

1 STATE OF OKLAHOMA

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

3 SENATE BILL 995

By: Coates

4  
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 (59 O.S. Supp. 2006, Section  
10 521), which relates to acts authorized by the various  
11 licenses; modifying act authorized by a winemaker  
12 license; modifying acts authorized by a beer and wine  
13 license; and providing a conditional effective date.

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

15 SECTION 1. AMENDATORY 37 O.S. 2001, Section 521, as last  
16 amended by Section 1, Chapter 73, O.S.L. 2006 (59 O.S. Supp. 2006,  
17 Section 521), is amended to read as follows:

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

23 B. A distiller license shall authorize the holder thereof: To  
24 manufacture, bottle, package, and store spirits on licensed  
premises; to sell spirits in this state to licensed wholesalers and

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

5 C. A winemaker license shall authorize the holder thereof: To  
6 manufacture (including such mixing, blending and cellar treatment as  
7 authorized by federal law), bottle, package, and store on licensed  
8 premises wine containing not more than twenty-four percent (24%)  
9 alcohol by volume; provided, the bottle or package sizes authorized  
10 shall be limited to the capacities approved by the United States  
11 Bureau of Alcohol, Tobacco and Firearms; to sell wine in this state  
12 to licensed wholesalers and manufacturers; provided, an Oklahoma  
13 winemaker winemakers within and without this state may sell and ship  
14 wine produced at a winery in this state directly to retail package  
15 stores and restaurants in this state; to sell bottles of wine  
16 produced at the winery from grapes and other fruits and berries  
17 grown in this state, if available, to consumers on the premises of  
18 the winery; provided, winemakers within and without this state may  
19 receive orders for wine produced at the winery in both written and  
20 electronic form for delivery or shipping to customers; to serve  
21 visitors on the licensed premises samples of wine produced on the  
22 premises; to serve samples of wine produced at the winery at  
23 festivals and trade shows; to sell wine produced at the winery, in  
24 original sealed containers, at festivals and trade shows; to sell

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

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

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

1 twentieth (1/20) gallon by a holder of a wholesaler license shall be  
2 in full case lots and in the original unbroken case. Wholesalers  
3 shall be authorized to place such signs outside their place of  
4 business as are required by Acts of Congress and by such laws and  
5 regulations promulgated under such Acts.

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

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

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

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

22 Sales and service of mixed beverages by holders of mixed  
23 beverage licenses shall be limited to the licensed premises of the  
24 licensee unless the holder of the mixed beverage license also

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

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

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

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

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

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

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

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

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

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

1 of mixed beverages shall not be required to have an employee  
2 license. Provided, however, that a manager employed by a mixed  
3 beverage licensee or a bottle club shall be required to have an  
4 employee license whether or not the manager participates in the  
5 service, mixing or sale of mixed beverages. Applicants for an  
6 employee license must have a health card issued by the county in  
7 which they are employed, if the county issues such a card.  
8 Employees of special event, caterer or airline/railroad beverage  
9 licensees shall not be required to obtain an employee license.  
10 Persons employed by a hotel licensee who participate in the stocking  
11 of hotel room mini-bars or in the handling of alcoholic beverages to  
12 be placed in such devices shall be required to have an employee  
13 license.

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

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

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

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

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

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

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

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

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

1 required of licensed brewers, distillers, winemakers, rectifiers,  
2 wholesalers, or Class B wholesalers, to transport alcoholic  
3 beverages from the place of purchase or acquisition to the licensed  
4 premises of such licensees and from such licensed premises to the  
5 licensed premises of the purchaser in vehicles owned or leased by  
6 such licensee when such transportation is for a lawful purpose and  
7 not for hire.

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

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

1 alcoholic beverages under proper storage licenses and their  
2 assignees, ~~(including mortgagees or other bona fide lienholders),~~  
3 conditioned upon faithful performance of the terms and conditions of  
4 such bailments.

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

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

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

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

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

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

21           V. A beer and wine license shall authorize the holder thereof:  
22 To purchase beer and wine in retail containers from the holder of a  
23 wholesaler or Class B wholesaler license or as specifically provided  
24 by law and to sell, offer for sale and possess beer and wine for on-

1 premises consumption only; provided, the holder of a beer and wine  
2 license issued for an establishment which is also a restaurant may  
3 purchase wine ~~produced at wineries in this state directly from an~~  
4 ~~Oklahoma winemaker~~ as provided in Section 3 of Article XXVIII of the  
5 Oklahoma Constitution.

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

17 W. A charitable auction or charitable wine event license may be  
18 issued to a charitable organization exempt from taxation under  
19 Section 501(c)(3), (4), (5), (7), (8), (9), (10), or (19) of the  
20 United States Internal Revenue Code. The charitable wine event  
21 license shall authorize the holder thereof to conduct a wine event  
22 which may consist of one or more of a wine tasting event, a wine  
23 dinner event or a wine auction, which may be either a live auction  
24 conducted by an auctioneer or a silent auction for 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 shall be conducted solely to raise funds  
8 for charitable purposes. Wine used in, served, or consumed at a  
9 charitable wine event may be purchased by the charitable  
10 organization or donated by any person or entity. The charitable  
11 wine event license shall be issued for a period not exceeding four  
12 (4) days. Only one such license may be issued to an organization in  
13 any twelve-month period. The charitable organization holding a  
14 charitable wine event license shall not be required to obtain a  
15 special event license. The charitable auction license shall  
16 authorize the holder thereof to auction wine purchased from a retail  
17 package store or received as a gift from an individual if the  
18 auction is conducted to raise funds for charitable purposes. The  
19 charitable auction license shall be issued for a period not to  
20 exceed two (2) days. Only one such license shall be issued to an  
21 organization in any twelve-month period. The maximum amount of wine  
22 auctioned pursuant to the charitable auction license shall not  
23 exceed fifty (50) gallons. All wines auctioned pursuant to the  
24 charitable auction license shall be registered, and all fees and

1 taxes shall be paid in accordance with the Oklahoma Alcoholic  
2 Beverage Control Act.

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

15 SECTION 2. This act shall become effective upon certification  
16 of election returns favoring passage of the Constitutional Amendment  
17 proposed in \_\_\_ Joint Resolution No. \_\_\_\_\_ of the 1st Session of the  
18 51st Oklahoma Legislature.

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