CS for ESB 539

THE HOUSE OF REPRESENTATIVES
Tuesday, April 10, 2007

Committee Substitute for
ENGROSSED
Senate Bill No. 539

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 539 - By: BASS of the Senate and LIEBMANN of the House.

An Act relating to intoxicating liquors; amending 37 O.S. 2001, Sections 527 and 534, which relate to grounds for refusal to issue certain licenses and package store license; modifying reason for refusing to issue or renew certain licenses; modifying provisions relating to establishing ownership of certain interest in a package store; and providing an effective date.

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

SECTION 1. AMENDATORY 37 O.S. 2001, Section 527, is amended to read as follows:

Section 527. The Alcoholic Beverage Laws Enforcement Commission shall refuse to issue a wholesaler, Class B wholesaler or package store license either on an original application or a renewal application, if it has reasonable grounds to believe and finds any of the following to be true:

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

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

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

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

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

6. That the applicant is not of good moral character, or that the applicant is in the habit of using alcoholic beverages to excess, or is mentally incapacitated. Provided, that the record in any municipal court showing a conviction of violation of any municipal ordinances or state statutes involving moral character or public nuisance obtained after

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passage and approval of the Oklahoma Alcoholic Beverage Control Act shall be received in evidence by the ABLE Commission;

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

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

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

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

11. That the applicant is a person who appoints or is a law enforcement official or is an employee of the ABLE Commission or of the Director;

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

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

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

15. That, in the case of an application for a wholesaler or Class B wholesaler license, the applicant or any partner, or spouse of the applicant or any partner, is the

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holder or partner of the holder of any other class of license issued under the provisions of the Oklahoma Alcoholic Beverage Control Act, other than an agent or employee license for employment by the applicant, or a storage license, bonded warehouse license, carrier license or private carrier license; or

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

SECTION 2. AMENDATORY 37 O.S. 2001, Section 534, is amended to read as follows:

Section 534. A. No package store license shall be issued for premises unless said premises are separated from premises on which any other goods, wares or merchandise are sold or services are rendered by nontransparent walls which may be broken by a passageway to which the public is not admitted. Provided, it shall be unlawful for any person or persons to take any alcoholic beverage from such store through said passageway for the purpose of selling, reselling, or delivering in connection with the sale of said alcoholic beverage. Such licenses shall apply only to the premises described in the application. No person may own any interest in more than one package store. For the

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purpose only of establishing whether or not a person owns an interest in more than one package store ~~license~~, ~~the spouse of~~ any person ~~or partner and any person~~ having a beneficial interest in any package store shall be deemed to be a partner in said package store except that the spouse of any package store license holder or partner shall not be deemed to be a partner or have a beneficial interest in a package store unless his or her name appears on the license. A beneficial interest shall be any interest that benefits from any sales or profits of said package store.

B. Package stores licensed under the Oklahoma Alcoholic Beverage Control Act may sell only alcoholic beverages in retail containers as defined in Section 506 of this title, in the original package for consumption off the premises. Provided, all alcoholic beverages are to be sold at ordinary room temperature. All retail sales shall be made on the licensed premises and all deliveries off the premises, at retail, of intoxicating liquor or beer are hereby prohibited.

SECTION 3. This act shall become effective November 1, 2007.

COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY AND PUBLIC SAFETY, dated 04-09-07 - DO PASS, As Amended.

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