

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 HOUSE BILL 1439

By: Lamons

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5
6 AS INTRODUCED

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

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

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

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

24 B. A distiller license shall authorize the holder thereof: To
manufacture, bottle, package, and store spirits on licensed

1 premises; to sell spirits in this state to licensed wholesalers and
2 manufacturers only; to sell spirits out of this state to qualified
3 persons; to purchase from licensed distillers and rectifiers in this
4 state, and import spirits from without this state for manufacturing
5 purposes in accordance with federal laws and regulations.

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

1 brandy and fruit spirits for use in manufacturing in accordance with
2 federal laws and regulations.

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

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

1 shall be authorized to place such signs outside their place of
2 business as are required by Acts of Congress and by such laws and
3 regulations promulgated under such Acts.

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

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

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

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

20 Sales and service of mixed beverages by holders of mixed
21 beverage licenses shall be limited to the licensed premises of the
22 licensee unless the holder of the mixed beverage license also
23 obtains a caterer license or a mixed beverage/caterer combination
24 license. A mixed beverage license shall only be issued in counties

1 of this state where the sale of alcoholic beverages by the
2 individual drink for on-premises consumption has been authorized. A
3 separate license shall be required for each place of business. No
4 mixed beverage license shall be issued for any place of business
5 functioning as a motion picture theater, as defined by Section 506
6 of this title.

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

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

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

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

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

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

1 wholesaler license shall be presumed to be purchased for consumption
2 outside the State of Oklahoma or in interstate commerce, and shall
3 be exempt from the excise tax provided for in Section 553 of this
4 title.

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

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

1 beverage licensee or a bottle club shall be required to have an
2 employee license whether or not the manager participates in the
3 service, mixing or sale of mixed beverages. Applicants for an
4 employee license must have a health card issued by the county in
5 which they are employed, if the county issues such a card.

6 Employees of special event, caterer or airline/railroad beverage
7 licensees shall not be required to obtain an employee license.

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

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

14 1. Manufacture of patent, proprietary, medicinal,
15 pharmaceutical, antiseptic, and toilet preparations;

16 2. Manufacture of extracts, syrups, condiments, and food
17 products; and

18 3. For use in scientific, chemical, mechanical, industrial, and
19 medicinal products and purposes.

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

23 Any person receiving alcohol under authority of an industrial
24 license who shall use, permit, or cause same to be used for purposes

1 other than authorized purposes specified above, and all such
2 alcohol, shall be liable to all provisions of the Oklahoma Alcoholic
3 Beverage Control Act, including payment of tax thereon.

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

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

16 R. A private carrier license may be issued to any carrier other
17 than a common carrier described in subsection P of this section.
18 Such license shall authorize the holder thereof to transport
19 alcoholic beverages into, within, or out of this state under such
20 terms, conditions, limitations, and restrictions as the ABLE
21 Commission may prescribe by order issuing such license and by
22 regulations. No carrier license or private carrier license shall be
23 required of licensed brewers, distillers, winemakers, rectifiers,
24 wholesalers, or Class B wholesalers, to transport alcoholic

1 beverages from the place of purchase or acquisition to the licensed
2 premises of such licensees and from such licensed premises to the
3 licensed premises of the purchaser in vehicles owned or leased by
4 such licensee when such transportation is for a lawful purpose and
5 not for hire.

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

16 S. A bonded warehouse license shall authorize the holder
17 thereof: To receive and store alcoholic beverages for the holders
18 of storage licenses on the licensed premises of the bonded warehouse
19 licensee. No goods, wares or merchandise other than alcoholic
20 beverages may be stored in the same bonded warehouse with alcoholic
21 beverages. The holder of a bonded warehouse license shall furnish
22 and file with the ABLE Commission a bond running to all bailers of
23 alcoholic beverages under proper storage licenses and their
24 assignees (including mortgagees or other bona fide lienholders)

1 conditioned upon faithful performance of the terms and conditions of
2 such bailments.

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

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

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

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

23 4. Notwithstanding the provisions of subsection H of this
24 section or any other provision of this title, a licensee who wholly

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

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

19 V. A beer and wine license shall authorize the holder thereof:
20 To purchase beer and wine in retail containers from the holder of a
21 wholesaler or Class B wholesaler license or as specifically provided
22 by law and to sell, offer for sale and possess beer and wine for on-
23 premises consumption only; provided, the holder of a beer and wine
24 license issued for an establishment which is also a restaurant may

1 purchase wine produced at wineries in this state directly from an
2 Oklahoma winemaker as provided in Section 3 of Article XXVIII of the
3 Oklahoma Constitution.

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

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

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

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

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

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

1 wines auctioned pursuant to the charitable auction license shall be
2 registered and all fees and taxes shall be paid in accordance with
3 the Oklahoma Alcoholic Beverage Control Act.

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

16 SECTION 2. This act shall become effective July 1, 2007.

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

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22 51-1-5215 GRS 12/14/06

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