STATE OF OKLAHOMA

1st Session of the 51st Legislature (2007)

HOUSE BILL 2040 By: McAffrey

AS INTRODUCED

An Act relating to intoxicating beverages; amending 37 O.S. 2001, Sections 505, 521, as last amended by Section 1, Chapter 73, O.S.L. 2006, 537, as last amended by Section 1, Chapter 196, O.S.L. 2005 and 554 (37 O.S. Supp. 2006, Sections 521 and 537), which relate to the Oklahoma Alcoholic Beverage Control Act; removing obsolete language; authorizing winemakers to sell wine at retail to consumers and to ship wine, subject to certain restrictions and requirements; requiring annual reports of sales and shipments; providing penalties for knowingly violating sale, shipping, and delivery restrictions and requirements; authorizing winemakers to receive orders in written and electronic form for delivery or shipment of wine to consumers; modifying acts prohibited pursuant to the Oklahoma Alcoholic Beverage Control Act; modifying exceptions to the excise tax levied on alcoholic beverages; amending 68 O.S. 2001, Section 1357, as last amended by Section 5, Chapter 44, 2nd Extraordinary Session, O.S.L. 2006 (68 O.S. Supp. 2006, Section 1357), which relates to sales tax exemptions; adding exemption; repealing 37 O.S. 2001, Section 549, which relates to possession of alcoholic beverages on which the excise tax has not been paid; and providing an effective date.

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

SECTION 1. AMENDATORY 37 O.S. 2001, Section 505, is amended to read as follows:

Section 505. A. No person shall manufacture, rectify, sell, possess, store, import into or export from this state, transport, or deliver any alcoholic beverage except as specifically provided in the Oklahoma Alcoholic Beverage Control Act. Provided, that nothing herein shall prevent the possession and transportation of alcoholic beverages for the personal use of the possessor~~, his~~ or the family and guests of the possessor, so long as the Oklahoma excise tax has been paid thereon, except for beer. Provided, that nothing herein shall prevent the making of cider or of wine, not to exceed two hundred (200) gallons in any one (1) year pursuant to a license first obtained from the Alcoholic Beverage Laws Enforcement Commission, by simple fermentation and without distillation, if made solely for the use of the maker~~, his~~ or the family and guests of the maker.

B. 1. Any duly licensed physician or dentist may possess and use alcoholic beverages in the strict practice of ~~his~~ the profession and any hospital or other institution caring for sick and diseased persons may possess and use alcoholic beverages for the treatment of bona fide patients of such hospital or institution. Any drugstore employing a licensed pharmacist may possess and use alcoholic beverages in the preparation of prescriptions of duly licensed physicians.

2. The possession, transportation and dispensation of wine by any authorized representative of any church for the conducting of a

bona fide rite or religious ceremony conducted by such church shall not be prohibited by the Oklahoma Alcoholic Beverage Control Act; nor shall said act prevent the sale, shipping or delivery of sacramental wine by any person holding a sacramental wine supplier license issued pursuant to the Oklahoma Alcoholic Beverage Control Act to any religious corporation or society of this state holding a valid exemption from taxation issued pursuant to Section 501(a) of the Internal Revenue Code, 1954, and listed as an exempt organization in Section 501(c)(3) of the Internal Revenue Code, 1954, of the United States, as amended.

3. Provided further, that nothing in the Oklahoma Alcoholic Beverage Control Act shall prevent the possession, transportation and sale of alcoholic beverages, including beer as defined by Section 506 of this title and beer containing not more than three and two-tenths percent (3.2%) of alcohol by weight, within military reservations and in accordance with the laws, rules and regulations governing such military reservations, provided that the Oklahoma excise tax has been paid on spirits and wines.

C. 1. Except as otherwise authorized by law, it is unlawful for any manufacturer, wholesaler or retailer of alcoholic beverages, located and doing business from outside this state, to make retail sales of alcoholic beverages to purchasers located in this state or to ship alcoholic beverages sold at retail to persons located in this state. ~~Any person who engages in the sale or shipping of~~

~~alcoholic beverages in violation of the provisions of this subsection on or after the effective date of Section 20.1 of Title 21 of the Oklahoma Statutes, upon conviction, shall be guilty of a Schedule G felony if the sale or delivery is made to a person under twenty-one (21) years of age or misdemeanor if the sale or delivery is made to a person twenty one (21) years of age or older.~~

2. Any winemaker licensed or permitted pursuant to laws regulating alcoholic beverages in any state, to sell wine at retail to ultimate consumers in unopened containers, may ship into this state wine by private common carrier approved by the ABLE Commission, or sell for transport into this state, to a person twenty-one (21) years or older. The wine shall not be resold. The sale of the wine shall be considered to have taken place at the winery. Any shipping container of wine so received in this state shall be clearly labeled to indicate that the container shall not be delivered to any person except the person who placed the order to purchase the wine. Delivery shall require picture identification stating date of birth of the recipient. The wine shall not be delivered to a person visibly intoxicated. All out-of-state winemakers originating shipments under this provision shall annually submit a report to the ABLE Commission, in a form approved by the Commission, of all sales and shipments in and to this state pursuant to this paragraph, accompanied by evidence of permit or licensure for the period of shipping reported.

3. Any person who engages in the sale ~~or~~, shipping, or delivery of alcoholic beverages in violation of the provisions of this subsection ~~before the effective date of Section 20.1 of Title 21 of the Oklahoma Statutes~~ who knowingly makes, participates in, transports, imports or receives out-of-state shipments in violation of this subsection shall be guilty of a felony punishable by imprisonment for not more than five (5) years, if the sale, shipment, or delivery is made to a person under twenty-one (21) years of age, or a misdemeanor, if the sale or delivery is made to a person twenty-one (21) years of age or older. Any person who fails to submit the report required by paragraph 2 of this subsection shall be guilty or a misdemeanor.

~~2.~~ 4. The fine for a violation of this subsection shall be not more than Five Thousand Dollars ($5,000.00).

~~3.~~ 5. In addition, if such person holds a license issued by the Oklahoma Alcoholic Beverage Laws Enforcement Commission, the license shall be revoked pursuant to Section 528 of this title.

6. Any person under twenty-one (21) years of age who misrepresents that person's age for the purpose of inducing sale, shipment, or delivery of wine to that person shall be guilty of a misdemeanor and fined not more than Fifty Dollars ($50.00). In addition the privilege to operate a motor vehicle may be denied or cancelled pursuant to subsection E of Section 538 of this title.

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

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

B. A distiller license shall authorize the holder thereof: To manufacture, bottle, package, and store spirits on licensed premises; to sell spirits in this state to licensed wholesalers and manufacturers only; to sell spirits out of this state to qualified persons; to purchase from licensed distillers and rectifiers in this state, and import spirits from without this state for manufacturing purposes in accordance with federal laws and regulations.

C. A winemaker license shall authorize the holder thereof: To manufacture (including such mixing, blending and cellar treatment as authorized by federal law), bottle, package, and store on licensed premises wine containing not more than twenty-four percent (24%) alcohol by volume, provided the bottle or package sizes authorized shall be limited to the capacities approved by the United States Bureau of Alcohol, Tobacco and Firearms <u>or successor agency</u>; to sell wine in this state to licensed wholesalers and manufacturers, provided, an Oklahoma winemaker may sell and ship wine produced at a

winery in this state directly to retail package stores and restaurants in this state; to sell bottles of wine produced at the winery from grapes and other fruits and berries grown in this state, if available, to consumers on the premises of the winery; to receive orders in both written and electronic form for wine produced at the winery for delivery or shipment to consumers; to serve visitors on the licensed premises samples of wine produced on the premises; to serve samples of wine produced at the winery at festivals and trade shows; to sell wine produced at the winery, in original sealed containers, at festivals and trade shows; to sell wine out of this state to qualified persons; to purchase and store wine, brandy and fruit spirits from any licensed ~~winemakers, distillers and rectifiers in this state, and to import into this state wine, brandy and fruit spirits~~ winemaker, distiller, and rectifier, for use in manufacturing in accordance with federal laws and regulations.

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

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

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

F. A Class B wholesaler license shall authorize the holder thereof: To purchase and import into this state beer from persons

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

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

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

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

I. A bottle club license shall authorize the holder thereof: To store, possess and mix alcoholic beverages belonging to members of the club and to serve such alcoholic beverages for on-premises consumption to club members. A bottle club license shall only be

issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has not been authorized. A separate license shall be required for each place of business.

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

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

shall provide written notice to the ABLE Commission of each special event not less than ten (10) days before the event is held.

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

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

licenses. A separate license shall be required for each place of business.

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

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

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

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

be placed in such devices shall be required to have an employee license.

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

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

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

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

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

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

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

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

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

No carrier license or private carrier license shall be required of the holder of a package store, mixed beverage, caterer, special event, hotel beverage or airline/railroad license to pick up

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

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

T. A storage license may be issued to a holder of a brewer, distiller, winemaker, rectifier, wholesaler, Class B wholesaler, nonresident seller, package store, mixed beverage, caterer, or hotel beverage license, and shall authorize the holder thereof: To store alcoholic beverages in a public warehouse holding a bonded warehouse license, and no goods, wares or merchandise other than alcoholic

beverages may be stored in the same warehouse with alcoholic beverages in private warehouses owned or leased and operated by such licensees elsewhere than on their licensed premises. Provided:

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

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

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

4. Notwithstanding the provisions of subsection H of this section or any other provision of this title, a licensee who wholly owns more than one licensed mixed beverage establishment may store alcoholic beverages for each of the licensed establishments in one location under one storage license. Alcoholic beverages purchased and stored pursuant to the provisions of a storage license, for one licensed mixed beverage establishment may be transferred by a licensee to another licensed mixed beverage establishment which is wholly owned by the same licensee. Notice of such a transfer shall be given in writing to the Oklahoma Tax Commission and the ABLE

Commission within three (3) business days of the transfer. The notice shall clearly show the quantity, brand and size of every transferred bottle or case.

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

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

Sales and service of beer and wine by holders of beer and wine licenses shall be limited to the licensed premises of the licensee unless the holder of the beer and wine license also obtains a caterer license. A beer and wine license shall only be issued in counties of this state where the sale of alcoholic beverages by the

individual drink for on-premises consumption has been authorized. A separate license shall be required for each place of business. No beer and wine license shall be issued for any place of business functioning as a motion picture theater, as defined by Section 506 of this title. No spirits shall be stored, possessed or consumed on the licensed premises of a beer and wine licensee.

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

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

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

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

A charitable wine event shall be conducted solely to raise funds for charitable purposes. Wine used in, served, or consumed at a charitable wine event may be purchased by the charitable organization or donated by any person or entity. The charitable

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

X. A mixed beverage/caterer combination license shall authorize the holder thereof: To purchase or sell mixed beverages as specifically provided by law for the holder of a mixed beverage license or a caterer license. All provisions of the Oklahoma Alcoholic Beverage Control Act applicable to mixed beverage licenses or caterer licenses, or the holders thereof, shall also be applicable to mixed beverage/caterer combination licenses or the holders thereof, except where specifically otherwise provided. A

mixed beverage/caterer combination license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. A separate license shall be required for each place of business.

SECTION 3. AMENDATORY 37 O.S. 2001, Section 537, as last amended by Section 1, Chapter 196, O.S.L. 2005 (37 O.S. Supp. 2006, Section 537), is amended to read as follows:

Section 537. A. No person shall:

1. Knowingly sell, deliver, or furnish alcoholic beverages to any person under twenty-one (21) years of age;

2. Sell, deliver or knowingly furnish alcoholic beverages to an intoxicated person or to any person who has been adjudged insane or mentally deficient;

3. Open a retail container or consume alcoholic beverages on the premises of a retail package store;

4. Import into this state, except as provided for in the Oklahoma Alcoholic Beverage Control Act, any alcoholic beverages; provided, that nothing herein shall prohibit the importation or possession for personal use of not more than one (1) liter of alcoholic beverages, except wine, upon which the Oklahoma excise tax is delinquent;

5. Receive, possess, or use any alcoholic beverage in violation of the provisions of the Oklahoma Alcoholic Beverage Control Act;

6. Transport into, within, or through this state more than one (1) liter of alcoholic beverages upon which the Oklahoma excise tax has not been paid unless the person accompanying or in charge of the vehicle transporting same shall possess a true copy of a bill of lading, invoice, manifest or other document particularly identifying the alcoholic beverages being transported and showing the name and address of the consignor and consignee;

7. Knowingly transport in any vehicle upon a public highway, street or alley any alcoholic beverage except in the original container which shall not have been opened and the seal upon which shall not have been broken and from which the original cap or cork shall not have been removed, unless the opened container be in the rear trunk or rear compartment, which shall include the spare tire compartment in a vehicle commonly known as a station wagon and panel truck, or any outside compartment which is not accessible to the driver or any other person in the vehicle while it is in motion;

8. Drink intoxicating liquor in public except on the premises of a licensee of the Alcoholic Beverage Laws Enforcement Commission who is authorized to sell or serve alcoholic beverages by the individual drink or be intoxicated in a public place. This provision shall be cumulative and in addition to existing law;

9. Forcibly resist lawful arrest, or by physical contact interfere with an investigation of any infringement of the Oklahoma Alcoholic Beverage Control Act or with any lawful search or seizure

being made by an inspector or agent of the ABLE Commission, when such person knows or should know that such acts are being performed by a state, county, or municipal officer, inspector or agent of the ABLE Commission;

10. Manufacture, duplicate, counterfeit or in any way imitate any bottle club membership card required to be issued by the ABLE Commission without the permission of the Commission;

11. Consume or possess alcoholic beverages on the licensed premises of a bottle club unless such person possesses a valid membership card for that club issued by the club; or

12. Knowingly possess any bottle club membership card required to be issued by the ABLE Commission, which has been manufactured, counterfeited, imitated or in any way duplicated without the permission of the Commission.

B. No licensee of the ABLE Commission shall:

1. Receive, possess, or sell any alcoholic beverage except as authorized by the Oklahoma Alcoholic Beverage Control Act and by the license or permit which the licensee holds;

2. Employ any person under the age of twenty-one (21) in the selling or handling of alcoholic beverages. Provided, that a mixed beverage, beer and wine, caterer, special event or bottle club licensee may employ servers who are at least eighteen (18) years of age, except persons under twenty-one (21) years of age may not serve in designated bar or lounge areas, and a mixed beverage, beer and

wine, caterer, special event or bottle club licensee may employ or hire musical bands who have musicians who are under twenty-one (21) years of age if each such musician is either accompanied by a parent or legal guardian or has on their person, to be made available for inspection upon demand by any ABLE Commission officer or law enforcement officer, a written, notarized affidavit from the parent or legal guardian giving the underage musician permission to perform in designated bar or lounge areas;

3. Give any alcoholic beverage as a prize, premium or consideration for any lottery, game of chance or skill or any type of competition;

4. Advertise or offer "happy hours" or any other means or inducements to stimulate the consumption of alcoholic beverages including:

a. deliver more than two drinks to one person at one time;

b. sell or offer to sell to any person or group of persons any drinks at a price less than the price regularly charged for such drinks during the same calendar week, except at private functions not open to the public;

c. sell or offer to sell to any person an unlimited number of drinks during any set period of time for a

fixed price, except at private functions not open to the public;

d. sell or offer to sell drinks to any person or group of persons on any one day at prices less than those charged the general public on that day, except at private functions not open to the public;

e. increase the volume of alcoholic beverages contained in a drink without increasing proportionately the price regularly charged for such drink during the same calendar week; or

f. encourage or permit, on the licensed premises, any game or contest which involves drinking or the awarding of drinks as prizes.

Provided that the provisions of this paragraph shall not prohibit the advertising or offering of food or entertainment in licensed establishments;

5. Permit or allow any patron or person to exit the licensed premises with an open container of any alcoholic beverage. Provided, that this prohibition shall not be applicable to closed original containers of alcoholic beverages which are carried from the licensed premises of a bottle club by a patron, closed original wine containers removed from the premises of restaurants, hotels, and motels, or to closed original containers of alcoholic beverages

transported to and from the place of business of a licensed caterer by the caterer or an employee of the caterer; or

6. Serve or sell alcoholic beverages with an expired license issued by the ABLE Commission.

C. No package store licensee shall:

1. Purchase or receive any alcoholic beverage other than from a person holding a brewer, wholesaler or Class B wholesaler license issued pursuant to the Oklahoma Alcoholic Beverage Control Act;

2. Suffer or permit any retail container to be opened, or any alcoholic beverage to be consumed, on the licensed premises;

3. Sell, or keep package store premises open for the purpose of selling, any alcoholic beverages at any hour other than between the hours of 10:00 a.m. and 9:00 p.m. Monday through Saturday; provided, that no such sales shall be made, or package store premises be allowed to remain open for the purpose of making such sales, on the day of any General, Primary, Runoff Primary or Special Election while the polls are open whether on a national, state, county or city election or on New Year's Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving Day or Christmas Day;

4. Operate a retail package store unless such store shall be located in a city or town having a population in excess of two hundred (200) according to the latest Federal Decennial Census;

5. Sell any alcoholic beverage on credit; provided that acceptance by a retail liquor store of a cash or debit card, or a

nationally recognized credit card, in lieu of actual cash payment does not constitute the extension of credit; provided further, as used in this section:

a. "cash or debit card" means any instrument or device whether known as a debit card or by any other name, issued with or without fee by an issuer for the use of the cardholder in depositing, obtaining or transferring funds from a consumer banking electronic facility,

b. "nationally recognized credit card" means any instrument or device, whether known as a credit card, credit plate, charge plate or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services or anything else of value on credit which is accepted by over one hundred merchants;

6. Offer or furnish any prize, premium, gift or similar inducement to a consumer in connection with the sale of alcoholic beverage, except that goods or merchandise included by the manufacturer in packaging with alcoholic beverages or for packaging with alcoholic beverages shall not be included in this prohibition, but no wholesaler or package store shall sell any alcoholic beverage prepackaged with other goods or merchandise at a price which is

greater than the price at which the alcoholic beverage alone is sold;

7. Permit any person under twenty-one (21) years of age to enter into, remain within or loiter about the licensed premises; or

8. Pay for alcoholic beverages by a check or draft which is dishonored by the drawee when presented to such drawee for payment; and the ABLE Commission may cancel or suspend the license of any retailer who has given a check or draft, as maker or endorser, which is so dishonored upon presentation.

D. No wholesaler licensee shall:

1. Sell or deliver any amount of spirits or wines to any package store licensee on Saturday or Sunday; or

2. Sell or deliver any amount of spirits or wines to any package store licensee on New Year's Day, Memorial Day, the Fourth of July, Labor Day, Veterans Day, Thanksgiving Day or Christmas Day.

E. No mixed beverage or beer and wine licensee shall:

1. Purchase or receive any alcoholic beverage other than from a person holding a wholesaler or Class B wholesaler license issued pursuant to the Oklahoma Alcoholic Beverage Control Act; provided, a mixed beverage or beer and wine licensee whose premises are a restaurant may purchase wine produced at wineries in this state directly from an Oklahoma winemaker as provided in Section 3 of Article XXVIII of the Oklahoma Constitution;

2. Transport alcoholic beverages from the place of purchase to the licensed premises unless the licensee also holds a private carrier license issued by the ABLE Commission;

3. Use or allow the use of any mark or label on a container of alcoholic beverage which is kept for sale which does not clearly and precisely indicate the nature of the contents or which might deceive or conceal the nature, composition, quantity, age or quality of such beverage;

4. Keep or knowingly permit any alcoholic beverage to be kept, brought or consumed on the licensed premises which is not allowed to be sold or served upon such premises; or

5. Allow any person under twenty-one (21) years of age to enter into, remain within or loiter about the designated bar area of the licensed premises, except for members of a musical band employed or hired as provided in paragraph 2 of subsection B of this section when the band is to perform within such area.

The prohibition in this subsection against persons under twenty-one (21) years of age entering or remaining within the designated bar area of the licensed premises shall not apply, if the licensed premises are closed to the public during a time the premises are legally permitted to be open for business and the premises are used for a private party at which alcoholic beverages may be served to persons twenty-one (21) years of age of older. Any alcoholic beverages served at a private party on the licensed premises may be

purchased from the licensee at a negotiated price or purchased privately and served at the private party on the licensed premises. Any licensee who desires to conduct such a private party shall notify the ABLE Commission, in writing, at least ten (10) calendar days prior to the private party. The notification shall include the date, time, and purpose of the private party and any other information the ABLE Commission may deem necessary.

F. No bottle club licensee shall:

1. Use or allow the use of any mark or label on a container of alcoholic beverage which does not clearly and precisely indicate the nature of the contents or which might deceive or conceal the nature, composition, quantity, age or quality of any such beverage;

2. Act as an agent for any bottle club member and purchase any alcoholic beverage for the member;

3. Use or allow the use of any pool system of storage or purchase of alcoholic beverages;

4. Allow any person to enter or remain in the designated bar or lounge area of the club unless that person possesses a valid membership card for that club issued by the club;

5. Sell any alcoholic beverage;

6. Deliver or furnish to any club member any alcoholic beverage that does not belong to the member;

7. Serve alcoholic beverages to any person who does not possess a valid membership card for that club issued by the club;

8. Issue a membership card for the club to a person under twenty-one (21) years of age; or

9. Allow any person under twenty-one (21) years of age to enter into, remain within or loiter about the designated bar area of the licensed premises, except for members of a musical band employed or hired as provided in paragraph 2 of subsection B of this section when the band is to perform within such area.

The prohibition in this subsection against persons under twenty-one (21) years of age entering or remaining within the designated bar area of the licensed premises shall not apply, if the licensed premises are closed to the public during a time the premises are legally permitted to be open for business and the premises are used for a private party at which alcoholic beverages may be served to persons twenty-one (21) years of age or older. Any alcoholic beverages served at a private party on the licensed premises may be purchased from the licensee at a negotiated price or purchased privately and served at the private party on the licensed premises. Any licensee who desires to conduct such a private party shall notify the ABLE Commission, in writing, at least ten (10) calendar days prior to the private party. The notification shall include the date, time, and purpose of the private party and any other information the ABLE Commission may deem necessary.

G. No special event or caterer licensee shall:

1. Purchase or receive any alcoholic beverage other than from a person holding a wholesaler or Class B wholesaler license issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act; provided, a special event or caterer licensee may purchase wine produced at wineries in this state directly from an Oklahoma winemaker as provided in Section 3 of Article XXVIII of the Oklahoma Constitution; or

2. Transport alcoholic beverages from the place of purchase to the licensed premises unless the licensee also holds a private carrier license issued by the ABLE Commission.

H. No person operating a cafe, restaurant, club, or any place of recreation shall permit any person to be drunk or intoxicated in the person's place of business.

SECTION 4. AMENDATORY 37 O.S. 2001, Section 554, is amended to read as follows:

Section 554. A. The excise tax levied by Section 553 of this title shall not apply to:

1. Alcohol used exclusively for industrial purposes by the holder of an industrial license;

2. Alcohol lawfully withdrawn and used free of tax under a tax-free permit issued by the United States government;

3. Alcoholic beverages used exclusively by licensed physicians and dentists in the bona fide practice of their professions or by licensed pharmacists in compounding prescriptions;

4. Cider and wine made for personal use, as provided in Section 505 of this title;

5. Wine used exclusively for sacramental purposes in bona fide religious ceremonies; ~~and~~

6. Alcoholic beverages, not exceeding one (1) liter, imported into this state by the possessor for his own personal use;

7. Wine imported into this state by the possessor for the personal use of the possessor; and

8. Internet sales of wine.

B. As a condition precedent to the allowance of any exemption authorized by subsection A of this section:

1. Where a license or permit is required by the Oklahoma Alcoholic Beverage Control Act, for such use, the person claiming any such exemption must have obtained from the Alcoholic Beverage Laws Enforcement Commission the license or permit authorizing such exempt use; and

2. There must be furnished such proof of the exclusive use for such exempt purposes as the Oklahoma Tax Commission may require.

SECTION 5. AMENDATORY 68 O.S. 2001, Section 1357, as last amended by Section 5, Chapter 44, 2nd Extraordinary Session, O.S.L. 2006 (68 O.S. Supp. 2006, Section 1357), is amended to read as follows:

Section 1357. Exemptions - General.

There are hereby specifically exempted from the tax levied by the Oklahoma Sales Tax Code:

1. Transportation of school pupils to and from elementary schools or high schools in motor or other vehicles;

2. Transportation of persons where the fare of each person does not exceed One Dollar ($1.00), or local transportation of persons within the corporate limits of a municipality except by taxicabs;

3. Sales for resale to persons engaged in the business of reselling the articles purchased, whether within or without the state, provided that such sales to residents of this state are made to persons to whom sales tax permits have been issued as provided in the Oklahoma Sales Tax Code. This exemption shall not apply to the sales of articles made to persons holding permits when such persons purchase items for their use and which they are not regularly engaged in the business of reselling; neither shall this exemption apply to sales of tangible personal property to peddlers, solicitors and other salespersons who do not have an established place of business and a sales tax permit. The exemption provided by this paragraph shall apply to sales of motor fuel or diesel fuel to a Group Five vendor, but the use of such motor fuel or diesel fuel by the Group Five vendor shall not be exempt from the tax levied by the Oklahoma Sales Tax Code. The purchase of motor fuel or diesel fuel is exempt from sales tax when the motor fuel is for shipment outside this state and consumed by a common carrier by rail in the conduct

of its business. The sales tax shall apply to the purchase of motor fuel or diesel fuel in Oklahoma by a common carrier by rail when such motor fuel is purchased for fueling, within this state, of any locomotive or other motorized flanged wheel equipment;

4. Sales of advertising space in newspapers and periodicals;

5. Sales of programs relating to sporting and entertainment events, and sales of advertising on billboards (including signage, posters, panels, marquees, or on other similar surfaces, whether indoors or outdoors) or in programs relating to sporting and entertainment events, and sales of any advertising, to be displayed at or in connection with a sporting event, via the Internet, electronic display devices, or through public address or broadcast systems. The exemption authorized by this paragraph shall be effective for all sales made on or after January 1, 2001;

6. Sales of any advertising, other than the advertising described by paragraph 5 of this section, via the Internet, electronic display devices, or through the electronic media, including radio, public address or broadcast systems, television (whether through closed circuit broadcasting systems or otherwise), and cable and satellite television, and the servicing of any advertising devices;

7. Eggs, feed, supplies, machinery and equipment purchased by persons regularly engaged in the business of raising worms, fish, any insect or any other form of terrestrial or aquatic animal life

and used for the purpose of raising same for marketing. This exemption shall only be granted and extended to the purchaser when the items are to be used and in fact are used in the raising of animal life as set out above. Each purchaser shall certify, in writing, on the invoice or sales ticket retained by the vendor that the purchaser is regularly engaged in the business of raising such animal life and that the items purchased will be used only in such business. The vendor shall certify to the Oklahoma Tax Commission that the price of the items has been reduced to grant the full benefit of the exemption. Violation hereof by the purchaser or vendor shall be a misdemeanor;

8. Sale of natural or artificial gas and electricity, and associated delivery or transmission services, when sold exclusively for residential use. Provided, this exemption shall not apply to any sales tax levied by a city or town, or a county, or any other jurisdiction in this state;

9. In addition to the exemptions authorized by Section 1357.6 of this title, sales of drugs sold pursuant to a prescription written for the treatment of human beings by a person licensed to prescribe the drugs, and sales of insulin and medical oxygen. Provided, this exemption shall not apply to over-the-counter drugs;

10. Transfers of title or possession of empty, partially filled, or filled returnable oil and chemical drums to any person who is not regularly engaged in the business of selling, reselling

or otherwise transferring empty, partially filled, or filled returnable oil drums;

11. Sales of one-way utensils, paper napkins, paper cups, disposable hot containers and other one-way carry out materials to a vendor of meals or beverages;

12. Sales of food or food products for home consumption which are purchased in whole or in part with coupons issued pursuant to the federal food stamp program as authorized by Sections 2011 through 2029 of Title 7 of the United States Code, as to that portion purchased with such coupons. The exemption provided for such sales shall be inapplicable to such sales upon the effective date of any federal law that removes the requirement of the exemption as a condition for participation by the state in the federal food stamp program;

13. Sales of food or food products, or any equipment or supplies used in the preparation of the food or food products to or by an organization which:

a. is exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), and which provides and delivers prepared meals for home consumption to elderly or homebound persons as part of a program commonly known as “Meals on Wheels” or “Mobile Meals”, or

b. is exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), and which receives federal funding pursuant to the Older Americans Act of 1965, as amended, for the purpose of providing nutrition programs for the care and benefit of elderly persons;

14. a. Sales of tangible personal property or services to or by organizations which are exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), and:

(1) are primarily involved in the collection and distribution of food and other household products to other organizations that facilitate the distribution of such products to the needy and such distributee organizations are exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), or

(2) facilitate the distribution of such products to the needy.

b. Sales made in the course of business for profit or savings, competing with other persons engaged in the

same or similar business shall not be exempt under this paragraph;

15. Sales of tangible personal property or services to children's homes which are located on church-owned property and are operated by organizations exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3);

16. Sales of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment for use in a qualified aircraft maintenance or manufacturing facility. For purposes of this paragraph, "qualified aircraft maintenance or manufacturing facility" means a new or expanding facility primarily engaged in aircraft repair, building or rebuilding whether or not on a factory basis, whose total cost of construction exceeds the sum of Five Million Dollars ($5,000,000.00) and which employs at least two hundred fifty (250) new full-time-equivalent employees, as certified by the Oklahoma Employment Security Commission, upon completion of the facility. In order to qualify for the exemption provided for by this paragraph, the cost of the items purchased by the qualified aircraft maintenance or manufacturing facility shall equal or exceed the sum of Two Million Dollars ($2,000,000.00);

17. Sales of tangible personal property consumed or incorporated in the construction or expansion of a qualified

aircraft maintenance or manufacturing facility as defined in paragraph 16 of this section. For purposes of this paragraph, sales made to a contractor or subcontractor that has previously entered into a contractual relationship with a qualified aircraft maintenance or manufacturing facility for construction or expansion of such a facility shall be considered sales made to a qualified aircraft maintenance or manufacturing facility;

18. Sales of any interstate telecommunications services which:

a. entitle the subscriber to inward or outward calling respectively between a station associated with an access line in the local telephone system area or a station directly connected to any interexchange carrier's facilities and telephone or radiotelephone stations in diverse geographical locations specified by the subscriber, or

b. entitle the subscriber to private communications services which allow exclusive or priority use of a communications channel or group of channels between exchanges;

19. Sales of railroad track spikes manufactured and sold for use in this state in the construction or repair of railroad tracks, switches, sidings and turnouts;

20. Sales of aircraft and aircraft parts provided such sales occur at a qualified aircraft maintenance facility. As used in this

paragraph, "qualified aircraft maintenance facility" means a facility operated by an air common carrier at which there were employed at least two thousand (2,000) full-time-equivalent employees in the preceding year as certified by the Oklahoma Employment Security Commission and which is primarily related to the fabrication, repair, alteration, modification, refurbishing, maintenance, building or rebuilding of commercial aircraft or aircraft parts used in air common carriage. For purposes of this paragraph, "air common carrier" shall also include members of an affiliated group as defined by Section 1504 of the Internal Revenue Code, 26 U.S.C., Section 1504;

21. Sales of machinery and equipment purchased and used by persons and establishments primarily engaged in computer services and data processing:

a. as defined under Industrial Group Numbers 7372 and 7373 of the Standard Industrial Classification (SIC) Manual, latest version, which derive at least fifty percent (50%) of their annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer, and

b. as defined under Industrial Group Number 7374 of the SIC Manual, latest version, which derive at least eighty percent (80%) of their annual gross revenues

from the sale of a product or service to an out-of-state buyer or consumer.

Eligibility for the exemption set out in this paragraph shall be established, subject to review by the Tax Commission, by annually filing an affidavit with the Tax Commission stating that the facility so qualifies and such information as required by the Tax Commission. For purposes of determining whether annual gross revenues are derived from sales to out-of-state buyers or consumers, all sales to the federal government shall be considered to be to an out-of-state buyer or consumer;

22. Sales of prosthetic devices to an individual for use by such individual. For purposes of this paragraph, "prosthetic device" shall have the same meaning as provided in Section 1357.6 of this title, but shall not include corrective eye glasses, contact lenses or hearing aids;

23. Sales of tangible personal property or services to a motion picture or television production company to be used or consumed in connection with an eligible production. For purposes of this paragraph, "eligible production" means a documentary, special, music video, or a television commercial or television program that will serve as a pilot for or be a segment of an ongoing dramatic or situation comedy series filmed or taped for network or national or regional syndication or a feature-length motion picture intended for theatrical release or for network or national or regional

syndication or broadcast. The provisions of this paragraph shall apply to sales occurring on or after July 1, 1996. In order to qualify for the exemption, the motion picture or television production company shall file any documentation and information required to be submitted pursuant to rules promulgated by the Tax Commission;

24. Sales of diesel fuel sold for consumption by commercial vessels, barges and other commercial watercraft;

25. Sales of tangible personal property or services to tax-exempt independent nonprofit biomedical research foundations that provide educational programs for Oklahoma science students and teachers and to tax-exempt independent nonprofit community blood banks headquartered in this state;

26. Effective May 6, 1992, sales of wireless telecommunications equipment to a vendor who subsequently transfers the equipment at no charge or for a discounted charge to a consumer as part of a promotional package or as an inducement to commence or continue a contract for wireless telecommunications services;

27. Effective January 1, 1991, leases of rail transportation cars to haul coal to coal-fired plants located in this state which generate electric power;

28. Beginning July 1, 2005, sales of aircraft engine repairs, modification, and replacement parts, sales of aircraft frame repairs and modification, aircraft interior modification, and paint, and

sales of services employed in the repair, modification and replacement of parts of aircraft engines, aircraft frame and interior repair and modification, and paint;

29. Sales of materials and supplies to the owner or operator of a ship, motor vessel or barge that is used in interstate or international commerce if the materials and supplies:

a. are loaded on the ship, motor vessel or barge and used in the maintenance and operation of the ship, motor vessel or barge, or

b. enter into and become component parts of the ship, motor vessel or barge;

30. Sales of tangible personal property made at estate sales at which such property is offered for sale on the premises of the former residence of the decedent by a person who is not required to be licensed pursuant to the Transient Merchant Licensing Act, or who is not otherwise required to obtain a sales tax permit for the sale of such property pursuant to the provisions of Section 1364 of this title; provided:

a. such sale or event may not be held for a period exceeding three (3) consecutive days,

b. the sale must be conducted within six (6) months of the date of death of the decedent, and

c. the exemption allowed by this paragraph shall not be allowed for property that was not part of the decedent's estate;

31. Beginning January 1, 2004, sales of electricity and associated delivery and transmission services, when sold exclusively for use by an oil and gas operator for reservoir dewatering projects and associated operations commencing on or after July 1, 2003, in which the initial water-to-oil ratio is greater than or equal to five-to-one water-to-oil, and such oil and gas development projects have been classified by the Corporation Commission as a reservoir dewatering unit;

32. Sales of prewritten computer software that is delivered electronically. For purposes of this paragraph, "delivered electronically" means delivered to the purchaser by means other than tangible storage media;

33. Sales of modular dwelling units when built at a production facility and moved in whole or in parts, to be assembled on-site, and permanently affixed to the real property and used for residential or commercial purposes. The exemption provided by this paragraph shall equal forty-five percent (45%) of the total sales price of the modular dwelling unit. For purposes of this paragraph, "modular dwelling unit" means a structure that is not subject to the motor vehicle excise tax imposed pursuant to Section 2103 of this title;

34. Sales of tangible personal property or services to persons who are residents of Oklahoma and have been honorably discharged from active service in any branch of the Armed Forces of the United States or Oklahoma National Guard and who have been certified by the United States Department of Veterans Affairs or its successor to be in receipt of disability compensation at the one-hundred-percent rate and the disability shall be permanent and have been sustained through military action or accident or resulting from disease contracted while in such active service; provided, sales for the benefit of the person to a spouse of the eligible person or to a member of the household in which the eligible person resides and who is authorized to make purchases on the person's behalf, when such eligible person is not present at the sale, shall also be exempt for purposes of this paragraph. Sales qualifying for the exemption authorized by this paragraph shall not exceed Twenty-five Thousand Dollars ($25,000.00) per year per individual. Upon request of the Tax Commission, a person asserting or claiming the exemption authorized by this paragraph shall provide a statement, executed under oath, that the total sales amounts for which the exemption is applicable have not exceeded Twenty-five Thousand Dollars ($25,000.00) per year. If the amount of such exempt sales exceeds such amount, the sales tax in excess of the authorized amount shall be treated as a direct sales tax liability and may be recovered by

the Tax Commission in the same manner provided by law for other taxes, including penalty and interest;

35. Sales of electricity to the operator, specifically designated by the Oklahoma Corporation Commission, of a spacing unit or lease from which oil is produced or attempted to be produced using enhanced recovery methods, including, but not limited to, increased pressure in a producing formation through the use of water or saltwater if the electrical usage is associated with and necessary for the operation of equipment required to inject or circulate fluids in a producing formation for the purpose of forcing oil or petroleum into a wellbore for eventual recovery and production from the wellhead. In order to be eligible for the sales tax exemption authorized by this paragraph, the oil well production shall not exceed ten (10) barrels per day prior to the use of enhanced recovery methods and the total content of oil recovered prior to the use of enhanced recovery methods shall not exceed one percent (1%) by volume. The exemption authorized by this paragraph shall be applicable only to the state sales tax rate and shall not be applicable to any county or municipal sales tax rate;

36. Sales of intrastate charter and tour bus transportation. As used in this paragraph, "intrastate charter and tour bus transportation" means the transportation of persons from one location in this state to another location in this state in a motor vehicle which has been constructed in such a manner that it may

lawfully carry more than eighteen persons, and which is ordinarily used or rented to carry persons for compensation. Provided, this exemption shall not apply to regularly scheduled bus transportation for the general public;

37. Sales of vitamins, minerals and dietary supplements by a licensed chiropractor to a person who is the patient of such chiropractor at the physical location where the chiropractor provides chiropractic care or services to such patient. The provisions of this paragraph shall not be applicable to any drug, medicine or substance for which a prescription by a licensed physician is required;

38. Sales of goods, wares, merchandise, tangible personal property, machinery and equipment to a web search portal located in this state which derives at least eighty percent (80%) of its annual gross revenue from the sale of a product or service to an out-of-state buyer or consumer. For purposes of this paragraph, "web search portal" means an establishment classified under NAICS code 518112 which operates web sites that use a search engine to generate and maintain extensive databases of Internet addresses and content in an easily searchable format; ~~and~~

39. Sales of tangible personal property consumed or incorporated in the construction or expansion of a facility for a corporation organized under Section 437 et seq. of Title 18 of the Oklahoma Statutes as a rural electric cooperative. For purposes of

this paragraph, sales made to a contractor or subcontractor that has previously entered into a contractual relationship with a rural electric cooperative for construction or expansion of a facility shall be considered sales made to a rural electric cooperative; and

40. Internet sales of wine.

SECTION 6. REPEALER 37 O.S. 2001, Section 549, is hereby repealed.

SECTION 7. This act shall become effective if amendments to Article XXVIII of the Oklahoma Constitution, submitted pursuant to a Joint Resolution of the Oklahoma Legislature, are approved by a vote of the people.

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