

1 ENGROSSED HOUSE  
2 BILL NO. 3158

By: Blackwell, McCullough and  
Lamons of the House

3 and

4 Laughlin of the Senate

5  
6  
7 ( Alcoholic Beverage Laws Enforcement Commission -  
8 abolishing - transferring - Oklahoma State Bureau  
9 of Narcotics and Dangerous Drugs Control and the  
10 Oklahoma Tax Commission - amending various sections  
11 in 8 titles - repealing 9 sections in Title 37 -  
12 codification - noncodification -  
13 effective dates )

14  
15  
16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

1 (OBNDD). Except as provided in subsection D of this section, any  
2 reference in the Oklahoma Statutes to the Director of the Alcoholic  
3 Beverage Laws Enforcement Commission shall be deemed to be a  
4 reference to the Director of the Oklahoma State Bureau of Narcotics  
5 and Dangerous Drugs Control.

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

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

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

23 2. Any reference in the Oklahoma Statutes to the Alcoholic  
24 Beverage Laws Enforcement Commission with regard to licensing

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

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

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

20 E. The classified and unclassified employees who are  
21 transferred pursuant to this section shall be subject to the  
22 following provisions:  
23  
24

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

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

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

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

21           5. The transfer of personnel shall be coordinated with the  
22 Office of Personnel Management.

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

1           A. Effective January 1, 2009, the Director of the Oklahoma  
2 State Bureau of Narcotics and Dangerous Drugs Control, the  
3 Administrator of the Oklahoma Tax Commission, and the Director of  
4 the Alcoholic Beverage Laws Enforcement Commission shall serve as  
5 transition coordinators and shall establish a transition team to  
6 coordinate the orderly transfer of duties, personnel, property,  
7 funds, and encumbrances from the Alcoholic Beverage Laws Enforcement  
8 Commission to the Oklahoma State Bureau of Narcotics and Dangerous  
9 Drugs Control and the Oklahoma Tax Commission. Each Director and  
10 the Administrator may assign personnel to the transition team from  
11 their respective agency as deemed necessary.

12           B. The transition team shall:

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

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

22           3. Devise a proposal for an organizational framework within the  
23 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control and  
24 the Oklahoma Tax Commission for alcohol laws enforcement which shall

1 include a proposal for reduction of full-time-equivalent employees  
2 by five percent (5%);

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

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

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

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

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

1 Section 402. As used in the Oklahoma Charity Games Act, Section  
2 401 et seq. of this title:

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

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

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

1 symbols out of every set of charity game tickets have been  
2 designated in advance at random as prize winners and which is used  
3 in a breakopen ticket game;

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

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

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

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

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

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:  
24

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.

24

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

1	<del>23.</del> <u>21.</u>	Private Carrier License.....	\$23.00
2	<del>24.</del> <u>22.</u>	Bonded Warehouse License.....	\$190.00
3	<del>25.</del> <u>23.</u>	Storage License.....	\$23.00
4	<del>26.</del> <u>24.</u>	Nonresident Seller License.....	\$750.00
5	<del>27.</del> <u>25.</u>	Manufacturers Agent License.....	\$55.00
6	<del>28.</del> <u>26.</u>	Sacramental Wine Supplier License.....	\$100.00
7	<del>29.</del> <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 of Enrolled Senate Bill No. 41 of the 2nd  
10 Session of the 51st Oklahoma Legislature, is amended to read as  
11 follows:

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

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

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

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

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

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

23 A wholesaler license shall authorize the holder thereof to  
24 operate a single bonded warehouse with a single central office

1 together with delivery facilities at a location in this state only  
2 at the principal place of business for which the wholesaler license  
3 was granted.

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

19 G. A package store license shall authorize the holder thereof:  
20 To purchase alcohol, spirits, beer and wine in retail containers  
21 from the holder of a brewer, wholesaler or Class B wholesaler  
22 license and to purchase wine produced at a winery in this state from  
23 an Oklahoma winemaker and to sell same on the licensed premises in  
24 such containers to consumers for off-premises consumption only and

1 not for resale; provided, wine may be sold to charitable  
2 organizations that are holders of charitable auction or charitable  
3 wine event licenses. All alcoholic beverages that are sold by a  
4 package store are to be sold at ordinary room temperature.

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

14 Sales and service of mixed beverages by holders of mixed  
15 beverage licenses shall be limited to the licensed premises of the  
16 licensee unless the holder of the mixed beverage license also  
17 obtains a caterer license or a mixed beverage/caterer combination  
18 license. A mixed beverage license shall only be issued in counties  
19 of this state where the sale of alcoholic beverages by the  
20 individual drink for on-premises consumption has been authorized. A  
21 separate license shall be required for each place of business. No  
22 mixed beverage license shall be issued for any place of business  
23 functioning as a motion picture theater, as defined by Section 506  
24 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, charitable wine event or charitable  
11 beer event license may be issued to a charitable organization exempt  
12 from taxation under Section 501(c)(3), (4), (5), (7), (8), (9),  
13 (10), or (19) of the United States Internal Revenue Code. The  
14 charitable wine event license or charitable beer event license shall  
15 authorize the holder thereof to conduct a wine or beer event which  
16 may consist of one or more of a wine or beer tasting event, a wine  
17 or beer dinner event or a wine or beer auction, which may be either  
18 a live auction conducted by an auctioneer or a silent auction for  
19 which:

20 1. Bid sheets are accepted from interested bidders at the  
21 event;

22 2. The holders of tickets are allowed to bid online for a  
23 period not exceeding thirty (30) days prior to the event; or  
24

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

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

24

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

13 SECTION 42. AMENDATORY Section 2, Chapter 156, O.S.L.  
14 2003 (37 O.S. Supp. 2007, Section 521.1), is amended to read as  
15 follows:

16 Section 521.1 A. For purposes of this section:

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

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

21 3. ~~"Commission"~~ "Bureau" or "OBNDD" means the Oklahoma ~~Beverage~~  
22 ~~Laws Enforcement Commission~~ State Bureau of Narcotics and Dangerous  
23 Drugs Control; and

24

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

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

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

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

6 a. the purchaser's name and address and the number of the  
7 purchaser's driver license, identification card issued  
8 by the Department of Public Safety, military  
9 identification card, or valid United States or foreign  
10 passport,

11 b. the date and time of the purchase,

12 c. the beer keg identification seal number required by  
13 subsection B of this section, and

14 d. the purchaser's signature.

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

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

21 F. 1. A person required to record information under subsection  
22 D of this section shall not knowingly make a materially false entry  
23 in the book or register required under subsection D of this section.  
24 In a prosecution under this subsection, it is a defense for the

1 defendant to prove by a preponderance of the evidence that the  
2 defendant reasonably and in good faith relied upon the  
3 identification provided by the purchaser of a beer keg.

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

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

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

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

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

3 SECTION 43. AMENDATORY Section 1, Chapter 46, O.S.L.  
4 2007 (37 O.S. Supp. 2007, Section 521.2), is amended to read as  
5 follows:

6 Section 521.2 The Legislature finds and declares that:

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

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

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

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

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

23  
24

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

4 SECTION 44. AMENDATORY Section 2, Chapter 46, O.S.L.  
5 2007 (37 O.S. Supp. 2007, Section 521.3), is amended to read as  
6 follows:

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

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

24

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

3 Section 522. Applicants for original brewer, distiller,  
4 winemaker, rectifier, ~~wholesaler, Class B wholesaler,~~ mixed  
5 beverage, beer and wine, bottle club, caterer or package store  
6 licenses shall, prior to applying for such license, twice publish,  
7 in such form and containing such information as the ~~Alcoholic~~  
8 ~~Beverage Laws Enforcement Commission~~ Oklahoma State Bureau of  
9 Narcotics and Dangerous Drugs Control shall by regulation prescribe,  
10 a notice of its intention to apply for any such license, once a week  
11 for two (2) successive weeks in a legal newspaper of general  
12 circulation within the county where the proposed premises is to be  
13 located, and file proof of such publication with the ~~ABLE Commission~~  
14 Bureau. Unless otherwise provided, the ~~ABLE Commission~~ Bureau shall  
15 give notice of approval or disapproval of an application for a  
16 license within thirty (30) days after the filing of said  
17 application. The ~~ABLE Commission~~ Bureau shall give notice of  
18 approval or disapproval of an application for a mixed beverage, beer  
19 and wine, bottle club or caterer license within sixty (60) days  
20 after the filing of said application. Provided, the ~~ABLE Commission~~  
21 Bureau may extend the period for making a determination of whether  
22 to approve or disapprove an application an additional thirty (30)  
23 days for good cause.

24

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

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

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

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

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

16 Applicants for wholesaler or Class B wholesaler licenses shall,  
17 prior to applying for such license, twice publish, in such form and  
18 containing such information as the Oklahoma Tax Commission shall by  
19 regulation prescribe, a notice of its intention to apply for any  
20 such license, once a week for two (2) successive weeks in a legal  
21 newspaper of general circulation within the county where the  
22 proposed premises is to be located, and file proof of such  
23 publication with the Tax Commission. Unless otherwise provided, the  
24 Tax Commission shall give notice of approval or disapproval of an

1 application for a license within thirty (30) days after the filing  
2 of said application. Provided, the Tax Commission may extend the  
3 period for making a determination of whether to approve or  
4 disapprove an application an additional thirty (30) days for good  
5 cause.

6 The Tax Commission may conditionally approve any application  
7 which is subject to Section 523 of Title 37 of the Oklahoma Statutes  
8 if:

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

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

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

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

21 Section 523. A. ~~No~~ Except as provided in Section 48 of this  
22 act, for wholesaler and Class B wholesaler licenses, no license  
23 provided for in the Oklahoma Alcoholic Beverage Control Act shall be  
24 issued except pursuant to an application filed with the Alcoholic

1 ~~Beverage Laws Enforcement Commission~~ Oklahoma State Bureau of  
2 Narcotics and Dangerous Drugs Control. The ~~ABLE Commission Bureau~~  
3 may, however, provide for a form of simplified application for  
4 renewal of license. Payment of the prescribed fee shall accompany  
5 each application for a license.

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

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

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

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

1 operations under the license comply with all municipal or county  
2 fire codes, safety codes, or health codes, if applicable;

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

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

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

22 D. Municipalities and counties may grant conditional  
23 certificates for premises proposed for licensed operations for which  
24 construction, modification, or alteration is not completed.

1 Conditional certificates shall indicate that the proposed premises  
2 will comply with the municipal or county zoning, fire, safety, and  
3 health codes. The granting of conditional certificates shall not  
4 relieve the applicant of the duty of obtaining the certificates  
5 required by paragraphs 2 and 3 of subsection B of this section after  
6 completion of the construction, modification, or alteration.

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

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

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

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

22 H. Any licensee, except an employee licensee, who fails to  
23 renew his license prior to the expiration date of said license shall  
24 be subject to a late renewal penalty as provided by ~~ABLE Commission~~

1 Bureau rules and regulations. Further, any licensee, except an  
2 employee licensee, who fails to renew his license within sixty (60)  
3 days of the expiration of said license shall be required to submit a  
4 new license application. An employee licensee who fails to renew  
5 prior to the expiration of the license shall be required to submit a  
6 new license application; provided, however, that under no  
7 circumstances shall any licensee, including an employee licensee,  
8 whose license to serve or sell alcoholic beverages has expired,  
9 continue to serve or sell alcoholic beverages.

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

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

19 B. Every applicant for an original license shall also furnish  
20 the following:

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

24

1           2. A certificate of zoning issued by the municipality in which  
2 the applicant proposes to locate the applicant's principal place of  
3 business under the license, or by the county if said principal place  
4 of business is located outside the incorporated limits of a  
5 municipality, certifying that the applicant's proposed location and  
6 use thereof comply with all municipal zoning ordinances or county  
7 zoning regulations if applicable;

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

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

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

22           C. The certificates required by paragraphs 2 and 3 of  
23 subsection B of this section shall be signed by the mayor of the  
24 municipality or the chairman of the board of county commissioners

1 issuing same, unless the municipality, by ordinance, or the county  
2 designates some other officer or entity to issue the certificates.  
3 Applications for such certificates shall be in writing and shall  
4 contain information in such detail as the municipality or county may  
5 reasonably require describing the location and nature of operations  
6 to be conducted under the Tax Commission license. Municipalities  
7 and counties shall be required to act on all applications for such  
8 certificates within twenty (20) days of receipt of the written  
9 application.

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

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

22 Thereafter, if a licensee fails to maintain compliance with  
23 municipal or county zoning ordinances and codes, the mayor or  
24 chairman of the board of county commissioners or their designee

1 shall forthwith notify the Tax Commission in writing setting forth  
2 details of the noncompliance.

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

7 G. Any licensee who fails to renew his license prior to the  
8 expiration date of said license shall be subject to a late renewal  
9 penalty as provided by Tax Commission rules and regulations.  
10 Further, any licensee, except an employee licensee, who fails to  
11 renew his license within sixty (60) days of the expiration of said  
12 license shall be required to submit a new license application. An  
13 employee licensee who fails to renew prior to the expiration of the  
14 license shall be required to submit a new license application;  
15 provided, however, that under no circumstances shall any licensee,  
16 including an employee licensee, whose license to serve or sell  
17 alcoholic beverages has expired, continue to serve or sell alcoholic  
18 beverages.

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

21 Section 523.1 A. Any corporation applying for a mixed  
22 beverage, beer and wine, caterer, or bottle club license shall  
23 submit to the ~~Alcoholic Beverage Laws Enforcement Commission~~

24

1 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control the  
2 following:

3 1. A certificate of good standing from the office of the  
4 Secretary of State;

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

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

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

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

23 D. The ~~ABLE-Commission~~ Bureau may disapprove a change of  
24 officers, directors or principal managers or the acquisition of more

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

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

23 F. Any person who was a manager or a member of a limited  
24 liability company which has been denied a license or had a license

1 revoked or suspended pursuant to the provisions of the Oklahoma  
2 Alcoholic Beverage Control Act shall not own stock in any  
3 corporation seeking a license pursuant to the provisions of the  
4 Oklahoma Alcoholic Beverage Control Act for a period of twelve (12)  
5 months from the date said license was revoked or suspended.

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

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

15 1. A Certificate of Good Standing from the Office of the  
16 Secretary of State;

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

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

22 4. The name and address of the manager;

23 5. The operating agreement;

24

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

3           7. A copy of the issued Certificate of Membership Interest for  
4 each member.

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

10          C. A limited liability company shall notify the ~~ABLE-Commission~~  
11 Bureau in writing any time a membership is assigned or members are  
12 added or disassociated within thirty (30) days of said change. The  
13 limited liability company shall pay a fee of One Hundred Dollars  
14 (\$100.00) for each notification of change.

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

1 period following notification of denial by the ~~ABLE Commission~~  
2 Bureau. Failure to comply with the provisions of this subsection  
3 may result in revocation or suspension of such license.

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

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

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

24

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

3 Section 524. A. A nonresident seller license shall be required  
4 of all out-of-state distillers, winemakers, brewers, importers,  
5 brokers and others who sell alcoholic beverages to wholesalers and  
6 Class B wholesalers in Oklahoma regardless of whether such sales are  
7 consummated within or without the State of Oklahoma.

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

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

20 C. No licensee in this state authorized to import alcoholic  
21 beverages into this state shall purchase or receive any alcoholic  
22 beverages from without this state from any person not holding a  
23 valid and existing nonresident seller license.

24

1 D. The holder of a nonresident seller license shall, promptly  
2 upon consignment of any alcoholic beverages to an importer in  
3 Oklahoma, forward to the ~~ABLE Commission~~ Bureau a true copy of the  
4 invoice, bill of lading, or other document as the ~~ABLE Commission~~  
5 Bureau may by regulations prescribe, showing the details of such  
6 shipment.

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

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

24

1 Section 525. A manufacturers agent license shall authorize the  
2 holder thereof to represent only the holders of a nonresident seller  
3 license, and to solicit and take orders for the sale of alcoholic  
4 beverages for the purpose of resale. No such license shall be  
5 issued to any person until it shall have been shown to the  
6 satisfaction of the ~~Alcoholic Beverage Laws Enforcement Commission~~  
7 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control that  
8 the applicant has been duly authorized to act as the agent of the  
9 principal he proposes to represent, and that the principal or  
10 principals he proposes to represent has been duly authorized to do  
11 business in the State of Oklahoma, and has appointed a service agent  
12 in this state. No applicant for a manufacturers agent license shall  
13 also hold an agent license. It shall be unlawful for any person  
14 other than the holder of a manufacturers agent license or an agent  
15 license to solicit or take orders in the state from a wholesaler or  
16 Class B wholesaler.

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

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

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

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

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

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

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

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

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

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

1           4. That the applicant or any partner, or spouse of the  
2 applicant or any partner, has been convicted of a violation of any  
3 state or federal law relating to alcoholic beverages, has forfeited  
4 a bond while any charge of such violation was pending, nor may any  
5 license be granted for any purpose under the Oklahoma Alcoholic  
6 Beverage Control Act, ~~Section 501 et seq. of this title,~~ to an  
7 Oklahoma resident, who has held or whose spouse has held a Federal  
8 Liquor Stamp in Oklahoma before the adoption of Article XXVII of the  
9 Oklahoma Constitution unless said Liquor Stamp was granted for  
10 supplying alcoholic beverages to a federal military installation, or  
11 was granted under this title;

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

22           6. That the applicant is not of good moral character, or that  
23 the applicant is in the habit of using alcoholic beverages to  
24 excess, or is mentally incapacitated. Provided, that the record in

1 any municipal court showing a conviction of violation of any  
2 municipal ordinances or state statutes involving moral character or  
3 public nuisance obtained after passage and approval of the Oklahoma  
4 Alcoholic Beverage Control Act shall be received in evidence by the  
5 ~~ABLE~~ Bureau or Tax Commission;

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

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

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

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

17 11. That the applicant is a person who appoints or is a law  
18 enforcement official or is an employee of the ~~ABLE~~ Bureau or Tax  
19 Commission or of the Director of the Bureau or Administrator of the  
20 Tax Commission;

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

23 13. That, in the case of an application for a wholesaler  
24 license, or Class B wholesaler license, any manufacturer, including

1 an officer, director or principal stockholder thereof, or any  
2 partner, has any financial interest in the business to be conducted  
3 under the license;

4 14. That the issuance of the license applied for would result  
5 in a violation of any provision of the Oklahoma Alcoholic Beverage  
6 Control Act;

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

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

1 SECTION 55. AMENDATORY 37 O.S. 2001, Section 527.1, is  
2 amended to read as follows:

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

- 9 1. That the applicant, in the case of a natural person, is  
10 under twenty-one (21) years of age;
- 11 2. That the applicant, in the case of a corporation, has a  
12 stockholder who owns fifteen percent (15%) or more of the stock,  
13 officer, or director who is under twenty-one (21) years of age;
- 14 3. That the applicant, in the case of any type of partnership,  
15 has any partner who is under twenty-one (21) years of age;
- 16 4. That the applicant, in the case of a limited liability  
17 company, has a manager or member who is under twenty-one (21) years  
18 of age;
- 19 5. That the applicant or any type of partner has been convicted  
20 of a felony;
- 21 6. That the applicant, in the case of a corporation, has a  
22 stockholder owning fifteen percent (15%) of the stock, officer or  
23 director who has been convicted of a felony;

24

1           7. That the applicant, in the case of a limited liability  
2 company, has a manager or a member who has been convicted of a  
3 felony;

4           8. That the applicant has made false statements to the ~~ABLE~~  
5 ~~Commission~~ Bureau;

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

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

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

22           12. That the applicant is a person who appoints or is a law  
23 enforcement official or is an employee of the ~~ABLE-Commission~~ Bureau  
24 or of the Director; or

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

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

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

14 1. Violated any rule adopted by the ~~ABLE~~ Bureau or Tax  
15 Commission;

16 2. Procured a license through fraud, or misrepresentation, or  
17 concealment of a material fact;

18 3. Made any false representation or statement to the ~~ABLE~~  
19 Bureau or Tax Commission in order to prevent or induce action by the  
20 ~~ABLE~~ Bureau or Tax Commission;

21 4. Maintained an unsanitary establishment or has supplied  
22 impure or otherwise deleterious beverages or food;

23 5. Stored, possessed, mixed or served on the premises of a  
24 bottle club any alcoholic beverage upon which the tax levied by

1 Section 553 of this title has not been paid as provided for in the  
2 Oklahoma Alcoholic Beverage Control Act, in a county of this state  
3 where the sale of alcoholic beverages by the individual drink for  
4 on-premises consumption has not been authorized;

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

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

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

14 1. Has acted as an agent of a manufacturer or wholesaler of  
15 alcoholic beverages;

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

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

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

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

24

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

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

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

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

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

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

1 E. If the ~~ABLE Commission~~ Bureau shall find by a preponderance  
2 of the evidence as in civil cases that the holder of a package store  
3 license has knowingly sold any alcoholic beverage to any person  
4 under the age of twenty-one (21) years, after a public hearing it  
5 shall revoke said license and no discretion as to said revocation  
6 shall be exercised by the ~~ABLE Commission~~ Bureau.

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

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

21 G. The ~~ABLE~~ Bureau or Tax Commission with respect to wholesaler  
22 and Class B wholesaler licenses may impose a monetary penalty in  
23 lieu of or in addition to suspension of a license. The amount of  
24 fine for a major violation shall be computed by multiplying the

1 proposed number of days of the suspension period by One Hundred  
2 Dollars (\$100.00). The amount of fine for a minor violation shall  
3 be computed by multiplying the number of days of the proposed  
4 suspension period by Fifty Dollars (\$50.00).

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

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

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

18 Section 528.1 The governing board of any municipality, as to  
19 any mixed beverage, beer and wine, caterer, or bottle club licensee  
20 having its principal place of business in such municipality, and the  
21 board of county commissioners of any county, as to any mixed  
22 beverage, beer and wine, caterer, or bottle club licensee having its  
23 principal place of business in such county but outside the  
24 incorporated limits of a municipality, may initiate a license

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

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

24

1 Section 529. In the case of denial of an application for an  
2 original license, the ~~Alcoholic Beverage Laws Enforcement~~ Oklahoma  
3 State Bureau of Narcotics and Dangerous Drugs Control or Oklahoma  
4 Tax Commission shall give written notice to the applicant either by  
5 registered mail directed to his last-known address or by delivery,  
6 stating the reason for such denial. If the ~~ABLE~~ Bureau or Tax  
7 Commission proposes to deny renewal of any license or to suspend or  
8 revoke a license, it shall give written notice to the licensee  
9 addressed to his licensed premises by registered mail, by personal  
10 delivery, or by posting of said notice on the outside entrance to  
11 the licensed premises, notifying said licensee of such contemplated  
12 denial, suspension or revocation, and of the time and place at which  
13 the licensee may be accorded a hearing before the ~~ABLE~~ Bureau or Tax  
14 Commission on the matter, which time shall not be less than fifteen  
15 (15) days from the date of mailing, delivery or posting of such  
16 notice. Such notice shall set forth the grounds for the proposed  
17 denial, suspension or revocation. The ~~ABLE~~ Bureau or Tax Commission  
18 may delegate any part of this function to the Director or his  
19 assistants in his department, but any person aggrieved by any order  
20 shall have the right to be heard by the ~~ABLE~~ Bureau or Tax  
21 Commission and the ~~ABLE~~ Bureau or Tax Commission shall provide  
22 adequate procedure to protect the right of persons desiring to do  
23 so.

24

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

3 Section 530. Any person aggrieved by the action of the  
4 ~~Alcoholic Beverage Laws Enforcement~~ Oklahoma State Bureau of  
5 Narcotics and Dangerous Drugs Control or Oklahoma Tax Commission in  
6 denying an application for an original license may, within fifteen  
7 (15) days after receipt of notice thereof, file with the ABLE Bureau  
8 or Tax Commission written request for a hearing, and the ABLE Bureau  
9 or Tax Commission shall, pursuant to such request, set a time and  
10 place for a hearing on a denial of an application for an original  
11 license. At the time and place set in a notice by the ABLE Bureau  
12 or Tax Commission of contemplated denial of the renewal of a license  
13 or of a proposed suspension or revocation of a license, the ABLE  
14 Bureau or Tax Commission shall afford the applicant or the licensee  
15 an opportunity to be heard and to present evidence in his behalf.  
16 Said hearing shall be conducted within fifteen (15) days after  
17 receipt of the request by the ABLE Bureau or Tax Commission. In the  
18 conduct of any such hearing, the ABLE Bureau or Tax Commission shall  
19 have power to administer oaths, examine witnesses, and subpoena  
20 records and documents pertaining to the issues involved. Upon  
21 request of and at the expense of the aggrieved party, the ABLE  
22 Bureau or Tax Commission shall make or cause to be made a complete  
23 record of all testimony and other evidence taken or introduced at  
24 such hearing. Within fifteen (15) days after conclusion of any such

1 hearing, unless the time shall be extended by the parties thereto in  
2 writing, the ~~ABLE~~ Bureau or Tax Commission shall enter an order  
3 affirming or modifying its denial of an original application, an  
4 order dismissing its notice of contemplated denial of renewal of  
5 license or affirming same, or an order dismissing its notice of  
6 contemplated suspension or revocation of a license or an order  
7 suspending or revoking same. The ~~ABLE~~ Bureau or Tax Commission  
8 shall, by written notice mailed to the applicant or licensee by  
9 certified mail or by delivery in person to the applicant or  
10 licensee, or their attorney of record, advise of its action pursuant  
11 to the hearing.

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

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

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

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

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

1 assessed against him. The appeal shall be taken by filing with the  
2 clerk of the district court of the proper county a written notice  
3 stating that the party appeals from the action of the ~~ABLE~~ Bureau or  
4 Tax Commission and stating the pertinent grounds on which the appeal  
5 is founded. Such appeal shall consist of a hearing and review of  
6 the record only as set forth in the Administrative Procedures Act,  
7 ~~Sections 301 through 326 of Title 75 of the Oklahoma Statutes.~~ The  
8 district court may affirm, reverse or modify the order of the ~~ABLE~~  
9 Bureau or Tax Commission and shall issue its order within sixty (60)  
10 days after the appeal is heard. Appeals may be taken from a final  
11 order of the district court to the Supreme Court by the applicant,  
12 licensee or by the ~~ABLE~~ Bureau or Tax Commission. The ~~ABLE~~ Bureau  
13 or Tax Commission shall not be required to give bond on appeal. The  
14 licensee may file a supersedeas bond in an amount to be fixed by the  
15 ~~ABLE~~ Bureau or Tax Commission staying the order until the final  
16 determination of all issues on an appeal but the order of the ~~ABLE~~  
17 Bureau or Tax Commission may not be stayed unless ordered by the  
18 judge of the district court. Permission to stay the order of the  
19 ~~ABLE~~ Bureau or Tax Commission shall not be granted by any court  
20 unless an application therefor be made in the written notice of the  
21 applicant's or licensee's intention to appeal from the order of the  
22 ~~ABLE~~ Bureau or Tax Commission, and then only after a hearing before  
23 the court upon notice to both parties wherein the court determines  
24 by a preponderance of the evidence that in denying a license or in

1 ordering the suspension or a revocation of a license the ~~ABLE~~ Bureau  
2 or Tax Commission acted without legal cause or upon insufficient  
3 evidence. Provided, that in all cases where the order of the ~~ABLE~~  
4 Bureau or Tax Commission is stayed by a supersedeas bond and the  
5 licensee is unsuccessful in his appeal, and the action of the ~~ABLE~~  
6 Bureau or Tax Commission becomes final, such bond shall be forfeited  
7 to the State of Oklahoma by the court considering such appeal if the  
8 court finds said appeal was frivolous or was filed for the purpose  
9 of delaying the effect of said order, and the ~~Attorney General shall~~  
10 Director of the Oklahoma State Bureau of Narcotics and Dangerous  
11 Drugs Control may thereupon commence legal proceedings in the name  
12 of the State of Oklahoma to recover the amount of said bond, which  
13 money shall be placed to the credit of the ~~General Revenue~~ Bureau of  
14 Narcotics Alcohol Enforcement and Education Revolving Fund ~~of the~~  
15 state created pursuant to Section 126 of this act.

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

18 Section 532. Any license issued pursuant to the provisions of  
19 the Oklahoma Alcoholic Beverage Control Act shall be a purely  
20 personal privilege. It shall not constitute property nor be subject  
21 to attachment, garnishment, or execution, or be alienable or  
22 transferable, either voluntarily or involuntarily; nor shall it  
23 descend by the laws of descent and distribution, but shall cease  
24 upon the death of the licensee; provided, however, that the

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

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

1 Section 532.1 All licenses issued pursuant to the provisions of  
2 the Oklahoma Alcoholic Beverage Control Act shall be displayed in a  
3 conspicuous place at all times on the licensed premises. No  
4 licensee may consent to or allow the use or display of his license  
5 by a person other than the person to whom the license was issued.  
6 No person may use a license or exercise any privileges granted by  
7 the license except at the place, address, premises or location for  
8 which the license is issued, except as otherwise provided by the  
9 Oklahoma Alcoholic Beverage Control Act.

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

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

20 Section 532.2 A. If a mixed beverage licensee sells or  
21 otherwise transfers his financial interest in a licensed premises to  
22 another party who obtains a mixed beverage license for the premises,  
23 any alcoholic beverages on said premises may be transferred to the  
24 new licensee. Provided, if the premises are not in continuous

1 operation as a mixed beverage establishment prior to and during the  
2 transfer of financial interest in the premises, said transfer of  
3 alcoholic beverages shall be limited to alcoholic beverages in the  
4 original container which have not been opened and which have not had  
5 the seal broken and the original cap or cork removed.

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

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

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

24

1 Section 535. It shall be unlawful for any manufacturer,  
2 wholesaler, Class B wholesaler, or person authorized to sell  
3 alcoholic beverages to a wholesaler, or any employee, officer,  
4 director, stockholder owning fifteen percent (15%) or more of the  
5 stock, any type of partner, manager, member or agent thereof, to  
6 directly or indirectly:

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

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

14 3. Guarantee any loan or the repayment of any financial  
15 obligation of any retailer, mixed beverage, beer and wine or bottle  
16 club licensee or caterer;

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

23 5. Sell to any retailer, mixed beverage, beer and wine licensee  
24 or caterer any alcoholic beverage on consignment, or upon condition,

1 or with the privilege of return, or on any condition other than a  
2 bona fide sale; provided, the delivery in good faith, through  
3 mistake, inadvertence, or oversight, of alcoholic beverage that was  
4 not ordered by a retailer, mixed beverage licensee, beer and wine  
5 licensee, caterer or special event licensee to such licensee shall  
6 not be considered a violation of this paragraph, as long as action  
7 is taken to correct the error and all invoices and records of the  
8 transaction are corrected. There shall be no time period imposed by  
9 the ~~ABLE~~ Oklahoma State Bureau of Narcotics and Dangerous Drugs  
10 Control, or the Oklahoma Tax Commission with respect to wholesaler  
11 and Class B wholesaler licenses, for notification of or correction  
12 of the error; or

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

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

1 Section 535.1 No mixed beverage, beer and wine, caterer or  
2 bottle club licensee, partner in any type of partnership, manager or  
3 member of a limited liability company, officer, director or  
4 stockholder of any corporate licensee owning more than fifteen  
5 percent (15%) of the stock shall have any right, title, lien, claim  
6 or interest, financial or otherwise in, upon or to the premises,  
7 equipment, business or merchandise of any package store,  
8 manufacturer or wholesaler. The provisions of this section shall  
9 not prohibit a person who is an officer or director of a fraternal  
10 or veteran's organization which is a tax exempt organization under  
11 Section 501(c) (8), (10) or (19) of the Internal Revenue Code and  
12 which holds a license issued by the ~~ABLE Commission~~ Oklahoma State  
13 Bureau of Narcotics and Dangerous Drugs Control from having a right,  
14 title, lien, claim, or interest in the premises, equipment,  
15 business, or merchandise of a package store.

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

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

20 1. To discriminate, directly or indirectly, in price between  
21 one wholesaler and another wholesaler or between one retailer and  
22 another retailer purchasing alcoholic beverages bearing the same  
23 brand or trade name and of like age and quality; or  
24

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

3           B. ~~The Alcoholic Beverage Laws Enforcement Commission~~ Oklahoma  
4 State Bureau of Narcotics and Dangerous Drugs Control is hereby  
5 authorized to promulgate rules which are necessary to carry out the  
6 purpose of this section and to prevent its circumvention by offering  
7 or giving of any rebate, allowance, free goods, discount or any  
8 other thing or service of value; provided, that the posting of  
9 charges per order for processing minimum orders or per case for the  
10 handling or repacking of goods by wholesalers for sales in less than  
11 full case lots shall not constitute a violation of this section.

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

19           SECTION 68.           AMENDATORY           37 O.S. 2001, Section 537, as  
20 last amended by Section 1, Chapter 141, O.S.L. 2007 (37 O.S. Supp.  
21 2007, Section 537), is amended to read as follows:

22           Section 537. A. No person shall:

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

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

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

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

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

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

21       7. Knowingly transport in any vehicle upon a public highway,  
22 street or alley any alcoholic beverage except in the original  
23 container which shall not have been opened and the seal upon which  
24 shall not have been broken and from which the original cap or cork

1 shall not have been removed, unless the opened container be in the  
2 rear trunk or rear compartment, which shall include the spare tire  
3 compartment in a vehicle commonly known as a station wagon and panel  
4 truck, or any outside compartment which is not accessible to the  
5 driver or any other person in the vehicle while it is in motion;

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

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

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

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

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

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

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

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

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

4       4. Advertise or offer "happy hours" or any other means or  
5 inducements to stimulate the consumption of alcoholic beverages  
6 including:

7           a. deliver more than two drinks to one person at one  
8 time,

9           b. sell or offer to sell to any person or group of  
10 persons any drinks at a price less than the price  
11 regularly charged for such drinks during the same  
12 calendar week, except at private functions not open to  
13 the public,

14           c. sell or offer to sell to any person an unlimited  
15 number of drinks during any set period of time for a  
16 fixed price, except at private functions not open to  
17 the public,

18           d. sell or offer to sell drinks to any person or group of  
19 persons on any one day at prices less than those  
20 charged the general public on that day, except at  
21 private functions not open to the public,

22           e. increase the volume of alcoholic beverages contained  
23 in a drink without increasing proportionately the  
24

1 price regularly charged for such drink during the same  
2 calendar week, or

3 f. encourage or permit, on the licensed premises, any  
4 game or contest which involves drinking or the  
5 awarding of drinks as prizes.

6 Provided that the provisions of this paragraph shall not prohibit  
7 the advertising or offering of food or entertainment in licensed  
8 establishments;

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

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

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

20 C. No package store licensee shall:

21 1. Purchase or receive any alcoholic beverage other than from a  
22 person holding a brewer, wholesaler or Class B wholesaler license  
23 issued pursuant to the Oklahoma Alcoholic Beverage Control Act;  
24

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

3           3. Sell, or keep package store premises open for the purpose of  
4 selling, any alcoholic beverages at any hour other than between the  
5 hours of 10:00 a.m. and 9:00 p.m. Monday through Saturday; provided,  
6 that no such sales shall be made, or package store premises be  
7 allowed to remain open for the purpose of making such sales, on the  
8 day of any General, Primary, Runoff Primary or Special Election  
9 while the polls are open whether on a national, state, county or  
10 city election or on New Year's Day, Memorial Day, the Fourth of  
11 July, Labor Day, Thanksgiving Day or Christmas Day;

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

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

20           a. "cash or debit card" means any instrument or device  
21                whether known as a debit card or by any other name,  
22                issued with or without fee by an issuer for the use of  
23                the cardholder in depositing, obtaining or

24

1           transferring funds from a consumer banking electronic  
2           facility, and

3           b. "nationally recognized credit card" means any  
4           instrument or device, whether known as a credit card,  
5           credit plate, charge plate or by any other name,  
6           issued with or without fee by an issuer for the use of  
7           the cardholder in obtaining money, goods, services or  
8           anything else of value on credit which is accepted by  
9           over one hundred merchants;

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

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

21          8. Pay for alcoholic beverages by a check or draft which is  
22          dishonored by the drawee when presented to such drawee for payment;  
23          and the ~~ABLE Commission~~ Bureau may cancel or suspend the license of  
24

1 any retailer who has given a check or draft, as maker or endorser,  
2 which is so dishonored upon presentation.

3 D. No wholesaler licensee shall:

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

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

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

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

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

20 3. Use or allow the use of any mark or label on a container of  
21 alcoholic beverage which is kept for sale which does not clearly and  
22 precisely indicate the nature of the contents or which might deceive  
23 or conceal the nature, composition, quantity, age or quality of such  
24 beverage;

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

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

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

23 F. No bottle club licensee shall:  
24

- 1        1. Use or allow the use of any mark or label on a container of  
2 alcoholic beverage which does not clearly and precisely indicate the  
3 nature of the contents or which might deceive or conceal the nature,  
4 composition, quantity, age or quality of any such beverage;
- 5        2. Act as an agent for any bottle club member and purchase any  
6 alcoholic beverage for the member;
- 7        3. Use or allow the use of any pool system of storage or  
8 purchase of alcoholic beverages;
- 9        4. Allow any person to enter or remain in the designated bar or  
10 lounge area of the club unless that person possesses a valid  
11 membership card for that club issued by the club;
- 12        5. Sell any alcoholic beverage;
- 13        6. Deliver or furnish to any club member any alcoholic beverage  
14 that does not belong to the member;
- 15        7. Serve alcoholic beverages to any person who does not possess  
16 a valid membership card for that club issued by the club;
- 17        8. Issue a membership card for the club to a person under  
18 twenty-one (21) years of age; or
- 19        9. Allow any person under twenty-one (21) years of age to enter  
20 into, remain within or loiter about the designated bar area of the  
21 licensed premises, except for members of a musical band employed or  
22 hired as provided in paragraph 2 of subsection B of this section  
23 when the band is to perform within such area.

24

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       G. No special event or caterer licensee shall:

17       1. Purchase or receive any alcoholic beverage other than from a  
18 person holding a wholesaler or Class B wholesaler license issued  
19 pursuant to the provisions of the Oklahoma Alcoholic Beverage  
20 Control Act; provided, a special event or caterer licensee may  
21 purchase wine produced at wineries in this state directly from an  
22 Oklahoma winemaker as provided in Section 3 of Article XXVIII of the  
23 Oklahoma Constitution; or

24

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

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

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

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

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

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

23           3. Permit empty or discarded alcoholic beverage containers to  
24 be in public view outside the licensed premises. All empty or

1 discarded containers shall be disposed of in accordance with ~~ABLE~~  
2 ~~Commission~~ Oklahoma State Bureau of Narcotics and Dangerous Drugs  
3 Control rules and regulations;

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

7 5. Refuse or fail to promptly open a door to the licensed  
8 premises upon request of an agent or inspector of the ~~Alcoholic~~  
9 ~~Beverage Laws Enforcement Commission~~ Oklahoma State Bureau of  
10 Narcotics and Dangerous Drugs Control or any other peace officer to  
11 enter the premises, when the licensee or employee knows or should  
12 know that such request is made by an agent or inspector of the ~~ABLE~~  
13 ~~Commission~~ Bureau or any other peace officer. This provision shall  
14 not be construed to deny agents of the ~~ABLE-Commission~~ Bureau or any  
15 other peace officer access at any time to any licensed premises;

16 6. Permit a sealed or unsealed container of alcoholic beverage  
17 to be removed from the licensed premises. Provided that  
18 restaurants, hotels and motels may permit the removal of closed  
19 original wine containers the contents of which have been partially  
20 consumed and bottle clubs may permit the removal by a club member of  
21 closed original containers of alcoholic beverages belonging to said  
22 members. The provisions of this paragraph shall not be construed to  
23 prohibit or restrict hotels or motels who are holders of mixed  
24 beverage or beer and wine licenses from allowing alcoholic beverages

1 to be served away from the bar area anywhere on the licensed  
2 premises; or

3 7. Destroy, damage, alter, remove or conceal potential  
4 evidence, or attempt to do so, or refuse to surrender evidence when  
5 lawfully requested to do so by an inspector, agent or any other  
6 peace officer or incite another person to do any of the above.

7 SECTION 70. AMENDATORY 37 O.S. 2001, Section 538, is  
8 amended to read as follows:

9 Section 538. A. Any person who shall operate a whiskey still  
10 with intent to produce alcoholic beverages or any person who shall  
11 carry on the business of a distiller without having in his  
12 possession a valid and existing distiller's license issued pursuant  
13 to the provisions of the Oklahoma Alcoholic Beverage Control Act  
14 shall be guilty of a felony and upon conviction be fined not less  
15 than Two Thousand Five Hundred Dollars (\$2,500.00) nor more than  
16 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 B. Any person who shall file a false or fraudulent return in  
20 connection with any tax imposed by the Oklahoma Alcoholic Beverage  
21 Control Act, or willfully evade, or attempt to evade, any tax herein  
22 levied shall be guilty of a felony and upon conviction be fined not  
23 less than Two Thousand Five Hundred Dollars (\$2,500.00) nor more  
24 than Five Thousand Dollars (\$5,000.00), or imprisoned ~~in the State~~

1 ~~Penitentiary~~ for not more than three (3) years, or both such fine  
2 and imprisonment.

3 C. Any person who shall knowingly engage in any activity or  
4 perform any transaction or act for which a license is required under  
5 the Oklahoma Alcoholic Beverage Control Act, not having such  
6 license, shall be guilty of a misdemeanor and for the first offense  
7 be fined not more than Two Thousand Five Hundred Dollars (\$2,500.00)  
8 and imprisoned for not less than thirty (30) days nor more than six  
9 (6) months, and for a second or subsequent offense shall be guilty  
10 of a felony and be fined not more than Two Thousand Five Hundred  
11 Dollars (\$2,500.00), or imprisoned ~~in the State Penitentiary~~ for not  
12 more than one (1) year, or both such fine and imprisonment.

13 D. Any person holding a license issued pursuant to the Oklahoma  
14 Alcoholic Beverage Control Act who shall sell or deliver alcoholic  
15 beverage to any person not entitled to purchase or receive same,  
16 except as provided in subsection F of this section, or who shall  
17 possess for sale any alcoholic beverage which he is not entitled to  
18 sell under his license, or any person who buys any alcoholic  
19 beverage, either retail or wholesale, from any person other than a  
20 licensed dealer under the terms of the Oklahoma Alcoholic Beverage  
21 Control Act, shall be guilty of a misdemeanor and upon conviction be  
22 fined not more than One Thousand Five Hundred Dollars (\$1,500.00),  
23 or imprisoned in the county jail for not more than six (6) months,  
24 or both such fine and imprisonment.

1 E. Any person under twenty-one (21) years of age who shall  
2 misrepresent his age in writing or by presenting false documentation  
3 of age for the purpose of inducing any person to sell or serve him  
4 alcoholic beverage or issue him a bottle club membership card, or  
5 who enters or attempts to enter a package store or a separate or  
6 enclosed bar area as designated by the ~~ABLE Commission~~ Oklahoma  
7 State Bureau of Narcotics and Dangerous Drugs Control, shall be  
8 guilty of a misdemeanor and fined not more than Fifty Dollars  
9 (\$50.00). In addition, if a person is convicted or pleads guilty to  
10 a violation of the provisions of this subsection in any court having  
11 jurisdiction over said offense, the court may order the Department  
12 of Public Safety to cancel or deny the offender's privilege to  
13 operate a motor vehicle and, upon such order, shall require that the  
14 operator's or chauffeur's license, if any, be surrendered to the  
15 Department pursuant to Section 6-209 of Title 47 of the Oklahoma  
16 Statutes. The cancellation or denial period shall be for one (1)  
17 year, or until the person reaches twenty-one (21) years of age,  
18 whichever is longer.

19 Any person whose driving privileges are ordered cancelled or  
20 denied pursuant to this section may petition the court of original  
21 jurisdiction for review of the order. Upon notice and hearing, the  
22 court may modify or withdraw the order as the court deems  
23 appropriate except:

24

1 1. A court may not withdraw an order for at least ninety (90)  
2 days following the issuance of the order if it is the first such  
3 order issued regarding the person named; and

4 2. A court may not withdraw an order for at least six (6)  
5 months following the issuance of the order if it is the second or  
6 subsequent such order issued regarding the person named.

7 If the Department receives written notice from the court of  
8 original jurisdiction that it has withdrawn such an order, the  
9 Department shall immediately reinstate any driving privileges that  
10 have been canceled or denied under this section, without requiring  
11 payment of a reinstatement fee.

12 F. Any person who shall knowingly sell, furnish or give  
13 alcoholic beverage to a person under twenty-one (21) years of age  
14 shall be guilty of a felony, and shall be fined not less than Two  
15 Thousand Five Hundred Dollars (\$2,500.00) nor more than Five  
16 Thousand Dollars (\$5,000.00), or imprisoned ~~in the State~~  
17 ~~Penitentiary~~ for not more than five (5) years, or both such fine and  
18 imprisonment. The ~~ABLE Commission~~ Oklahoma State Bureau of  
19 Narcotics and Dangerous Drugs Control shall revoke the license of  
20 any person convicted of a violation of this subsection.

21 G. Any person who shall knowingly sell, furnish or give  
22 alcoholic beverage to an insane, mentally deficient, or intoxicated  
23 person shall be guilty of a felony, and shall be fined not less than  
24 Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars

1 (\$1,000.00), or imprisoned ~~in the State Penitentiary~~ for not more  
2 than one (1) year, or both such fine and imprisonment.

3 H. The payment of the special tax required of liquor dealers by  
4 the United States by any person within this state without a  
5 corresponding state license shall constitute prima facie evidence of  
6 an intention to violate the provisions of the Oklahoma Alcoholic  
7 Beverage Control Act.

8 I. Any person operating a cafe, restaurant, club or any place  
9 of recreation who permits any person to be drunk or intoxicated in  
10 said place of business shall be guilty of a misdemeanor, and shall  
11 be fined not more than One Hundred Dollars (\$100.00), or imprisoned  
12 for not more than thirty (30) days or by both such fine and  
13 imprisonment.

14 J. Any person selling or keeping a package store open to sell  
15 any alcoholic beverage during any day or hours not authorized by the  
16 Oklahoma Alcoholic Beverage Control Act shall be guilty of a  
17 misdemeanor.

18 SECTION 71. AMENDATORY 37 O.S. 2001, Section 538.3, is  
19 amended to read as follows:

20 Section 538.3 All law enforcement officers, upon arrest of any  
21 holder of a license issued by the ~~Alcoholic Beverage Laws~~  
22 ~~Enforcement Commission~~ Oklahoma State Bureau of Narcotics and  
23 Dangerous Drugs Control for a violation of any state law or  
24 municipal ordinance in which the violation of any alcoholic beverage

1 law had any part, shall immediately notify the ~~ABLE Commission~~  
2 Bureau thereof. Such officers shall notify the ~~ABLE Commission~~  
3 Bureau of any acts, practices or other conduct of any such licensee  
4 which may be subversive to the general welfare or contrary to the  
5 spirit of the Oklahoma Alcoholic Beverage Control Act and shall  
6 recommend appropriate action to be taken by the ~~ABLE Commission~~  
7 Bureau.

8 SECTION 72. AMENDATORY 37 O.S. 2001, Section 539, is  
9 amended to read as follows:

10 Section 539. A. A search warrant may be issued pursuant to the  
11 provisions of Sections 1221 through 1264 of Title 22 of the Oklahoma  
12 Statutes, as amended, for the purpose of searching for, seizing,  
13 destroying or holding any alcoholic beverages possessed, sold,  
14 transported, manufactured, kept, or stored in violation of the  
15 Oklahoma Alcoholic Beverage Control Act; for the purpose of  
16 searching for and seizing any apparatus, vehicle, equipment, or  
17 instrumentality used for, or intended for use in, manufacturing or  
18 transporting any alcoholic beverage in violation of the Oklahoma  
19 Alcoholic Beverage Control Act; and all such property shall be  
20 forfeited to the State of Oklahoma. This section shall not be  
21 construed to require a search warrant for duly authorized agents of  
22 the ~~Alcoholic Beverage Laws Enforcement Commission~~ Oklahoma State  
23 Bureau of Narcotics and Dangerous Drugs Control to enter upon and  
24 inspect any licensed premises, but such right of entry and

1 inspection shall be a condition on which every license shall be  
2 issued and the application for, and acceptance of, any license  
3 hereunder shall conclusively be deemed to be consent of the  
4 applicant and licensee to such entry and inspection.

5 B. Any alcoholic beverages upon which the appropriate federal  
6 excise tax has not been paid at the time of seizure under this  
7 section shall be destroyed by the sheriff who seized the same or to  
8 whom the same has been delivered in accordance with the provisions  
9 of Section 1261 of Title 22 of the Oklahoma Statutes, as amended,  
10 after the same is no longer needed as evidence in any criminal  
11 prosecution. All other property, including alcoholic beverages upon  
12 which the appropriate federal excise tax has been paid, seized under  
13 this section shall be forfeited to the State of Oklahoma by order of  
14 the court issuing the process by virtue of which such property was  
15 seized, or before which the persons violating the law, or to which  
16 such property was taken by the officer or officers making the  
17 seizure. Said court shall, without a jury, order an immediate  
18 hearing as to whether the property so seized was subject to seizure  
19 under this section, and take such legal evidence as is offered, and  
20 determine the same as in civil cases. If the court finds from a  
21 preponderance of the evidence that the property so seized was  
22 subject to seizure under this section, it shall render judgment  
23 accordingly and order said property forfeited to the State of  
24 Oklahoma unless seized by county or municipal law enforcement

1 officers in which case said property shall be forfeited to the  
2 county or municipality, whichever is appropriate, in which the  
3 seizure of the property took place. Such seized property shall be  
4 sold by the officer having the same in charge, after giving ten (10)  
5 days' notice by one publication in a legal newspaper of the county  
6 or, if no legal newspaper is published in said county, after five  
7 notices of such sale have been posted in conspicuous places in the  
8 city or town wherein such sale is to be made, at least ten (10) days  
9 before such sale. Appeal from such an order may be taken as in  
10 civil cases. When such property is sold under the provisions of  
11 this section, the proceeds thereof shall be distributed as follows:  
12 First, to the payment of the costs of the case in which the order of  
13 forfeiture was made and the actual expenses of preserving the  
14 property; and second, the remainder shall be deposited with the  
15 county or municipal treasurer of the county or municipality in which  
16 the seizure took place if the property was seized by county or  
17 municipal law enforcement officials or with the State Treasurer to  
18 the credit of the General Revenue Fund of the State of Oklahoma in  
19 all other cases.

20 SECTION 73. AMENDATORY 37 O.S. 2001, Section 542, is  
21 amended to read as follows:

22 Section 542. A. Payment of the excise tax levied by Section  
23 553 of ~~the Oklahoma Alcoholic Beverage Control Act~~ this title with  
24 respect to beer shall be made by the brewer or the Class B

1 wholesaler as herein provided. The tax shall be due and payable on  
2 the first day of each month for the preceding calendar month and if  
3 not paid on or before the tenth day of each month shall thereafter  
4 be delinquent.

5 B. Every brewer, and Class B wholesaler, shall make and  
6 transmit to the Oklahoma Tax Commission on or before the tenth day  
7 of each calendar month, upon a form prescribed and furnished by the  
8 Tax Commission, an itemized and verified report, for the preceding  
9 calendar month, showing the following information:

10 1. Total quantity and description of opening inventory of beer  
11 as of the first day of said month;

12 2. Total receipts and acquisitions during month from every  
13 source. This shall be itemized showing imports and purchases within  
14 and without this state separately; the kind and quantity of each  
15 type of beer as shown by the shipper's or seller's invoices thereof;  
16 the date of each purchase; the amounts purchased; the date received;  
17 the person from whom purchased; the manifest, bill of lading or  
18 delivery invoice number of each shipment, which number shall be the  
19 number used by the original seller as shown on the basic shipping  
20 records which accompany the shipment; the point of origin and point  
21 of destination of each shipment; and the name and ~~Alcoholic Beverage~~  
22 ~~Laws Enforcement Commission~~ Oklahoma State Bureau of Narcotics and  
23 Dangerous Drugs Control license number of the carrier if shipped by  
24 carrier;

1           3. The kind and quantity of all beer sold or withdrawn from  
2 stock for sale, use or consumption in the State of Oklahoma during  
3 the preceding calendar month; the date of each sale; the kind and  
4 quantity of beer in each sale; the name, address and ~~ABLE Commission~~  
5 Bureau license number of each purchaser, the manifest, bill of  
6 lading or delivery invoice number, which number shall be the number  
7 as shown on the basic shipping records which accompany the delivery;  
8 and the name and ~~ABLE Commission~~ Bureau license number of the  
9 carrier if shipped by carrier;

10           4. All nontaxable sales and dispositions made during said  
11 month, including exports and sales and deliveries to military  
12 installations located within this state, shall be reported and  
13 information in reference to each such nontaxable sale, disposition,  
14 and export shall be shown in detail as is required for sales in the  
15 State of Oklahoma and shall be supported by evidence satisfactory to  
16 the Oklahoma Tax Commission;

17           5. Closing inventory of beer as of the last day of the calendar  
18 month; and

19           6. Such other information pertaining to the brewer's, and Class  
20 B wholesaler's, beginning inventory of beer, receipts or  
21 acquisitions thereof, sales and dispositions thereof, and the  
22 closing inventory, as the Oklahoma Tax Commission may, by form or  
23 regulation, require.

24

1 C. Every brewer, and Class B wholesaler, at the time of making  
2 the monthly report required by this section, shall remit to the  
3 Oklahoma Tax Commission the total amount of the excise tax due as  
4 shown by said report.

5 It shall be unlawful for any brewer, or Class B wholesaler, to  
6 sell or offer for sale any beer while delinquent in the payment of  
7 any excise tax due the state.

8 D. Reports and remittances, as required herein, which are  
9 mailed on the tenth day of the month and received by the Oklahoma  
10 Tax Commission subsequent to the tenth of the month in which the  
11 excise tax is payable, shall be deemed to have been received by the  
12 Tax Commission before becoming delinquent. Postmark or registry  
13 receipt showing deposit in the United States mails shall be  
14 conclusive evidence of the date of mailing. The time for filing  
15 returns and paying the excise tax levied by the Oklahoma Alcoholic  
16 Beverage Control Act shall not be extended.

17 E. If upon investigation it is determined by the Oklahoma Tax  
18 Commission that any nontaxable disposition or sale claimed by any  
19 brewer or Class B wholesaler is not supported by a valid invoice, or  
20 is fraudulently or falsely claimed in any manner by such brewer or  
21 Class B wholesaler or any agent of such licensee, the Tax Commission  
22 shall disallow any such deduction and shall assess and collect the  
23 tax, together with the penalty and interest thereon, on the total  
24 amount of the disallowed deduction taken by said licensee.

1 F. The taking and claiming of any deduction not authorized by  
2 law, upon a report by any brewer or Class B wholesaler, or the  
3 failure to file monthly reports or to pay any excise tax due, shall  
4 constitute grounds for the revocation of such person's license 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 and the Tax Commission shall  
8 promptly notify ~~such ABLE Commission~~ the Bureau of all such cases.

9 SECTION 74. AMENDATORY 37 O.S. 2001, Section 543, is  
10 amended to read as follows:

11 Section 543. A. Every wholesaler, or other person authorized  
12 under the Oklahoma Alcoholic Beverage Control Act to import  
13 alcoholic beverages into this state, shall make and transmit to the  
14 Oklahoma Tax Commission on or before the tenth day of each month,  
15 upon a form prescribed and furnished by the Oklahoma Tax Commission,  
16 an itemized and verified report for the preceding calendar month,  
17 showing the following information:

- 18 1. Opening inventory of alcoholic beverages other than beer;
- 19 2. Total receipts and acquisitions during month from every  
20 source. This shall be itemized showing imports and purchases from  
21 within and without this state separately; the kind, proof and  
22 quantity of each type of alcoholic beverages as shown by the  
23 shipper's or seller's invoices thereof; the date of each purchase;  
24 the amount purchased; the date received; the person from whom

1 purchased; the manifest, bill of lading or delivery invoice number  
2 of each shipment, which number shall be the number used by the  
3 original seller as shown on the basic shipping records which  
4 accompany the shipment; and the point of origin and point of  
5 destination of each shipment;

6 3. The kind and quantity of all alcoholic beverages sold or  
7 withdrawn from inventory for sale, use, or consumption during the  
8 calendar month; the date of each sale; and the kind, proof and  
9 quantity of alcoholic beverages in each sale; the name, address and  
10 ~~Alcoholic Beverage Laws Enforcement Commission~~ Oklahoma State Bureau  
11 of Narcotics and Dangerous Drugs Control license number of each  
12 purchaser, and the manifest, bill of lading or delivery invoice  
13 number, which number shall be the number as shown on the basic  
14 shipping records which accompany the delivery;

15 4. All nontaxable sales and dispositions made during said  
16 month, supported by evidence satisfactory to the Oklahoma Tax  
17 Commission;

18 5. Closing inventory of alcoholic beverages as of the last day  
19 of the calendar month; and

20 6. Such other information pertaining to the wholesaler's  
21 beginning inventory of alcoholic beverages, receipts or acquisitions  
22 thereof, sales and dispositions thereof, and closing inventory, as  
23 the Oklahoma Tax Commission may by form or regulation require.

24

1 B. If upon investigation it is determined by the Oklahoma Tax  
2 Commission that any nontaxable disposition or sale claimed by any  
3 licensee is not supported by a valid invoice, or is fraudulently or  
4 falsely claimed in any manner by such licensee or any agent of such  
5 licensee, the Oklahoma Tax Commission shall disallow any such  
6 deduction and shall assess and collect the excise tax, together with  
7 the penalty and interest thereon, on the total amount of the  
8 disallowed deduction taken by said licensee.

9 C. The taking and claiming of any deduction not authorized by  
10 law, upon a report by any wholesaler or the failure to file monthly  
11 reports or pay any excise tax due, shall constitute grounds for the  
12 revocation of such person's license, distributor permit or  
13 wholesaler permit by the ~~ABLE~~ Oklahoma State Bureau of Narcotics and  
14 Dangerous Drugs Control or the Oklahoma Tax Commission and the  
15 Oklahoma Tax Commission shall promptly notify the ~~ABLE Commission~~  
16 Bureau of all such cases.

17 SECTION 75. AMENDATORY 37 O.S. 2001, Section 545, is  
18 amended to read as follows:

19 Section 545. A. All bottles or other original containers of  
20 alcoholic beverages in the possession of any person upon which the  
21 taxes have not been paid as required by the Oklahoma Alcoholic  
22 Beverage Control Act and the rules and regulations thereunder are  
23 declared to be contraband. Any duly authorized officer or employee  
24 of the ~~Alcoholic Beverage Laws Enforcement Commission~~ Oklahoma State

1 Bureau of Narcotics and Dangerous Drugs Control or Oklahoma Tax  
2 Commission is authorized to seize the same, and such containers of  
3 alcoholic beverages so seized shall be subject to confiscation and  
4 forfeiture by the ~~ABLE Commission~~ Bureau as hereinafter provided.

5 B. If, upon examination of invoices or from other  
6 investigation, the Tax Commission or the ~~ABLE Commission~~ Bureau  
7 finds that any alcoholic beverages, except beer, have been sold  
8 without tax payment as required by the Oklahoma Alcoholic Beverage  
9 Control Act, the Tax Commission shall have the power to require such  
10 person to pay to the Tax Commission as such tax a sum equal to twice  
11 the amount of the tax due. If any person is unable to furnish  
12 evidence to the Tax Commission of excise tax payment to cover  
13 purchases of alcoholic beverages, except beer, made by such person,  
14 the prima facie presumption shall arise that such alcoholic  
15 beverages were sold without excise tax payment.

16 It is expressly provided, except where specific provisions of  
17 the Oklahoma Alcoholic Beverage Control Act require otherwise, that  
18 the procedures and remedies contained in the Uniform Tax Procedure  
19 Code, of the Oklahoma Statutes in connection with the making of  
20 assessments, and the enforcement and collection thereof, the  
21 penalties and interest to be applied, all lien and tax warrant  
22 provisions, all incidental remedies, including procedure for an  
23 injunction, and all other provisions of the Uniform Tax Procedure  
24 Code which may be applied or used to enforce the provisions of the

1 Oklahoma Alcoholic Beverage Control Act, shall be applicable and  
2 available to the Oklahoma Tax Commission in administering the  
3 provisions hereof and collecting the taxes herein levied on  
4 alcoholic beverages.

5 SECTION 76. AMENDATORY 37 O.S. 2001, Section 546, is  
6 amended to read as follows:

7 Section 546. Any officer or enforcement employee of the  
8 ~~Alcoholic Beverage Laws Enforcement Commission~~ Oklahoma State Bureau  
9 of Narcotics and Dangerous Drugs Control or Oklahoma Tax Commission  
10 shall have power and authority, without a warrant, to enter and  
11 examine the licensed premises of all licensees to determine whether  
12 any licensee has in his possession any container of alcoholic  
13 beverage upon which the taxes have not been paid as required by the  
14 Oklahoma Alcoholic Beverage Control Act and the rules and  
15 regulations thereunder, and if such officer or employee shall find  
16 any such container of alcoholic beverages he shall immediately seize  
17 the same. Such officers and employees of the ~~ABLE Commission~~ Bureau  
18 or Oklahoma Tax Commission shall be given free access to and shall  
19 not be hindered or interfered with in their examination of the  
20 licensed premises of any licensees, and, in case any such officer or  
21 employee is denied free access or is hindered or interfered with in  
22 making such examination, any license held by the person preventing  
23 such free access or interfering with or hindering such officer or  
24 employee shall be subject to suspension or revocation.

1 SECTION 77. AMENDATORY 37 O.S. 2001, Section 547, is  
2 amended to read as follows:

3 Section 547. A. After the seizure of such container of  
4 alcoholic beverage upon which the taxes have not been paid, any  
5 officer or employee of the ~~Alcoholic Beverage Laws Enforcement~~  
6 ~~Commission~~ Oklahoma State Bureau of Narcotics and Dangerous Drugs  
7 Control, designated in writing by the Director, shall hold a hearing  
8 to determine whether the container of alcoholic beverage seized did  
9 not have the necessary taxes paid as required by the Oklahoma  
10 Alcoholic Beverage Control Act and the rules and regulations  
11 thereunder. The ~~ABLE Commission~~ Bureau shall give not less than  
12 seven (7) days' notice of the time and place of such hearing to the  
13 owner of such container of alcoholic beverage if he is known, and  
14 also to the person in whose possession such container was found if  
15 such person is known and if such person in possession is not the  
16 owner of said property. The Director, or any officer or employee of  
17 the ~~ABLE Commission~~ Bureau, designated to conduct such hearing,  
18 shall have power to administer oaths, and the power to issue  
19 subpoenas requiring the attendance of and the giving of testimony by  
20 witnesses, and subpoenas duces tecum requiring the production of  
21 books, papers, records and memoranda.

22 B. Pursuant to such hearing, the ~~ABLE Commission~~ Bureau shall  
23 determine whether the container of alcoholic beverage seized did not  
24 have the taxes paid as required by the Oklahoma Alcoholic Beverage

1 Control Act and the rules and regulations thereunder, and upon a  
2 decision to that effect an order shall be entered that such  
3 container of alcoholic beverage is confiscated and forfeited to the  
4 State of Oklahoma. The ~~ABLE Commission~~ Bureau shall give notice of  
5 such order to the owner of such container of alcoholic beverage if  
6 he is known and also to the person in whose possession said property  
7 so taken was found if such person is known and if such person in  
8 possession is not the owner of said property.

9 SECTION 78. AMENDATORY 37 O.S. 2001, Section 548, is  
10 amended to read as follows:

11 Section 548. After an order of forfeiture, and when a  
12 proceedings for judicial review of the order has been concluded or  
13 the time for judicial review has expired, the ~~Alcoholic Beverage~~  
14 ~~Laws Enforcement Commission~~ Oklahoma State Bureau of Narcotics and  
15 Dangerous Drugs Control, to the extent that its order is sustained  
16 on review, shall sell such forfeited alcoholic beverage at such time  
17 and place and in such manner as it deems advisable. Proceeds of  
18 such sales shall be deposited with the State Treasurer for the  
19 credit of the ~~General Revenue~~ Bureau of Narcotics Alcohol  
20 Enforcement and Education Revolving Fund of the State of Oklahoma  
21 created pursuant to Section 126 of this act.

22 SECTION 79. AMENDATORY 37 O.S. 2001, Section 549, is  
23 amended to read as follows:

24

1 Section 549. Every person who shall have in his possession more  
2 than one (1) liter of alcoholic beverages, the bottle or other  
3 original container upon which the excise tax levied by Section 553  
4 of this title has not been paid as provided for by the Oklahoma  
5 Alcoholic Beverage Control Act, shall be guilty of a misdemeanor,  
6 and if such person is the holder of a license under this act such  
7 license shall be subject to revocation or suspension by the  
8 ~~Alcoholic Beverage Laws Enforcement Commission~~ Oklahoma State Bureau  
9 of Narcotics and Dangerous Drugs Control. The ~~ABLE Commission~~  
10 Bureau may adopt rules and regulations for hearings on a revocation  
11 of a license for violation of the provisions of this section.  
12 Provided the ~~ABLE Commission~~ Bureau may suspend any license for a  
13 violation of this section for a period of thirty (30) days with  
14 notice of hearing as the ~~ABLE Commission~~ Bureau may determine.

15 SECTION 80. AMENDATORY 37 O.S. 2001, Section 551, is  
16 amended to read as follows:

17 Section 551. Every manufacturer of alcoholic beverages other  
18 than beer shall package, ship, store and deliver same in cases, and  
19 no alcoholic beverage other than beer shall be sold, shipped, stored  
20 or delivered by any such manufacturer except in sealed cases. Every  
21 manufacturer of alcoholic beverages other than beer shall serially  
22 number such cases on the end of the case where the brand and product  
23 are identified. All such cases shall be sealed by tape or such  
24 other method as the ~~Alcoholic Beverage Laws Enforcement Commission~~

1 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control by  
2 rules and regulations may provide so that the contents of such cases  
3 cannot be removed without breaking or destroying such seal. It  
4 shall be unlawful for any person to remove the alcoholic beverage  
5 contents of a case so sealed without breaking or destroying such  
6 seal. No wholesaler or Class B wholesaler shall receive or accept  
7 any alcoholic beverages other than beer in this state except in  
8 sealed cases so numbered. Any holder of a license or permit  
9 violating the provisions of this section shall be subject to  
10 revocation or suspension of his license.

11 SECTION 81. AMENDATORY 37 O.S. 2001, Section 552, is  
12 amended to read as follows:

13 Section 552. All licensees under the Oklahoma Alcoholic  
14 Beverage Control Act shall keep books and records with regard to  
15 alcoholic beverages which shall contain such information and  
16 itemization thereof as the ~~Alcoholic Beverage Laws Enforcement~~  
17 ~~Commission~~ Oklahoma State Bureau of Narcotics and Dangerous Drugs  
18 Control may prescribe by rules and regulations. All books, records,  
19 inventories, invoices and other accounting documents required by  
20 this act shall be kept for three (3) years and shall at all times be  
21 available for inspection by duly authorized representatives of the  
22 ~~ABLE Commission~~ Bureau and Oklahoma Tax Commission.

23  
24

1 SECTION 82. AMENDATORY 37 O.S. 2001, Section 553, as  
2 last amended by Section 7, Chapter 484, O.S.L. 2003 (37 O.S. Supp.  
3 2007, Section 553), is amended to read as follows:

4 Section 553. A. Except as provided in paragraph 6 of this  
5 subsection, an excise tax is hereby levied and imposed upon all  
6 alcoholic beverages imported or manufactured, for sale, use or  
7 distribution, or used or possessed in this state at the following  
8 rates:

9 1. One Dollar and forty-seven cents (\$1.47) per liter, and a  
10 proportionate rate on fractions thereof, on each liter of spirits;

11 2. Nineteen cents (\$0.19) per liter, and a proportionate rate  
12 on fractions thereof, on each liter of light wine;

13 3. Thirty-seven cents (\$0.37) per liter, and a proportionate  
14 rate on fractions thereof, on each liter of wine containing more  
15 than fourteen percent (14%) of alcohol by volume;

16 4. Fifty-five cents (\$0.55) per liter, and a proportionate rate  
17 on fractions thereof, on each liter of sparkling wine;

18 5. Twelve Dollars and fifty cents (\$12.50) per barrel (thirty-  
19 one (31) wine gallons) and a proportionate rate on portions thereof,  
20 on each barrel of beer; and

21 6. Beer manufactured in this state for export shall not be  
22 taxed.

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

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

7           2. On and after January 1, 1981, the due and payable excise tax  
8 levied by this section shall be made by tax returns filed with the  
9 Oklahoma Tax Commission. The tax returns shall be made under oath  
10 by the person liable for the tax on forms prescribed and provided by  
11 the Oklahoma Tax Commission and shall be accompanied by payment of  
12 the taxes due and any additional sums due as provided by this  
13 section. Invoices describing all alcoholic beverages as described  
14 in this section which are shipped into this state or which are first  
15 sold in this state shall be delivered to the Oklahoma Tax Commission  
16 and to the ~~Alcoholic Beverage Laws Enforcement Commission~~ Oklahoma  
17 State Bureau of Narcotics and Dangerous Drugs Control immediately  
18 following shipment of liquors into the state or delivery to the  
19 first purchaser. Tax returns and payment of excise tax and other  
20 sums due shall be delivered to the Oklahoma Tax Commission no later  
21 than the tenth day of the month immediately succeeding the month of  
22 shipment, importation or first sale of the alcoholic beverages as  
23 provided in paragraph 1 of this subsection;

24

1           3. All tax returns required to be filed during the twelve-month  
2 period beginning January 1, 1981, shall be accompanied by payment of  
3 the excise tax due plus an additional payment in the amount of  
4 twenty percent (20%) of said tax. Up to ten percent (10%) of the  
5 total payments made during said period may be made in the form of  
6 revenue stamps previously purchased pursuant to Section 540 of this  
7 title; and

8           4. On and after February 1, 1982, each person required to file  
9 a tax return pursuant to this section shall remit the excise tax  
10 due, less an amount not to exceed two percent (2%) of the total of  
11 the additional payments made by said taxpayer pursuant to paragraph  
12 3 of this subsection. The total of said deductions shall not exceed  
13 the total of the additional payments made pursuant to paragraph 3 of  
14 this subsection. Up to ten percent (10%) of each tax payment made  
15 under this subsection may be made in the form of revenue stamps  
16 previously purchased pursuant to Section 540 of this title.

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

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

24

1 SECTION 83. AMENDATORY 37 O.S. 2001, Section 554, is  
2 amended to read as follows:

3 Section 554. A. The excise tax levied by Section 553 of this  
4 title shall not apply to:

5 1. Alcohol used exclusively for industrial purposes by the  
6 holder of an industrial license;

7 2. Alcohol lawfully withdrawn and used free of tax under a  
8 tax-free permit issued by the United States government;

9 3. Alcoholic beverages used exclusively by licensed physicians  
10 and dentists in the bona fide practice of their professions or by  
11 licensed pharmacists in compounding prescriptions;

12 4. Cider and wine made for personal use, as provided in Section  
13 505 of this title;

14 5. Wine used exclusively for sacramental purposes in bona fide  
15 religious ceremonies; and

16 6. Alcoholic beverages, not exceeding one (1) liter, imported  
17 into this state by the possessor for his own personal use.

18 B. As a condition precedent to the allowance of any exemption  
19 authorized by subsection A of this section:

20 1. Where a license or permit is required by the Oklahoma  
21 Alcoholic Beverage Control Act, for such use, the person claiming  
22 any such exemption must have obtained from the ~~Alcoholic Beverage~~  
23 ~~Laws Enforcement Commission~~ Oklahoma State Bureau of Narcotics and  
24

1 Dangerous Drugs Control the license or permit authorizing such  
2 exempt use; and

3 2. There must be furnished such proof of the exclusive use for  
4 such exempt purposes as the Oklahoma Tax Commission may require.

5 SECTION 84. AMENDATORY 37 O.S. 2001, Section 554.1, is  
6 amended to read as follows:

7 Section 554.1 Cities and towns are hereby authorized to levy an  
8 annual occupational tax for the privilege of operating as a  
9 retailer, mixed beverage, beer and wine, caterer or special event  
10 licensee, bottle club, manufacturer, wholesaler or Class B  
11 wholesaler, within their respective jurisdictions, not to exceed the  
12 state license fee for such licensees; provided that the  
13 aforementioned tax shall be levied only by the city or town in which  
14 such licensee has his principal place of business. This section  
15 shall not give any city or town any right to determine or regulate  
16 the issuance of any license, except as specifically provided for in  
17 this section, as the ~~Alcoholic Beverage Laws Enforcement Commission~~  
18 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall  
19 have exclusive authority as to issuance and regulations of said  
20 licenses and no city or town may prescribe rules or regulations in  
21 conflict with or in addition to the statutes of this state or the  
22 rules of the ~~ABLE Commission~~ Bureau.

23 Cities or towns which levy an occupational tax under this  
24 section shall make an annual report to the ~~ABLE Commission~~ Bureau,

1 covering the fiscal year, showing the number and class of licensees  
2 subject to said tax, and the amount of money received therefrom,  
3 which information is to be included in the annual report of the ~~ABLE~~  
4 ~~Commission Bureau~~ submitted to the Governor, and transmitted to the  
5 Legislature.

6 SECTION 85. AMENDATORY 37 O.S. 2001, Section 554.2, is  
7 amended to read as follows:

8 Section 554.2 Counties are hereby authorized to levy an annual  
9 occupational tax for the privilege of operating as a mixed beverage,  
10 beer and wine, caterer or special event licensee or as a bottle  
11 club, within their respective jurisdictions and not located in a  
12 city or town levying an occupation tax as provided by Section 554.1  
13 of this title, not to exceed the state license fee for such  
14 licensees; provided that the aforementioned tax shall be levied only  
15 by the county in which such licensee has his principal place of  
16 business. All revenues derived from any such annual occupational  
17 tax shall be deposited in the general revenue fund of the county.  
18 This section shall not give any county any right to determine or  
19 regulate the issuance of any license, except as specifically  
20 provided for in this section, as the ~~Alcoholic Beverage Laws~~  
21 ~~Enforcement Commission~~ Oklahoma State Bureau of Narcotics and  
22 Dangerous Drugs Control shall have exclusive authority as to  
23 issuance and regulations of said licenses and no county may  
24 prescribe rules or regulations in conflict with or in addition to

1 the statutes of this state or the rules of the ~~ABLE Commission~~  
2 Bureau.

3 Counties which levy an occupational tax under this section shall  
4 make an annual report to the ~~ABLE Commission~~ Bureau, covering the  
5 fiscal year, showing the number and class of licensees subject to  
6 said tax, and the amount of money received therefrom, which  
7 information is to be included in the annual report of the ~~ABLE~~  
8 ~~Commission~~ Bureau submitted to the Governor, and transmitted to the  
9 Legislature.

10 SECTION 86. AMENDATORY 37 O.S. 2001, Section 555, is  
11 amended to read as follows:

12 Section 555. Every holder of a nonresident seller license shall  
13 make and transmit to the Oklahoma Tax Commission, on or before the  
14 tenth day of each month upon a form prescribed and furnished by the  
15 Oklahoma Tax Commission, an itemized and verified report for the  
16 preceding calendar month, showing each shipment or sale of alcoholic  
17 beverages into Oklahoma. Such report shall show the date of the  
18 shipment; the total quantity of the shipment; the name and ~~Alcoholic~~  
19 ~~Beverage Laws Enforcement Commission~~ Oklahoma State Bureau of  
20 Narcotics and Dangerous Drugs Control license number of the Oklahoma  
21 purchaser; and the manifest, bill of lading or invoice number of  
22 each shipment. Such report shall be accompanied by duplicate  
23 original copies of each manifest, invoice, bill of lading or other  
24

1 document showing the details, including the proof of all spirits, of  
2 all shipments during such calendar month.

3 SECTION 87. AMENDATORY 37 O.S. 2001, Section 556, is  
4 amended to read as follows:

5 Section 556. Every manufacturer, subject to licensing  
6 hereunder, shall make and transmit to the Oklahoma Tax Commission,  
7 on or before the tenth day of each calendar month, upon a form  
8 prescribed and furnished by the Oklahoma Tax Commission, an itemized  
9 and verified report, for the preceding calendar month, showing:

10 ~~A.~~ 1. The kind and quantity of all alcoholic beverages  
11 manufactured within this state during said month, including the  
12 proof of all spirits; the kind and quantity of all alcoholic  
13 beverages purchased within this state, including the proof of all  
14 spirits; and the kind and quantity of all alcoholic beverages  
15 imported into this state during said month, including the proof of  
16 all spirits; the name and ~~Alcoholic Beverage Laws Enforcement~~  
17 ~~Commission~~ Oklahoma State Bureau of Narcotics and Dangerous Drugs  
18 Control license number of the person from whom purchased or  
19 received; the manifest, bill of lading, or invoice number of each  
20 shipment, which number shall be the number used by the original  
21 seller as shown by the basic shipping records which accompanied the  
22 shipment; the date of receipt of each shipment; the name and ~~ABLE~~  
23 ~~Commission~~ Bureau license number of the carrier, if transported by  
24 carrier; and

1        ~~B.~~ 2. All sales of alcoholic beverages made by such  
2 manufacturer during such calendar month, both within and without  
3 Oklahoma, including in detail the kind and quantity of all alcoholic  
4 beverages sold, including the proof of all spirits, as shown by the  
5 invoice covering each such sale; the invoice number; the date of  
6 each sale; the name, address, the ~~ABLE-Commission~~ Bureau license  
7 number of the purchaser; the name and ~~ABLE-Commission~~ Bureau license  
8 number of the carrier, if shipped by carrier, and such other  
9 information as the Oklahoma Tax Commission may require.

10        SECTION 88.        AMENDATORY        37 O.S. 2001, Section 557, is  
11 amended to read as follows:

12        Section 557. A. Every common carrier and public carrier  
13 transporting alcoholic beverages into, within, or out of, this  
14 state, and every bonded warehouseman licensed hereunder, having  
15 possession of alcoholic beverages, on or before the tenth day of  
16 each month shall make and transmit to the Oklahoma Tax Commission an  
17 itemized and verified report for the preceding calendar month on a  
18 form prescribed and furnished by the Oklahoma Tax Commission,  
19 showing:

20        1. By carriers: Each shipment of alcoholic beverages, the  
21 date, point of origin, point of delivery, to whom delivered, and  
22 such other information as the Oklahoma Tax Commission shall, by form  
23 or regulation, require.

24

1           2. By bonded warehousemen: The opening inventory of alcoholic  
2 beverages, total receipts, date of each receipt, for whom  
3 warehoused, warehouse receipt number, date of each withdrawal, by  
4 whom each withdrawal is made, withdrawal order number, the closing  
5 inventory, and such other information as the Oklahoma Tax Commission  
6 may, by regulation or form, require.

7           B. All such carriers and warehousemen shall permit an  
8 examination by the Oklahoma Tax Commission, its authorized agents or  
9 representatives, of their books and records of alcoholic beverages  
10 transported or warehoused. The failure or refusal of any carrier or  
11 warehouseman to make and transmit to the Oklahoma Tax Commission any  
12 report herein required, or to permit an examination of the records  
13 of the carrier or warehouseman, shall constitute grounds for the  
14 revocation of such person's license by the ~~Alcoholic Beverage Laws~~  
15 ~~Enforcement Commission~~ Oklahoma State Bureau of Narcotics and  
16 Dangerous Drugs Control.

17           SECTION 89.           AMENDATORY           37 O.S. 2001, Section 559, is  
18 amended to read as follows:

19           Section 559. Every manufacturer, importer, broker or other who  
20 sells alcoholic beverages to a wholesaler, or Class B wholesaler in  
21 Oklahoma, after having been issued a license by the ~~Alcoholic~~  
22 ~~Beverage Laws Enforcement Commission~~ Oklahoma State Bureau of  
23 Narcotics and Dangerous Drugs Control, shall, before manufacturing,  
24 purchasing, or selling any alcoholic beverage within this state,

1 file with the Oklahoma Tax Commission a bond issued by a surety  
2 company authorized to transact business in this state, in such  
3 amount as the Oklahoma Tax Commission may fix, but which shall be at  
4 least equal to the estimated amount of the tax liability of such  
5 licensee for a three-month period, to secure the payment of all  
6 excise taxes due from sales of alcoholic beverages to a wholesaler,  
7 or Class B wholesaler, under the provisions of the Oklahoma  
8 Alcoholic Beverage Control Act. Provided, that the amount of the  
9 bond for every wholesaler or Class B wholesaler shall be not less  
10 than One Thousand Dollars (\$1,000.00). Such bonds shall be payable  
11 to the State of Oklahoma and conditioned upon the compliance with  
12 the excise tax provisions of the Oklahoma Alcoholic Beverage Control  
13 Act and the rules and regulations of the Oklahoma Tax Commission  
14 relating thereto. In lieu of such surety bond, any such  
15 manufacturer, wholesaler, or Class B wholesaler, may deposit cash or  
16 negotiable securities, approved by the Oklahoma Tax Commission, in  
17 such amount as it may prescribe.

18 SECTION 90. AMENDATORY 37 O.S. 2001, Section 560, is  
19 amended to read as follows:

20 Section 560. A. Every manufacturer, wholesaler, Class B  
21 wholesaler and nonresident seller, selling alcoholic beverages in  
22 this state, or selling alcoholic beverages for shipment into this  
23 state shall, at the time such sale is made, make and deliver to the  
24 purchaser or transporter an invoice, bill of lading, manifest, or

1 other document describing such alcoholic beverages, showing the date  
2 of such sale or delivery, the name and ~~Alcoholic Beverage Laws~~  
3 ~~Enforcement Commission~~ Oklahoma State Bureau of Narcotics and  
4 Dangerous Drugs Control license number of the seller, the point of  
5 origin of the movement of such alcoholic beverages and the  
6 destination of same, the kind and quantity and a description of such  
7 alcoholic beverages, including the proof of all spirits, the name  
8 and ~~ABLE Commission~~ Bureau license number of the purchaser, the sale  
9 price and such other information as the Oklahoma Tax Commission may,  
10 by form or regulation, require. Every such invoice, bill of lading,  
11 manifest, or other document describing such alcoholic beverages,  
12 except beer, must be identified by consecutive numbers printed upon  
13 the invoice or document, and each such seller and purchaser must  
14 account for each copy of his invoice and each number thereof.

15 B. Every common carrier and private carrier, and every person  
16 who transports any alcoholic beverages from any point within this  
17 state to any other point within or without this state, or who  
18 transports alcoholic beverages into this state, shall at all times  
19 while such alcoholic beverages are in transit have in the possession  
20 of the driver or operator of the transporting carrier or vehicle the  
21 invoice, bill of lading, manifest, or other document describing such  
22 alcoholic beverages being transported.

23 C. Every manufacturer, wholesaler, or Class B wholesaler,  
24 importing into or purchasing in this state any alcoholic beverage,

1 and any retailer purchasing any alcoholic beverage in this state,  
2 shall at the time of delivery or acceptance of such alcoholic  
3 beverage demand and receive a proper bill of lading, invoice,  
4 manifest, or other document, particularly describing such alcoholic  
5 beverage and showing the proof of all spirits.

6 D. Every manufacturer, wholesaler, Class B wholesaler,  
7 nonresident seller, and retailer shall retain one copy of each  
8 invoice, bill of lading, manifest, or similar document covering all  
9 such sales and purchases by such licensee, as a part of the  
10 permanent records of such licensee for a period of at least three  
11 (3) years.

12 E. Any person violating any of the provisions of this section,  
13 whether acting for himself or as the agent or employee of any  
14 licensee hereunder, shall be guilty of a misdemeanor and, upon  
15 conviction, shall be punished as provided by law. Any violation of  
16 the provisions of this section shall also constitute grounds for the  
17 revocation by the ~~ABLE Commission~~ Bureau of any license issued under  
18 the Oklahoma Alcoholic Beverage Control Act.

19 SECTION 91. AMENDATORY 37 O.S. 2001, Section 565, is  
20 amended to read as follows:

21 Section 565. Within sixty (60) days after the passage and  
22 approval of this act, the ~~Alcoholic Beverage Laws Enforcement~~  
23 ~~Commission~~ Oklahoma State Bureau of Narcotics and Dangerous Drugs  
24 Control shall adopt such rules and regulations as may be necessary

1 to facilitate the uniform and orderly application for, and issuance  
2 of, all licenses or permits provided for on the effective date of  
3 this act.

4 SECTION 92. AMENDATORY 37 O.S. 2001, Section 567, is  
5 amended to read as follows:

6 Section 567. There is hereby created in the State Treasury a  
7 fund to be known as the Alcoholic Beverage Control Fund which shall  
8 consist of revenues collected by the state from license and  
9 registration fees, with any interest, fines or penalties levied and  
10 collected by the ~~Alcoholic Beverage Laws Enforcement Commission~~  
11 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control  
12 pursuant to the provisions of the Oklahoma Alcoholic Beverage  
13 Control Act. Any unappropriated balance in the Oklahoma Alcoholic  
14 Beverage Control Fund at the close of each fiscal year shall revert  
15 to the ~~General Revenue Fund of the State of Oklahoma, except for the~~  
16 ~~amount necessary to satisfy any appropriations made or to be made~~  
17 ~~from said fund by the Oklahoma State Legislature for the ensuing~~  
18 ~~fiscal year.~~

19 ~~Beginning July 1, 1984, all such monies collected by the~~  
20 ~~Alcoholic Beverage Laws Enforcement Commission pursuant to the~~  
21 ~~provisions of the Oklahoma Alcoholic Beverage Control Act shall be~~  
22 ~~deposited in the State Treasury for credit to the General Revenue~~  
23 Bureau of Narcotics Alcohol Enforcement and Education Revolving Fund  
24 ~~of the state created pursuant to Section 126 of this act.~~

1 SECTION 93. AMENDATORY 37 O.S. 2001, Section 568, is  
2 amended to read as follows:

3 Section 568. It shall be unlawful for any person, firm, or  
4 corporation to have in their possession any alcoholic beverages with  
5 the intent to sell the same without having first procured a license  
6 therefor from the ~~Alcoholic Beverage Laws Enforcement Commission~~  
7 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control as  
8 now provided for by law; and all alcoholic beverages found in the  
9 possession or under the control of any person or persons, firm, or  
10 corporation who, on the same date, or within fifteen (15) days prior  
11 thereto, has violated subsection C of Section 538 of this title,  
12 shall be seized by the arresting officer and shall be forfeited to  
13 the State of Oklahoma, as provided for in Section 539 of this title.  
14 Except that property seized by a county or municipal law enforcement  
15 officer shall be forfeited to the county or municipality in which  
16 the seizure of the property took place, whichever is appropriate, as  
17 provided for in Section 539 of this title.

18 SECTION 94. AMENDATORY 37 O.S. 2001, Section 569, is  
19 amended to read as follows:

20 Section 569. All sheriffs, marshals, and police officers, all  
21 district and city or town attorneys, and all members of the  
22 ~~Alcoholic Beverage Laws Enforcement Commission~~ Oklahoma State Bureau  
23 of Narcotics and Dangerous Drugs Control, the Director, and all  
24 enforcement employees of the ~~ABLE Commission~~ Bureau, shall

1 diligently enforce all provisions of the Oklahoma Alcoholic Beverage  
2 Control Act. If any such officer, ~~ABLE Commission~~ Bureau member,  
3 Director, or employee shall fail or refuse to do or perform any duty  
4 required by the provisions of such statutes he shall be removed from  
5 office as hereinafter provided. In all cases where any sheriff,  
6 marshal, police officer, district or city or town attorney shall  
7 fail or refuse to perform any such duty a petition shall be filed in  
8 the district court of the county wherein such person resides, in the  
9 name of the state, upon the recommendation of a grand jury or on the  
10 relation of the board of county commissioners or of any attorney  
11 appointed by the Governor under the provisions of applicable  
12 statutes. In all cases where a member of the ~~Alcoholic Beverage~~  
13 ~~Laws Enforcement Commission~~ Bureau fails to perform any duty imposed  
14 upon him, said member shall be subject to removal from office in the  
15 manner provided for state officers not subject to impeachment, and,  
16 in all cases where an enforcement employee of the ~~ABLE Commission~~  
17 Bureau is involved in the failure to perform any duties required by  
18 law, such failure shall constitute cause for the removal of any such  
19 employee pursuant to the provisions of Section 833 of Title 74 of  
20 the Oklahoma Statutes. The Oklahoma State Bureau of Investigation  
21 ~~and the Oklahoma State Bureau of Narcotics and Dangerous Drugs~~  
22 ~~Control Commission~~ shall also have enforcement authority for the  
23 provisions of the Oklahoma Alcoholic Beverage Control Act, with the  
24 power to initiate complaints with the ~~ABLE Commission~~ Oklahoma State

1 Bureau of Narcotics and Dangerous Drugs Control and by filing  
2 charges, if appropriate, with the district attorney in the county  
3 where the violation occurred.

4 SECTION 95. AMENDATORY 37 O.S. 2001, Section 571, is  
5 amended to read as follows:

6 Section 571. ~~The Alcoholic Beverage Laws Enforcement Commission~~  
7 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control is  
8 hereby authorized to promulgate rules and regulations governing the  
9 labeling of alcoholic beverages bottled, packaged, sold, or  
10 possessed for sale within this state, not inconsistent with the  
11 provisions of the Oklahoma Alcoholic Beverage Control Act.

12 SECTION 96. AMENDATORY 37 O.S. 2001, Section 573, as  
13 amended by Section 8, Chapter 484, O.S.L. 2003 (37 O.S. Supp. 2007,  
14 Section 573), is amended to read as follows:

15 Section 573. A. Except as provided in subsection D of this  
16 section, no liquor, wine, or beer shall be labeled, offered or  
17 advertised for sale unless in accordance with such regulations and  
18 unless the brand label shall have been registered with and approved  
19 by the ~~Alcoholic Beverage Laws Enforcement Commission~~ Oklahoma State  
20 Bureau of Narcotics and Dangerous Drugs Control and the appropriate  
21 fee paid as provided for in this section.

22 B. An application for registration of a brand label shall be  
23 filed by the owner of the brand if such owner is licensed by the  
24 ~~ABLE Commission,~~ Bureau; however, if the owner is not licensed but

1 is represented by a licensed nonresident seller, the nonresident  
2 seller licensee shall submit each label for each product he offers  
3 for sale in this state. Cordials and wines which differ only as to  
4 age or vintage year, as defined by such regulations, shall be  
5 considered the same brand; and those that differ as to type or class  
6 may be considered the same brand by the ~~ABLE Commission~~ Bureau where  
7 consistent with the purposes of this section.

8 C. The application for registration of a brand label shall be  
9 filed on a form prescribed by the ~~ABLE Commission~~ Bureau, and shall  
10 contain such information as the ~~ABLE Commission~~ Bureau shall  
11 require. Such application shall be accompanied by a certified  
12 check, bank officers' check or draft, or money order in the amount  
13 of the annual registration fee prescribed by this section.

14 D. The annual fee for registration of any brand label for  
15 liquor shall be Three Hundred Seventy-five Dollars (\$375.00); the  
16 annual fee for registration of any brand label for beer shall be Two  
17 Hundred Dollars (\$200.00); the annual fee for registration of any  
18 brand label for wine shall be Two Hundred Dollars (\$200.00). Beer  
19 manufactured in this state shall be exempt from brand label  
20 registration fees.

21 Each brand label registered and approved pursuant to this  
22 section shall be valid for a term which shall run concurrently with  
23 the term of the license of the brand owner, or nonresident seller  
24

1 representing the brand owner, registering such label and shall be  
2 valid for such licensee and shall not be transferable.

3 E. If the ~~ABLE Commission~~ Bureau shall deny the application for  
4 registration of a brand label it shall return the registration fee  
5 to the applicant, less twenty-five percent (25%) of such fee.

6 F. The ~~ABLE Commission~~ Bureau may at any time exempt any  
7 discontinued brand from fee provisions of this section where a  
8 manufacturer or wholesaler has an inventory of one hundred cases or  
9 less of liquor or wine and five hundred cases or less of beer, and  
10 certifies to the ~~ABLE Commission~~ Bureau in writing that such brand  
11 is being discontinued.

12 SECTION 97. AMENDATORY 37 O.S. 2001, Section 576, is  
13 amended to read as follows:

14 Section 576. A. A tax at the rate of thirteen and one-half  
15 percent (13.5%) is hereby levied and imposed on the total gross  
16 receipts of a holder of a mixed beverage, caterer, or special event  
17 license, issued by the ~~ABLE Commission~~ Oklahoma State Bureau of  
18 Narcotics and Dangerous Drugs Control, from:

- 19 1. The sale, preparation or service of mixed beverages;
- 20 2. The total retail value of complimentary or discounted mixed  
21 beverages;
- 22 3. Ice or nonalcoholic beverages that are sold, prepared or  
23 served for the purpose of being mixed with alcoholic beverages and  
24

1 consumed on the premises where the sale, preparation or service  
2 occurs; and

3 4. Any charges for the privilege of admission to a mixed  
4 beverage establishment which entitle a person to complimentary mixed  
5 beverages or discounted prices for mixed beverages.

6 B. For purposes of this section:

7 1. "Mixed beverages" means mixed beverages as defined by  
8 Section 506 of this title;

9 2. "Total gross receipts" means the total amount of  
10 consideration received as charges for admission to a mixed beverage  
11 establishment as provided in paragraph 4 of subsection A of this  
12 section and the total retail sale price received for the sale,  
13 preparation or service of mixed beverages, ice, and nonalcoholic  
14 beverages to be mixed with alcoholic beverages. The advertised  
15 price of a mixed beverage shall be the sum of the total retail sale  
16 price and the gross receipts tax levied thereon; and

17 3. "Total retail value" means the total amount of consideration  
18 that would be required for the sale, preparation or service of mixed  
19 beverages.

20 C. The gross receipts tax levied by this section shall be in  
21 addition to the excise tax levied in Section 553 of this title, the  
22 sales tax levied in the Oklahoma Sales Tax Code, ~~Section 1350 et~~  
23 ~~seq. of Title 68 of the Oklahoma Statutes~~ and to any municipal or  
24 county sales taxes.

1 D. The gross receipts tax levied by this section is hereby  
2 declared to be a direct tax upon the receipt of consideration for  
3 any charges for admission to a mixed beverage establishment as  
4 provided in paragraph 4 of subsection A of this section, for the  
5 sale, preparation or service of mixed beverages, ice, and  
6 nonalcoholic beverages to be mixed with alcoholic beverages, and the  
7 total retail value of complimentary or discounted mixed beverages.

8 E. The total of the retail sale price received for the sale,  
9 preparation or service of mixed beverages, ice, and nonalcoholic  
10 beverages to be mixed with alcoholic beverages shall be the total  
11 gross receipts for purposes of calculating the sales tax levied in  
12 the Oklahoma Sales Tax Code, ~~Section 1350 et seq. of Title 68 of the~~  
13 ~~Oklahoma Statutes.~~

14 SECTION 98. AMENDATORY 37 O.S. 2001, Section 576.1, is  
15 amended to read as follows:

16 Section 576.1 All revenues generated from the gross receipts  
17 tax levied pursuant to Section 576 of ~~Title 37 of the Oklahoma~~  
18 ~~Statutes~~ this title shall be paid to the State Treasurer and placed  
19 to the credit of the ~~General Revenue~~ Bureau of Narcotics Alcohol  
20 Enforcement and Education Revolving Fund of the State of Oklahoma  
21 created pursuant to Section 126 of this act.

22 SECTION 99. AMENDATORY 37 O.S. 2001, Section 577, is  
23 amended to read as follows:

24

1 Section 577. A. Every holder of a mixed beverage, beer and  
2 wine, caterer, hotel beverage or special event license, issued by  
3 the ~~Alcoholic Beverage Laws Enforcement Commission~~ Oklahoma State  
4 Bureau of Narcotics and Dangerous Drugs Control, shall obtain a  
5 mixed beverage tax permit from the Oklahoma Tax Commission prior to  
6 engaging, within this state, in the sale, preparation or service of  
7 mixed beverages, ice, or nonalcoholic beverages that are sold,  
8 prepared or served to be mixed with alcoholic beverages. Each  
9 licensee shall file a verified application for a mixed beverage tax  
10 permit with the Tax Commission, setting forth information as may be  
11 required by the Tax Commission.

12 The Tax Commission, or its designated agent, shall issue,  
13 without any fees or charges therefor, a mixed beverage tax permit in  
14 the name of the licensee for the place of business set forth in the  
15 application upon verification that:

16 1. The applicant is a holder of a mixed beverage, beer and  
17 wine, caterer, hotel beverage or special event license issued by the  
18 ~~Alcoholic Beverage Laws Enforcement Commission~~ Bureau;

19 2. The applicant has posted a surety bond or other negotiable  
20 collateral to protect the proper payment of the gross receipts  
21 taxes;

22 3. The applicant is a holder of a sales tax permit for the  
23 place of business set forth in the application; and  
24

1       4. The applicant is not delinquent in the payment of any gross  
2 receipts taxes or sales taxes.

3       A mixed beverage tax permit shall expire three (3) years after  
4 issuance; provided, if the holder thereof is also the holder of a  
5 sales tax permit, a mixed beverage tax permit shall be valid for  
6 three (3) years or until expiration of the sales tax permit,  
7 whichever is earlier, after which a renewal permit shall be valid  
8 for three (3) years.

9       B. A separate mixed beverage tax permit for each place of  
10 business to be operated must be obtained and no charge therefor  
11 shall be made by the Tax Commission. The Tax Commission shall grant  
12 and issue to each applicant a separate permit for each place of  
13 business in this state, upon proper application therefor and  
14 verification thereof by the Tax Commission.

15       C. A mixed beverage tax permit is not assignable and shall be  
16 valid only for the person in whose name it is issued and for the  
17 transaction of business at the place designated in the permit.

18       D. It shall be unlawful for any person to engage in a business  
19 subject to the provisions of this section prior to the issuance of a  
20 mixed beverage tax permit. Any person who engages in a business  
21 subject to the provisions of this section without a mixed beverage  
22 tax permit or permits, or after a permit has been suspended, shall  
23 be guilty of a misdemeanor, and upon conviction thereof, shall be  
24 fined not more than One Thousand Dollars (\$1,000.00) or incarcerated

1 for not more than sixty (60) days, or by both such fine and  
2 imprisonment.

3 E. Any person operating under a mixed beverage tax permit as  
4 provided in this section shall, upon discontinuance of business by  
5 sale or otherwise, return such permit to the Tax Commission for  
6 cancellation, together with payment of any unpaid or accrued taxes.  
7 Failure to surrender a mixed beverage tax permit and pay any and all  
8 accrued taxes will be sufficient cause for the Tax Commission to  
9 refuse to issue a mixed beverage tax permit subsequently to such  
10 person to engage in or transact any business in this state subject  
11 to the provisions of this section. Notwithstanding the provisions  
12 of subsection H of Section 1364 of Title 68 of the Oklahoma  
13 Statutes, the Tax Commission shall not deny a purchaser of a  
14 business subject to the provisions of this section a mixed beverage  
15 or sales tax permit because of outstanding tax liabilities of the  
16 seller, provided the seller pays to the Tax Commission the estimated  
17 sales tax owed by the seller. Provided further, upon completion of  
18 an audit by the Tax Commission and determination of actual sales tax  
19 owed, the difference between the estimated sales tax paid and the  
20 actual sales tax owed shall be paid by the seller to the Tax  
21 Commission if taxes were underpaid or returned to the seller by the  
22 Tax Commission if taxes were overpaid.

23 F. Whenever a holder of a mixed beverage tax permit fails to  
24 comply with any provisions of any state alcoholic beverage laws or

1 tax laws, the Tax Commission, after giving ten (10) days' notice in  
2 writing of the time and place of hearing to show cause why this  
3 permit should not be revoked, may revoke or suspend the permit. A  
4 mixed beverage tax permit shall be renewed upon removal of cause or  
5 causes of revocation or suspension. Mixed beverage tax permits are  
6 conditioned upon the proper and timely payment of all taxes due and  
7 in the event a holder of a mixed beverage tax permit becomes  
8 delinquent in reporting or paying any tax due under the provisions  
9 of state tax law, any duly authorized agent of the Tax Commission  
10 may cancel the permit and it shall be renewed only upon the filing  
11 of proper reports and payment of all taxes due and application for  
12 renewal in accordance with subsection A of this section.

13 G. Upon revocation or suspension of the mixed beverage, beer  
14 and wine, caterer, hotel beverage or special event license by the  
15 ~~ABLE Commission Bureau~~, the Tax Commission, or its duly authorized  
16 agent, shall temporarily suspend the mixed beverage tax permit  
17 issued to the licensee in accordance with Section 212 of Title 68 of  
18 the Oklahoma Statutes.

19 SECTION 100. AMENDATORY 37 O.S. 2001, Section 578, is  
20 amended to read as follows:

21 Section 578. A. Every holder of a mixed beverage, beer and  
22 wine, caterer or special event license issued by the ~~Alcoholic~~  
23 ~~Beverage Laws Enforcement Commission~~ Oklahoma State Bureau of  
24 Narcotics and Dangerous Drugs Control, as a condition precedent to

1 the issuance of a mixed beverage tax permit, shall furnish to the  
2 Oklahoma Tax Commission a bond from a surety company chartered or  
3 authorized to do business in this state, cash bond, certificates of  
4 deposits, certificates of savings or U.S. Treasury bond, or an  
5 assignment of negotiable stocks or bonds, as the Tax Commission may  
6 deem necessary to secure payment of the gross receipts tax levied  
7 upon gross receipts of the licensees.

8 B. Any surety bond furnished under this section shall be a  
9 continuing instrument and shall constitute a new and separate  
10 obligation in the sum stated therein for each calendar year or a  
11 portion thereof while such bond is in force. Such bond shall remain  
12 in effect until the surety or sureties are released and discharged  
13 by the Tax Commission.

14 C. The Tax Commission, or its duly authorized agent, shall fix  
15 the amount of such bond or other security for each licensee for each  
16 place of business after considering the estimated gross receipts tax  
17 liability of such licensee. Such bond shall be no less than an  
18 amount equal to the average estimated quarterly gross receipts tax  
19 liability and no greater than an amount equal to three times the  
20 amount of the average estimated quarterly gross receipts tax  
21 liability. Effective July 1, 2001, the minimum bond required for a  
22 new permit holder shall be not less than One Thousand Five Hundred  
23 Dollars (\$1,500.00).

24

1 D. Notwithstanding the provisions of subsection C of this  
2 section, if the permit holder has held the permit for at least four  
3 (4) years and is not delinquent in the payment of mixed beverage  
4 taxes, the Tax Commission shall not require any increase in the bond  
5 so long as the permit holder remains current in the payment of such  
6 taxes.

7 E. Any bond or other security shall be such as will protect  
8 this state against failure of the taxpayer or licensee to pay the  
9 tax levied by Section 576 of this title. The forfeiture or  
10 cancellation of such bond or security, for any reason whatsoever,  
11 shall automatically revoke the mixed beverage tax permit issued  
12 pursuant to the provisions of the Oklahoma Alcoholic Beverage  
13 Control Act.

14 SECTION 101. AMENDATORY 37 O.S. 2001, Section 582, is  
15 amended to read as follows:

16 Section 582. A. No mixed beverage, beer and wine, caterer or  
17 special event licensee nor any officer, agent or employee of such  
18 licensee may possess or permit to be possessed on the premises, for  
19 which such license was issued, any container of an alcoholic  
20 beverage which is not listed on an invoice from the wholesaler from  
21 whom the alcoholic beverage was purchased.

22 B. All containers of alcoholic beverages which are on the  
23 premises of a mixed beverage, beer and wine, caterer or special  
24 event licensee and which are not listed on an invoice from the

1 wholesaler pursuant to the provisions of this section are declared  
2 contraband. Any duly authorized officer or employee of the ~~ABLE~~  
3 ~~Commission~~ Oklahoma State Bureau of Narcotics and Dangerous Drugs  
4 Control or the Oklahoma Tax Commission is authorized to seize such  
5 containers or cases and such seized containers or cases shall be  
6 subject to confiscation and forfeiture pursuant to the provisions of  
7 the Oklahoma Alcoholic Beverage Control Act.

8 C. Any holder of a wholesaler, mixed beverage, beer and wine,  
9 caterer or special event license who violates the provisions of this  
10 section shall, upon conviction, be guilty of a misdemeanor and shall  
11 be subject to revocation or suspension of such license issued by the  
12 ~~ABLE-Commission~~ Bureau pursuant to the provisions of the Oklahoma  
13 Alcoholic Beverage Control Act.

14 SECTION 102. AMENDATORY 37 O.S. 2001, Section 588, is  
15 amended to read as follows:

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

20 Until September 1, 1985, the ~~ABLE-Commission~~ Oklahoma State  
21 Bureau of Narcotics and Dangerous Drugs Control shall be authorized  
22 to issue interim licenses to applicants for mixed beverage, caterer,  
23 bottle club, and airline/railroad beverage licenses, prior to  
24 issuance of permanent licenses. The issuance of interim licenses

1 may take place before all the procedures required by the Oklahoma  
2 Alcoholic Beverage Control Act for such licensing are completed.

3 To obtain an interim license an applicant shall file an  
4 application for a license authorized by this section with the ~~ABLE~~  
5 ~~Commission~~ Bureau and shall furnish all other information required  
6 by the Oklahoma Alcoholic Beverage Control Act and rules and  
7 regulations promulgated by the ~~ABLE-Commission~~ Bureau, except that,  
8 if certificates of zoning or compliance with fire, safety, or health  
9 codes, required pursuant to Section 523 of this title, have not been  
10 issued by the applicable municipality or county, proof of  
11 application for said certificates shall be sufficient for issuance  
12 of the interim license. The certificates shall be furnished to the  
13 ~~ABLE-Commission~~ Bureau prior to issuance of a permanent license.  
14 The interim license shall remain valid until final action either  
15 issuing a license or denying the application for a license is taken  
16 by the ~~ABLE-Commission~~ Bureau on the application for a license, on  
17 which date the interim license shall expire.

18 SECTION 103. AMENDATORY 37 O.S. 2001, Section 593, is  
19 amended to read as follows:

20 Section 593. A. No person shall be allowed to enter or remain  
21 in the designated bar or lounge area of a bottle club unless that  
22 person possesses a valid membership card for that club issued by the  
23 club.

24

1 Membership cards issued by a bottle club shall be purchased by  
2 the club from the ~~Alcoholic Beverage Laws Enforcement Commission~~  
3 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control at a  
4 cost of Three Dollars (\$3.00) per temporary membership card and  
5 Twenty-five Dollars (\$25.00) per annual membership card. A  
6 temporary membership card shall be valid for a period of seventy-two  
7 (72) consecutive hours from issuance to the member. The date of  
8 issuance of a temporary membership shall be clearly and prominently  
9 marked upon the card. When the card is issued to a member by the  
10 club, the club may require said members to reimburse the club for  
11 the cost of the card. No membership card shall be issued to any  
12 person under twenty-one (21) years of age.

13 The ~~ABLE Commission~~ Bureau shall have the authority to  
14 promulgate rules and regulations concerning bottle club membership  
15 cards.

16 B. A bottle club license authorizes alcoholic beverages  
17 belonging to members of the club to be:

- 18 1. Stored, possessed and mixed on club premises; and
- 19 2. Served for on-premises consumption to members. Each member  
20 shall be served only from the member's individually owned bottle of  
21 alcoholic beverage which shall be marked with the owner's full name  
22 or code number. Such numbers shall be maintained on the club  
23 premises, available for inspection by agents of the ~~ABLE Commission~~  
24 Bureau or by any other peace officer.

1 Pool systems of storage and purchase of alcoholic beverages in a  
2 bottle club are specifically prohibited.

3 C. The sale, preparation or service of ice or nonalcoholic  
4 beverages that are sold, prepared or served for the purpose of being  
5 mixed with alcoholic beverages for consumption on the premises where  
6 such sale, preparation or service occurs shall be subject to the  
7 sales tax levied by the Oklahoma Sales Tax Code and to any municipal  
8 or county sales taxes.

9 D. Any bottle club licensee, or employee or agent of said  
10 licensee who sells to a member any alcoholic beverage shall be  
11 deemed guilty of a misdemeanor and upon conviction thereof shall be  
12 punished by a fine of One Thousand Dollars (\$1,000.00) and the club  
13 license shall be revoked for a period of thirty (30) days. Any  
14 bottle club licensee, or employee or agent of said licensee who  
15 delivers or furnishes to a member any alcoholic beverage that does  
16 not belong to said member shall be deemed guilty of a misdemeanor  
17 and upon conviction thereof shall be punished by a fine of not less  
18 than Five Hundred Dollars (\$500.00) nor more than One Thousand  
19 Dollars (\$1,000.00) and the club license shall be revoked for a  
20 period of thirty (30) days. Any bottle club licensee, or employee  
21 or agent of said licensee who permits any person who is not a member  
22 to enter and remain in the designated bar or lounge area of the club  
23 premises shall be deemed guilty of a misdemeanor and upon conviction  
24 thereof shall be punished by a fine of One Thousand Dollars

1 (\$1,000.00) and the bottle club license shall be suspended for a  
2 period of thirty (30) days. No bottle club licensee, or employee or  
3 agent of said licensee shall serve alcoholic beverages to any person  
4 that does not possess a valid membership card for that club issued  
5 by the club.

6 E. Any bottle club licensed under the provisions of the  
7 Oklahoma Alcoholic Beverage Control Act shall pay the license fee  
8 provided by law and obtain a separate license for each separate  
9 place of business.

10 F. In counties of this state where retail sale of alcoholic  
11 beverages by the individual drink has not been authorized no person  
12 shall serve alcoholic beverages by the individual drink for  
13 on-premises consumption or permit the consumption of alcoholic  
14 beverages except in a bottle club licensed pursuant to this section  
15 or in a private residence, provided, that this shall not prohibit a  
16 winery from serving visitors on the licensed premises free samples  
17 of wine produced on the premises. No member of a bottle club shall  
18 serve alcoholic beverages lawfully prepared for said member in the  
19 designated bar or lounge area of a bottle club to any person who  
20 does not possess a valid membership card for the bottle club.

21 SECTION 104. AMENDATORY 37 O.S. 2001, Section 594, is  
22 amended to read as follows:

23 Section 594. A. A caterer license may be issued to any  
24 corporation, association, individual, or limited liability company,

1 or any type of partnership for the purpose of sale, delivery or  
2 distribution of alcoholic beverages for on-premises consumption  
3 incidental to the sale or distribution of food.

4 B. The ~~ABLE Commission~~ Oklahoma State Bureau of Narcotics and  
5 Dangerous Drugs Control shall adopt rules governing the application  
6 for and the issuance of caterer licenses.

7 C. The restrictions and regulations which apply to the sale of  
8 mixed beverages on the premises of a mixed beverage licensee also  
9 apply to the sale under the authority of a caterer license. Any act  
10 which if done on the premises of a mixed beverage licensee would be  
11 a ground for revocation or suspension of the mixed beverage license  
12 is a ground for revocation or suspension of a caterer license.

13 D. If the premises, where the event being catered is held, are  
14 already operating pursuant to another type of license issued by the  
15 ~~ABLE Commission~~ Bureau, the caterer and other said licensee shall  
16 both be responsible for the actions of the caterer and shall both be  
17 subject to penalties for violations, by the caterer, of the Oklahoma  
18 Alcoholic Beverage Control Act and any rules promulgated pursuant  
19 thereto.

20 E. A caterer licensee may not store alcoholic beverages unless  
21 said licensee has a storage license issued by the ~~ABLE Commission~~  
22 Bureau.

23 SECTION 105. AMENDATORY 37 O.S. 2001, Section 594.1, is  
24 amended to read as follows:

1 Section 594.1 A. A hotel beverage license may be issued to a  
2 hotel or motel as defined by Section 506 of ~~Title 37 of the Oklahoma~~  
3 ~~Statutes~~ this title which is also the holder of a mixed beverage  
4 license. Provided, that application may be made simultaneously for  
5 both such licenses.

6 B. ~~The Alcoholic Beverage Laws Enforcement Commission~~ Oklahoma  
7 State Bureau of Narcotics and Dangerous Drugs Control shall adopt  
8 rules and regulations governing the application for and the issuance  
9 of hotel beverage licenses.

10 C. Notwithstanding any other provision of this act, a hotel may  
11 sell alcoholic beverages to its registered guests by means of a  
12 mini-bar located in the guestrooms of those registered guests  
13 provided that:

14 1. Access to any mini-bar shall only be by a key, magnetic card  
15 or similar device;

16 2. Access to a mini-bar in a particular guestroom is provided,  
17 whether by furnishing a key, magnetic card or similar device only to  
18 a registered guest over twenty-one (21) years of age registered to  
19 stay in the guestroom;

20 3. The licensee shall verify that each registered guest to whom  
21 a key, magnetic card or similar device to access a mini-bar is to be  
22 provided is over twenty-one (21) years of age; and  
23  
24

1 4. All employees handling the alcoholic beverages to be placed  
2 in the mini-bar possess an employee license issued by the ~~ABLE~~  
3 ~~Commission~~ Bureau.

4 SECTION 106. AMENDATORY 37 O.S. 2001, Section 595, is  
5 amended to read as follows:

6 Section 595. A. A special event license may be issued to an  
7 organization, association or nonprofit corporation organized for  
8 political, fraternal, charitable, religious or social purposes. The  
9 holder of a special event license is authorized to sell and  
10 distribute alcoholic beverage on the premises for which the license  
11 is issued.

12 B. The ~~Alcoholic Beverage Laws Enforcement Commission~~ Oklahoma  
13 State Bureau of Narcotics and Dangerous Drugs Control shall adopt  
14 rules and regulations governing the application for and the issuance  
15 of special event licenses.

16 C. The restrictions and regulations which apply to the sale of  
17 mixed beverages on the premises of a mixed beverage licensee also  
18 apply to the sale of such beverages under the authority of a special  
19 event license. Any act which if done on the premises of a mixed  
20 beverage licensee would be a ground for revocation or suspension of  
21 the mixed beverage license is a ground for revocation or suspension  
22 of a special event license.

23 D. No special event license may be issued for any premises  
24 already licensed by the ~~ABLE-Commission~~ Bureau.

1 SECTION 107. AMENDATORY 37 O.S. 2001, Section 596, is  
2 amended to read as follows:

3 Section 596. Each bottle club or mixed beverage, beer and wine,  
4 caterer or special event licensee shall be held responsible for  
5 violation of any alcoholic beverage law or administrative rule of  
6 the ~~Alcoholic Beverage Laws Enforcement Commission~~ Oklahoma State  
7 Bureau of Narcotics and Dangerous Drugs Control affecting his  
8 license privileges and for any act or omission of his servant,  
9 agent, employee or representative in violation of any law, municipal  
10 ordinance or administrative rule affecting his license privileges.

11 SECTION 108. AMENDATORY 37 O.S. 2001, Section 597, is  
12 amended to read as follows:

13 Section 597. An airline/railroad beverage license may be issued  
14 to any corporation operating a commercial airline or railroad in or  
15 through this state. Application and payment of the license fee  
16 shall be made directly to the ~~Alcoholic Beverage Laws Enforcement~~  
17 ~~Commission~~ Oklahoma State Bureau of Narcotics and Dangerous Drugs  
18 Control.

19 SECTION 109. AMENDATORY 37 O.S. 2001, Section 598, as  
20 amended by Section 29, Chapter 460, O.S.L. 2002 (37 O.S. Supp. 2007,  
21 Section 598), is amended to read as follows:

22 Section 598. A. If the premises of a licensee of the ~~Alcoholic~~  
23 ~~Beverage Laws Enforcement Commission~~ Oklahoma State Bureau of  
24 Narcotics and Dangerous Drugs Control contains a separate or

1 enclosed lounge or bar area, which has as its main purpose the sale  
2 or distribution, of alcoholic beverages for on-premises consumption,  
3 notwithstanding that as an incidental service, meals or short order  
4 foods are made available therein, no person under twenty-one (21)  
5 years of age shall be admitted to such area, except for members of a  
6 musical band employed or hired as provided in paragraph 2 of  
7 subsection B of Section 537 of this title when the band is to  
8 perform within such area, or persons under twenty-one (21) years of  
9 age who are on the licensed premises for the limited purpose of  
10 performing maintenance, construction, remodeling, painting or other  
11 similar services relating to the building or equipment installation,  
12 repair or maintenance on the premises during those hours when the  
13 licensed establishment is closed for business. The provisions of  
14 this section shall not prohibit persons under twenty-one (21) years  
15 of age from being admitted to an area which has as its main purpose  
16 some objective other than the sale or mixing or serving of said  
17 beverages, in which sales or serving of said beverages are  
18 incidental to the main purpose, as long as the persons under twenty-  
19 one (21) years of age are not sold or served alcoholic beverages.  
20 The incidental service of food in the bar area shall not exempt a  
21 licensee from the provisions of this section. The ~~ABLE Commission~~  
22 Bureau shall have the authority to designate the portions of the  
23 premises of a licensee where persons under twenty-one (21) years of  
24 age shall not be admitted pursuant to this section. For purposes of

1 this section only, the term "alcoholic beverages" shall include low-  
2 point beer, as defined in Section 163.2 of this title.

3 B. Except as otherwise provided, an admission charge shall not  
4 be considered in any calculation designed to determine the main  
5 purpose of an establishment pursuant to subsection A of this  
6 section. As used in this section, "admission charge" means any form  
7 of consideration received by an establishment from a person in order  
8 for that person to gain entrance into the establishment.

9 C. The provisions of subsection B of this section shall not  
10 apply:

11 1. If only persons eighteen (18) years of age or older are  
12 permitted to enter the licensed premises; provided however, if the  
13 licensee is claiming an exception from the requirements of  
14 subsection B of this section pursuant to this paragraph and fails to  
15 restrict the entry by persons under age eighteen (18) into the  
16 licensed premises, the ~~ABLE Commission~~ Bureau shall designate that  
17 only persons twenty-one (21) years of age or older are allowed on  
18 the licensed premises;

19 2. If the licensed premises are owned or operated by a service  
20 organization or fraternal establishment which is exempt under  
21 Section 501(c)(19), (8), or (10) of the Internal Revenue Code; or

22 3. To a public event held in a facility owned or operated by  
23 any agency, political subdivision or public trust of this state.

24

1 D. The ~~ABLE Commission~~ Bureau shall promulgate rules necessary  
2 to implement the provisions of this section.

3 SECTION 110. AMENDATORY 37 O.S. 2001, Section 599, is  
4 amended to read as follows:

5 Section 599. The ~~Alcoholic Beverage Laws Enforcement Commission~~  
6 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control may  
7 issue an additional hours license to the holder of a caterer or  
8 special event license. The additional hours license shall authorize  
9 the holder thereof to sell, dispense or serve alcoholic beverages  
10 from 6:00 a.m. to 10:00 a.m.

11 SECTION 111. AMENDATORY 37 O.S. 2001, Section 600.3, as  
12 amended by Section 1, Chapter 253, O.S.L. 2004 (37 O.S. Supp. 2007,  
13 Section 600.3), is amended to read as follows:

14 Section 600.3 A. It is unlawful for any person to sell, give  
15 or furnish in any manner any tobacco product to another person who  
16 is under eighteen (18) years of age, or to purchase in any manner a  
17 tobacco product on behalf of any such person. It shall not be  
18 unlawful for an employee under eighteen (18) years of age to handle  
19 tobacco products when required in the performance of the employee's  
20 duties.

21 B. A person engaged in the sale or distribution of tobacco  
22 products shall demand proof of age from a prospective purchaser or  
23 recipient if an ordinary person would conclude on the basis of  
24

1 appearance that the prospective purchaser may be under eighteen (18)  
2 years of age.

3 If an individual engaged in the sale or distribution of tobacco  
4 products has demanded proof of age from a prospective purchaser or  
5 recipient who is not under eighteen (18) years of age, the failure  
6 to subsequently require proof of age shall not constitute a  
7 violation of ~~subsection B of this section~~ subsection.

8 C. 1. When a person violates subsection A or B of this  
9 section, the ~~Alcoholic Beverage Laws Enforcement (ABLE) Commission~~  
10 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control  
11 (OBNDD) shall impose an administrative fine of:

- 12 a. not more than One Hundred Dollars (\$100.00) for the  
13 first offense,
- 14 b. not more than Two Hundred Dollars (\$200.00) for the  
15 second offense within a two-year period following the  
16 first offense,
- 17 c. not more than Three Hundred Dollars (\$300.00) for a  
18 third offense within a two-year period following the  
19 first offense. In addition to any other penalty, the  
20 store's license to sell tobacco products may be  
21 suspended for a period not exceeding thirty (30) days,  
22 or
- 23 d. not more than Three Hundred Dollars (\$300.00) for a  
24 fourth or subsequent offense within a two-year period

1 following the first offense. In addition to any other  
2 penalty, the store's license to sell tobacco products  
3 may be suspended for a period not exceeding sixty (60)  
4 days.

5 2. When it has been determined that a penalty shall include a  
6 license suspension, the ~~ABLE Commission~~ Bureau shall notify the  
7 Oklahoma Tax Commission, and the Tax Commission shall suspend the  
8 store's license to sell tobacco products at the location where the  
9 offense occurred for the period of time prescribed by the ~~ABLE~~  
10 ~~Commission~~ Bureau.

11 3. Proof that the defendant demanded, was shown, and reasonably  
12 relied upon proof of age shall be a defense to any action brought  
13 pursuant to this section. A person cited for violating this section  
14 shall be deemed to have reasonably relied upon proof of age, and  
15 such person shall not be found guilty of such violation if such  
16 person proves that:

- 17 a. the individual who purchased or received the tobacco  
18 product presented a driver license or other  
19 government-issued photo identification purporting to  
20 establish that such individual was eighteen (18) years  
21 of age or older, and
- 22 b. the person cited for the violation confirmed the  
23 validity of the driver license or other government-  
24 issued photo identification presented by such

1 individual by performing a transaction scan by means  
2 of a transaction scan device.

3 Provided, that this defense shall not relieve from liability any  
4 person cited for a violation of this section if such person failed  
5 to exercise reasonable diligence to determine whether the physical  
6 description and picture appearing on the driver license or other  
7 government-issued photo identification was that of the individual  
8 who presented it. The availability of the defense described in this  
9 subsection does not affect the availability of any other defense  
10 under any other provision of law.

11 D. If the sale is made by an employee of the owner of a store  
12 at which tobacco products are sold at retail, the employee shall be  
13 guilty of the violation and shall be subject to the fine. Each  
14 violation by any employee of an owner of a store licensed to sell  
15 tobacco products shall be deemed a violation against the owner for  
16 purposes of a license suspension pursuant to subsection C of this  
17 section. An owner of a store licensed to sell tobacco products  
18 shall not be deemed in violation of the provisions of the Prevention  
19 of Youth Access to Tobacco Act for any acts constituting a violation  
20 by any person, when the violation occurs prior to actual employment  
21 of the person by the store owner or the violation occurs at a  
22 location other than the owner's retail store. For purposes of  
23 determining the liability of a person controlling franchises or  
24 business operations in multiple locations, for any violations of

1 subsection A or B of this section, each individual franchise or  
2 business location shall be deemed a separate entity.

3 E. On or before December 15, 1997, the ~~ABLE Commission~~ Bureau  
4 shall adopt rules establishing a method of notification of  
5 storeowners when one of their employees has been determined to be in  
6 violation of this section by the ~~ABLE Commission~~ Bureau or convicted  
7 of a violation by a municipality.

8 F. 1. Upon failure of the employee to pay the administrative  
9 fine within ninety (90) days of the day of the assessment of such  
10 fine, the ~~ABLE Commission~~ Bureau shall notify the Department of  
11 Public Safety and the Department shall suspend or not issue a driver  
12 license to the employee until proof of payment has been furnished to  
13 the Department of Public Safety.

14 2. Upon failure of a storeowner to pay the administrative fine  
15 within ninety (90) days of the assessment of the fine, the ~~ABLE~~  
16 ~~Commission~~ Bureau shall notify the Tax Commission and the Tax  
17 Commission shall suspend the store's license to sell tobacco  
18 products until proof of payment has been furnished to the Oklahoma  
19 Tax Commission.

20 G. Cities and towns may enact and municipal police officers may  
21 enforce ordinances prohibiting and penalizing conduct under  
22 provisions of this section, but the provisions of municipal  
23 ordinances shall be the same as provided for in this section, and  
24

1 the penalty provisions under such ordinances shall not be more  
2 stringent than those of this section.

3 H. County sheriffs may enforce the provisions of the Prevention  
4 of Youth Access to Tobacco Act.

5 SECTION 112. AMENDATORY 37 O.S. 2001, Section 600.4, is  
6 amended to read as follows:

7 Section 600.4 A. It is unlawful for a person who is under  
8 eighteen (18) years of age to purchase, receive, or have in their  
9 possession a tobacco product, or to present or offer to any person  
10 any purported proof of age which is false or fraudulent, for the  
11 purpose of purchasing or receiving any tobacco product. It shall  
12 not be unlawful for an employee under eighteen (18) years of age to  
13 handle tobacco products when required in the performance of the  
14 employee's duties.

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:

19 1. Not to exceed One Hundred Dollars (\$100.00) for a first  
20 offense; and

21 2. Not to exceed Two Hundred Dollars (\$200.00) for a second or  
22 subsequent offense within a one-year period following the first  
23 offense.

24

1        Upon failure of the individual to pay the administrative fine  
2 within ninety (90) days of the day of the fine, the ~~ABLE Commission~~  
3 Bureau shall notify the Department of Public Safety and the  
4 Department shall suspend or not issue a driver license to the  
5 individual until proof of payment has been furnished to the  
6 Department of Public Safety.

7        C. The ~~ABLE Commission~~ Bureau shall establish rules to provide  
8 for notification to a parent or guardian of any minor cited for a  
9 violation of this section.

10       D. Cities and towns may enact and municipal police officers may  
11 enforce ordinances prohibiting and penalizing conduct under  
12 provisions of this section, but the provisions of such ordinances  
13 shall be the same as provided for in this section, and the  
14 enforcement provisions under such ordinances shall not be more  
15 stringent than those of this section.

16       SECTION 113.        AMENDATORY        37 O.S. 2001, Section 600.5, as  
17 amended by Section 2, Chapter 253, O.S.L. 2004 (37 O.S. Supp. 2007,  
18 Section 600.5), is amended to read as follows:

19       Section 600.5 A. Every person who sells or displays tobacco  
20 products at retail shall post conspicuously and keep so posted at  
21 the place of business a sign, as specified by the ~~Alcoholic Beverage~~  
22 ~~Laws Enforcement (ABLE) Commission~~ Oklahoma State Bureau of  
23 Narcotics and Dangerous Drugs Control, stating the following: "IT'S  
24 THE LAW. WE DO NOT SELL TOBACCO PRODUCTS TO PERSONS UNDER 18 YEARS

1 OF AGE". The sign shall also provide the toll-free number operated  
2 by the ~~Alcoholic Beverage Laws Enforcement (ABLE) Commission~~ Bureau  
3 for the purpose of reporting violations of the Prevention of Youth  
4 Access to Tobacco Act.

5 B. When a person violates subsection A of this section, the  
6 ~~Alcoholic Beverage Laws Enforcement (ABLE) Commission~~ Bureau shall  
7 impose an administrative fine of not more than Fifty Dollars  
8 (\$50.00) for each day a violation occurs. Each day a violation is  
9 continuing shall constitute a separate offense. The notice required  
10 by subsection A of this section shall be the only notice required to  
11 be posted or maintained in any store that sells tobacco products at  
12 retail.

13 SECTION 114. AMENDATORY 37 O.S. 2001, Section 600.8, as  
14 amended by Section 4, Chapter 253, O.S.L. 2004 (37 O.S. Supp. 2007,  
15 Section 600.8), is amended to read as follows:

16 Section 600.8 A. It shall be unlawful for any person or  
17 retailer to distribute tobacco products or product samples to any  
18 person under eighteen (18) years of age.

19 B. No person shall distribute tobacco products or product  
20 samples in or on any public street, sidewalk, or park that is within  
21 three hundred (300) feet of any playground, school, or other  
22 facility when the facility is being used primarily by persons under  
23 eighteen (18) years of age.

24

1 C. When a person violates any provision of subsection A or B of  
2 this section, the ~~Alcoholic Beverage Laws Enforcement (ABLE)~~  
3 ~~Commission~~ Oklahoma State Bureau of Narcotics and Dangerous Drugs  
4 Control shall impose an administrative fine of:

5 1. Not more than One Hundred Dollars (\$100.00) for the first  
6 offense;

7 2. Not more than Two Hundred Dollars (\$200.00) for the second  
8 offense; and

9 3. Not more than Three Hundred Dollars (\$300.00) for a third or  
10 subsequent offense.

11 D. Upon failure of any person to pay an administrative fine  
12 within ninety (90) days of the assessment of the fine, the ~~(ABLE)~~  
13 ~~Commission~~ Bureau shall notify the Department of Public Safety, and  
14 the Department shall suspend or not issue a driver license to the  
15 person until proof of payment has been furnished to the Department  
16 of Public Safety.

17 E. 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 municipal  
20 ordinances shall be the same as provided for in this section, and  
21 the penalty provisions under such ordinances shall not be more  
22 stringent than those of this section.

23 SECTION 115. AMENDATORY 37 O.S. 2001, Section 600.9, is  
24 amended to read as follows:

1 Section 600.9 A. It is unlawful for any person to sell  
2 cigarettes except in the original, sealed package in which they were  
3 placed by the manufacturer.

4 B. When a person violates subsection A of this section, the  
5 ~~Alcoholic Beverage Laws Enforcement (ABLE) Commission~~ Oklahoma State  
6 Bureau of Narcotics and Dangerous Drugs Control shall impose an  
7 administrative fine of not more than Two Hundred Dollars (\$200.00)  
8 for each offense.

9 C. Cities and towns may enact and municipal police officers may  
10 enforce ordinances prohibiting and penalizing conduct under  
11 provisions of this section, but the provisions of such ordinances  
12 shall be the same as provided for in this section, and the  
13 enforcement provisions under such ordinances shall not be more  
14 stringent than those of this section.

15 SECTION 116. AMENDATORY Section 5, Chapter 253, O.S.L.  
16 2004 (37 O.S. Supp. 2007, Section 600.10A), is amended to read as  
17 follows:

18 Section 600.10A A. It is unlawful for any person or retail  
19 store to display or offer for sale tobacco products in any manner  
20 that allows public access to the tobacco product without assistance  
21 from the person displaying the tobacco product or an employee or the  
22 owner of the store. The provisions of this subsection shall not  
23 apply to retail stores which do not admit into the store persons  
24 under eighteen (18) years of age.

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 not more than Two Hundred Dollars (\$200.00)  
5 for each offense.

6 C. Cities and towns may enact and municipal police officers may  
7 enforce ordinances prohibiting and penalizing conduct under  
8 provisions of this section, but the provisions of municipal  
9 ordinances shall be the same as provided for in this section and the  
10 penalty provisions under such ordinances shall not be more stringent  
11 than those of this section.

12 SECTION 117. AMENDATORY 37 O.S. 2001, Section 600.11, as  
13 amended by Section 6, Chapter 253, O.S.L. 2004 (37 O.S. Supp. 2007,  
14 Section 600.11), is amended to read as follows:

15 Section 600.11 A. The ~~Alcoholic Beverage Laws Enforcement~~  
16 ~~(ABLE) Commission~~ Oklahoma State Bureau of Narcotics and Dangerous  
17 Drugs Control is authorized and empowered to enforce the provisions  
18 of Sections 600.1 et seq. of this title. The ~~ABLE Commission~~ Bureau  
19 shall enforce those provisions in a manner that can reasonably be  
20 expected to reduce the extent to which tobacco products are sold or  
21 distributed to persons under eighteen (18) years of age.

22 B. The ~~ABLE Commission~~ Bureau may consider mitigating or  
23 aggravating circumstances involved with the violation of the  
24 Prevention of Youth Access to Tobacco Act when assessing penalties.

1 C. Any conviction for a violation of a municipal ordinance  
2 authorized by the Prevention of Youth Access to Tobacco Act and any  
3 compliance checks by a municipal police officer or a county sheriff  
4 pursuant to subsection E of this section shall be reported in  
5 writing to the ~~ABLE Commission~~ Bureau within thirty (30) days of  
6 such conviction or compliance check. Such reports shall be compiled  
7 in the manner prescribed by the ~~ABLE Commission~~ Bureau.

8 D. For the purpose of determining second or subsequent  
9 violations, both the offenses penalized by the ~~ABLE Commission~~  
10 Bureau as administrative fines and the offenses penalized by  
11 municipalities and towns and reported to the ~~ABLE Commission~~ Bureau,  
12 shall be considered together in such determination.

13 E. Persons under eighteen (18) years of age may be enlisted by  
14 the ~~ABLE Commission~~ Bureau, a municipality or town, or a county to  
15 assist in compliance checks and enforcement; provided, such persons  
16 may be used to test compliance only if written parental consent has  
17 been provided and the testing is conducted under the direct  
18 supervision of the ~~ABLE Commission~~ Bureau or conducted by another  
19 law enforcement agency if such agency has given written notice to  
20 the ~~ABLE Commission~~ Bureau in the manner prescribed by the ~~ABLE~~  
21 ~~Commission~~ Bureau. Municipalities which have enacted municipal  
22 ordinances in accordance with the Prevention of Youth Access to  
23 Tobacco Act may conduct, pursuant to rules of the ~~ABLE Commission~~  
24 Bureau, compliance checks without prior notification to the ~~ABLE~~

1 ~~Commission~~ Bureau and shall be exempt from the written notice  
2 requirement in this subsection. This subsection shall not apply to  
3 the use of persons under eighteen (18) years of age to test  
4 compliance if the compliance test is being conducted by or on behalf  
5 of a retailer of cigarettes, as defined in Section 301 of Title 68  
6 of the Oklahoma Statutes, at any location the retailer of cigarettes  
7 is authorized to sell cigarettes. Any other use of persons under  
8 eighteen (18) years of age to test compliance shall be unlawful and  
9 punishable by the ~~ABLE-Commission~~ Bureau by assessment of an  
10 administrative fine of One Hundred Dollars (\$100.00).

11 F. At the beginning of each month, the Oklahoma Tax Commission,  
12 pursuant to Section 205 of Title 68 of the Oklahoma Statutes, shall  
13 provide to the ~~ABLE-Commission~~ Bureau and to each municipality which  
14 has ordinances concerning the Prevention of Youth Access to Tobacco  
15 Act, the location, name, and address of each licensee licensed to  
16 sell tobacco products at retail or otherwise furnish tobacco  
17 products. Upon violation of an employee at a location, the ~~ABLE~~  
18 ~~Commission~~ Bureau shall notify the storeowner for that location of  
19 the latest and all previous violations when one of their employees  
20 has been determined to be in violation of the Prevention of Youth  
21 Access to Tobacco Act by the ~~ABLE-Commission~~ Bureau or convicted of  
22 a violation by a municipality. If the ~~ABLE-Commission~~ Bureau fails  
23 to notify the licensee of a violation by an employee, that violation  
24 shall not apply against the licensee for the purpose of determining

1 a license suspension pursuant to Section 600.3 of this title. For  
2 purposes of this subsection, notification shall be deemed given if  
3 the ~~ABLE Commission~~ Bureau mails, by mail with delivery  
4 confirmation, the notification to the address which is on file with  
5 the Oklahoma Tax Commission of the licensee of the location at which  
6 the violation occurred and the ~~ABLE Commission~~ Bureau receives  
7 delivery confirmation from the U.S. Postal Service.

8 G. Upon request of a storeowner or a municipality which has  
9 enacted ordinances in accordance with the Prevention of Youth Access  
10 to Tobacco Act, the ~~ABLE Commission~~ Bureau is hereby authorized to  
11 provide information on any Prevention of Youth Access to Tobacco Act  
12 offense of any applicant for employment or employee of the  
13 storeowner.

14 H. The ~~ABLE Commission~~ Bureau shall prepare for submission  
15 annually to the Secretary of the United States Department of Health  
16 and Human Services, the report required by Section 1926 of the  
17 federal Public Health Service Act (42 U.S.C. 300-26), and otherwise  
18 shall be responsible for ensuring the state's compliance with that  
19 provision of federal law and any implementing of regulations  
20 promulgated by the United States Department of Health and Human  
21 Services.

22 SECTION 118. AMENDATORY 37 O.S. 2001, Section 600.11a,  
23 is amended to read as follows:  
24

1 Section 600.11a Any city or town that enacts and enforces  
2 ordinances prohibiting and penalizing conduct under provisions of  
3 Section 600.3, 600.4, 600.8 or 600.9 of this title shall furnish  
4 information requested by the ~~ABLE Commission~~ Oklahoma State Bureau  
5 of Narcotics and Dangerous Drugs Control in the form, manner and  
6 time as may be determined by the ~~ABLE Commission~~ Bureau which will  
7 allow the ~~ABLE Commission~~ Bureau to comply with subsection C of  
8 Section 600.11 of this title.

9 SECTION 119. AMENDATORY 37 O.S. 2001, Section 600.11b,  
10 is amended to read as follows:

11 Section 600.11b For violations of the Prevention of Youth  
12 Access to Tobacco Act which occur in a municipality that has adopted  
13 ordinances prohibiting and penalizing conduct under provisions of  
14 the Prevention of Youth Access to Tobacco Act, thirty-five percent  
15 (35%) of each administrative fine imposed by the ~~Alcoholic Beverage~~  
16 ~~Laws Enforcement (ABLE) Commission~~ Oklahoma State Bureau of  
17 Narcotics and Dangerous Drugs Control pursuant to the Prevention of  
18 Youth Access to Tobacco Act shall be remitted to such municipality.

19 SECTION 120. AMENDATORY Section 1, Chapter 375, O.S.L.  
20 2004 (37 O.S. Supp. 2007, Section 600.13), is amended to read as  
21 follows:

22 Section 600.13 A. It is unlawful for any person to sell, give  
23 or furnish in any manner to another person who is under eighteen  
24 (18) years of age any material or device used in the smoking,

1 chewing, or other method of consumption of tobacco, including  
2 cigarette papers, pipes, holders of smoking materials of all types,  
3 and other items designed primarily for the smoking or ingestion of  
4 tobacco products.

5 B. When a person violates subsection A of this section, the  
6 ~~Alcoholic Beverage Laws Enforcement (ABLE) Commission~~ Oklahoma State  
7 Bureau of Narcotics and Dangerous Drugs Control shall impose an  
8 administrative fine of not more than One Hundred Dollars (\$100.00)  
9 for each offense.

10 SECTION 121. AMENDATORY 47 O.S. 2001, Section 2-303, is  
11 amended to read as follows:

12 Section 2-303. A. There shall be an "Oklahoma Law Enforcement  
13 Retirement Board" to administer the fund of the System. The Board  
14 shall be composed of the Assistant Commissioner of Public Safety,  
15 the Director of State Finance or his designee, three (3) members to  
16 be appointed by the Governor one of whom shall be a retired member  
17 of the System, one (1) member to be appointed by the Speaker of the  
18 House of Representatives, one (1) member to be appointed by the  
19 President Pro Tempore of the Senate, two (2) members of the Highway  
20 Patrol Division and one (1) member of the Communication Division of  
21 the Department of Public Safety, one (1) member of the Oklahoma  
22 State Bureau of Investigation, and one (1) member two (2) members of  
23 the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control  
24 ~~and one (1) member of the Alcoholic Beverage Laws Enforcement~~

1 ~~Commission~~, elected by and from the membership of the System. The  
2 terms of elected members of the Board now serving shall expire on  
3 June 30, 1980. The present Board shall conduct an election for the  
4 selection of elected members of the Board, prior to the operative  
5 date of this act. One member of the Oklahoma Highway Patrol and the  
6 member of the Oklahoma State Bureau of Investigation, initially  
7 elected, shall serve through June 30, 1982, the member of the  
8 Oklahoma Alcoholic Beverage Control Board, initially elected, shall  
9 serve through June 30, 1984, and the remaining elected members shall  
10 serve through June 30, 1983. Members subsequently elected shall  
11 serve for terms of three (3) years.

12 B. 1. The initial term of office of the member appointed to  
13 the Board by the Speaker of the House of Representatives and the  
14 member appointed to the Board by the President Pro Tempore of the  
15 Senate shall expire on January 3, 1989. The members thereafter  
16 appointed by the Speaker of the House of Representatives and by the  
17 President Pro Tempore of the Senate shall serve terms of office of  
18 four (4) years.

19 2. The member appointed by the Governor serving on the Board on  
20 the operative date of this act shall serve the remainder of the  
21 unexpired term of the member. The member appointed by the Governor  
22 to fill that position after the expiration of the term of office of  
23 the member serving on the operative date of this act shall serve  
24 through January 13, 1991. The members thereafter appointed by the

1 Governor shall serve a term of office of four (4) years which is  
2 coterminous with the term of office of the office of the appointing  
3 authority.

4 3. The initial term of office of the two additional  
5 appointments to the Board by the Governor shall expire on January  
6 14, 1991. The members thereafter appointed by the Governor shall  
7 serve terms of office of four (4) years which are coterminous with  
8 the term of office of the office of the appointing authority.

9 4. Vacancies shall be filled for the unexpired term of office  
10 in the same manner as the original appointment was made.

11 C. The members appointed to the Board by the Speaker of the  
12 House of Representatives, by the President Pro Tempore of the Senate  
13 and by the Governor or a member who is a designee of an ex officio  
14 member of the Board shall:

15 1. Have demonstrated professional experience in investment or  
16 funds management, public funds management, public or private pension  
17 fund management or retirement system management; or

18 2. Have demonstrated experience in the banking profession and  
19 have demonstrated professional experience in investment or funds  
20 management; or

21 3. Be licensed to practice law in this state and have  
22 demonstrated professional experience in commercial matters; or

23

24

1 4. Be licensed by the Oklahoma State Board of Public  
2 Accountancy to practice in this state as a public accountant or a  
3 certified public accountant.

4 The appointing authorities, in making appointments that conform  
5 to the requirements of this subsection, shall give due consideration  
6 to balancing the appointments among the criteria specified in  
7 paragraphs 1 through 4 of this subsection.

8 D. No member of the Board shall be a lobbyist registered in  
9 this state as provided by law.

10 E. Notwithstanding any of the provisions of this section to the  
11 contrary, any person serving as an appointed member of the Board on  
12 the operative date of this act shall be eligible for reappointment  
13 when the term of office of the member expires.

14 F. Every two (2) years, one of the members of the Board shall  
15 be selected by the Board as president and another member as  
16 secretary of the Board.

17 G. Any member of the Board elected by the membership of the  
18 System may be recalled for cause at a special election held for that  
19 purpose by the members of the System. Such an election shall be  
20 called and held by the president and secretary of the Board upon a  
21 written request therefor signed by not less than one-third (1/3) of  
22 the members of the System and shall be held pursuant to notice given  
23 to all members of the System stating the date for such election  
24 which shall not be less than ten (10) days from the date of the

1 issuance of such notice. All members of the System shall be  
2 entitled to vote by secret ballot and, if two-thirds (2/3) or more  
3 of the membership of the System vote for his recall, the elected  
4 member of the Board designated in such request, notice and secret  
5 ballot shall cease to be a member of the Board and the president and  
6 secretary of the Board shall call and hold a special election by the  
7 members of the System to fill the remainder of the term of the  
8 member so recalled.

9 H. The Oklahoma Law Enforcement Retirement System shall retain  
10 an Executive Director and shall establish the Executive Director's  
11 compensation. The Executive Director shall be the managing and  
12 administrative officer of the System and as such shall have charge  
13 of the office, records and supervision and direction of the  
14 employees of the System. The Executive Director shall be  
15 responsible for the overall operations and to perform duties  
16 specified in Section 2-300 of this title and as specified by the  
17 Board. The Executive Director shall be subject to the policy  
18 directions of the Board and may employ such persons as are deemed  
19 necessary to administer the System.

20 SECTION 122. AMENDATORY 47 O.S. 2001, Section 156.1, as  
21 last amended by Section 18, Chapter 326, O.S.L. 2007 (47 O.S. Supp.  
22 2007, Section 156.1), is amended to read as follows:

23 Section 156.1 A. It shall be unlawful for any state official,  
24 officer, or employee, except any essential employees approved by the

1 Governor and those officers or employees authorized in subsection B  
2 of this section, to ride to or from the employee's place of  
3 residence in a state-owned automobile, truck, or pickup, except in  
4 the performance of the employee's official duty, or to use or permit  
5 the use of any such automobile, truck, ambulance, or pickup for  
6 other personal or private purposes. Any person convicted of  
7 violating the provisions of this section shall be guilty of a  
8 misdemeanor and shall be punished by a fine of not more than One  
9 Hundred Dollars (\$100.00) or by imprisonment in the county jail for  
10 a period to not exceed thirty (30) days, or by both said fine and  
11 imprisonment, and in addition thereto, shall be discharged from  
12 state employment.

13 B. 1. Any state employee, other than the individuals provided  
14 for in paragraph 2 of this subsection and any employee of the  
15 Department of Public Safety who is an employee in the Driver License  
16 Examining Division and the Driver Compliance Division or a wrecker  
17 inspector/auditor of the Wrecker Services Division as provided for  
18 in paragraph 3 of this subsection, who receives emergency telephone  
19 calls regularly at the employee's residence when the employee is not  
20 on duty and is regularly called upon to use a vehicle after normal  
21 work hours in response to such emergency calls, may be permitted to  
22 use a vehicle belonging to the State of Oklahoma to provide  
23 transportation between the employee's residence and the assigned  
24 place of employment, provided such distance does not exceed seventy-

1 five (75) miles in any round trip or is within the county where the  
2 assigned place of employment is located. Provided further, an  
3 employee may be permitted to use a state-owned vehicle to provide  
4 temporary transportation between a specific work location other than  
5 the assigned place of employment and the employee's residence, if  
6 such use shall result in a monetary saving to the agency, and such  
7 authorization shall not be subject to the distance or area  
8 restrictions provided for in this paragraph. Authorization for  
9 temporary use of a state-owned vehicle for a specific project shall  
10 be in writing stating the justification for this use and the saving  
11 expected to result. Such authorization shall be valid for not to  
12 exceed sixty (60) days. Any state entity other than law enforcement  
13 that avails itself of this provision shall keep a monthly record of  
14 all participating employees, the number of emergency calls received,  
15 and the number of times that a state vehicle was used in the  
16 performance of such emergency calls.

17 2. Any employee of the Department of Public Safety, Oklahoma  
18 State Bureau of Narcotics and Dangerous Drugs Control, Oklahoma  
19 State Bureau of Investigation, ~~Alcoholic Beverage Laws Enforcement~~  
20 ~~Commission~~, Oklahoma Horse Racing Commission, Office of the  
21 Inspector General within the Department of Human Services or Office  
22 of the State Fire Marshal, who is a law enforcement officer or  
23 criminalist, Public Information officer, Special Investigator or  
24 Assistant Director of the Oklahoma State Bureau of Investigation, or

1 any employee of a district attorney who is a law enforcement  
2 officer, may be permitted to use a state-owned vehicle to provide  
3 transportation between the employee's residence and the assigned  
4 place of employment and between the residence and any location other  
5 than the assigned place of employment to which the employee travels  
6 in the performance of the employee's official duty.

7 3. Any employee of the Department of Public Safety who is an  
8 employee in the Driver License Examining Division or the Driver  
9 Compliance Division or a wrecker inspector/auditor of the Wrecker  
10 Services Division may be permitted, as determined by the  
11 Commissioner, to use a state-owned vehicle to provide transportation  
12 between the employee's residence and the assigned place of  
13 employment and between the residence and any location other than the  
14 assigned place of employment to which the employee travels in the  
15 performance of the employee's official duty.

16 4. The Director, department heads and other essential employees  
17 of the Department of Wildlife Conservation, as authorized by the  
18 Wildlife Conservation Commission, may be permitted to use a state-  
19 owned vehicle to provide transportation between the employee's  
20 residence and the assigned place of employment and between the  
21 residence and any location other than the assigned place of  
22 employment to which the employee travels in the performance of the  
23 employee's official duty.

24

1 C. The principal administrator of the state agency with which  
2 the employee is employed shall so designate the employee's status in  
3 writing or provide a copy of the temporary authorization to the  
4 Governor, the President Pro Tempore of the Senate, and the Speaker  
5 of the House of Representatives. Such employee status report shall  
6 also be provided to the State Fleet Manager of the Division of Fleet  
7 Management if the motor vehicle for emergency use is provided by  
8 said Division.

9 SECTION 123. AMENDATORY 51 O.S. 2001, Section 24A.3, as  
10 last amended by Section 4, Chapter 199, O.S.L. 2005 (51 O.S. Supp.  
11 2007, Section 24A.3), is amended to read as follows:

12 Section 24A.3 As used in this act:

13 1. "Record" means all documents, including, but not limited to,  
14 any book, paper, photograph, microfilm, data files created by or  
15 used with computer software, computer tape, disk, record, sound  
16 recording, film recording, video record or other material regardless  
17 of physical form or characteristic, created by, received by, under  
18 the authority of, or coming into the custody, control or possession  
19 of public officials, public bodies, or their representatives in  
20 connection with the transaction of public business, the expenditure  
21 of public funds or the administering of public property. "Record"  
22 does not mean:

- 23 a. computer software,
- 24 b. nongovernment personal effects,

- 1           c.    unless public disclosure is required by other laws or  
2                    regulations, vehicle movement records of the Oklahoma  
3                    Transportation Authority obtained in connection with  
4                    the Authority's electronic toll collection system,
- 5           d.    personal financial information, credit reports or  
6                    other financial data obtained by or submitted to a  
7                    public body for the purpose of evaluating credit  
8                    worthiness, obtaining a license, permit, or for the  
9                    purpose of becoming qualified to contract with a  
10                  public body,
- 11          e.    any digital audio/video recordings of the toll  
12                  collection and safeguarding activities of the Oklahoma  
13                  Transportation Authority,
- 14          f.    any personal information provided by a guest at any  
15                  facility owned or operated by the Oklahoma Tourism and  
16                  Recreation Department or the Board of Trustees of the  
17                  Quartz Mountain Arts and Conference Center and Nature  
18                  Park to obtain any service at the facility or by a  
19                  purchaser of a product sold by or through the Oklahoma  
20                  Tourism and Recreation Department or the Quartz  
21                  Mountain Arts and Conference Center and Nature Park,
- 22          g.    a Department of Defense Form 214 (DD Form 214) filed  
23                  with a county clerk, including any DD Form 214 filed  
24                  before the effective date of this act, or

1           h.     except as provided for in Section 2-110 of Title 47 of  
2           the Oklahoma Statutes,

3           (1)    any record in connection with a Motor Vehicle  
4           Report issued by the Department of Public Safety,  
5           as prescribed in Section 6-117 of Title 47 of the  
6           Oklahoma Statutes,

7           (2)    personal information within driver records, as  
8           defined by the Driver's Privacy Protection Act,  
9           18 United States Code, Sections 2721 through  
10          2725, which are stored and maintained by the  
11          Department of Public Safety, or

12          (3)    audio or video recordings of the Department of  
13          Public Safety;

14          2.    "Public body" shall include, but not be limited to, any  
15 office, department, board, bureau, commission, agency, trusteeship,  
16 authority, council, committee, trust or any entity created by a  
17 trust, county, city, village, town, township, district, school  
18 district, fair board, court, executive office, advisory group, task  
19 force, study group, or any subdivision thereof, supported in whole  
20 or in part by public funds or entrusted with the expenditure of  
21 public funds or administering or operating public property, and all  
22 committees, or subcommittees thereof. Except for the records  
23 required by Section 24A.4 of this title, "public body" does not mean  
24

1 judges, justices, the Council on Judicial Complaints, the  
2 Legislature, or legislators;

3 3. "Public office" means the physical location where public  
4 bodies conduct business or keep records;

5 4. "Public official" means any official or employee of any  
6 public body as defined herein; and

7 5. "Law enforcement agency" means any public body charged with  
8 enforcing state or local criminal laws and initiating criminal  
9 prosecutions, including, but not limited to, police departments,  
10 county sheriffs, the Department of Public Safety, the Oklahoma State  
11 Bureau of Narcotics and Dangerous Drugs Control, ~~the Alcoholic~~  
12 ~~Beverage Laws Enforcement Commission,~~ and the Oklahoma State Bureau  
13 of Investigation.

14 SECTION 124. AMENDATORY 63 O.S. 2001, Section 1-229.4,  
15 is amended to read as follows:

16 Section 1-229.4 A. There is hereby established the Tobacco Use  
17 Prevention and Cessation Advisory Committee, which shall review and  
18 recommend a State Plan for Tobacco Use Prevention and Cessation to  
19 the State Department of Health, periodically review progress towards  
20 meeting the objectives of the State Plan, approve applications for  
21 or Invitations To Bid for contracts proposed by the Department, and  
22 make recommendations for the award of contracts from the Fund for  
23 qualified tobacco use prevention or cessation programs.

24

1 B. The Committee shall consist of twenty (20) members as  
2 follows:

3 1. The State Commissioner of Health or designee, who shall be  
4 chairperson;

5 2. The State Superintendent of Public Instruction, or designee;

6 3. The Commissioner of Mental Health and Substance Abuse  
7 Services, or designee;

8 4. The Director of the ~~Alcoholic Beverage Laws Enforcement~~  
9 ~~Commission~~ Oklahoma State Bureau of Narcotics and Dangerous Drugs  
10 Control, or designee; and

11 5. Sixteen members who shall be appointed by the Governor as  
12 follows:

13 a. one member who is a child psychologist selected from a  
14 list provided by the Oklahoma Psychological  
15 Association,

16 b. one member who provides and has experience in  
17 behavioral health and youth programs,

18 c. two members who are between twelve (12) and eighteen  
19 (18) years of age,

20 d. one member who has experience in retail business,

21 e. one member who has advertising and marketing  
22 experience selected from a list provided by the  
23 American Cancer Society,

24

- 1 f. a director of a community-based youth program or club  
2 selected from a list provided by the Oklahoma Public  
3 Health Association,
- 4 g. an osteopathic physician selected from a list provided  
5 by the Oklahoma Osteopathic Association,
- 6 h. a dentist selected from a list provided by the  
7 Oklahoma Dental Association,
- 8 i. a board-certified pulmonary disease medical doctor  
9 selected from a list provided by the Oklahoma State  
10 Medical Association,
- 11 j. one member selected from a list provided by the  
12 American Heart Association,
- 13 k. a registered nurse selected from a list provided by  
14 the Oklahoma Nurses Association,
- 15 l. a director of a community-based youth program or club,
- 16 m. a licensed behavioral health professional with  
17 experience in the field of juvenile behavior selected  
18 from a list provided by the Quality Behavioral  
19 Services Alliance,
- 20 n. one member selected from a list provided by the  
21 American Lung Association, and
- 22 o. a middle school or high school counselor selected from  
23 a list provided by the Oklahoma Institute for Child  
24 Advocacy.

1 C. The initial term of office of the members appointed by the  
2 Governor shall be as follows:

3 1. Eight members shall serve a term of office of one (1) year;  
4 and

5 2. Eight members shall serve a term of office of two (2) years.

6 Thereafter, the appointed members shall serve two-year terms. All  
7 members may be reappointed. The appointed members shall be selected  
8 for their knowledge, competence, experience, or interest in tobacco  
9 use prevention or cessation. No appointed members except the  
10 retailer, as provided for in subparagraph d of paragraph 5 of  
11 subsection B of this section, shall have any current affiliation  
12 with the tobacco industry or any industry contractor, agent, or  
13 organization that sells or distributes tobacco products. No  
14 appointed members except the retailer, as provided for in  
15 subparagraph d of paragraph 5 of subsection B of this section, shall  
16 receive or seek any remuneration, gift, or political contribution  
17 from a tobacco manufacturer or their contractors, agents, or  
18 representatives.

19 D. The Committee shall be convened and chaired by the State  
20 Commissioner of Health or designee for its first meeting no later  
21 than September 1, 2001. A vice-chairperson of the Committee shall  
22 be elected by a majority vote of its members and shall serve at the  
23 pleasure of the majority of the members of the Committee. Meetings  
24 of the Committee shall be at the call of the chairperson. The

1 chairperson, or in the chairperson's absence, the vice-chairperson,  
2 shall preside over meetings of the Committee. A quorum shall  
3 consist of a simple majority of the members.

4 E. The Committee shall have an Executive Director who shall be  
5 appointed by the State Commissioner of Health and approved by a  
6 majority vote of the members of the Committee. The Executive  
7 Director shall be an unclassified employee of the Department. The  
8 salary of the Executive Director and travel and per diem expenses of  
9 the Committee members when attending Committee meetings shall be  
10 paid from the Fund in accordance with the State Travel Reimbursement  
11 Act. From time to time as necessary to support its activities, the  
12 Committee may request from the State Department of Health the  
13 assignment of staff and support personnel who are full-time  
14 employees of the Department. No portion of the salaries of such  
15 employees shall be reimbursable from the Fund.

16 SECTION 125. AMENDATORY 63 O.S. 2001, Section 2-103, as  
17 last amended by Section 51, Chapter 1, O.S.L. 2007 (63 O.S. Supp.  
18 2007, Section 2-103), is amended to read as follows:

19 Section 2-103. A. The Director shall be appointed by the  
20 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control  
21 Commission. The Director of Narcotics and Dangerous Drugs Control  
22 on January 1, 1984, shall be initially appointed as Director. The  
23 succeeding Director shall, at the time of the appointment, have a  
24 Bachelor's Degree from an accredited college or university and at

1 least five (5) years' experience in drug law enforcement. The  
2 Director may appoint necessary assistants, agents, and other  
3 personnel to perform the work of the office and may prescribe their  
4 titles and duties and fix their compensation, other than the  
5 salaries established in subsection A of Section 2-103a of this  
6 title, pursuant to Merit System rules. The Director may appoint  
7 employees to the positions of Public Information/Education Officer,  
8 Training Officer, Program Administrator, Grants Administrator,  
9 Criminal Analysts, and Typist Clerk/Spanish Transcriptionists. Said  
10 positions shall be unclassified and exempt from the rules and  
11 procedures of the Office of Personnel Management, except leave  
12 regulations. The office of the Director shall be located at a  
13 suitable place in Oklahoma City, Oklahoma.

14 B. 1. Agents appointed by the Director shall have the powers  
15 of peace officers generally; provided, the Director may appoint  
16 special agents, who shall be unclassified employees of the state, to  
17 meet specific investigatory need. Special agents shall not be  
18 required to meet the age and educational requirements as specified  
19 in this section.

20 2. Agents appointed on and after November 1, 1998, shall be at  
21 least twenty-one (21) years of age and shall have a Bachelor's  
22 Degree from an accredited college or university.

23

24

1           3. Each entering agent, with the exception of special agents,  
2 shall be required to serve one (1) year in a probationary status as  
3 a prerequisite to being placed on permanent status.

4           C. Agents appointed pursuant to the provisions of this section  
5 shall have the responsibility of investigating alleged violations  
6 and shall have the authority to arrest those suspected of having  
7 violated the provisions of the Uniform Controlled Dangerous  
8 Substances Act, the Oklahoma Charity Games Act, the Oklahoma  
9 Alcoholic Beverage Control Act and the Prevention of Youth Access to  
10 Tobacco Act.

11           D. A commissioned employee of the Oklahoma State Bureau of  
12 Narcotics and Dangerous Drugs Control shall be entitled to receive  
13 upon retirement by reason of length of service, the continued  
14 custody and possession of the sidearm and badge carried by such  
15 employee immediately prior to retirement.

16           E. A commissioned employee of the Bureau may be entitled to  
17 receive, upon retirement by reason of disability, the continued  
18 custody and possession of the sidearm and badge carried by such  
19 employee immediately prior to retirement upon written approval of  
20 the Director.

21           F. Custody and possession of the sidearm and badge of a  
22 commissioned employee killed in the line of duty may be awarded by  
23 the Director to the spouse or next of kin of the deceased employee.  
24

1 G. Custody and possession of the sidearm and badge of a  
2 commissioned employee who dies while employed at the Oklahoma State  
3 Bureau of Narcotics and Dangerous Drugs Control may be awarded by  
4 the Director to the spouse or next of kin of the deceased employee.

5 H. Any Director appointed on or after July 1, 2003, shall be  
6 eligible to participate in either the Oklahoma Public Employees  
7 Retirement System or in the Oklahoma Law Enforcement Retirement  
8 System and shall make an irrevocable election in writing to  
9 participate in one of the two retirement systems.

10 SECTION 126. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 2-107a 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 Alcohol  
16 Enforcement and Education Revolving Fund". The fund shall be a  
17 continuing fund, not subject to fiscal year limitations, and shall  
18 consist of all monies received by the Oklahoma State Bureau of  
19 Narcotics and Dangerous Drugs Control pursuant to Section 531,  
20 subsection B of Section 539 and Sections 548, 567 and 576.1 of Title  
21 37 of the Oklahoma Statutes. All monies accruing to the credit of  
22 said fund are hereby appropriated and may be budgeted and expended  
23 by the Oklahoma State Bureau of Narcotics and Dangerous Drugs  
24 Control for the purpose of enforcement and education of alcohol

1 laws. Expenditures from said fund shall be made upon warrants  
2 issued by the State Treasurer against claims filed as prescribed by  
3 law with the Director of State Finance for approval and payment.

4 SECTION 127. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 2-107b of Title 63, unless there  
6 is created a duplication in numbering, reads as follows:

7 There is hereby created in the State Treasury a revolving fund  
8 for the Oklahoma State Bureau of Narcotics and Dangerous Drugs  
9 Control to be designated the "Bureau of Narcotics Charity Games  
10 Enforcement Revolving Fund". The fund shall be a continuing fund,  
11 not subject to fiscal year limitations, and shall consist of all  
12 monies received by the Oklahoma State Bureau of Narcotics and  
13 Dangerous Drugs Control pursuant to subsection F of Section 404,  
14 subsection D of Section 407, Section 423, and subsection D of  
15 Section 425 of Title 3A of the Oklahoma Statutes. All monies  
16 accruing to the credit of said fund are hereby appropriated and may  
17 be budgeted and expended by the Oklahoma State Bureau of Narcotics  
18 and Dangerous Drugs Control for the purpose of enforcement of  
19 charity gaming laws. Expenditures from said fund shall be made upon  
20 warrants issued by the State Treasurer against claims filed as  
21 prescribed by law with the Director of State Finance for approval  
22 and payment.

23

24

1 SECTION 128. AMENDATORY 63 O.S. 2001, Section 2-503, as  
2 last amended by Section 5, Chapter 223, O.S.L. 2007 (63 O.S. Supp.  
3 2007, Section 2-503), is amended to read as follows:

4 Section 2-503. A. The following shall be subject to  
5 forfeiture:

6 1. All controlled dangerous substances which have been  
7 manufactured, distributed, dispensed, acquired, concealed or  
8 possessed in violation of the Uniform Controlled Dangerous  
9 Substances Act;

10 2. All raw materials, products and equipment of any kind and  
11 all drug paraphernalia as defined by the Uniform Controlled  
12 Dangerous Substances Act, which are used, or intended for use, in  
13 manufacturing, compounding, processing, delivering, importing or  
14 exporting, injecting, ingesting, inhaling, or otherwise introducing  
15 into the human body any controlled dangerous substance in violation  
16 of the provisions of the Uniform Controlled Dangerous Substances  
17 Act;

18 3. All property which is used, or intended for use, as a  
19 container for property described in paragraphs 1 and 2 of this  
20 subsection;

21 4. All conveyances, including aircraft, vehicles, vessels, or  
22 farm implements which are used to transport, conceal, or cultivate  
23 for the purpose of distribution as defined in the Uniform Controlled  
24 Dangerous Substances Act, or which are used in any manner to

1 facilitate the transportation or cultivation for the purpose of sale  
2 or receipt of property described in paragraphs 1 or 2 of this  
3 subsection or when the property described in paragraphs 1 or 2 of  
4 this subsection is unlawfully possessed by an occupant thereof,  
5 except that:

6 a. no conveyance used by a person as a common carrier in  
7 the transaction of business as a common carrier shall  
8 be forfeited under the provisions of the Uniform  
9 Controlled Dangerous Substances Act unless it shall  
10 appear that the owner or other person in charge of  
11 such conveyance was a consenting party or privy to a  
12 violation of the Uniform Controlled Dangerous  
13 Substances Act, and

14 b. no conveyance shall be forfeited under the provisions  
15 of this section by reason of any act or omission  
16 established by the owner thereof to have been  
17 committed or omitted without the knowledge or consent  
18 of such owner, and if the act is committed by any  
19 person other than such owner the owner shall establish  
20 further that the conveyance was unlawfully in the  
21 possession of a person other than the owner in  
22 violation of the criminal laws of the United States,  
23 or of any state;

24

1 5. All books, records and research, including formulas,  
2 microfilm, tapes and data which are used in violation of the Uniform  
3 Controlled Dangerous Substances Act;

4 6. All things of value furnished, or intended to be furnished,  
5 in exchange for a controlled dangerous substance in violation of the  
6 Uniform Controlled Dangerous Substances Act, all proceeds traceable  
7 to such an exchange, and all monies, negotiable instruments, and  
8 securities used, or intended to be used, to facilitate any violation  
9 of the Uniform Controlled Dangerous Substances Act;

10 7. All monies, coin and currency found in close proximity to  
11 any amount of forfeitable substances, to forfeitable drug  
12 manufacturing or distribution paraphernalia or to forfeitable  
13 records of the importation, manufacture or distribution of  
14 substances, which are rebuttably presumed to be forfeitable under  
15 the Uniform Controlled Dangerous Substances Act. The burden of  
16 proof is upon claimants of the property to rebut this presumption;

17 8. All real property, including any right, title, and interest  
18 in the whole of any lot or tract of land and any appurtenance or  
19 improvement thereto, which is used, or intended to be used, in any  
20 manner or part, to commit, or to facilitate the commission of, a  
21 violation of the Uniform Controlled Dangerous Substances Act which  
22 is punishable by imprisonment for more than one (1) year, except  
23 that no property right, title or interest shall be forfeited  
24 pursuant to this paragraph, by reason of any act or omission

1 established by the owner thereof to have been committed or omitted  
2 without the knowledge or consent of that owner; and

3 9. All weapons possessed, used or available for use in any  
4 manner to facilitate a violation of the Uniform Controlled Dangerous  
5 Substances Act.

6 B. Any property or thing of value of a person is subject to  
7 forfeiture if it is established by a preponderance of the evidence  
8 that such property or thing of value was acquired by such person  
9 during the period of the violation of the Uniform Controlled  
10 Dangerous Substances Act or within a reasonable time after such  
11 period and there was no likely source for such property or thing of  
12 value other than the violation of the Uniform Controlled Dangerous  
13 Substances Act.

14 C. Any property or thing of value of a person is subject to  
15 forfeiture if it is established by a preponderance of the evidence  
16 that the person has not paid all or part of a fine imposed pursuant  
17 to the provisions of Section 2-415 of this title.

18 D. All items forfeited in this section shall be forfeited under  
19 the procedures established in Section 2-506 of this title. Whenever  
20 any item is forfeited pursuant to this section except for items  
21 confiscated by the Oklahoma State Bureau of Narcotics and Dangerous  
22 Drugs Control, the Department of Public Safety, the Oklahoma State  
23 Bureau of Investigation, ~~the Alcoholic Beverage Laws Enforcement~~  
24 ~~Commission~~, the Department of Corrections, or the Office of the

1 Attorney General, the district court of the district shall order  
2 that such item, money, or monies derived from the sale of such item  
3 be deposited by the state, county or city law enforcement agency  
4 which seized the item in the revolving fund provided for in Section  
5 2-506 of this title; provided, such item, money or monies derived  
6 from the sale of such item forfeited due to nonpayment of a fine  
7 imposed pursuant to the provisions of Section 2-415 of this title  
8 shall be apportioned as provided in Section 2-416 of this title.  
9 Items, money or monies seized pursuant to subsections A and B of  
10 this section shall not be applied or considered toward satisfaction  
11 of the fine imposed by Section 2-415 of this title. All raw  
12 materials used or intended to be used by persons to unlawfully  
13 manufacture or attempt to manufacture any controlled dangerous  
14 substance in violation of the Uniform Controlled Dangerous  
15 Substances Act shall be summarily forfeited pursuant to the  
16 provisions of Section 2-505 of this title.

17 E. All property taken or detained under this section by the  
18 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the  
19 Department of Public Safety, the Oklahoma State Bureau of  
20 Investigation, ~~the Alcoholic Beverage Laws Enforcement Commission,~~  
21 the Department of Corrections, or the Office of the Attorney  
22 General, shall not be repleviable, but shall remain in the custody  
23 of the Bureaus, Departments, Commission, or Office, respectively,  
24 subject only to the orders and decrees of a court of competent

1 jurisdiction. The Director of the Oklahoma State Bureau of  
2 Narcotics and Dangerous Drugs Control, the Commissioner of Public  
3 Safety, the Director of the Oklahoma State Bureau of Investigation,  
4 ~~the Director of the Alcoholic Beverage Laws Enforcement Commission,~~  
5 the Director of the Department of Corrections, and the Attorney  
6 General shall follow the procedures outlined in Section 2-506 of  
7 this title dealing with notification of seizure, intent of  
8 forfeiture, final disposition procedures, and release to innocent  
9 claimants with regard to all property included in this section  
10 detained by the Department of Public Safety, the Oklahoma State  
11 Bureau of Investigation, ~~the Alcoholic Beverage Laws Enforcement~~  
12 ~~Commission,~~ the Department of Corrections, or the Office of the  
13 Attorney General. Property taken or detained by the Oklahoma State  
14 Bureau of Narcotics and Dangerous Drugs Control, the Department of  
15 Public Safety, the Oklahoma State Bureau of Investigation, ~~the~~  
16 ~~Alcoholic Beverage Laws Enforcement Commission,~~ the Department of  
17 Corrections, or the Office of the Attorney General shall be disposed  
18 of or sold pursuant to the provisions of Section 2-508 of this  
19 title. Any money, coins, and currency, taken or detained pursuant  
20 to this section may be deposited in an interest bearing account by  
21 or at the direction of the State Treasurer if the seizing agency  
22 determines the currency is not to be held as evidence. All interest  
23 earned on such monies shall be returned to the claimant or forfeited  
24

1 with the money, coins, and currency which was taken or detained as  
2 provided by law.

3 F. The proceeds of any forfeiture of items seized by the  
4 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall  
5 be distributed as follows:

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

10 2. The balance to the Oklahoma State Bureau of Narcotics'  
11 revolving fund or the Bureau's agency special account established  
12 pursuant to Section 7.2 of Title 62 of the Oklahoma Statutes,  
13 provided the Bureau may enter into agreements with municipal,  
14 county, state or federal law enforcement agencies, assisting in the  
15 forfeiture or underlying criminal investigation, to return to such  
16 an agency a percentage of said proceeds.

17 The Bureau may expend up to Two Million Dollars (\$2,000,000.00)  
18 of the forfeited funds within a fiscal year without prior approval  
19 of the Legislature. Documentation of such expenditures shall be  
20 forwarded to the Governor, Speaker of the House of Representatives  
21 and the President Pro Tempore of the Senate on a quarterly basis.  
22 Any additional expenditures of forfeited funds shall be pre-approved  
23 by the annual appropriations process or the Contingency Review  
24 Board.

1 G. Any agency that acquires seized or forfeited property or  
2 money shall maintain a true and accurate inventory and record of all  
3 such property seized pursuant to this section.

4 SECTION 129. AMENDATORY 63 O.S. 2001, Section 2-506, as  
5 last amended by Section 4, Chapter 248, O.S.L. 2007 (63 O.S. Supp.  
6 2007, Section 2-506), is amended to read as follows:

7 Section 2-506. A. Any peace officer of this state shall seize  
8 the following property:

9 1. Any property described in subsection A of Section 2-503 of  
10 this title. Such property shall be held as evidence until a  
11 forfeiture has been declared or release ordered, except for property  
12 described in paragraphs 1, 2 and 3 of subsection A of Section 2-503  
13 of this title, or in the case of money, coins, and currency,  
14 deposited as provided in subsection E of Section 2-503 of this  
15 title; provided, any money, coins and currency taken or detained  
16 pursuant to this section may be deposited in an interest-bearing  
17 account by or at the direction of the district attorney in the  
18 office of the county treasurer if the district attorney determines  
19 the currency is not to be held as evidence. All interest earned on  
20 such monies shall be returned to the claimant or forfeited with the  
21 money, coins and currency which was taken or detained as provided by  
22 law;

23 2. Any property described in subsection B of Section 2-503 of  
24 this title; or

1       3. Any property described in subsection C of Section 2-503 of  
2 this title.

3       B. Notice of seizure and intended forfeiture proceeding shall  
4 be filed in the office of the clerk of the district court for the  
5 county wherein such property is seized and shall be given all owners  
6 and parties in interest. Notwithstanding any other provision of  
7 law, no filing fees shall be assessed by the court clerk for the  
8 filing of any forfeiture action.

9       C. Notice shall be given by the agency seeking forfeiture  
10 according to one of the following methods:

11       1. Upon each owner or party in interest whose right, title or  
12 interest is of record in the Tax Commission, by mailing a copy of  
13 the notice by certified mail to the address as given upon the  
14 records of the Tax Commission;

15       2. Upon each owner or party in interest whose name and address  
16 is known to the attorney in the office of the agency prosecuting the  
17 action to recover unpaid fines, by mailing a copy of the notice by  
18 registered mail to the last-known address; or

19       3. Upon all other owners or interested parties, whose addresses  
20 are unknown, but who are believed to have an interest in the  
21 property, by one publication in a newspaper of general circulation  
22 in the county where the seizure was made.

23       D. Within forty-five (45) days after the mailing or publication  
24 of the notice, the owner of the property and any other party in

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

4 E. If at the end of forty-five (45) days after the notice has  
5 been mailed or published there is no verified answer on file, the  
6 court shall hear evidence upon the fact of the unlawful use and  
7 shall order the property forfeited to the state, if such fact is  
8 proved.

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

11 G. At a hearing in a proceeding against property described in  
12 paragraphs 3 through 9 of subsection A or subsections B and C of  
13 Section 2-503 of this title, the requirements set forth in said  
14 paragraph or subsection, respectively, shall be satisfied by the  
15 state by a preponderance of the evidence.

16 H. The claimant of any right, title, or interest in the  
17 property may prove a lien, mortgage, or conditional sales contract  
18 to be a bona fide or innocent ownership interest and that such  
19 right, title, or interest was created without any knowledge or  
20 reason to believe that the property was being, or was to be, used  
21 for the purpose charged.

22 I. In the event of such proof, the court shall order the  
23 property released to the bona fide or innocent owner, lien holder,  
24 mortgagee or vendor if the amount due him is equal to, or in excess

1 of, the value of the property as of the date of the seizure, it  
2 being the intention of this section to forfeit only the right, title  
3 or interest of the purchaser.

4 J. If the amount due to such person is less than the value of  
5 the property, or if no bona fide claim is established, the property  
6 shall be forfeited to the state and sold under judgment of the  
7 court, as on sale upon execution, and as provided for in Section 2-  
8 508 of this title, except as otherwise provided for in Section 2-503  
9 of this title.

10 K. Property taken or detained under this section shall not be  
11 repleviable, but shall be deemed to be in the custody of the office  
12 of the district attorney of the county wherein the property was  
13 seized, subject only to the orders and decrees of the court or the  
14 official having jurisdiction thereof; said official shall maintain a  
15 true and accurate inventory and record of all such property seized  
16 under the provisions of this section. The provisions of this  
17 subsection shall not apply to property taken or detained by the  
18 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the  
19 Department of Public Safety, the Oklahoma State Bureau of  
20 Investigation, ~~the Alcoholic Beverage Laws Enforcement Commission,~~  
21 the Department of Corrections or the Office of the Attorney General.  
22 Property taken or detained by the Oklahoma State Bureau of Narcotics  
23 and Dangerous Drugs Control, the Department of Public Safety, the  
24 Oklahoma State Bureau of Investigation, ~~the Alcoholic Beverage Laws~~

1 ~~Enforcement Commission,~~ the Department of Corrections or the Office  
2 of the Attorney General shall be subject to the provisions of  
3 subsections E and F of Section 2-503 of this title.

4 L. The proceeds of the sale of any property not taken or  
5 detained by the Oklahoma State Bureau of Narcotics and Dangerous  
6 Drugs Control, the Department of Public Safety, the Oklahoma State  
7 Bureau of Investigation, ~~the Alcoholic Beverage Laws Enforcement~~  
8 ~~Commission,~~ the Department of Corrections or the Office of the  
9 Attorney General shall be distributed as follows, in the order  
10 indicated:

11 1. To the bona fide or innocent purchaser, conditional sales  
12 vendor or mortgagee of the property, if any, up to the amount of his  
13 interest in the property, when the court declaring the forfeiture  
14 orders a distribution to such person;

15 2. To the payment of the actual expenses of preserving the  
16 property and legitimate costs related to the civil forfeiture  
17 proceedings. For purposes of this paragraph, the term "legitimate  
18 costs" shall not include court costs associated with any civil  
19 forfeiture proceeding; and

20 3. The balance to a revolving fund in the office of the county  
21 treasurer of the county wherein the property was seized, said fund  
22 to be used as a revolving fund solely for enforcement of controlled  
23 dangerous substances laws, drug abuse prevention and drug abuse  
24 education, and maintained by the district attorney in his or her

1 discretion for those purposes with a yearly accounting to the board  
2 of county commissioners in whose county the fund is established and  
3 to the District Attorneys Council; provided, one hundred percent  
4 (100%) of the balance of the proceeds of such sale of property  
5 forfeited due to nonpayment of a fine imposed pursuant to the  
6 provisions of Section 2-415 of this title shall be apportioned as  
7 provided in Section 2-416 of this title. The revolving fund shall  
8 be audited by the State Auditor and Inspector at least every two (2)  
9 years in the manner provided in Section 171 of Title 19 of the  
10 Oklahoma Statutes. Said audit shall include, but not be limited to,  
11 a compliance audit. A district attorney may enter into agreements  
12 with municipal, county or state agencies to return to such an agency  
13 a percentage of proceeds of the sale of any property seized by the  
14 agency and forfeited under the provisions of this section. The  
15 District Attorneys Council shall adopt guidelines which ensure that  
16 such agencies receive a reasonable percentage of such proceeds,  
17 considering the relative contribution of each agency to the drug  
18 enforcement and prosecution operations relating to the seizure. In  
19 formulating said guidelines, the District Attorneys Council shall  
20 examine federal guidelines on asset distribution and use said  
21 guidelines as a basis for establishing guidelines for this state.  
22 The Attorney General is hereby authorized to mediate disputes  
23 between district attorneys and such agencies concerning the  
24 application of said guidelines in particular instances. Any agency

1 that receives proceeds from an asset distribution shall maintain a  
2 true and accurate record of all such assets.

3 M. Whenever any vehicle, airplane or vessel is forfeited under  
4 the Uniform Controlled Dangerous Substances Act, the district court  
5 of jurisdiction may order that the vehicle, airplane or vessel  
6 seized may be retained by the state, county or city law enforcement  
7 agency which seized the vehicle, airplane or vessel for its official  
8 use.

9 N. If the court finds that the state failed to satisfy the  
10 required showing provided for in subsection G of this section, the  
11 court shall order the property released to the owner or owners.

12 O. Except as provided for in subsection Q of this section, a  
13 bona fide or innocent owner, lien holder, mortgagee or vendor that  
14 recovers property pursuant to this section shall not be liable for  
15 storage fees.

16 P. Except as provided for in subsection Q of this section,  
17 storage fees shall be paid by the agency which is processing the  
18 seizure and forfeiture from funds generated by seizure and  
19 forfeiture actions.

20 Q. The bona fide or innocent owner, lien holder, mortgagee or  
21 vendor shall reclaim subject seized property within thirty (30) days  
22 of written notice from the seizing agency. If such person fails to  
23 reclaim the property within the thirty-day time period, then storage  
24 fees may be assessed against their secured interest.

1 R. 1. At any hearing held relevant to this section, a report  
2 of the findings of the laboratory of the Oklahoma State Bureau of  
3 Investigation, the medical examiner's report of investigation or  
4 autopsy report, or a laboratory report from a forensic laboratory  
5 operated by the State of Oklahoma or any political subdivision  
6 thereof, which has been made available to the accused by the office  
7 of the district attorney or other party to the forfeiture at least  
8 five (5) days prior to the hearing, with reference to all or part of  
9 the evidence submitted, when certified as correct by the persons  
10 making the report shall be received as evidence of the facts and  
11 findings stated, if relevant and otherwise admissible in evidence.  
12 If such report is deemed relevant by the forfeiture applicant or the  
13 respondent, the court shall admit such report without the testimony  
14 of the person making the report, unless the court, pursuant to this  
15 subsection, orders such person to appear.

16 2. When any alleged controlled dangerous substance has been  
17 submitted to the laboratory of the OSBI for analysis, and such  
18 analysis shows that the submitted material is a controlled dangerous  
19 substance, the distribution of which constitutes a felony under the  
20 laws of this state, no portion of such substance shall be released  
21 to any other person or laboratory except to the criminal justice  
22 agency originally submitting the substance to the OSBI for analysis,  
23 absent an order of a district court. The defendant shall  
24 additionally be required to submit to the court a procedure for

1 transfer and analysis of the subject material to ensure the  
2 integrity of the sample and to prevent the material from being used  
3 in any illegal manner.

4 3. The court, upon motion of either party, shall order the  
5 attendance of any person preparing a report submitted as evidence in  
6 the hearing when it appears there is a substantial likelihood that  
7 material evidence not contained in said report may be produced by  
8 the testimony of any person having prepared a report. The hearing  
9 shall be held and, if sustained, an order issued not less than five  
10 (5) days prior to the time when the testimony shall be required.

11 4. If within five (5) days prior to the hearing or during a  
12 hearing, a motion is made pursuant to this section requiring a  
13 person having prepared a report to testify, the court may hear a  
14 report or other evidence but shall continue the hearing until such  
15 time notice of the motion and hearing is given to the person making  
16 the report, the motion is heard, and, if sustained, the testimony  
17 ordered can be given.

18 SECTION 130. AMENDATORY 63 O.S. 2001, Section 2-508, as  
19 last amended by Section 16, Chapter 168, O.S.L. 2004 (63 O.S. Supp.  
20 2007, Section 2-508), is amended to read as follows:

21 Section 2-508. A. Except as otherwise provided, all property  
22 described in paragraphs 1 and 2 of subsection A of Section 2-503 of  
23 this title which is seized or surrendered pursuant to the provisions  
24 of the Uniform Controlled Dangerous Substances Act shall be

1 destroyed. The destruction shall be done by or at the direction of  
2 the Oklahoma State Bureau of Investigation, who shall have the  
3 discretion prior to destruction to preserve samples of the substance  
4 for testing. In any county with a population of four hundred  
5 thousand (400,000) or more according to the latest Federal Decennial  
6 Census, there shall be a located site, approved by the Oklahoma  
7 State Bureau of Investigation, for the destruction of the property.  
8 Any such property submitted to the Oklahoma State Bureau of  
9 Investigation which it deems to be of use for investigative  
10 training, educational, or analytical purposes may be retained by the  
11 Oklahoma State Bureau of Investigation in lieu of destruction.

12 B. 1. With respect to controlled dangerous substances seized  
13 or surrendered pursuant to the provisions of the Uniform Controlled  
14 Dangerous Substances Act, municipal police departments, sheriffs,  
15 the Oklahoma Bureau of Narcotics and Dangerous Drugs Control  
16 Commission, the Oklahoma Highway Patrol, and the Oklahoma State  
17 Bureau of Investigation shall have the authority to destroy seized  
18 controlled dangerous substances when the amount seized in a single  
19 incident exceeds ten (10) pounds. The destroying agency shall:

- 20 a. photograph the seized substance with identifying case  
21 numbers or other means of identification,  
22 b. prepare a report describing the seized substance prior  
23 to the destruction,  
24

- 1 c. retain at least one (1) pound of the substance  
2 randomly selected from the seized substance for the  
3 purpose of evidence, and
- 4 d. obtain and retain samples of the substance from enough  
5 containers, bales, bricks, or other units of substance  
6 seized to establish the presence of a weight of the  
7 substance necessary to establish a violation of the  
8 Trafficking in Illegal Drugs Act pursuant to  
9 subsection C of Section 2-415 of this title, if such a  
10 weight is present. If such weight is not present,  
11 samples of the substance from each container, bale,  
12 brick or other unit of substance seized shall be  
13 taken. Each sample taken pursuant to this section  
14 shall be large enough for the destroying agency and  
15 the defendant or suspect to have an independent test  
16 performed on the substance for purposes of  
17 identification.

18 2. If a defendant or suspect is known to the destroying agency,  
19 the destroying agency shall give at least seven (7) days' written  
20 notice to the defendant, suspect or counsel for the defendant or  
21 suspect of:

- 22 a. the date, the time, and the place where the  
23 photographing will take place and notice of the right  
24 to attend the photographing, and

1           b.    the right to obtain samples of the controlled  
2                    dangerous substance for independent testing and use as  
3                    evidence.

4           3.    The written notice shall also inform the defendant, suspect  
5   or counsel for the defendant or suspect that the destroying agency  
6   must be notified in writing within seven (7) days from receipt of  
7   the notice of the intent of the suspect or defendant to obtain  
8   random samples and make arrangements for the taking of samples.  The  
9   samples for the defendant or suspect must be taken by a person  
10  licensed by the Drug Enforcement Administration.  If the defendant  
11  or counsel for the defendant fails to notify the destroying agency  
12  in writing of an intent to obtain samples and fails to make  
13  arrangements for the taking of samples, a sample taken pursuant to  
14  subparagraph d of paragraph 1 of this subsection shall be made  
15  available upon request of the defendant or suspect.

16           The representative samples, the photographs, the reports, and  
17  the records made under this section and properly identified shall be  
18  admissible in any court or administrative proceeding for any  
19  purposes for which the seized substance itself would have been  
20  admissible.

21           C.   All other property not otherwise provided for in the Uniform  
22  Controlled Dangerous Substances Act which has come into the  
23  possession of the Oklahoma State Bureau of Narcotics and Dangerous  
24  Drugs Control or a district attorney may be disposed of by order of

1 the district court when no longer needed in connection with any  
2 litigation. If the owner of the property is unknown to the Bureau  
3 or district attorney, the Bureau shall hold the property for at  
4 least six (6) months prior to filing a petition for disposal with  
5 the district court except for laboratory equipment which may be  
6 forfeited when no longer needed in connection with litigation,  
7 unless the property is perishable. The Director or district  
8 attorney shall file a petition in the district court of Oklahoma  
9 County or in the case of a district attorney, the petition shall be  
10 filed in a county within the district attorney's jurisdiction  
11 requesting the authority to:

12 1. Conduct a sale of the property;  
13 2. Convert title of the property to the Oklahoma State Bureau  
14 of Narcotics and Dangerous Drugs Control or to the district  
15 attorney's office for donation or transfer in accordance with  
16 subsection F H or K J of this section; or

17 3. Convert title of the property to the Oklahoma State Bureau  
18 of Narcotics and Dangerous Drugs Control for the purpose of leasing  
19 the property in accordance with subsection F I of this section.

20 The Director or district attorney 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 Bureau or district attorney, and the name and address of the owner,  
24 if known. The notice of the hearing of the petition for the sale of

1 the property, except laboratory equipment used in the processing,  
2 manufacturing or compounding of controlled dangerous substances in  
3 violation of the provisions of the Uniform Controlled Dangerous  
4 Substances Act, shall be given to every known owner, as set forth in  
5 the petition, by certified mail to the last-known address of the  
6 owner at least ten (10) days prior to the date of the hearing.  
7 Notice of a hearing on a petition for forfeiture or sale of  
8 laboratory equipment used in the processing, manufacturing or  
9 compounding of controlled dangerous substances in violation of the  
10 Uniform Controlled Dangerous Substances Act shall not be required.  
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 Director or district attorney to  
18 donate the property pursuant to subsection ¶ H of this section, to  
19 sell the property at a public auction to the highest bidder, or to  
20 convert title of the property to the Oklahoma State Bureau of  
21 Narcotics and Dangerous Drugs Control for the purpose of leasing or  
22 transferring the property pursuant to subsection ¶ H or ¶ J of this  
23 section after at least ten (10) days' notice has been given by  
24 publication in one issue of a legal newspaper of the county. If the

1 property is offered for sale at public auction and no bid is  
2 received that exceeds fifty percent (50%) of the value of the  
3 property, such value to be announced prior to the sale, the Director  
4 or district attorney may refuse to sell the item pursuant to any bid  
5 received. The Director or district attorney shall make a return of  
6 the sale and, when confirmed by the court, the order confirming the  
7 sale shall vest in the purchaser title to the property so purchased.  
8 The money received from the sale shall be used for the purpose of  
9 purchasing controlled dangerous substances to be used as evidence in  
10 narcotic cases and fees for informers, or employees and other  
11 associated expenses necessary to apprehend and convict violators of  
12 the laws of the State of Oklahoma regulating controlled dangerous  
13 substances. These funds shall be transferred to the agency special  
14 account established pursuant to Section 7.2 of Title 62 of the  
15 Oklahoma Statutes or the Bureau of Narcotics Revolving Fund or in  
16 the case of a district attorney, the revolving fund in that district  
17 for drug education and enforcement. The Director of the Bureau of  
18 Narcotics and Dangerous Drugs Control and the Director of State  
19 Finance are hereby authorized and directed to promulgate in writing  
20 the necessary rules and regulations requiring strict accountability  
21 relative to the expenditure of the above funds. In the case of a  
22 district attorney, the accountability relative to the expenditure of  
23 the fund shall be according to rules already existing for county  
24 revolving funds.

1 D. At the request of the Department of Public Safety, the  
2 district attorney or a designee of the district attorney may conduct  
3 any forfeiture proceedings as described in Section 2-503 of this  
4 title on any property subject to forfeiture as described in  
5 subsection A, B, or C of Section 2-503 of this title. Except as  
6 provided in subsection A of this section, all other property not  
7 otherwise provided for in the Uniform Controlled Dangerous  
8 Substances Act which has come into the possession of the Oklahoma  
9 Department of Public Safety may be disposed of by order of the  
10 district court when no longer needed in connection with any  
11 litigation. If the owner of the property is unknown to the  
12 Department, the Department shall hold the property for at least six  
13 (6) months prior to filing a petition for disposal with the district  
14 court, unless the property is perishable. The Commissioner of  
15 Public Safety shall file a petition in the district court of  
16 Oklahoma County requesting the authority to conduct a sale of the  
17 property or to convert title of the property to the Oklahoma  
18 Department of Public Safety. The Commissioner of Public Safety  
19 shall attach to the petition a list describing the property,  
20 including all identifying numbers and marks, if any, the date the  
21 property came into the possession of the Department, and the name  
22 and address of the owner, if known. The notice of the hearing of  
23 the petition for the sale of the property shall be given to every  
24 known owner, as set forth in the petition, by certified mail to the

1 last-known address of the owner and party in last possession if  
2 applicable, at least ten (10) days prior to the date of the hearing.  
3 The notice shall contain a brief description of the property, and  
4 the location and date of the hearing. In addition, notice of the  
5 hearing shall be posted in three public places in the county, one  
6 such place being the county courthouse at the regular place assigned  
7 for the posting of legal notices. At the hearing, if no owner  
8 appears and establishes ownership of the property, the court may  
9 enter an order authorizing the Commissioner of Public Safety to  
10 donate the property pursuant to subsection I of this section, to  
11 sell the property to the highest bidder, or convert title of the  
12 property to the Oklahoma Department of Public Safety for the purpose  
13 of leasing or transferring the property pursuant to subsection J or  
14 K of this section after at least five (5) days' notice has been  
15 given by publication in one issue of a legal newspaper of the  
16 county. The Commissioner of Public Safety shall make a return of  
17 the sale and, when confirmed by the court, the order confirming the  
18 sale shall vest in the purchaser title to the property so purchased.  
19 The money received from the sale shall be deposited in the  
20 Department of Public Safety Revolving Fund and shall be expended for  
21 law enforcement purposes.

22 ~~E. Except as provided in subsection A of this section, all~~  
23 ~~other property not otherwise provided for in the Uniform Controlled~~  
24 ~~Dangerous Substances Act which has come into the possession of the~~

1 ~~Alcoholic Beverage Laws Enforcement Commission may be disposed of by~~  
2 ~~order of the district court when no longer needed in connection with~~  
3 ~~any litigation. If the owner of the property is unknown to the~~  
4 ~~Alcoholic Beverage Laws Enforcement Commission, the Commission shall~~  
5 ~~hold the property for at least six (6) months prior to filing a~~  
6 ~~petition for disposal with the district court, unless the property~~  
7 ~~is perishable. The Director of the Alcoholic Beverage Laws~~  
8 ~~Enforcement Commission shall file a petition in the district court~~  
9 ~~of Oklahoma County requesting the authority to conduct a sale of the~~  
10 ~~property or to convert title of the property to the Alcoholic~~  
11 ~~Beverage Laws Enforcement Commission. The Director of the Alcoholic~~  
12 ~~Beverage Laws Enforcement Commission shall attach to the petition a~~  
13 ~~list describing the property, including all identifying numbers and~~  
14 ~~marks, if any, the date the property came into the possession of the~~  
15 ~~Alcoholic Beverage Laws Enforcement Commission, and the name and~~  
16 ~~address of the owner, if known. The notice of the hearing of the~~  
17 ~~petition for the sale of the property shall be given to every known~~  
18 ~~owner, as set forth in the petition, by certified mail to the~~  
19 ~~last known address of the owner at least ten (10) days prior to the~~  
20 ~~date of the hearing. The notice shall contain a brief description~~  
21 ~~of the property, and the location and date of the hearing. In~~  
22 ~~addition, notice of the hearing shall be posted in three public~~  
23 ~~places in the county, one such place being the county courthouse at~~  
24 ~~the regular place assigned for the posting of legal notices. At the~~

1 ~~hearing, if no owner appears and establishes ownership of the~~  
2 ~~property, the court may enter an order authorizing the Director of~~  
3 ~~the Alcoholic Beverage Laws Enforcement Commission to donate the~~  
4 ~~property pursuant to subsection I of this section or to sell the~~  
5 ~~property to the highest bidder after at least five (5) days' notice~~  
6 ~~has been given by publication in one issue of a legal newspaper of~~  
7 ~~the county. The Director of the Alcoholic Beverage Laws Enforcement~~  
8 ~~Commission shall make a return of the sale and, when confirmed by~~  
9 ~~the court, the order confirming the sale shall vest in the purchaser~~  
10 ~~title to the property so purchased. The money received from the~~  
11 ~~sale shall be deposited in the General Revenue Fund of the state.~~

12 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 State Bureau of Investigation may be disposed of by order  
16 of the district court when no longer needed in connection with any  
17 litigation. If the owner of the property is unknown to the Bureau,  
18 the Bureau shall hold the property for at least six (6) months prior  
19 to filing a petition for disposal with the district court, unless  
20 the property is perishable. The Director of the Oklahoma State  
21 Bureau of Investigation shall file a petition in the district court  
22 of Oklahoma County requesting the authority to conduct a sale of the  
23 property or to convert title of the property to the Oklahoma State  
24 Bureau of Investigation. The Director of the Oklahoma State Bureau

1 of Investigation shall attach to the petition a list describing the  
2 property, including all identifying numbers and marks, if any, the  
3 date the property came into the possession of the Bureau, and the  
4 name and address of the owner, if known. The notice of the hearing  
5 of the petition for the sale of the property shall be given to every  
6 known owner, as set forth in the petition, by certified mail to the  
7 last-known address of the owner and party in last possession if  
8 applicable, at least ten (10) days prior to the date of the hearing.  
9 The notice shall contain a brief description of the property, and  
10 the location and date of the hearing. In addition, notice of the  
11 hearing shall be posted in three public places in the county, one  
12 such place being the county courthouse at the regular place assigned  
13 for the posting of legal notices. At the hearing, if no owner  
14 appears and establishes ownership of the property, the court may  
15 enter an order authorizing the Director of the Oklahoma State Bureau  
16 of Investigation to donate the property pursuant to subsection ¶ H  
17 of this section, to sell the property to the highest bidder, or  
18 convert title of the property to the Oklahoma State Bureau of  
19 Investigation for the purpose of leasing or transferring the  
20 property pursuant to subsection ¶ H or ¶ J of this section after at  
21 least five (5) days' notice has been given by publication in one  
22 issue of a legal newspaper of the county. The Director of the  
23 Oklahoma State Bureau of Investigation shall make a return of the  
24 sale and, when confirmed by the court, the order confirming the sale

1 shall vest in the purchaser title to the property so purchased. The  
2 money received from the sale shall be deposited in the OSBI  
3 Revolving Fund and shall be expended for law enforcement purposes.

4 ~~G.~~ F. Except as provided in subsection A of this section, all  
5 other property not otherwise provided for in the Uniform Controlled  
6 Dangerous Substances Act which has come into the possession of the  
7 Oklahoma Department of Corrections after being seized from persons  
8 not in the custody or supervision of the Department of Corrections  
9 may be disposed of by order of the district court when no longer  
10 needed in connection with any litigation. If the owner of the  
11 property is unknown to the Department, the Department shall hold the  
12 property for at least six (6) months prior to filing a petition for  
13 disposal with the district court, unless the property is perishable.  
14 The Director of the Oklahoma Department of Corrections shall file a  
15 petition in the district court of the county of seizure requesting  
16 the authority to conduct a sale of the property or to convert title  
17 to the property to the Oklahoma Department of Corrections. The  
18 Director of the Oklahoma Department of Corrections shall attach to  
19 the petition a list describing the property, including all  
20 identifying numbers and marks, if any, the date the property came  
21 into possession of the Department and the name and address of the  
22 owner, if known. The notice of the hearing of the petition for the  
23 sale of the property shall be given to every known owner, as set  
24 forth in the petition, by certified mail to the last-known address

1 of the owner and party in last possession if applicable, at least  
2 ten (10) days prior to the date of the hearing. The notice shall  
3 contain a brief description of the property and the location and  
4 date of the hearing. In addition, notice of the hearing shall be  
5 posted in three public places in the county, one such place being  
6 the county courthouse at the regular place assigned for the posting  
7 of legal notices. At the hearing, if no owner appears and  
8 establishes ownership of the property, the court may enter an order  
9 authorizing the Director of the Oklahoma Department of Corrections  
10 to donate the property pursuant to subsection F H of this section,  
11 to sell the property to the highest bidder or convert title of the  
12 property to the Oklahoma Department of Corrections after at least  
13 five (5) days' notice has been given by publication in one issue of  
14 a legal newspaper of the county. The Director of the Oklahoma  
15 Department of Corrections shall make a return of the sale and when  
16 confirmed by the court, the order confirming the sale shall vest in  
17 the purchaser title to the property so purchased. Twenty-five  
18 percent (25%) of the money received from the sale shall be disbursed  
19 to a revolving fund in the office of the county treasurer of the  
20 county wherein the property was seized, said fund to be used as a  
21 revolving fund solely for enforcement of controlled dangerous  
22 substances laws, drug abuse prevention and drug abuse education.  
23 The remaining seventy-five percent (75%) shall be deposited in the  
24 Department of Corrections Revolving Fund to be expended for

1 equipment for probation and parole officers and correctional  
2 officers.

3 H. G. Except as provided in subsection A of this section, all  
4 other property not otherwise provided for in the Uniform Controlled  
5 Dangerous Substances Act which has come into the possession of the  
6 Office of the Attorney General may be disposed of by order of the  
7 district court when no longer needed in connection with any  
8 litigation. If the owner of the property is unknown to the Office,  
9 the Office shall hold the property for at least six (6) months prior  
10 to filing a petition for disposal with the district court, unless  
11 the property is perishable. The Office of the Attorney General  
12 shall file a petition in the district court of Oklahoma County  
13 requesting the authority to conduct a sale of the property or to  
14 convert title of the property to the Office of the Attorney General.  
15 The Office of the Attorney General shall attach to the petition a  
16 list describing the property, including all identifying numbers and  
17 marks, if any, the date the property came into the possession of the  
18 Office, and the name and address of the owner, if known. The notice  
19 of the hearing of the petition for the sale of the property shall be  
20 given to every known owner, as set forth in the petition, by  
21 certified mail to the last-known address of the owner and party in  
22 last possession, if applicable, at least ten (10) days prior to the  
23 date of the hearing. The notice shall contain a brief description  
24 of the property and the location and date of the hearing. In

1 addition, notice of the hearing shall be posted in three public  
2 places in the county, one such place being the county courthouse at  
3 the regular place assigned for the posting of legal notices. At the  
4 hearing, if no owner appears and establishes ownership of the  
5 property, the court may enter an order authorizing the Attorney  
6 General to donate the property pursuant to subsection ~~¶~~ H of this  
7 section, to sell the property to the highest bidder, or convert  
8 title of the property to the Office of the Attorney General for the  
9 purpose of leasing or transferring the property pursuant to  
10 subsection ~~¶~~ H or ~~¶~~ J of this section after at least five (5) days'  
11 notice has been given by publication in one issue of a legal  
12 newspaper of the county. The Attorney General shall make a return  
13 of the sale and, when confirmed by the court, the order confirming  
14 the sale shall vest in the purchaser title to the property so  
15 purchased. The money received from the sale shall be deposited in  
16 the Attorney General Law Enforcement Revolving Fund and shall be  
17 expended for law enforcement purposes. The Office of the Attorney  
18 General may enter into agreements with municipal, county or state  
19 agencies to return to such an agency a percentage of proceeds of the  
20 sale of any property seized by the agency and forfeited under the  
21 provisions of this section.

22 ~~¶~~ H. Any property, including but not limited to uncontaminated  
23 laboratory equipment used in the processing, manufacturing or  
24 compounding of controlled dangerous substances in violation of the

1 provisions of the Uniform Controlled Dangerous Substances Act, upon  
2 a court order, may be donated for classroom or laboratory use by the  
3 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control,  
4 Oklahoma Department of Public Safety, district attorney, ~~the~~  
5 ~~Alcoholic Beverage Laws Enforcement Commission,~~ the Oklahoma  
6 Department of Corrections, or the Office of the Attorney General to  
7 any public secondary school or technology center school in this  
8 state or any institution of higher education within The Oklahoma  
9 State System of Higher Education.

10 ~~¶~~ I. Any vehicle or firearm which has come into the possession  
11 and title vested in the Oklahoma State Bureau of Narcotics and  
12 Dangerous Drugs Control, the Oklahoma Department of Public Safety,  
13 the Oklahoma State Bureau of Investigation, or the Office of the  
14 Attorney General, may be offered for lease to any sheriff's office  
15 or police department in this state on an annual basis to assist with  
16 the enforcement of the provisions of the Uniform Controlled  
17 Dangerous Substances Act. Each agency shall promulgate rules,  
18 regulations and procedures for leasing vehicles and firearms. No  
19 fully automatic weapons will be subject to the leasing agreement.  
20 All firearms leased may be utilized only by C.L.E.E.T. certified  
21 officers who have received training in the type and class of weapon  
22 leased. Every lessee shall be required to submit an annual report  
23 to the leasing agency stating the condition of all leased property.  
24 A lease agreement may be renewed annually at the option of the

1 leasing agency. Upon termination of a lease agreement, the property  
2 shall be returned to the leasing agency for sale or other  
3 disposition. All funds derived from lease agreements or other  
4 disposition of property no longer useful to law enforcement shall be  
5 deposited in the agency's revolving fund and shall be expended for  
6 law enforcement purposes.

7 ~~K.~~ J. Before disposing of any property pursuant to subsections  
8 C through ~~F~~ E of this section, the Oklahoma State Bureau of  
9 Narcotics and Dangerous Drugs Control, the Department of Public  
10 Safety, ~~the Alcoholic Beverage Laws Enforcement Commission,~~ the  
11 Oklahoma State Bureau of Investigation, the Office of the Attorney  
12 General, or a district attorney shall notify the Department of  
13 Corrections and the Oklahoma Department of Career and Technology  
14 Education of the identity of any such property in their possession.  
15 The Department of Corrections and the Oklahoma Department of Career  
16 and Technology Education must respond within ten (10) days of such  
17 notification, as to whether or not such property could be used in  
18 the operations or training programs of either agency. Upon receipt  
19 of the response, the agency or district attorney that issued the  
20 notification shall negotiate as to which agency will be entitled to  
21 the use of the property, the purpose of the use and the duration of  
22 such use. Upon return of the property, the property may be disposed  
23 of as otherwise provided in this section. The agencies and any  
24 district attorney that are parties to any transfer of property

1 pursuant to this subsection shall enter into written agreements to  
2 carry out any such transfer of property. Any such agreement may  
3 also provide for the granting of title to any property being  
4 transferred as the parties deem appropriate.

5 SECTION 131. AMENDATORY 74 O.S. 2001, Section 18c, as  
6 last amended by Section 8, Chapter 405, O.S.L. 2005 (74 O.S. Supp.  
7 2007, Section 18c), is amended to read as follows:

8 Section 18c. A. 1. Except as otherwise provided by this  
9 subsection, no state officer, board or commission shall have  
10 authority to employ or appoint attorneys to advise or represent said  
11 officer, board or commission in any matter.

12 2. The provisions of this subsection shall not apply to the  
13 Corporation Commission, the Council on Law Enforcement Education and  
14 Training, the Consumer Credit Commission, the Board of Managers of  
15 the State Insurance Fund, the Oklahoma Tax Commission, the  
16 Commissioners of the Land Office, the Oklahoma Public Welfare  
17 Commission also known as the Commission for Human Services, the  
18 Board of Corrections, the Oklahoma Health Care Authority, the  
19 Department of Public Safety, the Oklahoma State Bureau of Narcotics  
20 and Dangerous Drugs Control, ~~the Alcoholic Beverage Laws Enforcement~~  
21 ~~Commission~~, the Transportation Commission, the Oklahoma Energy  
22 Resources Board, the Department of Central Services, the Oklahoma  
23 Merit Protection Commission, the Office of Personnel Management, the  
24 Oklahoma Water Resources Board, the Department of Labor, the State

1 Department of Agriculture, the Northeast Oklahoma Public Facilities  
2 Authority, the Oklahoma Firefighters Pension and Retirement System,  
3 the Oklahoma Public Employees Retirement System, the Uniform  
4 Retirement System for Justices and Judges, the Oklahoma Conservation  
5 Commission and the Office of Juvenile Affairs.

6 3. The provisions of paragraph 2 of this subsection shall not  
7 be construed to authorize the Office of Juvenile Affairs to employ  
8 any attorneys that are not specifically authorized by law.

9 4. All the legal duties of such officer, board or commission  
10 shall devolve upon and are hereby vested in the Attorney General;  
11 provided that:

12 a. the Governor shall have authority to employ special  
13 counsel to protect the rights or interest of the state  
14 as provided in Section 6 of this title, and

15 b. liquidation agents of banks shall have the authority  
16 to employ local counsel, with the consent of the Bank  
17 Commissioner and the Attorney General and the approval  
18 of the district court.

19 B. At the request of any state officer, board or commission,  
20 except the Corporation Commission, the Board of Managers of the  
21 CompSource Oklahoma, Oklahoma Tax Commission and the Commissioners  
22 of the Land Office, the Grand River Dam Authority, the Oklahoma  
23 State Bureau of Narcotics and Dangerous Drugs Control, ~~the Alcoholic~~  
24 ~~Beverage Laws Enforcement Commission,~~ the Oklahoma Firefighters

1 Pension and Retirement System, the Oklahoma Public Employees  
2 Retirement System, the Uniform Retirement System for Justices and  
3 Judges and the Interstate Oil and Gas Compact Commission, the  
4 Attorney General shall defend any action in which they may be sued  
5 in their official capacity. At the request of any such state  
6 officer, board or commission, the Attorney General shall have  
7 authority to institute suits in the name of the State of Oklahoma on  
8 their relation, if after investigation the Attorney General is  
9 convinced there is sufficient legal merit to justify the action.

10 C. Any officer, board, or commission which has the authority to  
11 employ or appoint attorneys may request that the Attorney General  
12 defend any action arising pursuant to the provisions of the  
13 Governmental Tort Claims Act.

14 D. Nothing in this section shall be construed to repeal or  
15 affect the provisions of the statutes of this state pertaining to  
16 attorneys and legal advisors of the several commissions and  
17 departments of state specified in subsection B of this section, and  
18 all acts and parts of acts pertaining thereto shall be and remain in  
19 full force and effect.

20 SECTION 132. AMENDATORY 74 O.S. 2001, Section 30b, is  
21 amended to read as follows:

22 Section 30b. A. There is hereby created the Oklahoma Drug and  
23 Alcohol Abuse Policy Board.

24

1 B. A chairperson shall be chosen annually by the members of the  
2 Oklahoma Drug and Alcohol Abuse Policy Board to serve a term  
3 beginning July 1. The chairperson may establish committees,  
4 subcommittees, or other working groups in order to accomplish the  
5 goals of the Board.

6 C. The Board shall be composed of the following members:

7 1. The Governor or designee;

8 2. The Attorney General or designee;

9 3. The Director of the Oklahoma State Bureau of Narcotics and  
10 Dangerous Drugs Control or designee;

11 4. The Director of the Oklahoma State Bureau of Investigation  
12 or designee;

13 5. The Commissioner of Public Safety or designee;

14 6. The Commissioner of the Department of Mental Health and  
15 Substance Abuse Services or designee;

16 7. The Commissioner of Health or designee;

17 8. The Adjutant General of the Military Department or designee;

18 9. The Superintendent of Public Instruction or designee;

19 10. The Director of the Department of Corrections or designee;

20 11. The Director of the Department of Human Services or  
21 designee;

22 12. ~~The Director of the Alcoholic Beverage Laws Enforcement~~  
23 ~~Commission or designee;~~

24

1       ~~13.~~ The Executive Director of the District Attorneys' Council  
2 or designee;

3       ~~14.~~ 13. The Executive Director of the Oklahoma Commission on  
4 Children and Youth or designee;

5       ~~15.~~ 14. The Executive Director of the Office of Juvenile  
6 Affairs or designee; and

7       ~~16.~~ 15. Two appointees of the Governor, who shall be private  
8 citizens appointed to serve for one-year terms.

9       D. Any other state or local agency or individual may become a  
10 nonvoting member of the Board upon approval of a two-thirds (2/3)  
11 majority of the voting members set forth in subsection C of this  
12 section.

13       E. Other officers, excluding the chairperson, may be elected at  
14 the discretion of the voting Board members.

15       F. The Board shall hold meetings at least quarterly and at such  
16 other times as the chairperson deems necessary.

17       SECTION 133.           AMENDATORY           74 O.S. 2001, Section 840-4.13,  
18 as last amended by Section 1, Chapter 6, O.S.L. 2006 (74 O.S. Supp.  
19 2007, Section 840-4.13), is amended to read as follows:

20       Section 840-4.13 A. Based upon the results of competitive  
21 entrance examinations and registers, as provided by the Oklahoma  
22 Personnel Act, the Administrator of the Office of Personnel  
23 Management shall certify to the appointing authority the names of  
24 the ten persons receiving the highest grade or score in said

1 examinations plus all eligible applicants whose grade or score is  
2 tied with the lowest ranking of those so eligible.

3       B. In addition to establishing statewide registers pursuant to  
4 subsection A of this section, the Administrator is hereby authorized  
5 to promulgate rules creating a local register to fill a vacancy in a  
6 local office of an agency by providing a certificate of available  
7 names of eligible persons who are residents of the county where the  
8 local office is located or said county and adjacent counties or a  
9 group of contiguous counties comprising a service area of an agency.  
10 Available eligible residents shall be certified ahead of other  
11 available eligible persons who reside outside the area of the local  
12 register. In filling vacant positions, the appointing authority  
13 shall select any one of the persons whose names have been so  
14 certified and may give preference in all cases to persons who have  
15 resided in this state for at least one (1) year prior to the date of  
16 the examination. Provided, however, that any appointing authority  
17 authorized to employ persons who are not citizens of the United  
18 States, pursuant to Section 255 of this title, may request the  
19 Office to certify only the names of persons who are citizens of the  
20 United States in carrying out the provisions of this section; and  
21 such appointing authority may select any person so certified to the  
22 Administrator to fill such vacant positions even though a noncitizen  
23 may have received a higher grade on the examination. Provided,  
24 further, that any appointing authority may select special disabled

1 veterans considered for employment pursuant to Sections 401 through  
2 404 of Title 72 of the Oklahoma Statutes. The Department of Public  
3 Safety, in filling vacancies for Highway Patrol Cadets, may  
4 disqualify any eligible whose name has been certified for Highway  
5 Patrol Cadet pursuant to subsection A of this section, if the  
6 Department of Public Safety considers the eligible in connection  
7 with the hiring of three other eligibles pursuant to subsection A of  
8 this section from that certificate. The name of such disqualified  
9 eligible shall be omitted from further certification to, and  
10 consideration by, the Department of Public Safety for appointment as  
11 a Highway Patrol Cadet to the Highway Patrol Academy for which  
12 vacancies are being filled. Such disqualification shall neither  
13 deprive any person of any preference pursuant to paragraph 3 of  
14 subsection A of Section 840-4.14 of this title nor deprive any  
15 person from certification to, and consideration by, the Department  
16 of Public Safety for appointment as a Highway Patrol Cadet to a  
17 subsequent Highway Patrol Academy. The Department of Public Safety  
18 shall provide written notice of the disqualification to the Office  
19 of Personnel Management. The Department of Corrections, in filling  
20 vacancies for Correctional Officer Cadets and Probation and Parole  
21 Officers, may disqualify any eligible whose name has been certified  
22 for Correctional Officer Cadet or Probation and Parole Officer,  
23 pursuant to subsection A of this section, if the Department of  
24 Corrections considers the eligible in connection with the hiring of

1 three other eligibles pursuant to subsection A of this section from  
2 that or any other certificate. The name of such disqualified  
3 eligible shall be omitted from future certification to, and  
4 consideration by, the Department of Corrections for appointment as a  
5 Correctional Officer Cadet or Probation and Parole Officer for a  
6 period of six (6) months, at which time the eligible may request  
7 restoration to the register by the Office of Personnel Management.  
8 Such disqualification shall not deprive any person of any preference  
9 pursuant to paragraph 3 of subsection A of Section 840-4.14 of this  
10 title. The Department of Corrections shall provide written notice  
11 of the disqualification to the Office of Personnel Management.

12 C. Agencies may fill positions requiring professional practice  
13 licensure and hard-to-fill positions pursuant to authorization by  
14 the Administrator without regard to subsections A and B of this  
15 section. The Administrator shall promulgate rules to authorize  
16 agencies to fill positions directly, pursuant to this subsection.  
17 Such rules shall include criteria for identifying professional  
18 practice licensure positions and hard-to-fill positions which shall  
19 not require establishment of an employment list of eligible persons  
20 or the application of veterans preference. The Administrator shall  
21 monitor appointments made by agencies pursuant to this subsection  
22 and shall establish recordkeeping and reporting procedures and the  
23 conditions under which the Administrator may withdraw authorization  
24 for agencies to directly hire persons into hard-to-fill positions.

1 Nothing in this subsection shall be construed to waive any  
2 requirement for any job or position established by statute or the  
3 Administrator.

4 D. Every person, ~~except as provided in subsection E of this~~  
5 ~~section,~~ upon initial appointment under the classified service,  
6 shall be appointed for a probationary period of one (1) year, except  
7 that the appointing authority may waive in writing the remainder of  
8 the probationary period at any time after a probationary employee  
9 has served six (6) months; provided, however, that the employee and  
10 the Administrator of the Office of Personnel Management shall be  
11 notified in writing as to such action and the reason therefor. The  
12 probationary appointment of any person may be terminated at any time  
13 during the probationary period without the right of appeal. At the  
14 close of the probationary period, as herein provided, said person  
15 shall acquire a permanent status under the conditions prescribed in  
16 the Oklahoma Personnel Act.

17 E. ~~Every person initially appointed under the classified~~  
18 ~~service as an agent of the Alcoholic Beverage Laws Enforcement~~  
19 ~~Commission shall be appointed for a probationary period of one (1)~~  
20 ~~year.~~

21 F. In working with appointing authorities in determining  
22 minimum qualifications for a position, the Administrator of the  
23 Office of Personnel Management shall require an appointing authority  
24 to justify in writing any reasons for excluding from consideration

1 relevant public or private sector experience applicable to the  
2 position.

3 SECTION 134. AMENDATORY 74 O.S. 2001, Section 840-5.5,  
4 as last amended by Section 3, Chapter 208, O.S.L. 2007 (74 O.S.  
5 Supp. 2007, Section 840-5.5), is amended to read as follows:

6 Section 840-5.5 A. The following offices, positions, and  
7 personnel shall be in the unclassified service and shall not be  
8 placed under the classified service:

9 1. Persons chosen by popular vote or appointment to fill an  
10 elective office, and their employees, except the employees of the  
11 Corporation Commission, the State Department of Education and the  
12 Department of Labor;

13 2. Members of boards and commissions, and heads of agencies;  
14 also one principal assistant or deputy and one executive secretary  
15 for each state agency;

16 3. All judges, elected or appointed, and their employees;

17 4. Persons employed with one-time, limited duration, federal or  
18 other grant funding that is not continuing or indefinitely  
19 renewable. The length of the unclassified employment shall not  
20 exceed the period of time for which that specific federal funding is  
21 provided;

22 5. All officers and employees of The Oklahoma State System of  
23 Higher Education, State Board of Education and Oklahoma Department  
24 of Career and Technology Education;

1       6. Persons employed in a professional or scientific capacity to  
2 make or conduct a temporary and special inquiry, investigation, or  
3 examination on behalf of the Legislature or a committee thereof or  
4 by authority of the Governor. These appointments and authorizations  
5 shall terminate on the first day of the regular legislative session  
6 immediately following the appointment, if not terminated earlier.  
7 However, nothing in this paragraph shall prevent the reauthorization  
8 and reappointment of any such person. Any such appointment shall be  
9 funded from the budget of the appointing authority;

10       7. Election officials and employees;

11       8. Temporary employees employed to work less than one thousand  
12 (1,000) hours in any twelve-month period, and seasonal employees  
13 employed by the Oklahoma Tourism and Recreation Department pursuant  
14 to Section 2241 of this title who work less than one thousand six  
15 hundred (1,600) hours in any twelve-month period;

16       9. Department of Public Safety employees occupying the  
17 following offices or positions:

- 18           a. administrative aides to the Commissioner,
- 19           b. executive secretaries to the Commissioner,
- 20           c. the Governor's representative of the Oklahoma Highway  
21           Safety Office who shall be appointed by the Governor,
- 22           d. Highway Patrol Colonel,
- 23           e. Highway Patrol Lieutenant Colonel,
- 24           f. Highway Patrol Major,

- 1 g. Director of Finance,  
2 h. noncommissioned pilots,  
3 i. Information Systems Administrator,  
4 j. Law Enforcement Telecommunications System Specialist,  
5 k. Director of Driver License Administration,  
6 l. Director of Transportation Division,  
7 m. Director of the Alcohol and Drug Countermeasures Unit,  
8 n. Director of the Oklahoma Highway Safety Office,  
9 o. Civil Rights Administrator,  
10 p. Budget Analyst,  
11 q. Comptroller,  
12 r. Chaplain,  
13 s. Helicopter Mechanic,  
14 t. Director of Safety Compliance,  
15 u. Human Resources Director,  
16 v. Administrator of Department Services, and  
17 w. a maximum of seven (7) positions for the purpose of  
18 administering programs in the Oklahoma Highway Safety  
19 Office, within full-time employee limitations of the  
20 Department, employed with federal funding that is  
21 continuing or indefinitely renewable. The  
22 authorization for such positions shall be terminated  
23 if the federal funding for positions is discontinued;  
24

1 provided, any person appointed to a position prescribed in  
2 subparagraph d, e, f or o of this paragraph shall have a right of  
3 return to the classified commissioned position without any loss of  
4 rights, privileges or benefits immediately upon completion of the  
5 duties in the unclassified commissioned position, and any person  
6 appointed to a position prescribed in subparagraph i, j, k, l, m or  
7 n of this paragraph shall have a right of return to the previously  
8 held vacant classified position within the Department of Public  
9 Safety without any loss of rights, privileges or benefits  
10 immediately upon completion of the duties in the unclassified  
11 commissioned position;

12 10. Professional trainees only during the prescribed length of  
13 their course of training or extension study;

14 11. Students who are employed on a part-time basis, which shall  
15 be seventy-five percent (75%) of a normal forty-hour work week or  
16 thirty (30) hours per week, or less, or on a full-time basis if the  
17 employment is pursuant to a cooperative education program such as  
18 that provided for under Title I IV-D of the Higher Education Act of  
19 1965 (20 U.S.C. 1087a-1087c), as amended, and who are regularly  
20 enrolled in:

- 21 a. an institution of higher learning within The Oklahoma  
22 State System of Higher Education,
- 23 b. an institution of higher learning qualified to become  
24 coordinated with The Oklahoma State System of Higher

1 Education. For purposes of this section, a student  
2 shall be considered a regularly enrolled student if  
3 the student is enrolled in a minimum of five (5) hours  
4 of accredited graduate courses or a minimum of ten  
5 (10) hours of accredited undergraduate courses,  
6 provided, however, the student shall only be required  
7 to be enrolled in a minimum of six (6) hours of  
8 accredited undergraduate courses during the summer, or

9 c. high school students regularly enrolled in a high  
10 school in Oklahoma and regularly attending classes  
11 during such time of enrollment;

12 12. The spouses of personnel who are employed on a part-time  
13 basis to assist or work as a relief for their spouses in the  
14 Oklahoma Tourism and Recreation Department;

15 13. Service substitute attendants who are needed to replace  
16 museum and site attendants who are unavoidably absent. Service  
17 substitutes may work as part-time or full-time relief for absentees  
18 for a period of not more than four (4) weeks per year in the  
19 Oklahoma Historical Society sites and museums; such substitutes will  
20 not count towards the agency's full-time-equivalent (FTE) employee  
21 limit;

22 14. Employees of the Oklahoma House of Representatives, the  
23 State Senate, or the Legislative Service Bureau;

1           15. Corporation Commission personnel occupying the following  
2 offices and positions:

- 3           a. Administrative aides, and executive secretaries to the  
4           Commissioners,
- 5           b. Directors of all the divisions, personnel managers and  
6           comptrollers,
- 7           c. General Counsel,
- 8           d. Public Utility Division Chief Engineer,
- 9           e. Public Utility Division Chief Accountant,
- 10          f. Public Utility Division Chief Economist,
- 11          g. Public Utility Division Deputy Director,
- 12          h. Secretary of the Commission,
- 13          i. Deputy Conservation Director,
- 14          j. Manager of Pollution Abatement,
- 15          k. Manager of Field Operations,
- 16          l. Manager of Technical Services,
- 17          m. Public Utility Division Chief of Telecommunications,
- 18          n. Director of Information Services,
- 19          o. All Data Processing employees hired on or after  
20             September 1, 2005,
- 21          p. All Public Utilities employees hired on or after  
22             September 1, 2007, and
- 23          q. All Regulatory Program Managers hired on or after  
24             September 1, 2007;

1        16. At the option of the employing agency, the Supervisor,  
2 Director, or Educational Coordinator in any other state agency  
3 having a primary responsibility to coordinate educational programs  
4 operated for children in state institutions;

5        17. Department of Mental Health and Substance Abuse Services  
6 personnel occupying the following offices and positions at each  
7 facility:

- 8            a. Director of Facility,
- 9            b. Deputy Director for Administration,
- 10           c. Clinical Services Director,
- 11           d. Executive Secretary to Director, and
- 12           e. Directors or Heads of Departments or Services;

13        18. Office of State Finance personnel occupying the following  
14 offices and positions:

- 15           a. State Comptroller,
- 16           b. Administrative Officers,
- 17           c. Alternator Claims Auditor,
- 18           d. Employees hired to fulfill state compliance agency  
19           requirements under Model Tribal Gaming Compacts,
- 20           e. Employees of the Budget Division,
- 21           f. Employees of the Fiscal and Research Division,
- 22           g. Employees hired to work on the CORE Systems Project;
- 23           and

24

1 h. The following employees of the Information Services  
2 Division:

- 3 (1) Information Services Division Manager,
- 4 (2) Network Manager,
- 5 (3) Network Technician,
- 6 (4) Security Manager,
- 7 (5) Contracts/Purchasing Manager,
- 8 (6) Operating and Applications Manager,
- 9 (7) Project Manager,
- 10 (8) Help Desk Manager,
- 11 (9) Help Desk Technician,
- 12 (10) Quality Assurance Manager,
- 13 (11) ISD Analysts,
- 14 (12) CORE Manager,
- 15 (13) Enterprise System/Database Software Manager,
- 16 (14) Data Center Operations and Production Manager,
- 17 (15) Voice Communications Manager,
- 18 (16) Applications Development Manager,
- 19 (17) Projects Manager,
- 20 (18) PC's Manager,
- 21 (19) Servers Manager,
- 22 (20) Portal Manager,
- 23 (21) Procurement Specialists,
- 24 (22) Security Technicians,

- 1 (23) Enterprise Communications and Network
- 2 Administrator,
- 3 (24) Server Support Specialists,
- 4 (25) Senior Server Support Specialists,
- 5 (26) Systems Support Specialists, and
- 6 (27) Senior Systems Support Specialists;

7 19. Employees of the Oklahoma Industrial Finance Authority;

8 20. Those positions so specified in the annual business plan of  
9 the Oklahoma Department of Commerce;

10 21. Those positions so specified in the annual business plan of  
11 the Oklahoma Center for the Advancement of Science and Technology;

12 22. The following positions and employees of the Oklahoma  
13 School of Science and Mathematics:

- 14 a. positions for which the annual salary is Twenty-four  
15 Thousand One Hundred Ninety-three Dollars (\$24,193.00)  
16 or more, as determined by the Office of Personnel  
17 Management, provided no position shall become  
18 unclassified because of any change in salary or grade  
19 while it is occupied by a classified employee,
- 20 b. positions requiring certification by the State  
21 Department of Education, and
- 22 c. positions and employees authorized to be in the  
23 unclassified service of the state elsewhere in this  
24 section or in subsection B of this section;

1        23. Office of Personnel Management employees occupying the  
2 following positions:

- 3            a. the Carl Albert Internship Program Coordinator,
- 4            b. one Administrative Assistant,
- 5            c. one Workforce Planning Manager,
- 6            d. Assistant Administrators,
- 7            e. one Associate Administrator, and
- 8            f. Division Directors;

9        24. Department of Labor personnel occupying the following  
10 offices and positions:

- 11            a. two Deputy Commissioners,
- 12            b. two Executive Secretaries to the Commissioner,
- 13            c. Chief of Staff,
- 14            d. two Administrative Assistants,
- 15            e. Information Systems Administrator,
- 16            f. three Safety and Health Directors,
- 17            g. Research Director,
- 18            h. Employment Standards Director,
- 19            i. Asbestos Director,
- 20            j. General Counsel,
- 21            k. one Legal Secretary,
- 22            l. one Docket Clerk, and
- 23            m. two Information Systems Application Specialists;

24        25. The State Bond Advisor and his or her employees;

1           26. The Oklahoma Employment Security Commission employees  
2 occupying the following positions:

- 3           a. Associate Director,
- 4           b. Secretary to the Associate Director, and
- 5           c. Assistant to the Executive Director;

6           27. Oklahoma Human Rights Commission personnel occupying the  
7 position of Administrative Assistant;

8           28. Officers and employees of the State Banking Department;

9           29. Officers and employees of the University Hospitals  
10 Authority except personnel in the state classified service pursuant  
11 to Section 3211 of Title 63 of the Oklahoma Statutes and members of  
12 the University Hospitals Authority Model Personnel System created  
13 pursuant to subsection E of Section 3211 of Title 63 of the Oklahoma  
14 Statutes or as otherwise provided for in Section 3213.2 of Title 63  
15 of the Oklahoma Statutes;

16           30. ~~Alcoholic Beverage Laws Enforcement Commission~~ Oklahoma  
17 State Bureau of Narcotics and Dangerous Drugs Control employees  
18 occupying the following positions:

- 19           a. three Administrative Service Assistant positions,  
20           however, employees in such positions who are in the  
21           unclassified service on June 4, 2003, may make an  
22           election to be in the classified service without a  
23           loss in salary by September 1, 2003, and

24

1           b.    the Deputy Director position in addition to the one  
2                    authorized by paragraph 2 of this subsection;

3           31.   The Oklahoma State Bureau of Investigation employees  
4 occupying the following positions:

- 5           a.    five assistant directors,
- 6           b.    six special investigators,
- 7           c.    one information representative,
- 8           d.    one federally funded physical evidence technician,
- 9           e.    four federally funded laboratory analysts,
- 10          f.    a maximum of fourteen positions employed for the  
11                purpose of managing the automated information systems  
12                of the agency,
- 13          g.    one executive secretary in addition to the one  
14                authorized pursuant to paragraph 2 of this subsection,
- 15          h.    Child Abuse Response Team (CART) investigator, and
- 16          i.    Child Abuse Response Team (CART) forensic interviewer;

17          32.   The Department of Transportation, the following positions:

- 18          a.    Director of the Oklahoma Aeronautics Commission,
- 19          b.    five Department of Transportation Assistant Director  
20                positions,
- 21          c.    eight field division engineer positions,
- 22          d.    one pilot position,
- 23          e.    five Project Manager Positions, and
- 24          f.    five Transportation Coordinators;

1 33. Commissioners of the Land Office employees occupying the  
2 following positions:

- 3 a. Director of the Investments Division,
- 4 b. Assistant Director of the Investments Division,
- 5 c. one Administrative Assistant,
- 6 d. one Audit Tech position,
- 7 e. one Auditor I position,
- 8 f. two Accounting Tech I positions,
- 9 g. two Administrative Assistant I positions,
- 10 h. two Imaging Specialist positions, and
- 11 i. one Information Systems Specialist position;

12 34. Within the Oklahoma State Bureau of Narcotics and Dangerous  
13 Drugs Control Commission, the following positions:

- 14 a. six Narcotics Agent positions and three Typist  
15 Clerk/Spanish transcriptionists, including a Typist  
16 Clerk Supervisor/Spanish transcriptionist, provided,  
17 authorization for such positions shall be terminated  
18 if the federal funding for the positions is  
19 discontinued,
- 20 b. one executive secretary in addition to the one  
21 authorized pursuant to paragraph 2 of this subsection,
- 22 c. one fiscal officer,
- 23 d. one full-time Programmer, and
- 24 e. one full-time Network Engineer;

1 35. The Military Department of the State of Oklahoma is  
2 authorized such unclassified employees within full-time employee  
3 limitations to work in any of the Department of Defense directed  
4 youth programs, the State of Oklahoma Juvenile Justice youth  
5 programs, those persons reimbursed from Armory Board or Billeting  
6 Fund accounts, and skilled trade positions;

7 36. Within the Oklahoma Commission on Children and Youth the  
8 following unclassified positions:

- 9 a. one Oversight Specialist and one Community Development  
10 Planner,
- 11 b. one State Plan Grant Coordinator, provided  
12 authorization for the position shall be terminated  
13 when federal support for the position by the United  
14 States Department of Education Early Intervention  
15 Program is discontinued, and
- 16 c. one executive secretary in addition to the one  
17 authorized pursuant to paragraph 2 of this subsection;

18 37. The following positions and employees of the Department of  
19 Central Services:

- 20 a. one Executive Secretary in addition to the Executive  
21 Secretary authorized by paragraph 2 of this  
22 subsection,
- 23 b. the Director of Central Purchasing,
- 24 c. one Alternate Fuels Administrator,

- d. one Director of Special Projects,
- e. three postauditors,
- f. four high-technology contracting officers,
- g. one Executive Assistant to the Purchasing Director,
- h. four Contracts Managers,
- i. one Associate Director,
- j. one specialized HiTech/Food Contracting Officer,
- k. one State Use Contracting Officer,
- l. one Property Distribution Administrator,
- m. three licensed architects assigned to the Facilities and Properties Division,
- n. three licensed engineers assigned to the Facilities and Properties Division,
- o. four construction consultants assigned to the Facilities and Properties Division,
- p. one attorney assigned to the Facilities and Properties Division,
- q. three positions assigned to the Information Services Division, which shall include one Information Technology Manager, one Applications Specialist and one Data Planning Specialist, and
- r. four positions assigned to Fleet Management, which shall include one Deputy Fleet Manager and three Management Analysts;

1 38. Four Water Quality Specialists, and four Water Resources  
2 Division Chiefs within the Oklahoma Water Resources Board;

3 39. J.D. McCarty Center for Children with Developmental  
4 Disabilities personnel occupying the following offices and  
5 positions:

- 6 a. Physical Therapists,
- 7 b. Physical Therapist Assistants,
- 8 c. Occupational Therapists,
- 9 d. Certified Occupational Therapist Aides, and
- 10 e. Speech Pathologists;

11 40. The Development Officer and the Director of the State  
12 Museum of History within the Oklahoma Historical Society;

13 41. Oklahoma Department of Agriculture, Food, and Forestry  
14 personnel occupying the following positions:

- 15 a. one Executive Secretary in addition to the Executive  
16 Secretary authorized by paragraph 2 of this subsection  
17 and one Executive Assistant,
- 18 b. nineteen Agricultural Marketing Coordinator III  
19 positions,
- 20 c. temporary fire suppression personnel, regardless of  
21 the number of hours worked, who are employed by the  
22 Oklahoma Department of Agriculture, Food, and  
23 Forestry; provided, however, notwithstanding the  
24 provisions of any other section of law, the hours

1 worked by such employees shall not entitle such  
2 employees to any benefits received by full-time  
3 employees,

- 4 d. one Administrator for Human Resources,
- 5 e. one Director of Administrative Services,
- 6 f. one Water Quality Consumer Complaint Coordinator,
- 7 g. one hydrologist position,
- 8 h. Public Information Office Director,
- 9 i. Market Development Services Director,
- 10 j. Legal Services Director,
- 11 k. Animal Industry Services Director,
- 12 l. Agricultural Environmental Management Services  
13 Director,
- 14 m. Forestry Services Director,
- 15 n. Plant Industry and Consumer Services Director,
- 16 o. one Grants Administrator position,
- 17 p. Director of Laboratory Services,
- 18 q. Chief of Communications,
- 19 r. Public Information Manager,
- 20 s. Inventory/Supply Officer,
- 21 t. five Agriculture Field Inspector positions assigned  
22 the responsibility for conducting inspections and  
23 audits of agricultural grain storage warehouses. All  
24 other Agriculture Field Inspector positions and

1 employees of the Oklahoma Department of Agriculture,  
2 Food, and Forestry shall be classified and subject to  
3 the provisions of the Merit System of Personnel  
4 Administration. On November 1, 2002, all other  
5 unclassified Agriculture Field Inspectors shall be  
6 given status in the classified service as provided in  
7 Section 840-4.2 of this title,

- 8 u. Rural Fire Coordinator,
- 9 v. one Agricultural Marketing Coordinator III,
- 10 w. Food Safety Division Director,
- 11 x. two Environmental Program Specialists,
- 12 y. two Scale Technicians, and
- 13 z. two Plant Protection Specialists;

14 42. The Contracts Administrator within the Oklahoma State  
15 Employees Benefits Council;

16 43. The Development Officer within the Oklahoma Department of  
17 Libraries;

18 44. Oklahoma Real Estate Commission personnel occupying the  
19 following offices and positions:

- 20 a. Educational Program Director, and
- 21 b. Data Processing Manager;

22 45. A Chief Consumer Credit Examiner for the Department of  
23 Consumer Credit;

1 46. All officers and employees of the Oklahoma Capitol Complex  
2 and Centennial Commemoration Commission;

3 47. All officers and employees of the Oklahoma Motor Vehicle  
4 Commission;

5 48. One Museum Archivist of The Will Rogers Memorial  
6 Commission;

7 49. One Fire Protection Engineer of the Office of the State  
8 Fire Marshal;

9 50. Acting incumbents employed pursuant to Section 209 of Title  
10 44 or Section 48 of Title 72 of the Oklahoma Statutes who shall not  
11 be included in any limitation on full-time equivalency imposed by  
12 law on an agency. Permanent classified employees may request a  
13 leave of absence from classified status and accept an unclassified  
14 appointment and compensation as an acting incumbent with the same  
15 agency; provided, the leave shall expire no later than two (2) years  
16 from the date of the acting incumbent appointment. An appointing  
17 authority may establish unclassified positions and appoint  
18 unclassified employees to perform the duties of a permanent  
19 classified employee who is on leave of absence from a classified  
20 position to serve as an acting incumbent. All unclassified  
21 appointments created pursuant to this paragraph shall expire no  
22 later than two (2) years from the date of appointment. Classified  
23 employees accepting unclassified appointments and compensation  
24 pursuant to this paragraph shall be entitled to participate without

1 interruption in any benefit programs available to classified  
2 employees, including retirement and insurance programs. Immediately  
3 upon termination of an unclassified appointment pursuant to this  
4 paragraph, an employee on assignment from the classified service  
5 shall have a right to be restored to the classified service and  
6 reinstated to the former job family level and compensation plus any  
7 adjustments and increases in salary or benefits which the employee  
8 would have received but for the leave of absence;

9 51. The Oklahoma Homeland Security Director and all other  
10 positions assigned the responsibilities of working in the Oklahoma  
11 Office of Homeland Security;

12 52. The following eighteen (18) positions in the State  
13 Department of Health:

- 14 a. one surveillance supervisor,
- 15 b. one surveillance project monitor,
- 16 c. two bilingual interviewers,
- 17 d. eight senior interviewers, and
- 18 e. six interviewers;

19 53. State Board of Registration for Professional Engineers and  
20 Land Surveyors personnel occupying the following offices and  
21 positions:

- 22 a. one Director of Enforcement, and
- 23 b. one Board Investigator;

24

1           54. One Information Systems Data Management Analyst of the  
2 Oklahoma State and Education Employees Group Insurance Board; and

3           55. Two Management Information Systems positions of the Office  
4 of Juvenile Affairs.

5           B. If an agency has the authority to employ personnel in the  
6 following offices and positions, the appointing authority shall have  
7 the discretion to appoint personnel to the unclassified service:

8           1. Licensed medical doctors, osteopathic physicians, dentists,  
9 psychologists, and nurses;

10          2. Certified public accountants;

11          3. Licensed attorneys;

12          4. Licensed veterinarians; and

13          5. Licensed pharmacists.

14           C. Effective July 1, 1996, authorization for unclassified  
15 offices, positions, or personnel contained in a bill or joint  
16 resolution shall terminate June 30 of the ensuing fiscal year after  
17 the authorization unless the authorization is codified in the  
18 Oklahoma Statutes or the termination is otherwise provided in the  
19 legislation.

20           D. The appointing authority of agencies participating in the  
21 statewide information systems project may establish unclassified  
22 positions and appoint unclassified employees to the project as  
23 needed. Additional unclassified positions may be established, if  
24 required, to appoint an unclassified employee to perform the duties

1 of a permanent classified employee who is temporarily absent from a  
2 classified position as a result of assignment to this project. All  
3 unclassified appointments under this authority shall expire no later  
4 than December 31, 2007, and all unclassified positions established  
5 to support the project shall be abolished. Both the positions and  
6 appointments resulting from this authority shall be exempt from any  
7 agency FTE limitations and any limits imposed on the number of  
8 unclassified positions authorized. Permanent classified employees  
9 may request a leave of absence from classified status and accept an  
10 unclassified appointment and compensation with the same agency under  
11 the provisions of this subsection; provided, the leave shall expire  
12 no later than December 31, 2007. Employees accepting the  
13 appointment and compensation shall be entitled to participate  
14 without interruption in any benefit programs available to classified  
15 employees, including retirement and insurance programs. Immediately  
16 upon termination of an unclassified appointment pursuant to this  
17 subsection, an employee on assignment from the classified service  
18 shall have a right to be restored to the classified service and  
19 reinstated to the former job family level and compensation plus any  
20 adjustments and increases in salary or benefits which the employee  
21 would have received but for the leave of absence.

22 SECTION 135. REPEALER 37 O.S. 2001, Sections 506.1, as  
23 amended by Section 4, Chapter 204, O.S.L. 2003, 507.1, 507.2, 508,

24

1 509, 510, 512, 513a and 570 (37 O.S. Supp. 2007, Section 506.1), are  
2 hereby repealed.

3 SECTION 136. Section 2 of this act shall become effective  
4 January 1, 2009, if the constitutional amendment contained in House  
5 Joint Resolution No. 1081 of the 2nd Session of the 51st Oklahoma  
6 Legislature is approved by a vote of the people.

7 SECTION 137. Sections 1 and 3 through 135 of this act shall  
8 become effective July 1, 2009, if the constitutional amendment  
9 contained in House Joint Resolution No. 1081 of the 2nd Session of  
10 the 51st Oklahoma Legislature is approved by a vote of the people.

11 Passed the House of Representatives the 13th day of March, 2008.

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\_\_\_\_\_  
Presiding Officer of the House of  
Representatives

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16 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2008.

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Presiding Officer of the Senate

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