

THE HOUSE OF REPRESENTATIVES
Thursday, February 4, 2010

House Bill No. 2348

HOUSE BILL NO. 2348 - By: SCHWARTZ of the House.

An Act relating to intoxicating liquors; amending 37 O.S. 2001, Sections 505 and 554, which relate to manufacturing alcoholic beverages; expanding certain exceptions to include beer; and declaring an emergency.

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

1 SECTION 1. AMENDATORY 37 O.S. 2001, Section 505, is amended to read as
2 follows:
3 Section 505. A. No person shall manufacture, rectify, sell, possess, store, import
4 into or export from this state, transport, or deliver any alcoholic beverage except as
5 specifically provided in the Oklahoma Alcoholic Beverage Control Act. Provided, that
6 nothing herein shall prevent the possession and transportation of alcoholic beverages for
7 the personal use of the possessor, his family and guests, so long as the Oklahoma excise
8 tax has been paid thereon, except for beer. Provided, that nothing herein shall prevent
9 the making of beer, cider or ~~of~~ wine, not to exceed two hundred (200) gallons in any one
10 (1) year pursuant to a license first obtained from the Alcoholic Beverage Laws
11 Enforcement Commission, by simple fermentation and without distillation, if made solely
12 for the use of the maker, his family and guests.

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

7 2. The possession, transportation and dispensation of wine by any authorized
8 representative of any church for the conducting of a bona fide rite or religious ceremony
9 conducted by such church shall not be prohibited by the Oklahoma Alcoholic Beverage
10 Control Act; nor shall said act prevent the sale, shipping or delivery of sacramental wine
11 by any person holding a sacramental wine supplier license issued pursuant to the
12 Oklahoma Alcoholic Beverage Control Act to any religious corporation or society of this
13 state holding a valid exemption from taxation issued pursuant to Section 501(a) of the
14 Internal Revenue Code, 1954, and listed as an exempt organization in Section 501(c)(3) of
15 the Internal Revenue Code, 1954, of the United States, as amended.

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

1 C. 1. Except as otherwise authorized by law, it is unlawful for any manufacturer,
2 wholesaler or retailer of alcoholic beverages, located and doing business from outside this
3 state, to make retail sales of alcoholic beverages to purchasers located in this state or to
4 ship alcoholic beverages sold at retail to persons located in this state. Any person who
5 engages in the sale or shipping of alcoholic beverages in violation of the provisions of this
6 subsection on or after the effective date of Section 20.1 of Title 21 of the Oklahoma
7 Statutes, upon conviction, shall be guilty of a Schedule G felony if the sale or delivery is
8 made to a person under twenty-one (21) years of age or misdemeanor if the sale or
9 delivery is made to a person twenty-one (21) years of age or older. Any person who
10 engages in the sale or shipping of alcoholic beverages in violation of the provisions of this
11 subsection before the effective date of Section 20.1 of Title 21 of the Oklahoma Statutes
12 shall be guilty of a felony punishable by imprisonment for not more than five (5) years, if
13 the sale or delivery is made to a person under twenty-one (21) years of age, or a
14 misdemeanor, if the sale or delivery is made to a person twenty-one (21) years of age or
15 older.

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

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

21 SECTION 2. AMENDATORY 37 O.S. 2001, Section 554, is amended to read as
22 follows:

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

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

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

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

9 4. Beer, cider and wine made for personal use, as provided in Section 505 of this
10 title;

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

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

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

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

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

1 SECTION 3. It being immediately necessary for the preservation of the public
2 peace, health and safety, an emergency is hereby declared to exist, by reason whereof
3 this resolution shall take effect and be in full force from and after its passage and
4 approval.
5 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT AND
6 FINANCIAL SERVICES, dated 02-03-10 - DO PASS.