

THE HOUSE OF REPRESENTATIVES
Wednesday, March 5, 2008

Committee Substitute for
ENGROSSED
Senate Bill No. 995

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 995 - By: COATES
of the Senate and MORGAN of the House.

(Intoxicating liquors - various licenses – codification -
conditional effective date)

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

1 SECTION 1. AMENDATORY 37 O.S. 2001, Section 521, as last amended by
2 Section 1, Chapter 73, O.S.L. 2006 (37 O.S. Supp. 2006, Section 521), is amended to read
3 as follows:

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

8 B. A distiller license shall authorize the holder thereof: To manufacture, bottle,
9 package, and store spirits on licensed premises; to sell spirits in this state to licensed
10 wholesalers and manufacturers only; to sell spirits out of this state to qualified persons;
11 to purchase from licensed distillers and rectifiers in this state, and import spirits from

1 without this state for manufacturing purposes in accordance with federal laws and
2 regulations.

3 C. A winemaker license shall authorize the holder thereof: To manufacture
4 (including such mixing, blending and cellar treatment as authorized by federal law),
5 bottle, package, and store on licensed premises wine containing not more than twenty-
6 four percent (24%) alcohol by volume; provided, the bottle or package sizes authorized
7 shall be limited to the capacities approved by the United States Bureau of Alcohol,
8 Tobacco and Firearms; to sell wine in this state to licensed wholesalers and
9 manufacturers; provided, ~~an Oklahoma winemaker~~ unless distribution volume limits are
10 ruled to be unconstitutional by an appellate court of this state, a federal district court, a
11 federal circuit court of appeals or the United States Supreme Court, winemakers within
12 and without this state may sell and ship up to ten thousand (10,000) gallons annually of
13 wine produced at a the winery in this state directly to retail package stores and
14 restaurants in this state; provided further, if a winery sells directly to a retail package
15 storage or restaurant, the winery shall transport the wine from the winery to the
16 premises where the wine is to be delivered in vehicles owned or leased by the winery and
17 obtain all necessary permits as required by the Oklahoma Alcoholic Beverage Control Act
18 and shall not use any common or private carrier to transport such wine; to sell bottles of
19 wine produced at the winery from grapes and other fruits and berries grown in this state,
20 if available, to consumers on the premises of the winery; to serve visitors on the licensed
21 premises samples of wine produced on the premises; to serve samples of wine produced at
22 the winery at festivals and trade shows; to sell wine produced at the winery, in original

1 sealed containers, at festivals and trade shows; to sell wine out of this state to qualified
2 persons; to purchase from licensed winemakers, distillers and rectifiers in this state, and
3 to import into this state wine, brandy and fruit spirits for use in manufacturing in
4 accordance with federal laws and regulations.

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

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

1 their place of business as are required by Acts of Congress and by such laws and
2 regulations promulgated under such Acts.

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

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

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

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~~Strike thru~~ language denotes deletion from present Statutes.

1 event licenses. All alcoholic beverages that are sold by a package store are to be sold at
2 ordinary room temperature.

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

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

18 I. A bottle club license shall authorize the holder thereof: To store, possess and mix
19 alcoholic beverages belonging to members of the club and to serve such alcoholic
20 beverages for on-premises consumption to club members. A bottle club license shall only
21 be issued in counties of this state where the sale of alcoholic beverages by the individual

1 drink for on-premises consumption has not been authorized. A separate license shall be
2 required for each place of business.

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

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

20 2. A quarterly special event license shall authorize the holder thereof: To sell and
21 distribute mixed beverages for consumption on the premises for which the license has
22 been issued for up to three events to be held over a period not to exceed three (3) months.

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

7 L. A hotel beverage license shall authorize the holder thereof: To sell or serve
8 alcoholic beverages in 50 milliliter spirits, 187 milliliter wine, and 12-ounce malt
9 beverage containers which are distributed from a hotel room mini-bar. A hotel beverage
10 license shall only be issued in counties of this state where the sale of alcoholic beverages
11 by the individual drink for on-premises consumption has been authorized. A hotel
12 beverage license shall only be issued to a hotel or motel as defined by Section 506 of this
13 title which is also the holder of a mixed beverage license. Provided, that application may
14 be made simultaneously for both such licenses. A separate license shall be required for
15 each place of business.

16 M. An airline/railroad beverage license shall authorize the holder thereof: To sell
17 or serve alcoholic beverages in or from any size container on a commercial passenger
18 airplane or railroad operated in compliance with a valid license, permit or certificate
19 issued under the authority of the United States or this state, even though the airplane or
20 train, in the course of its travel, may cross an area in which the sale of alcoholic
21 beverages by the individual drink is not authorized and to store alcoholic beverages in
22 sealed containers of any size at any airport or station regularly served by the licensee, in

1 accordance with rules promulgated by the Alcoholic Beverage Laws Enforcement
2 Commission. Alcoholic beverages purchased by the holder of an airline/railroad license
3 from the holder of a wholesaler license shall be presumed to be purchased for
4 consumption outside the State of Oklahoma or in interstate commerce, and shall be
5 exempt from the excise tax provided for in Section 553 of this title.

6 N. An agent license shall authorize the holder thereof: To represent only the
7 holders of licenses within this state, other than retailers, authorized to sell alcoholic
8 beverages to retail dealers in Oklahoma, and to solicit and to take orders for the
9 purchase of alcoholic beverages from retailers including licensees authorized to sell
10 alcoholic beverages by the individual drink for on-premises consumption. Such license
11 shall be issued only to agents and employees of the holder of a license under the
12 Oklahoma Alcoholic Beverage Control Act, Section 502 et seq. of this title, but no such
13 license shall be required of an employee making sales of alcoholic beverages on licensed
14 premises of the employee's principal. No person holding an agent license shall be
15 entitled to a manufacturers agent license.

16 O. An employee license shall authorize the holder thereof: To work in a package
17 store, mixed beverage establishment, bottle club, or any establishment where alcohol or
18 alcoholic beverages are sold, mixed, or served. Persons employed by a mixed beverage
19 licensee or a bottle club who do not participate in the service, mixing, or sale of mixed
20 beverages shall not be required to have an employee license. Provided, however, that a
21 manager employed by a mixed beverage licensee or a bottle club shall be required to have
22 an employee license whether or not the manager participates in the service, mixing or

1 sale of mixed beverages. Applicants for an employee license must have a health card
2 issued by the county in which they are employed, if the county issues such a card.
3 Employees of special event, caterer or airline/railroad beverage licensees shall not be
4 required to obtain an employee license. Persons employed by a hotel licensee who
5 participate in the stocking of hotel room mini-bars or in the handling of alcoholic
6 beverages to be placed in such devices shall be required to have an employee license.

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

- 9 1. Manufacture of patent, proprietary, medicinal, pharmaceutical, antiseptic, and
10 toilet preparations;
- 11 2. Manufacture of extracts, syrups, condiments, and food products; and
- 12 3. For use in scientific, chemical, mechanical, industrial, and medicinal products
13 and purposes.

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

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

20 No provisions of the Oklahoma Alcoholic Beverage Control Act shall apply to alcohol
21 withdrawn by any person free of federal tax under a tax-free permit issued by the United

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

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

20 No carrier license or private carrier license shall be required of the holder of a
21 package store, mixed beverage, caterer, special event, hotel beverage or airline/railroad
22 license to pick up alcoholic beverage orders from the licensees' wholesaler or Class B

1 wholesaler from whom they are purchased, and to transport such alcoholic beverages
2 from the place of purchase or acquisition to the licensed premise of such licensees in
3 vehicles owned or under the control of such licensee or a licensed employee of such
4 licensee under such terms, conditions, limitations and restrictions as the ABLE
5 Commission may prescribe.

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

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

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

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

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

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

20 U. A sacramental wine supplier license shall authorize the holder thereof: To sell,
21 ship or deliver sacramental wine to any religious corporation or society of this state
22 holding a valid exemption from taxation issued pursuant to Section 501(a) of the Internal

1 Revenue Code, 1986, and listed as an exempt organization in Section 501(c)(3) of the
2 Internal Revenue Code, 1986, of the United States, as amended.

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

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

19 W. A charitable auction or charitable wine event license may be issued to a
20 charitable organization exempt from taxation under Section 501(c)(3), (4), (5), (7), (8), (9),
21 (10), or (19) of the United States Internal Revenue Code. The charitable wine event
22 license shall authorize the holder thereof to conduct a wine event which may consist of

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1 one or more of a wine tasting event, a wine dinner event or a wine auction, which may be
2 either a live auction conducted by an auctioneer or a silent auction for which:

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

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

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

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

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

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

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

20 SECTION 3. This act shall become effective upon certification of election returns
21 favoring passage of the Constitutional Amendment

1 proposed in Senate Joint Resolution No. 29 of the 2nd Session of the 51st Oklahoma
2 Legislature.
3 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 03-04-08 - DO PASS, As
4 Amended.