees for licenses authorized by the
9 Oklahoma Charity Games Act shall be as follows:

- 10 1. Organization License - One Hundred Dollars (\$100.00);
- 11 2. Distributor License - Five Thousand Dollars (\$5,000.00);
- 12 3. Manufacturer License - Two Thousand Dollars (\$2,000.00);
- 13 4. Employee License - Fifteen Dollars (\$15.00); and
- 14 5. Manager License - Fifty Dollars (\$50.00).

15 F. All fees received by the ~~Commission~~ Bureau pursuant to this
16 section shall be forwarded to the State Treasurer for deposit in the
17 General Revenue Bureau of Narcotics Charity Games Enforcement
18 Revolving Fund created pursuant to Section 127 of this act.

19 SECTION 7. AMENDATORY 3A O.S. 2001, Section 405, is
20 amended to read as follows:

21 Section 405. A. Any organization which conducts any charity
22 game activities not more than four times per year may obtain an
23 exemption from specific provisions of the Oklahoma Charity Games
24 Act, ~~Section 401 et seq. of this title,~~ as provided in this section.

1 Such exemption shall be obtained by the filing of a verified
2 application with the ~~ABLE Commission~~ Oklahoma State Bureau of
3 Narcotics and Dangerous Drugs Control signed by the executive
4 officer of said organization and containing the following
5 information:

6 1. The name and address of the organization;

7 2. The name, address and telephone number of the executive
8 officer of the organization or such other person authorized to
9 receive documents or other information from the ~~Commission~~ Bureau on
10 behalf of the organization; and

11 3. A statement that said organization shall conduct a charity
12 game session four or fewer times per calendar year and the dates and
13 times and location wherein such activities shall occur.

14 B. Any organization which conducts any charity game activities
15 not more than four times per year which has obtained an exemption
16 from the ~~Commission~~ Bureau shall not:

17 1. Be required to obtain any type of license required by the
18 Oklahoma Charity Games Act;

19 2. Be restricted to the use of bingo faces as defined in the
20 Oklahoma Charity Games Act but shall not be authorized to use
21 electronic facsimile of faces;

22 3. Be required to purchase charity game equipment from persons
23 or business entities licensed pursuant to the provisions of the
24 Oklahoma Charity Games Act; or

1 4. Be subject to any restrictions in this act or rules of the
2 ~~Commission~~ Bureau relating to conducting charity games on certain
3 days of the week or during certain hours.

4 C. Any hospital, nursing home, residential care facility,
5 senior citizens' center, retirement center or convalescent facility
6 which conducts charity games at such facilities on a regular basis
7 for the residents or regular patrons of the facility and their
8 immediate family members may obtain an exemption from specific
9 provisions of the Oklahoma Charity Games Act as provided in this
10 section. Such exemption shall be obtained by the filing of a
11 verified application with the ~~Commission~~ Bureau signed by the owner
12 or supervisor of the facility and containing the following
13 information:

14 1. The name and address of the hospital, nursing home,
15 residential care facility, senior citizens' center, retirement
16 center or convalescent facility;

17 2. The name, address and telephone number of the owner or
18 supervisor of the facility or such other person authorized to
19 receive documents or other information from the ~~Commission~~ Bureau on
20 behalf of the facility; and

21 3. A statement that said facility shall conduct charity games
22 at the specified facility for the residents or regular patrons of
23 the facility and their immediate family members.

1 Provided, the prizes awarded either in cash or any other thing of
2 value shall not exceed Two Hundred Fifty Dollars (\$250.00) in any
3 one (1) day at any such hospital, nursing home, residential care
4 facility, senior citizens' center, retirement center or convalescent
5 facility.

6 D. Any hospital, nursing home, residential care facility,
7 senior citizens' center, retirement center or convalescent facility
8 which conducts charity games at such facilities on a regular basis
9 for the residents or regular patrons of the facility or their
10 immediate family members which has obtained an exemption from the
11 ~~Commission~~ Bureau shall not:

12 1. Be required to obtain any type of license required by the
13 Oklahoma Charity Games Act;

14 2. Be restricted to the use of bingo faces, as defined in the
15 Oklahoma Charity Games Act but shall not be authorized to use
16 electronic facsimile of faces;

17 3. Be required to purchase charity game equipment from persons
18 or business entities licensed pursuant to the provisions of the
19 Oklahoma Charity Games Act; or

20 4. Be subject to any restrictions in the Oklahoma Charity Games
21 Act or rules of the ~~Commission~~ Bureau relating to conducting charity
22 games on certain days of the week or during certain hours.

23 SECTION 8. AMENDATORY 3A O.S. 2001, Section 406, is
24 amended to read as follows:

1 Section 406. A. The ~~Commission~~ Oklahoma State Bureau of
2 Narcotics and Dangerous Drugs Control shall refuse to issue, deny
3 renewal, suspend, or revoke a distributor license or a manufacturer
4 license for any individual who:

5 1. Is not a citizen of the United States; or

6 2. Has been convicted, pled guilty, or pled nolo contendere to
7 a felony pursuant to the laws of the United States, the District of
8 Columbia, or any state or territory of the United States.

9 B. The ~~Commission~~ Bureau shall refuse to issue, deny renewal,
10 suspend or revoke a distributor license or a manufacturer license
11 for a partnership if a partner of the partnership has been
12 convicted, pled guilty, or pled nolo contendere to a felony pursuant
13 to the laws of the United States, the District of Columbia, or any
14 state or territory of the United States.

15 C. The ~~Commission~~ Bureau shall refuse to issue a distributor
16 license or a manufacturer license for a corporation which has an
17 officer or stockholder owning more than ten percent (10%) of the
18 corporate stock who has been convicted, pled guilty, or pled nolo
19 contendere to a felony pursuant to the laws of the United States,
20 the District of Columbia, or any state or territory of the United
21 States.

22 SECTION 9. AMENDATORY 3A O.S. 2001, Section 407, is
23 amended to read as follows:

1 Section 407. A. The ~~ABLE Commission~~ Oklahoma State Bureau of
2 Narcotics and Dangerous Drugs Control shall refuse to issue, deny
3 renewal of, suspend, or revoke any license for any one or more of
4 the following reasons:

- 5 1. Obtaining a license from the ~~Commission~~ Bureau through
6 fraud, misrepresentation, or concealment of a material fact;
- 7 2. Noncompliance with the tax laws of this state; or
- 8 3. Failure to pay any fine levied by the ~~Commission~~ Bureau.

9 B. The ~~Commission~~ Bureau may levy fines or refuse to issue,
10 deny renewal of, suspend, or revoke any license for any one or more
11 of the following reasons:

- 12 1. Violation of any provision of the Oklahoma Charity Games
13 Act, ~~Section 401 et seq. of this title.~~ A determination of action
14 on a license pursuant to the provisions of this subsection shall not
15 be limited to actions against a licensee that has been convicted of
16 a violation in a court of competent jurisdiction;
- 17 2. Violation of any rule adopted by the ~~Commission~~ Bureau;
- 18 3. Failure to implement an order of the ~~Commission~~ Bureau;
- 19 4. Failure by an organization to provide adequate internal
20 control in accordance with the rules for such control adopted by the
21 ~~Commission~~ Bureau; or
- 22 5. Failure to keep financial records in accordance with the
23 standard system established by the ~~Commission~~ Bureau.

1 C. The ~~Commission~~ Bureau is hereby authorized to establish a
2 penalty schedule for violations of any provision of the Oklahoma
3 Charity Games Act or for violation of any rule of the ~~Commission~~
4 Bureau. The schedule may provide fines or suspension or revocation
5 or both fines and suspension or revocation for violations of the act
6 or rules as determined by the ~~Commission~~ Bureau. Penalties shall be
7 increasingly severe for each violation.

8 D. All administrative fines collected by the ~~Commission~~ Bureau
9 pursuant to the provisions of this section shall be forwarded to the
10 State Treasurer for deposit in the ~~General Revenue~~ Bureau of
11 Narcotics Charity Games Enforcement Revolving Fund created pursuant
12 to Section 127 of this act.

13 SECTION 10. AMENDATORY 3A O.S. 2001, Section 408, is
14 amended to read as follows:

15 Section 408. A. Any organization desiring to conduct a charity
16 game in this state shall apply to the ~~ABLE Commission~~ Oklahoma State
17 Bureau of Narcotics and Dangerous Drugs Control for an organization
18 license. An organization license shall only be issued to an
19 organization and shall be used by that organization only. A
20 business entity shall not be qualified under any conditions to hold
21 or use an organization license.

22 B. An organization shall be limited to only one license and to
23 doing business at only one location.

24

1 C. An organization shall use only disposable bingo faces
2 purchased from a licensed distributor. Only one game shall be
3 played on each bingo face; provided, nothing in this section shall
4 be construed to exclude progressive games.

5 D. Only an organization or an employee or manager of an
6 organization shall conduct a charity game for which a charge is
7 made. Compensation may be paid to an organization or other person
8 for conducting a charity game. Compensation for conducting charity
9 games shall be paid in accordance with minimum wage provisions of
10 federal law, and shall not exceed two times the amount of the
11 minimum wage specified pursuant to federal law.

12 E. An initial application for an organization license shall be
13 sworn and attested to by a principal officer of the applicant
14 organization and shall include:

15 1. A certified copy of the document from the U.S. Internal
16 Revenue Service which grants the applicant tax-exempt status and the
17 federal identification number;

18 2. A certified copy of the articles of incorporation and
19 certificate of incorporation of the organization;

20 3. A copy of the bylaws of the organization;

21 4. A copy of the minutes of the meeting of the organization at
22 which the governing body was elected and the terms of office of each
23 member of the governing body;

1 5. A copy of the minutes of the meeting of the governing body
2 of the organization at which the application for the license was
3 authorized;

4 6. The name and address of a person authorized to receive
5 service of process on behalf of the organization;

6 7. The address of the location where the charity games will be
7 conducted; and

8 8. Such other information deemed necessary by the ~~Commission~~
9 Bureau to assure eligibility for a license.

10 F. A renewal application shall only include any changes in the
11 information required to be submitted with the initial application.

12 G. An organization license shall be placed within public view
13 at all times in a conspicuous place at the location where the
14 charity game is being conducted.

15 SECTION 11. AMENDATORY 3A O.S. 2001, Section 408.1, is
16 amended to read as follows:

17 Section 408.1 A compensated employee or manager of an
18 organization shall be required to obtain an employee or manager
19 license from the ~~ABLE-Commission~~ Oklahoma State Bureau of Narcotics
20 and Dangerous Drugs Control. Every organization licensee pursuant
21 to the Oklahoma Charity Games Act shall designate one person to be
22 manager of its charity gaming operations. If a manager is
23 compensated for such service, the organization shall report the name
24 and address of the manager to the ~~Commission~~ Bureau. Each such

1 organization shall report a change in managers, if such managers are
2 compensated for such service, to the ~~Commission~~ Bureau on the first
3 working day after such change is made and receive approval from the
4 ~~Commission~~ Bureau for the change. A manager who is compensated
5 shall be held responsible for any violation of the Oklahoma Charity
6 Games Act or any rule of the ~~Commission~~ Bureau and for any act of
7 his or her servant, agent, employee or representative in violation
8 of any law or rule.

9 SECTION 12. AMENDATORY 3A O.S. 2001, Section 409, is
10 amended to read as follows:

11 Section 409. A. Any person or business entity desiring to sell
12 or supply any charity game equipment to a licensed organization in
13 this state shall apply to the ~~ABLE-Commission~~ Oklahoma State Bureau
14 of Narcotics and Dangerous Drugs Control for a distributor license.

15 B. An application for a distributor license shall include:

16 1. The name and address of the applicant and the name and
17 address of each of its separate locations distributing charity game
18 equipment;

19 2. The name and address of all owners of the distributing
20 business entity, if the business entity is not a corporation. If
21 the business entity is a corporation, the name and address of each
22 of the officers and directors of the corporation and of each
23 stockholder owning ten percent (10%) or more of any class of stock
24 in the corporation; and

1 3. The full name, business address and home address of the
2 person who is a resident of this state, or the full name and address
3 of a domestic corporation located in this state, or the full name
4 and address of a foreign corporation authorized to transact business
5 in this state pursuant to Section 1130 of Title 18 of the Oklahoma
6 Statutes, who or which is authorized to receive service of process
7 on behalf of the applicant, if the applicant is a person who is not
8 a resident of this state or a business entity not located in this
9 state.

10 SECTION 13. AMENDATORY 3A O.S. 2001, Section 410, is
11 amended to read as follows:

12 Section 410. A. Any person or business entity desiring to sell
13 or supply charity game equipment to a distributor in this state
14 shall apply to the ~~ABLE Commission~~ Oklahoma State Bureau of
15 Narcotics and Dangerous Drugs Control for a manufacturer license.

16 B. An application for a manufacturer license shall include:

17 1. The name and address of the applicant and the name and
18 address of each of its separate locations manufacturing charity game
19 equipment;

20 2. The name and address of all owners of the manufacturing
21 business entity, if the business entity is not a corporation. If
22 the business entity is a corporation, the name and address of each
23 of the officers and directors of the corporation and of each
24

1 stockholder owning ten percent (10%) or more of any class of stock
2 in the corporation; and

3 3. If the applicant is a foreign manufacturer and is also a
4 corporation, a certificate of good standing from the Secretary of
5 State, issued within sixty (60) days prior to filing the application
6 pursuant to Section 1130 of Title 18 of the Oklahoma Statutes. If
7 the foreign manufacturer is a corporation excepted from qualifying
8 to do business in this state pursuant to Section 1132 of Title 18 of
9 the Oklahoma Statutes or is not a corporation, then the foreign
10 manufacturer shall supply the ~~Commission~~ Bureau with the full name,
11 business address, and home address of the person who is a resident
12 of this state, or the full name and address of a domestic
13 corporation located in this state, or the full name and address of a
14 foreign corporation authorized to transact business in this state,
15 who or which is authorized to receive service of process on behalf
16 of the business entity.

17 SECTION 14. AMENDATORY 3A O.S. 2001, Section 411, is
18 amended to read as follows:

19 Section 411. A. An applicant for an initial organization
20 license shall, prior to applying for such license, twice publish, in
21 such form and containing such information as the ~~ABLE-Commission~~
22 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall
23 by rule prescribe, a notice of its intention to apply for such
24 license, once a week for two (2) successive weeks in a legal

1 newspaper of general circulation within the county of the location
2 of the licensee. Proof of such publication shall be filed with the
3 ~~Commission~~ Bureau.

4 B. Upon an application for a license being filed with the ~~ABLE~~
5 ~~Commission~~ Oklahoma State Bureau of Narcotics and Dangerous Drugs
6 Control, the ~~Commission~~ Bureau shall give written notice of the
7 application to the district attorney, county sheriff, city attorney,
8 and chief of police or marshal of the municipality and county in
9 which the applicant will be doing business.

10 1. The written notice shall be provided by regular first-class
11 mail sent not more than ten (10) calendar days from the date of
12 receipt of the application.

13 2. The written notice shall contain the name of the applicant,
14 the location at which the organization or business entity will be
15 doing business, and the date on which the ~~Commission~~ Bureau will
16 consider the application.

17 C. Applications for any of the licenses provided for in the
18 Oklahoma Charity Games Act, ~~Section 401 et seq. of this title,~~ shall
19 be on such form as designated by the ~~Commission~~ Bureau.

20 SECTION 15. AMENDATORY 3A O.S. 2001, Section 412, is
21 amended to read as follows:

22 Section 412. A. Any person who is a resident of the
23 municipality or county in which the organization or business entity
24 will be doing business may protest such application.

1 B. To be considered by the ~~Commission~~ Bureau, the protest must:

2 1. Be submitted in writing;

3 2. Be signed by the person protesting;

4 3. Contain the place of residence and the mailing address of
5 the protester;

6 4. Contain a concise statement as to why the application is
7 being protested; and

8 5. Be submitted to the ~~Commission~~ Bureau before the license is
9 granted.

10 C. Within thirty (30) calendar days of the date of receipt of
11 the written protest, the ~~Commission~~ Bureau shall conduct a hearing
12 on all written protests meeting the requirements of this section.

13 SECTION 16. AMENDATORY 3A O.S. 2001, Section 413, is
14 amended to read as follows:

15 Section 413. The district attorney of the county or the city
16 attorney of the municipality wherein a license has been issued may
17 file a petition with the ~~Commission~~ Oklahoma State Bureau of
18 Narcotics and Dangerous Drugs Control to revoke a license alleging
19 the violation of the Oklahoma Charity Games Act or rule promulgated
20 by the ~~Commission~~ Bureau by the holder of the license, its agents,
21 officers, or employees.

22 1. Within ten (10) calendar days of receiving the petition from
23 the district attorney or city attorney, the ~~Commission~~ Bureau shall
24 notify by mail with return receipt requested the person,

1 organization, or business entity against whom the application for
2 revocation was filed.

3 2. The ~~Commission~~ Bureau shall conduct a hearing on the
4 petition and enter a written order setting out the decision
5 regarding the petition.

6 SECTION 17. AMENDATORY 3A O.S. 2001, Section 414, is
7 amended to read as follows:

8 Section 414. A. Every licensee shall keep and maintain a set
9 of records which shall include such details as required by the
10 ~~Commission~~ Oklahoma State Bureau of Narcotics and Dangerous Drugs
11 Control of the activities of the licensee relating to doing business
12 in this state pursuant to the provisions of the Oklahoma Charity
13 Games Act.

14 1. Such records shall be available for inspection by the
15 ~~Commission~~ Bureau during regular business hours.

16 2. Such records shall be maintained for a period of not less
17 than three (3) years from the date of the end of the fiscal year of
18 the licensee.

19 3. Such records maintained shall include copies of all invoices
20 to all organizations in this state which shall include but not be
21 limited to information as to the amount of charity game equipment
22 sold in this state.

23

24

1 B. Each distributor shall also submit a quarterly report to the
2 ~~Commission~~ Bureau containing the name, address, and license or
3 exemption number of each purchaser of charity game equipment.

4 C. Each licensed manufacturer shall also submit a quarterly
5 report to the ~~Commission~~ Bureau containing the following
6 information:

7 1. The total amount of charity game equipment sold in this
8 state;

9 2. The total number with the serial numbers and sequential
10 order of bingo faces, U-PIK-EM bingo sets, and breakopen deals sold;
11 and

12 3. Copies of all invoices for all charity game equipment sold
13 which shall include but not be limited to information as to the
14 number of games sold in this state.

15 SECTION 18. AMENDATORY 3A O.S. 2001, Section 415, is
16 amended to read as follows:

17 Section 415. A. Licensed organizations shall purchase their
18 supplies only from distributors licensed by this state and payment
19 for supplies shall be made upon receipt of the supplies at the place
20 of delivery.

21 B. Distributors shall market, sell, or supply charity game
22 equipment in this state only to an organization, exempt
23 organization, exempt hospital, nursing home, residential care
24 facility, senior citizens' center, retirement center or convalescent

1 facility, entity of the United States government, federally
2 recognized Indian tribe or nation or other licensed distributor.

3 C. Distributors shall purchase or otherwise obtain charity game
4 equipment only from manufacturers or other distributors licensed
5 pursuant to the provisions of the Oklahoma Charity Games Act,
6 ~~Section 401 et seq. of this title.~~

7 D. Manufacturers shall sell charity game equipment in this
8 state only to distributors licensed pursuant to the provisions of
9 the Oklahoma Charity Games Act or federally recognized Indian tribes
10 or nations.

11 E. Charity game equipment owned by an organization may be
12 disposed of with the written permission of the Director of the ~~ABLE~~
13 ~~Commission~~ Oklahoma State Bureau of Narcotics and Dangerous Drugs
14 Control and with proper notification to the Oklahoma Tax Commission,
15 as follows:

16 1. By selling the equipment or giving it away to another
17 organization, an exempt organization, or exempt hospital, nursing
18 home, residential care facility, senior citizens' center, retirement
19 center or convalescent facility; or

20 2. By selling the equipment or trading it in on the purchase of
21 other charity game equipment to a distributor licensed pursuant to
22 the provisions of the Oklahoma Charity Games Act.

23 SECTION 19. AMENDATORY 3A O.S. 2001, Section 416, is
24 amended to read as follows:

1 Section 416. All damaged and winning bingo faces, breakopen
2 ticket cards, and U-PIK-EM bingo game sets shall be reported and
3 disposed of in such manner as the ~~Commission~~ Oklahoma State Bureau
4 of Narcotics and Dangerous Drugs Control shall prescribe.

5 SECTION 20. AMENDATORY 3A O.S. 2001, Section 419, is
6 amended to read as follows:

7 Section 419. A. In the conducting of a bingo game or a U-PIK-
8 EM bingo game, not more than a total of Six Thousand Dollars
9 (\$6,000.00) in cash or any other thing of value shall be paid out
10 during a day session or a night session; provided, the ~~ABLE~~
11 ~~Commission~~ Oklahoma State Bureau of Narcotics and Dangerous Drugs
12 Control may, in its discretion, raise the limit to an amount not to
13 exceed Twelve Thousand Dollars (\$12,000.00) for an individual
14 organization licensee. Any person may protest the raising of the
15 limit by filing a written and signed protest with the ~~Commission~~
16 Bureau. Within thirty (30) calendar days of the date of receipt of
17 such protest, the ~~Commission~~ Bureau shall conduct a hearing on such
18 protest. Such total shall include awards for winning the game, and
19 all other cash or other thing of value given or awarded during the
20 session. For purposes of this subsection, value means the retail
21 cost which would be paid if the item were bought in a retail store.

22 B. The ~~Commission~~ Bureau is hereby authorized to set the limits
23 on the type and purchase price of each breakopen ticket game. Such
24 breakopen ticket card price limit shall not exceed Two Dollars

1 (\$2.00). A breakopen ticket game shall be submitted by the
2 manufacturer to the ~~Commission~~ Bureau for approval. Only approved
3 breakopen ticket games may be offered to an organization.

4 SECTION 21. AMENDATORY 3A O.S. 2001, Section 422, as
5 amended by Section 2, Chapter 330, O.S.L. 2004 (3A O.S. Supp. 2007,
6 Section 422), is amended to read as follows:

7 Section 422. A. All taxes levied pursuant to the provisions of
8 Section 421 of this title shall be collected and remitted by the
9 distributor to the Oklahoma Tax Commission.

10 B. The distributor shall submit a copy of each invoice from the
11 manufacturer from which the distributor obtained the charity game
12 equipment stating the amount and price of each item obtained.

13 C. The distributor shall submit a copy of each invoice
14 submitted for payment to a purchaser of charity game equipment. The
15 provisions of this subsection shall apply to invoices to all
16 purchasers whether or not items sold to the purchaser are subject to
17 or are exempt from the taxes levied pursuant to Section 421 of this
18 title. The distributor shall indicate on the invoice if the sale is
19 exempt from taxation.

20 D. The taxes shall be due and paid monthly, and shall be deemed
21 delinquent if not paid on or before the last day of the month
22 following the month during which the items were sold to an
23 organization.

24

1 E. The distributor shall not require a payment of the taxes
2 levied pursuant to Section 421 of this title from any organization
3 sooner than the fifteenth day of the month following the month
4 during which items were sold to the organization. The distributor
5 may require payment of the tax at the time of purchase from an
6 organization if the organization does not make timely payments to
7 the distributor as required by this section.

8 F. In computing the amount of charity games tax due, the
9 distributor shall be entitled to a credit against the tax payable in
10 the amount of tax paid by the distributor that has become
11 uncollectible from an organization. The credit shall be claimed on
12 the first or second return following the date on which the
13 distributor was entitled to collect the tax as provided in this
14 section if the payment remains unpaid as of the filing date of that
15 return or the credit shall be disallowed.

16 G. An organization that fails to pay the tax to a distributor
17 which has claimed a credit for the uncollectible taxes shall be
18 liable for the remittance of the tax, interest and penalty due
19 thereon and the Tax Commission may pursue collection thereof from
20 the organization. Such a distributor shall be prohibited from
21 making further sales to such an organization until the organization
22 has paid all taxes due. Notwithstanding the provisions of Section
23 205 of Title 68 of the Oklahoma Statutes, the Tax Commission shall
24 notify the ~~ABLE Commission~~ Oklahoma State Bureau of Narcotics and

1 Dangerous Drugs Control of any organization which fails to remit the
2 charity games tax to its distributor.

3 H. The Tax Commission shall adopt rules establishing the
4 evidence a distributor must provide to receive the credit. The
5 claim for credit shall identify the defaulting organization and any
6 tax liability that remains unpaid.

7 I. Charity game equipment taxed pursuant to the provisions of
8 the Oklahoma Charity Games Act, ~~Section 401 et seq. of this title,~~
9 shall be exempt from taxation pursuant to any other law of this
10 state levying a sales tax, consumers tax, or use tax.

11 J. A licensed distributor shall be allowed a discount of one
12 percent (1%) of the taxes due pursuant to the provisions of the
13 Oklahoma Charity Games Act as remuneration for establishing and
14 maintaining the records required by the ~~ABLE Commission~~ Oklahoma
15 State Bureau of Narcotics and Dangerous Drugs Control and the
16 Oklahoma Tax Commission and for collecting such tax for the benefit
17 of the state, if such tax is timely reported and remitted; provided,
18 the discount provided by this section shall be limited to Three
19 Thousand Three Hundred Dollars (\$3,300.00) per reporting period for
20 each licensed distributor and any amount in excess of Three Thousand
21 Three Hundred Dollars (\$3,300.00) per reporting period for each
22 licensed distributor shall be retained by the state as an
23 administrative expense and deposited to the General Revenue Fund.

24

1 If the tax becomes delinquent, the licensed distributor forfeits any
2 claim to the remuneration.

3 K. The Oklahoma Tax Commission shall, by rule, establish a
4 procedure by which a licensed distributor shall be allowed a credit
5 against subsequent tax liability for damaged bingo faces, U-PIK-EM
6 bingo game sets, breakopen ticket games or charity game equipment
7 upon which the tax required by the Oklahoma Charity Games Act has
8 been paid and by which the distributor shall reimburse the
9 organization which purchased such damaged bingo faces, U-PIK-EM
10 bingo game sets, breakopen ticket games or charity game equipment
11 for the tax paid by such organization.

12 L. The Oklahoma Tax Commission shall devise only such tax
13 reporting forms as necessary for tax collection pursuant to the
14 Oklahoma Charity Games Act and shall promulgate and enforce only
15 such rules as are necessary to provide for the collection, remitting
16 and verification of payment of taxes by distributors as required by
17 this section.

18 M. The Oklahoma Tax Commission shall have the authority to
19 enter the licensed premises of any licensee to verify compliance
20 with the taxation provisions of the Oklahoma Charity Games Act.

21 SECTION 22. AMENDATORY 3A O.S. 2001, Section 423, is
22 amended to read as follows:

23 Section 423. The revenues collected by the Oklahoma Tax
24 Commission pursuant to Section 421 of this title shall be paid

1 monthly by the Oklahoma Tax Commission to the State Treasurer to be
2 placed in the ~~General Revenue~~ Bureau of Narcotics Charity Games
3 Enforcement Revolving Fund, ~~to be paid out pursuant to direct~~
4 ~~appropriation by the Legislature~~ created pursuant to Section 127 of
5 this act.

6 SECTION 23. AMENDATORY 3A O.S. 2001, Section 425, is
7 amended to read as follows:

8 Section 425. A. In addition to any other powers conferred on
9 the ~~Commission~~ Oklahoma State Bureau of Narcotics and Dangerous
10 Drugs Control to impose penalties for violations of the provisions
11 of the Oklahoma Charity Games Act, whenever in the judgment of the
12 ~~Commission~~ Bureau any person, organization, or business entity has
13 committed an act which constitutes a violation of the Oklahoma
14 Charity Games Act, the ~~Commission~~ Bureau may:

15 1. After notice and hearing, issue a cease and desist order to
16 any person or business entity that should have obtained a license;

17 2. Impose a fine of not more than Five Thousand Dollars
18 (\$5,000.00) for each violation in the event that after the issuance
19 of an order to cease and desist the illegal activity, the person or
20 business entity that the order is directed to commits any act in
21 violation of the order; and

22 3. Make application to the appropriate court for an order
23 enjoining such acts or practices, and upon a showing by the
24 ~~Commission~~ Bureau that such violations have occurred, an injunction,

1 restraining order, or such other order as may be appropriate shall
2 be granted by such court, without bond.

3 B. Each day a violation is continuing shall constitute a
4 separate offense.

5 C. Administrative fines imposed pursuant to the provisions of
6 this section shall be enforceable in the district courts of this
7 state.

8 D. All administrative fines collected by the ~~Commission~~ Bureau
9 pursuant to the provisions of this section shall be forwarded to the
10 State Treasurer for deposit in the ~~General Revenue~~ Bureau of
11 Narcotics Charity Games Enforcement Revolving Fund created pursuant
12 to Section 127 of this act.

13 SECTION 24. AMENDATORY 3A O.S. 2001, Section 426, is
14 amended to read as follows:

15 Section 426. A. On and after January 1, 1993, any bingo faces,
16 U-PIK-EM bingo game sets, or breakopen ticket cards that are not
17 purchased from a licensed distributor are declared to be contraband,
18 unless such items are:

19 1. Purchased by an exempt organization, exempt hospital,
20 nursing home, residential care facility, senior citizens' center,
21 retirement center or convalescent facility;

22 2. Purchased by a federally recognized Indian tribe or nation;
23 or

24

1 3. Sold or given by a licensed organization to another licensed
2 organization, an exempt organization, or exempt hospital, nursing
3 home, residential care facility, senior citizens' center, retirement
4 center or convalescent facility, if written permission is obtained
5 from the Director of the ~~ABLE Commission~~ Oklahoma State Bureau of
6 Narcotics and Dangerous Drugs Control and proper notification is
7 given to the Oklahoma Tax Commission.

8 B. On and after January 1, 1993, any bingo faces, U-PIK-EM
9 bingo game sets, or breakopen ticket cards sold or offered for sale
10 by a business entity which is not a licensed distributor is declared
11 to be contraband.

12 C. Any bingo faces, U-PIK-EM bingo game sets, or breakopen
13 ticket cards which were not in the possession of an organization or
14 business entity on December 31, 1992, on which the taxes have not
15 been paid are declared to be contraband unless the items are being
16 transported through this state from another state to be sold or
17 distributed in another state.

18 D. On and after January 1, 1993, any bingo faces, U-PIK-EM
19 bingo game sets, or breakopen ticket cards in the possession of an
20 organization or business entity which has not been licensed or
21 obtained an exemption pursuant to the Oklahoma Charity Games Act,
22 Section 401 et seq. of this title, shall be declared contraband.

23 E. Such contraband shall be subject to confiscation,
24 forfeiture, and destruction in the following manner:

1 1. The ~~Commission~~ Bureau, its agent, or the district attorney
2 of the county wherein the alleged contraband is located shall seize
3 any such item and maintain it for safekeeping pending a final
4 adjudication of the legality of the sale or purchase;

5 2. The ~~Commission~~ Bureau, its agent, or the district attorney
6 seizing the alleged contraband shall apply to the district court for
7 an order forfeiting the alleged contraband and directing its
8 destruction;

9 3. The court clerk shall give the owner of the alleged
10 contraband fourteen (14) calendar days' written notice of the
11 hearing on the request for the order for destruction; and

12 4. Upon obtaining an order from the court ordering destruction,
13 the ~~Commission~~ Bureau or the district attorney shall destroy the
14 contraband in the manner they deem most appropriate.

15 SECTION 25. AMENDATORY 3A O.S. 2001, Section 427, is
16 amended to read as follows:

17 Section 427. A. Any organization which holds an unexpired
18 license to conduct a bingo game issued pursuant to the provisions of
19 Sections 995.1 through 995.15 of Title 21 of the Oklahoma Statutes
20 is authorized to continue conducting such licensed game until the
21 expiration date of said license. Any organization which holds an
22 unexpired license to conduct a bingo game issued by the Oklahoma Tax
23 Commission pursuant to the provisions of the Oklahoma Charity Games
24 Act, Section 401 et seq. of this title, prior to the effective date

1 of this act is authorized to continue conducting such licensed game
2 until the expiration date of said license.

3 1. Any such licensee continuing to conduct bingo games pursuant
4 to the license issued by a district court clerk shall submit the
5 information required in Section 408 of this title by March 1, 1993.

6 2. Upon expiration of the license issued by the district court
7 clerk, the organization shall submit a new application and pay the
8 appropriate fees as required for organizations which did not have a
9 license to conduct bingo games on December 1, 1992.

10 3. The provisions of this subsection shall not be construed to
11 guarantee the issuance of an organization license to the
12 organization upon the expiration of the license issued by a district
13 court clerk.

14 B. Applicants for an organization license or a distributor
15 license which have charity game equipment may submit a full and
16 complete inventory of such equipment in the form of a sworn
17 affidavit of the total amount of charity game equipment in each tax
18 category in the possession of the applicant to the Oklahoma Tax
19 Commission on or before December 31, 1992.

20 1. Before December 31, 1992, and upon receipt of said sworn
21 affidavit of inventory, the Oklahoma Tax Commission shall provide
22 the applicant with a stamp or seal, in a manner to be determined by
23 the Oklahoma Tax Commission for marking the charity game equipment
24

1 which will be exempt from the tax provisions of the Oklahoma Charity
2 Games Act.

3 2. After December 31, 1992, all charity game equipment shall be
4 subject to the taxes and contraband provisions of the Oklahoma
5 Charity Games Act.

6 C. On or after July 1, 1993, the ~~ABLE Commission~~ Oklahoma State
7 Bureau of Narcotics and Dangerous Drugs Control shall promulgate
8 such emergency rules as deemed necessary for implementation and
9 enforcement of the Oklahoma Charity Games Act. The ~~ABLE Commission~~
10 Bureau shall promulgate permanent rules necessary for implementation
11 and enforcement of the Oklahoma Charity Games Act for submission to
12 the Legislature at the beginning of the next regular legislative
13 session, and until such rules are promulgated, the rules and
14 regulations promulgated by the Alcoholic Beverage Laws Enforcement
15 Commission shall remain in effect.

16 D. The Oklahoma Tax Commission shall immediately deliver to the
17 ~~ABLE Commission~~ Oklahoma State Bureau of Narcotics and Dangerous
18 Drugs Control all books, papers, records, computer tapes and other
19 property of the Oklahoma Tax Commission which pertain to the
20 licensing and enforcement of the Oklahoma Charity Games Act.

21 SECTION 26. AMENDATORY 21 O.S. 2001, Section 1040.54, is
22 amended to read as follows:

23 Section 1040.54 A. Any peace officer of this state is
24 authorized to seize any equipment which is used, or intended for use

1 in the preparing, photographing, printing, selling, exhibiting,
2 publishing, distributing, displaying, advertising, filming, copying,
3 recording, or mailing of obscene material, as defined in paragraph 1
4 of subsection B of Section 1024.1 of this title or child
5 pornography, as defined in subsection A of Section 1024.1 of this
6 title. Said equipment may be held as evidence until a forfeiture
7 has been declared or a release ordered. Forfeiture actions under
8 this section may be brought by the district attorney in the proper
9 county of venue as petitioner; provided, in the event the district
10 attorney elects not to file such an action, or fails to file such
11 action within ninety (90) days of the date of the seizure of such
12 equipment, a forfeiture action may be brought by the entity seizing
13 such equipment as petitioner.

14 B. Notice of seizure and intended forfeiture proceeding shall
15 be given all owners and parties in interest by the party seeking
16 forfeiture as follows:

17 1. Upon each owner or party in interest whose name and address
18 is known, by mailing a copy of the notice by registered mail to the
19 last-known address; and

20 2. Upon all other owners or parties in interest, whose
21 addresses are unknown, by one publication in a newspaper of general
22 circulation in the county where the seizure was made.

23 C. Within sixty (60) days after the mailing or publication of
24 the notice, the owner of the equipment and any other party in

1 interest may file a verified answer and claim to the equipment
2 described in the notice of seizure and of the intended forfeiture
3 proceeding.

4 D. If at the end of sixty (60) days after the notice has been
5 mailed or published there is no verified answer on file, the court
6 shall hear evidence upon the fact of the unlawful use and may order
7 the equipment forfeited to the state, if such fact is proven.

8 E. If a verified answer is filed, the forfeiture proceeding
9 shall be set for hearing.

10 F. At the hearing the party seeking the forfeiture shall prove
11 by clear and convincing evidence that the equipment was used in the
12 preparing, photographing, printing, selling, exhibiting, publishing,
13 distributing, displaying, advertising, filming, copying, recording,
14 or mailing of obscene material, as defined in paragraph 1 of
15 subsection B of Section 1024.1 of this title or child pornography,
16 as defined in ~~paragraph 1~~ of subsection A of Section 1024.1 of this
17 title, with knowledge by the owner of the equipment.

18 G. The owner or party in interest may prove that the right or
19 interest in the equipment was created without any knowledge or
20 reason to believe that the equipment was being, or was to be, used
21 for the purpose charged.

22 H. In the event of such proof, the court may order the
23 equipment released to the bona fide or innocent owner or party in
24

1 interest if the amount due the person is equal to, or in excess of,
2 the value of the equipment as of the date of the seizure.

3 I. If the amount due to such person is less than the value of
4 the equipment, or if no bona fide claim is established, the
5 equipment shall be forfeited to the state and shall be sold pursuant
6 to the judgment of the court.

7 J. Equipment taken or detained pursuant to this section shall
8 not be repleviable, but shall be deemed to be in the custody of the
9 office of the district attorney of the county where the equipment
10 was seized or in the custody of the party seeking the forfeiture.
11 The district attorney or the party seeking the equipment may release
12 said equipment to the owner of the equipment if it is determined
13 that the owner had no knowledge of the illegal use of the equipment
14 or if there is insufficient evidence to sustain the burden of
15 showing illegal use of the equipment. Equipment which has not been
16 released by the district attorney or the party seizing the equipment
17 shall be subject to the orders and decrees of the court or the
18 official having jurisdiction thereof.

19 K. The district attorney or the party seizing such equipment
20 shall not be held civilly liable for having custody of the seized
21 equipment or proceeding with a forfeiture action as provided for in
22 this section.

23 L. The proceeds of the sale of any equipment not taken or
24 detained by the Oklahoma State Bureau of Narcotics and Dangerous

1 | Drugs Control, the Department of Public Safety, the Oklahoma State
2 | Bureau of Investigation, ~~the Alcoholic Beverage Laws Enforcement~~
3 | ~~Commission~~, the Department of Corrections or the Office of the
4 | Attorney General shall be distributed as follows, in the order
5 | indicated:

6 | 1. To the bona fide or innocent purchaser or conditional sales
7 | vendor of the equipment, if any, up to the amount of the person's
8 | interest in the equipment, when the court declaring the forfeiture
9 | orders a distribution to such person;

10 | 2. To the payment of the actual expenses of preserving the
11 | equipment; and

12 | 3. The balance to a revolving fund in the office of the county
13 | treasurer of the county where the equipment was seized, said fund to
14 | be used and maintained as a revolving fund for any purpose by the
15 | department that made the seizure with a yearly accounting to the
16 | board of county commissioners in whose county the fund is
17 | established. Monies from said fund may be used to pay costs for the
18 | storage of such equipment if such equipment is ordered released to a
19 | bona fide or innocent owner, purchaser, or conditional sales vendor
20 | and if such monies are available in said fund.

21 | M. The proceeds of the sale of any equipment seized, taken or
22 | detained by the Oklahoma State Bureau of Narcotics and Dangerous
23 | Drugs Control, the Department of Public Safety, the Oklahoma State
24 | Bureau of Investigation, ~~the Alcoholic Beverage Laws Enforcement~~

1 ~~Commission~~, the Department of Corrections or the Office of the
2 Attorney General shall be distributed as follows, in the order
3 indicated:

4 1. To the bona fide or innocent purchaser or conditional sales
5 vendor of the equipment, if any, up to the amount of the person's
6 interest in the equipment, when the court declaring the forfeiture
7 orders a distribution to such person;

8 2. To the payment of the actual expenses of preserving the
9 equipment; and

10 3. The balance to a revolving fund of the agency seizing said
11 equipment to be used and maintained as a revolving fund for law
12 enforcement purposes by the agency seizing said equipment. Monies
13 from said fund may be used to pay costs for the storage of such
14 equipment if such equipment is ordered released to a bona fide or
15 innocent owner, purchaser, or conditional sales vendor.

16 N. When any equipment is forfeited pursuant to this section,
17 the district court of jurisdiction may order that the equipment
18 seized may be retained by the state, county, or municipal law
19 enforcement agency which seized the equipment for its official use.

20 O. If the court finds that the equipment was not used in the
21 preparing, photographing, printing, selling, exhibiting, publishing,
22 distributing, displaying, advertising, filming, copying, recording,
23 or mailing of obscene material, as defined in paragraph 1 of
24 subsection B of Section 1024.1 of this title or child pornography as

1 defined in paragraph 1 of subsection A of Section 1024.1 of this
2 title, the court shall order the equipment released to the owner.

3 P. No equipment shall be forfeited pursuant to the provisions
4 of this section by reason of any act or omission established by the
5 owner thereof to have been committed or omitted without the
6 knowledge or consent of such owner, or by any person other than such
7 owner while such equipment was unlawfully in the possession of a
8 person other than the owner in violation of the criminal laws of the
9 United States or of any state.

10 SECTION 27. AMENDATORY Section 1, Chapter 358, O.S.L.
11 2005 (21 O.S. Supp. 2007, Section 1220.1), is amended to read as
12 follows:

13 Section 1220.1 It is unlawful for any person to buy, sell,
14 furnish, manufacture or possess any alcohol inhalation device,
15 alcohol infuser or any other device capable of causing a blood or
16 breath alcohol concentration in the human body by means of fumes,
17 vapors, gases, air particles or matter inhaled directly into the
18 central nervous system by mouth or nasal passages. Any person
19 convicted of any violation of this section shall be guilty of a
20 misdemeanor punishable by a fine in the amount of Five Thousand
21 Dollars (\$5,000.00). ~~The Alcoholic Beverage Laws Enforcement~~
22 ~~Commission~~ Oklahoma State Bureau of Narcotics and Dangerous Drugs
23 Control is prohibited from licensing any establishment for
24 consumption of alcohol from such prohibited devices, and shall

1 permanently revoke any license issued to any person convicted of any
2 violation of this section. Provided, however, that any inhalation
3 device which may contain alcohol and is intended or used for
4 medicinal purposes, whether it is available for over-the-counter or
5 by prescription purchase, shall be exempt from these provisions.

6 SECTION 28. AMENDATORY 21 O.S. 2001, Section 1550.43, is
7 amended to read as follows:

8 Section 1550.43 A. Any false or fraudulent identification
9 document, card or certification in violation of Section 1550.41 of
10 ~~Title 21 of the Oklahoma Statutes~~ this title or any driver license
11 or identification card in violation of Section 6-301 of Title 47 of
12 the Oklahoma Statutes that is possessed, transferred, sold or
13 offered for sale in violation of law shall be seized and summarily
14 forfeited when no longer needed as evidence.

15 B. Any peace officer of this state is authorized to seize any
16 equipment which is used, or intended for use in the preparing,
17 photographing, printing, selling, exhibiting, publishing,
18 distributing, displaying, advertising, filming, copying, recording,
19 or mailing of any identification document, card, or certificate in
20 violation of Section 1550.41 of ~~Title 21 of the Oklahoma Statutes~~
21 this title or of any driver license or identification card in
22 violation of Section 6-301 of Title 47 of the Oklahoma Statutes.
23 Said equipment may be held as evidence until a forfeiture has been
24 declared or a release ordered. Forfeiture actions under this

1 section may be brought by the district attorney in the proper county
2 of venue as petitioner; provided, in the event the district attorney
3 elects not to file such an action, or fails to file such action
4 within ninety (90) days of the date of the seizure of such
5 equipment, a forfeiture action may be brought by the entity seizing
6 such equipment as petitioner.

7 C. Notice of seizure and intended forfeiture proceeding shall
8 be given all owners and parties in interest by the party seeking
9 forfeiture as follows:

10 1. Upon each owner or party in interest whose name and address
11 is known, by mailing a copy of the notice by registered mail to the
12 last-known address; and

13 2. Upon all other owners or parties in interest, whose
14 addresses are unknown, by one publication in a newspaper of general
15 circulation in the county where the seizure was made.

16 D. Within sixty (60) days after the mailing or publication of
17 the notice, the owner of the equipment and any other party in
18 interest may file a verified answer and claim to the equipment
19 described in the notice of seizure and of the intended forfeiture
20 proceeding.

21 E. If at the end of sixty (60) days after the notice has been
22 mailed or published there is no verified answer on file, the court
23 shall hear evidence upon the fact of the unlawful use and may order
24 the equipment forfeited to the state, if such fact is proven.

1 F. If a verified answer is filed, the forfeiture proceeding
2 shall be set for hearing.

3 G. At the hearing the party seeking the forfeiture shall prove
4 by clear and convincing evidence that the equipment was used in the
5 preparing, photographing, printing, selling, exhibiting, publishing,
6 distributing, displaying, advertising, filming, copying, recording,
7 or mailing of any identification document, card, or certificate in
8 violation of Section 1550.41 of ~~Title 21 of the Oklahoma Statutes~~
9 this title or of any driver license or identification card in
10 violation of Section 6-301 of Title 47 of the Oklahoma Statutes with
11 knowledge by the owner of the equipment.

12 H. The owner or party in interest may prove that the right or
13 interest in the equipment was created without any knowledge or
14 reason to believe that the equipment was being, or was to be, used
15 for the purpose charged.

16 I. In the event of such proof, the court may order the
17 equipment released to the bona fide or innocent owner or party in
18 interest if the amount due the person is equal to, or in excess of,
19 the value of the equipment as of the date of the seizure.

20 J. If the amount due to such person is less than the value of
21 the equipment, or if no bona fide claim is established, the
22 equipment shall be forfeited to the state and shall be sold pursuant
23 to the judgment of the court.

24

1 K. Equipment taken or detained pursuant to this section shall
2 not be repleviable, but shall be deemed to be in the custody of the
3 office of the district attorney of the county where the equipment
4 was seized or in the custody of the party seeking the forfeiture.
5 The district attorney or the party seeking the equipment may release
6 said equipment to the owner of the equipment if it is determined
7 that the owner had no knowledge of the illegal use of the equipment
8 or if there is insufficient evidence to sustain the burden of
9 showing illegal use of the equipment. Equipment which has not been
10 released by the district attorney or the party seizing the equipment
11 shall be subject to the orders and decrees of the court or the
12 official having jurisdiction thereof.

13 L. The district attorney or the party seizing such equipment
14 shall not be held civilly liable for having custody of the seized
15 equipment or proceeding with a forfeiture action as provided for in
16 this section.

17 M. The proceeds of the sale of any equipment not taken or
18 detained by the Oklahoma State Bureau of Narcotics and Dangerous
19 Drugs Control, the Department of Public Safety, the Oklahoma State
20 Bureau of Investigation, ~~the Alcoholic Beverage Laws Enforcement~~
21 ~~Commission~~, the Department of Corrections, or the Office of the
22 Attorney General shall be distributed as follows, in the order
23 indicated:

24

1 1. To the bona fide or innocent purchaser or conditional sales
2 vendor of the equipment, if any, up to the amount of the person's
3 interest in the equipment, when the court declaring the forfeiture
4 orders a distribution to such person;

5 2. To the payment of the actual expenses of preserving the
6 equipment; and

7 3. The balance to a revolving fund in the office of the county
8 treasurer of the county where the equipment was seized, such fund to
9 be used and maintained as a revolving fund for any purpose by the
10 department that made the seizure with a yearly accounting to the
11 board of county commissioners in whose county the fund is
12 established. Monies from the fund may be used to pay costs for the
13 storage of such equipment if such equipment is ordered released to a
14 bona fide or innocent owner, purchaser, or conditional sales vendor
15 and if such monies are available in the fund.

16 N. The proceeds of the sale of any equipment seized, taken or
17 detained by the Oklahoma State Bureau of Narcotics and Dangerous
18 Drugs Control, the Department of Public Safety, the Oklahoma State
19 Bureau of Investigation, ~~the Alcoholic Beverage Laws Enforcement~~
20 ~~Commission~~, the Department of Corrections or the Office of the
21 Attorney General shall be distributed as follows, in the order
22 indicated:

23 1. To the bona fide or innocent purchaser or conditional sales
24 vendor of the equipment, if any, up to the amount of the person's

1 interest in the equipment, when the court declaring the forfeiture
2 orders a distribution to such person;

3 2. To the payment of the actual expenses of preserving the
4 equipment; and

5 3. The balance to a revolving fund of the agency seizing such
6 equipment to be used and maintained as a revolving fund for law
7 enforcement purposes by the agency seizing the equipment. Monies
8 from such fund may be used to pay costs for the storage of such
9 equipment if the equipment is ordered released to a bona fide or
10 innocent owner, purchaser, or conditional sales vendor.

11 O. When any equipment is forfeited pursuant to this section,
12 the district court of jurisdiction may order that the equipment
13 seized may be retained by the state, county, or municipal law
14 enforcement agency which seized the equipment for its official use.

15 P. If the court finds that the equipment was not used in the
16 preparing, photographing, printing, selling, exhibiting, publishing,
17 distributing, displaying, advertising, filming, copying, recording,
18 or mailing of any identification document, card, or certificate in
19 violation of Section 1550.41 of ~~Title 21 of the Oklahoma Statutes~~
20 this title or of any driver license or identification card in
21 violation of Section 6-301 of Title 47 of the Oklahoma Statutes, the
22 court shall order the equipment released to the owner.

23 Q. No equipment shall be forfeited pursuant to the provisions
24 of this section by reason of any act or omission established by the

1 owner thereof to have been committed or omitted without the
2 knowledge or consent of such owner, or by any person other than such
3 owner while such equipment was unlawfully in the possession of a
4 person other than the owner in violation of the criminal laws of the
5 United States or of any state.

6 R. For the purposes of this section, the term "equipment" shall
7 include computers, printers, copy machines, other machines,
8 furniture, supplies, books, records, files, data, currency, or
9 negotiable instruments including, but not limited to, money orders
10 or cashier's checks but shall not include vehicles or real property.

11 SECTION 29. AMENDATORY 37 O.S. 2001, Section 163.27, is
12 amended to read as follows:

13 Section 163.27 It shall be unlawful for any place which has
14 received a permit or which has been licensed to sell low-point beer
15 and which has as its main purpose the selling or serving of low-
16 point beer for consumption on the premises to be located within
17 three hundred (300) feet of any public or private school or church
18 property primarily and regularly used for worship services and
19 religious activities. The distance indicated in this section shall
20 be measured from the nearest property line of such public or private
21 school or church to the nearest perimeter wall of the premises of
22 any such place which has received a permit or which has been
23 licensed to sell low-point beer. The provisions of this section
24 shall not apply to places which have received a permit or which have

1 | been licensed to sell low-point beer for on-premises consumption
2 | prior to ~~the effective date of this act~~ July 1, 1999. If any school
3 | or church shall be established within three hundred (300) feet of
4 | any place subject to the provisions of this section after such place
5 | has received a permit or been licensed, the provisions of this
6 | section shall not be a deterrent to the renewal of such permit or
7 | license if there has not been a lapse of more than sixty (60) days.
8 | When any place subject to the provisions of this section which has a
9 | permit or license to sell low-point beer for on-premises consumption
10 | changes ownership or the operator thereof is changed, and such
11 | change results in the same type of business being conducted on the
12 | premises, the provisions of this section shall not be a deterrent to
13 | the issuance of a license or permit to the new owner or operator if
14 | he or she is otherwise qualified.

15 | If an establishment selling low-point beer also is the holder of
16 | a mixed beverage or beer and wine license issued by the ~~Alcoholic~~
17 | ~~Beverage Laws Enforcement Commission~~ Oklahoma State Bureau of
18 | Narcotics and Dangerous Drugs Control, the establishment shall be
19 | subject to the zoning provisions of Section ~~3~~ 518.3 of this ~~act~~
20 | title rather than the provisions of this section.

21 | SECTION 30. AMENDATORY 37 O.S. 2001, Section 505, is
22 | amended to read as follows:

23 | Section 505. A. No person shall manufacture, rectify, sell,
24 | possess, store, import into or export from this state, transport, or

1 deliver any alcoholic beverage except as specifically provided in
2 the Oklahoma Alcoholic Beverage Control Act. Provided, that nothing
3 herein shall prevent the possession and transportation of alcoholic
4 beverages for the personal use of the possessor, his family and
5 guests, so long as the Oklahoma excise tax has been paid thereon,
6 except for beer. Provided, that nothing herein shall prevent the
7 making of cider or of wine, not to exceed two hundred (200) gallons
8 in any one (1) year pursuant to a license first obtained from the
9 ~~Alcoholic Beverage Laws Enforcement Commission~~ Oklahoma State Bureau
10 of Narcotics and Dangerous Drugs Control, by simple fermentation and
11 without distillation, if made solely for the use of the maker, his
12 family and guests.

13 B. 1. Any duly licensed physician or dentist may possess and
14 use alcoholic beverages in the strict practice of his profession and
15 any hospital or other institution caring for sick and diseased
16 persons may possess and use alcoholic beverages for the treatment of
17 bona fide patients of such hospital or institution. Any drugstore
18 employing a licensed pharmacist may possess and use alcoholic
19 beverages in the preparation of prescriptions of duly licensed
20 physicians.

21 2. The possession, transportation and dispensation of wine by
22 any authorized representative of any church for the conducting of a
23 bona fide rite or religious ceremony conducted by such church shall
24 not be prohibited by the Oklahoma Alcoholic Beverage Control Act;

1 nor shall said act prevent the sale, shipping or delivery of
2 sacramental wine by any person holding a sacramental wine supplier
3 license issued pursuant to the Oklahoma Alcoholic Beverage Control
4 Act to any religious corporation or society of this state holding a
5 valid exemption from taxation issued pursuant to Section 501(a) of
6 the Internal Revenue Code, 1954, and listed as an exempt
7 organization in Section 501(c)(3) of the Internal Revenue Code,
8 1954, of the United States, as amended.

9 3. Provided further, that nothing in the Oklahoma Alcoholic
10 Beverage Control Act shall prevent the possession, transportation
11 and sale of alcoholic beverages, including beer as defined by
12 Section 506 of this title and beer containing not more than three
13 and two-tenths percent (3.2%) of alcohol by weight, within military
14 reservations and in accordance with the laws, rules and regulations
15 governing such military reservations, provided that the Oklahoma
16 excise tax has been paid on spirits and wines.

17 C. 1. Except as otherwise authorized by law, it is unlawful
18 for any manufacturer, wholesaler or retailer of alcoholic beverages,
19 located and doing business from outside this state, to make retail
20 sales of alcoholic beverages to purchasers located in this state or
21 to ship alcoholic beverages sold at retail to persons located in
22 this state. Any person who engages in the sale or shipping of
23 alcoholic beverages in violation of the provisions of this
24 subsection on or after the effective date of Section 20.1 of Title

1 21 of the Oklahoma Statutes, upon conviction, shall be guilty of a
2 Schedule G felony if the sale or delivery is made to a person under
3 twenty-one (21) years of age or misdemeanor if the sale or delivery
4 is made to a person twenty-one (21) years of age or older. Any
5 person who engages in the sale or shipping of alcoholic beverages in
6 violation of the provisions of this subsection before the effective
7 date of Section 20.1 of Title 21 of the Oklahoma Statutes shall be
8 guilty of a felony punishable by imprisonment for not more than five
9 (5) years, if the sale or delivery is made to a person under twenty-
10 one (21) years of age, or a misdemeanor, if the sale or delivery is
11 made to a person twenty-one (21) years of age or older.

12 2. The fine for a violation of this subsection shall be not
13 more than Five Thousand Dollars (\$5,000.00).

14 3. In addition, if such person holds a license issued by the
15 ~~Oklahoma Alcoholic Beverage Laws Enforcement Commission~~ State Bureau
16 of Narcotics and Dangerous Drugs Control, the license shall be
17 revoked pursuant to Section 528 of this title.

18 SECTION 31. AMENDATORY 37 O.S. 2001, Section 506, as
19 amended by Section 1, Chapter 173, O.S.L. 2005 (37 O.S. Supp. 2007,
20 Section 506), is amended to read as follows:

21 Section 506. When used in the Oklahoma Alcoholic Beverage
22 Control Act, the following words and phrases shall have the
23 following meaning:

24

1 1. ~~"ABLE Commission" means the Alcoholic Beverage Laws~~
2 ~~Enforcement Commission;~~

3 ~~2.~~ "Alcohol" means and includes hydrated oxide of ethyl, ethyl
4 alcohol, ethanol, or spirits of wine, from whatever source or by
5 whatever process produced. It does not include wood alcohol or
6 alcohol which has been denatured or produced as denatured in
7 accordance with Acts of Congress and regulations promulgated
8 thereunder;

9 ~~3.~~ 2. "Alcoholic beverage" means alcohol, spirits, beer, and
10 wine as those terms are defined herein and also includes every
11 liquid or solid, patented or not, containing alcohol, spirits, wine
12 or beer and capable of being consumed as a beverage by human beings,
13 but does not include low-point beer as that term is defined in
14 Section 163.2 of this title;

15 ~~4.~~ 3. "Applicant" means any individual, legal or commercial
16 business entity, or any individual involved in any legal or
17 commercial business entity allowed to hold any license issued in
18 accordance with the Oklahoma Alcoholic Beverage Control Act;

19 ~~5.~~ 4. "Beer" means any beverage containing more than three and
20 two-tenths percent (3.2%) of alcohol by weight and obtained by the
21 alcoholic fermentation of an infusion or decoction of barley, or
22 other grain, malt or similar products. "Beer" may or may not
23 contain hops or other vegetable products. "Beer" includes, among
24 other things, beer, ale, stout, lager beer, porter and other malt or

1 brewed liquors, but does not include sake, known as Japanese rice
2 wine;

3 ~~6.~~ 5. "Bottle club" means any establishment in a county which
4 has not authorized the retail sale of alcoholic beverages by the
5 individual drink, which is required to be licensed to keep, mix, and
6 serve alcoholic beverages belonging to club members on club
7 premises;

8 ~~7.~~ 6. "Brewer" means any person who produces beer in this
9 state;

10 7. "Bureau" or "OBND" means the Oklahoma State Bureau of
11 Narcotics and Dangerous Drugs Control;

12 8. "Class B wholesaler" means and includes any person doing any
13 such acts or carrying on any such business that would require such
14 person to obtain a Class B wholesaler license hereunder;

15 9. "Convicted" and "conviction" mean and include a finding of
16 guilt resulting from a plea of guilty or nolo contendere, the
17 decision of a court or magistrate or the verdict of a jury,
18 irrespective of the pronouncement of judgment or the suspension
19 thereof;

20 10. "Director" means the Director of the ~~Alcoholic Beverage~~
21 ~~Laws Enforcement Commission under the supervision of said Commission~~
22 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;

23 11. "Distiller" means any person who produces spirits from any
24 source or substance, or any person who brews or makes mash, wort, or

1 wash, fit for distillation or for the production of spirits (except
2 a person making or using such material in the authorized production
3 of wine or beer, or the production of vinegar by fermentation), or
4 any person who by any process separates alcoholic spirits from any
5 fermented substance, or any person who, making or keeping mash,
6 wort, or wash, has also in his or her possession or use a still;

7 12. "Hotel" or "motel" shall mean an establishment which is
8 licensed to sell alcoholic beverages by the individual drink and
9 which contains guestroom accommodations with respect to which the
10 predominant relationship existing between the occupants thereof and
11 the owner or operator of the establishment is that of innkeeper and
12 guest. For purposes of this section, the existence of other legal
13 relationships as between some occupants and the owner or operator
14 thereof shall be immaterial;

15 13. "Legal newspaper" means a newspaper meeting the requisites
16 of a newspaper for publication of legal notices as prescribed in
17 Sections 101 through 114 of Title 25 of the Oklahoma Statutes;

18 14. "Licensee" means any person holding a license under the
19 Oklahoma Alcoholic Beverage Control Act, and any agent, servant, or
20 employee of such licensee while in the performance of any act or
21 duty in connection with the licensed business or on the licensed
22 premises;

23 15. "Light beer" means a low-point beer controlled under this
24 title;

1 16. "Light wine" means any wine containing not more than
2 fourteen percent (14%) alcohol measured by volume at sixty (60)
3 degrees Fahrenheit;

4 17. "Manufacturer's agent" means a salaried or commissioned
5 salesman who sells to a wholesaler or Class B wholesaler only;

6 18. "Manufacturer" means a brewer, distiller, winemaker,
7 rectifier, or bottler of any alcoholic beverage;

8 19. "Meals" means foods commonly ordered at lunch or dinner and
9 at least part of which is cooked on the licensed premises and
10 requires the use of dining implements for consumption. Provided,
11 that the service of only food such as appetizers, sandwiches, salads
12 or desserts shall not be considered "meals";

13 20. "Mini-bar" means a closed container, either refrigerated,
14 in whole or in part, or nonrefrigerated, and access to the interior
15 of which is (1) restricted by means of a locking device which
16 requires the use of a key, magnetic card, or similar device, or (2)
17 controlled at all times by the licensee;

18 21. "Mixed beverage cooler" means any beverage, by whatever
19 name designated, consisting of an alcoholic beverage and fruit or
20 vegetable juice, fruit or vegetable flavorings, dairy products or
21 carbonated water containing more than one-half of one percent (1/2
22 of 1%) of alcohol measured by volume but not more than seven percent
23 (7%) alcohol by volume at sixty (60) degrees Fahrenheit and which is
24 packaged in a container not larger than three hundred seventy-five

1 (375) milliliters. Such term shall include, but not be limited to,
2 the beverage popularly known as a "wine cooler";

3 22. "Mixed beverages" means one or more servings of a beverage
4 composed in whole or part of an alcoholic beverage in a sealed or
5 unsealed container of any legal size for consumption on the premises
6 where served or sold by the holder of a mixed beverage, beer and
7 wine, caterer, or special event license;

8 23. "Motion picture theater" means a place where motion
9 pictures are exhibited and to which the general public is admitted,
10 but does not include a place where meals, as defined by this
11 section, are served, if only persons over twenty-one (21) years of
12 age are admitted;

13 24. "Retail salesperson" means a salesperson soliciting orders
14 from and calling upon retail alcoholic beverage stores with regard
15 to his or her product;

16 25. "Occupation" as used in connection with "occupation tax"
17 means the sites occupied as the places of business of the
18 manufacturers, wholesalers, Class B wholesalers, retailers, mixed
19 beverage licensees, beer and wine licensees, bottle clubs, caterers,
20 and special event licensees;

21 26. "Original package" means any container of alcoholic
22 beverage filled and stamped or sealed by the manufacturer;

23 27. "Patron" means any person, customer, or visitor who is not
24 employed by a licensee or who is not a licensee;

1 28. "Person" means an individual, any type of partnership,
2 corporation, association, limited liability company or any
3 individual involved in the legal structure of any such business
4 entity;

5 29. "Premises" means the grounds and all buildings and
6 appurtenances pertaining to the grounds including any adjacent
7 premises if under the direct or indirect control of the licensee and
8 the rooms and equipment under the control of the licensee and used
9 in connection with or in furtherance of the business covered by a
10 license. Provided that the ~~ABLE Commission~~ Oklahoma State Bureau of
11 Narcotics and Dangerous Drugs Control shall have the authority to
12 designate areas to be excluded from the licensed premises solely for
13 the purpose of:

- 14 a. allowing the presence and consumption of alcoholic
15 beverages by private parties which are closed to the
16 general public, or
17 b. allowing the services of a caterer serving alcoholic
18 beverages provided by a private party.

19 This exception shall in no way limit the licensee's concurrent
20 responsibility for any violations of the Oklahoma Alcoholic Beverage
21 Control Act occurring on the licensed premises;

22 30. "Rectifier" means any person who rectifies, purifies, or
23 refines spirits or wines by any process (other than by original and
24 continuous distillation, or original and continuous processing, from

1 mash, wort, wash, or other substance, through continuous closed
2 vessels and pipes, until the production thereof is complete), and
3 any person who, without rectifying, purifying, or refining spirits,
4 shall by mixing (except for immediate consumption on the premises
5 where mixed) such spirits, wine, or other liquor with any material,
6 manufactures any spurious, imitation, or compound liquors for sale,
7 under the name of whiskey, brandy, rum, gin, wine, spirits,
8 cordials, or any other name;

9 31. "Regulation" or "rule" means a formal rule of general
10 application promulgated by the ~~ABLE Commission~~ Oklahoma State Bureau
11 of Narcotics and Dangerous Drugs Control as herein required;

12 32. "Restaurant" means an establishment that is licensed to
13 sell alcoholic beverages by the individual drink for on-premises
14 consumption and where food is prepared and sold for immediate
15 consumption on the premises;

16 33. "Retail container for spirits and wines" means an original
17 package of any capacity approved by the United States Bureau of
18 Alcohol, Tobacco and Firearms;

19 34. "Retailer" means the holder of a Package Store License;

20 35. "Sale" means any transfer, exchange or barter in any manner
21 or by any means whatsoever, and includes and means all sales made by
22 any person, whether as principal, proprietor or as an agent, servant
23 or employee. The term "sale" is also declared to be and include the
24 use or consumption in this state of any alcoholic beverage obtained

1 within or imported from without this state, upon which the excise
2 tax levied by the Oklahoma Alcoholic Beverage Control Act has not
3 been paid or exempted;

4 36. "Short order food" means food other than full meals
5 including but not limited to sandwiches, soups, and salads.
6 Provided that popcorn, chips, and other similar snack food shall not
7 be considered "short order food";

8 37. "Sparkling wine" means champagne or any artificially
9 carbonated wine;

10 38. "Spirits" means any beverage other than wine, beer or light
11 beer, which contains more than one-half of one percent (1/2 of 1%)
12 alcohol measured by volume and obtained by distillation, whether or
13 not mixed with other substances in solution and includes those
14 products known as whiskey, brandy, rum, gin, vodka, liqueurs,
15 cordials and fortified wines and similar compounds; but shall not
16 include any alcohol liquid completely denatured in accordance with
17 the Acts of Congress and regulations pursuant thereto;

18 39. "Wholesaler" means and includes any person doing any such
19 acts or carrying on any such business or businesses that would
20 require such person to obtain a wholesaler's license or licenses
21 hereunder;

22 40. "Wine" means and includes any beverage containing more than
23 one-half of one percent (1/2 of 1%) alcohol by volume and not more
24 than twenty-four percent (24%) alcohol by volume at sixty (60)

1 degrees Fahrenheit obtained by the fermentation of the natural
2 contents of fruits, vegetables, honey, milk or other products
3 containing sugar, whether or not other ingredients are added, and
4 includes vermouth and sake, known as Japanese rice wine;

5 41. "Winemaker" means any person who produces wine; and

6 42. "Oklahoma winemaker" means a business premises in Oklahoma
7 licensed pursuant to the Oklahoma Alcoholic Beverage Control Act
8 wherein wine is produced by the licensee who must be a resident of
9 the state. The wine product fermented in said licensed premises
10 shall be of grapes, berries and other fruits and vegetables imported
11 into this state and processed herein or shall be of grapes, berries
12 and other fruits and vegetables grown in Oklahoma.

13 Words in the plural include the singular, and vice versa, and
14 words imparting the masculine gender include the feminine, as well
15 as persons and licensees as defined in this section.

16 SECTION 32. AMENDATORY 37 O.S. 2001, Section 511, is
17 amended to read as follows:

18 Section 511. A. ~~No member of the Alcoholic Beverage Laws~~
19 ~~Enforcement Commission, Director, Assistant Director, or employee of~~
20 ~~the ABLE Commission shall be appointed or serve who has been~~
21 ~~convicted of a felony or of any violation of any federal or state~~
22 ~~law relating to alcoholic beverages. No member of the ABLE~~
23 ~~Commission, Director, Assistant Director, or employee of the ABLE~~
24 ~~Commission shall directly or indirectly, individually or as a member~~

1 ~~of a partnership, or as a shareholder of a corporation, have any~~
2 ~~interest whatsoever in the manufacture, sale or distribution of~~
3 ~~alcoholic beverages, nor receive any compensation or profit~~
4 ~~therefrom, nor have any interest, directly or indirectly, in any~~
5 ~~business authorized by a license issued pursuant to the provisions~~
6 ~~of the Oklahoma Alcoholic Beverage Control Act, Section 501 et seq.~~
7 ~~of this title. The holding of membership or elective or appointed~~
8 ~~office in fraternal organizations which obtain mixed beverage or~~
9 ~~bottle club licenses shall not be considered to be engagement in the~~
10 ~~alcoholic beverage business. No member of the ABLE Commission,~~
11 ~~Director, Assistant Director, or employee of the ABLE Commission~~
12 ~~shall solicit or accept any gift, gratuity, emolument, or employment~~
13 ~~from any person subject to the provisions of the Oklahoma Alcoholic~~
14 ~~Beverage Control Act, or from any officer, agent or employee~~
15 ~~thereof, nor solicit, request from or recommend, directly or~~
16 ~~indirectly, to any such person or to any officer, agent or employee~~
17 ~~thereof, the appointment of any person to any place or position, and~~
18 ~~every such person, and every officer, agent or employee thereof, is~~
19 ~~hereby forbidden to offer to any member of the ABLE Commission, the~~
20 ~~Director, Assistant Director, or to any employee of the ABLE~~
21 ~~Commission, any gift, gratuity, emolument or employment. No member~~
22 ~~of the ABLE Commission, Director, Assistant Director, or employee of~~
23 ~~the ABLE Commission shall accept employment within the liquor~~
24 ~~industry for any holder of a license issued pursuant to the~~

1 ~~provisions of the Oklahoma Alcoholic Beverage Control Act, or~~
2 ~~represent, directly or indirectly, any such licensee in any~~
3 ~~proceedings before the Director or the ABLE Commission within two~~
4 ~~(2) years following his separation from the ABLE Commission.~~
5 ~~Violation of any provision of this subsection shall constitute a~~
6 ~~misdemeanor. In addition to the penal provisions, any person~~
7 ~~convicted shall be immediately removed from the office or position~~
8 ~~he holds.~~

9 ~~B. No license of any kind shall be granted to or retained by~~
10 ~~any person or any partnership containing any partner who is related~~
11 ~~to any member of the ABLE Commission or to the Director or Assistant~~
12 ~~Director by affinity or consanguinity within the third degree. No~~
13 ~~member of the ABLE Commission nor the Director or Assistant Director~~
14 ~~shall be entitled to receive any compensation or other monies from~~
15 ~~the State of Oklahoma while a license is held in violation of the~~
16 ~~provisions of this subsection.~~

17 ~~C. It shall be unlawful for any member of the ABLE Commission,~~
18 ~~the Director, Assistant Director, any inspector, attorney or other~~
19 ~~agent or employee of the ABLE Commission, to actively participate,~~
20 ~~as a candidate or otherwise, in any political campaign held in this~~
21 ~~state. Nor shall any such member of the ABLE Commission, Director,~~
22 ~~Assistant Director, or other agent or employee of the ABLE~~
23 ~~Commission lend, expend or contribute any money, funds, property or~~
24 ~~other thing of value, or use his official position, for the purpose~~

1 ~~of securing the nomination or election or the defeat of any~~
2 ~~candidate for public office in the State of Oklahoma. Any person~~
3 ~~who shall violate the provisions of this subsection shall, upon~~
4 ~~conviction, be fined not less than Two Thousand Five Hundred Dollars~~
5 ~~(\$2,500.00) nor more than Five Thousand Dollars (\$5,000.00), or~~
6 ~~imprisoned in the county jail for not more than one (1) year, or~~
7 ~~both such fine and imprisonment. Any person found guilty of~~
8 ~~violating the provisions of this subsection shall, in addition to~~
9 ~~the criminal penalty imposed herein, be discharged from the office~~
10 ~~or position he holds upon conviction and shall not be rehired to any~~
11 ~~state position.~~

12 ~~D.~~ If the voters of a county in which a state lodge is located
13 approve sale of alcoholic beverages by the individual drink for
14 on-premises consumption, then such sale of alcoholic beverages on
15 the premises of such lodge shall be authorized if a license for such
16 sale, issued pursuant to the provisions of the Oklahoma Alcoholic
17 Beverage Control Act, is obtained. Provided, further, that a bottle
18 club may be licensed on the premises of a state lodge located in a
19 county where sale of alcoholic beverages by the individual drink for
20 on-premises consumption is not authorized.

21 ~~E.~~ B. The provisions of subsection ~~D~~ A of this section shall
22 not prohibit the state or a political subdivision of the state from
23 leasing a public building or facility to a person who obtains a
24 mixed beverage license, bottle club license, special event license,

1 contracts for the services of a licensed caterer, or subleases the
2 building or facility to a person who obtains a mixed beverage
3 license, bottle club license, special event license or contracts for
4 the services of a licensed caterer.

5 ~~F.~~ C. Provided, that nothing in this section shall prohibit the
6 sale of alcoholic beverage legally confiscated as provided by law.

7 SECTION 33. AMENDATORY 37 O.S. 2001, Section 511A, is
8 amended to read as follows:

9 Section 511A. A. All employees of the State of Oklahoma and
10 its political subdivisions are hereby permitted to obtain licenses
11 from the ~~Alcoholic Beverage Laws Enforcement Commission~~ Oklahoma
12 State Bureau of Narcotics and Dangerous Drugs Control and to be
13 involved in the alcoholic beverage business unless such involvement
14 and licensing is prohibited by this section or otherwise prohibited
15 by law.

16 B. The following officers and employees of the State of
17 Oklahoma and its political subdivisions are hereby prohibited from
18 engaging in the alcoholic beverage business:

19 1. All judges, district attorneys, assistant district attorneys
20 and any public official who sits in a judicial capacity with
21 jurisdiction over the Oklahoma Alcoholic Beverage Control Act,
22 ~~Section 501 et seq. of this title;~~

23 2. All employees certified as peace officers engaging in law
24 enforcement activities; and

1 3. All employees of the Oklahoma Tax Commission who engage in
2 the auditing, enforcement and collection of alcoholic beverage
3 taxes.

4 C. The holding of membership or elective or appointed office in
5 fraternal organizations which obtain mixed beverage or bottle club
6 licenses by employees of the state or a political subdivision shall
7 not be considered to be engagement in the alcoholic beverage
8 business.

9 SECTION 34. AMENDATORY 37 O.S. 2001, Section 514, is
10 amended to read as follows:

11 Section 514. ~~The Alcoholic Beverage Laws Enforcement Commission~~
12 Except as otherwise provided in this act regarding the Oklahoma Tax
13 Commission licensing wholesalers, the Oklahoma State Bureau of
14 Narcotics and Dangerous Drugs Control shall have the following
15 powers and duties:

16 1. To supervise, inspect, and regulate every phase of the
17 business of manufacturing, importing, exporting, transporting,
18 storing, selling, distributing, and possessing for the purpose of
19 sale, all alcoholic beverages which shall be necessary and proper to
20 carry out the purposes of the Oklahoma Alcoholic Beverage Control
21 Act;

22 2. To promulgate rules and regulations, in the manner herein
23 provided, to carry out the purposes of the Oklahoma Alcoholic
24 Beverage Control Act;

- 1 3. To ~~have the sole authority to~~ issue any license provided for
2 in the Oklahoma Alcoholic Beverage Control Act;
- 3 4. To refuse to issue any license provided for in the Oklahoma
4 Alcoholic Beverage Control Act for cause provided for in said act;
- 5 5. To revoke or suspend, for cause after hearing, any license
6 issued under the authority of the Oklahoma Alcoholic Beverage
7 Control Act;
- 8 6. To prescribe the forms of applications for licenses and the
9 information to be shown thereon, and of all reports which it deems
10 necessary in administering the Oklahoma Alcoholic Beverage Control
11 Act;
- 12 7. To fix standards, not in conflict with those prescribed by
13 any law of this state or of the United States, to secure the use of
14 proper ingredients and methods of manufacture and dispensing of
15 alcoholic beverages;
- 16 8. To make seizures of alcoholic beverages manufactured, sold,
17 possessed, imported, or transported in violation of the Oklahoma
18 Alcoholic Beverage Control Act, and apply for the confiscation
19 thereof whenever required by said act, and cooperate in the
20 prosecution of offenders before any court of competent jurisdiction;
- 21 9. To submit to the Governor and members of the State
22 Legislature annual or semiannual reports upon request of the
23 Governor;
- 24

1 10. To inspect or cause to be inspected any premises where
2 alcoholic beverages are manufactured, stored, distributed, sold,
3 dispensed or served;

4 11. In the conduct of any hearing authorized to be held by the
5 ~~ABLE Commission~~ Bureau, to examine or cause to be examined, under
6 oath, any person, and to examine or cause to be examined books and
7 records of any licensee; to hear testimony and take proof material
8 for the ~~ABLE Commission's~~ information of the Bureau and the
9 discharge of its duties hereunder; to administer or cause to be
10 administered oaths; and for any such purposes to issue subpoenas for
11 the attendance of witnesses and the production of books or records
12 which shall be effective in any part of the state; and any district
13 court or any judge thereof, either in term or vacation, may by order
14 duly entered require the attendance of witnesses and the production
15 of relevant books or records subpoenaed by the ~~ABLE Commission~~
16 Bureau, and the court or judge may compel obedience to its or his
17 order by proceedings for contempt;

18 12. To prescribe the kind and size of retail containers of
19 alcoholic beverages other than beer which may be purchased,
20 possessed and sold by a licensee;

21 13. To prescribe by regulations, in addition to those herein
22 required, the kinds of records to be kept and reports to be rendered
23 by licensees, and the information to be shown therein; provided,
24

1 that the period for which all such records and reports be retained
2 shall not be less than five (5) years;

3 14. To gather, compile and print such statistical data as may
4 in the opinion of the ~~ABLE Commission~~ Bureau be needed or useful,
5 and prescribe charges or fees to be collected from any person or
6 company to whom such data shall be provided. No reports shall
7 contain sales information of either wholesalers, retailers, mixed
8 beverage licensees, caterers or special event licensees by name or
9 license number;

10 15. To educate persons employed by licensees to serve alcoholic
11 beverages as to the provisions of Article XXVIII of the Oklahoma
12 Constitution and the Oklahoma Alcoholic Beverage Control Act, with
13 emphasis on recognizing and preventing intoxication and particular
14 emphasis on those provisions prohibiting the serving of alcoholic
15 beverages to minors. The ~~ABLE Commission~~ Bureau may contract with
16 one or more persons to perform the duties specified in this
17 paragraph; and

18 16. To exercise all other powers and duties conferred by the
19 Oklahoma Alcoholic Beverage Control Act, and all powers incidental,
20 convenient or necessary to enable it to administer or carry out any
21 of the provisions of the Oklahoma Alcoholic Beverage Control Act.

22 SECTION 35. AMENDATORY 37 O.S. 2001, Section 515, is
23 amended to read as follows:

24

1 Section 515. The ~~Alcoholic Beverage Laws Enforcement Commission~~
2 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control is
3 authorized to prescribe such rules and regulations with respect to
4 packaging, marking, branding and labeling of alcoholic beverages
5 sold or possessed for sale within this state, including such rules
6 and regulations:

7 1. As will prohibit deception of the consumer with respect to
8 such products or the quantity thereof and as will prohibit,
9 irrespective of falsity, such statement relating to age,
10 manufacturing processes, analyses, guarantees, and scientific or
11 irrelevant matter as the ~~ABLE Commission~~ Bureau finds likely to
12 mislead or confuse the consumer;

13 2. As will provide the consumer with adequate information as to
14 the identity and quality of the products, the net contents of the
15 package, and the manufacturer or importer of the product; and

16 3. As will prohibit statements on the label that are false,
17 misleading, obscene, or indecent.

18 The ~~ABLE Commission~~ Bureau may adopt, in whole or in part, or
19 with such modification as it deems desirable, regulations of the
20 federal government relating to labeling of distilled spirits
21 promulgated under the Federal Alcohol Administration Act (27 U.S.C.
22 205).

23 SECTION 36. AMENDATORY 37 O.S. 2001, Section 517, is
24 amended to read as follows:

1 Section 517. All regulations and rules of the ~~Alcoholic~~
2 ~~Beverage Laws Enforcement Commission~~ Oklahoma State Bureau of
3 Narcotics and Dangerous Drugs Control shall be promulgated and filed
4 pursuant to the provisions of the Administrative Procedures Act,
5 ~~Sections 301 through 323 of Title 75 of the Oklahoma Statutes~~ and
6 also shall be filed with the Secretary of State and the State
7 Librarian pursuant to the provisions of Sections 251 through 253 of
8 Title 75 of the Oklahoma Statutes. Copies of all regulations and
9 rules shall be made available to each county clerk, district
10 attorney, sheriff and chief of police in the state upon request.

11 The ~~ABLE Commission~~ Bureau shall send a notice of application for a
12 license to sell alcohol, alcoholic beverage, wine, or beer under the
13 Oklahoma Alcoholic Beverage Control Act to the district attorney of
14 the county wherein the premises is located at least fifteen (15)
15 days prior to the approval or disapproval of said application.

16 For any applicant for a license issued pursuant to the
17 provisions of the Oklahoma Alcoholic Beverage Control Act whose
18 place of business for which the license is being sought is located
19 in a city or town, the ~~ABLE Commission~~ Bureau shall mail a notice of
20 application to the city or town, the sheriff of the county in which
21 the city or town is located, and the district attorney of the county
22 in which the city or town is located. The city or town may make
23 recommendations on whether or not the applicant should be issued a
24

1 license by the ~~ABLE Commission~~ Bureau within twenty (20) days after
2 the date the copies of the application were mailed.

3 For any applicant for a license issued pursuant to the
4 provisions of the Oklahoma Alcoholic Beverage Control Act whose
5 place of business for which the license is being sought is located
6 outside of the incorporated boundaries of a city or town, the ~~ABLE~~
7 ~~Commission~~ Bureau shall mail a notice of application to the board of
8 county commissioners of the county in which the place of business is
9 located, the sheriff of said county, and the district attorney of
10 said county. The board of county commissioners shall make
11 recommendations on whether or not the applicant should be issued a
12 license by the ~~ABLE Commission~~ Bureau within twenty (20) days after
13 the date the copies of the application were mailed.

14 SECTION 37. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 518A of Title 37, unless there
16 is created a duplication in numbering, reads as follows:

17 A. Except as otherwise provided in this section, the licenses
18 issued by the Oklahoma Tax Commission, and the annual fees therefor,
19 shall be as follows:

- 20 1. Wholesaler License..... \$3,500.00
- 21 2. Class B Wholesaler License..... \$625.00

22 B. Notwithstanding the provisions of subsection A of this
23 section, the fees provided for in subsection A of this section for a
24 Class B wholesaler license shall be reduced by seventy-five percent

1 (75%) if the applicant therefor is also the holder of a license to
2 manufacture or wholesale any low-point beer as provided for in this
3 title.

4 C. All licenses, except as otherwise provided, shall be valid
5 for one (1) year from date of issuance unless revoked or
6 surrendered.

7 SECTION 38. AMENDATORY 37 O.S. 2001, Section 518, as
8 last amended by Section 1, Chapter 353, O.S.L. 2007 (37 O.S. Supp
9 2007, Section 518), is amended to read as follows:

10 Section 518. A. Except as otherwise provided in this section,
11 the licenses issued by the ~~Alcoholic Beverage Laws Enforcement~~
12 ~~Commission~~ Oklahoma State Bureau of Narcotics and Dangerous Drugs
13 Control, and the annual fees therefor, shall be as follows:

- 14 1. Brewer License..... \$1,250.00
- 15 2. Oklahoma Brewer License..... \$125.00
- 16 3. Distiller License
 - 17 a. For each fiscal year ending
 - 18 after June 30, 2010..... \$3,125.00
 - 19 b. For the fiscal years ending
 - 20 June 30, 2008, 2009 and 2010..... \$1,250.00
- 21 4. Winemaker License..... \$625.00
- 22 5. Oklahoma Winemaker License..... \$75.00
- 23 6. Rectifier License
- 24

1	a.	For each fiscal year ending	
2		after June 30, 2010.....	\$3,125.00
3	b.	For the fiscal years ending	
4		June 30, 2008, 2009 and 2010.....	\$1,250.00
5	7.	Wholesaler License.....	\$3,500.00
6	8.	Class B Wholesaler License.....	\$625.00
7	9.	The following package store license fees shall	
8		be determined by the latest Federal Decennial	
9		Census:	
10	a.	Package Store License for cities	
11		and towns from 200 to 2,500	
12		population.....	\$305.00
13	b.	Package Store License for cities	
14		and towns from 2,501 to 5,000	
15		population.....	\$605.00
16	c.	Package Store License for cities	
17		and towns over 5,000 population.....	\$905.00
18	10. <u>8.</u>	Mixed Beverage License.....	\$1,005.00
19			(initial license)
20			\$905.00
21			(renewal)
22	11. <u>9.</u>	Mixed Beverage/Caterer Combination License..	\$1,250.00
23	12. <u>10.</u>	Beer and Wine License.....	\$500.00
24			(initial license)

1			\$450.00
2			(renewal)
3	13. <u>11.</u>	Bottle Club License.....	\$1,000.00
4			(initial license)
5			\$900.00
6			(renewal)
7	14. <u>12.</u>	Caterer License.....	\$1,005.00
8			(initial license)
9			\$905.00
10			(renewal)
11	15. <u>13.</u>	Annual Special Event License.....	\$55.00
12	16. <u>14.</u>	Quarterly Special Event License.....	\$55.00
13	17. <u>15.</u>	Hotel Beverage License.....	\$1,005.00
14			(initial license)
15			\$905.00
16			(renewal)
17	18. <u>16.</u>	Airline/Railroad Beverage License.....	\$1,005.00
18			(initial license)
19			\$905.00
20			(renewal)
21	19. <u>17.</u>	Agent License.....	\$55.00
22	20. <u>18.</u>	Employee License.....	\$30.00
23	21. <u>19.</u>	Industrial License.....	\$23.00
24	22. <u>20.</u>	Carrier License.....	\$23.00

1	23. <u>21.</u>	Private Carrier License.....	\$23.00
2	24. <u>22.</u>	Bonded Warehouse License.....	\$190.00
3	25. <u>23.</u>	Storage License.....	\$23.00
4	26. <u>24.</u>	Nonresident Seller License.....	\$750.00
5	27. <u>25.</u>	Manufacturers Agent License.....	\$55.00
6	28. <u>26.</u>	Sacramental Wine Supplier License.....	\$100.00
7	29. <u>27.</u>	Charitable Auction License.....	\$1.00

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

16 There shall be added to the fee for a Mixed Beverage/Caterer
17 Combination License an administrative fee, which shall not be deemed
18 to be a license fee, in the amount of Two Hundred Fifty Dollars
19 (\$250.00), which shall be paid at the same time and in the same
20 manner as the license fee prescribed by paragraph ~~11~~ 9 of this
21 subsection.

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

24

1 1. The license fee for a mixed beverage or bottle club license
2 for those service organizations or fraternal beneficiary societies
3 which are exempt under Section 501(c)(19), (8) or (10) of the
4 Internal Revenue Code shall be Five Hundred Dollars (\$500.00) per
5 year;

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

11 3. The renewal fee for an airline/railroad beverage license
12 held by a railroad described in 49 U.S.C., Section 24301, shall be
13 One Hundred Dollars (\$100.00).

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

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

20 E. The holder of a license, issued by the ~~ABLE Commission~~
21 Bureau, for a bottle club located in a county of this state where
22 the sale of alcoholic beverages by the individual drink for on-
23 premises consumption has been authorized, may exchange the bottle
24 club license for a mixed beverage license or a beer and wine license

1 and operate the licensed premises as a mixed beverage establishment
2 or a beer and wine establishment subject to the provisions of the
3 Oklahoma Alcoholic Beverage Control Act. There shall be no
4 additional fee for such exchange and the mixed beverage license or
5 beer and wine license issued shall expire one (1) year from the date
6 of issuance of the original bottle club license.

7 SECTION 39. AMENDATORY 37 O.S. 2001, Section 518.1, is
8 amended to read as follows:

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

18 A wholesaler or Class B wholesaler may deliver such products to
19 licensees authorized to sell alcoholic beverages for on-premises
20 consumption; provided, such licensees may pick up alcoholic beverage
21 orders if they hold a private carrier license issued by the
22 Alcoholic Beverage Laws Enforcement Commission Oklahoma State Bureau
23 of Narcotics and Dangerous Drugs Control.

24

1 SECTION 40. AMENDATORY 37 O.S. 2001, Section 518.3, is
2 amended to read as follows:

3 Section 518.3 A. It shall be unlawful for any mixed beverage
4 establishment, beer and wine establishment, or bottle club which has
5 been licensed by the ~~Alcoholic Beverage Laws Enforcement Commission~~
6 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control and
7 which has as its main purpose the selling or serving of alcoholic
8 beverages for consumption on the premises, or retail package store,
9 to be located within three hundred (300) feet of any public or
10 private school or church property primarily and regularly used for
11 worship services and religious activities. The distance indicated
12 in this section shall be measured from the nearest property line of
13 such public or private school or church to the nearest perimeter
14 wall of the premises of any such mixed beverage establishment, beer
15 and wine establishment, bottle club, or retail package store which
16 has been licensed to sell alcoholic beverages. The provisions of
17 this section shall not apply to mixed beverage establishments, beer
18 and wine establishments, or bottle clubs, which have been licensed
19 to sell alcoholic beverages for on-premises consumption or retail
20 package stores prior to November 1, 2000; provided, if at the time
21 of application for license renewal the licensed location has not
22 been in actual operation for a continuous period of more than sixty
23 (60) days, the license shall not be renewed. If any school or
24 church shall be established within three hundred (300) feet of any

1 retail package store, mixed beverage establishment, beer and wine
2 establishment, or bottle club subject to the provisions of this
3 section after such retail package store, mixed beverage
4 establishment, beer and wine establishment, or bottle club has been
5 licensed, the provisions of this section shall not be a deterrent to
6 the renewal of such license if there has not been a lapse of more
7 than sixty (60) days. When any mixed beverage establishment, beer
8 and wine establishment, or bottle club subject to the provisions of
9 this section which has a license to sell alcoholic beverages for on-
10 premises consumption or retail package store changes ownership or
11 the operator thereof is changed and such change of ownership results
12 in the same type of business being conducted on the premises, the
13 provisions of this section shall not be a deterrent to the issuance
14 of a license to the new owner or operator if he or she is otherwise
15 qualified.

16 B. 1. Any interested party may protest the application for or
17 granting of a license for a retail package store, or for a mixed
18 beverage establishment, beer and wine establishment, or bottle club
19 which has as its main purpose the selling or serving of alcoholic
20 beverages for consumption on the premises, based on an alleged
21 violation of this section. To be considered by the ~~ABLE Commission~~
22 Bureau, the protest must:

- 23 a. be submitted in writing,
24 b. be signed by the person protesting,

- c. contain the mailing address and address of residence, if different from the mailing address of the protester,
- d. contain the title of the person signing the protest, if the person is acting in an official capacity as a church or school official, and
- e. contain a concise statement explaining why the application is being protested.

2. Within thirty (30) days of the date of receipt of a written protest, the ~~ABLE Commission~~ Bureau shall conduct a hearing on the protest if the protest meets the requirements of paragraph 1 of this subsection.

3. As used in this subsection, "interested party" means:

- a. a parent or legal guardian whose child or children attend the church or school which is alleged to be closer to the mixed beverage establishment or bottle club which has as its main purpose the selling or serving of alcoholic beverages for consumption on the premises, or retail package store, than is allowed by this section,
- b. an official of a church which is alleged to be closer to the mixed beverage establishment or bottle club which has as its main purpose the selling or serving of alcoholic beverages for consumption on the premises, or

1 retail package store, than is allowed by this section,

2 or

3 c. an official of a school which is alleged to be closer
4 to the mixed beverage establishment or bottle club
5 which has as its main purpose the selling or serving of
6 alcoholic beverages for consumption on the premises, or
7 retail package store, than is allowed by this section.

8 SECTION 41. AMENDATORY 37 O.S. 2001, Section 521, as

9 last amended by Section 1, Chapter 73, O.S.L. 2006 (37 O.S. Supp.

10 2007, Section 521), is amended to read as follows:

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

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

23 C. A winemaker license shall authorize the holder thereof: To
24 manufacture (including such mixing, blending and cellar treatment as

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

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

1 licensed manufacturers in this state; and to import into this state
2 for manufacturing purposes spirits and wines in accordance with
3 federal laws and regulations.

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

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

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~~ Oklahoma State
5 Bureau of Narcotics and Dangerous Drugs Control of each special
6 event not less than ten (10) days before the event is held.

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

18 L. A hotel beverage license shall authorize the holder thereof:
19 To sell or serve alcoholic beverages in 50 milliliter spirits, 187
20 milliliter wine, and 12-ounce malt beverage containers which are
21 distributed from a hotel room mini-bar. A hotel beverage license
22 shall only be issued in counties of this state where the sale of
23 alcoholic beverages by the individual drink for on-premises
24 consumption has been authorized. A hotel beverage license shall

1 only be issued to a hotel or motel as defined by Section 506 of this
2 title which is also the holder of a mixed beverage license.
3 Provided, that application may be made simultaneously for both such
4 licenses. A separate license shall be required for each place of
5 business.

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

22 N. An agent license shall authorize the holder thereof: To
23 represent only the holders of licenses within this state, other than
24 retailers, authorized to sell alcoholic beverages to retail dealers

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

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

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

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

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

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

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

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

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

21 No provisions of the Oklahoma Alcoholic Beverage Control Act
22 shall apply to alcohol withdrawn by any person free of federal tax
23 under a tax-free permit issued by the United States government, if
24

1 such alcohol is received, stored, and used as authorized by federal
2 laws.

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

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

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~~ Bureau 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~~ Bureau a bond running to all
18 bailers of alcoholic beverages under proper storage licenses and
19 their assignees (including mortgagees or other bona fide
20 lienholders) conditioned upon faithful performance of the terms and
21 conditions of 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~~ Bureau within three (3) business days of the transfer.
5 The 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 42. AMENDATORY Section 2, Chapter 156, O.S.L.
10 2003 (37 O.S. Supp. 2007, Section 521.1), is amended to read as
11 follows:

12 Section 521.1 A. For purposes of this section:

13 1. "Beer keg" means any brewery-sealed, single container that
14 contains not less than four (4) gallons of beer, as defined by
15 Section 506 of ~~Title 37 of the Oklahoma Statutes~~ this title;

16 2. "Licensed retailer" means a licensed package store;

17 3. ~~"Commission"~~ "Bureau" or "OBNDD" means the Oklahoma ~~Beverage~~
18 ~~Laws Enforcement Commission~~ State Bureau of Narcotics and Dangerous
19 Drugs Control; and

20 4. "Identification seal" means any device approved by the
21 ~~Commission~~ Bureau which is designed to be affixed to beer kegs and
22 which displays an identification number and any other information as
23 may be prescribed by the ~~Commission~~ Bureau.

24

1 B. No licensed retailer shall sell beer kegs unless that
2 retailer affixes an identification seal to each beer keg. An
3 identification seal shall consist of durable material as determined
4 by the ~~Commission~~ Bureau that is not easily removed or destroyed.
5 Identification seals used may contain a nonpermanent adhesive
6 material in order to apply the seal directly to an outside surface
7 of a beer keg at the time of sale. Identification seals shall be
8 attached to beer kegs at the time of sale as determined by the
9 ~~Commission~~ Bureau. The identification information contained on the
10 seal shall include the licensed retailer's name, address, beer
11 license number, and telephone number; a unique beer keg number
12 assigned by the licensed retailer; and a prominently visible warning
13 that intentional removal or defacement of the seal is a misdemeanor.
14 Upon return of a beer keg to the licensed retailer that sold the
15 beer keg and attached the identification seal, the licensed retailer
16 shall be responsible for the complete and thorough removal of the
17 entire identification seal, and any adhesive or attachment devices
18 of the seal. The seal beer keg identification number must be kept
19 on file with the retailer for not less than one (1) year from the
20 date of return.

21 C. A licensed retailer shall not sell a beer keg unless the
22 beer keg has attached a seal complying with the standards
23 established by subsection B of this section.

24

1 D. 1. A licensed retailer who sells a beer keg must at the
2 time of the sale record:

- 3 a. the purchaser's name and address and the number of the
4 purchaser's driver license, identification card issued
5 by the Department of Public Safety, military
6 identification card, or valid United States or foreign
7 passport,
- 8 b. the date and time of the purchase,
- 9 c. the beer keg identification seal number required by
10 subsection B of this section, and
- 11 d. the purchaser's signature.

12 2. The record shall be retained for not less than one (1) year
13 after the date of the sale.

14 E. A licensed retailer required to retain records under
15 subsection D of this section shall make the records available during
16 regular business hours for inspection by a law enforcement officer
17 or an agent of the ~~Commission~~ Bureau.

18 F. 1. A person required to record information under subsection
19 D of this section shall not knowingly make a materially false entry
20 in the book or register required under subsection D of this section.
21 In a prosecution under this subsection, it is a defense for the
22 defendant to prove by a preponderance of the evidence that the
23 defendant reasonably and in good faith relied upon the
24 identification provided by the purchaser of a beer keg.

1 2. No person other than a licensed retailer, a licensed Class B
2 wholesaler, a law enforcement officer, or an agent of the ~~Commission~~
3 Bureau may intentionally remove a seal placed on a beer keg in
4 compliance with subsection C of this section. No person may
5 intentionally deface or damage the seal on a beer keg to make it
6 unreadable.

7 3. Any person who purchases a beer keg and who fails to return
8 the keg or who returns a keg with a damaged or missing seal shall be
9 subject to a fine of Five Hundred Dollars (\$500.00).

10 4. Any licensed retailer who fails to report an individual
11 provided for in paragraph 3 of this subsection to law enforcement
12 shall be guilty of a misdemeanor and shall be subject to fines of
13 not less than Five Hundred Dollars (\$500.00) for first and second
14 offenses. A third violation by a licensed retailer of the
15 provisions of this paragraph shall result in the revocation of the
16 retailer's license for up to one (1) year.

17 G. Any person who purchases a beer keg which is subsequently
18 stolen from such person shall not be liable for any penalty imposed
19 pursuant to the provisions of this section if such person properly
20 reported the theft of the beer keg to law enforcement authorities
21 within twenty-four (24) hours of the discovery of the theft.

22 H. The ~~Commission~~ Bureau shall promulgate rules for the
23 implementation and application of this section.

1 SECTION 43. AMENDATORY Section 1, Chapter 46, O.S.L.
2 2007 (37 O.S. Supp. 2007, Section 521.2), is amended to read as
3 follows:

4 Section 521.2 The Legislature finds and declares that:

5 1. The state has a substantial interest in exercising its
6 powers and the powers granted to the states by the Twenty-first
7 Amendment to the Constitution of the United States and in regulating
8 the structure of the state's alcoholic beverage industry including
9 the activities of manufacturers, importers, wholesalers and
10 retailers, the methods by which alcoholic beverages are marketed,
11 and influences that affect the consumption levels of alcoholic
12 beverages by the people of the state;

13 2. The state's system of regulating the manufacture,
14 distribution and sale of alcoholic beverages has served this state
15 and its citizens well and has contributed to the economic growth and
16 stability of the state;

17 3. Changes in market dynamics and advances in technology may
18 have altered the way the alcoholic beverage industry operates, but
19 have not changed the state's desire for strict regulation of the
20 manufacture, importation, distribution, marketing and sale of
21 alcoholic beverages in accordance with the Oklahoma State
22 Constitution and laws and regulations enacted by the Legislature and
23 the Oklahoma Alcoholic Beverage Laws Enforcement Commission State
24 Bureau of Narcotics and Dangerous Drugs Control and the Oklahoma Tax

1 Commission. Such regulation advances the interest of the state in
2 ensuring a competitive and orderly market in the distribution and
3 sale of alcoholic beverages, promoting temperance in the use and
4 consumption of alcoholic beverages, and facilitating the collection
5 of excise taxes and fees. The purpose of the state's regulatory
6 system is to promote these interests by requiring economic
7 separation between the tiers that contributes to a fair, open and
8 competitive market resulting in interbrand and other competition
9 within each tier, and prevents disorderly market conditions,
10 including but not limited to the domination of local markets and the
11 undue influence of one tier over another. This purpose is through
12 any direct or indirect ownership interest, or any other financial or
13 business obligation;

14 4. The state maintains an interest in the promotion of
15 temperance as a paramount public health, safety and welfare concern.
16 The Legislature further reaffirms that temperance is achieved,
17 consistent with structural regulation that promotes a competitive
18 and orderly market, by controlled access to, and responsible use and
19 consumption of, alcoholic beverages by persons of legal drinking
20 age; and

21 5. All provisions of this act shall be literally construed for
22 the accomplishment of these purposes, and any exceptions are to be
23 narrowly interpreted and applied.

24

1 SECTION 44. AMENDATORY Section 2, Chapter 46, O.S.L.
2 2007 (37 O.S. Supp. 2007, Section 521.3), is amended to read as
3 follows:

4 Section 521.3 A. Oklahoma wineries may ship products
5 manufactured in the state to consumers in other states, so long as
6 the recipient is of legal age and the laws of the recipient's state
7 allow such shipments.

8 B. Oklahoma wineries that ship products to consumers in other
9 states shall submit a monthly report of all shipments to the
10 Oklahoma ~~Alcoholic Beverage Laws Enforcement Commission~~ State Bureau
11 of Narcotics and Dangerous Drugs Control. The report shall contain
12 the name, address and age of the recipient and shall list the common
13 carrier used to ship the product. The contents of the reports shall
14 be a matter of public record and shall be made available to the
15 public as well as any law enforcement or regulatory official in
16 Oklahoma or another state. The manufacturer shall also keep a copy
17 of all such reports on its premises for a period of not less than
18 five (5) years and shall make those reports available for inspection
19 by any law enforcement officer of any state or federal agency upon
20 request.

21 SECTION 45. AMENDATORY 37 O.S. 2001, Section 522, is
22 amended to read as follows:

23 Section 522. Applicants for original brewer, distiller,
24 winemaker, rectifier, ~~wholesaler, Class B wholesaler,~~ mixed

1 beverage, beer and wine, bottle club, caterer or package store
2 licenses shall, prior to applying for such license, twice publish,
3 in such form and containing such information as the ~~Alcoholic~~
4 ~~Beverage Laws Enforcement Commission~~ Oklahoma State Bureau of
5 Narcotics and Dangerous Drugs Control shall by regulation prescribe,
6 a notice of its intention to apply for any such license, once a week
7 for two (2) successive weeks in a legal newspaper of general
8 circulation within the county where the proposed premises is to be
9 located, and file proof of such publication with the ~~ABLE Commission~~
10 Bureau. Unless otherwise provided, the ~~ABLE Commission~~ Bureau shall
11 give notice of approval or disapproval of an application for a
12 license within thirty (30) days after the filing of said
13 application. The ~~ABLE Commission~~ Bureau shall give notice of
14 approval or disapproval of an application for a mixed beverage, beer
15 and wine, bottle club or caterer license within sixty (60) days
16 after the filing of said application. Provided, the ~~ABLE Commission~~
17 Bureau may extend the period for making a determination of whether
18 to approve or disapprove an application an additional thirty (30)
19 days for good cause.

20 The ~~ABLE Commission~~ Bureau may conditionally approve any
21 application which is subject to Section 523 of this title if:

22 1. Construction, modification or alteration of premises
23 proposed for licensed operations is not completed; and
24

1 2. The applicant furnishes a conditional certification issued
2 by the municipality or county that the applicant's plans and
3 specifications indicate that the proposed premises will comply with
4 the municipality's or county's zoning, fire, safety, and health
5 codes.

6 The ~~ABLE Commission~~ Bureau shall issue its final notice of
7 approval when the applicant furnishes final certificates required by
8 Section 523 of this title.

9 SECTION 46. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 522A of Title 37, unless there
11 is created a duplication in numbering, reads as follows:

12 Applicants for wholesaler or Class B wholesaler licenses shall,
13 prior to applying for such license, twice publish, in such form and
14 containing such information as the Oklahoma Tax Commission shall by
15 regulation prescribe, a notice of its intention to apply for any
16 such license, once a week for two (2) successive weeks in a legal
17 newspaper of general circulation within the county where the
18 proposed premises is to be located, and file proof of such
19 publication with the Tax Commission. Unless otherwise provided, the
20 Tax Commission shall give notice of approval or disapproval of an
21 application for a license within thirty (30) days after the filing
22 of said application. Provided, the Tax Commission may extend the
23 period for making a determination of whether to approve or

24

1 disapprove an application an additional thirty (30) days for good
2 cause.

3 The Tax Commission may conditionally approve any application
4 which is subject to Section 523 of Title 37 of the Oklahoma Statutes
5 if:

6 1. Construction, modification or alteration of premises
7 proposed for licensed operations is not completed; and

8 2. The applicant furnishes a conditional certification issued
9 by the municipality or county that the applicant's plans and
10 specifications indicate that the proposed premises will comply with
11 the municipality's or county's zoning, fire, safety, and health
12 codes.

13 The Tax Commission shall issue its final notice of approval when
14 the applicant furnishes final certificates required by Section 523
15 of Title 37 of the Oklahoma Statutes.

16 SECTION 47. AMENDATORY 37 O.S. 2001, Section 523, is
17 amended to read as follows:

18 Section 523. A. ~~No~~ Except as provided in Section 48 of this
19 act, for wholesaler and Class B wholesaler licenses, no license
20 provided for in the Oklahoma Alcoholic Beverage Control Act shall be
21 issued except pursuant to an application filed with the Alcoholic
22 Beverage Laws Enforcement Commission Oklahoma State Bureau of
23 Narcotics and Dangerous Drugs Control. The ~~ABLE Commission Bureau~~
24 may, however, provide for a form of simplified application for

1 renewal of license. Payment of the prescribed fee shall accompany
2 each application for a license.

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

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

9 2. A certificate of zoning issued by the municipality in which
10 the applicant proposes to locate the applicant's principal place of
11 business under the license, or by the county if said principal place
12 of business is located outside the incorporated limits of a
13 municipality, certifying that the applicant's proposed location and
14 use thereof comply with all municipal zoning ordinances or county
15 zoning regulations if applicable;

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

23 4. Authorization, on forms furnished by the ~~ABLE Commission~~
24 Bureau, for complete investigation of the applicant's current

1 financial status as it relates to the application for a license,
2 including but not limited to access to bank accounts, loan
3 agreements, and financial statements; and

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

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

18 D. Municipalities and counties may grant conditional
19 certificates for premises proposed for licensed operations for which
20 construction, modification, or alteration is not completed.
21 Conditional certificates shall indicate that the proposed premises
22 will comply with the municipal or county zoning, fire, safety, and
23 health codes. The granting of conditional certificates shall not
24 relieve the applicant of the duty of obtaining the certificates

1 required by paragraphs 2 and 3 of subsection B of this section after
2 completion of the construction, modification, or alteration.

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

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

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

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

18 H. Any licensee, except an employee licensee, who fails to
19 renew his license prior to the expiration date of said license shall
20 be subject to a late renewal penalty as provided by ~~ABLE Commission~~
21 Bureau rules and regulations. Further, any licensee, except an
22 employee licensee, who fails to renew his license within sixty (60)
23 days of the expiration of said license shall be required to submit a
24 new license application. An employee licensee who fails to renew

1 prior to the expiration of the license shall be required to submit a
2 new license application; provided, however, that under no
3 circumstances shall any licensee, including an employee licensee,
4 whose license to serve or sell alcoholic beverages has expired,
5 continue to serve or sell alcoholic beverages.

6 SECTION 48. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 523A of Title 37, unless there
8 is created a duplication in numbering, reads as follows:

9 A. No wholesaler or Class B wholesaler license provided for in
10 the Oklahoma Alcoholic Beverage Control Act shall be issued except
11 pursuant to an application filed with the Oklahoma Tax Commission.
12 The Tax Commission may, however, provide for a form of simplified
13 application for renewal of license. Payment of the prescribed fee
14 shall accompany each application for a license.

15 B. Every applicant for an original license shall also furnish
16 the following:

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

20 2. A certificate of zoning issued by the municipality in which
21 the applicant proposes to locate the applicant's principal place of
22 business under the license, or by the county if said principal place
23 of business is located outside the incorporated limits of a
24 municipality, certifying that the applicant's proposed location and

1 use thereof comply with all municipal zoning ordinances or county
2 zoning regulations if applicable;

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

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

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

17 C. The certificates required by paragraphs 2 and 3 of
18 subsection B of this section shall be signed by the mayor of the
19 municipality or the chairman of the board of county commissioners
20 issuing same, unless the municipality, by ordinance, or the county
21 designates some other officer or entity to issue the certificates.
22 Applications for such certificates shall be in writing and shall
23 contain information in such detail as the municipality or county may
24 reasonably require describing the location and nature of operations

1 to be conducted under the Tax Commission license. Municipalities
2 and counties shall be required to act on all applications for such
3 certificates within twenty (20) days of receipt of the written
4 application.

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

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

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

22 F. In the event of denial of an application for a license, the
23 Tax Commission shall refund to the applicant the amount of the
24

1 tendered fee, less ten percent (10%), which it shall retain as cost
2 of processing the application.

3 G. Any licensee who fails to renew his license prior to the
4 expiration date of said license shall be subject to a late renewal
5 penalty as provided by Tax Commission rules and regulations.

6 Further, any licensee, except an employee licensee, who fails to
7 renew his license within sixty (60) days of the expiration of said
8 license shall be required to submit a new license application. An
9 employee licensee who fails to renew prior to the expiration of the
10 license shall be required to submit a new license application;
11 provided, however, that under no circumstances shall any licensee,
12 including an employee licensee, whose license to serve or sell
13 alcoholic beverages has expired, continue to serve or sell alcoholic
14 beverages.

15 SECTION 49. AMENDATORY 37 O.S. 2001, Section 523.1, is
16 amended to read as follows:

17 Section 523.1 A. Any corporation applying for a mixed
18 beverage, beer and wine, caterer, or bottle club license shall
19 submit to the ~~Alcoholic Beverage Laws Enforcement Commission~~
20 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control the
21 following:

22 1. A certificate of good standing from the office of the
23 Secretary of State;

24

1 2. A list of all corporate officers, directors, executive
2 committee members or members of a similar governing body and their
3 addresses; and

4 3. A list of all stockholders owning fifteen percent (15%) or
5 more of the stock and their addresses.

6 B. A corporate licensee shall notify the ~~ABLE Commission~~ Bureau
7 in writing of any change in the officers or directors of said
8 corporation or in the principal managers of premises licensed to
9 said corporation and shall pay a fee of One Hundred Dollars
10 (\$100.00) for each notification of change. Provided, service
11 organizations which are exempt under Section 501(c)(8), (10), or
12 (14) of the Internal Revenue Code shall be exempt from said fee.

13 C. A corporate licensee shall notify the ~~ABLE Commission~~ Bureau
14 any time a person, any type of partnership, limited liability
15 company, or other entity acquires fifteen percent (15%) or more of
16 the stock of said corporation. Such notification shall be within
17 thirty (30) days of acquisition and the corporation shall pay a fee
18 of One Hundred Dollars (\$100.00) for each notification of change.

19 D. The ~~ABLE Commission~~ Bureau may disapprove a change of
20 officers, directors or principal managers or the acquisition of more
21 than fifteen percent (15%) of the stock in a licensed corporation if
22 the ~~ABLE Commission~~ Bureau feels that such change would materially
23 affect the conditions under which the license was issued, such that
24 the license would not have been issued had such change been in

1 existence at the time of the original application. If such
2 disapproval occurs, the ~~ABLE Commission~~ Bureau shall notify the
3 licensee in writing and in the case of a publicly traded
4 corporation, allow a reasonable time for the licensee to remove such
5 officer, director or manager or for the stockholder to divest
6 himself of any stock held in excess of fifteen percent (15%) of the
7 stock. Provided that a reasonable time may not exceed a ninety-day
8 period following notification of denial by the ~~ABLE Commission~~
9 Bureau. Failure to comply with the provisions of this subsection
10 may result in revocation or suspension of such license.

11 E. Any person who was an officer or director or who has owned
12 fifteen percent (15%) or more of the stock in a corporation which
13 has been denied a license or had a license revoked or suspended
14 pursuant to the provisions of the Oklahoma Alcoholic Beverage
15 Control Act shall not own stock in any other corporation seeking a
16 license pursuant to the provisions of the Oklahoma Alcoholic
17 Beverage Control Act for a period of twelve (12) months from the
18 date said license was revoked or suspended.

19 F. Any person who was a manager or a member of a limited
20 liability company which has been denied a license or had a license
21 revoked or suspended pursuant to the provisions of the Oklahoma
22 Alcoholic Beverage Control Act shall not own stock in any
23 corporation seeking a license pursuant to the provisions of the
24

1 Oklahoma Alcoholic Beverage Control Act for a period of twelve (12)
2 months from the date said license was revoked or suspended.

3 SECTION 50. AMENDATORY 37 O.S. 2001, Section 523.2, is
4 amended to read as follows:

5 Section 523.2 A. Any limited liability company, formed as
6 provided for in the Limited Liability Company Act, may apply for a
7 beer and wine, bottle club, caterer, or mixed beverage license
8 issued pursuant to the Oklahoma Alcoholic Beverage Control Act. Any
9 limited liability company applying for a license shall submit to the
10 ~~Alcoholic Beverage Laws Enforcement Commission~~ Oklahoma State Bureau
11 of Narcotics and Dangerous Drugs Control, the following:

12 1. A Certificate of Good Standing from the Office of the
13 Secretary of State;

14 2. The Articles of Organization with all amendments and
15 corrections filed with the Office of the Secretary of State with
16 proof that same has been filed in accordance with the Limited
17 Liability Company Act;

18 3. The name and address of the resident agent;

19 4. The name and address of the manager;

20 5. The operating agreement;

21 6. A current list of the full name, social security number, and
22 address of each member; and

23 7. A copy of the issued Certificate of Membership Interest for
24 each member.

1 B. A limited liability company licensee shall notify the ~~ABLE~~
2 ~~Commission~~ Bureau in writing of any change in the manager of the
3 licensed company within thirty (30) days of said change and shall
4 pay a fee of One Hundred Dollars (\$100.00) for each notification of
5 change.

6 C. A limited liability company shall notify the ~~ABLE-Commission~~
7 Bureau in writing any time a membership is assigned or members are
8 added or disassociated within thirty (30) days of said change. The
9 limited liability company shall pay a fee of One Hundred Dollars
10 (\$100.00) for each notification of change.

11 D. The ~~ABLE-Commission~~ Bureau may disapprove a change of
12 manager or new membership in a licensed liability company if the
13 ~~ABLE-Commission~~ Bureau feels that such change would materially
14 affect any conditions under which the license was issued, such that
15 the license would not have been issued had such change been in
16 existence at the time of the original application. If such
17 disapproval occurs, the ~~ABLE-Commission~~ Bureau shall notify the
18 licensee in writing and allow a reasonable time for the licensee to
19 remove such manager or for a member to be disassociated from the
20 company. Provided that a reasonable time not exceed a ninety-day
21 period following notification of denial by the ~~ABLE-Commission~~
22 Bureau. Failure to comply with the provisions of this subsection
23 may result in revocation or suspension of such license.

24

1 E. Any person who has been a licensee, a partner in a license,
2 an officer, director or fifteen percent (15%) or more stockholder of
3 a corporation holding a license revoked or suspended, pursuant to
4 the provisions of the Oklahoma Alcoholic Beverage Control Act, shall
5 not serve as a manager or be a member in a limited liability company
6 seeking a license pursuant to the provisions of the Oklahoma
7 Alcoholic Beverage Control Act for a period of twelve (12) months
8 from the date said license was revoked or suspended.

9 F. Any person who has been a manager, member or participant in
10 any business entity which was a manager or member of a limited
11 liability company which has been denied a license or has a license
12 revoked or suspended, pursuant to the provisions of the Oklahoma
13 Alcoholic Beverage Control Act shall not serve as a manager or
14 member in a limited liability company seeking a license pursuant to
15 the provisions of the Oklahoma Alcoholic Beverage Control Act for a
16 period of twelve (12) months from date said license was revoked or
17 suspended.

18 G. Any person who has been convicted of a felony for which a
19 pardon has not been granted shall not be elected as a manager or be
20 a member of a limited liability company.

21 SECTION 51. AMENDATORY 37 O.S. 2001, Section 524, is
22 amended to read as follows:

23 Section 524. A. A nonresident seller license shall be required
24 of all out-of-state distillers, winemakers, brewers, importers,

1 brokers and others who sell alcoholic beverages to wholesalers and
2 Class B wholesalers in Oklahoma regardless of whether such sales are
3 consummated within or without the State of Oklahoma.

4 A nonresident seller license shall authorize the holder thereof
5 to solicit and take orders for alcoholic beverages from the holders
6 of licenses authorized to import the same into this state, and to
7 ship or deliver, or cause to be shipped or delivered, alcoholic
8 beverages into Oklahoma pursuant to such sales.

9 B. ~~The Alcoholic Beverage Laws Enforcement Commission~~ Oklahoma
10 State Bureau of Narcotics and Dangerous Drugs Control may, subject
11 to the provisions of the Oklahoma Alcoholic Beverage Control Act
12 requiring notice and hearing in the case of sanctions against
13 holders of licenses, suspend or revoke a nonresident seller license
14 for any violation of the Oklahoma Alcoholic Beverage Control Act by
15 the holder thereof.

16 C. No licensee in this state authorized to import alcoholic
17 beverages into this state shall purchase or receive any alcoholic
18 beverages from without this state from any person not holding a
19 valid and existing nonresident seller license.

20 D. The holder of a nonresident seller license shall, promptly
21 upon consignment of any alcoholic beverages to an importer in
22 Oklahoma, forward to the ~~ABLE Commission~~ Bureau a true copy of the
23 invoice, bill of lading, or other document as the ~~ABLE Commission~~

24

1 Bureau may by regulations prescribe, showing the details of such
2 shipment.

3 E. Any person, not otherwise a dealer in alcoholic beverages,
4 coming into possession of any alcoholic beverages as security for or
5 in payment of a debt, or as an insurer (or its transferee or
6 assignee) for the salvage or liquidation of an insured casualty or
7 damage or loss, or as an executor, administrator, trustee or other
8 fiduciary may sell the beverages in one lot or parcel to a duly
9 licensed wholesaler. However, immediately after taking possession
10 of the alcoholic beverages, the person shall register with the
11 Director and furnish to him a detailed list of the alcoholic
12 beverages and post with the Director a bond in such amount as the
13 Director deems sufficient to protect the state from any taxes due on
14 the alcoholic beverages. The person shall pay to the Director a
15 registration fee of Ten Dollars (\$10.00), which fee shall permit the
16 sale of only the alcoholic beverages detailed in the registration
17 request.

18 SECTION 52. AMENDATORY 37 O.S. 2001, Section 525, is
19 amended to read as follows:

20 Section 525. A manufacturers agent license shall authorize the
21 holder thereof to represent only the holders of a nonresident seller
22 license, and to solicit and take orders for the sale of alcoholic
23 beverages for the purpose of resale. No such license shall be
24 issued to any person until it shall have been shown to the

1 satisfaction of the ~~Alcoholic Beverage Laws Enforcement Commission~~
2 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control that
3 the applicant has been duly authorized to act as the agent of the
4 principal he proposes to represent, and that the principal or
5 principals he proposes to represent has been duly authorized to do
6 business in the State of Oklahoma, and has appointed a service agent
7 in this state. No applicant for a manufacturers agent license shall
8 also hold an agent license. It shall be unlawful for any person
9 other than the holder of a manufacturers agent license or an agent
10 license to solicit or take orders in the state from a wholesaler or
11 Class B wholesaler.

12 SECTION 53. AMENDATORY 37 O.S. 2001, Section 526.1, is
13 amended to read as follows:

14 Section 526.1 Conviction of a felony for which a pardon has
15 been granted, shall not constitute grounds for the denial or
16 revocation of any license issued by the ~~Alcoholic Beverage Laws~~
17 ~~Enforcement~~ Oklahoma State Bureau of Narcotics and Dangerous Drugs
18 Control or wholesaler or Class B wholesaler license issued by the
19 Oklahoma Tax Commission.

20 Unless otherwise provided by law, any person who has received a
21 pardon for a felony conviction shall be eligible to apply for,
22 receive, and renew any license granted by the ~~ABLE~~ Bureau or
23 wholesaler or Class B wholesaler license granted by the Tax
24 Commission, which by law is denied to a convicted felon, if:

1 1. The person meets all other qualifications and requirements
2 for obtaining and maintaining the license; and

3 2. The person has not been convicted of any other felony or
4 felonies for which a pardon has not been granted.

5 SECTION 54. AMENDATORY 37 O.S. 2001, Section 527, is
6 amended to read as follows:

7 Section 527. The ~~Alcoholic Beverage Laws Enforcement~~ Oklahoma
8 Tax Commission and the Oklahoma State Bureau of Narcotics and
9 Dangerous Drugs Control respectively shall refuse to issue a
10 wholesaler, Class B wholesaler or package store license either on an
11 original application or a renewal application, if it has reasonable
12 grounds to believe and finds any of the following to be true:

13 1. That the applicant is not a citizen of the United States or
14 is not a qualified elector in this state, or has not been a
15 continuous resident of this state for the ten (10) years next
16 preceding the application for the license;

17 2. That the applicant is under twenty-one (21) years of age;

18 3. That the applicant or any partner, or spouse of the
19 applicant or any partner, has been convicted of a felony;

20 4. That the applicant or any partner, or spouse of the
21 applicant or any partner, has been convicted of a violation of any
22 state or federal law relating to alcoholic beverages, has forfeited
23 a bond while any charge of such violation was pending, nor may any
24 license be granted for any purpose under the Oklahoma Alcoholic

1 Beverage Control Act, ~~Section 501 et seq. of this title,~~ to an
2 Oklahoma resident, who has held or whose spouse has held a Federal
3 Liquor Stamp in Oklahoma before the adoption of Article XXVII of the
4 Oklahoma Constitution unless said Liquor Stamp was granted for
5 supplying alcoholic beverages to a federal military installation, or
6 was granted under this title;

7 5. That the applicant or any partner has, within twelve (12)
8 months next preceding the date of the application, violated any
9 provision of the Oklahoma Alcoholic Beverage Control Act or
10 regulation of the ~~ABLE~~ Bureau or Tax Commission issued pursuant
11 hereto. Provided, however, that if the ~~ABLE~~ Bureau or Tax
12 Commission has, during said twelve-month period, suspended any
13 license sought to be renewed, such renewal application may be
14 approved if the term of the suspension has been completed and the
15 applicant has complied with any special conditions imposed in
16 connection with the suspension;

17 6. That the applicant is not of good moral character, or that
18 the applicant is in the habit of using alcoholic beverages to
19 excess, or is mentally incapacitated. Provided, that the record in
20 any municipal court showing a conviction of violation of any
21 municipal ordinances or state statutes involving moral character or
22 public nuisance obtained after passage and approval of the Oklahoma
23 Alcoholic Beverage Control Act shall be received in evidence by the
24 ~~ABLE~~ Bureau or Tax Commission;

1 7. That the applicant does not own or have a written lease for
2 the premises for which a license is sought;

3 8. That the applicant has, within twelve (12) months next
4 preceding the date of application, been the holder of a license
5 revoked for cause;

6 9. That the applicant is not the real party in interest, or
7 intends to carry on the business authorized by the license as the
8 agent of another;

9 10. That the applicant, in the case of an application for
10 renewal of any license, would not be eligible for such license on a
11 first application;

12 11. That the applicant is a person who appoints or is a law
13 enforcement official or is an employee of the ~~ABLE~~ Bureau or Tax
14 Commission or of the Director of the Bureau or Administrator of the
15 Tax Commission;

16 12. That the proposed location of the licensed premises would
17 violate a valid municipal nondiscriminatory zoning ordinance;

18 13. That, in the case of an application for a wholesaler
19 license, or Class B wholesaler license, any manufacturer, including
20 an officer, director or principal stockholder thereof, or any
21 partner, has any financial interest in the business to be conducted
22 under the license;

23

24

1 14. That the issuance of the license applied for would result
2 in a violation of any provision of the Oklahoma Alcoholic Beverage
3 Control Act;

4 15. That, in the case of an application for a wholesaler or
5 Class B wholesaler license, the applicant or any partner, or spouse
6 of the applicant or any partner, is the holder or partner of the
7 holder of any other class of license issued under the provisions of
8 the Oklahoma Alcoholic Beverage Control Act, other than an agent or
9 employee license for employment by the applicant, or a storage
10 license, bonded warehouse license, carrier license or private
11 carrier license; or

12 16. That, in the case of an application for a package store
13 license the applicant or any partner, or the spouse of the applicant
14 or any partner, is the holder or partner of the holder, or employee
15 of such holder of any other class of license issued under the
16 provisions of the Oklahoma Alcoholic Beverage Control Act, other
17 than a storage license or an employee license for the proposed
18 licensed premises of the applicant or of a retail dealer's permit
19 for the same location issued by the Oklahoma Tax Commission for the
20 sale of low-point beer for consumption on the premises as provided
21 by Section 163.7 of this title.

22 SECTION 55. AMENDATORY 37 O.S. 2001, Section 527.1, is
23 amended to read as follows:
24

1 Section 527.1 ~~The Alcoholic Beverage Laws Enforcement~~
2 ~~Commission~~ Oklahoma State Bureau of Narcotics and Dangerous Drugs
3 Control shall refuse to issue a mixed beverage, beer and wine,
4 bottle club, or caterer license, either on an original application
5 or a renewal application, if it has reasonable grounds to believe
6 and finds any of the following to be true:

7 1. That the applicant, in the case of a natural person, is
8 under twenty-one (21) years of age;

9 2. That the applicant, in the case of a corporation, has a
10 stockholder who owns fifteen percent (15%) or more of the stock,
11 officer, or director who is under twenty-one (21) years of age;

12 3. That the applicant, in the case of any type of partnership,
13 has any partner who is under twenty-one (21) years of age;

14 4. That the applicant, in the case of a limited liability
15 company, has a manager or member who is under twenty-one (21) years
16 of age;

17 5. That the applicant or any type of partner has been convicted
18 of a felony;

19 6. That the applicant, in the case of a corporation, has a
20 stockholder owning fifteen percent (15%) of the stock, officer or
21 director who has been convicted of a felony;

22 7. That the applicant, in the case of a limited liability
23 company, has a manager or a member who has been convicted of a
24 felony;

1 8. That the applicant has made false statements to the ~~ABLE~~
2 Commission Bureau;

3 9. That the applicant is not the legitimate owner of the
4 business for which a license is sought or that other persons have
5 undisclosed ownership interests in the business;

6 10. That the applicant or any partner, within twelve (12)
7 months after being issued a license, either on an original
8 application or a renewal application, has violated any provision of
9 the Oklahoma Alcoholic Beverage Control Act or regulation of the
10 ~~ABLE Commission Bureau~~ issued pursuant hereto. Provided, however,
11 that if the ~~ABLE Commission Bureau~~, during said twelve-month period,
12 has suspended any license sought to be renewed, such renewal
13 application may be approved if the term of the suspension has been
14 completed and the applicant has complied with any special conditions
15 imposed in connection with the suspension;

16 11. That the applicant is not the real party in interest, or
17 intends to carry on the business authorized by the license as the
18 agent of another;

19 12. That the applicant is a person who appoints or is a law
20 enforcement official or is an employee of the ~~ABLE Commission Bureau~~
21 or of the Director; or

22 13. That the applicant does not own or have a written lease for
23 the premises for which a license is sought.

24

1 SECTION 56. AMENDATORY 37 O.S. 2001, Section 528, as
2 amended by Section 1, Chapter 365, O.S.L. 2007 (37 O.S. Supp. 2007,
3 Section 528), is amended to read as follows:

4 Section 528. A. Any license issued pursuant to the provisions
5 of the Oklahoma Alcoholic Beverage Control Act, ~~Section 501 et seq.~~
6 ~~of this title,~~ by order of the ~~Alcoholic Beverage Laws Enforcement~~
7 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control or
8 wholesaler license or Class B wholesaler license issued by the
9 Oklahoma Tax Commission, after due notice and hearing, may be
10 revoked or suspended if the ~~ABLE~~ Bureau or Tax Commission finds or
11 has grounds to believe that the licensee has:

- 12 1. Violated any rule adopted by the ~~ABLE~~ Bureau or Tax
13 Commission;
- 14 2. Procured a license through fraud, or misrepresentation, or
15 concealment of a material fact;
- 16 3. Made any false representation or statement to the ~~ABLE~~
17 Bureau or Tax Commission in order to prevent or induce action by the
18 ~~ABLE~~ Bureau or Tax Commission;
- 19 4. Maintained an unsanitary establishment or has supplied
20 impure or otherwise deleterious beverages or food;
- 21 5. Stored, possessed, mixed or served on the premises of a
22 bottle club any alcoholic beverage upon which the tax levied by
23 Section 553 of this title has not been paid as provided for in the
24 Oklahoma Alcoholic Beverage Control Act, in a county of this state

1 where the sale of alcoholic beverages by the individual drink for
2 on-premises consumption has not been authorized;

3 6. Misrepresented to a customer or the public any alcoholic
4 beverage sold by the licensee; or

5 7. Had any permit or license issued by the Oklahoma Tax
6 Commission and required by the Oklahoma Alcoholic Beverage Control
7 Act, suspended or revoked by the Tax Commission.

8 B. The ~~ABLE Commission~~ Bureau may revoke or suspend the license
9 of any mixed beverage, caterer or bottle club licensee if the ~~ABLE~~
10 ~~Commission~~ Bureau finds or has grounds to believe that such
11 licensee:

12 1. Has acted as an agent of a manufacturer or wholesaler of
13 alcoholic beverages;

14 2. Is a manufacturer or wholesaler of alcoholic beverages;

15 3. Has borrowed money or property or accepted gratuities or
16 rebates from a manufacturer or wholesaler of alcoholic beverages;

17 4. Has obtained the use of equipment from any manufacturer or
18 wholesaler of alcoholic beverages or any agent thereof;

19 5. Has violated any of the provisions of the Oklahoma Alcoholic
20 Beverage Control Act for which mandatory revocation or suspension is
21 not required; or

22 6. Has been convicted on or after July 1, 1985, of a violation
23 of any state or federal law relating to alcoholic beverage for which
24 mandatory revocation or suspension is not required.

1 C. The ~~ABLE Commission~~ Bureau may revoke or suspend the license
2 of any retail, mixed beverage, caterer, or bottle club licensee if
3 the ~~ABLE Commission~~ Bureau finds or has grounds to believe that such
4 licensee has borrowed money or property or accepted gratuities,
5 discounts, rebates, free goods, allowances, or other inducements
6 from a wholesaler of alcoholic beverages.

7 D. The ~~ABLE~~ Bureau or Tax Commission shall revoke the license
8 of any licensee if said Bureau or Tax Commission finds:

9 1. That the licensee knowingly sold alcoholic beverages or
10 allowed such beverages to be sold, delivered or furnished to any
11 person under the age of twenty-one (21) years, or to any person
12 visibly intoxicated or adjudged insane or mentally deficient;

13 2. That the licensee, any general or limited partner of the
14 licensee, or in the case of a corporation, an officer or director of
15 the corporation, has been convicted of a felony; or

16 3. That, in the case of a wholesaler, Class B wholesaler, or
17 retail package store licensee, the holder of the license or any
18 member of a general or limited partnership which is the holder of
19 such a license, has been convicted of a prohibitory law relating to
20 the sale, manufacture, or transportation of alcoholic beverages
21 which constitutes a felony or a misdemeanor.

22 E. If the ~~ABLE Commission~~ Bureau shall find by a preponderance
23 of the evidence as in civil cases that the holder of a package store
24 license has knowingly sold any alcoholic beverage to any person

1 under the age of twenty-one (21) years, after a public hearing it
2 shall revoke said license and no discretion as to said revocation
3 shall be exercised by the ~~ABLE Commission~~ Bureau.

4 F. The ~~ABLE~~ Bureau and Tax Commission with respect to
5 wholesaler and Class B wholesaler licenses shall have the authority
6 to promulgate rules and regulations to establish a penalty schedule
7 for violations of any provision of the Oklahoma Alcoholic Beverage
8 Control Act or any rule or regulation of the ~~ABLE~~ Bureau or Tax
9 Commission. The schedule shall provide for suspension or revocation
10 of any license for major and minor violations as determined by the
11 ~~ABLE~~ Bureau or Tax Commission. Penalties shall be increasingly
12 severe with each violation by a licensee.

13 Provided, that for a fourth major violation by a licensee within
14 a twenty-four-month period the penalty shall be mandatory revocation
15 of license. The twenty-four-month period shall be calculated from
16 the date of the most recent violation as set forth in an order
17 signed by the Director, or the designee of the Director.

18 G. The ~~ABLE~~ Bureau or Tax Commission with respect to wholesaler
19 and Class B wholesaler licenses may impose a monetary penalty in
20 lieu of or in addition to suspension of a license. The amount of
21 fine for a major violation shall be computed by multiplying the
22 proposed number of days of the suspension period by One Hundred
23 Dollars (\$100.00). The amount of fine for a minor violation shall
24

1 be computed by multiplying the number of days of the proposed
2 suspension period by Fifty Dollars (\$50.00).

3 H. The failure of any licensee to pay a fine or serve a
4 suspension imposed by the ~~ABLE~~ Bureau or Tax Commission with respect
5 to wholesaler and Class B wholesaler licenses shall result in the
6 revocation of the license of said licensee.

7 I. If the ~~ABLE~~ Bureau or Tax Commission with respect to
8 wholesalers and Class B wholesalers finds that public health, safety
9 or welfare require emergency action, and incorporates a finding to
10 that effect in its order, summary suspension of a license may be
11 ordered pending proceeding for revocation or other action, pursuant
12 to the provisions of Section 314 of Title 75 of the Oklahoma
13 Statutes.

14 SECTION 57. AMENDATORY 37 O.S. 2001, Section 528.1, is
15 amended to read as follows:

16 Section 528.1 The governing board of any municipality, as to
17 any mixed beverage, beer and wine, caterer, or bottle club licensee
18 having its principal place of business in such municipality, and the
19 board of county commissioners of any county, as to any mixed
20 beverage, beer and wine, caterer, or bottle club licensee having its
21 principal place of business in such county but outside the
22 incorporated limits of a municipality, may initiate a license
23 suspension or revocation proceeding as to such licensee by filing a
24 written complaint with the ~~ABLE Commission~~ Oklahoma State Bureau of

1 Narcotics and Dangerous Drugs Control, setting forth the grounds for
2 the proposed suspension or revocation. Such complaint may be based
3 on any ground that the ~~ABLE Commission~~ Bureau might have asserted.
4 Upon receipt of such complaint, the ~~ABLE Commission~~ Bureau shall
5 forward a copy of the complaint to the licensee together with
6 written notice of the time and place of hearing thereon. If the
7 complaint is filed by a municipality the hearing shall be conducted
8 within the corporate limits of said municipality. If the complaint
9 is filed by a county, the hearing shall be conducted in said county.
10 The hearing shall be held within the time limits, and in the manner,
11 prescribed for suspension or revocation proceedings initiated by the
12 ~~ABLE Commission~~ Bureau. In any proceeding initiated pursuant to
13 this section, the municipality or county shall be deemed an
14 interested party, shall have the right to be heard and to present
15 evidence at the hearing on the complaint, and shall be entitled to
16 appeal from any final order entered by the ~~ABLE Commission~~ Bureau in
17 the manner otherwise provided in the Oklahoma Alcoholic Beverage
18 Control Act. Such municipality or county shall not be required to
19 give bond on appeal.

20 SECTION 58. AMENDATORY 37 O.S. 2001, Section 529, is
21 amended to read as follows:

22 Section 529. In the case of denial of an application for an
23 original license, the ~~Alcoholic Beverage Laws Enforcement~~ Oklahoma
24 State Bureau of Narcotics and Dangerous Drugs Control or Oklahoma

1 Tax Commission shall give written notice to the applicant either by
2 registered mail directed to his last-known address or by delivery,
3 stating the reason for such denial. If the ~~ABLE~~ Bureau or Tax
4 Commission proposes to deny renewal of any license or to suspend or
5 revoke a license, it shall give written notice to the licensee
6 addressed to his licensed premises by registered mail, by personal
7 delivery, or by posting of said notice on the outside entrance to
8 the licensed premises, notifying said licensee of such contemplated
9 denial, suspension or revocation, and of the time and place at which
10 the licensee may be accorded a hearing before the ~~ABLE~~ Bureau or Tax
11 Commission on the matter, which time shall not be less than fifteen
12 (15) days from the date of mailing, delivery or posting of such
13 notice. Such notice shall set forth the grounds for the proposed
14 denial, suspension or revocation. The ~~ABLE~~ Bureau or Tax Commission
15 may delegate any part of this function to the Director or his
16 assistants in his department, but any person aggrieved by any order
17 shall have the right to be heard by the ~~ABLE~~ Bureau or Tax
18 Commission and the ~~ABLE~~ Bureau or Tax Commission shall provide
19 adequate procedure to protect the right of persons desiring to do
20 so.

21 SECTION 59. AMENDATORY 37 O.S. 2001, Section 530, is
22 amended to read as follows:

23 Section 530. Any person aggrieved by the action of the
24 ~~Alcoholic Beverage Laws Enforcement~~ Oklahoma State Bureau of

1 Narcotics and Dangerous Drugs Control or Oklahoma Tax Commission in
2 denying an application for an original license may, within fifteen
3 (15) days after receipt of notice thereof, file with the ABLE Bureau
4 or Tax Commission written request for a hearing, and the ABLE Bureau
5 or Tax Commission shall, pursuant to such request, set a time and
6 place for a hearing on a denial of an application for an original
7 license. At the time and place set in a notice by the ABLE Bureau
8 or Tax Commission of contemplated denial of the renewal of a license
9 or of a proposed suspension or revocation of a license, the ABLE
10 Bureau or Tax Commission shall afford the applicant or the licensee
11 an opportunity to be heard and to present evidence in his behalf.
12 Said hearing shall be conducted within fifteen (15) days after
13 receipt of the request by the ABLE Bureau or Tax Commission. In the
14 conduct of any such hearing, the ABLE Bureau or Tax Commission shall
15 have power to administer oaths, examine witnesses, and subpoena
16 records and documents pertaining to the issues involved. Upon
17 request of and at the expense of the aggrieved party, the ABLE
18 Bureau or Tax Commission shall make or cause to be made a complete
19 record of all testimony and other evidence taken or introduced at
20 such hearing. Within fifteen (15) days after conclusion of any such
21 hearing, unless the time shall be extended by the parties thereto in
22 writing, the ABLE Bureau or Tax Commission shall enter an order
23 affirming or modifying its denial of an original application, an
24 order dismissing its notice of contemplated denial of renewal of

1 license or affirming same, or an order dismissing its notice of
2 contemplated suspension or revocation of a license or an order
3 suspending or revoking same. The ~~ABLE~~ Bureau or Tax Commission
4 shall, by written notice mailed to the applicant or licensee by
5 certified mail or by delivery in person to the applicant or
6 licensee, or their attorney of record, advise of its action pursuant
7 to the hearing.

8 SECTION 60. AMENDATORY 37 O.S. 2001, Section 530.1, is
9 amended to read as follows:

10 Section 530.1 The Director, or Administrator of the Oklahoma
11 Tax Commission with respect to wholesaler and Class B wholesaler
12 licenses, shall have the authority to conduct an initial hearing
13 when a hearing before the Oklahoma State Bureau of Narcotics and
14 Dangerous Drugs Control or Tax Commission is required by law. The
15 Director or Administrator may employ such hearing officers and
16 assistants as are necessary to conduct the hearings. If a hearing
17 is conducted by a hearing officer, the hearing officer shall issue a
18 report to the Director or Administrator. The report of the hearing
19 officer shall include findings of fact and conclusions of law.
20 After conducting a hearing or after receiving the report of the
21 hearing officer, the Director or Administrator shall issue a
22 recommendation to the Bureau or Tax Commission. Notice of the
23 recommendation of the Director or Administrator shall be sent to the
24 last-known address of the licensee. If the licensee disagrees with

1 the recommendation of the Director or Administrator, he may request
2 a hearing before the Bureau or Tax Commission for a review of the
3 record. If the licensee fails to request a review of the record
4 within fifteen (15) days after the date of the notice of the
5 ~~Director's~~ decision of the Director or Administrator, the
6 recommendation of the Director shall become a final order of the
7 Bureau or Tax Commission. A failure to request a review of the
8 record by the Bureau or Tax Commission in a timely manner shall
9 constitute a failure to exhaust administrative remedies.

10 SECTION 61. AMENDATORY 37 O.S. 2001, Section 531, is
11 amended to read as follows:

12 Section 531. Within thirty (30) days after a final order of the
13 ~~Alcoholic Beverage Laws Enforcement~~ Oklahoma State Bureau of
14 Narcotics and Dangerous Drugs Control, or Oklahoma Tax Commission
15 with respect to wholesaler or Class B wholesaler licenses, pursuant
16 to a hearing as provided in Section 530 of this title, an applicant
17 or licensee may appeal from the order of the ~~ABLE~~ Bureau or Tax
18 Commission to the district court of the county in which the premises
19 licensed or sought to be licensed are located. At the time of
20 filing such an appeal, the party appealing shall give bond for costs
21 assessed against him. The appeal shall be taken by filing with the
22 clerk of the district court of the proper county a written notice
23 stating that the party appeals from the action of the ~~ABLE~~ Bureau or
24 Tax Commission and stating the pertinent grounds on which the appeal

1 is founded. Such appeal shall consist of a hearing and review of
2 the record only as set forth in the Administrative Procedures Act,
3 ~~Sections 301 through 326 of Title 75 of the Oklahoma Statutes.~~ The
4 district court may affirm, reverse or modify the order of the ABLE
5 Bureau or Tax Commission and shall issue its order within sixty (60)
6 days after the appeal is heard. Appeals may be taken from a final
7 order of the district court to the Supreme Court by the applicant,
8 licensee or by the ABLE Bureau or Tax Commission. The ABLE Bureau
9 or Tax Commission shall not be required to give bond on appeal. The
10 licensee may file a supersedeas bond in an amount to be fixed by the
11 ABLE Bureau or Tax Commission staying the order until the final
12 determination of all issues on an appeal but the order of the ABLE
13 Bureau or Tax Commission may not be stayed unless ordered by the
14 judge of the district court. Permission to stay the order of the
15 ABLE Bureau or Tax Commission shall not be granted by any court
16 unless an application therefor be made in the written notice of the
17 applicant's or licensee's intention to appeal from the order of the
18 ABLE Bureau or Tax Commission, and then only after a hearing before
19 the court upon notice to both parties wherein the court determines
20 by a preponderance of the evidence that in denying a license or in
21 ordering the suspension or a revocation of a license the ABLE Bureau
22 or Tax Commission acted without legal cause or upon insufficient
23 evidence. Provided, that in all cases where the order of the ABLE
24 Bureau or Tax Commission is stayed by a supersedeas bond and the

1 licensee is unsuccessful in his appeal, and the action of the ~~ABLE~~
2 Bureau or Tax Commission becomes final, such bond shall be forfeited
3 to the State of Oklahoma by the court considering such appeal if the
4 court finds said appeal was frivolous or was filed for the purpose
5 of delaying the effect of said order, and the ~~Attorney General shall~~
6 Director of the Oklahoma State Bureau of Narcotics and Dangerous
7 Drugs Control may thereupon commence legal proceedings in the name
8 of the State of Oklahoma to recover the amount of said bond, which
9 money shall be placed to the credit of the ~~General Revenue~~ Bureau of
10 Narcotics Alcohol Enforcement and Education Revolving Fund ~~of the~~
11 state created pursuant to Section 126 of this act.

12 SECTION 62. AMENDATORY 37 O.S. 2001, Section 532, is
13 amended to read as follows:

14 Section 532. Any license issued pursuant to the provisions of
15 the Oklahoma Alcoholic Beverage Control Act shall be a purely
16 personal privilege. It shall not constitute property nor be subject
17 to attachment, garnishment, or execution, or be alienable or
18 transferable, either voluntarily or involuntarily; nor shall it
19 descend by the laws of descent and distribution, but shall cease
20 upon the death of the licensee; provided, however, that the
21 ~~Alcoholic Beverage Laws Enforcement~~ Oklahoma State Bureau of
22 Narcotics and Dangerous Drugs Control or Oklahoma Tax Commission
23 with respect to wholesaler and Class B wholesaler licenses, under
24 such regulations and subject to such restrictions as it may

1 prescribe, may permit the executors or administrators of the estate
2 of any deceased licensee, or the trustees of an insolvent or
3 bankrupt licensee, or the legal guardian of a licensee who has been
4 adjudged to be incompetent or insane, to exercise the privileges
5 under any license held by him for such period as the ~~ABLE~~ Bureau or
6 Tax Commission may deem equitable during the administration of the
7 deceased or bankrupt licensee's estate, but not to exceed two (2)
8 years. A license may not be transferred to a new location, except
9 upon application to the ~~ABLE~~ Bureau or Tax Commission and
10 endorsement on the license by the ~~ABLE~~ Bureau or Tax Commission
11 showing the new location. An application for transfer of license
12 shall be accompanied by a certificate reflecting, as to the proposed
13 new location, compliance with municipal zoning ordinances or county
14 zoning regulations and municipal or county fire, safety and health
15 codes as required by Section 523 of this title. A mixed beverage or
16 bottle club licensee who transfers his license to a new location
17 shall pay a transfer fee of One Hundred Dollars (\$100.00) to the
18 ~~ABLE Commission~~ Bureau.

19 SECTION 63. AMENDATORY 37 O.S. 2001, Section 532.1, is
20 amended to read as follows:

21 Section 532.1 All licenses issued pursuant to the provisions of
22 the Oklahoma Alcoholic Beverage Control Act shall be displayed in a
23 conspicuous place at all times on the licensed premises. No
24 licensee may consent to or allow the use or display of his license

1 by a person other than the person to whom the license was issued.
2 No person may use a license or exercise any privileges granted by
3 the license except at the place, address, premises or location for
4 which the license is issued, except as otherwise provided by the
5 Oklahoma Alcoholic Beverage Control Act.

6 If the mixed beverage, caterer or bottle club license for a
7 licensed premises is suspended or revoked by the ~~ABLE Commission~~
8 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, all
9 other licenses issued by the ~~ABLE Commission~~ Bureau for such
10 premises shall cease to be valid. If a mixed beverage, caterer or
11 bottle club license is suspended or revoked for any licensed
12 premises, this shall not invalidate licenses held by the licensee
13 for other licensed premises.

14 SECTION 64. AMENDATORY 37 O.S. 2001, Section 532.2, is
15 amended to read as follows:

16 Section 532.2 A. If a mixed beverage licensee sells or
17 otherwise transfers his financial interest in a licensed premises to
18 another party who obtains a mixed beverage license for the premises,
19 any alcoholic beverages on said premises may be transferred to the
20 new licensee. Provided, if the premises are not in continuous
21 operation as a mixed beverage establishment prior to and during the
22 transfer of financial interest in the premises, said transfer of
23 alcoholic beverages shall be limited to alcoholic beverages in the
24

1 original container which have not been opened and which have not had
2 the seal broken and the original cap or cork removed.

3 B. If a beer and wine licensee sells or otherwise transfers his
4 financial interest in a licensed premises to another party who
5 obtains a beer and wine license for the premises, any beer and wine
6 on said premises may be transferred to the new licensee. Provided,
7 if the premises are not in continuous operation as a beer and wine
8 establishment prior to and during the transfer of financial interest
9 in the premises, said transfer of beer and wine shall be limited to
10 beer and wine in the original containers which have not been opened
11 and which have not had the seal broken and the original cap or cork
12 removed.

13 C. There shall be no liability on the part of, and no cause of
14 action of any nature shall arise against the ~~ABLE Commission~~
15 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the
16 Director, or the staff of the ~~ABLE Commission~~ Bureau for the
17 contents of any alcoholic beverages transferred pursuant to the
18 provisions of this section.

19 SECTION 65. AMENDATORY 37 O.S. 2001, Section 535, is
20 amended to read as follows:

21 Section 535. It shall be unlawful for any manufacturer,
22 wholesaler, Class B wholesaler, or person authorized to sell
23 alcoholic beverages to a wholesaler, or any employee, officer,
24 director, stockholder owning fifteen percent (15%) or more of the

1 stock, any type of partner, manager, member or agent thereof, to
2 directly or indirectly:

3 1. Have any financial interest in any premises upon which any
4 alcoholic beverage or light beer is sold at retail or in any
5 business connected with the retailing of alcoholic beverages or
6 light beer as defined in Section 506 of this title;

7 2. Lend any money or other thing of value, or to make any gift
8 or offer any gratuity, to any package store, mixed beverage, beer
9 and wine or bottle club licensee or caterer;

10 3. Guarantee any loan or the repayment of any financial
11 obligation of any retailer, mixed beverage, beer and wine or bottle
12 club licensee or caterer;

13 4. Require any wholesaler, Class B wholesaler, retailer, mixed
14 beverage, beer and wine licensee or caterer to purchase and dispose
15 of any quota of alcoholic beverages, or to require any retailer to
16 purchase any kind, type, size container, or brand of alcoholic
17 beverages in order to obtain any other kind, type, size container,
18 or brand of alcoholic beverages;

19 5. Sell to any retailer, mixed beverage, beer and wine licensee
20 or caterer any alcoholic beverage on consignment, or upon condition,
21 or with the privilege of return, or on any condition other than a
22 bona fide sale; provided, the delivery in good faith, through
23 mistake, inadvertence, or oversight, of alcoholic beverage that was
24 not ordered by a retailer, mixed beverage licensee, beer and wine

1 licensee, caterer or special event licensee to such licensee shall
2 not be considered a violation of this paragraph, as long as action
3 is taken to correct the error and all invoices and records of the
4 transaction are corrected. There shall be no time period imposed by
5 the ~~ABLE~~ Oklahoma State Bureau of Narcotics and Dangerous Drugs
6 Control, or the Oklahoma Tax Commission with respect to wholesaler
7 and Class B wholesaler licenses, for notification of or correction
8 of the error; or

9 6. Extend credit to any retailer, other than holders of Federal
10 Liquor Stamps on United States government reservations and
11 installations, mixed beverage or beer and wine licensee or caterer
12 other than a state lodge located in a county which has approved the
13 retail sale of alcoholic beverages by the individual drink for
14 on-premises consumption. The acceptance of a postdated check or
15 draft or the failure to deposit for collection a current check or
16 draft by the second banking day after receipt shall be deemed an
17 extension of credit. Violation of this ~~subsection~~ section shall be
18 grounds for suspension of the license.

19 SECTION 66. AMENDATORY 37 O.S. 2001, Section 535.1, is
20 amended to read as follows:

21 Section 535.1 No mixed beverage, beer and wine, caterer or
22 bottle club licensee, partner in any type of partnership, manager or
23 member of a limited liability company, officer, director or
24 stockholder of any corporate licensee owning more than fifteen

1 percent (15%) of the stock shall have any right, title, lien, claim
2 or interest, financial or otherwise in, upon or to the premises,
3 equipment, business or merchandise of any package store,
4 manufacturer or wholesaler. The provisions of this section shall
5 not prohibit a person who is an officer or director of a fraternal
6 or veteran's organization which is a tax exempt organization under
7 Section 501(c)(8), (10) or (19) of the Internal Revenue Code and
8 which holds a license issued by the ~~ABLE Commission~~ Oklahoma State
9 Bureau of Narcotics and Dangerous Drugs Control from having a right,
10 title, lien, claim, or interest in the premises, equipment,
11 business, or merchandise of a package store.

12 SECTION 67. AMENDATORY 37 O.S. 2001, Section 536, is
13 amended to read as follows:

14 Section 536. A. It shall be unlawful for any person privileged
15 to sell alcoholic beverages to wholesalers or retailers:

16 1. To discriminate, directly or indirectly, in price between
17 one wholesaler and another wholesaler or between one retailer and
18 another retailer purchasing alcoholic beverages bearing the same
19 brand or trade name and of like age and quality; or

20 2. To grant, directly or indirectly, any discount, rebate, free
21 goods, allowance or other inducement.

22 B. The ~~Alcoholic Beverage Laws Enforcement Commission~~ Oklahoma
23 State Bureau of Narcotics and Dangerous Drugs Control is hereby
24 authorized to promulgate rules which are necessary to carry out the

1 purpose of this section and to prevent its circumvention by offering
2 or giving of any rebate, allowance, free goods, discount or any
3 other thing or service of value; provided, that the posting of
4 charges per order for processing minimum orders or per case for the
5 handling or repacking of goods by wholesalers for sales in less than
6 full case lots shall not constitute a violation of this section.

7 C. For the violation of any provision of this section or of any
8 rule duly promulgated under this section, the ~~ABLE-Commission~~ Bureau
9 may suspend or revoke a license as follows: For the first offense,
10 not exceeding ten (10) days' suspension of license; for a second
11 offense, not exceeding thirty (30) days' suspension of license; and
12 for a third offense, the ~~ABLE-Commission~~ Bureau shall revoke the
13 license.

14 SECTION 68. AMENDATORY 37 O.S. 2001, Section 537, as
15 last amended by Section 1, Chapter 141, O.S.L. 2007 (37 O.S. Supp.
16 2007, Section 537), is amended to read as follows:

17 Section 537. A. No person shall:

18 1. Knowingly sell, deliver, or furnish alcoholic beverages to
19 any person under twenty-one (21) years of age;

20 2. Sell, deliver or knowingly furnish alcoholic beverages to an
21 intoxicated person or to any person who has been adjudged insane or
22 mentally deficient;

23 3. Open a retail container or consume alcoholic beverages on
24 the premises of a retail package store;

1 4. Import into this state, except as provided for in the
2 Oklahoma Alcoholic Beverage Control Act, any alcoholic beverages;
3 provided, that nothing herein shall prohibit the importation or
4 possession for personal use of not more than one (1) liter of
5 alcoholic beverages upon which the Oklahoma excise tax is
6 delinquent;

7 5. Receive, possess, or use any alcoholic beverage in violation
8 of the provisions of the Oklahoma Alcoholic Beverage Control Act;

9 6. Transport into, within, or through this state more than one
10 (1) liter of alcoholic beverages upon which the Oklahoma excise tax
11 has not been paid unless the person accompanying or in charge of the
12 vehicle transporting same shall possess a true copy of a bill of
13 lading, invoice, manifest or other document particularly identifying
14 the alcoholic beverages being transported and showing the name and
15 address of the consignor and consignee;

16 7. Knowingly transport in any vehicle upon a public highway,
17 street or alley any alcoholic beverage except in the original
18 container which shall not have been opened and the seal upon which
19 shall not have been broken and from which the original cap or cork
20 shall not have been removed, unless the opened container be in the
21 rear trunk or rear compartment, which shall include the spare tire
22 compartment in a vehicle commonly known as a station wagon and panel
23 truck, or any outside compartment which is not accessible to the
24 driver or any other person in the vehicle while it is in motion;

1 8. Drink intoxicating liquor in public except on the premises
2 of a licensee of the ~~Alcoholic Beverage Laws Enforcement Commission~~
3 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control who
4 is authorized to sell or serve alcoholic beverages by the individual
5 drink or be intoxicated in a public place. This provision shall be
6 cumulative and in addition to existing law;

7 9. Forcibly resist lawful arrest, or by physical contact
8 interfere with an investigation of any infringement of the Oklahoma
9 Alcoholic Beverage Control Act or with any lawful search or seizure
10 being made by an inspector or agent of the ~~ABLE Commission~~ Bureau,
11 when such person knows or should know that such acts are being
12 performed by a state, county, or municipal officer, inspector or
13 agent of the ~~ABLE Commission~~ Bureau;

14 10. Manufacture, duplicate, counterfeit or in any way imitate
15 any bottle club membership card required to be issued by the ~~ABLE~~
16 ~~Commission~~ Bureau without the permission of the ~~Commission~~ Bureau;

17 11. Consume or possess alcoholic beverages on the licensed
18 premises of a bottle club unless such person possesses a valid
19 membership card for that club issued by the club; or

20 12. Knowingly possess any bottle club membership card required
21 to be issued by the ~~ABLE Commission~~ Bureau, which has been
22 manufactured, counterfeited, imitated or in any way duplicated
23 without the permission of the ~~Commission~~ Bureau.

24 B. No licensee of the ~~ABLE Commission~~ Bureau shall:

1 1. Receive, possess, or sell any alcoholic beverage except as
2 authorized by the Oklahoma Alcoholic Beverage Control Act and by the
3 license or permit which the licensee holds;

4 2. Employ any person under the age of twenty-one (21) in the
5 selling or handling of alcoholic beverages. Provided, that a mixed
6 beverage, beer and wine, caterer, special event or bottle club
7 licensee may employ servers who are at least eighteen (18) years of
8 age, except persons under twenty-one (21) years of age may not serve
9 in designated bar or lounge areas, and a mixed beverage, beer and
10 wine, caterer, special event or bottle club licensee may employ or
11 hire musical bands who have musicians who are under twenty-one (21)
12 years of age if each such musician is either accompanied by a parent
13 or legal guardian or has on their person, to be made available for
14 inspection upon demand by any ~~ABLE-Commission~~ Bureau officer or law
15 enforcement officer, a written, notarized affidavit from the parent
16 or legal guardian giving the underage musician permission to perform
17 in designated bar or lounge areas;

18 3. Give any alcoholic beverage as a prize, premium or
19 consideration for any lottery, game of chance or skill or any type
20 of competition;

21 4. Advertise or offer "happy hours" or any other means or
22 inducements to stimulate the consumption of alcoholic beverages
23 including:
24

- 1 a. deliver more than two drinks to one person at one
2 time,
- 3 b. sell or offer to sell to any person or group of
4 persons any drinks at a price less than the price
5 regularly charged for such drinks during the same
6 calendar week, except at private functions not open to
7 the public,
- 8 c. sell or offer to sell to any person an unlimited
9 number of drinks during any set period of time for a
10 fixed price, except at private functions not open to
11 the public,
- 12 d. sell or offer to sell drinks to any person or group of
13 persons on any one day at prices less than those
14 charged the general public on that day, except at
15 private functions not open to the public,
- 16 e. increase the volume of alcoholic beverages contained
17 in a drink without increasing proportionately the
18 price regularly charged for such drink during the same
19 calendar week, or
- 20 f. encourage or permit, on the licensed premises, any
21 game or contest which involves drinking or the
22 awarding of drinks as prizes.
- 23
24

1 Provided that the provisions of this paragraph shall not prohibit
2 the advertising or offering of food or entertainment in licensed
3 establishments;

4 5. Permit or allow any patron or person to exit the licensed
5 premises with an open container of any alcoholic beverage.

6 Provided, that this prohibition shall not be applicable to closed
7 original containers of alcoholic beverages which are carried from
8 the licensed premises of a bottle club by a patron, closed original
9 wine containers removed from the premises of restaurants, hotels,
10 and motels, or to closed original containers of alcoholic beverages
11 transported to and from the place of business of a licensed caterer
12 by the caterer or an employee of the caterer; or

13 6. Serve or sell alcoholic beverages with an expired license
14 issued by the ~~ABLE Commission~~ Bureau.

15 C. No package store licensee shall:

16 1. Purchase or receive any alcoholic beverage other than from a
17 person holding a brewer, wholesaler or Class B wholesaler license
18 issued pursuant to the Oklahoma Alcoholic Beverage Control Act;

19 2. Suffer or permit any retail container to be opened, or any
20 alcoholic beverage to be consumed, on the licensed premises;

21 3. Sell, or keep package store premises open for the purpose of
22 selling, any alcoholic beverages at any hour other than between the
23 hours of 10:00 a.m. and 9:00 p.m. Monday through Saturday; provided,
24 that no such sales shall be made, or package store premises be

1 allowed to remain open for the purpose of making such sales, on the
2 day of any General, Primary, Runoff Primary or Special Election
3 while the polls are open whether on a national, state, county or
4 city election or on New Year's Day, Memorial Day, the Fourth of
5 July, Labor Day, Thanksgiving Day or Christmas Day;

6 4. Operate a retail package store unless such store shall be
7 located in a city or town having a population in excess of two
8 hundred (200) according to the latest Federal Decennial Census;

9 5. Sell any alcoholic beverage on credit; provided that
10 acceptance by a retail liquor store of a cash or debit card, or a
11 nationally recognized credit card, in lieu of actual cash payment
12 does not constitute the extension of credit; provided further, as
13 used in this section:

14 a. "cash or debit card" means any instrument or device
15 whether known as a debit card or by any other name,
16 issued with or without fee by an issuer for the use of
17 the cardholder in depositing, obtaining or
18 transferring funds from a consumer banking electronic
19 facility, and

20 b. "nationally recognized credit card" means any
21 instrument or device, whether known as a credit card,
22 credit plate, charge plate or by any other name,
23 issued with or without fee by an issuer for the use of
24 the cardholder in obtaining money, goods, services or

1 anything else of value on credit which is accepted by
2 over one hundred merchants;

3 6. Offer or furnish any prize, premium, gift or similar
4 inducement to a consumer in connection with the sale of alcoholic
5 beverage, except that goods or merchandise included by the
6 manufacturer in packaging with alcoholic beverages or for packaging
7 with alcoholic beverages shall not be included in this prohibition,
8 but no wholesaler or package store shall sell any alcoholic beverage
9 prepackaged with other goods or merchandise at a price which is
10 greater than the price at which the alcoholic beverage alone is
11 sold;

12 7. Permit any person under twenty-one (21) years of age to
13 enter into, remain within or loiter about the licensed premises; or

14 8. Pay for alcoholic beverages by a check or draft which is
15 dishonored by the drawee when presented to such drawee for payment;
16 and the ~~ABLE Commission~~ Bureau may cancel or suspend the license of
17 any retailer who has given a check or draft, as maker or endorser,
18 which is so dishonored upon presentation.

19 D. No wholesaler licensee shall:

20 1. Sell or deliver any amount of spirits or wines to any
21 package store licensee on Saturday or Sunday; or

22 2. Sell or deliver any amount of spirits or wines to any
23 package store licensee on New Year's Day, Memorial Day, the Fourth
24 of July, Labor Day, Veterans Day, Thanksgiving Day or Christmas Day.

1 E. No mixed beverage or beer and wine licensee shall:

2 1. Purchase or receive any alcoholic beverage other than from a
3 person holding a wholesaler or Class B wholesaler license issued
4 pursuant to the Oklahoma Alcoholic Beverage Control Act; provided, a
5 mixed beverage or beer and wine licensee whose premises are a
6 restaurant may purchase wine produced at wineries in this state
7 directly from an Oklahoma winemaker as provided in Section 3 of
8 Article XXVIII of the Oklahoma Constitution;

9 2. Transport alcoholic beverages from the place of purchase to
10 the licensed premises unless the licensee also holds a private
11 carrier license issued by the ~~ABLE Commission~~ Bureau;

12 3. Use or allow the use of any mark or label on a container of
13 alcoholic beverage which is kept for sale which does not clearly and
14 precisely indicate the nature of the contents or which might deceive
15 or conceal the nature, composition, quantity, age or quality of such
16 beverage;

17 4. Keep or knowingly permit any alcoholic beverage to be kept,
18 brought or consumed on the licensed premises which is not allowed to
19 be sold or served upon such premises; or

20 5. Allow any person under twenty-one (21) years of age to enter
21 into, remain within or loiter about the designated bar area of the
22 licensed premises, except for persons who incidentally pass through
23 the designated area.

1 The prohibition in this subsection against persons under twenty-
2 one (21) years of age entering or remaining within the designated
3 bar area of the licensed premises shall not apply, if the licensed
4 premises are closed to the public during a time the premises are
5 legally permitted to be open for business and the premises are used
6 for a private party at which alcoholic beverages may be served to
7 persons twenty-one (21) years of age or older. Any alcoholic
8 beverages served at a private party on the licensed premises may be
9 purchased from the licensee at a negotiated price or purchased
10 privately and served at the private party on the licensed premises.
11 Any licensee who desires to conduct such a private party shall
12 notify the ~~ABLE Commission~~ Bureau, in writing, at least ten (10)
13 calendar days prior to the private party. The notification shall
14 include the date, time, and purpose of the private party and any
15 other information the ~~ABLE Commission~~ Bureau may deem necessary.

16 F. No bottle club licensee shall:

17 1. Use or allow the use of any mark or label on a container of
18 alcoholic beverage which does not clearly and precisely indicate the
19 nature of the contents or which might deceive or conceal the nature,
20 composition, quantity, age or quality of any such beverage;

21 2. Act as an agent for any bottle club member and purchase any
22 alcoholic beverage for the member;

23 3. Use or allow the use of any pool system of storage or
24 purchase of alcoholic beverages;

1 4. Allow any person to enter or remain in the designated bar or
2 lounge area of the club unless that person possesses a valid
3 membership card for that club issued by the club;

4 5. Sell any alcoholic beverage;

5 6. Deliver or furnish to any club member any alcoholic beverage
6 that does not belong to the member;

7 7. Serve alcoholic beverages to any person who does not possess
8 a valid membership card for that club issued by the club;

9 8. Issue a membership card for the club to a person under
10 twenty-one (21) years of age; or

11 9. Allow any person under twenty-one (21) years of age to enter
12 into, remain within or loiter about the designated bar area of the
13 licensed premises, except for members of a musical band employed or
14 hired as provided in paragraph 2 of subsection B of this section
15 when the band is to perform within such area.

16 The prohibition in this subsection against persons under twenty-
17 one (21) years of age entering or remaining within the designated
18 bar area of the licensed premises shall not apply, if the licensed
19 premises are closed to the public during a time the premises are
20 legally permitted to be open for business and the premises are used
21 for a private party at which alcoholic beverages may be served to
22 persons twenty-one (21) years of age or older. Any alcoholic
23 beverages served at a private party on the licensed premises may be
24 purchased from the licensee at a negotiated price or purchased

1 privately and served at the private party on the licensed premises.
2 Any licensee who desires to conduct such a private party shall
3 notify the ~~ABLE Commission~~ Bureau, in writing, at least ten (10)
4 calendar days prior to the private party. The notification shall
5 include the date, time, and purpose of the private party and any
6 other information the ~~ABLE Commission~~ Bureau may deem necessary.

7 G. No special event or caterer licensee shall:

8 1. Purchase or receive any alcoholic beverage other than from a
9 person holding a wholesaler or Class B wholesaler license issued
10 pursuant to the provisions of the Oklahoma Alcoholic Beverage
11 Control Act; provided, a special event or caterer licensee may
12 purchase wine produced at wineries in this state directly from an
13 Oklahoma winemaker as provided in Section 3 of Article XXVIII of the
14 Oklahoma Constitution; or

15 2. Transport alcoholic beverages from the place of purchase to
16 the licensed premises unless the licensee also holds a private
17 carrier license issued by the ~~ABLE Commission~~ Bureau.

18 H. No person operating a cafe, restaurant, club, or any place
19 of recreation shall permit any person to be drunk or intoxicated in
20 the person's place of business.

21 SECTION 69. AMENDATORY 37 O.S. 2001, Section 537.1, is
22 amended to read as follows:

23

24

1 Section 537.1 No mixed beverage, beer and wine, bottle club,
2 caterer or special event licensee or any employee, manager, operator
3 or agent thereof shall:

4 1. Consume or be under the influence of alcoholic beverages
5 during the hours he is on duty. For the purposes of this section,
6 licensees will be deemed to be on duty from the time he first comes
7 on duty until the time he goes off duty at the end of the shift,
8 including any break periods permitted by management. This paragraph
9 shall not apply to any person who works on the premises as an
10 entertainer only;

11 2. Permit or tolerate any conduct or language which is intended
12 to threaten another with physical harm or any fighting or offensive
13 physical contact, in or upon the licensed premises or areas just
14 outside the licensed premises which are controlled by the licensee;

15 3. Permit empty or discarded alcoholic beverage containers to
16 be in public view outside the licensed premises. All empty or
17 discarded containers shall be disposed of in accordance with ~~ABLE~~
18 ~~Commission~~ Oklahoma State Bureau of Narcotics and Dangerous Drugs
19 Control rules and regulations;

20 4. Permit any illegal gambling activity, violations of the
21 state narcotic and dangerous drug laws, or prostitution activity or
22 any other criminal conduct to occur on the licensed premises;

23 5. Refuse or fail to promptly open a door to the licensed
24 premises upon request of an agent or inspector of the ~~Alcoholic~~

1 ~~Beverage Laws Enforcement Commission~~ Oklahoma State Bureau of
2 Narcotics and Dangerous Drugs Control or any other peace officer to
3 enter the premises, when the licensee or employee knows or should
4 know that such request is made by an agent or inspector of the ~~ABLE~~
5 ~~Commission~~ Bureau or any other peace officer. This provision shall
6 not be construed to deny agents of the ~~ABLE-Commission~~ Bureau or any
7 other peace officer access at any time to any licensed premises;

8 6. Permit a sealed or unsealed container of alcoholic beverage
9 to be removed from the licensed premises. Provided that
10 restaurants, hotels and motels may permit the removal of closed
11 original wine containers the contents of which have been partially
12 consumed and bottle clubs may permit the removal by a club member of
13 closed original containers of alcoholic beverages belonging to said
14 members. The provisions of this paragraph shall not be construed to
15 prohibit or restrict hotels or motels who are holders of mixed
16 beverage or beer and wine licenses from allowing alcoholic beverages
17 to be served away from the bar area anywhere on the licensed
18 premises; or

19 7. Destroy, damage, alter, remove or conceal potential
20 evidence, or attempt to do so, or refuse to surrender evidence when
21 lawfully requested to do so by an inspector, agent or any other
22 peace officer or incite another person to do any of the above.

23 SECTION 70. AMENDATORY 37 O.S. 2001, Section 538, is
24 amended to read as follows:

1 Section 538. A. Any person who shall operate a whiskey still
2 with intent to produce alcoholic beverages or any person who shall
3 carry on the business of a distiller without having in his
4 possession a valid and existing distiller's license issued pursuant
5 to the provisions of the Oklahoma Alcoholic Beverage Control Act
6 shall be guilty of a felony and upon conviction be fined not less
7 than Two Thousand Five Hundred Dollars (\$2,500.00) nor more than
8 Five Thousand Dollars (\$5,000.00), or imprisoned ~~in the State~~
9 ~~Penitentiary~~ for not more than three (3) years, or both such fine
10 and imprisonment.

11 B. Any person who shall file a false or fraudulent return in
12 connection with any tax imposed by the Oklahoma Alcoholic Beverage
13 Control Act, or willfully evade, or attempt to evade, any tax herein
14 levied shall be guilty of a felony and upon conviction be fined not
15 less than Two Thousand Five Hundred Dollars (\$2,500.00) nor more
16 than Five Thousand Dollars (\$5,000.00), or imprisoned ~~in the State~~
17 ~~Penitentiary~~ for not more than three (3) years, or both such fine
18 and imprisonment.

19 C. Any person who shall knowingly engage in any activity or
20 perform any transaction or act for which a license is required under
21 the Oklahoma Alcoholic Beverage Control Act, not having such
22 license, shall be guilty of a misdemeanor and for the first offense
23 be fined not more than Two Thousand Five Hundred Dollars (\$2,500.00)
24 and imprisoned for not less than thirty (30) days nor more than six

1 (6) months, and for a second or subsequent offense shall be guilty
2 of a felony and be fined not more than Two Thousand Five Hundred
3 Dollars (\$2,500.00), or imprisoned ~~in the State Penitentiary~~ for not
4 more than one (1) year, or both such fine and imprisonment.

5 D. Any person holding a license issued pursuant to the Oklahoma
6 Alcoholic Beverage Control Act who shall sell or deliver alcoholic
7 beverage to any person not entitled to purchase or receive same,
8 except as provided in subsection F of this section, or who shall
9 possess for sale any alcoholic beverage which he is not entitled to
10 sell under his license, or any person who buys any alcoholic
11 beverage, either retail or wholesale, from any person other than a
12 licensed dealer under the terms of the Oklahoma Alcoholic Beverage
13 Control Act, shall be guilty of a misdemeanor and upon conviction be
14 fined not more than One Thousand Five Hundred Dollars (\$1,500.00),
15 or imprisoned in the county jail for not more than six (6) months,
16 or both such fine and imprisonment.

17 E. Any person under twenty-one (21) years of age who shall
18 misrepresent his age in writing or by presenting false documentation
19 of age for the purpose of inducing any person to sell or serve him
20 alcoholic beverage or issue him a bottle club membership card, or
21 who enters or attempts to enter a package store or a separate or
22 enclosed bar area as designated by the ~~ABLE Commission~~ Oklahoma
23 State Bureau of Narcotics and Dangerous Drugs Control, shall be
24 guilty of a misdemeanor and fined not more than Fifty Dollars

1 (\$50.00). In addition, if a person is convicted or pleads guilty to
2 a violation of the provisions of this subsection in any court having
3 jurisdiction over said offense, the court may order the Department
4 of Public Safety to cancel or deny the offender's privilege to
5 operate a motor vehicle and, upon such order, shall require that the
6 operator's or chauffeur's license, if any, be surrendered to the
7 Department pursuant to Section 6-209 of Title 47 of the Oklahoma
8 Statutes. The cancellation or denial period shall be for one (1)
9 year, or until the person reaches twenty-one (21) years of age,
10 whichever is longer.

11 Any person whose driving privileges are ordered cancelled or
12 denied pursuant to this section may petition the court of original
13 jurisdiction for review of the order. Upon notice and hearing, the
14 court may modify or withdraw the order as the court deems
15 appropriate except:

16 1. A court may not withdraw an order for at least ninety (90)
17 days following the issuance of the order if it is the first such
18 order issued regarding the person named; and

19 2. A court may not withdraw an order for at least six (6)
20 months following the issuance of the order if it is the second or
21 subsequent such order issued regarding the person named.

22 If the Department receives written notice from the court of
23 original jurisdiction that it has withdrawn such an order, the
24 Department shall immediately reinstate any driving privileges that

1 have been canceled or denied under this section, without requiring
2 payment of a reinstatement fee.

3 F. Any person who shall knowingly sell, furnish or give
4 alcoholic beverage to a person under twenty-one (21) years of age
5 shall be guilty of a felony, and shall be fined not less than Two
6 Thousand Five Hundred Dollars (\$2,500.00) nor more than Five
7 Thousand Dollars (\$5,000.00), or imprisoned ~~in the State~~
8 ~~Penitentiary~~ for not more than five (5) years, or both such fine and
9 imprisonment. The ~~ABLE Commission~~ Oklahoma State Bureau of
10 Narcotics and Dangerous Drugs Control shall revoke the license of
11 any person convicted of a violation of this subsection.

12 G. Any person who shall knowingly sell, furnish or give
13 alcoholic beverage to an insane, mentally deficient, or intoxicated
14 person shall be guilty of a felony, and shall be fined not less than
15 Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars
16 (\$1,000.00), or imprisoned ~~in the State Penitentiary~~ for not more
17 than one (1) year, or both such fine and imprisonment.

18 H. The payment of the special tax required of liquor dealers by
19 the United States by any person within this state without a
20 corresponding state license shall constitute prima facie evidence of
21 an intention to violate the provisions of the Oklahoma Alcoholic
22 Beverage Control Act.

23 I. Any person operating a cafe, restaurant, club or any place
24 of recreation who permits any person to be drunk or intoxicated in

1 said place of business shall be guilty of a misdemeanor, and shall
2 be fined not more than One Hundred Dollars (\$100.00), or imprisoned
3 for not more than thirty (30) days or by both such fine and
4 imprisonment.

5 J. Any person selling or keeping a package store open to sell
6 any alcoholic beverage during any day or hours not authorized by the
7 Oklahoma Alcoholic Beverage Control Act shall be guilty of a
8 misdemeanor.

9 SECTION 71. AMENDATORY 37 O.S. 2001, Section 538.3, is
10 amended to read as follows:

11 Section 538.3 All law enforcement officers, upon arrest of any
12 holder of a license issued by the ~~Alcoholic Beverage Laws~~
13 ~~Enforcement Commission~~ Oklahoma State Bureau of Narcotics and
14 Dangerous Drugs Control for a violation of any state law or
15 municipal ordinance in which the violation of any alcoholic beverage
16 law had any part, shall immediately notify the ~~ABLE Commission~~
17 Bureau thereof. Such officers shall notify the ~~ABLE Commission~~
18 Bureau of any acts, practices or other conduct of any such licensee
19 which may be subversive to the general welfare or contrary to the
20 spirit of the Oklahoma Alcoholic Beverage Control Act and shall
21 recommend appropriate action to be taken by the ~~ABLE Commission~~
22 Bureau.

23 SECTION 72. AMENDATORY 37 O.S. 2001, Section 539, is
24 amended to read as follows:

1 Section 539. A. A search warrant may be issued pursuant to the
2 provisions of Sections 1221 through 1264 of Title 22 of the Oklahoma
3 Statutes, as amended, for the purpose of searching for, seizing,
4 destroying or holding any alcoholic beverages possessed, sold,
5 transported, manufactured, kept, or stored in violation of the
6 Oklahoma Alcoholic Beverage Control Act; for the purpose of
7 searching for and seizing any apparatus, vehicle, equipment, or
8 instrumentality used for, or intended for use in, manufacturing or
9 transporting any alcoholic beverage in violation of the Oklahoma
10 Alcoholic Beverage Control Act; and all such property shall be
11 forfeited to the State of Oklahoma. This section shall not be
12 construed to require a search warrant for duly authorized agents of
13 the ~~Alcoholic Beverage Laws Enforcement Commission~~ Oklahoma State
14 Bureau of Narcotics and Dangerous Drugs Control to enter upon and
15 inspect any licensed premises, but such right of entry and
16 inspection shall be a condition on which every license shall be
17 issued and the application for, and acceptance of, any license
18 hereunder shall conclusively be deemed to be consent of the
19 applicant and licensee to such entry and inspection.

20 B. Any alcoholic beverages upon which the appropriate federal
21 excise tax has not been paid at the time of seizure under this
22 section shall be destroyed by the sheriff who seized the same or to
23 whom the same has been delivered in accordance with the provisions
24 of Section 1261 of Title 22 of the Oklahoma Statutes, as amended,

1 after the same is no longer needed as evidence in any criminal
2 prosecution. All other property, including alcoholic beverages upon
3 which the appropriate federal excise tax has been paid, seized under
4 this section shall be forfeited to the State of Oklahoma by order of
5 the court issuing the process by virtue of which such property was
6 seized, or before which the persons violating the law, or to which
7 such property was taken by the officer or officers making the
8 seizure. Said court shall, without a jury, order an immediate
9 hearing as to whether the property so seized was subject to seizure
10 under this section, and take such legal evidence as is offered, and
11 determine the same as in civil cases. If the court finds from a
12 preponderance of the evidence that the property so seized was
13 subject to seizure under this section, it shall render judgment
14 accordingly and order said property forfeited to the State of
15 Oklahoma unless seized by county or municipal law enforcement
16 officers in which case said property shall be forfeited to the
17 county or municipality, whichever is appropriate, in which the
18 seizure of the property took place. Such seized property shall be
19 sold by the officer having the same in charge, after giving ten (10)
20 days' notice by one publication in a legal newspaper of the county
21 or, if no legal newspaper is published in said county, after five
22 notices of such sale have been posted in conspicuous places in the
23 city or town wherein such sale is to be made, at least ten (10) days
24 before such sale. Appeal from such an order may be taken as in

1 civil cases. When such property is sold under the provisions of
2 this section, the proceeds thereof shall be distributed as follows:
3 First, to the payment of the costs of the case in which the order of
4 forfeiture was made and the actual expenses of preserving the
5 property; and second, the remainder shall be deposited with the
6 county or municipal treasurer of the county or municipality in which
7 the seizure took place if the property was seized by county or
8 municipal law enforcement officials or with the State Treasurer to
9 the credit of the General Revenue Fund of the State of Oklahoma in
10 all other cases.

11 SECTION 73. AMENDATORY 37 O.S. 2001, Section 542, is
12 amended to read as follows:

13 Section 542. A. Payment of the excise tax levied by Section
14 553 of ~~the Oklahoma Alcoholic Beverage Control Act~~ this title with
15 respect to beer shall be made by the brewer or the Class B
16 wholesaler as herein provided. The tax shall be due and payable on
17 the first day of each month for the preceding calendar month and if
18 not paid on or before the tenth day of each month shall thereafter
19 be delinquent.

20 B. Every brewer, and Class B wholesaler, shall make and
21 transmit to the Oklahoma Tax Commission on or before the tenth day
22 of each calendar month, upon a form prescribed and furnished by the
23 Tax Commission, an itemized and verified report, for the preceding
24 calendar month, showing the following information:

1 1. Total quantity and description of opening inventory of beer
2 as of the first day of said month;

3 2. Total receipts and acquisitions during month from every
4 source. This shall be itemized showing imports and purchases within
5 and without this state separately; the kind and quantity of each
6 type of beer as shown by the shipper's or seller's invoices thereof;
7 the date of each purchase; the amounts purchased; the date received;
8 the person from whom purchased; the manifest, bill of lading or
9 delivery invoice number of each shipment, which number shall be the
10 number used by the original seller as shown on the basic shipping
11 records which accompany the shipment; the point of origin and point
12 of destination of each shipment; and the name and ~~Alcoholic Beverage~~
13 ~~Laws Enforcement Commission~~ Oklahoma State Bureau of Narcotics and
14 Dangerous Drugs Control license number of the carrier if shipped by
15 carrier;

16 3. The kind and quantity of all beer sold or withdrawn from
17 stock for sale, use or consumption in the State of Oklahoma during
18 the preceding calendar month; the date of each sale; the kind and
19 quantity of beer in each sale; the name, address and ~~ABLE Commission~~
20 Bureau license number of each purchaser, the manifest, bill of
21 lading or delivery invoice number, which number shall be the number
22 as shown on the basic shipping records which accompany the delivery;
23 and the name and ~~ABLE Commission~~ Bureau license number of the
24 carrier if shipped by carrier;

1 4. All nontaxable sales and dispositions made during said
2 month, including exports and sales and deliveries to military
3 installations located within this state, shall be reported and
4 information in reference to each such nontaxable sale, disposition,
5 and export shall be shown in detail as is required for sales in the
6 State of Oklahoma and shall be supported by evidence satisfactory to
7 the Oklahoma Tax Commission;

8 5. Closing inventory of beer as of the last day of the calendar
9 month; and

10 6. Such other information pertaining to the brewer's, and Class
11 B wholesaler's, beginning inventory of beer, receipts or
12 acquisitions thereof, sales and dispositions thereof, and the
13 closing inventory, as the Oklahoma Tax Commission may, by form or
14 regulation, require.

15 C. Every brewer, and Class B wholesaler, at the time of making
16 the monthly report required by this section, shall remit to the
17 Oklahoma Tax Commission the total amount of the excise tax due as
18 shown by said report.

19 It shall be unlawful for any brewer, or Class B wholesaler, to
20 sell or offer for sale any beer while delinquent in the payment of
21 any excise tax due the state.

22 D. Reports and remittances, as required herein, which are
23 mailed on the tenth day of the month and received by the Oklahoma
24 Tax Commission subsequent to the tenth of the month in which the

1 excise tax is payable, shall be deemed to have been received by the
2 Tax Commission before becoming delinquent. Postmark or registry
3 receipt showing deposit in the United States mails shall be
4 conclusive evidence of the date of mailing. The time for filing
5 returns and paying the excise tax levied by the Oklahoma Alcoholic
6 Beverage Control Act shall not be extended.

7 E. If upon investigation it is determined by the Oklahoma Tax
8 Commission that any nontaxable disposition or sale claimed by any
9 brewer or Class B wholesaler is not supported by a valid invoice, or
10 is fraudulently or falsely claimed in any manner by such brewer or
11 Class B wholesaler or any agent of such licensee, the Tax Commission
12 shall disallow any such deduction and shall assess and collect the
13 tax, together with the penalty and interest thereon, on the total
14 amount of the disallowed deduction taken by said licensee.

15 F. The taking and claiming of any deduction not authorized by
16 law, upon a report by any brewer or Class B wholesaler, or the
17 failure to file monthly reports or to pay any excise tax due, shall
18 constitute grounds for the revocation of such person's license by
19 the ~~ABLE~~ Oklahoma State Bureau of Narcotics and Dangerous Drugs
20 Control, or the Oklahoma Tax Commission with respect to wholesaler
21 and Class B wholesaler licenses and the Tax Commission shall
22 promptly notify ~~such ABLE Commission~~ the Bureau of all such cases.

23 SECTION 74. AMENDATORY 37 O.S. 2001, Section 543, is
24 amended to read as follows:

1 Section 543. A. Every wholesaler, or other person authorized
2 under the Oklahoma Alcoholic Beverage Control Act to import
3 alcoholic beverages into this state, shall make and transmit to the
4 Oklahoma Tax Commission on or before the tenth day of each month,
5 upon a form prescribed and furnished by the Oklahoma Tax Commission,
6 an itemized and verified report for the preceding calendar month,
7 showing the following information:

8 1. Opening inventory of alcoholic beverages other than beer;

9 2. Total receipts and acquisitions during month from every
10 source. This shall be itemized showing imports and purchases from
11 within and without this state separately; the kind, proof and
12 quantity of each type of alcoholic beverages as shown by the
13 shipper's or seller's invoices thereof; the date of each purchase;
14 the amount purchased; the date received; the person from whom
15 purchased; the manifest, bill of lading or delivery invoice number
16 of each shipment, which number shall be the number used by the
17 original seller as shown on the basic shipping records which
18 accompany the shipment; and the point of origin and point of
19 destination of each shipment;

20 3. The kind and quantity of all alcoholic beverages sold or
21 withdrawn from inventory for sale, use, or consumption during the
22 calendar month; the date of each sale; and the kind, proof and
23 quantity of alcoholic beverages in each sale; the name, address and
24 ~~Alcoholic Beverage Laws Enforcement Commission~~ Oklahoma State Bureau

1 of Narcotics and Dangerous Drugs Control license number of each
2 purchaser, and the manifest, bill of lading or delivery invoice
3 number, which number shall be the number as shown on the basic
4 shipping records which accompany the delivery;

5 4. All nontaxable sales and dispositions made during said
6 month, supported by evidence satisfactory to the Oklahoma Tax
7 Commission;

8 5. Closing inventory of alcoholic beverages as of the last day
9 of the calendar month; and

10 6. Such other information pertaining to the wholesaler's
11 beginning inventory of alcoholic beverages, receipts or acquisitions
12 thereof, sales and dispositions thereof, and closing inventory, as
13 the Oklahoma Tax Commission may by form or regulation require.

14 B. If upon investigation it is determined by the Oklahoma Tax
15 Commission that any nontaxable disposition or sale claimed by any
16 licensee is not supported by a valid invoice, or is fraudulently or
17 falsely claimed in any manner by such licensee or any agent of such
18 licensee, the Oklahoma Tax Commission shall disallow any such
19 deduction and shall assess and collect the excise tax, together with
20 the penalty and interest thereon, on the total amount of the
21 disallowed deduction taken by said licensee.

22 C. The taking and claiming of any deduction not authorized by
23 law, upon a report by any wholesaler or the failure to file monthly
24 reports or pay any excise tax due, shall constitute grounds for the

1 revocation of such person's license, distributor permit or
2 wholesaler permit by the ~~ABLE~~ Oklahoma State Bureau of Narcotics and
3 Dangerous Drugs Control or the Oklahoma Tax Commission and the
4 Oklahoma Tax Commission shall promptly notify the ~~ABLE Commission~~
5 Bureau of all such cases.

6 SECTION 75. AMENDATORY 37 O.S. 2001, Section 545, is
7 amended to read as follows:

8 Section 545. A. All bottles or other original containers of
9 alcoholic beverages in the possession of any person upon which the
10 taxes have not been paid as required by the Oklahoma Alcoholic
11 Beverage Control Act and the rules and regulations thereunder are
12 declared to be contraband. Any duly authorized officer or employee
13 of the ~~Alcoholic Beverage Laws Enforcement Commission~~ Oklahoma State
14 Bureau of Narcotics and Dangerous Drugs Control or Oklahoma Tax
15 Commission is authorized to seize the same, and such containers of
16 alcoholic beverages so seized shall be subject to confiscation and
17 forfeiture by the ~~ABLE Commission~~ Bureau as hereinafter provided.

18 B. If, upon examination of invoices or from other
19 investigation, the Tax Commission or the ~~ABLE Commission~~ Bureau
20 finds that any alcoholic beverages, except beer, have been sold
21 without tax payment as required by the Oklahoma Alcoholic Beverage
22 Control Act, the Tax Commission shall have the power to require such
23 person to pay to the Tax Commission as such tax a sum equal to twice
24 the amount of the tax due. If any person is unable to furnish

1 evidence to the Tax Commission of excise tax payment to cover
2 purchases of alcoholic beverages, except beer, made by such person,
3 the prima facie presumption shall arise that such alcoholic
4 beverages were sold without excise tax payment.

5 It is expressly provided, except where specific provisions of
6 the Oklahoma Alcoholic Beverage Control Act require otherwise, that
7 the procedures and remedies contained in the Uniform Tax Procedure
8 Code, of the Oklahoma Statutes in connection with the making of
9 assessments, and the enforcement and collection thereof, the
10 penalties and interest to be applied, all lien and tax warrant
11 provisions, all incidental remedies, including procedure for an
12 injunction, and all other provisions of the Uniform Tax Procedure
13 Code which may be applied or used to enforce the provisions of the
14 Oklahoma Alcoholic Beverage Control Act, shall be applicable and
15 available to the Oklahoma Tax Commission in administering the
16 provisions hereof and collecting the taxes herein levied on
17 alcoholic beverages.

18 SECTION 76. AMENDATORY 37 O.S. 2001, Section 546, is
19 amended to read as follows:

20 Section 546. Any officer or enforcement employee of the
21 ~~Alcoholic Beverage Laws Enforcement Commission~~ Oklahoma State Bureau
22 of Narcotics and Dangerous Drugs Control or Oklahoma Tax Commission
23 shall have power and authority, without a warrant, to enter and
24 examine the licensed premises of all licensees to determine whether

1 any licensee has in his possession any container of alcoholic
2 beverage upon which the taxes have not been paid as required by the
3 Oklahoma Alcoholic Beverage Control Act and the rules and
4 regulations thereunder, and if such officer or employee shall find
5 any such container of alcoholic beverages he shall immediately seize
6 the same. Such officers and employees of the ~~ABLE-Commission~~ Bureau
7 or Oklahoma Tax Commission shall be given free access to and shall
8 not be hindered or interfered with in their examination of the
9 licensed premises of any licensees, and, in case any such officer or
10 employee is denied free access or is hindered or interfered with in
11 making such examination, any license held by the person preventing
12 such free access or interfering with or hindering such officer or
13 employee shall be subject to suspension or revocation.

14 SECTION 77. AMENDATORY 37 O.S. 2001, Section 547, is
15 amended to read as follows:

16 Section 547. A. After the seizure of such container of
17 alcoholic beverage upon which the taxes have not been paid, any
18 officer or employee of the ~~Alcoholic Beverage Laws Enforcement~~
19 ~~Commission~~ Oklahoma State Bureau of Narcotics and Dangerous Drugs
20 Control, designated in writing by the Director, shall hold a hearing
21 to determine whether the container of alcoholic beverage seized did
22 not have the necessary taxes paid as required by the Oklahoma
23 Alcoholic Beverage Control Act and the rules and regulations
24 thereunder. The ~~ABLE-Commission~~ Bureau shall give not less than

1 seven (7) days' notice of the time and place of such hearing to the
2 owner of such container of alcoholic beverage if he is known, and
3 also to the person in whose possession such container was found if
4 such person is known and if such person in possession is not the
5 owner of said property. The Director, or any officer or employee of
6 the ~~ABLE Commission~~ Bureau, designated to conduct such hearing,
7 shall have power to administer oaths, and the power to issue
8 subpoenas requiring the attendance of and the giving of testimony by
9 witnesses, and subpoenas duces tecum requiring the production of
10 books, papers, records and memoranda.

11 B. Pursuant to such hearing, the ~~ABLE Commission~~ Bureau shall
12 determine whether the container of alcoholic beverage seized did not
13 have the taxes paid as required by the Oklahoma Alcoholic Beverage
14 Control Act and the rules and regulations thereunder, and upon a
15 decision to that effect an order shall be entered that such
16 container of alcoholic beverage is confiscated and forfeited to the
17 State of Oklahoma. The ~~ABLE Commission~~ Bureau shall give notice of
18 such order to the owner of such container of alcoholic beverage if
19 he is known and also to the person in whose possession said property
20 so taken was found if such person is known and if such person in
21 possession is not the owner of said property.

22 SECTION 78. AMENDATORY 37 O.S. 2001, Section 548, is
23 amended to read as follows:

24

1 Section 548. After an order of forfeiture, and when a
2 proceedings for judicial review of the order has been concluded or
3 the time for judicial review has expired, the ~~Alcoholic Beverage~~
4 ~~Laws Enforcement Commission~~ Oklahoma State Bureau of Narcotics and
5 Dangerous Drugs Control, to the extent that its order is sustained
6 on review, shall sell such forfeited alcoholic beverage at such time
7 and place and in such manner as it deems advisable. Proceeds of
8 such sales shall be deposited with the State Treasurer for the
9 credit of the ~~General Revenue~~ Bureau of Narcotics Alcohol
10 Enforcement and Education Revolving Fund of the State of Oklahoma
11 created pursuant to Section 126 of this act.

12 SECTION 79. AMENDATORY 37 O.S. 2001, Section 549, is
13 amended to read as follows:

14 Section 549. Every person who shall have in his possession more
15 than one (1) liter of alcoholic beverages, the bottle or other
16 original container upon which the excise tax levied by Section 553
17 of this title has not been paid as provided for by the Oklahoma
18 Alcoholic Beverage Control Act, shall be guilty of a misdemeanor,
19 and if such person is the holder of a license under this act such
20 license shall be subject to revocation or suspension by the
21 ~~Alcoholic Beverage Laws Enforcement Commission~~ Oklahoma State Bureau
22 of Narcotics and Dangerous Drugs Control. The ~~ABLE Commission~~
23 Bureau may adopt rules and regulations for hearings on a revocation
24 of a license for violation of the provisions of this section.

1 Provided the ~~ABLE Commission~~ Bureau may suspend any license for a
2 violation of this section for a period of thirty (30) days with
3 notice of hearing as the ~~ABLE Commission~~ Bureau may determine.

4 SECTION 80. AMENDATORY 37 O.S. 2001, Section 551, is
5 amended to read as follows:

6 Section 551. Every manufacturer of alcoholic beverages other
7 than beer shall package, ship, store and deliver same in cases, and
8 no alcoholic beverage other than beer shall be sold, shipped, stored
9 or delivered by any such manufacturer except in sealed cases. Every
10 manufacturer of alcoholic beverages other than beer shall serially
11 number such cases on the end of the case where the brand and product
12 are identified. All such cases shall be sealed by tape or such
13 other method as the ~~Alcoholic Beverage Laws Enforcement Commission~~
14 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control by
15 rules and regulations may provide so that the contents of such cases
16 cannot be removed without breaking or destroying such seal. It
17 shall be unlawful for any person to remove the alcoholic beverage
18 contents of a case so sealed without breaking or destroying such
19 seal. No wholesaler or Class B wholesaler shall receive or accept
20 any alcoholic beverages other than beer in this state except in
21 sealed cases so numbered. Any holder of a license or permit
22 violating the provisions of this section shall be subject to
23 revocation or suspension of his license.

1 SECTION 81. AMENDATORY 37 O.S. 2001, Section 552, is
2 amended to read as follows:

3 Section 552. All licensees under the Oklahoma Alcoholic
4 Beverage Control Act shall keep books and records with regard to
5 alcoholic beverages which shall contain such information and
6 itemization thereof as the ~~Alcoholic Beverage Laws Enforcement~~
7 ~~Commission~~ Oklahoma State Bureau of Narcotics and Dangerous Drugs
8 Control may prescribe by rules and regulations. All books, records,
9 inventories, invoices and other accounting documents required by
10 this act shall be kept for three (3) years and shall at all times be
11 available for inspection by duly authorized representatives of the
12 ~~ABLE Commission~~ Bureau and Oklahoma Tax Commission.

13 SECTION 82. AMENDATORY 37 O.S. 2001, Section 553, as
14 last amended by Section 7, Chapter 484, O.S.L. 2003 (37 O.S. Supp.
15 2007, Section 553), is amended to read as follows:

16 Section 553. A. Except as provided in paragraph 6 of this
17 subsection, an excise tax is hereby levied and imposed upon all
18 alcoholic beverages imported or manufactured, for sale, use or
19 distribution, or used or possessed in this state at the following
20 rates:

- 21 1. One Dollar and forty-seven cents (\$1.47) per liter, and a
22 proportionate rate on fractions thereof, on each liter of spirits;
- 23 2. Nineteen cents (\$0.19) per liter, and a proportionate rate
24 on fractions thereof, on each liter of light wine;

1 3. Thirty-seven cents (\$0.37) per liter, and a proportionate
2 rate on fractions thereof, on each liter of wine containing more
3 than fourteen percent (14%) of alcohol by volume;

4 4. Fifty-five cents (\$0.55) per liter, and a proportionate rate
5 on fractions thereof, on each liter of sparkling wine;

6 5. Twelve Dollars and fifty cents (\$12.50) per barrel (thirty-
7 one (31) wine gallons) and a proportionate rate on portions thereof,
8 on each barrel of beer; and

9 6. Beer manufactured in this state for export shall not be
10 taxed.

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

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

19 2. On and after January 1, 1981, the due and payable excise tax
20 levied by this section shall be made by tax returns filed with the
21 Oklahoma Tax Commission. The tax returns shall be made under oath
22 by the person liable for the tax on forms prescribed and provided by
23 the Oklahoma Tax Commission and shall be accompanied by payment of
24 the taxes due and any additional sums due as provided by this

1 section. Invoices describing all alcoholic beverages as described
2 in this section which are shipped into this state or which are first
3 sold in this state shall be delivered to the Oklahoma Tax Commission
4 and to the ~~Alcoholic Beverage Laws Enforcement Commission~~ Oklahoma
5 State Bureau of Narcotics and Dangerous Drugs Control immediately
6 following shipment of liquors into the state or delivery to the
7 first purchaser. Tax returns and payment of excise tax and other
8 sums due shall be delivered to the Oklahoma Tax Commission no later
9 than the tenth day of the month immediately succeeding the month of
10 shipment, importation or first sale of the alcoholic beverages as
11 provided in paragraph 1 of this subsection;

12 3. All tax returns required to be filed during the twelve-month
13 period beginning January 1, 1981, shall be accompanied by payment of
14 the excise tax due plus an additional payment in the amount of
15 twenty percent (20%) of said tax. Up to ten percent (10%) of the
16 total payments made during said period may be made in the form of
17 revenue stamps previously purchased pursuant to Section 540 of this
18 title; and

19 4. On and after February 1, 1982, each person required to file
20 a tax return pursuant to this section shall remit the excise tax
21 due, less an amount not to exceed two percent (2%) of the total of
22 the additional payments made by said taxpayer pursuant to paragraph
23 3 of this subsection. The total of said deductions shall not exceed
24 the total of the additional payments made pursuant to paragraph 3 of

1 this subsection. Up to ten percent (10%) of each tax payment made
2 under this subsection may be made in the form of revenue stamps
3 previously purchased pursuant to Section 540 of this title.

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

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

11 SECTION 83. AMENDATORY 37 O.S. 2001, Section 554, is
12 amended to read as follows:

13 Section 554. A. The excise tax levied by Section 553 of this
14 title shall not apply to:

15 1. Alcohol used exclusively for industrial purposes by the
16 holder of an industrial license;

17 2. Alcohol lawfully withdrawn and used free of tax under a
18 tax-free permit issued by the United States government;

19 3. Alcoholic beverages used exclusively by licensed physicians
20 and dentists in the bona fide practice of their professions or by
21 licensed pharmacists in compounding prescriptions;

22 4. Cider and wine made for personal use, as provided in Section
23 505 of this title;

24

1 5. Wine used exclusively for sacramental purposes in bona fide
2 religious ceremonies; and

3 6. Alcoholic beverages, not exceeding one (1) liter, imported
4 into this state by the possessor for his own personal use.

5 B. As a condition precedent to the allowance of any exemption
6 authorized by subsection A of this section:

7 1. Where a license or permit is required by the Oklahoma
8 Alcoholic Beverage Control Act, for such use, the person claiming
9 any such exemption must have obtained from the ~~Alcoholic Beverage~~
10 ~~Laws Enforcement Commission~~ Oklahoma State Bureau of Narcotics and
11 Dangerous Drugs Control the license or permit authorizing such
12 exempt use; and

13 2. There must be furnished such proof of the exclusive use for
14 such exempt purposes as the Oklahoma Tax Commission may require.

15 SECTION 84. AMENDATORY 37 O.S. 2001, Section 554.1, is
16 amended to read as follows:

17 Section 554.1 Cities and towns are hereby authorized to levy an
18 annual occupational tax for the privilege of operating as a
19 retailer, mixed beverage, beer and wine, caterer or special event
20 licensee, bottle club, manufacturer, wholesaler or Class B
21 wholesaler, within their respective jurisdictions, not to exceed the
22 state license fee for such licensees; provided that the
23 aforementioned tax shall be levied only by the city or town in which
24 such licensee has his principal place of business. This section

1 shall not give any city or town any right to determine or regulate
2 the issuance of any license, except as specifically provided for in
3 this section, as the ~~Alcoholic Beverage Laws Enforcement Commission~~
4 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall
5 have exclusive authority as to issuance and regulations of said
6 licenses and no city or town may prescribe rules or regulations in
7 conflict with or in addition to the statutes of this state or the
8 rules of the ~~ABLE Commission~~ Bureau.

9 Cities or towns which levy an occupational tax under this
10 section shall make an annual report to the ~~ABLE Commission~~ Bureau,
11 covering the fiscal year, showing the number and class of licensees
12 subject to said tax, and the amount of money received therefrom,
13 which information is to be included in the annual report of the ~~ABLE~~
14 ~~Commission~~ Bureau submitted to the Governor, and transmitted to the
15 Legislature.

16 SECTION 85. AMENDATORY 37 O.S. 2001, Section 554.2, is
17 amended to read as follows:

18 Section 554.2 Counties are hereby authorized to levy an annual
19 occupational tax for the privilege of operating as a mixed beverage,
20 beer and wine, caterer or special event licensee or as a bottle
21 club, within their respective jurisdictions and not located in a
22 city or town levying an occupation tax as provided by Section 554.1
23 of this title, not to exceed the state license fee for such
24 licensees; provided that the aforementioned tax shall be levied only

1 by the county in which such licensee has his principal place of
2 business. All revenues derived from any such annual occupational
3 tax shall be deposited in the general revenue fund of the county.
4 This section shall not give any county any right to determine or
5 regulate the issuance of any license, except as specifically
6 provided for in this section, as the ~~Alcoholic Beverage Laws~~
7 ~~Enforcement Commission~~ Oklahoma State Bureau of Narcotics and
8 Dangerous Drugs Control shall have exclusive authority as to
9 issuance and regulations of said licenses and no county may
10 prescribe rules or regulations in conflict with or in addition to
11 the statutes of this state or the rules of the ~~ABLE Commission~~
12 Bureau.

13 Counties which levy an occupational tax under this section shall
14 make an annual report to the ~~ABLE Commission~~ Bureau, covering the
15 fiscal year, showing the number and class of licensees subject to
16 said tax, and the amount of money received therefrom, which
17 information is to be included in the annual report of the ~~ABLE~~
18 ~~Commission~~ Bureau submitted to the Governor, and transmitted to the
19 Legislature.

20 SECTION 86. AMENDATORY 37 O.S. 2001, Section 555, is
21 amended to read as follows:

22 Section 555. Every holder of a nonresident seller license shall
23 make and transmit to the Oklahoma Tax Commission, on or before the
24 tenth day of each month upon a form prescribed and furnished by the

1 Oklahoma Tax Commission, an itemized and verified report for the
2 preceding calendar month, showing each shipment or sale of alcoholic
3 beverages into Oklahoma. Such report shall show the date of the
4 shipment; the total quantity of the shipment; the name and ~~Alcoholic~~
5 ~~Beverage Laws Enforcement Commission~~ Oklahoma State Bureau of
6 Narcotics and Dangerous Drugs Control license number of the Oklahoma
7 purchaser; and the manifest, bill of lading or invoice number of
8 each shipment. Such report shall be accompanied by duplicate
9 original copies of each manifest, invoice, bill of lading or other
10 document showing the details, including the proof of all spirits, of
11 all shipments during such calendar month.

12 SECTION 87. AMENDATORY 37 O.S. 2001, Section 556, is
13 amended to read as follows:

14 Section 556. Every manufacturer, subject to licensing
15 hereunder, shall make and transmit to the Oklahoma Tax Commission,
16 on or before the tenth day of each calendar month, upon a form
17 prescribed and furnished by the Oklahoma Tax Commission, an itemized
18 and verified report, for the preceding calendar month, showing:

19 ~~A.~~ 1. The kind and quantity of all alcoholic beverages
20 manufactured within this state during said month, including the
21 proof of all spirits; the kind and quantity of all alcoholic
22 beverages purchased within this state, including the proof of all
23 spirits; and the kind and quantity of all alcoholic beverages
24 imported into this state during said month, including the proof of

1 all spirits; the name and ~~Alcoholic Beverage Laws Enforcement~~
2 ~~Commission~~ Oklahoma State Bureau of Narcotics and Dangerous Drugs
3 Control license number of the person from whom purchased or
4 received; the manifest, bill of lading, or invoice number of each
5 shipment, which number shall be the number used by the original
6 seller as shown by the basic shipping records which accompanied the
7 shipment; the date of receipt of each shipment; the name and ~~ABLE~~
8 ~~Commission~~ Bureau license number of the carrier, if transported by
9 carrier; and

10 ~~B.~~ 2. All sales of alcoholic beverages made by such
11 manufacturer during such calendar month, both within and without
12 Oklahoma, including in detail the kind and quantity of all alcoholic
13 beverages sold, including the proof of all spirits, as shown by the
14 invoice covering each such sale; the invoice number; the date of
15 each sale; the name, address, the ~~ABLE-Commission~~ Bureau license
16 number of the purchaser; the name and ~~ABLE-Commission~~ Bureau license
17 number of the carrier, if shipped by carrier, and such other
18 information as the Oklahoma Tax Commission may require.

19 SECTION 88. AMENDATORY 37 O.S. 2001, Section 557, is
20 amended to read as follows:

21 Section 557. A. Every common carrier and public carrier
22 transporting alcoholic beverages into, within, or out of, this
23 state, and every bonded warehouseman licensed hereunder, having
24 possession of alcoholic beverages, on or before the tenth day of

1 each month shall make and transmit to the Oklahoma Tax Commission an
2 itemized and verified report for the preceding calendar month on a
3 form prescribed and furnished by the Oklahoma Tax Commission,
4 showing:

5 1. By carriers: Each shipment of alcoholic beverages, the
6 date, point of origin, point of delivery, to whom delivered, and
7 such other information as the Oklahoma Tax Commission shall, by form
8 or regulation, require.

9 2. By bonded warehousemen: The opening inventory of alcoholic
10 beverages, total receipts, date of each receipt, for whom
11 warehoused, warehouse receipt number, date of each withdrawal, by
12 whom each withdrawal is made, withdrawal order number, the closing
13 inventory, and such other information as the Oklahoma Tax Commission
14 may, by regulation or form, require.

15 B. All such carriers and warehousemen shall permit an
16 examination by the Oklahoma Tax Commission, its authorized agents or
17 representatives, of their books and records of alcoholic beverages
18 transported or warehoused. The failure or refusal of any carrier or
19 warehouseman to make and transmit to the Oklahoma Tax Commission any
20 report herein required, or to permit an examination of the records
21 of the carrier or warehouseman, shall constitute grounds for the
22 revocation of such person's license by the ~~Alcoholic Beverage Laws~~
23 ~~Enforcement Commission~~ Oklahoma State Bureau of Narcotics and
24 Dangerous Drugs Control.

1 SECTION 89. AMENDATORY 37 O.S. 2001, Section 559, is
2 amended to read as follows:

3 Section 559. Every manufacturer, importer, broker or other who
4 sells alcoholic beverages to a wholesaler, or Class B wholesaler in
5 Oklahoma, after having been issued a license by the ~~Alcoholic~~
6 ~~Beverage Laws Enforcement Commission~~ Oklahoma State Bureau of
7 Narcotics and Dangerous Drugs Control, shall, before manufacturing,
8 purchasing, or selling any alcoholic beverage within this state,
9 file with the Oklahoma Tax Commission a bond issued by a surety
10 company authorized to transact business in this state, in such
11 amount as the Oklahoma Tax Commission may fix, but which shall be at
12 least equal to the estimated amount of the tax liability of such
13 licensee for a three-month period, to secure the payment of all
14 excise taxes due from sales of alcoholic beverages to a wholesaler,
15 or Class B wholesaler, under the provisions of the Oklahoma
16 Alcoholic Beverage Control Act. Provided, that the amount of the
17 bond for every wholesaler or Class B wholesaler shall be not less
18 than One Thousand Dollars (\$1,000.00). Such bonds shall be payable
19 to the State of Oklahoma and conditioned upon the compliance with
20 the excise tax provisions of the Oklahoma Alcoholic Beverage Control
21 Act and the rules and regulations of the Oklahoma Tax Commission
22 relating thereto. In lieu of such surety bond, any such
23 manufacturer, wholesaler, or Class B wholesaler, may deposit cash or
24

1 negotiable securities, approved by the Oklahoma Tax Commission, in
2 such amount as it may prescribe.

3 SECTION 90. AMENDATORY 37 O.S. 2001, Section 560, is
4 amended to read as follows:

5 Section 560. A. Every manufacturer, wholesaler, Class B
6 wholesaler and nonresident seller, selling alcoholic beverages in
7 this state, or selling alcoholic beverages for shipment into this
8 state shall, at the time such sale is made, make and deliver to the
9 purchaser or transporter an invoice, bill of lading, manifest, or
10 other document describing such alcoholic beverages, showing the date
11 of such sale or delivery, the name and ~~Alcoholic Beverage Laws~~
12 ~~Enforcement Commission~~ Oklahoma State Bureau of Narcotics and
13 Dangerous Drugs Control license number of the seller, the point of
14 origin of the movement of such alcoholic beverages and the
15 destination of same, the kind and quantity and a description of such
16 alcoholic beverages, including the proof of all spirits, the name
17 and ~~ABLE Commission Bureau~~ Bureau license number of the purchaser, the sale
18 price and such other information as the Oklahoma Tax Commission may,
19 by form or regulation, require. Every such invoice, bill of lading,
20 manifest, or other document describing such alcoholic beverages,
21 except beer, must be identified by consecutive numbers printed upon
22 the invoice or document, and each such seller and purchaser must
23 account for each copy of his invoice and each number thereof.

24

1 B. Every common carrier and private carrier, and every person
2 who transports any alcoholic beverages from any point within this
3 state to any other point within or without this state, or who
4 transports alcoholic beverages into this state, shall at all times
5 while such alcoholic beverages are in transit have in the possession
6 of the driver or operator of the transporting carrier or vehicle the
7 invoice, bill of lading, manifest, or other document describing such
8 alcoholic beverages being transported.

9 C. Every manufacturer, wholesaler, or Class B wholesaler,
10 importing into or purchasing in this state any alcoholic beverage,
11 and any retailer purchasing any alcoholic beverage in this state,
12 shall at the time of delivery or acceptance of such alcoholic
13 beverage demand and receive a proper bill of lading, invoice,
14 manifest, or other document, particularly describing such alcoholic
15 beverage and showing the proof of all spirits.

16 D. Every manufacturer, wholesaler, Class B wholesaler,
17 nonresident seller, and retailer shall retain one copy of each
18 invoice, bill of lading, manifest, or similar document covering all
19 such sales and purchases by such licensee, as a part of the
20 permanent records of such licensee for a period of at least three
21 (3) years.

22 E. Any person violating any of the provisions of this section,
23 whether acting for himself or as the agent or employee of any
24 licensee hereunder, shall be guilty of a misdemeanor and, upon

1 conviction, shall be punished as provided by law. Any violation of
2 the provisions of this section shall also constitute grounds for the
3 revocation by the ~~ABLE Commission~~ Bureau of any license issued under
4 the Oklahoma Alcoholic Beverage Control Act.

5 SECTION 91. AMENDATORY 37 O.S. 2001, Section 565, is
6 amended to read as follows:

7 Section 565. Within sixty (60) days after the passage and
8 approval of this act, the ~~Alcoholic Beverage Laws Enforcement~~
9 ~~Commission~~ Oklahoma State Bureau of Narcotics and Dangerous Drugs
10 Control shall adopt such rules and regulations as may be necessary
11 to facilitate the uniform and orderly application for, and issuance
12 of, all licenses or permits provided for on the effective date of
13 this act.

14 SECTION 92. AMENDATORY 37 O.S. 2001, Section 567, is
15 amended to read as follows:

16 Section 567. There is hereby created in the State Treasury a
17 fund to be known as the Alcoholic Beverage Control Fund which shall
18 consist of revenues collected by the state from license and
19 registration fees, with any interest, fines or penalties levied and
20 collected by the ~~Alcoholic Beverage Laws Enforcement Commission~~
21 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control
22 pursuant to the provisions of the Oklahoma Alcoholic Beverage
23 Control Act. Any unappropriated balance in the Oklahoma Alcoholic
24 Beverage Control Fund at the close of each fiscal year shall revert

1 to the ~~General Revenue Fund of the State of Oklahoma, except for the~~
2 ~~amount necessary to satisfy any appropriations made or to be made~~
3 ~~from said fund by the Oklahoma State Legislature for the ensuing~~
4 ~~fiscal year.~~

5 ~~Beginning July 1, 1984, all such monies collected by the~~
6 ~~Alcoholic Beverage Laws Enforcement Commission pursuant to the~~
7 ~~provisions of the Oklahoma Alcoholic Beverage Control Act shall be~~
8 ~~deposited in the State Treasury for credit to the General Revenue~~
9 ~~Bureau of Narcotics Alcohol Enforcement and Education Revolving Fund~~
10 ~~of the state created pursuant to Section 126 of this act.~~

11 SECTION 93. AMENDATORY 37 O.S. 2001, Section 568, is
12 amended to read as follows:

13 Section 568. It shall be unlawful for any person, firm, or
14 corporation to have in their possession any alcoholic beverages with
15 the intent to sell the same without having first procured a license
16 therefor from the ~~Alcoholic Beverage Laws Enforcement Commission~~
17 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control as
18 now provided for by law; and all alcoholic beverages found in the
19 possession or under the control of any person or persons, firm, or
20 corporation who, on the same date, or within fifteen (15) days prior
21 thereto, has violated subsection C of Section 538 of this title,
22 shall be seized by the arresting officer and shall be forfeited to
23 the State of Oklahoma, as provided for in Section 539 of this title.
24 Except that property seized by a county or municipal law enforcement

1 officer shall be forfeited to the county or municipality in which
2 the seizure of the property took place, whichever is appropriate, as
3 provided for in Section 539 of this title.

4 SECTION 94. AMENDATORY 37 O.S. 2001, Section 569, is
5 amended to read as follows:

6 Section 569. All sheriffs, marshals, and police officers, all
7 district and city or town attorneys, and all members of the
8 ~~Alcoholic Beverage Laws Enforcement Commission~~ Oklahoma State Bureau
9 of Narcotics and Dangerous Drugs Control, the Director, and all
10 enforcement employees of the ~~ABLE Commission~~ Bureau, shall
11 diligently enforce all provisions of the Oklahoma Alcoholic Beverage
12 Control Act. If any such officer, ~~ABLE Commission~~ Bureau member,
13 Director, or employee shall fail or refuse to do or perform any duty
14 required by the provisions of such statutes he shall be removed from
15 office as hereinafter provided. In all cases where any sheriff,
16 marshal, police officer, district or city or town attorney shall
17 fail or refuse to perform any such duty a petition shall be filed in
18 the district court of the county wherein such person resides, in the
19 name of the state, upon the recommendation of a grand jury or on the
20 relation of the board of county commissioners or of any attorney
21 appointed by the Governor under the provisions of applicable
22 statutes. In all cases where a member of the ~~Alcoholic Beverage~~
23 ~~Laws Enforcement Commission~~ Bureau fails to perform any duty imposed
24 upon him, said member shall be subject to removal from office in the

1 manner provided for state officers not subject to impeachment, and,
2 in all cases where an enforcement employee of the ~~ABLE Commission~~
3 Bureau is involved in the failure to perform any duties required by
4 law, such failure shall constitute cause for the removal of any such
5 employee pursuant to the provisions of Section 833 of Title 74 of
6 the Oklahoma Statutes. The Oklahoma State Bureau of Investigation
7 ~~and the Oklahoma State Bureau of Narcotics and Dangerous Drugs~~
8 ~~Control Commission~~ shall also have enforcement authority for the
9 provisions of the Oklahoma Alcoholic Beverage Control Act, with the
10 power to initiate complaints with the ~~ABLE Commission~~ Oklahoma State
11 Bureau of Narcotics and Dangerous Drugs Control and by filing
12 charges, if appropriate, with the district attorney in the county
13 where the violation occurred.

14 SECTION 95. AMENDATORY 37 O.S. 2001, Section 571, is
15 amended to read as follows:

16 Section 571. The ~~Alcoholic Beverage Laws Enforcement Commission~~
17 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control is
18 hereby authorized to promulgate rules and regulations governing the
19 labeling of alcoholic beverages bottled, packaged, sold, or
20 possessed for sale within this state, not inconsistent with the
21 provisions of the Oklahoma Alcoholic Beverage Control Act.

22 SECTION 96. AMENDATORY 37 O.S. 2001, Section 573, as
23 amended by Section 8, Chapter 484, O.S.L. 2003 (37 O.S. Supp. 2007,
24 Section 573), is amended to read as follows:

1 Section 573. A. Except as provided in subsection D of this
2 section, no liquor, wine, or beer shall be labeled, offered or
3 advertised for sale unless in accordance with such regulations and
4 unless the brand label shall have been registered with and approved
5 by the ~~Alcoholic Beverage Laws Enforcement Commission~~ Oklahoma State
6 Bureau of Narcotics and Dangerous Drugs Control and the appropriate
7 fee paid as provided for in this section.

8 B. An application for registration of a brand label shall be
9 filed by the owner of the brand if such owner is licensed by the
10 ~~ABLE Commission~~, Bureau; however, if the owner is not licensed but
11 is represented by a licensed nonresident seller, the nonresident
12 seller licensee shall submit each label for each product he offers
13 for sale in this state. Cordials and wines which differ only as to
14 age or vintage year, as defined by such regulations, shall be
15 considered the same brand; and those that differ as to type or class
16 may be considered the same brand by the ~~ABLE Commission~~ Bureau where
17 consistent with the purposes of this section.

18 C. The application for registration of a brand label shall be
19 filed on a form prescribed by the ~~ABLE Commission~~ Bureau, and shall
20 contain such information as the ~~ABLE Commission~~ Bureau shall
21 require. Such application shall be accompanied by a certified
22 check, bank officers' check or draft, or money order in the amount
23 of the annual registration fee prescribed by this section.

24

1 D. The annual fee for registration of any brand label for
2 liquor shall be Three Hundred Seventy-five Dollars (\$375.00); the
3 annual fee for registration of any brand label for beer shall be Two
4 Hundred Dollars (\$200.00); the annual fee for registration of any
5 brand label for wine shall be Two Hundred Dollars (\$200.00). Beer
6 manufactured in this state shall be exempt from brand label
7 registration fees.

8 Each brand label registered and approved pursuant to this
9 section shall be valid for a term which shall run concurrently with
10 the term of the license of the brand owner, or nonresident seller
11 representing the brand owner, registering such label and shall be
12 valid for such licensee and shall not be transferable.

13 E. If the ~~ABLE Commission~~ Bureau shall deny the application for
14 registration of a brand label it shall return the registration fee
15 to the applicant, less twenty-five percent (25%) of such fee.

16 F. The ~~ABLE Commission~~ Bureau may at any time exempt any
17 discontinued brand from fee provisions of this section where a
18 manufacturer or wholesaler has an inventory of one hundred cases or
19 less of liquor or wine and five hundred cases or less of beer, and
20 certifies to the ~~ABLE Commission~~ Bureau in writing that such brand
21 is being discontinued.

22 SECTION 97. AMENDATORY 37 O.S. 2001, Section 576, is
23 amended to read as follows:

24

1 Section 576. A. A tax at the rate of thirteen and one-half
2 percent (13.5%) is hereby levied and imposed on the total gross
3 receipts of a holder of a mixed beverage, caterer, or special event
4 license, issued by the ~~ABLE Commission~~ Oklahoma State Bureau of
5 Narcotics and Dangerous Drugs Control, from:

6 1. The sale, preparation or service of mixed beverages;

7 2. The total retail value of complimentary or discounted mixed
8 beverages;

9 3. Ice or nonalcoholic beverages that are sold, prepared or
10 served for the purpose of being mixed with alcoholic beverages and
11 consumed on the premises where the sale, preparation or service
12 occurs; and

13 4. Any charges for the privilege of admission to a mixed
14 beverage establishment which entitle a person to complimentary mixed
15 beverages or discounted prices for mixed beverages.

16 B. For purposes of this section:

17 1. "Mixed beverages" means mixed beverages as defined by
18 Section 506 of this title;

19 2. "Total gross receipts" means the total amount of
20 consideration received as charges for admission to a mixed beverage
21 establishment as provided in paragraph 4 of subsection A of this
22 section and the total retail sale price received for the sale,
23 preparation or service of mixed beverages, ice, and nonalcoholic
24 beverages to be mixed with alcoholic beverages. The advertised

1 price of a mixed beverage shall be the sum of the total retail sale
2 price and the gross receipts tax levied thereon; and

3 3. "Total retail value" means the total amount of consideration
4 that would be required for the sale, preparation or service of mixed
5 beverages.

6 C. The gross receipts tax levied by this section shall be in
7 addition to the excise tax levied in Section 553 of this title, the
8 sales tax levied in the Oklahoma Sales Tax Code, ~~Section 1350 et~~
9 ~~seq. of Title 68 of the Oklahoma Statutes~~ and to any municipal or
10 county sales taxes.

11 D. The gross receipts tax levied by this section is hereby
12 declared to be a direct tax upon the receipt of consideration for
13 any charges for admission to a mixed beverage establishment as
14 provided in paragraph 4 of subsection A of this section, for the
15 sale, preparation or service of mixed beverages, ice, and
16 nonalcoholic beverages to be mixed with alcoholic beverages, and the
17 total retail value of complimentary or discounted mixed beverages.

18 E. The total of the retail sale price received for the sale,
19 preparation or service of mixed beverages, ice, and nonalcoholic
20 beverages to be mixed with alcoholic beverages shall be the total
21 gross receipts for purposes of calculating the sales tax levied in
22 the Oklahoma Sales Tax Code, ~~Section 1350 et seq. of Title 68 of the~~
23 ~~Oklahoma Statutes.~~

24

1 SECTION 98. AMENDATORY 37 O.S. 2001, Section 576.1, is
2 amended to read as follows:

3 Section 576.1 All revenues generated from the gross receipts
4 tax levied pursuant to Section 576 of ~~Title 37 of the Oklahoma~~
5 ~~Statutes~~ this title shall be paid to the State Treasurer and placed
6 to the credit of the ~~General Revenue~~ Bureau of Narcotics Alcohol
7 Enforcement and Education Revolving Fund of the State of Oklahoma
8 created pursuant to Section 126 of this act.

9 SECTION 99. AMENDATORY 37 O.S. 2001, Section 577, is
10 amended to read as follows:

11 Section 577. A. Every holder of a mixed beverage, beer and
12 wine, caterer, hotel beverage or special event license, issued by
13 the ~~Alcoholic Beverage Laws Enforcement Commission~~ Oklahoma State
14 Bureau of Narcotics and Dangerous Drugs Control, shall obtain a
15 mixed beverage tax permit from the Oklahoma Tax Commission prior to
16 engaging, within this state, in the sale, preparation or service of
17 mixed beverages, ice, or nonalcoholic beverages that are sold,
18 prepared or served to be mixed with alcoholic beverages. Each
19 licensee shall file a verified application for a mixed beverage tax
20 permit with the Tax Commission, setting forth information as may be
21 required by the Tax Commission.

22 The Tax Commission, or its designated agent, shall issue,
23 without any fees or charges therefor, a mixed beverage tax permit in
24

1 the name of the licensee for the place of business set forth in the
2 application upon verification that:

3 1. The applicant is a holder of a mixed beverage, beer and
4 wine, caterer, hotel beverage or special event license issued by the
5 ~~Alcoholic Beverage Laws Enforcement Commission~~ Bureau;

6 2. The applicant has posted a surety bond or other negotiable
7 collateral to protect the proper payment of the gross receipts
8 taxes;

9 3. The applicant is a holder of a sales tax permit for the
10 place of business set forth in the application; and

11 4. The applicant is not delinquent in the payment of any gross
12 receipts taxes or sales taxes.

13 A mixed beverage tax permit shall expire three (3) years after
14 issuance; provided, if the holder thereof is also the holder of a
15 sales tax permit, a mixed beverage tax permit shall be valid for
16 three (3) years or until expiration of the sales tax permit,
17 whichever is earlier, after which a renewal permit shall be valid
18 for three (3) years.

19 B. A separate mixed beverage tax permit for each place of
20 business to be operated must be obtained and no charge therefor
21 shall be made by the Tax Commission. The Tax Commission shall grant
22 and issue to each applicant a separate permit for each place of
23 business in this state, upon proper application therefor and
24 verification thereof by the Tax Commission.

1 C. A mixed beverage tax permit is not assignable and shall be
2 valid only for the person in whose name it is issued and for the
3 transaction of business at the place designated in the permit.

4 D. It shall be unlawful for any person to engage in a business
5 subject to the provisions of this section prior to the issuance of a
6 mixed beverage tax permit. Any person who engages in a business
7 subject to the provisions of this section without a mixed beverage
8 tax permit or permits, or after a permit has been suspended, shall
9 be guilty of a misdemeanor, and upon conviction thereof, shall be
10 fined not more than One Thousand Dollars (\$1,000.00) or incarcerated
11 for not more than sixty (60) days, or by both such fine and
12 imprisonment.

13 E. Any person operating under a mixed beverage tax permit as
14 provided in this section shall, upon discontinuance of business by
15 sale or otherwise, return such permit to the Tax Commission for
16 cancellation, together with payment of any unpaid or accrued taxes.
17 Failure to surrender a mixed beverage tax permit and pay any and all
18 accrued taxes will be sufficient cause for the Tax Commission to
19 refuse to issue a mixed beverage tax permit subsequently to such
20 person to engage in or transact any business in this state subject
21 to the provisions of this section. Notwithstanding the provisions
22 of subsection H of Section 1364 of Title 68 of the Oklahoma
23 Statutes, the Tax Commission shall not deny a purchaser of a
24 business subject to the provisions of this section a mixed beverage

1 or sales tax permit because of outstanding tax liabilities of the
2 seller, provided the seller pays to the Tax Commission the estimated
3 sales tax owed by the seller. Provided further, upon completion of
4 an audit by the Tax Commission and determination of actual sales tax
5 owed, the difference between the estimated sales tax paid and the
6 actual sales tax owed shall be paid by the seller to the Tax
7 Commission if taxes were underpaid or returned to the seller by the
8 Tax Commission if taxes were overpaid.

9 F. Whenever a holder of a mixed beverage tax permit fails to
10 comply with any provisions of any state alcoholic beverage laws or
11 tax laws, the Tax Commission, after giving ten (10) days' notice in
12 writing of the time and place of hearing to show cause why this
13 permit should not be revoked, may revoke or suspend the permit. A
14 mixed beverage tax permit shall be renewed upon removal of cause or
15 causes of revocation or suspension. Mixed beverage tax permits are
16 conditioned upon the proper and timely payment of all taxes due and
17 in the event a holder of a mixed beverage tax permit becomes
18 delinquent in reporting or paying any tax due under the provisions
19 of state tax law, any duly authorized agent of the Tax Commission
20 may cancel the permit and it shall be renewed only upon the filing
21 of proper reports and payment of all taxes due and application for
22 renewal in accordance with subsection A of this section.

23 G. Upon revocation or suspension of the mixed beverage, beer
24 and wine, caterer, hotel beverage or special event license by the

1 ~~ABLE Commission~~ Bureau, the Tax Commission, or its duly authorized
2 agent, shall temporarily suspend the mixed beverage tax permit
3 issued to the licensee in accordance with Section 212 of Title 68 of
4 the Oklahoma Statutes.

5 SECTION 100. AMENDATORY 37 O.S. 2001, Section 578, is
6 amended to read as follows:

7 Section 578. A. Every holder of a mixed beverage, beer and
8 wine, caterer or special event license issued by the ~~Alcoholic~~
9 ~~Beverage Laws Enforcement Commission~~ Oklahoma State Bureau of
10 Narcotics and Dangerous Drugs Control, as a condition precedent to
11 the issuance of a mixed beverage tax permit, shall furnish to the
12 Oklahoma Tax Commission a bond from a surety company chartered or
13 authorized to do business in this state, cash bond, certificates of
14 deposits, certificates of savings or U.S. Treasury bond, or an
15 assignment of negotiable stocks or bonds, as the Tax Commission may
16 deem necessary to secure payment of the gross receipts tax levied
17 upon gross receipts of the licensees.

18 B. Any surety bond furnished under this section shall be a
19 continuing instrument and shall constitute a new and separate
20 obligation in the sum stated therein for each calendar year or a
21 portion thereof while such bond is in force. Such bond shall remain
22 in effect until the surety or sureties are released and discharged
23 by the Tax Commission.

24

1 C. The Tax Commission, or its duly authorized agent, shall fix
2 the amount of such bond or other security for each licensee for each
3 place of business after considering the estimated gross receipts tax
4 liability of such licensee. Such bond shall be no less than an
5 amount equal to the average estimated quarterly gross receipts tax
6 liability and no greater than an amount equal to three times the
7 amount of the average estimated quarterly gross receipts tax
8 liability. Effective July 1, 2001, the minimum bond required for a
9 new permit holder shall be not less than One Thousand Five Hundred
10 Dollars (\$1,500.00).

11 D. Notwithstanding the provisions of subsection C of this
12 section, if the permit holder has held the permit for at least four
13 (4) years and is not delinquent in the payment of mixed beverage
14 taxes, the Tax Commission shall not require any increase in the bond
15 so long as the permit holder remains current in the payment of such
16 taxes.

17 E. Any bond or other security shall be such as will protect
18 this state against failure of the taxpayer or licensee to pay the
19 tax levied by Section 576 of this title. The forfeiture or
20 cancellation of such bond or security, for any reason whatsoever,
21 shall automatically revoke the mixed beverage tax permit issued
22 pursuant to the provisions of the Oklahoma Alcoholic Beverage
23 Control Act.

24

1 SECTION 101. AMENDATORY 37 O.S. 2001, Section 582, is
2 amended to read as follows:

3 Section 582. A. No mixed beverage, beer and wine, caterer or
4 special event licensee nor any officer, agent or employee of such
5 licensee may possess or permit to be possessed on the premises, for
6 which such license was issued, any container of an alcoholic
7 beverage which is not listed on an invoice from the wholesaler from
8 whom the alcoholic beverage was purchased.

9 B. All containers of alcoholic beverages which are on the
10 premises of a mixed beverage, beer and wine, caterer or special
11 event licensee and which are not listed on an invoice from the
12 wholesaler pursuant to the provisions of this section are declared
13 contraband. Any duly authorized officer or employee of the ~~ABLE~~
14 ~~Commission~~ Oklahoma State Bureau of Narcotics and Dangerous Drugs
15 Control or the Oklahoma Tax Commission is authorized to seize such
16 containers or cases and such seized containers or cases shall be
17 subject to confiscation and forfeiture pursuant to the provisions of
18 the Oklahoma Alcoholic Beverage Control Act.

19 C. Any holder of a wholesaler, mixed beverage, beer and wine,
20 caterer or special event license who violates the provisions of this
21 section shall, upon conviction, be guilty of a misdemeanor and shall
22 be subject to revocation or suspension of such license issued by the
23 ~~ABLE Commission~~ Bureau pursuant to the provisions of the Oklahoma
24 Alcoholic Beverage Control Act.

1 SECTION 102. AMENDATORY 37 O.S. 2001, Section 588, is
2 amended to read as follows:

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

7 Until September 1, 1985, the ~~ABLE Commission~~ Oklahoma State
8 Bureau of Narcotics and Dangerous Drugs Control shall be authorized
9 to issue interim licenses to applicants for mixed beverage, caterer,
10 bottle club, and airline/railroad beverage licenses, prior to
11 issuance of permanent licenses. The issuance of interim licenses
12 may take place before all the procedures required by the Oklahoma
13 Alcoholic Beverage Control Act for such licensing are completed.

14 To obtain an interim license an applicant shall file an
15 application for a license authorized by this section with the ~~ABLE~~
16 ~~Commission~~ Bureau and shall furnish all other information required
17 by the Oklahoma Alcoholic Beverage Control Act and rules and
18 regulations promulgated by the ~~ABLE Commission~~ Bureau, except that,
19 if certificates of zoning or compliance with fire, safety, or health
20 codes, required pursuant to Section 523 of this title, have not been
21 issued by the applicable municipality or county, proof of
22 application for said certificates shall be sufficient for issuance
23 of the interim license. The certificates shall be furnished to the
24 ~~ABLE Commission~~ Bureau prior to issuance of a permanent license.

1 The interim license shall remain valid until final action either
2 issuing a license or denying the application for a license is taken
3 by the ~~ABLE Commission~~ Bureau on the application for a license, on
4 which date the interim license shall expire.

5 SECTION 103. AMENDATORY 37 O.S. 2001, Section 593, is
6 amended to read as follows:

7 Section 593. A. No person shall be allowed to enter or remain
8 in the designated bar or lounge area of a bottle club unless that
9 person possesses a valid membership card for that club issued by the
10 club.

11 Membership cards issued by a bottle club shall be purchased by
12 the club from the ~~Alcoholic Beverage Laws Enforcement Commission~~
13 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control at a
14 cost of Three Dollars (\$3.00) per temporary membership card and
15 Twenty-five Dollars (\$25.00) per annual membership card. A
16 temporary membership card shall be valid for a period of seventy-two
17 (72) consecutive hours from issuance to the member. The date of
18 issuance of a temporary membership shall be clearly and prominently
19 marked upon the card. When the card is issued to a member by the
20 club, the club may require said members to reimburse the club for
21 the cost of the card. No membership card shall be issued to any
22 person under twenty-one (21) years of age.

23
24

1 The ~~ABLE Commission~~ Bureau shall have the authority to
2 promulgate rules and regulations concerning bottle club membership
3 cards.

4 B. A bottle club license authorizes alcoholic beverages
5 belonging to members of the club to be:

6 1. Stored, possessed and mixed on club premises; and

7 2. Served for on-premises consumption to members. Each member
8 shall be served only from the member's individually owned bottle of
9 alcoholic beverage which shall be marked with the owner's full name
10 or code number. Such numbers shall be maintained on the club
11 premises, available for inspection by agents of the ~~ABLE Commission~~
12 Bureau or by any other peace officer.

13 Pool systems of storage and purchase of alcoholic beverages in a
14 bottle club are specifically prohibited.

15 C. The sale, preparation or service of ice or nonalcoholic
16 beverages that are sold, prepared or served for the purpose of being
17 mixed with alcoholic beverages for consumption on the premises where
18 such sale, preparation or service occurs shall be subject to the
19 sales tax levied by the Oklahoma Sales Tax Code and to any municipal
20 or county sales taxes.

21 D. Any bottle club licensee, or employee or agent of said
22 licensee who sells to a member any alcoholic beverage shall be
23 deemed guilty of a misdemeanor and upon conviction thereof shall be
24 punished by a fine of One Thousand Dollars (\$1,000.00) and the club

1 license shall be revoked for a period of thirty (30) days. Any
2 bottle club licensee, or employee or agent of said licensee who
3 delivers or furnishes to a member any alcoholic beverage that does
4 not belong to said member shall be deemed guilty of a misdemeanor
5 and upon conviction thereof shall be punished by a fine of not less
6 than Five Hundred Dollars (\$500.00) nor more than One Thousand
7 Dollars (\$1,000.00) and the club license shall be revoked for a
8 period of thirty (30) days. Any bottle club licensee, or employee
9 or agent of said licensee who permits any person who is not a member
10 to enter and remain in the designated bar or lounge area of the club
11 premises shall be deemed guilty of a misdemeanor and upon conviction
12 thereof shall be punished by a fine of One Thousand Dollars
13 (\$1,000.00) and the bottle club license shall be suspended for a
14 period of thirty (30) days. No bottle club licensee, or employee or
15 agent of said licensee shall serve alcoholic beverages to any person
16 that does not possess a valid membership card for that club issued
17 by the club.

18 E. Any bottle club licensed under the provisions of the
19 Oklahoma Alcoholic Beverage Control Act shall pay the license fee
20 provided by law and obtain a separate license for each separate
21 place of business.

22 F. In counties of this state where retail sale of alcoholic
23 beverages by the individual drink has not been authorized no person
24 shall serve alcoholic beverages by the individual drink for

1 on-premises consumption or permit the consumption of alcoholic
2 beverages except in a bottle club licensed pursuant to this section
3 or in a private residence, provided, that this shall not prohibit a
4 winery from serving visitors on the licensed premises free samples
5 of wine produced on the premises. No member of a bottle club shall
6 serve alcoholic beverages lawfully prepared for said member in the
7 designated bar or lounge area of a bottle club to any person who
8 does not possess a valid membership card for the bottle club.

9 SECTION 104. AMENDATORY 37 O.S. 2001, Section 594, is
10 amended to read as follows:

11 Section 594. A. A caterer license may be issued to any
12 corporation, association, individual, or limited liability company,
13 or any type of partnership for the purpose of sale, delivery or
14 distribution of alcoholic beverages for on-premises consumption
15 incidental to the sale or distribution of food.

16 B. The ~~ABLE Commission~~ Oklahoma State Bureau of Narcotics and
17 Dangerous Drugs Control shall adopt rules governing the application
18 for and the issuance of caterer licenses.

19 C. The restrictions and regulations which apply to the sale of
20 mixed beverages on the premises of a mixed beverage licensee also
21 apply to the sale under the authority of a caterer license. Any act
22 which if done on the premises of a mixed beverage licensee would be
23 a ground for revocation or suspension of the mixed beverage license
24 is a ground for revocation or suspension of a caterer license.

1 D. If the premises, where the event being catered is held, are
2 already operating pursuant to another type of license issued by the
3 ~~ABLE Commission Bureau~~, the caterer and other said licensee shall
4 both be responsible for the actions of the caterer and shall both be
5 subject to penalties for violations, by the caterer, of the Oklahoma
6 Alcoholic Beverage Control Act and any rules promulgated pursuant
7 thereto.

8 E. A caterer licensee may not store alcoholic beverages unless
9 said licensee has a storage license issued by the ~~ABLE Commission~~
10 Bureau.

11 SECTION 105. AMENDATORY 37 O.S. 2001, Section 594.1, is
12 amended to read as follows:

13 Section 594.1 A. A hotel beverage license may be issued to a
14 hotel or motel as defined by Section 506 of ~~Title 37 of the Oklahoma~~
15 ~~Statutes~~ this title which is also the holder of a mixed beverage
16 license. Provided, that application may be made simultaneously for
17 both such licenses.

18 B. The ~~Alcoholic Beverage Laws Enforcement Commission~~ Oklahoma
19 State Bureau of Narcotics and Dangerous Drugs Control shall adopt
20 rules and regulations governing the application for and the issuance
21 of hotel beverage licenses.

22 C. Notwithstanding any other provision of this act, a hotel may
23 sell alcoholic beverages to its registered guests by means of a
24

1 mini-bar located in the guestrooms of those registered guests
2 provided that:

3 1. Access to any mini-bar shall only be by a key, magnetic card
4 or similar device;

5 2. Access to a mini-bar in a particular guestroom is provided,
6 whether by furnishing a key, magnetic card or similar device only to
7 a registered guest over twenty-one (21) years of age registered to
8 stay in the guestroom;

9 3. The licensee shall verify that each registered guest to whom
10 a key, magnetic card or similar device to access a mini-bar is to be
11 provided is over twenty-one (21) years of age; and

12 4. All employees handling the alcoholic beverages to be placed
13 in the mini-bar possess an employee license issued by the ~~ABLE~~
14 ~~Commission~~ Bureau.

15 SECTION 106. AMENDATORY 37 O.S. 2001, Section 595, is
16 amended to read as follows:

17 Section 595. A. A special event license may be issued to an
18 organization, association or nonprofit corporation organized for
19 political, fraternal, charitable, religious or social purposes. The
20 holder of a special event license is authorized to sell and
21 distribute alcoholic beverage on the premises for which the license
22 is issued.

23 B. ~~The Alcoholic Beverage Laws Enforcement Commission~~ Oklahoma
24 State Bureau of Narcotics and Dangerous Drugs Control shall adopt

1 rules and regulations governing the application for and the issuance
2 of special event licenses.

3 C. The restrictions and regulations which apply to the sale of
4 mixed beverages on the premises of a mixed beverage licensee also
5 apply to the sale of such beverages under the authority of a special
6 event license. Any act which if done on the premises of a mixed
7 beverage licensee would be a ground for revocation or suspension of
8 the mixed beverage license is a ground for revocation or suspension
9 of a special event license.

10 D. No special event license may be issued for any premises
11 already licensed by the ~~ABLE Commission~~ Bureau.

12 SECTION 107. AMENDATORY 37 O.S. 2001, Section 596, is
13 amended to read as follows:

14 Section 596. Each bottle club or mixed beverage, beer and wine,
15 caterer or special event licensee shall be held responsible for
16 violation of any alcoholic beverage law or administrative rule of
17 the ~~Alcoholic Beverage Laws Enforcement Commission~~ Oklahoma State
18 Bureau of Narcotics and Dangerous Drugs Control affecting his
19 license privileges and for any act or omission of his servant,
20 agent, employee or representative in violation of any law, municipal
21 ordinance or administrative rule affecting his license privileges.

22 SECTION 108. AMENDATORY 37 O.S. 2001, Section 597, is
23 amended to read as follows:

24

1 Section 597. An airline/railroad beverage license may be issued
2 to any corporation operating a commercial airline or railroad in or
3 through this state. Application and payment of the license fee
4 shall be made directly to the ~~Alcoholic Beverage Laws Enforcement~~
5 ~~Commission~~ Oklahoma State Bureau of Narcotics and Dangerous Drugs
6 Control.

7 SECTION 109. AMENDATORY 37 O.S. 2001, Section 598, as
8 amended by Section 29, Chapter 460, O.S.L. 2002 (37 O.S. Supp. 2007,
9 Section 598), is amended to read as follows:

10 Section 598. A. If the premises of a licensee of the ~~Alcoholic~~
11 ~~Beverage Laws Enforcement Commission~~ Oklahoma State Bureau of
12 Narcotics and Dangerous Drugs Control contains a separate or
13 enclosed lounge or bar area, which has as its main purpose the sale
14 or distribution, of alcoholic beverages for on-premises consumption,
15 notwithstanding that as an incidental service, meals or short order
16 foods are made available therein, no person under twenty-one (21)
17 years of age shall be admitted to such area, except for members of a
18 musical band employed or hired as provided in paragraph 2 of
19 subsection B of Section 537 of this title when the band is to
20 perform within such area, or persons under twenty-one (21) years of
21 age who are on the licensed premises for the limited purpose of
22 performing maintenance, construction, remodeling, painting or other
23 similar services relating to the building or equipment installation,
24 repair or maintenance on the premises during those hours when the

1 licensed establishment is closed for business. The provisions of
2 this section shall not prohibit persons under twenty-one (21) years
3 of age from being admitted to an area which has as its main purpose
4 some objective other than the sale or mixing or serving of said
5 beverages, in which sales or serving of said beverages are
6 incidental to the main purpose, as long as the persons under twenty-
7 one (21) years of age are not sold or served alcoholic beverages.
8 The incidental service of food in the bar area shall not exempt a
9 licensee from the provisions of this section. The ~~ABLE Commission~~
10 Bureau shall have the authority to designate the portions of the
11 premises of a licensee where persons under twenty-one (21) years of
12 age shall not be admitted pursuant to this section. For purposes of
13 this section only, the term "alcoholic beverages" shall include low-
14 point beer, as defined in Section 163.2 of this title.

15 B. Except as otherwise provided, an admission charge shall not
16 be considered in any calculation designed to determine the main
17 purpose of an establishment pursuant to subsection A of this
18 section. As used in this section, "admission charge" means any form
19 of consideration received by an establishment from a person in order
20 for that person to gain entrance into the establishment.

21 C. The provisions of subsection B of this section shall not
22 apply:

23 1. If only persons eighteen (18) years of age or older are
24 permitted to enter the licensed premises; provided however, if the

1 licensee is claiming an exception from the requirements of
2 subsection B of this section pursuant to this paragraph and fails to
3 restrict the entry by persons under age eighteen (18) into the
4 licensed premises, the ~~ABLE Commission~~ Bureau shall designate that
5 only persons twenty-one (21) years of age or older are allowed on
6 the licensed premises;

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

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

12 D. The ~~ABLE Commission~~ Bureau shall promulgate rules necessary
13 to implement the provisions of this section.

14 SECTION 110. AMENDATORY 37 O.S. 2001, Section 599, is
15 amended to read as follows:

16 Section 599. The ~~Alcoholic Beverage Laws Enforcement Commission~~
17 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control may
18 issue an additional hours license to the holder of a caterer or
19 special event license. The additional hours license shall authorize
20 the holder thereof to sell, dispense or serve alcoholic beverages
21 from 6:00 a.m. to 10:00 a.m.

22 SECTION 111. AMENDATORY 37 O.S. 2001, Section 600.3, as
23 amended by Section 1, Chapter 253, O.S.L. 2004 (37 O.S. Supp. 2007,
24 Section 600.3), is amended to read as follows:

1 Section 600.3 A. It is unlawful for any person to sell, give
2 or furnish in any manner any tobacco product to another person who
3 is under eighteen (18) years of age, or to purchase in any manner a
4 tobacco product on behalf of any such person. It shall not be
5 unlawful for an employee under eighteen (18) years of age to handle
6 tobacco products when required in the performance of the employee's
7 duties.

8 B. A person engaged in the sale or distribution of tobacco
9 products shall demand proof of age from a prospective purchaser or
10 recipient if an ordinary person would conclude on the basis of
11 appearance that the prospective purchaser may be under eighteen (18)
12 years of age.

13 If an individual engaged in the sale or distribution of tobacco
14 products has demanded proof of age from a prospective purchaser or
15 recipient who is not under eighteen (18) years of age, the failure
16 to subsequently require proof of age shall not constitute a
17 violation of ~~subsection B of this section~~ subsection.

18 C. 1. When a person violates subsection A or B of this
19 section, the ~~Alcoholic Beverage Laws Enforcement (ABLE) Commission~~
20 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control
21 (OBNDD) shall impose an administrative fine of:

22 a. not more than One Hundred Dollars (\$100.00) for the
23 first offense,
24

1 b. not more than Two Hundred Dollars (\$200.00) for the
2 second offense within a two-year period following the
3 first offense,

4 c. not more than Three Hundred Dollars (\$300.00) for a
5 third offense within a two-year period following the
6 first offense. In addition to any other penalty, the
7 store's license to sell tobacco products may be
8 suspended for a period not exceeding thirty (30) days,
9 or

10 d. not more than Three Hundred Dollars (\$300.00) for a
11 fourth or subsequent offense within a two-year period
12 following the first offense. In addition to any other
13 penalty, the store's license to sell tobacco products
14 may be suspended for a period not exceeding sixty (60)
15 days.

16 2. When it has been determined that a penalty shall include a
17 license suspension, the ~~ABLE Commission~~ Bureau shall notify the
18 Oklahoma Tax Commission, and the Tax Commission shall suspend the
19 store's license to sell tobacco products at the location where the
20 offense occurred for the period of time prescribed by the ~~ABLE~~
21 ~~Commission~~ Bureau.

22 3. Proof that the defendant demanded, was shown, and reasonably
23 relied upon proof of age shall be a defense to any action brought
24 pursuant to this section. A person cited for violating this section

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

- 4 a. the individual who purchased or received the tobacco
5 product presented a driver license or other
6 government-issued photo identification purporting to
7 establish that such individual was eighteen (18) years
8 of age or older, and
- 9 b. the person cited for the violation confirmed the
10 validity of the driver license or other government-
11 issued photo identification presented by such
12 individual by performing a transaction scan by means
13 of a transaction scan device.

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

22 D. If the sale is made by an employee of the owner of a store
23 at which tobacco products are sold at retail, the employee shall be
24 guilty of the violation and shall be subject to the fine. Each

1 violation by any employee of an owner of a store licensed to sell
2 tobacco products shall be deemed a violation against the owner for
3 purposes of a license suspension pursuant to subsection C of this
4 section. An owner of a store licensed to sell tobacco products
5 shall not be deemed in violation of the provisions of the Prevention
6 of Youth Access to Tobacco Act for any acts constituting a violation
7 by any person, when the violation occurs prior to actual employment
8 of the person by the store owner or the violation occurs at a
9 location other than the owner's retail store. For purposes of
10 determining the liability of a person controlling franchises or
11 business operations in multiple locations, for any violations of
12 subsection A or B of this section, each individual franchise or
13 business location shall be deemed a separate entity.

14 E. On or before December 15, 1997, the ~~ABLE Commission~~ Bureau
15 shall adopt rules establishing a method of notification of
16 storeowners when one of their employees has been determined to be in
17 violation of this section by the ~~ABLE Commission~~ Bureau or convicted
18 of a violation by a municipality.

19 F. 1. Upon failure of the employee to pay the administrative
20 fine within ninety (90) days of the day of the assessment of such
21 fine, the ~~ABLE Commission~~ Bureau shall notify the Department of
22 Public Safety and the Department shall suspend or not issue a driver
23 license to the employee until proof of payment has been furnished to
24 the Department of Public Safety.

1 2. Upon failure of a storeowner to pay the administrative fine
2 within ninety (90) days of the assessment of the fine, the ~~ABLE~~
3 ~~Commission~~ Bureau shall notify the Tax Commission and the Tax
4 Commission shall suspend the store's license to sell tobacco
5 products until proof of payment has been furnished to the Oklahoma
6 Tax Commission.

7 G. Cities and towns may enact and municipal police officers may
8 enforce ordinances prohibiting and penalizing conduct under
9 provisions of this section, but the provisions of municipal
10 ordinances shall be the same as provided for in this section, and
11 the penalty provisions under such ordinances shall not be more
12 stringent than those of this section.

13 H. County sheriffs may enforce the provisions of the Prevention
14 of Youth Access to Tobacco Act.

15 SECTION 112. AMENDATORY 37 O.S. 2001, Section 600.4, is
16 amended to read as follows:

17 Section 600.4 A. It is unlawful for a person who is under
18 eighteen (18) years of age to purchase, receive, or have in their
19 possession a tobacco product, or to present or offer to any person
20 any purported proof of age which is false or fraudulent, for the
21 purpose of purchasing or receiving any tobacco product. It shall
22 not be unlawful for an employee under eighteen (18) years of age to
23 handle tobacco products when required in the performance of the
24 employee's duties.

1 B. When a person violates subsection A of this section, the
2 ~~Alcoholic Beverage Laws Enforcement (ABLE) Commission~~ Oklahoma State
3 Bureau of Narcotics and Dangerous Drugs Control shall impose an
4 administrative fine of:

5 1. Not to exceed One Hundred Dollars (\$100.00) for a first
6 offense; and

7 2. Not to exceed Two Hundred Dollars (\$200.00) for a second or
8 subsequent offense within a one-year period following the first
9 offense.

10 Upon failure of the individual to pay the administrative fine
11 within ninety (90) days of the day of the fine, the ~~ABLE Commission~~
12 Bureau shall notify the Department of Public Safety and the
13 Department shall suspend or not issue a driver license to the
14 individual until proof of payment has been furnished to the
15 Department of Public Safety.

16 C. The ~~ABLE Commission~~ Bureau shall establish rules to provide
17 for notification to a parent or guardian of any minor cited for a
18 violation of this section.

19 D. Cities and towns may enact and municipal police officers may
20 enforce ordinances prohibiting and penalizing conduct under
21 provisions of this section, but the provisions of such ordinances
22 shall be the same as provided for in this section, and the
23 enforcement provisions under such ordinances shall not be more
24 stringent than those of this section.

1 SECTION 113. AMENDATORY 37 O.S. 2001, Section 600.5, as
2 amended by Section 2, Chapter 253, O.S.L. 2004 (37 O.S. Supp. 2007,
3 Section 600.5), is amended to read as follows:

4 Section 600.5 A. Every person who sells or displays tobacco
5 products at retail shall post conspicuously and keep so posted at
6 the place of business a sign, as specified by the ~~Alcoholic Beverage~~
7 ~~Laws Enforcement (ABLE) Commission~~ Oklahoma State Bureau of
8 Narcotics and Dangerous Drugs Control, stating the following: "IT'S
9 THE LAW. WE DO NOT SELL TOBACCO PRODUCTS TO PERSONS UNDER 18 YEARS
10 OF AGE". The sign shall also provide the toll-free number operated
11 by the ~~Alcoholic Beverage Laws Enforcement (ABLE) Commission~~ Bureau
12 for the purpose of reporting violations of the Prevention of Youth
13 Access to Tobacco Act.

14 B. When a person violates subsection A of this section, the
15 ~~Alcoholic Beverage Laws Enforcement (ABLE) Commission~~ Bureau shall
16 impose an administrative fine of not more than Fifty Dollars
17 (\$50.00) for each day a violation occurs. Each day a violation is
18 continuing shall constitute a separate offense. The notice required
19 by subsection A of this section shall be the only notice required to
20 be posted or maintained in any store that sells tobacco products at
21 retail.

22 SECTION 114. AMENDATORY 37 O.S. 2001, Section 600.8, as
23 amended by Section 4, Chapter 253, O.S.L. 2004 (37 O.S. Supp. 2007,
24 Section 600.8), is amended to read as follows:

1 Section 600.8 A. It shall be unlawful for any person or
2 retailer to distribute tobacco products or product samples to any
3 person under eighteen (18) years of age.

4 B. No person shall distribute tobacco products or product
5 samples in or on any public street, sidewalk, or park that is within
6 three hundred (300) feet of any playground, school, or other
7 facility when the facility is being used primarily by persons under
8 eighteen (18) years of age.

9 C. When a person violates any provision of subsection A or B of
10 this section, the ~~Alcoholic Beverage Laws Enforcement (ABLE)~~
11 ~~Commission~~ Oklahoma State Bureau of Narcotics and Dangerous Drugs
12 Control shall impose an administrative fine of:

13 1. Not more than One Hundred Dollars (\$100.00) for the first
14 offense;

15 2. Not more than Two Hundred Dollars (\$200.00) for the second
16 offense; and

17 3. Not more than Three Hundred Dollars (\$300.00) for a third or
18 subsequent offense.

19 D. Upon failure of any person to pay an administrative fine
20 within ninety (90) days of the assessment of the fine, the ~~(ABLE)~~
21 ~~Commission~~ Bureau shall notify the Department of Public Safety, and
22 the Department shall suspend or not issue a driver license to the
23 person until proof of payment has been furnished to the Department
24 of Public Safety.

1 E. Cities and towns may enact and municipal police officers may
2 enforce ordinances prohibiting and penalizing conduct under
3 provisions of this section, but the provisions of municipal
4 ordinances shall be the same as provided for in this section, and
5 the penalty provisions under such ordinances shall not be more
6 stringent than those of this section.

7 SECTION 115. AMENDATORY 37 O.S. 2001, Section 600.9, is
8 amended to read as follows:

9 Section 600.9 A. It is unlawful for any person to sell
10 cigarettes except in the original, sealed package in which they were
11 placed by the manufacturer.

12 B. When a person violates subsection A of this section, the
13 ~~Alcoholic Beverage Laws Enforcement (ABLE) Commission~~ Oklahoma State
14 Bureau of Narcotics and Dangerous Drugs Control shall impose an
15 administrative fine of not more than Two Hundred Dollars (\$200.00)
16 for each offense.

17 C. Cities and towns may enact and municipal police officers may
18 enforce ordinances prohibiting and penalizing conduct under
19 provisions of this section, but the provisions of such ordinances
20 shall be the same as provided for in this section, and the
21 enforcement provisions under such ordinances shall not be more
22 stringent than those of this section.

23

24

1 SECTION 116. AMENDATORY Section 5, Chapter 253, O.S.L.
2 2004 (37 O.S. Supp. 2007, Section 600.10A), is amended to read as
3 follows:

4 Section 600.10A A. It is unlawful for any person or retail
5 store to display or offer for sale tobacco products in any manner
6 that allows public access to the tobacco product without assistance
7 from the person displaying the tobacco product or an employee or the
8 owner of the store. The provisions of this subsection shall not
9 apply to retail stores which do not admit into the store persons
10 under eighteen (18) years of age.

11 B. When a person violates subsection A of this section, the
12 ~~Alcoholic Beverage Laws Enforcement (ABLE) Commission~~ Oklahoma State
13 Bureau of Narcotics and Dangerous Drugs Control shall impose an
14 administrative fine of not more than Two Hundred Dollars (\$200.00)
15 for each offense.

16 C. Cities and towns may enact and municipal police officers may
17 enforce ordinances prohibiting and penalizing conduct under
18 provisions of this section, but the provisions of municipal
19 ordinances shall be the same as provided for in this section and the
20 penalty provisions under such ordinances shall not be more stringent
21 than those of this section.

22 SECTION 117. AMENDATORY 37 O.S. 2001, Section 600.11, as
23 amended by Section 6, Chapter 253, O.S.L. 2004 (37 O.S. Supp. 2007,
24 Section 600.11), is amended to read as follows:

1 Section 600.11 A. The ~~Alcoholic Beverage Laws Enforcement~~
2 ~~(ABLE) Commission~~ Oklahoma State Bureau of Narcotics and Dangerous
3 Drugs Control is authorized and empowered to enforce the provisions
4 of Sections 600.1 et seq. of this title. The ~~ABLE Commission~~ Bureau
5 shall enforce those provisions in a manner that can reasonably be
6 expected to reduce the extent to which tobacco products are sold or
7 distributed to persons under eighteen (18) years of age.

8 B. The ~~ABLE Commission~~ Bureau may consider mitigating or
9 aggravating circumstances involved with the violation of the
10 Prevention of Youth Access to Tobacco Act when assessing penalties.

11 C. Any conviction for a violation of a municipal ordinance
12 authorized by the Prevention of Youth Access to Tobacco Act and any
13 compliance checks by a municipal police officer or a county sheriff
14 pursuant to subsection E of this section shall be reported in
15 writing to the ~~ABLE Commission~~ Bureau within thirty (30) days of
16 such conviction or compliance check. Such reports shall be compiled
17 in the manner prescribed by the ~~ABLE Commission~~ Bureau.

18 D. For the purpose of determining second or subsequent
19 violations, both the offenses penalized by the ~~ABLE Commission~~
20 Bureau as administrative fines and the offenses penalized by
21 municipalities and towns and reported to the ~~ABLE Commission~~ Bureau,
22 shall be considered together in such determination.

23 E. Persons under eighteen (18) years of age may be enlisted by
24 the ~~ABLE Commission~~ Bureau, a municipality or town, or a county to

1 assist in compliance checks and enforcement; provided, such persons
2 may be used to test compliance only if written parental consent has
3 been provided and the testing is conducted under the direct
4 supervision of the ~~ABLE Commission~~ Bureau or conducted by another
5 law enforcement agency if such agency has given written notice to
6 the ~~ABLE Commission~~ Bureau in the manner prescribed by the ~~ABLE~~
7 ~~Commission~~ Bureau. Municipalities which have enacted municipal
8 ordinances in accordance with the Prevention of Youth Access to
9 Tobacco Act may conduct, pursuant to rules of the ~~ABLE Commission~~
10 Bureau, compliance checks without prior notification to the ~~ABLE~~
11 ~~Commission~~ Bureau and shall be exempt from the written notice
12 requirement in this subsection. This subsection shall not apply to
13 the use of persons under eighteen (18) years of age to test
14 compliance if the compliance test is being conducted by or on behalf
15 of a retailer of cigarettes, as defined in Section 301 of Title 68
16 of the Oklahoma Statutes, at any location the retailer of cigarettes
17 is authorized to sell cigarettes. Any other use of persons under
18 eighteen (18) years of age to test compliance shall be unlawful and
19 punishable by the ~~ABLE Commission~~ Bureau by assessment of an
20 administrative fine of One Hundred Dollars (\$100.00).

21 F. At the beginning of each month, the Oklahoma Tax Commission,
22 pursuant to Section 205 of Title 68 of the Oklahoma Statutes, shall
23 provide to the ~~ABLE Commission~~ Bureau and to each municipality which
24 has ordinances concerning the Prevention of Youth Access to Tobacco

1 Act, the location, name, and address of each licensee licensed to
2 sell tobacco products at retail or otherwise furnish tobacco
3 products. Upon violation of an employee at a location, the ~~ABLE~~
4 ~~Commission~~ Bureau shall notify the storeowner for that location of
5 the latest and all previous violations when one of their employees
6 has been determined to be in violation of the Prevention of Youth
7 Access to Tobacco Act by the ~~ABLE-Commission~~ Bureau or convicted of
8 a violation by a municipality. If the ~~ABLE-Commission~~ Bureau fails
9 to notify the licensee of a violation by an employee, that violation
10 shall not apply against the licensee for the purpose of determining
11 a license suspension pursuant to Section 600.3 of this title. For
12 purposes of this subsection, notification shall be deemed given if
13 the ~~ABLE-Commission~~ Bureau mails, by mail with delivery
14 confirmation, the notification to the address which is on file with
15 the Oklahoma Tax Commission of the licensee of the location at which
16 the violation occurred and the ~~ABLE-Commission~~ Bureau receives
17 delivery confirmation from the U.S. Postal Service.

18 G. Upon request of a storeowner or a municipality which has
19 enacted ordinances in accordance with the Prevention of Youth Access
20 to Tobacco Act, the ~~ABLE-Commission~~ Bureau is hereby authorized to
21 provide information on any Prevention of Youth Access to Tobacco Act
22 offense of any applicant for employment or employee of the
23 storeowner.

24

1 H. The ~~ABLE Commission~~ Bureau shall prepare for submission
2 annually to the Secretary of the United States Department of Health
3 and Human Services, the report required by Section 1926 of the
4 federal Public Health Service Act (42 U.S.C. 300-26), and otherwise
5 shall be responsible for ensuring the state's compliance with that
6 provision of federal law and any implementing of regulations
7 promulgated by the United States Department of Health and Human
8 Services.

9 SECTION 118. AMENDATORY 37 O.S. 2001, Section 600.11a,
10 is amended to read as follows:

11 Section 600.11a Any city or town that enacts and enforces
12 ordinances prohibiting and penalizing conduct under provisions of
13 Section 600.3, 600.4, 600.8 or 600.9 of this title shall furnish
14 information requested by the ~~ABLE Commission~~ Oklahoma State Bureau
15 of Narcotics and Dangerous Drugs Control in the form, manner and
16 time as may be determined by the ~~ABLE Commission~~ Bureau which will
17 allow the ~~ABLE Commission~~ Bureau to comply with subsection C of
18 Section 600.11 of this title.

19 SECTION 119. AMENDATORY 37 O.S. 2001, Section 600.11b,
20 is amended to read as follows:

21 Section 600.11b For violations of the Prevention of Youth
22 Access to Tobacco Act which occur in a municipality that has adopted
23 ordinances prohibiting and penalizing conduct under provisions of
24 the Prevention of Youth Access to Tobacco Act, thirty-five percent

1 (35%) of each administrative fine imposed by the ~~Alcoholic Beverage~~
2 ~~Laws Enforcement (ABLE) Commission~~ Oklahoma State Bureau of
3 Narcotics and Dangerous Drugs Control pursuant to the Prevention of
4 Youth Access to Tobacco Act shall be remitted to such municipality.

5 SECTION 120. AMENDATORY Section 1, Chapter 375, O.S.L.
6 2004 (37 O.S. Supp. 2007, Section 600.13), is amended to read as
7 follows:

8 Section 600.13 A. It is unlawful for any person to sell, give
9 or furnish in any manner to another person who is under eighteen
10 (18) years of age any material or device used in the smoking,
11 chewing, or other method of consumption of tobacco, including
12 cigarette papers, pipes, holders of smoking materials of all types,
13 and other items designed primarily for the smoking or ingestion of
14 tobacco products.

15 B. When a person violates subsection A of this section, the
16 ~~Alcoholic Beverage Laws Enforcement (ABLE) Commission~~ Oklahoma State
17 Bureau of Narcotics and Dangerous Drugs Control shall impose an
18 administrative fine of not more than One Hundred Dollars (\$100.00)
19 for each offense.

20 SECTION 121. AMENDATORY 47 O.S. 2001, Section 2-303, is
21 amended to read as follows:

22 Section 2-303. A. There shall be an "Oklahoma Law Enforcement
23 Retirement Board" to administer the fund of the System. The Board
24 shall be composed of the Assistant Commissioner of Public Safety,

1 the Director of State Finance or his designee, three (3) members to
2 be appointed by the Governor one of whom shall be a retired member
3 of the System, one (1) member to be appointed by the Speaker of the
4 House of Representatives, one (1) member to be appointed by the
5 President Pro Tempore of the Senate, two (2) members of the Highway
6 Patrol Division and one (1) member of the Communication Division of
7 the Department of Public Safety, one (1) member of the Oklahoma
8 State Bureau of Investigation, and one (1) member two (2) members
9 of the Oklahoma State Bureau of Narcotics and Dangerous Drugs
10 Control ~~and one (1) member of the Alcoholic Beverage Laws~~
11 ~~Enforcement Commission~~, elected by and from the membership of the
12 System. The terms of elected members of the Board now serving shall
13 expire on June 30, 1980. The present Board shall conduct an
14 election for the selection of elected members of the Board, prior to
15 the operative date of this act. One member of the Oklahoma Highway
16 Patrol and the member of the Oklahoma State Bureau of Investigation,
17 initially elected, shall serve through June 30, 1982, the member of
18 the Oklahoma Alcoholic Beverage Control Board, initially elected,
19 shall serve through June 30, 1984, and the remaining elected members
20 shall serve through June 30, 1983. Members subsequently elected
21 shall serve for terms of three (3) years.

22 B. 1. The initial term of office of the member appointed to
23 the Board by the Speaker of the House of Representatives and the
24 member appointed to the Board by the President Pro Tempore of the

1 Senate shall expire on January 3, 1989. The members thereafter
2 appointed by the Speaker of the House of Representatives and by the
3 President Pro Tempore of the Senate shall serve terms of office of
4 four (4) years.

5 2. The member appointed by the Governor serving on the Board on
6 the operative date of this act shall serve the remainder of the
7 unexpired term of the member. The member appointed by the Governor
8 to fill that position after the expiration of the term of office of
9 the member serving on the operative date of this act shall serve
10 through January 13, 1991. The members thereafter appointed by the
11 Governor shall serve a term of office of four (4) years which is
12 coterminous with the term of office of the office of the appointing
13 authority.

14 3. The initial term of office of the two additional
15 appointments to the Board by the Governor shall expire on January
16 14, 1991. The members thereafter appointed by the Governor shall
17 serve terms of office of four (4) years which are coterminous with
18 the term of office of the office of the appointing authority.

19 4. Vacancies shall be filled for the unexpired term of office
20 in the same manner as the original appointment was made.

21 C. The members appointed to the Board by the Speaker of the
22 House of Representatives, by the President Pro Tempore of the Senate
23 and by the Governor or a member who is a designee of an ex officio
24 member of the Board shall:

1 1. Have demonstrated professional experience in investment or
2 funds management, public funds management, public or private pension
3 fund management or retirement system management; or

4 2. Have demonstrated experience in the banking profession and
5 have demonstrated professional experience in investment or funds
6 management; or

7 3. Be licensed to practice law in this state and have
8 demonstrated professional experience in commercial matters; or

9 4. Be licensed by the Oklahoma State Board of Public
10 Accountancy to practice in this state as a public accountant or a
11 certified public accountant.

12 The appointing authorities, in making appointments that conform
13 to the requirements of this subsection, shall give due consideration
14 to balancing the appointments among the criteria specified in
15 paragraphs 1 through 4 of this subsection.

16 D. No member of the Board shall be a lobbyist registered in
17 this state as provided by law.

18 E. Notwithstanding any of the provisions of this section to the
19 contrary, any person serving as an appointed member of the Board on
20 the operative date of this act shall be eligible for reappointment
21 when the term of office of the member expires.

22 F. Every two (2) years, one of the members of the Board shall
23 be selected by the Board as president and another member as
24 secretary of the Board.

1 G. Any member of the Board elected by the membership of the
2 System may be recalled for cause at a special election held for that
3 purpose by the members of the System. Such an election shall be
4 called and held by the president and secretary of the Board upon a
5 written request therefor signed by not less than one-third (1/3) of
6 the members of the System and shall be held pursuant to notice given
7 to all members of the System stating the date for such election
8 which shall not be less than ten (10) days from the date of the
9 issuance of such notice. All members of the System shall be
10 entitled to vote by secret ballot and, if two-thirds (2/3) or more
11 of the membership of the System vote for his recall, the elected
12 member of the Board designated in such request, notice and secret
13 ballot shall cease to be a member of the Board and the president and
14 secretary of the Board shall call and hold a special election by the
15 members of the System to fill the remainder of the term of the
16 member so recalled.

17 H. The Oklahoma Law Enforcement Retirement System shall retain
18 an Executive Director and shall establish the Executive Director's
19 compensation. The Executive Director shall be the managing and
20 administrative officer of the System and as such shall have charge
21 of the office, records and supervision and direction of the
22 employees of the System. The Executive Director shall be
23 responsible for the overall operations and to perform duties
24 specified in Section 2-300 of this title and as specified by the

1 Board. The Executive Director shall be subject to the policy
2 directions of the Board and may employ such persons as are deemed
3 necessary to administer the System.

4 SECTION 122. AMENDATORY 47 O.S. 2001, Section 156.1, as
5 last amended by Section 18, Chapter 326, O.S.L. 2007 (47 O.S. Supp.
6 2007, Section 156.1), is amended to read as follows:

7 Section 156.1 A. It shall be unlawful for any state official,
8 officer, or employee, except any essential employees approved by the
9 Governor and those officers or employees authorized in subsection B
10 of this section, to ride to or from the employee's place of
11 residence in a state-owned automobile, truck, or pickup, except in
12 the performance of the employee's official duty, or to use or permit
13 the use of any such automobile, truck, ambulance, or pickup for
14 other personal or private purposes. Any person convicted of
15 violating the provisions of this section shall be guilty of a
16 misdemeanor and shall be punished by a fine of not more than One
17 Hundred Dollars (\$100.00) or by imprisonment in the county jail for
18 a period to not exceed thirty (30) days, or by both said fine and
19 imprisonment, and in addition thereto, shall be discharged from
20 state employment.

21 B. 1. Any state employee, other than the individuals provided
22 for in paragraph 2 of this subsection and any employee of the
23 Department of Public Safety who is an employee in the Driver License
24 Examining Division and the Driver Compliance Division or a wrecker

1 inspector/auditor of the Wrecker Services Division as provided for
2 in paragraph 3 of this subsection, who receives emergency telephone
3 calls regularly at the employee's residence when the employee is not
4 on duty and is regularly called upon to use a vehicle after normal
5 work hours in response to such emergency calls, may be permitted to
6 use a vehicle belonging to the State of Oklahoma to provide
7 transportation between the employee's residence and the assigned
8 place of employment, provided such distance does not exceed seventy-
9 five (75) miles in any round trip or is within the county where the
10 assigned place of employment is located. Provided further, an
11 employee may be permitted to use a state-owned vehicle to provide
12 temporary transportation between a specific work location other than
13 the assigned place of employment and the employee's residence, if
14 such use shall result in a monetary saving to the agency, and such
15 authorization shall not be subject to the distance or area
16 restrictions provided for in this paragraph. Authorization for
17 temporary use of a state-owned vehicle for a specific project shall
18 be in writing stating the justification for this use and the saving
19 expected to result. Such authorization shall be valid for not to
20 exceed sixty (60) days. Any state entity other than law enforcement
21 that avails itself of this provision shall keep a monthly record of
22 all participating employees, the number of emergency calls received,
23 and the number of times that a state vehicle was used in the
24 performance of such emergency calls.

1 2. Any employee of the Department of Public Safety, Oklahoma
2 State Bureau of Narcotics and Dangerous Drugs Control, Oklahoma
3 State Bureau of Investigation, ~~Alcoholic Beverage Laws Enforcement~~
4 ~~Commission~~, Oklahoma Horse Racing Commission, Office of the
5 Inspector General within the Department of Human Services or Office
6 of the State Fire Marshal, who is a law enforcement officer or
7 criminalist, Public Information officer, Special Investigator or
8 Assistant Director of the Oklahoma State Bureau of Investigation, or
9 any employee of a district attorney who is a law enforcement
10 officer, may be permitted to use a state-owned vehicle to provide
11 transportation between the employee's residence and the assigned
12 place of employment and between the residence and any location other
13 than the assigned place of employment to which the employee travels
14 in the performance of the employee's official duty.

15 3. Any employee of the Department of Public Safety who is an
16 employee in the Driver License Examining Division or the Driver
17 Compliance Division or a wrecker inspector/auditor of the Wrecker
18 Services Division may be permitted, as determined by the
19 Commissioner, to use a state-owned vehicle to provide transportation
20 between the employee's residence and the assigned place of
21 employment and between the residence and any location other than the
22 assigned place of employment to which the employee travels in the
23 performance of the employee's official duty.

24

1 4. The Director, department heads and other essential employees
2 of the Department of Wildlife Conservation, as authorized by the
3 Wildlife Conservation Commission, may be permitted to use a state-
4 owned vehicle to provide transportation between the employee's
5 residence and the assigned place of employment and between the
6 residence and any location other than the assigned place of
7 employment to which the employee travels in the performance of the
8 employee's official duty.

9 C. The principal administrator of the state agency with which
10 the employee is employed shall so designate the employee's status in
11 writing or provide a copy of the temporary authorization to the
12 Governor, the President Pro Tempore of the Senate, and the Speaker
13 of the House of Representatives. Such employee status report shall
14 also be provided to the State Fleet Manager of the Division of Fleet
15 Management if the motor vehicle for emergency use is provided by
16 said Division.

17 SECTION 123. AMENDATORY 51 O.S. 2001, Section 24A.3, as
18 last amended by Section 4, Chapter 199, O.S.L. 2005 (51 O.S. Supp.
19 2007, Section 24A.3), is amended to read as follows:

20 Section 24A.3 As used in this act:

21 1. "Record" means all documents, including, but not limited to,
22 any book, paper, photograph, microfilm, data files created by or
23 used with computer software, computer tape, disk, record, sound
24 recording, film recording, video record or other material regardless

1 of physical form or characteristic, created by, received by, under
2 the authority of, or coming into the custody, control or possession
3 of public officials, public bodies, or their representatives in
4 connection with the transaction of public business, the expenditure
5 of public funds or the administering of public property. "Record"
6 does not mean:

- 7 a. computer software,
- 8 b. nongovernment personal effects,
- 9 c. unless public disclosure is required by other laws or
10 regulations, vehicle movement records of the Oklahoma
11 Transportation Authority obtained in connection with
12 the Authority's electronic toll collection system,
- 13 d. personal financial information, credit reports or
14 other financial data obtained by or submitted to a
15 public body for the purpose of evaluating credit
16 worthiness, obtaining a license, permit, or for the
17 purpose of becoming qualified to contract with a
18 public body,
- 19 e. any digital audio/video recordings of the toll
20 collection and safeguarding activities of the Oklahoma
21 Transportation Authority,
- 22 f. any personal information provided by a guest at any
23 facility owned or operated by the Oklahoma Tourism and
24 Recreation Department or the Board of Trustees of the

1 Quartz Mountain Arts and Conference Center and Nature
2 Park to obtain any service at the facility or by a
3 purchaser of a product sold by or through the Oklahoma
4 Tourism and Recreation Department or the Quartz
5 Mountain Arts and Conference Center and Nature Park,

6 g. a Department of Defense Form 214 (DD Form 214) filed
7 with a county clerk, including any DD Form 214 filed
8 before the effective date of this act, or

9 h. except as provided for in Section 2-110 of Title 47 of
10 the Oklahoma Statutes,

11 (1) any record in connection with a Motor Vehicle
12 Report issued by the Department of Public Safety,
13 as prescribed in Section 6-117 of Title 47 of the
14 Oklahoma Statutes,

15 (2) personal information within driver records, as
16 defined by the Driver's Privacy Protection Act,
17 18 United States Code, Sections 2721 through
18 2725, which are stored and maintained by the
19 Department of Public Safety, or

20 (3) audio or video recordings of the Department of
21 Public Safety;

22 2. "Public body" shall include, but not be limited to, any
23 office, department, board, bureau, commission, agency, trusteeship,
24 authority, council, committee, trust or any entity created by a

1 trust, county, city, village, town, township, district, school
2 district, fair board, court, executive office, advisory group, task
3 force, study group, or any subdivision thereof, supported in whole
4 or in part by public funds or entrusted with the expenditure of
5 public funds or administering or operating public property, and all
6 committees, or subcommittees thereof. Except for the records
7 required by Section 24A.4 of this title, "public body" does not mean
8 judges, justices, the Council on Judicial Complaints, the
9 Legislature, or legislators;

10 3. "Public office" means the physical location where public
11 bodies conduct business or keep records;

12 4. "Public official" means any official or employee of any
13 public body as defined herein; and

14 5. "Law enforcement agency" means any public body charged with
15 enforcing state or local criminal laws and initiating criminal
16 prosecutions, including, but not limited to, police departments,
17 county sheriffs, the Department of Public Safety, the Oklahoma State
18 Bureau of Narcotics and Dangerous Drugs Control, ~~the Alcoholic~~
19 ~~Beverage Laws Enforcement Commission,~~ and the Oklahoma State Bureau
20 of Investigation.

21 SECTION 124. AMENDATORY 63 O.S. 2001, Section 1-229.4,
22 is amended to read as follows:

23 Section 1-229.4 A. There is hereby established the Tobacco Use
24 Prevention and Cessation Advisory Committee, which shall review and

1 recommend a State Plan for Tobacco Use Prevention and Cessation to
2 the State Department of Health, periodically review progress towards
3 meeting the objectives of the State Plan, approve applications for
4 or Invitations To Bid for contracts proposed by the Department, and
5 make recommendations for the award of contracts from the Fund for
6 qualified tobacco use prevention or cessation programs.

7 B. The Committee shall consist of twenty (20) members as
8 follows:

9 1. The State Commissioner of Health or designee, who shall be
10 chairperson;

11 2. The State Superintendent of Public Instruction, or designee;

12 3. The Commissioner of Mental Health and Substance Abuse
13 Services, or designee;

14 4. The Director of the ~~Alcoholic Beverage Laws Enforcement~~
15 ~~Commission~~ Oklahoma State Bureau of Narcotics and Dangerous Drugs
16 Control, or designee; and

17 5. Sixteen members who shall be appointed by the Governor as
18 follows:

19 a. one member who is a child psychologist selected from a
20 list provided by the Oklahoma Psychological
21 Association,

22 b. one member who provides and has experience in
23 behavioral health and youth programs,
24

- c. two members who are between twelve (12) and eighteen (18) years of age,
- d. one member who has experience in retail business,
- e. one member who has advertising and marketing experience selected from a list provided by the American Cancer Society,
- f. a director of a community-based youth program or club selected from a list provided by the Oklahoma Public Health Association,
- g. an osteopathic physician selected from a list provided by the Oklahoma Osteopathic Association,
- h. a dentist selected from a list provided by the Oklahoma Dental Association,
- i. a board-certified pulmonary disease medical doctor selected from a list provided by the Oklahoma State Medical Association,
- j. one member selected from a list provided by the American Heart Association,
- k. a registered nurse selected from a list provided by the Oklahoma Nurses Association,
- l. a director of a community-based youth program or club,
- m. a licensed behavioral health professional with experience in the field of juvenile behavior selected

1 from a list provided by the Quality Behavioral
2 Services Alliance,

3 n. one member selected from a list provided by the
4 American Lung Association, and

5 o. a middle school or high school counselor selected from
6 a list provided by the Oklahoma Institute for Child
7 Advocacy.

8 C. The initial term of office of the members appointed by the
9 Governor shall be as follows:

10 1. Eight members shall serve a term of office of one (1) year;

11 and

12 2. Eight members shall serve a term of office of two (2) years.

13 Thereafter, the appointed members shall serve two-year terms. All
14 members may be reappointed. The appointed members shall be selected
15 for their knowledge, competence, experience, or interest in tobacco
16 use prevention or cessation. No appointed members except the
17 retailer, as provided for in subparagraph d of paragraph 5 of
18 subsection B of this section, shall have any current affiliation
19 with the tobacco industry or any industry contractor, agent, or
20 organization that sells or distributes tobacco products. No
21 appointed members except the retailer, as provided for in
22 subparagraph d of paragraph 5 of subsection B of this section, shall
23 receive or seek any remuneration, gift, or political contribution

1 from a tobacco manufacturer or their contractors, agents, or
2 representatives.

3 D. The Committee shall be convened and chaired by the State
4 Commissioner of Health or designee for its first meeting no later
5 than September 1, 2001. A vice-chairperson of the Committee shall
6 be elected by a majority vote of its members and shall serve at the
7 pleasure of the majority of the members of the Committee. Meetings
8 of the Committee shall be at the call of the chairperson. The
9 chairperson, or in the chairperson's absence, the vice-chairperson,
10 shall preside over meetings of the Committee. A quorum shall
11 consist of a simple majority of the members.

12 E. The Committee shall have an Executive Director who shall be
13 appointed by the State Commissioner of Health and approved by a
14 majority vote of the members of the Committee. The Executive
15 Director shall be an unclassified employee of the Department. The
16 salary of the Executive Director and travel and per diem expenses of
17 the Committee members when attending Committee meetings shall be
18 paid from the Fund in accordance with the State Travel Reimbursement
19 Act. From time to time as necessary to support its activities, the
20 Committee may request from the State Department of Health the
21 assignment of staff and support personnel who are full-time
22 employees of the Department. No portion of the salaries of such
23 employees shall be reimbursable from the Fund.

24

1 SECTION 125. AMENDATORY 63 O.S. 2001, Section 2-103, as
2 last amended by Section 51, Chapter 1, O.S.L. 2007 (63 O.S. Supp.
3 2007, Section 2-103), is amended to read as follows:

4 Section 2-103. A. The Director shall be appointed by the
5 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control
6 Commission. The Director of Narcotics and Dangerous Drugs Control
7 on January 1, 1984, shall be initially appointed as Director. The
8 succeeding Director shall, at the time of the appointment, have a
9 Bachelor's Degree from an accredited college or university and at
10 least five (5) years' experience in drug law enforcement. The
11 Director may appoint necessary assistants, agents, and other
12 personnel to perform the work of the office and may prescribe their
13 titles and duties and fix their compensation, other than the
14 salaries established in subsection A of Section 2-103a of this
15 title, pursuant to Merit System rules. The Director may appoint
16 employees to the positions of Public Information/Education Officer,
17 Training Officer, Program Administrator, Grants Administrator,
18 Criminal Analysts, and Typist Clerk/Spanish Transcriptionists. Said
19 positions shall be unclassified and exempt from the rules and
20 procedures of the Office of Personnel Management, except leave
21 regulations. The office of the Director shall be located at a
22 suitable place in Oklahoma City, Oklahoma.

23 B. 1. Agents appointed by the Director shall have the powers
24 of peace officers generally; provided, the Director may appoint

1 special agents, who shall be unclassified employees of the state, to
2 meet specific investigatory need. Special agents shall not be
3 required to meet the age and educational requirements as specified
4 in this section.

5 2. Agents appointed on and after November 1, 1998, shall be at
6 least twenty-one (21) years of age and shall have a Bachelor's
7 Degree from an accredited college or university.

8 3. Each entering agent, with the exception of special agents,
9 shall be required to serve one (1) year in a probationary status as
10 a prerequisite to being placed on permanent status.

11 C. Agents appointed pursuant to the provisions of this section
12 shall have the responsibility of investigating alleged violations
13 and shall have the authority to arrest those suspected of having
14 violated the provisions of the Uniform Controlled Dangerous
15 Substances Act, the Oklahoma Charity Games Act, the Oklahoma
16 Alcoholic Beverage Control Act and the Prevention of Youth Access to
17 Tobacco Act.

18 D. A commissioned employee of the Oklahoma State Bureau of
19 Narcotics and Dangerous Drugs Control shall be entitled to receive
20 upon retirement by reason of length of service, the continued
21 custody and possession of the sidearm and badge carried by such
22 employee immediately prior to retirement.

23 E. A commissioned employee of the Bureau may be entitled to
24 receive, upon retirement by reason of disability, the continued

1 custody and possession of the sidearm and badge carried by such
2 employee immediately prior to retirement upon written approval of
3 the Director.

4 F. Custody and possession of the sidearm and badge of a
5 commissioned employee killed in the line of duty may be awarded by
6 the Director to the spouse or next of kin of the deceased employee.

7 G. Custody and possession of the sidearm and badge of a
8 commissioned employee who dies while employed at the Oklahoma State
9 Bureau of Narcotics and Dangerous Drugs Control may be awarded by
10 the Director to the spouse or next of kin of the deceased employee.

11 H. Any Director appointed on or after July 1, 2003, shall be
12 eligible to participate in either the Oklahoma Public Employees
13 Retirement System or in the Oklahoma Law Enforcement Retirement
14 System and shall make an irrevocable election in writing to
15 participate in one of the two retirement systems.

16 SECTION 126. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 2-107a of Title 63, unless there
18 is created a duplication in numbering, reads as follows:

19 There is hereby created in the State Treasury a revolving fund
20 for the Oklahoma State Bureau of Narcotics and Dangerous Drugs
21 Control to be designated the "Bureau of Narcotics Alcohol
22 Enforcement and Education Revolving Fund". The fund shall be a
23 continuing fund, not subject to fiscal year limitations, and shall
24 consist of all monies received by the Oklahoma State Bureau of

1 Narcotics and Dangerous Drugs Control pursuant to Section 531,
2 subsection B of Section 539 and Sections 548, 567 and 576.1 of Title
3 37 of the Oklahoma Statutes. All monies accruing to the credit of
4 said fund are hereby appropriated and may be budgeted and expended
5 by the Oklahoma State Bureau of Narcotics and Dangerous Drugs
6 Control for the purpose of enforcement and education of alcohol
7 laws. Expenditures from said fund shall be made upon warrants
8 issued by the State Treasurer against claims filed as prescribed by
9 law with the Director of State Finance for approval and payment.

10 SECTION 127. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 2-107b of Title 63, unless there
12 is created a duplication in numbering, reads as follows:

13 There is hereby created in the State Treasury a revolving fund
14 for the Oklahoma State Bureau of Narcotics and Dangerous Drugs
15 Control to be designated the "Bureau of Narcotics Charity Games
16 Enforcement Revolving Fund". The fund shall be a continuing fund,
17 not subject to fiscal year limitations, and shall consist of all
18 monies received by the Oklahoma State Bureau of Narcotics and
19 Dangerous Drugs Control pursuant to subsection F of Section 404,
20 subsection D of Section 407, Section 423, and subsection D of
21 Section 425 of Title 3A of the Oklahoma Statutes. All monies
22 accruing to the credit of said fund are hereby appropriated and may
23 be budgeted and expended by the Oklahoma State Bureau of Narcotics
24 and Dangerous Drugs Control for the purpose of enforcement of

1 charity gaming laws. Expenditures from said fund shall be made upon
2 warrants issued by the State Treasurer against claims filed as
3 prescribed by law with the Director of State Finance for approval
4 and payment.

5 SECTION 128. AMENDATORY 63 O.S. 2001, Section 2-503, as
6 last amended by Section 5, Chapter 223, O.S.L. 2007 (63 O.S. Supp.
7 2007, Section 2-503), is amended to read as follows:

8 Section 2-503. A. The following shall be subject to
9 forfeiture:

10 1. All controlled dangerous substances which have been
11 manufactured, distributed, dispensed, acquired, concealed or
12 possessed in violation of the Uniform Controlled Dangerous
13 Substances Act;

14 2. All raw materials, products and equipment of any kind and
15 all drug paraphernalia as defined by the Uniform Controlled
16 Dangerous Substances Act, which are used, or intended for use, in
17 manufacturing, compounding, processing, delivering, importing or
18 exporting, injecting, ingesting, inhaling, or otherwise introducing
19 into the human body any controlled dangerous substance in violation
20 of the provisions of the Uniform Controlled Dangerous Substances
21 Act;

22 3. All property which is used, or intended for use, as a
23 container for property described in paragraphs 1 and 2 of this
24 subsection;

1 4. All conveyances, including aircraft, vehicles, vessels, or
2 farm implements which are used to transport, conceal, or cultivate
3 for the purpose of distribution as defined in the Uniform Controlled
4 Dangerous Substances Act, or which are used in any manner to
5 facilitate the transportation or cultivation for the purpose of sale
6 or receipt of property described in paragraphs 1 or 2 of this
7 subsection or when the property described in paragraphs 1 or 2 of
8 this subsection is unlawfully possessed by an occupant thereof,
9 except that:

10 a. no conveyance used by a person as a common carrier in
11 the transaction of business as a common carrier shall
12 be forfeited under the provisions of the Uniform
13 Controlled Dangerous Substances Act unless it shall
14 appear that the owner or other person in charge of
15 such conveyance was a consenting party or privy to a
16 violation of the Uniform Controlled Dangerous
17 Substances Act, and

18 b. no conveyance shall be forfeited under the provisions
19 of this section by reason of any act or omission
20 established by the owner thereof to have been
21 committed or omitted without the knowledge or consent
22 of such owner, and if the act is committed by any
23 person other than such owner the owner shall establish
24 further that the conveyance was unlawfully in the

1 possession of a person other than the owner in
2 violation of the criminal laws of the United States,
3 or of any state;

4 5. All books, records and research, including formulas,
5 microfilm, tapes and data which are used in violation of the Uniform
6 Controlled Dangerous Substances Act;

7 6. All things of value furnished, or intended to be furnished,
8 in exchange for a controlled dangerous substance in violation of the
9 Uniform Controlled Dangerous Substances Act, all proceeds traceable
10 to such an exchange, and all monies, negotiable instruments, and
11 securities used, or intended to be used, to facilitate any violation
12 of the Uniform Controlled Dangerous Substances Act;

13 7. All monies, coin and currency found in close proximity to
14 any amount of forfeitable substances, to forfeitable drug
15 manufacturing or distribution paraphernalia or to forfeitable
16 records of the importation, manufacture or distribution of
17 substances, which are rebuttably presumed to be forfeitable under
18 the Uniform Controlled Dangerous Substances Act. The burden of
19 proof is upon claimants of the property to rebut this presumption;

20 8. All real property, including any right, title, and interest
21 in the whole of any lot or tract of land and any appurtenance or
22 improvement thereto, which is used, or intended to be used, in any
23 manner or part, to commit, or to facilitate the commission of, a
24 violation of the Uniform Controlled Dangerous Substances Act which

1 is punishable by imprisonment for more than one (1) year, except
2 that no property right, title or interest shall be forfeited
3 pursuant to this paragraph, by reason of any act or omission
4 established by the owner thereof to have been committed or omitted
5 without the knowledge or consent of that owner; and

6 9. All weapons possessed, used or available for use in any
7 manner to facilitate a violation of the Uniform Controlled Dangerous
8 Substances Act.

9 B. Any property or thing of value of a person is subject to
10 forfeiture if it is established by a preponderance of the evidence
11 that such property or thing of value was acquired by such person
12 during the period of the violation of the Uniform Controlled
13 Dangerous Substances Act or within a reasonable time after such
14 period and there was no likely source for such property or thing of
15 value other than the violation of the Uniform Controlled Dangerous
16 Substances Act.

17 C. Any property or thing of value of a person is subject to
18 forfeiture if it is established by a preponderance of the evidence
19 that the person has not paid all or part of a fine imposed pursuant
20 to the provisions of Section 2-415 of this title.

21 D. All items forfeited in this section shall be forfeited under
22 the procedures established in Section 2-506 of this title. Whenever
23 any item is forfeited pursuant to this section except for items
24 confiscated by the Oklahoma State Bureau of Narcotics and Dangerous

1 Drugs Control, the Department of Public Safety, the Oklahoma State
2 Bureau of Investigation, ~~the Alcoholic Beverage Laws Enforcement~~
3 ~~Commission~~, the Department of Corrections, or the Office of the
4 Attorney General, the district court of the district shall order
5 that such item, money, or monies derived from the sale of such item
6 be deposited by the state, county or city law enforcement agency
7 which seized the item in the revolving fund provided for in Section
8 2-506 of this title; provided, such item, money or monies derived
9 from the sale of such item forfeited due to nonpayment of a fine
10 imposed pursuant to the provisions of Section 2-415 of this title
11 shall be apportioned as provided in Section 2-416 of this title.
12 Items, money or monies seized pursuant to subsections A and B of
13 this section shall not be applied or considered toward satisfaction
14 of the fine imposed by Section 2-415 of this title. All raw
15 materials used or intended to be used by persons to unlawfully
16 manufacture or attempt to manufacture any controlled dangerous
17 substance in violation of the Uniform Controlled Dangerous
18 Substances Act shall be summarily forfeited pursuant to the
19 provisions of Section 2-505 of this title.

20 E. All property taken or detained under this section by the
21 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the
22 Department of Public Safety, the Oklahoma State Bureau of
23 Investigation, ~~the Alcoholic Beverage Laws Enforcement Commission~~,
24 the Department of Corrections, or the Office of the Attorney

1 General, shall not be repleviabale, but shall remain in the custody
2 of the Bureaus, Departments, Commission, or Office, respectively,
3 subject only to the orders and decrees of a court of competent
4 jurisdiction. The Director of the Oklahoma State Bureau of
5 Narcotics and Dangerous Drugs Control, the Commissioner of Public
6 Safety, the Director of the Oklahoma State Bureau of Investigation,
7 ~~the Director of the Alcoholic Beverage Laws Enforcement Commission,~~
8 the Director of the Department of Corrections, and the Attorney
9 General shall follow the procedures outlined in Section 2-506 of
10 this title dealing with notification of seizure, intent of
11 forfeiture, final disposition procedures, and release to innocent
12 claimants with regard to all property included in this section
13 detained by the Department of Public Safety, the Oklahoma State
14 Bureau of Investigation, ~~the Alcoholic Beverage Laws Enforcement~~
15 ~~Commission,~~ the Department of Corrections, or the Office of the
16 Attorney General. Property taken or detained by the Oklahoma State
17 Bureau of Narcotics and Dangerous Drugs Control, the Department of
18 Public Safety, the Oklahoma State Bureau of Investigation, ~~the~~
19 ~~Alcoholic Beverage Laws Enforcement Commission,~~ the Department of
20 Corrections, or the Office of the Attorney General shall be disposed
21 of or sold pursuant to the provisions of Section 2-508 of this
22 title. Any money, coins, and currency, taken or detained pursuant
23 to this section may be deposited in an interest bearing account by
24 or at the direction of the State Treasurer if the seizing agency

1 determines the currency is not to be held as evidence. All interest
2 earned on such monies shall be returned to the claimant or forfeited
3 with the money, coins, and currency which was taken or detained as
4 provided by law.

5 F. The proceeds of any forfeiture of items seized by the
6 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall
7 be distributed as follows:

8 1. To the bona fide or innocent purchaser, conditional sales
9 vendor or mortgagee of the property, if any, up to the amount of his
10 interest in the property, when the court declaring a forfeiture
11 orders a distribution to such person; and

12 2. The balance to the Oklahoma State Bureau of Narcotics'
13 revolving fund or the Bureau's agency special account established
14 pursuant to Section 7.2 of Title 62 of the Oklahoma Statutes,
15 provided the Bureau may enter into agreements with municipal,
16 county, state or federal law enforcement agencies, assisting in the
17 forfeiture or underlying criminal investigation, to return to such
18 an agency a percentage of said proceeds.

19 The Bureau may expend up to Two Million Dollars (\$2,000,000.00)
20 of the forfeited funds within a fiscal year without prior approval
21 of the Legislature. Documentation of such expenditures shall be
22 forwarded to the Governor, Speaker of the House of Representatives
23 and the President Pro Tempore of the Senate on a quarterly basis.
24 Any additional expenditures of forfeited funds shall be pre-approved

1 by the annual appropriations process or the Contingency Review
2 Board.

3 G. Any agency that acquires seized or forfeited property or
4 money shall maintain a true and accurate inventory and record of all
5 such property seized pursuant to this section.

6 SECTION 129. AMENDATORY 63 O.S. 2001, Section 2-506, as
7 last amended by Section 4, Chapter 248, O.S.L. 2007 (63 O.S. Supp.
8 2007, Section 2-506), is amended to read as follows:

9 Section 2-506. A. Any peace officer of this state shall seize
10 the following property:

11 1. Any property described in subsection A of Section 2-503 of
12 this title. Such property shall be held as evidence until a
13 forfeiture has been declared or release ordered, except for property
14 described in paragraphs 1, 2 and 3 of subsection A of Section 2-503
15 of this title, or in the case of money, coins, and currency,
16 deposited as provided in subsection E of Section 2-503 of this
17 title; provided, any money, coins and currency taken or detained
18 pursuant to this section may be deposited in an interest-bearing
19 account by or at the direction of the district attorney in the
20 office of the county treasurer if the district attorney determines
21 the currency is not to be held as evidence. All interest earned on
22 such monies shall be returned to the claimant or forfeited with the
23 money, coins and currency which was taken or detained as provided by
24 law;

1 2. Any property described in subsection B of Section 2-503 of
2 this title; or

3 3. Any property described in subsection C of Section 2-503 of
4 this title.

5 B. Notice of seizure and intended forfeiture proceeding shall
6 be filed in the office of the clerk of the district court for the
7 county wherein such property is seized and shall be given all owners
8 and parties in interest. Notwithstanding any other provision of
9 law, no filing fees shall be assessed by the court clerk for the
10 filing of any forfeiture action.

11 C. Notice shall be given by the agency seeking forfeiture
12 according to one of the following methods:

13 1. Upon each owner or party in interest whose right, title or
14 interest is of record in the Tax Commission, by mailing a copy of
15 the notice by certified mail to the address as given upon the
16 records of the Tax Commission;

17 2. Upon each owner or party in interest whose name and address
18 is known to the attorney in the office of the agency prosecuting the
19 action to recover unpaid fines, by mailing a copy of the notice by
20 registered mail to the last-known address; or

21 3. Upon all other owners or interested parties, whose addresses
22 are unknown, but who are believed to have an interest in the
23 property, by one publication in a newspaper of general circulation
24 in the county where the seizure was made.

1 D. Within forty-five (45) days after the mailing or publication
2 of the notice, the owner of the property and any other party in
3 interest or claimant may file a verified answer and claim to the
4 property described in the notice of seizure and of the intended
5 forfeiture proceeding.

6 E. If at the end of forty-five (45) days after the notice has
7 been mailed or published there is no verified answer on file, the
8 court shall hear evidence upon the fact of the unlawful use and
9 shall order the property forfeited to the state, if such fact is
10 proved.

11 F. If a verified answer is filed, the forfeiture proceeding
12 shall be set for hearing.

13 G. At a hearing in a proceeding against property described in
14 paragraphs 3 through 9 of subsection A or subsections B and C of
15 Section 2-503 of this title, the requirements set forth in said
16 paragraph or subsection, respectively, shall be satisfied by the
17 state by a preponderance of the evidence.

18 H. The claimant of any right, title, or interest in the
19 property may prove a lien, mortgage, or conditional sales contract
20 to be a bona fide or innocent ownership interest and that such
21 right, title, or interest was created without any knowledge or
22 reason to believe that the property was being, or was to be, used
23 for the purpose charged.

24

1 I. In the event of such proof, the court shall order the
2 property released to the bona fide or innocent owner, lien holder,
3 mortgagee or vendor if the amount due him is equal to, or in excess
4 of, the value of the property as of the date of the seizure, it
5 being the intention of this section to forfeit only the right, title
6 or interest of the purchaser.

7 J. If the amount due to such person is less than the value of
8 the property, or if no bona fide claim is established, the property
9 shall be forfeited to the state and sold under judgment of the
10 court, as on sale upon execution, and as provided for in Section 2-
11 508 of this title, except as otherwise provided for in Section 2-503
12 of this title.

13 K. Property taken or detained under this section shall not be
14 repleviable, but shall be deemed to be in the custody of the office
15 of the district attorney of the county wherein the property was
16 seized, subject only to the orders and decrees of the court or the
17 official having jurisdiction thereof; said official shall maintain a
18 true and accurate inventory and record of all such property seized
19 under the provisions of this section. The provisions of this
20 subsection shall not apply to property taken or detained by the
21 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the
22 Department of Public Safety, the Oklahoma State Bureau of
23 Investigation, ~~the Alcoholic Beverage Laws Enforcement Commission,~~
24 the Department of Corrections or the Office of the Attorney General.

1 Property taken or detained by the Oklahoma State Bureau of Narcotics
2 and Dangerous Drugs Control, the Department of Public Safety, the
3 Oklahoma State Bureau of Investigation, ~~the Alcoholic Beverage Laws~~
4 ~~Enforcement Commission~~, the Department of Corrections or the Office
5 of the Attorney General shall be subject to the provisions of
6 subsections E and F of Section 2-503 of this title.

7 L. The proceeds of the sale of any property not taken or
8 detained by the Oklahoma State Bureau of Narcotics and Dangerous
9 Drugs Control, the Department of Public Safety, the Oklahoma State
10 Bureau of Investigation, ~~the Alcoholic Beverage Laws Enforcement~~
11 ~~Commission~~, the Department of Corrections or the Office of the
12 Attorney General shall be distributed as follows, in the order
13 indicated:

14 1. To the bona fide or innocent purchaser, conditional sales
15 vendor or mortgagee of the property, if any, up to the amount of his
16 interest in the property, when the court declaring the forfeiture
17 orders a distribution to such person;

18 2. To the payment of the actual expenses of preserving the
19 property and legitimate costs related to the civil forfeiture
20 proceedings. For purposes of this paragraph, the term "legitimate
21 costs" shall not include court costs associated with any civil
22 forfeiture proceeding; and

23 3. The balance to a revolving fund in the office of the county
24 treasurer of the county wherein the property was seized, said fund

1 to be used as a revolving fund solely for enforcement of controlled
2 dangerous substances laws, drug abuse prevention and drug abuse
3 education, and maintained by the district attorney in his or her
4 discretion for those purposes with a yearly accounting to the board
5 of county commissioners in whose county the fund is established and
6 to the District Attorneys Council; provided, one hundred percent
7 (100%) of the balance of the proceeds of such sale of property
8 forfeited due to nonpayment of a fine imposed pursuant to the
9 provisions of Section 2-415 of this title shall be apportioned as
10 provided in Section 2-416 of this title. The revolving fund shall
11 be audited by the State Auditor and Inspector at least every two (2)
12 years in the manner provided in Section 171 of Title 19 of the
13 Oklahoma Statutes. Said audit shall include, but not be limited to,
14 a compliance audit. A district attorney may enter into agreements
15 with municipal, county or state agencies to return to such an agency
16 a percentage of proceeds of the sale of any property seized by the
17 agency and forfeited under the provisions of this section. The
18 District Attorneys Council shall adopt guidelines which ensure that
19 such agencies receive a reasonable percentage of such proceeds,
20 considering the relative contribution of each agency to the drug
21 enforcement and prosecution operations relating to the seizure. In
22 formulating said guidelines, the District Attorneys Council shall
23 examine federal guidelines on asset distribution and use said
24 guidelines as a basis for establishing guidelines for this state.

1 The Attorney General is hereby authorized to mediate disputes
2 between district attorneys and such agencies concerning the
3 application of said guidelines in particular instances. Any agency
4 that receives proceeds from an asset distribution shall maintain a
5 true and accurate record of all such assets.

6 M. Whenever any vehicle, airplane or vessel is forfeited under
7 the Uniform Controlled Dangerous Substances Act, the district court
8 of jurisdiction may order that the vehicle, airplane or vessel
9 seized may be retained by the state, county or city law enforcement
10 agency which seized the vehicle, airplane or vessel for its official
11 use.

12 N. If the court finds that the state failed to satisfy the
13 required showing provided for in subsection G of this section, the
14 court shall order the property released to the owner or owners.

15 O. Except as provided for in subsection Q of this section, a
16 bona fide or innocent owner, lien holder, mortgagee or vendor that
17 recovers property pursuant to this section shall not be liable for
18 storage fees.

19 P. Except as provided for in subsection Q of this section,
20 storage fees shall be paid by the agency which is processing the
21 seizure and forfeiture from funds generated by seizure and
22 forfeiture actions.

23 Q. The bona fide or innocent owner, lien holder, mortgagee or
24 vendor shall reclaim subject seized property within thirty (30) days

1 of written notice from the seizing agency. If such person fails to
2 reclaim the property within the thirty-day time period, then storage
3 fees may be assessed against their secured interest.

4 R. 1. At any hearing held relevant to this section, a report
5 of the findings of the laboratory of the Oklahoma State Bureau of
6 Investigation, the medical examiner's report of investigation or
7 autopsy report, or a laboratory report from a forensic laboratory
8 operated by the State of Oklahoma or any political subdivision
9 thereof, which has been made available to the accused by the office
10 of the district attorney or other party to the forfeiture at least
11 five (5) days prior to the hearing, with reference to all or part of
12 the evidence submitted, when certified as correct by the persons
13 making the report shall be received as evidence of the facts and
14 findings stated, if relevant and otherwise admissible in evidence.
15 If such report is deemed relevant by the forfeiture applicant or the
16 respondent, the court shall admit such report without the testimony
17 of the person making the report, unless the court, pursuant to this
18 subsection, orders such person to appear.

19 2. When any alleged controlled dangerous substance has been
20 submitted to the laboratory of the OSBI for analysis, and such
21 analysis shows that the submitted material is a controlled dangerous
22 substance, the distribution of which constitutes a felony under the
23 laws of this state, no portion of such substance shall be released
24 to any other person or laboratory except to the criminal justice

1 agency originally submitting the substance to the OSBI for analysis,
2 absent an order of a district court. The defendant shall
3 additionally be required to submit to the court a procedure for
4 transfer and analysis of the subject material to ensure the
5 integrity of the sample and to prevent the material from being used
6 in any illegal manner.

7 3. The court, upon motion of either party, shall order the
8 attendance of any person preparing a report submitted as evidence in
9 the hearing when it appears there is a substantial likelihood that
10 material evidence not contained in said report may be produced by
11 the testimony of any person having prepared a report. The hearing
12 shall be held and, if sustained, an order issued not less than five
13 (5) days prior to the time when the testimony shall be required.

14 4. If within five (5) days prior to the hearing or during a
15 hearing, a motion is made pursuant to this section requiring a
16 person having prepared a report to testify, the court may hear a
17 report or other evidence but shall continue the hearing until such
18 time notice of the motion and hearing is given to the person making
19 the report, the motion is heard, and, if sustained, the testimony
20 ordered can be given.

21 SECTION 130. AMENDATORY 63 O.S. 2001, Section 2-508, as
22 last amended by Section 16, Chapter 168, O.S.L. 2004 (63 O.S. Supp.
23 2007, Section 2-508), is amended to read as follows:

24

1 Section 2-508. A. Except as otherwise provided, all property
2 described in paragraphs 1 and 2 of subsection A of Section 2-503 of
3 this title which is seized or surrendered pursuant to the provisions
4 of the Uniform Controlled Dangerous Substances Act shall be
5 destroyed. The destruction shall be done by or at the direction of
6 the Oklahoma State Bureau of Investigation, who shall have the
7 discretion prior to destruction to preserve samples of the substance
8 for testing. In any county with a population of four hundred
9 thousand (400,000) or more according to the latest Federal Decennial
10 Census, there shall be a located site, approved by the Oklahoma
11 State Bureau of Investigation, for the destruction of the property.
12 Any such property submitted to the Oklahoma State Bureau of
13 Investigation which it deems to be of use for investigative
14 training, educational, or analytical purposes may be retained by the
15 Oklahoma State Bureau of Investigation in lieu of destruction.

16 B. 1. With respect to controlled dangerous substances seized
17 or surrendered pursuant to the provisions of the Uniform Controlled
18 Dangerous Substances Act, municipal police departments, sheriffs,
19 the Oklahoma Bureau of Narcotics and Dangerous Drugs Control
20 Commission, the Oklahoma Highway Patrol, and the Oklahoma State
21 Bureau of Investigation shall have the authority to destroy seized
22 controlled dangerous substances when the amount seized in a single
23 incident exceeds ten (10) pounds. The destroying agency shall:

24

- a. photograph the seized substance with identifying case numbers or other means of identification,
- b. prepare a report describing the seized substance prior to the destruction,
- c. retain at least one (1) pound of the substance randomly selected from the seized substance for the purpose of evidence, and
- d. obtain and retain samples of the substance from enough containers, bales, bricks, or other units of substance seized to establish the presence of a weight of the substance necessary to establish a violation of the Trafficking in Illegal Drugs Act pursuant to subsection C of Section 2-415 of this title, if such a weight is present. If such weight is not present, samples of the substance from each container, bale, brick or other unit of substance seized shall be taken. Each sample taken pursuant to this section shall be large enough for the destroying agency and the defendant or suspect to have an independent test performed on the substance for purposes of identification.

2. If a defendant or suspect is known to the destroying agency, the destroying agency shall give at least seven (7) days' written

1 notice to the defendant, suspect or counsel for the defendant or
2 suspect of:

3 a. the date, the time, and the place where the
4 photographing will take place and notice of the right
5 to attend the photographing, and

6 b. the right to obtain samples of the controlled
7 dangerous substance for independent testing and use as
8 evidence.

9 3. The written notice shall also inform the defendant, suspect
10 or counsel for the defendant or suspect that the destroying agency
11 must be notified in writing within seven (7) days from receipt of
12 the notice of the intent of the suspect or defendant to obtain
13 random samples and make arrangements for the taking of samples. The
14 samples for the defendant or suspect must be taken by a person
15 licensed by the Drug Enforcement Administration. If the defendant
16 or counsel for the defendant fails to notify the destroying agency
17 in writing of an intent to obtain samples and fails to make
18 arrangements for the taking of samples, a sample taken pursuant to
19 subparagraph d of paragraph 1 of this subsection shall be made
20 available upon request of the defendant or suspect.

21 The representative samples, the photographs, the reports, and
22 the records made under this section and properly identified shall be
23 admissible in any court or administrative proceeding for any
24

1 purposes for which the seized substance itself would have been
2 admissible.

3 C. All other property not otherwise provided for in the Uniform
4 Controlled Dangerous Substances Act which has come into the
5 possession of the Oklahoma State Bureau of Narcotics and Dangerous
6 Drugs Control or a district attorney may be disposed of by order of
7 the district court when no longer needed in connection with any
8 litigation. If the owner of the property is unknown to the Bureau
9 or district attorney, the Bureau shall hold the property for at
10 least six (6) months prior to filing a petition for disposal with
11 the district court except for laboratory equipment which may be
12 forfeited when no longer needed in connection with litigation,
13 unless the property is perishable. The Director or district
14 attorney shall file a petition in the district court of Oklahoma
15 County or in the case of a district attorney, the petition shall be
16 filed in a county within the district attorney's jurisdiction
17 requesting the authority to:

- 18 1. Conduct a sale of the property;
- 19 2. Convert title of the property to the Oklahoma State Bureau
20 of Narcotics and Dangerous Drugs Control or to the district
21 attorney's office for donation or transfer in accordance with
22 subsection F or H or K J of this section; or

23
24

1 3. Convert title of the property to the Oklahoma State Bureau
2 of Narcotics and Dangerous Drugs Control for the purpose of leasing
3 the property in accordance with subsection ¶ I of this section.

4 The Director or district attorney shall attach to the petition a
5 list describing the property, including all identifying numbers and
6 marks, if any, the date the property came into the possession of the
7 Bureau or district attorney, and the name and address of the owner,
8 if known. The notice of the hearing of the petition for the sale of
9 the property, except laboratory equipment used in the processing,
10 manufacturing or compounding of controlled dangerous substances in
11 violation of the provisions of the Uniform Controlled Dangerous
12 Substances Act, shall be given to every known owner, as set forth in
13 the petition, by certified mail to the last-known address of the
14 owner at least ten (10) days prior to the date of the hearing.
15 Notice of a hearing on a petition for forfeiture or sale of
16 laboratory equipment used in the processing, manufacturing or
17 compounding of controlled dangerous substances in violation of the
18 Uniform Controlled Dangerous Substances Act shall not be required.
19 The notice shall contain a brief description of the property, and
20 the location and date of the hearing. In addition, notice of the
21 hearing shall be posted in three public places in the county, one
22 such place being the county courthouse at the regular place assigned
23 for the posting of legal notices. At the hearing, if no owner
24 appears and establishes ownership of the property, the court may

1 enter an order authorizing the Director or district attorney to
2 donate the property pursuant to subsection \mp H of this section, to
3 sell the property at a public auction to the highest bidder, or to
4 convert title of the property to the Oklahoma State Bureau of
5 Narcotics and Dangerous Drugs Control for the purpose of leasing or
6 transferring the property pursuant to subsection \mp H or K J of this
7 section after at least ten (10) days' notice has been given by
8 publication in one issue of a legal newspaper of the county. If the
9 property is offered for sale at public auction and no bid is
10 received that exceeds fifty percent (50%) of the value of the
11 property, such value to be announced prior to the sale, the Director
12 or district attorney may refuse to sell the item pursuant to any bid
13 received. The Director or district attorney shall make a return of
14 the sale and, when confirmed by the court, the order confirming the
15 sale shall vest in the purchaser title to the property so purchased.
16 The money received from the sale shall be used for the purpose of
17 purchasing controlled dangerous substances to be used as evidence in
18 narcotic cases and fees for informers, or employees and other
19 associated expenses necessary to apprehend and convict violators of
20 the laws of the State of Oklahoma regulating controlled dangerous
21 substances. These funds shall be transferred to the agency special
22 account established pursuant to Section 7.2 of Title 62 of the
23 Oklahoma Statutes or the Bureau of Narcotics Revolving Fund or in
24 the case of a district attorney, the revolving fund in that district

1 for drug education and enforcement. The Director of the Bureau of
2 Narcotics and Dangerous Drugs Control and the Director of State
3 Finance are hereby authorized and directed to promulgate in writing
4 the necessary rules and regulations requiring strict accountability
5 relative to the expenditure of the above funds. In the case of a
6 district attorney, the accountability relative to the expenditure of
7 the fund shall be according to rules already existing for county
8 revolving funds.

9 D. At the request of the Department of Public Safety, the
10 district attorney or a designee of the district attorney may conduct
11 any forfeiture proceedings as described in Section 2-503 of this
12 title on any property subject to forfeiture as described in
13 subsection A, B, or C of Section 2-503 of this title. Except as
14 provided in subsection A of this section, all other property not
15 otherwise provided for in the Uniform Controlled Dangerous
16 Substances Act which has come into the possession of the Oklahoma
17 Department of Public Safety may be disposed of by order of the
18 district court when no longer needed in connection with any
19 litigation. If the owner of the property is unknown to the
20 Department, the Department shall hold the property for at least six
21 (6) months prior to filing a petition for disposal with the district
22 court, unless the property is perishable. The Commissioner of
23 Public Safety shall file a petition in the district court of
24 Oklahoma County requesting the authority to conduct a sale of the

1 property or to convert title of the property to the Oklahoma
2 Department of Public Safety. The Commissioner of Public Safety
3 shall attach to the petition a list describing the property,
4 including all identifying numbers and marks, if any, the date the
5 property came into the possession of the Department, and the name
6 and address of the owner, if known. The notice of the hearing of
7 the petition for the sale of the property shall be given to every
8 known owner, as set forth in the petition, by certified mail to the
9 last-known address of the owner and party in last possession if
10 applicable, at least ten (10) days prior to the date of the hearing.
11 The notice shall contain a brief description of the property, and
12 the location and date of the hearing. In addition, notice of the
13 hearing shall be posted in three public places in the county, one
14 such place being the county courthouse at the regular place assigned
15 for the posting of legal notices. At the hearing, if no owner
16 appears and establishes ownership of the property, the court may
17 enter an order authorizing the Commissioner of Public Safety to
18 donate the property pursuant to subsection I of this section, to
19 sell the property to the highest bidder, or convert title of the
20 property to the Oklahoma Department of Public Safety for the purpose
21 of leasing or transferring the property pursuant to subsection J or
22 K of this section after at least five (5) days' notice has been
23 given by publication in one issue of a legal newspaper of the
24 county. The Commissioner of Public Safety shall make a return of

1 the sale and, when confirmed by the court, the order confirming the
2 sale shall vest in the purchaser title to the property so purchased.
3 The money received from the sale shall be deposited in the
4 Department of Public Safety Revolving Fund and shall be expended for
5 law enforcement purposes.

6 E. ~~Except as provided in subsection A of this section, all~~
7 ~~other property not otherwise provided for in the Uniform Controlled~~
8 ~~Dangerous Substances Act which has come into the possession of the~~
9 ~~Alcoholic Beverage Laws Enforcement Commission may be disposed of by~~
10 ~~order of the district court when no longer needed in connection with~~
11 ~~any litigation. If the owner of the property is unknown to the~~
12 ~~Alcoholic Beverage Laws Enforcement Commission, the Commission shall~~
13 ~~hold the property for at least six (6) months prior to filing a~~
14 ~~petition for disposal with the district court, unless the property~~
15 ~~is perishable. The Director of the Alcoholic Beverage Laws~~
16 ~~Enforcement Commission shall file a petition in the district court~~
17 ~~of Oklahoma County requesting the authority to conduct a sale of the~~
18 ~~property or to convert title of the property to the Alcoholic~~
19 ~~Beverage Laws Enforcement Commission. The Director of the Alcoholic~~
20 ~~Beverage Laws Enforcement Commission shall attach to the petition a~~
21 ~~list describing the property, including all identifying numbers and~~
22 ~~marks, if any, the date the property came into the possession of the~~
23 ~~Alcoholic Beverage Laws Enforcement Commission, and the name and~~
24 ~~address of the owner, if known. The notice of the hearing of the~~

1 ~~petition for the sale of the property shall be given to every known~~
2 ~~owner, as set forth in the petition, by certified mail to the~~
3 ~~last known address of the owner at least ten (10) days prior to the~~
4 ~~date of the hearing. The notice shall contain a brief description~~
5 ~~of the property, and the location and date of the hearing. In~~
6 ~~addition, notice of the hearing shall be posted in three public~~
7 ~~places in the county, one such place being the county courthouse at~~
8 ~~the regular place assigned for the posting of legal notices. At the~~
9 ~~hearing, if no owner appears and establishes ownership of the~~
10 ~~property, the court may enter an order authorizing the Director of~~
11 ~~the Alcoholic Beverage Laws Enforcement Commission to donate the~~
12 ~~property pursuant to subsection I of this section or to sell the~~
13 ~~property to the highest bidder after at least five (5) days' notice~~
14 ~~has been given by publication in one issue of a legal newspaper of~~
15 ~~the county. The Director of the Alcoholic Beverage Laws Enforcement~~
16 ~~Commission shall make a return of the sale and, when confirmed by~~
17 ~~the court, the order confirming the sale shall vest in the purchaser~~
18 ~~title to the property so purchased. The money received from the~~
19 ~~sale shall be deposited in the General Revenue Fund of the state.~~

20 ~~F.~~ Except as provided in subsection A of this section, all
21 other property not otherwise provided for in the Uniform Controlled
22 Dangerous Substances Act which has come into the possession of the
23 Oklahoma State Bureau of Investigation may be disposed of by order
24 of the district court when no longer needed in connection with any

1 litigation. If the owner of the property is unknown to the Bureau,
2 the Bureau shall hold the property for at least six (6) months prior
3 to filing a petition for disposal with the district court, unless
4 the property is perishable. The Director of the Oklahoma State
5 Bureau of Investigation shall file a petition in the district court
6 of Oklahoma County requesting the authority to conduct a sale of the
7 property or to convert title of the property to the Oklahoma State
8 Bureau of Investigation. The Director of the Oklahoma State Bureau
9 of Investigation shall attach to the petition a list describing the
10 property, including all identifying numbers and marks, if any, the
11 date the property came into the possession of the Bureau, and the
12 name and address of the owner, if known. The notice of the hearing
13 of the petition for the sale of the property shall be given to every
14 known owner, as set forth in the petition, by certified mail to the
15 last-known address of the owner and party in last possession if
16 applicable, at least ten (10) days prior to the date of the hearing.
17 The notice shall contain a brief description of the property, and
18 the location and date of the hearing. In addition, notice of the
19 hearing shall be posted in three public places in the county, one
20 such place being the county courthouse at the regular place assigned
21 for the posting of legal notices. At the hearing, if no owner
22 appears and establishes ownership of the property, the court may
23 enter an order authorizing the Director of the Oklahoma State Bureau
24 of Investigation to donate the property pursuant to subsection ¶ H

1 of this section, to sell the property to the highest bidder, or
2 convert title of the property to the Oklahoma State Bureau of
3 Investigation for the purpose of leasing or transferring the
4 property pursuant to subsection ~~¶~~ H or ~~¶~~ J of this section after at
5 least five (5) days' notice has been given by publication in one
6 issue of a legal newspaper of the county. The Director of the
7 Oklahoma State Bureau of Investigation shall make a return of the
8 sale and, when confirmed by the court, the order confirming the sale
9 shall vest in the purchaser title to the property so purchased. The
10 money received from the sale shall be deposited in the OSBI
11 Revolving Fund and shall be expended for law enforcement purposes.

12 ~~G.~~ F. Except as provided in subsection A of this section, all
13 other property not otherwise provided for in the Uniform Controlled
14 Dangerous Substances Act which has come into the possession of the
15 Oklahoma Department of Corrections after being seized from persons
16 not in the custody or supervision of the Department of Corrections
17 may be disposed of by order of the district court when no longer
18 needed in connection with any litigation. If the owner of the
19 property is unknown to the Department, the Department shall hold the
20 property for at least six (6) months prior to filing a petition for
21 disposal with the district court, unless the property is perishable.
22 The Director of the Oklahoma Department of Corrections shall file a
23 petition in the district court of the county of seizure requesting
24 the authority to conduct a sale of the property or to convert title

1 to the property to the Oklahoma Department of Corrections. The
2 Director of the Oklahoma Department of Corrections shall attach to
3 the petition a list describing the property, including all
4 identifying numbers and marks, if any, the date the property came
5 into possession of the Department and the name and address of the
6 owner, if known. The notice of the hearing of the petition for the
7 sale of the property shall be given to every known owner, as set
8 forth in the petition, by certified mail to the last-known address
9 of the owner and party in last possession if applicable, at least
10 ten (10) days prior to the date of the hearing. The notice shall
11 contain a brief description of the property and the location and
12 date of the hearing. In addition, notice of the hearing shall be
13 posted in three public places in the county, one such place being
14 the county courthouse at the regular place assigned for the posting
15 of legal notices. At the hearing, if no owner appears and
16 establishes ownership of the property, the court may enter an order
17 authorizing the Director of the Oklahoma Department of Corrections
18 to donate the property pursuant to subsection \pm H of this section,
19 to sell the property to the highest bidder or convert title of the
20 property to the Oklahoma Department of Corrections after at least
21 five (5) days' notice has been given by publication in one issue of
22 a legal newspaper of the county. The Director of the Oklahoma
23 Department of Corrections shall make a return of the sale and when
24 confirmed by the court, the order confirming the sale shall vest in

1 the purchaser title to the property so purchased. Twenty-five
2 percent (25%) of the money received from the sale shall be disbursed
3 to a revolving fund in the office of the county treasurer of the
4 county wherein the property was seized, said fund to be used as a
5 revolving fund solely for enforcement of controlled dangerous
6 substances laws, drug abuse prevention and drug abuse education.
7 The remaining seventy-five percent (75%) shall be deposited in the
8 Department of Corrections Revolving Fund to be expended for
9 equipment for probation and parole officers and correctional
10 officers.

11 H. G. Except as provided in subsection A of this section, all
12 other property not otherwise provided for in the Uniform Controlled
13 Dangerous Substances Act which has come into the possession of the
14 Office of the Attorney General may be disposed of by order of the
15 district court when no longer needed in connection with any
16 litigation. If the owner of the property is unknown to the Office,
17 the Office shall hold the property for at least six (6) months prior
18 to filing a petition for disposal with the district court, unless
19 the property is perishable. The Office of the Attorney General
20 shall file a petition in the district court of Oklahoma County
21 requesting the authority to conduct a sale of the property or to
22 convert title of the property to the Office of the Attorney General.
23 The Office of the Attorney General shall attach to the petition a
24 list describing the property, including all identifying numbers and

1 marks, if any, the date the property came into the possession of the
2 Office, and the name and address of the owner, if known. The notice
3 of the hearing of the petition for the sale of the property shall be
4 given to every known owner, as set forth in the petition, by
5 certified mail to the last-known address of the owner and party in
6 last possession, if applicable, at least ten (10) days prior to the
7 date of the hearing. The notice shall contain a brief description
8 of the property and the location and date of the hearing. In
9 addition, notice of the hearing shall be posted in three public
10 places in the county, one such place being the county courthouse at
11 the regular place assigned for the posting of legal notices. At the
12 hearing, if no owner appears and establishes ownership of the
13 property, the court may enter an order authorizing the Attorney
14 General to donate the property pursuant to subsection ¶ H of this
15 section, to sell the property to the highest bidder, or convert
16 title of the property to the Office of the Attorney General for the
17 purpose of leasing or transferring the property pursuant to
18 subsection ¶ H or ¶ J of this section after at least five (5) days'
19 notice has been given by publication in one issue of a legal
20 newspaper of the county. The Attorney General shall make a return
21 of the sale and, when confirmed by the court, the order confirming
22 the sale shall vest in the purchaser title to the property so
23 purchased. The money received from the sale shall be deposited in
24 the Attorney General Law Enforcement Revolving Fund and shall be

1 expended for law enforcement purposes. The Office of the Attorney
2 General may enter into agreements with municipal, county or state
3 agencies to return to such an agency a percentage of proceeds of the
4 sale of any property seized by the agency and forfeited under the
5 provisions of this section.

6 ~~F.~~ H. Any property, including but not limited to uncontaminated
7 laboratory equipment used in the processing, manufacturing or
8 compounding of controlled dangerous substances in violation of the
9 provisions of the Uniform Controlled Dangerous Substances Act, upon
10 a court order, may be donated for classroom or laboratory use by the
11 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control,
12 Oklahoma Department of Public Safety, district attorney, ~~the~~
13 ~~Alcoholic Beverage Laws Enforcement Commission,~~ the Oklahoma
14 Department of Corrections, or the Office of the Attorney General to
15 any public secondary school or technology center school in this
16 state or any institution of higher education within The Oklahoma
17 State System of Higher Education.

18 ~~F.~~ I. Any vehicle or firearm which has come into the possession
19 and title vested in the Oklahoma State Bureau of Narcotics and
20 Dangerous Drugs Control, the Oklahoma Department of Public Safety,
21 the Oklahoma State Bureau of Investigation, or the Office of the
22 Attorney General, may be offered for lease to any sheriff's office
23 or police department in this state on an annual basis to assist with
24 the enforcement of the provisions of the Uniform Controlled

1 Dangerous Substances Act. Each agency shall promulgate rules,
2 regulations and procedures for leasing vehicles and firearms. No
3 fully automatic weapons will be subject to the leasing agreement.
4 All firearms leased may be utilized only by C.L.E.E.T. certified
5 officers who have received training in the type and class of weapon
6 leased. Every lessee shall be required to submit an annual report
7 to the leasing agency stating the condition of all leased property.
8 A lease agreement may be renewed annually at the option of the
9 leasing agency. Upon termination of a lease agreement, the property
10 shall be returned to the leasing agency for sale or other
11 disposition. All funds derived from lease agreements or other
12 disposition of property no longer useful to law enforcement shall be
13 deposited in the agency's revolving fund and shall be expended for
14 law enforcement purposes.

15 ~~K.~~ J. Before disposing of any property pursuant to subsections
16 C through ~~F~~ E of this section, the Oklahoma State Bureau of
17 Narcotics and Dangerous Drugs Control, the Department of Public
18 Safety, ~~the Alcoholic Beverage Laws Enforcement Commission,~~ the
19 Oklahoma State Bureau of Investigation, the Office of the Attorney
20 General, or a district attorney shall notify the Department of
21 Corrections and the Oklahoma Department of Career and Technology
22 Education of the identity of any such property in their possession.
23 The Department of Corrections and the Oklahoma Department of Career
24 and Technology Education must respond within ten (10) days of such

1 notification, as to whether or not such property could be used in
2 the operations or training programs of either agency. Upon receipt
3 of the response, the agency or district attorney that issued the
4 notification shall negotiate as to which agency will be entitled to
5 the use of the property, the purpose of the use and the duration of
6 such use. Upon return of the property, the property may be disposed
7 of as otherwise provided in this section. The agencies and any
8 district attorney that are parties to any transfer of property
9 pursuant to this subsection shall enter into written agreements to
10 carry out any such transfer of property. Any such agreement may
11 also provide for the granting of title to any property being
12 transferred as the parties deem appropriate.

13 SECTION 131. AMENDATORY 74 O.S. 2001, Section 18c, as
14 last amended by Section 8, Chapter 405, O.S.L. 2005 (74 O.S. Supp.
15 2007, Section 18c), is amended to read as follows:

16 Section 18c. A. 1. Except as otherwise provided by this
17 subsection, no state officer, board or commission shall have
18 authority to employ or appoint attorneys to advise or represent said
19 officer, board or commission in any matter.

20 2. The provisions of this subsection shall not apply to the
21 Corporation Commission, the Council on Law Enforcement Education and
22 Training, the Consumer Credit Commission, the Board of Managers of
23 the State Insurance Fund, the Oklahoma Tax Commission, the
24 Commissioners of the Land Office, the Oklahoma Public Welfare

1 Commission also known as the Commission for Human Services, the
2 Board of Corrections, the Oklahoma Health Care Authority, the
3 Department of Public Safety, the Oklahoma State Bureau of Narcotics
4 and Dangerous Drugs Control, ~~the Alcoholic Beverage Laws Enforcement~~
5 ~~Commission~~, the Transportation Commission, the Oklahoma Energy
6 Resources Board, the Department of Central Services, the Oklahoma
7 Merit Protection Commission, the Office of Personnel Management, the
8 Oklahoma Water Resources Board, the Department of Labor, the State
9 Department of Agriculture, the Northeast Oklahoma Public Facilities
10 Authority, the Oklahoma Firefighters Pension and Retirement System,
11 the Oklahoma Public Employees Retirement System, the Uniform
12 Retirement System for Justices and Judges, the Oklahoma Conservation
13 Commission and the Office of Juvenile Affairs.

14 3. The provisions of paragraph 2 of this subsection shall not
15 be construed to authorize the Office of Juvenile Affairs to employ
16 any attorneys that are not specifically authorized by law.

17 4. All the legal duties of such officer, board or commission
18 shall devolve upon and are hereby vested in the Attorney General;
19 provided that:

- 20 a. the Governor shall have authority to employ special
21 counsel to protect the rights or interest of the state
22 as provided in Section 6 of this title, and
- 23 b. liquidation agents of banks shall have the authority
24 to employ local counsel, with the consent of the Bank

1 Commissioner and the Attorney General and the approval
2 of the district court.

3 B. At the request of any state officer, board or commission,
4 except the Corporation Commission, the Board of Managers of the
5 CompSource Oklahoma, Oklahoma Tax Commission and the Commissioners
6 of the Land Office, the Grand River Dam Authority, the Oklahoma
7 State Bureau of Narcotics and Dangerous Drugs Control, ~~the Alcoholic~~
8 ~~Beverage Laws Enforcement Commission,~~ the Oklahoma Firefighters
9 Pension and Retirement System, the Oklahoma Public Employees
10 Retirement System, the Uniform Retirement System for Justices and
11 Judges and the Interstate Oil and Gas Compact Commission, the
12 Attorney General shall defend any action in which they may be sued
13 in their official capacity. At the request of any such state
14 officer, board or commission, the Attorney General shall have
15 authority to institute suits in the name of the State of Oklahoma on
16 their relation, if after investigation the Attorney General is
17 convinced there is sufficient legal merit to justify the action.

18 C. Any officer, board, or commission which has the authority to
19 employ or appoint attorneys may request that the Attorney General
20 defend any action arising pursuant to the provisions of the
21 Governmental Tort Claims Act.

22 D. Nothing in this section shall be construed to repeal or
23 affect the provisions of the statutes of this state pertaining to
24 attorneys and legal advisors of the several commissions and

1 departments of state specified in subsection B of this section, and
2 all acts and parts of acts pertaining thereto shall be and remain in
3 full force and effect.

4 SECTION 132. AMENDATORY 74 O.S. 2001, Section 30b, is
5 amended to read as follows:

6 Section 30b. A. There is hereby created the Oklahoma Drug and
7 Alcohol Abuse Policy Board.

8 B. A chairperson shall be chosen annually by the members of the
9 Oklahoma Drug and Alcohol Abuse Policy Board to serve a term
10 beginning July 1. The chairperson may establish committees,
11 subcommittees, or other working groups in order to accomplish the
12 goals of the Board.

13 C. The Board shall be composed of the following members:

14 1. The Governor or designee;

15 2. The Attorney General or designee;

16 3. The Director of the Oklahoma State Bureau of Narcotics and
17 Dangerous Drugs Control or designee;

18 4. The Director of the Oklahoma State Bureau of Investigation
19 or designee;

20 5. The Commissioner of Public Safety or designee;

21 6. The Commissioner of the Department of Mental Health and
22 Substance Abuse Services or designee;

23 7. The Commissioner of Health or designee;

24 8. The Adjutant General of the Military Department or designee;

- 1 9. The Superintendent of Public Instruction or designee;
- 2 10. The Director of the Department of Corrections or designee;
- 3 11. The Director of the Department of Human Services or
- 4 designee;
- 5 ~~12. The Director of the Alcoholic Beverage Laws Enforcement~~
- 6 ~~Commission or designee;~~
- 7 ~~13.~~ The Executive Director of the District Attorneys' Council
- 8 or designee;
- 9 ~~14.~~ 13. The Executive Director of the Oklahoma Commission on
- 10 Children and Youth or designee;
- 11 ~~15.~~ 14. The Executive Director of the Office of Juvenile
- 12 Affairs or designee; and
- 13 ~~16.~~ 15. Two appointees of the Governor, who shall be private
- 14 citizens appointed to serve for one-year terms.

15 D. Any other state or local agency or individual may become a

16 nonvoting member of the Board upon approval of a two-thirds (2/3)

17 majority of the voting members set forth in subsection C of this

18 section.

19 E. Other officers, excluding the chairperson, may be elected at

20 the discretion of the voting Board members.

21 F. The Board shall hold meetings at least quarterly and at such

22 other times as the chairperson deems necessary.

23

24

1 SECTION 133. AMENDATORY 74 O.S. 2001, Section 840-4.13,
2 as last amended by Section 1, Chapter 6, O.S.L. 2006 (74 O.S. Supp.
3 2007, Section 840-4.13), is amended to read as follows:

4 Section 840-4.13 A. Based upon the results of competitive
5 entrance examinations and registers, as provided by the Oklahoma
6 Personnel Act, the Administrator of the Office of Personnel
7 Management shall certify to the appointing authority the names of
8 the ten persons receiving the highest grade or score in said
9 examinations plus all eligible applicants whose grade or score is
10 tied with the lowest ranking of those so eligible.

11 B. In addition to establishing statewide registers pursuant to
12 subsection A of this section, the Administrator is hereby authorized
13 to promulgate rules creating a local register to fill a vacancy in a
14 local office of an agency by providing a certificate of available
15 names of eligible persons who are residents of the county where the
16 local office is located or said county and adjacent counties or a
17 group of contiguous counties comprising a service area of an agency.
18 Available eligible residents shall be certified ahead of other
19 available eligible persons who reside outside the area of the local
20 register. In filling vacant positions, the appointing authority
21 shall select any one of the persons whose names have been so
22 certified and may give preference in all cases to persons who have
23 resided in this state for at least one (1) year prior to the date of
24 the examination. Provided, however, that any appointing authority

1 authorized to employ persons who are not citizens of the United
2 States, pursuant to Section 255 of this title, may request the
3 Office to certify only the names of persons who are citizens of the
4 United States in carrying out the provisions of this section; and
5 such appointing authority may select any person so certified to the
6 Administrator to fill such vacant positions even though a noncitizen
7 may have received a higher grade on the examination. Provided,
8 further, that any appointing authority may select special disabled
9 veterans considered for employment pursuant to Sections 401 through
10 404 of Title 72 of the Oklahoma Statutes. The Department of Public
11 Safety, in filling vacancies for Highway Patrol Cadets, may
12 disqualify any eligible whose name has been certified for Highway
13 Patrol Cadet pursuant to subsection A of this section, if the
14 Department of Public Safety considers the eligible in connection
15 with the hiring of three other eligibles pursuant to subsection A of
16 this section from that certificate. The name of such disqualified
17 eligible shall be omitted from further certification to, and
18 consideration by, the Department of Public Safety for appointment as
19 a Highway Patrol Cadet to the Highway Patrol Academy for which
20 vacancies are being filled. Such disqualification shall neither
21 deprive any person of any preference pursuant to paragraph 3 of
22 subsection A of Section 840-4.14 of this title nor deprive any
23 person from certification to, and consideration by, the Department
24 of Public Safety for appointment as a Highway Patrol Cadet to a

1 subsequent Highway Patrol Academy. The Department of Public Safety
2 shall provide written notice of the disqualification to the Office
3 of Personnel Management. The Department of Corrections, in filling
4 vacancies for Correctional Officer Cadets and Probation and Parole
5 Officers, may disqualify any eligible whose name has been certified
6 for Correctional Officer Cadet or Probation and Parole Officer,
7 pursuant to subsection A of this section, if the Department of
8 Corrections considers the eligible in connection with the hiring of
9 three other eligibles pursuant to subsection A of this section from
10 that or any other certificate. The name of such disqualified
11 eligible shall be omitted from future certification to, and
12 consideration by, the Department of Corrections for appointment as a
13 Correctional Officer Cadet or Probation and Parole Officer for a
14 period of six (6) months, at which time the eligible may request
15 restoration to the register by the Office of Personnel Management.
16 Such disqualification shall not deprive any person of any preference
17 pursuant to paragraph 3 of subsection A of Section 840-4.14 of this
18 title. The Department of Corrections shall provide written notice
19 of the disqualification to the Office of Personnel Management.

20 C. Agencies may fill positions requiring professional practice
21 licensure and hard-to-fill positions pursuant to authorization by
22 the Administrator without regard to subsections A and B of this
23 section. The Administrator shall promulgate rules to authorize
24 agencies to fill positions directly, pursuant to this subsection.

1 Such rules shall include criteria for identifying professional
2 practice licensure positions and hard-to-fill positions which shall
3 not require establishment of an employment list of eligible persons
4 or the application of veterans preference. The Administrator shall
5 monitor appointments made by agencies pursuant to this subsection
6 and shall establish recordkeeping and reporting procedures and the
7 conditions under which the Administrator may withdraw authorization
8 for agencies to directly hire persons into hard-to-fill positions.
9 Nothing in this subsection shall be construed to waive any
10 requirement for any job or position established by statute or the
11 Administrator.

12 D. Every person, ~~except as provided in subsection E of this~~
13 ~~section~~, upon initial appointment under the classified service,
14 shall be appointed for a probationary period of one (1) year, except
15 that the appointing authority may waive in writing the remainder of
16 the probationary period at any time after a probationary employee
17 has served six (6) months; provided, however, that the employee and
18 the Administrator of the Office of Personnel Management shall be
19 notified in writing as to such action and the reason therefor. The
20 probationary appointment of any person may be terminated at any time
21 during the probationary period without the right of appeal. At the
22 close of the probationary period, as herein provided, said person
23 shall acquire a permanent status under the conditions prescribed in
24 the Oklahoma Personnel Act.

1 E. ~~Every person initially appointed under the classified~~
2 ~~service as an agent of the Alcoholic Beverage Laws Enforcement~~
3 ~~Commission shall be appointed for a probationary period of one (1)~~
4 ~~year.~~

5 F. In working with appointing authorities in determining
6 minimum qualifications for a position, the Administrator of the
7 Office of Personnel Management shall require an appointing authority
8 to justify in writing any reasons for excluding from consideration
9 relevant public or private sector experience applicable to the
10 position.

11 SECTION 134. AMENDATORY 74 O.S. 2001, Section 840-5.5,
12 as last amended by Section 3, Chapter 208, O.S.L. 2007 (74 O.S.
13 Supp. 2007, Section 840-5.5), is amended to read as follows:

14 Section 840-5.5 A. The following offices, positions, and
15 personnel shall be in the unclassified service and shall not be
16 placed under the classified service:

17 1. Persons chosen by popular vote or appointment to fill an
18 elective office, and their employees, except the employees of the
19 Corporation Commission, the State Department of Education and the
20 Department of Labor;

21 2. Members of boards and commissions, and heads of agencies;
22 also one principal assistant or deputy and one executive secretary
23 for each state agency;

24 3. All judges, elected or appointed, and their employees;

1 4. Persons employed with one-time, limited duration, federal or
2 other grant funding that is not continuing or indefinitely
3 renewable. The length of the unclassified employment shall not
4 exceed the period of time for which that specific federal funding is
5 provided;

6 5. All officers and employees of The Oklahoma State System of
7 Higher Education, State Board of Education and Oklahoma Department
8 of Career and Technology Education;

9 6. Persons employed in a professional or scientific capacity to
10 make or conduct a temporary and special inquiry, investigation, or
11 examination on behalf of the Legislature or a committee thereof or
12 by authority of the Governor. These appointments and authorizations
13 shall terminate on the first day of the regular legislative session
14 immediately following the appointment, if not terminated earlier.
15 However, nothing in this paragraph shall prevent the reauthorization
16 and reappointment of any such person. Any such appointment shall be
17 funded from the budget of the appointing authority;

18 7. Election officials and employees;

19 8. Temporary employees employed to work less than one thousand
20 (1,000) hours in any twelve-month period, and seasonal employees
21 employed by the Oklahoma Tourism and Recreation Department pursuant
22 to Section 2241 of this title who work less than one thousand six
23 hundred (1,600) hours in any twelve-month period;

24

1 9. Department of Public Safety employees occupying the
2 following offices or positions:

- 3 a. administrative aides to the Commissioner,
- 4 b. executive secretaries to the Commissioner,
- 5 c. the Governor's representative of the Oklahoma Highway
6 Safety Office who shall be appointed by the Governor,
- 7 d. Highway Patrol Colonel,
- 8 e. Highway Patrol Lieutenant Colonel,
- 9 f. Highway Patrol Major,
- 10 g. Director of Finance,
- 11 h. noncommissioned pilots,
- 12 i. Information Systems Administrator,
- 13 j. Law Enforcement Telecommunications System Specialist,
- 14 k. Director of Driver License Administration,
- 15 l. Director of Transportation Division,
- 16 m. Director of the Alcohol and Drug Countermeasures Unit,
- 17 n. Director of the Oklahoma Highway Safety Office,
- 18 o. Civil Rights Administrator,
- 19 p. Budget Analyst,
- 20 q. Comptroller,
- 21 r. Chaplain,
- 22 s. Helicopter Mechanic,
- 23 t. Director of Safety Compliance,
- 24 u. Human Resources Director,

1 v. Administrator of Department Services, and
2 w. a maximum of seven (7) positions for the purpose of
3 administering programs in the Oklahoma Highway Safety
4 Office, within full-time employee limitations of the
5 Department, employed with federal funding that is
6 continuing or indefinitely renewable. The
7 authorization for such positions shall be terminated
8 if the federal funding for positions is discontinued;
9 provided, any person appointed to a position prescribed in
10 subparagraph d, e, f or o of this paragraph shall have a right of
11 return to the classified commissioned position without any loss of
12 rights, privileges or benefits immediately upon completion of the
13 duties in the unclassified commissioned position, and any person
14 appointed to a position prescribed in subparagraph i, j, k, l, m or
15 n of this paragraph shall have a right of return to the previously
16 held vacant classified position within the Department of Public
17 Safety without any loss of rights, privileges or benefits
18 immediately upon completion of the duties in the unclassified
19 commissioned position;

20 10. Professional trainees only during the prescribed length of
21 their course of training or extension study;

22 11. Students who are employed on a part-time basis, which shall
23 be seventy-five percent (75%) of a normal forty-hour work week or
24 thirty (30) hours per week, or less, or on a full-time basis if the

1 employment is pursuant to a cooperative education program such as
2 that provided for under Title I IV-D of the Higher Education Act of
3 1965 (20 U.S.C. 1087a-1087c), as amended, and who are regularly
4 enrolled in:

5 a. an institution of higher learning within The Oklahoma
6 State System of Higher Education,

7 b. an institution of higher learning qualified to become
8 coordinated with The Oklahoma State System of Higher
9 Education. For purposes of this section, a student
10 shall be considered a regularly enrolled student if
11 the student is enrolled in a minimum of five (5) hours
12 of accredited graduate courses or a minimum of ten
13 (10) hours of accredited undergraduate courses,
14 provided, however, the student shall only be required
15 to be enrolled in a minimum of six (6) hours of
16 accredited undergraduate courses during the summer, or

17 c. high school students regularly enrolled in a high
18 school in Oklahoma and regularly attending classes
19 during such time of enrollment;

20 12. The spouses of personnel who are employed on a part-time
21 basis to assist or work as a relief for their spouses in the
22 Oklahoma Tourism and Recreation Department;

23 13. Service substitute attendants who are needed to replace
24 museum and site attendants who are unavoidably absent. Service

1 substitutes may work as part-time or full-time relief for absentees
2 for a period of not more than four (4) weeks per year in the
3 Oklahoma Historical Society sites and museums; such substitutes will
4 not count towards the agency's full-time-equivalent (FTE) employee
5 limit;

6 14. Employees of the Oklahoma House of Representatives, the
7 State Senate, or the Legislative Service Bureau;

8 15. Corporation Commission personnel occupying the following
9 offices and positions:

- 10 a. Administrative aides, and executive secretaries to the
11 Commissioners,
- 12 b. Directors of all the divisions, personnel managers and
13 comptrollers,
- 14 c. General Counsel,
- 15 d. Public Utility Division Chief Engineer,
- 16 e. Public Utility Division Chief Accountant,
- 17 f. Public Utility Division Chief Economist,
- 18 g. Public Utility Division Deputy Director,
- 19 h. Secretary of the Commission,
- 20 i. Deputy Conservation Director,
- 21 j. Manager of Pollution Abatement,
- 22 k. Manager of Field Operations,
- 23 l. Manager of Technical Services,
- 24 m. Public Utility Division Chief of Telecommunications,

- n. Director of Information Services,
- o. All Data Processing employees hired on or after September 1, 2005,
- p. All Public Utilities employees hired on or after September 1, 2007, and
- q. All Regulatory Program Managers hired on or after September 1, 2007;

16. At the option of the employing agency, the Supervisor, Director, or Educational Coordinator in any other state agency having a primary responsibility to coordinate educational programs operated for children in state institutions;

17. Department of Mental Health and Substance Abuse Services personnel occupying the following offices and positions at each facility:

- a. Director of Facility,
- b. Deputy Director for Administration,
- c. Clinical Services Director,
- d. Executive Secretary to Director, and
- e. Directors or Heads of Departments or Services;

18. Office of State Finance personnel occupying the following offices and positions:

- a. State Comptroller,
- b. Administrative Officers,
- c. Alternator Claims Auditor,

- 1 d. Employees hired to fulfill state compliance agency
2 requirements under Model Tribal Gaming Compacts,
3 e. Employees of the Budget Division,
4 f. Employees of the Fiscal and Research Division,
5 g. Employees hired to work on the CORE Systems Project;
6 and
7 h. The following employees of the Information Services
8 Division:
9 (1) Information Services Division Manager,
10 (2) Network Manager,
11 (3) Network Technician,
12 (4) Security Manager,
13 (5) Contracts/Purchasing Manager,
14 (6) Operating and Applications Manager,
15 (7) Project Manager,
16 (8) Help Desk Manager,
17 (9) Help Desk Technician,
18 (10) Quality Assurance Manager,
19 (11) ISD Analysts,
20 (12) CORE Manager,
21 (13) Enterprise System/Database Software Manager,
22 (14) Data Center Operations and Production Manager,
23 (15) Voice Communications Manager,
24 (16) Applications Development Manager,

- 1 (17) Projects Manager,
- 2 (18) PC's Manager,
- 3 (19) Servers Manager,
- 4 (20) Portal Manager,
- 5 (21) Procurement Specialists,
- 6 (22) Security Technicians,
- 7 (23) Enterprise Communications and Network
- 8 Administrator,
- 9 (24) Server Support Specialists,
- 10 (25) Senior Server Support Specialists,
- 11 (26) Systems Support Specialists, and
- 12 (27) Senior Systems Support Specialists;

13 19. Employees of the Oklahoma Industrial Finance Authority;

14 20. Those positions so specified in the annual business plan of
15 the Oklahoma Department of Commerce;

16 21. Those positions so specified in the annual business plan of
17 the Oklahoma Center for the Advancement of Science and Technology;

18 22. The following positions and employees of the Oklahoma
19 School of Science and Mathematics:

- 20 a. positions for which the annual salary is Twenty-four
- 21 Thousand One Hundred Ninety-three Dollars (\$24,193.00)
- 22 or more, as determined by the Office of Personnel
- 23 Management, provided no position shall become
- 24

- 1 unclassified because of any change in salary or grade
2 while it is occupied by a classified employee,
3 b. positions requiring certification by the State
4 Department of Education, and
5 c. positions and employees authorized to be in the
6 unclassified service of the state elsewhere in this
7 section or in subsection B of this section;

8 23. Office of Personnel Management employees occupying the
9 following positions:

- 10 a. the Carl Albert Internship Program Coordinator,
11 b. one Administrative Assistant,
12 c. one Workforce Planning Manager,
13 d. Assistant Administrators,
14 e. one Associate Administrator, and
15 f. Division Directors;

16 24. Department of Labor personnel occupying the following
17 offices and positions:

- 18 a. two Deputy Commissioners,
19 b. two Executive Secretaries to the Commissioner,
20 c. Chief of Staff,
21 d. two Administrative Assistants,
22 e. Information Systems Administrator,
23 f. three Safety and Health Directors,
24 g. Research Director,

- 1 h. Employment Standards Director,
- 2 i. Asbestos Director,
- 3 j. General Counsel,
- 4 k. one Legal Secretary,
- 5 l. one Docket Clerk, and
- 6 m. two Information Systems Application Specialists;
- 7 25. The State Bond Advisor and his or her employees;
- 8 26. The Oklahoma Employment Security Commission employees

9 occupying the following positions:

- 10 a. Associate Director,
- 11 b. Secretary to the Associate Director, and
- 12 c. Assistant to the Executive Director;
- 13 27. Oklahoma Human Rights Commission personnel occupying the
- 14 position of Administrative Assistant;
- 15 28. Officers and employees of the State Banking Department;
- 16 29. Officers and employees of the University Hospitals

17 Authority except personnel in the state classified service pursuant
18 to Section 3211 of Title 63 of the Oklahoma Statutes and members of
19 the University Hospitals Authority Model Personnel System created
20 pursuant to subsection E of Section 3211 of Title 63 of the Oklahoma
21 Statutes or as otherwise provided for in Section 3213.2 of Title 63
22 of the Oklahoma Statutes;

23
24

1 30. ~~Alcoholic Beverage Laws Enforcement Commission~~ Oklahoma
2 State Bureau of Narcotics and Dangerous Drugs Control employees
3 occupying the following positions:

- 4 a. three Administrative Service Assistant positions,
5 however, employees in such positions who are in the
6 unclassified service on June 4, 2003, may make an
7 election to be in the classified service without a
8 loss in salary by September 1, 2003, and
- 9 b. the Deputy Director position in addition to the one
10 authorized by paragraph 2 of this subsection;

11 31. The Oklahoma State Bureau of Investigation employees
12 occupying the following positions:

- 13 a. five assistant directors,
- 14 b. six special investigators,
- 15 c. one information representative,
- 16 d. one federally funded physical evidence technician,
- 17 e. four federally funded laboratory analysts,
- 18 f. a maximum of fourteen positions employed for the
19 purpose of managing the automated information systems
20 of the agency,
- 21 g. one executive secretary in addition to the one
22 authorized pursuant to paragraph 2 of this subsection,
- 23 h. Child Abuse Response Team (CART) investigator, and
- 24 i. Child Abuse Response Team (CART) forensic interviewer;

1 32. The Department of Transportation, the following positions:

- 2 a. Director of the Oklahoma Aeronautics Commission,
- 3 b. five Department of Transportation Assistant Director
- 4 positions,
- 5 c. eight field division engineer positions,
- 6 d. one pilot position,
- 7 e. five Project Manager Positions, and
- 8 f. five Transportation Coordinators;

9 33. Commissioners of the Land Office employees occupying the
10 following positions:

- 11 a. Director of the Investments Division,
- 12 b. Assistant Director of the Investments Division,
- 13 c. one Administrative Assistant,
- 14 d. one Audit Tech position,
- 15 e. one Auditor I position,
- 16 f. two Accounting Tech I positions,
- 17 g. two Administrative Assistant I positions,
- 18 h. two Imaging Specialist positions, and
- 19 i. one Information Systems Specialist position;

20 34. Within the Oklahoma State Bureau of Narcotics and Dangerous
21 Drugs Control Commission, the following positions:

- 22 a. six Narcotics Agent positions and three Typist
- 23 Clerk/Spanish transcriptionists, including a Typist
- 24 Clerk Supervisor/Spanish transcriptionist, provided,

1 authorization for such positions shall be terminated
2 if the federal funding for the positions is
3 discontinued,

4 b. one executive secretary in addition to the one
5 authorized pursuant to paragraph 2 of this subsection,

6 c. one fiscal officer,

7 d. one full-time Programmer, and

8 e. one full-time Network Engineer;

9 35. The Military Department of the State of Oklahoma is
10 authorized such unclassified employees within full-time employee
11 limitations to work in any of the Department of Defense directed
12 youth programs, the State of Oklahoma Juvenile Justice youth
13 programs, those persons reimbursed from Armory Board or Billeting
14 Fund accounts, and skilled trade positions;

15 36. Within the Oklahoma Commission on Children and Youth the
16 following unclassified positions:

17 a. one Oversight Specialist and one Community Development
18 Planner,

19 b. one State Plan Grant Coordinator, provided
20 authorization for the position shall be terminated
21 when federal support for the position by the United
22 States Department of Education Early Intervention
23 Program is discontinued, and
24

1 c. one executive secretary in addition to the one
2 authorized pursuant to paragraph 2 of this subsection;

3 37. The following positions and employees of the Department of
4 Central Services:

5 a. one Executive Secretary in addition to the Executive
6 Secretary authorized by paragraph 2 of this
7 subsection,

8 b. the Director of Central Purchasing,

9 c. one Alternate Fuels Administrator,

10 d. one Director of Special Projects,

11 e. three postauditors,

12 f. four high-technology contracting officers,

13 g. one Executive Assistant to the Purchasing Director,

14 h. four Contracts Managers,

15 i. one Associate Director,

16 j. one specialized HiTech/Food Contracting Officer,

17 k. one State Use Contracting Officer,

18 l. one Property Distribution Administrator,

19 m. three licensed architects assigned to the Facilities
20 and Properties Division,

21 n. three licensed engineers assigned to the Facilities
22 and Properties Division,

23 o. four construction consultants assigned to the
24 Facilities and Properties Division,

1 p. one attorney assigned to the Facilities and Properties
2 Division,

3 q. three positions assigned to the Information Services
4 Division, which shall include one Information
5 Technology Manager, one Applications Specialist and
6 one Data Planning Specialist, and

7 r. four positions assigned to Fleet Management, which
8 shall include one Deputy Fleet Manager and three
9 Management Analysts;

10 38. Four Water Quality Specialists, and four Water Resources
11 Division Chiefs within the Oklahoma Water Resources Board;

12 39. J.D. McCarty Center for Children with Developmental
13 Disabilities personnel occupying the following offices and
14 positions:

- 15 a. Physical Therapists,
- 16 b. Physical Therapist Assistants,
- 17 c. Occupational Therapists,
- 18 d. Certified Occupational Therapist Aides, and
- 19 e. Speech Pathologists;

20 40. The Development Officer and the Director of the State
21 Museum of History within the Oklahoma Historical Society;

22 41. Oklahoma Department of Agriculture, Food, and Forestry
23 personnel occupying the following positions:

- 1 a. one Executive Secretary in addition to the Executive
2 Secretary authorized by paragraph 2 of this subsection
3 and one Executive Assistant,
- 4 b. nineteen Agricultural Marketing Coordinator III
5 positions,
- 6 c. temporary fire suppression personnel, regardless of
7 the number of hours worked, who are employed by the
8 Oklahoma Department of Agriculture, Food, and
9 Forestry; provided, however, notwithstanding the
10 provisions of any other section of law, the hours
11 worked by such employees shall not entitle such
12 employees to any benefits received by full-time
13 employees,
- 14 d. one Administrator for Human Resources,
- 15 e. one Director of Administrative Services,
- 16 f. one Water Quality Consumer Complaint Coordinator,
- 17 g. one hydrologist position,
- 18 h. Public Information Office Director,
- 19 i. Market Development Services Director,
- 20 j. Legal Services Director,
- 21 k. Animal Industry Services Director,
- 22 l. Agricultural Environmental Management Services
23 Director,
- 24 m. Forestry Services Director,

- 1 n. Plant Industry and Consumer Services Director,
2 o. one Grants Administrator position,
3 p. Director of Laboratory Services,
4 q. Chief of Communications,
5 r. Public Information Manager,
6 s. Inventory/Supply Officer,
7 t. five Agriculture Field Inspector positions assigned
8 the responsibility for conducting inspections and
9 audits of agricultural grain storage warehouses. All
10 other Agriculture Field Inspector positions and
11 employees of the Oklahoma Department of Agriculture,
12 Food, and Forestry shall be classified and subject to
13 the provisions of the Merit System of Personnel
14 Administration. On November 1, 2002, all other
15 unclassified Agriculture Field Inspectors shall be
16 given status in the classified service as provided in
17 Section 840-4.2 of this title,
18 u. Rural Fire Coordinator,
19 v. one Agricultural Marketing Coordinator III,
20 w. Food Safety Division Director,
21 x. two Environmental Program Specialists,
22 y. two Scale Technicians, and
23 z. two Plant Protection Specialists;

1 42. The Contracts Administrator within the Oklahoma State
2 Employees Benefits Council;

3 43. The Development Officer within the Oklahoma Department of
4 Libraries;

5 44. Oklahoma Real Estate Commission personnel occupying the
6 following offices and positions:

7 a. Educational Program Director, and

8 b. Data Processing Manager;

9 45. A Chief Consumer Credit Examiner for the Department of
10 Consumer Credit;

11 46. All officers and employees of the Oklahoma Capitol Complex
12 and Centennial Commemoration Commission;

13 47. All officers and employees of the Oklahoma Motor Vehicle
14 Commission;

15 48. One Museum Archivist of The Will Rogers Memorial
16 Commission;

17 49. One Fire Protection Engineer of the Office of the State
18 Fire Marshal;

19 50. Acting incumbents employed pursuant to Section 209 of Title
20 44 or Section 48 of Title 72 of the Oklahoma Statutes who shall not
21 be included in any limitation on full-time equivalency imposed by
22 law on an agency. Permanent classified employees may request a
23 leave of absence from classified status and accept an unclassified
24 appointment and compensation as an acting incumbent with the same

1 agency; provided, the leave shall expire no later than two (2) years
2 from the date of the acting incumbent appointment. An appointing
3 authority may establish unclassified positions and appoint
4 unclassified employees to perform the duties of a permanent
5 classified employee who is on leave of absence from a classified
6 position to serve as an acting incumbent. All unclassified
7 appointments created pursuant to this paragraph shall expire no
8 later than two (2) years from the date of appointment. Classified
9 employees accepting unclassified appointments and compensation
10 pursuant to this paragraph shall be entitled to participate without
11 interruption in any benefit programs available to classified
12 employees, including retirement and insurance programs. Immediately
13 upon termination of an unclassified appointment pursuant to this
14 paragraph, an employee on assignment from the classified service
15 shall have a right to be restored to the classified service and
16 reinstated to the former job family level and compensation plus any
17 adjustments and increases in salary or benefits which the employee
18 would have received but for the leave of absence;

19 51. The Oklahoma Homeland Security Director and all other
20 positions assigned the responsibilities of working in the Oklahoma
21 Office of Homeland Security;

22 52. The following eighteen (18) positions in the State
23 Department of Health:

24 a. one surveillance supervisor,

- b. one surveillance project monitor,
- c. two bilingual interviewers,
- d. eight senior interviewers, and
- e. six interviewers;

53. State Board of Registration for Professional Engineers and Land Surveyors personnel occupying the following offices and positions:

- a. one Director of Enforcement, and
- b. one Board Investigator;

54. One Information Systems Data Management Analyst of the Oklahoma State and Education Employees Group Insurance Board; and

55. Two Management Information Systems positions of the Office of Juvenile Affairs.

B. If an agency has the authority to employ personnel in the following offices and positions, the appointing authority shall have the discretion to appoint personnel to the unclassified service:

- 1. Licensed medical doctors, osteopathic physicians, dentists, psychologists, and nurses;
- 2. Certified public accountants;
- 3. Licensed attorneys;
- 4. Licensed veterinarians; and
- 5. Licensed pharmacists.

C. Effective July 1, 1996, authorization for unclassified offices, positions, or personnel contained in a bill or joint

1 resolution shall terminate June 30 of the ensuing fiscal year after
2 the authorization unless the authorization is codified in the
3 Oklahoma Statutes or the termination is otherwise provided in the
4 legislation.

5 D. The appointing authority of agencies participating in the
6 statewide information systems project may establish unclassified
7 positions and appoint unclassified employees to the project as
8 needed. Additional unclassified positions may be established, if
9 required, to appoint an unclassified employee to perform the duties
10 of a permanent classified employee who is temporarily absent from a
11 classified position as a result of assignment to this project. All
12 unclassified appointments under this authority shall expire no later
13 than December 31, 2007, and all unclassified positions established
14 to support the project shall be abolished. Both the positions and
15 appointments resulting from this authority shall be exempt from any
16 agency FTE limitations and any limits imposed on the number of
17 unclassified positions authorized. Permanent classified employees
18 may request a leave of absence from classified status and accept an
19 unclassified appointment and compensation with the same agency under
20 the provisions of this subsection; provided, the leave shall expire
21 no later than December 31, 2007. Employees accepting the
22 appointment and compensation shall be entitled to participate
23 without interruption in any benefit programs available to classified
24 employees, including retirement and insurance programs. Immediately

1 upon termination of an unclassified appointment pursuant to this
2 subsection, an employee on assignment from the classified service
3 shall have a right to be restored to the classified service and
4 reinstated to the former job family level and compensation plus any
5 adjustments and increases in salary or benefits which the employee
6 would have received but for the leave of absence.

7 SECTION 135. REPEALER 37 O.S. 2001, Sections 506.1, as
8 amended by Section 4, Chapter 204, O.S.L. 2003, 507.1, 507.2, 508,
9 509, 510, 512, 513a and 570 (37 O.S. Supp. 2007, Section 506.1), are
10 hereby repealed.

11 SECTION 136. Section 2 of this act shall become effective
12 January 1, 2009, if the constitutional amendment contained in House
13 Joint Resolution No. 1081 of the 2nd Session of the 51st Oklahoma
14 Legislature is approved by a vote of the people.

15 SECTION 137. Sections 1 and 3 through 135 of this act shall
16 become effective July 1, 2009, if the constitutional amendment
17 contained in House Joint Resolution No. 1081 of the 2nd Session of
18 the 51st Oklahoma Legislature is approved by a vote of the people.

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