STATE OF OKLAHOMA

1st Session of the 51st Legislature (2007)

HOUSE BILL 1530 By: Lindley

AS INTRODUCED

An Act relating to intoxicating liquors; amending 37 O.S. 2001, Section 527, which relates to issuance of licenses; removing certain license restriction; amending 37 O.S. 2001, Section 518, as last amended by Section 4, Chapter 381, O.S.L. 2005 (37 O.S. Supp. 2006, Section 518), which relates to license fees; reducing the fees for certain licenses; creating tax credit for certain purchases by Class B wholesalers; providing for calculation of credit; limiting amount of credit; creating tax credit for certain purchases by low-point wholesalers; providing for calculation of credit; limiting amount of credit; creating tax credits for certain purchases by wholesalers; providing for calculation of credit; limiting amount of credit; providing for codification; 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 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.~~ 14. 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 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, manufacturer, or employee license for employment by the applicant, or a storage license, bonded warehouse license, carrier license or private carrier license; or

~~16.~~ 15. 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 518, as last amended by Section 4, Chapter 381, O.S.L. 2005 (37 O.S. Supp. 2006, Section 518), is amended to read as follows:

Section 518. A. Except as otherwise provided in this section, the licenses issued by the Alcoholic Beverage Laws Enforcement Commission, and the annual fees therefor, shall be as follows:

1. Brewer License..... $1,250.00

2. Oklahoma Brewer License..... $125.00

3. Distiller License

a. For each fiscal year ending after June 30, 2006..... $3,125.00

b. For the fiscal year ending June 30, 2006..... $1,250.00

4. Winemaker License..... $625.00

5. Oklahoma Winemaker License..... $75.00

6. Rectifier License

a. For each fiscal year ending after June 30, 2006..... $3,125.00

b. For the fiscal year ending June 30, 2006..... $1,250.00

7. Wholesaler License.....~~$3,500.00~~ $125.00

8. Class B Wholesaler License.....~~$625.00~~ $125.00

9. The following package store license fees shall be determined by the latest Federal Decennial Census:

a. Package Store License for cities and towns from 200 to 2,500 population..... $305.00

b. Package Store License for cities and towns from 2,501 to 5,000 population..... $605.00

c. Package Store License for cities and towns over 5,000 population..... $905.00

10. Mixed Beverage License..... $1,005.00 (initial license)

$905.00 (renewal)

11. Mixed Beverage/Caterer Combination License..... $1,250.00

12. Beer and Wine License..... $500.00 (initial license)

$450.00

(renewal)

13. Bottle Club License..... $1,000.00

(initial license)

$900.00

(renewal)

14. Caterer License..... $1,005.00

(initial license)

$905.00

(renewal)

15. Annual Special Event License..... $55.00

16. Quarterly Special Event License..... $55.00

17. Hotel Beverage License..... $1,005.00

(initial license)

$905.00

(renewal)

18. Airline/Railroad Beverage License..... $1,005.00

(initial license)

$905.00

(renewal)

19. Agent License..... $55.00

20. Employee License..... $30.00

21. Industrial License..... $23.00

22. Carrier License..... $23.00

23. Private Carrier License..... $23.00

24. Bonded Warehouse License..... $190.00

25. Storage License..... $23.00

26. Nonresident Seller License..... $750.00

27. Manufacturers Agent License..... $55.00

28. Sacramental Wine Supplier License..... $100.00

29. Charitable Auction License..... $1.00

There shall be added to the initial or renewal fees for a Mixed Beverage License an administrative fee, which shall not be deemed to be a license fee, in the amount of Five Hundred Dollars ($500.00), which shall be paid at the same time and in the same manner as the license fees prescribed by paragraph 10 of this subsection; provided, this fee shall not be assessed against service organizations or fraternal beneficiary societies which are exempt under Section 501(c)(19), (8) or (10) of the Internal Revenue Code. There shall be added to the fee for a Mixed Beverage/Caterer Combination License an administrative fee, which shall not be deemed to be a license fee, in the amount of Two Hundred Fifty Dollars ($250.00), which shall be paid at the same time and in the same manner as the license fee prescribed by paragraph 11 of this subsection.

B. Notwithstanding the provisions of subsection A of this section:

1. The license fee for a mixed beverage or bottle club license for those service organizations or fraternal beneficiary societies which are exempt under Section 501(c)(19), (8) or (10) of the Internal Revenue Code shall be Five Hundred Dollars ($500.00) per year;

2. The fees provided for in subsection A of this section for a brewer license and for a Class B wholesaler license shall be reduced by seventy-five percent (75%) if the applicant therefor is also the holder of a license to manufacture or wholesale any low-point beer as provided for in this title; and

3. The renewal fee for an airline/railroad beverage license held by a railroad described in 49 U.S.C., Section 24301, shall be One Hundred Dollars ($100.00).

C. An applicant may apply for and receive both a beer and wine license and a caterer license.

D. All licenses, except as otherwise provided, shall be valid for one (1) year from date of issuance unless revoked or surrendered. Provided, all employee licenses issued on or after September 1, 1993, shall be valid for two (2) years.

E. The holder of a license, issued by the ABLE Commission, for a bottle club located in a county of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized, may exchange the bottle club license for a mixed beverage license or a beer and wine license and

operate the licensed premises as a mixed beverage establishment or a beer and wine establishment subject to the provisions of the Oklahoma Alcoholic Beverage Control Act. There shall be no additional fee for such exchange and the mixed beverage license or beer and wine license issued shall expire one (1) year from the date of issuance of the original bottle club license.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.105 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. For taxable years beginning after December 31, 2007, there shall be allowed a credit against the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes for any Class B wholesaler, as defined by Section 506 of Title 37 of the Oklahoma Statutes, who purchases multiple barrels of beer from an Oklahoma brewer, as defined by Section 506 of Title 37 of the Oklahoma Statutes. The credit shall be calculated as follows:

1. The number of barrels shall be multiplied by three (3); and

2. That number shall be multiplied by the excise tax rate provided in Section 553 of Title 37 of the Oklahoma Statutes.

B. The credit shall not be claimed for more than ten thousand (10,000) barrels, per brewer, in any calendar year.

C. In no event shall the amount of the credit exceed the amount of excise tax liability of the Class B wholesaler for the taxable year.

D. The credit authorized by this section shall not be used to reduce the income tax liability of the taxpayer to less than zero (0).

E. Any credits allowed but not used in any tax year may not be carried over to any future tax year.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.106 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. For taxable years beginning after December 31, 2007, there shall be allowed a credit against the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes for any low-point beer wholesaler, as defined by Section 163.2 of Title 37 of the Oklahoma Statutes, who purchases multiple barrels of low-point beer from an Oklahoma low point manufacturer. The credit shall be calculated as follows:

1. The number of barrels shall be multiplied by three (3); and

2. That number shall be multiplied by the excise tax rate provided in Section 163.3 of Title 37 of the Oklahoma Statutes.

B. The credit shall not be claimed for more than ten thousand (10,000) barrels, per low-point manufacturer, in any calendar year.

C. In no event shall the amount of the credit exceed the amount of excise tax liability of the low-point beer wholesaler for the taxable year.

D. The credit authorized by this section shall not be used to reduce the income tax liability of the taxpayer to less than zero (0).

E. Any credits allowed but not used in any tax year may not be carried over to any future tax year.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.107 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. For taxable years beginning after December 31, 2007, there shall be allowed a credit against the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes for any wholesaler, as defined by Section 506 of Title 37 of the Oklahoma Statutes, who purchases wine from an Oklahoma winemaker, as defined by Section 506 of Title 37 of the Oklahoma Statutes. The credit shall be calculated as follows:

1. The number of liters of wine shall be multiplied by three (3); and

2. That number shall be multiplied by the excise tax rate provided in Section 553 of Title 37 of the Oklahoma Statutes.

B. The credit shall not be claimed for more than sixty-five thousand (65,000) liters of wine, per winery, in any calendar year.

C. In no event shall the amount of the credit exceed the amount of excise tax liability of the wholesaler for the taxable year.

D. The credit authorized by this section shall not be used to reduce the income tax liability of the taxpayer to less than zero (0).

E. Any credits allowed but not used in any tax year may not be carried over to any future tax year.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.108 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. For taxable years beginning after December 31, 2007, there shall be allowed a credit against the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes for any wholesaler, as defined by Section 506 of Title 37 of the Oklahoma Statutes, who purchases spirits from an Oklahoma Distiller, as defined by Section 506 of Title 37 of the Oklahoma Statutes. The credit shall be calculated as follows:

1. The number of liters of spirits shall be multiplied by three (3); and

2. That number shall be multiplied by the excise tax rate provided in Section 553 of Title 37 of the Oklahoma Statutes.

B. The credit shall not be claimed for more than eight thousand five hundred (8,500) liters of spirits, per distiller, in any calendar year.

C. In no event shall the amount of the credit exceed the amount of excise tax liability of the wholesaler for the taxable year.

D. The credit authorized by this section shall not be used to reduce the income tax liability of the taxpayer to less than zero (0).

E. Any credits allowed but not used in any tax year may not be carried over to any future tax year.

SECTION 7. This act shall become effective November 1, 2007.

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