

THE HOUSE OF REPRESENTATIVES
Monday, February 11, 2008

House Bill No. 2563

HOUSE BILL NO. 2563 - By: MARTIN (STEVE) of the House and CORN of the Senate.

An Act relating to intoxicating liquors; amending 37 O.S. 2001, Section 521, as last amended by Section 1, Chapter 73, O.S.L. 2006 (37 O.S. Supp. 2007, Section 521), which relates to the Oklahoma Alcoholic Beverage Control Act; authorizing issuance of certain event license; modifying authorized acts to include holder of certain event license; providing an effective date; and declaring an emergency.

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. 2007, 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 may sell and ship wine produced at a
10 winery in this state directly to retail package stores and restaurants in this state; to sell
11 bottles of wine produced at the winery from grapes and other fruits and berries grown in
12 this state, if available, to consumers on the premises of the winery; to serve visitors on
13 the licensed premises samples of wine produced on the premises; to serve samples of
14 wine produced at the winery at festivals and trade shows; to sell wine produced at the
15 winery, in original sealed containers, at festivals and trade shows; to sell wine out of this
16 state to qualified persons; to purchase from licensed winemakers, distillers and rectifiers
17 in this state, and to import into this state wine, brandy and fruit spirits for use in
18 manufacturing in accordance with federal laws and regulations.

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

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

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

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

19 F. A Class B wholesaler license shall authorize the holder thereof: To purchase and
20 import into this state beer from persons authorized to sell same who are the holders of
21 nonresident seller licenses, and their agents who are the holders of manufacturers agent
22 licenses; to purchase beer from licensed brewers and Class B wholesalers in this state; to

1 sell in retail containers to retailers, mixed beverage, caterer, special event, hotel
2 beverage and airline/railroad beverage licensees in this state, beer which has been
3 unloaded and stored at the holder's self-owned or leased and self-operated warehouse
4 facilities for a period of at least twenty-four (24) hours before such sale; and to sell beer
5 in this state to Class B wholesalers and out of this state to qualified persons, including
6 federal instrumentalities and voluntary associations of military personnel on federal
7 enclaves in this state over which this state has ceded jurisdiction.

8 G. A package store license shall authorize the holder thereof: To purchase alcohol,
9 spirits, beer and wine in retail containers from the holder of a brewer, wholesaler or
10 Class B wholesaler license and to purchase wine produced at a winery in this state from
11 an Oklahoma winemaker and to sell same on the licensed premises in such containers to
12 consumers for off-premises consumption only and not for resale; provided, wine may be
13 sold to charitable organizations that are holders of charitable auction or charitable wine
14 event licenses. All alcoholic beverages that are sold by a package store are to be sold at
15 ordinary room temperature.

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

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

9 I. A bottle club license shall authorize the holder thereof: To store, possess and mix
10 alcoholic beverages belonging to members of the club and to serve such alcoholic
11 beverages for on-premises consumption to club members. A bottle club license shall only
12 be issued in counties of this state where the sale of alcoholic beverages by the individual
13 drink for on-premises consumption has not been authorized. A separate license shall be
14 required for each place of business.

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

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

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

20 L. A hotel beverage license shall authorize the holder thereof: To sell or serve
21 alcoholic beverages in 50 milliliter spirits, 187 milliliter wine, and 12-ounce malt
22 beverage containers which are distributed from a hotel room mini-bar. A hotel beverage

1 license shall only be issued in counties of this state where the sale of alcoholic beverages
2 by the individual drink for on-premises consumption has been authorized. A hotel
3 beverage license shall only be issued to a hotel or motel as defined by Section 506 of this
4 title which is also the holder of a mixed beverage license. Provided, that application may
5 be made simultaneously for both such licenses. A separate license shall be required for
6 each place of business.

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

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

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

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

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

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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

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

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

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

16 Q. A carrier license may be issued to any common carrier operating under a
17 certificate of convenience and necessity issued by any duly authorized federal or state
18 regulatory agency. Such license shall authorize the holder thereof to transport alcoholic
19 beverages into, within, and out of this state under such terms, conditions, limitations,
20 and restrictions as the ABLE Commission may prescribe by order issuing such license
21 and by regulations.

1 R. A private carrier license may be issued to any carrier other than a common
2 carrier described in subsection P of this section. Such license shall authorize the holder
3 thereof to transport alcoholic beverages into, within, or out of this state under such
4 terms, conditions, limitations, and restrictions as the ABLE Commission may prescribe
5 by order issuing such license and by regulations. No carrier license or private carrier
6 license shall be required of licensed brewers, distillers, winemakers, rectifiers,
7 wholesalers, or Class B wholesalers, to transport alcoholic beverages from the place of
8 purchase or acquisition to the licensed premises of such licensees and from such licensed
9 premises to the licensed premises of the purchaser in vehicles owned or leased by such
10 licensee when such transportation is for a lawful purpose and not for hire.

11 No carrier license or private carrier license shall be required of the holder of a
12 package store, mixed beverage, caterer, special event, hotel beverage or airline/railroad
13 license to pick up alcoholic beverage orders from the licensees' wholesaler or Class B
14 wholesaler from whom they are purchased, and to transport such alcoholic beverages
15 from the place of purchase or acquisition to the licensed premise of such licensees in
16 vehicles owned or under the control of such licensee or a licensed employee of such
17 licensee under such terms, conditions, limitations and restrictions as the ABLE
18 Commission may prescribe.

19 S. A bonded warehouse license shall authorize the holder thereof: To receive and
20 store alcoholic beverages for the holders of storage licenses on the licensed premises of
21 the bonded warehouse licensee. No goods, wares or merchandise other than alcoholic
22 beverages may be stored in the same bonded warehouse with alcoholic beverages. The

1 holder of a bonded warehouse license shall furnish and file with the ABLE Commission a
2 bond running to all bailers of alcoholic beverages under proper storage licenses and their
3 assignees (including mortgagees or other bona fide lienholders) conditioned upon faithful
4 performance of the terms and conditions of such bailments.

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

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

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

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

21 4. Notwithstanding the provisions of subsection H of this section or any other
22 provision of this title, a licensee who wholly owns more than one licensed mixed beverage

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1 establishment may store alcoholic beverages for each of the licensed establishments in
2 one location under one storage license. Alcoholic beverages purchased and stored
3 pursuant to the provisions of a storage license, for one licensed mixed beverage
4 establishment may be transferred by a licensee to another licensed mixed beverage
5 establishment which is wholly owned by the same licensee. Notice of such a transfer
6 shall be given in writing to the Oklahoma Tax Commission and the ABLE Commission
7 within three (3) business days of the transfer. The notice shall clearly show the quantity,
8 brand and size of every transferred bottle or case.

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

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

21 Sales and service of beer and wine by holders of beer and wine licenses shall be
22 limited to the licensed premises of the licensee unless the holder of the beer and wine

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

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

- 15 1. Bid sheets are accepted from interested bidders at the event;
- 16 2. The holders of tickets are allowed to bid online for a period not exceeding thirty
17 (30) days prior to the event; or
- 18 3. Both bid sheets are accepted at the event and online bids are accepted pursuant
19 to paragraph 2 of this subsection.

20 A charitable wine event or charitable beer event shall be conducted solely to raise
21 funds for charitable purposes. Wine or beer used in, or served, or consumed at a
22 charitable wine or beer event may be purchased by the charitable organization or

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

16 X. A mixed beverage/caterer combination license shall authorize the holder thereof:
17 To purchase or sell mixed beverages as specifically provided by law for the holder of a
18 mixed beverage license or a caterer license. All provisions of the Oklahoma Alcoholic
19 Beverage Control Act applicable to mixed beverage licenses or caterer licenses, or the
20 holders thereof, shall also be applicable to mixed beverage/caterer combination licenses
21 or the holders thereof, except where specifically otherwise provided. A mixed
22 beverage/caterer combination license shall only be issued in counties of this state where

1 the sale of alcoholic beverages by the individual drink for on-premises consumption has
2 been authorized. A separate license shall be required for each place of business.

3 SECTION 2. This act shall become effective July 1, 2008.

4 SECTION 3. It being immediately necessary for the preservation of the public
5 peace, health and safety, an emergency is hereby declared to exist, by reason whereof
6 this act shall take effect and be in full force from and after its passage and approval.

7 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT AND
8 TRANSPORTATION, dated 02-07-08 - DO PASS, As Coauthored.