

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 HOUSE BILL 1963

By: Peters

4 AS INTRODUCED

5 An Act relating to alcoholic beverages; amending 3A
6 O.S. 2001, Section 417, which relates to bingo;
7 updating references to reflect changes in alcoholic
8 beverage regulation; amending Section 2, Chapter 167,
9 O.S.L. 2009 (10A O.S. Supp. 2010, Section 2-7-611),
10 which relates to secure juvenile facilities; updating
11 references to reflect changes in alcoholic beverage
12 regulation; amending 11 O.S. 2001, Section 43-102,
13 which relates to municipal zoning; updating
14 references to reflect changes in alcoholic beverage
15 regulation; amending 21 O.S. 2001, Sections 1102,
16 1103, 1190, 1215, as amended by Section 5, Chapter
17 61, O.S.L. 2006, 1220, as last amended by Section 1,
18 Chapter 16, O.S.L. 2006 and 1272.1 (21 O.S. Supp.
19 2010, Sections 1215 and 1220), which relate to crimes
20 and punishments; updating references to reflect
21 changes in alcoholic beverage regulation; amending 22
22 O.S. 2001, Section 1402, as amended by Section 5,
23 Chapter 456, O.S.L. 2010 (22 O.S. Supp. 2010, Section
24 1402), which relates to criminal procedure; updating
references to reflect changes in alcoholic beverage
regulation; amending 37 O.S. 2001, Section 8, which
relates to public intoxication; updating references
to reflect changes in alcoholic beverage regulation;
amending 37 O.S. 2001, Sections 163.1, as amended by
Section 1, Chapter 229, O.S.L. 2010, 163.2, as last
amended by Section 1, Chapter 289, O.S.L. 2010,
163.3, as last amended by Section 2, Chapter 229,
O.S.L. 2010, 163.4, as last amended by Section 2,
Chapter 484, O.S.L. 2003, 163.5, 163.6, 163.7, as
last amended by Section 25, Chapter 5, O.S.L. 2004,
163.8, as amended by Section 1, Chapter 170, O.S.L.
2004, 163.9, 163.10, 163.11, as last amended by
Section 7, Chapter 61, O.S.L. 2006, 163.11a, 163.12,
163.13, 163.14, 163.16, 163.17, 163.18, 163.18A,
163.18B, 163.18C, 163.18D, 163.18E, as amended by
Section 2, Chapter 144, O.S.L. 2009, 163.18F,
163.18G, 163.18H, 163.19, 163.20, 163.22, 163.23,
163.25, 163.26, 163.27, 163.28, Section 1, Chapter

1 156, O.S.L. 2003, 213, 213.1, 213.2, 219, 219.1,
2 Section 1, Chapter 178, O.S.L. 2005, 231, as last
3 amended by Section 1, Chapter 479, O.S.L. 2005, 233,
4 241, as amended by Section 8, Chapter 61, O.S.L.
5 2006, 243, 244, as amended by Section 9, Chapter 61,
6 O.S.L. 2006, 246, as amended by Section 10, Chapter
7 61, O.S.L. 2006 and 247 (37 O.S. Supp. 2010, Section
8 163.1, 163.2, 163.3, 163.4, 163.7, 163.8, 163.11,
9 163.18E, 163.29, 220, 231, 241, 244 and 246), which
10 relate to low-point beer; eliminating two-tier system
11 of beer regulation; providing for regulation of all
12 beer by ABLE Commission; updating references to
13 reflect changes in alcoholic beverage regulation;
14 amending 37 O.S. 2001, Sections 502, 503, 504, 505,
15 as amended by Section 3, Chapter 229, O.S.L. 2010,
16 506, as amended by Section 1, Chapter 173, O.S.L.
17 2005, 506.1, as amended by Section 4, Chapter 204,
18 O.S.L. 2003, 508, 509, 510, 511, 511A, 512, 513a,
19 514, 517, 518, as last amended by Section 2, Chapter
20 289, O.S.L. 2010, 518.1, 521, as last amended by
21 Section 1, Chapter 64, O.S.L. 2009, 522, 523, 523.1,
22 523.2, 524, as amended by Section 3, Chapter 289,
23 O.S.L. 2010, 527, as amended by Section 1, Chapter
24 131, O.S.L. 2008, 527.1, 528, as amended by Section
1, Chapter 365, O.S.L. 2007, 528.1, 532, 532.1, 533,
534, as last amended by Section 1, Chapter 268,
O.S.L. 2010, 535, 535.3, 537, as last amended by
Section 4, Chapter 289, O.S.L. 2010, 538, 538.2,
538.3, 539, 540, 542, 543, 545, 546, 547, 549, 550,
551, 552, 553, as last amended by Section 1, Chapter
398, O.S.L. 2008, 554, as amended by Section 5,
Chapter 229, O.S.L. 2010, 554.1, 559, 560, 561, 563,
as amended by Section 17, Chapter 426, O.S.L. 2009,
564, 567, as amended by Section 6, Chapter 289,
O.S.L. 2010, 569, 571, 572, 578, 579, as last amended
by Section 1, Chapter 430, O.S.L. 2005, 580, 582, as
amended by Section 8, Chapter 289, O.S.L. 2010, 586,
588, 593, 594, as amended by Section 1, Chapter 343,
O.S.L. 2010, 598, as last amended by Section 2,
Chapter 343, O.S.L. 2010, 601, 602, 603, 604, 605,
606 and Section 1, Chapter 333, O.S.L. 2010 (37 O.S.
Supp. 2010, Sections 505, 506, 506.1, 518, 521, 524,
527, 528, 534, 537, 553, 554, 563, 567, 579, 582,
594, 598 and 609), which relate to alcoholic
beverages; eliminating two-tier system of beer
regulation; providing for regulation of all beer by
ABLE Commission; updating references to reflect

1 changes in alcoholic beverage regulation; amending
2 Section 2, Chapter 354, O.S.L. 2003, as last amended
3 by Section 1, Chapter 129, O.S.L. 2007 (43A O.S.
4 Supp. 2010, Section 2-311), which relates to
5 substance abuse; updating references to reflect
6 changes in alcoholic beverage regulation; amending 57
7 O.S. 2001, Section 21, as last amended by Section 1,
8 Chapter 459, O.S.L. 2009 (57 O.S. Supp. 2010, Section
9 21), which relates to prisons; updating references to
10 reflect changes in alcoholic beverage regulation;
11 amending 59 O.S. 2001, Section 1315, as amended by
12 Section 59, Chapter 222, O.S.L. 2010 (59 O.S. Supp.
13 2010, Section 1315), which relates to bondsmen;
14 updating references to reflect changes in alcoholic
15 beverage regulation; amending 60 O.S. 2001, Section
16 178.4, as last amended by Section 1, Chapter 195,
17 O.S.L. 2010 (60 O.S. Supp. 2010, Section 178.4),
18 which relates to trusts; updating references to
19 reflect changes in alcoholic beverage regulation;
20 amending 63 O.S. 2001, Section 1-1522, as amended by
21 Section 3, Senate Joint Resolution No. 21, p. 2357
22 (63 O.S. Supp. 2010, Section 1-1522), which relates
23 to smoking; updating references to reflect changes in
alcoholic beverage regulation; amending 68 O.S. 2001,
Section 205, as last amended by Section 2, Chapter
459, O.S.L. 2010 and Section 3, Chapter 458, O.S.L.
2002 (68 O.S. Supp. 2010, Sections 205 and 216.2),
which relate to revenue and taxation; updating
references to reflect changes in alcoholic beverage
regulation; amending 70 O.S. 2001, Sections 24-101.3,
as last amended by Section 84, Chapter 228, O.S.L.
2009, 24-102, 24-132, 24-138 and 1210.229-3 (70 O.S.
Supp. 2010, Section 24-101.3), which relate to
education; updating references to reflect changes in
alcoholic beverage regulation; amending Section 56,
Chapter 363, O.S.L. 2005 (74 O.S. Supp. 2010, Section
2255), which relates to petty cash; updating
references to reflect changes in alcoholic beverage
regulation; repealing 37 O.S. 2001, Sections 163.15,
which relates to low-point beer; repealing 37 O.S.
2001, Sections 516 and Section 2, Chapter 156, O.S.L.
2003 (37 O.S. Supp. 2010, Section 521.1), which
relate to alcoholic beverages; providing an effective
date; and providing that effective date is contingent
upon passage of certain measure.

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

2 SECTION 1. AMENDATORY 3A O.S. 2001, Section 417, is
3 amended to read as follows:

4 Section 417. No licensed organization shall sell, serve or
5 permit to be consumed any alcoholic beverage as defined in Section
6 506 of Title 37 of the Oklahoma Statutes ~~or low point beer as~~
7 ~~defined in Section 163.2 of Title 37 of the Oklahoma Statutes~~ in any
8 room or outdoor area where and during the time a bingo or U-PIK-EM
9 game is being conducted.

10 SECTION 2. AMENDATORY Section 2, Chapter 167, O.S.L.
11 2009 (10A O.S. Supp. 2010, Section 2-7-611), is amended to read as
12 follows:

13 Section 2-7-611. A. For purposes of this section, "electronic
14 communication" means any transfer of signs, signals, writings,
15 images, sounds, data, or intelligence of any nature transmitted in
16 whole or part by a wire, radio, electromagnetic, photo-electronic,
17 or photo-optical system, and includes, but is not limited to, the
18 transfer of that communication through the Internet.

19 B. 1. The Office of Juvenile Affairs shall certify all secure
20 facilities. To be certified, a secure facility shall be required to
21 meet standards for certification promulgated by the Board of
22 Juvenile Affairs.

23 2. Any person, including a resident of the facility, who
24 knowingly, willfully and without authority brings into or has in his

1 or her possession in any certified secure facility or certified
2 juvenile detention facility any gun, knife, bomb or other dangerous
3 instrument, any controlled dangerous substance as defined by Section
4 2-101 et seq. of Title 63 of the Oklahoma Statutes, any ~~intoxicating~~
5 ~~beverage or low point beer as defined by Sections 163.1 and 163.2~~
6 alcoholic beverage as defined by Section 506 of Title 37 of the
7 Oklahoma Statutes, any cellular phone or electronic device capable
8 of sending or receiving any electronic communication, money, or
9 financial documents for a person other than the juvenile or youthful
10 offender or relative of the juvenile or youthful offender, shall be
11 guilty of a felony and is subject to imprisonment in the custody of
12 the Department of Corrections for not less than one (1) year or more
13 than five (5) years, or a fine of not less than One Hundred Dollars
14 (\$100.00) or more than One Thousand Dollars (\$1,000.00), or both
15 such fine and imprisonment.

16 C. Any person, including a resident of the facility, who
17 knowingly, willfully and without authority brings into or has in his
18 or her possession in any certified secure facility or certified
19 juvenile detention facility any cigarettes, cigars, snuff, chewing
20 tobacco, or any other form of tobacco product shall, upon
21 conviction, be guilty of a misdemeanor punishable by imprisonment in
22 the county jail not to exceed one (1) year, or by a fine not
23 exceeding Five Hundred Dollars (\$500.00), or by both such fine and
24 imprisonment.

1 SECTION 3. AMENDATORY 11 O.S. 2001, Section 43-102, is
2 amended to read as follows:

3 Section 43-102. A. The municipal governing body may divide the
4 municipality into districts of such number, shape and area as it
5 deems suitable in carrying out its powers as to buildings, land and
6 structures. Within the districts it may regulate and restrict the
7 erection, construction, reconstruction, alteration, repair or use of
8 buildings, structures or land. All such regulations shall be
9 uniform for each class or kind of buildings throughout each
10 district, but the regulations in one district may differ from those
11 in other districts.

12 B. The municipal governing body may enact nondiscriminatory
13 zoning ordinances regulating the location for the sale for
14 consumption on the premises of ~~low point beer, as defined in Section~~
15 ~~163.2 of Title 37 of the Oklahoma Statutes, commonly called 3.2~~
16 ~~beer~~; provided, however, that no special or separate classification
17 shall be created only for businesses selling said product.

18 C. Nothing in this section shall be construed to apply to
19 telephone exchange buildings.

20 SECTION 4. AMENDATORY 21 O.S. 2001, Section 1102, is
21 amended to read as follows:

22 Section 1102. It shall be unlawful for any person to maintain
23 or operate a public pool or billiard hall, or any public pool or
24 billiard table, in any incorporated city or town, without first

1 | securing a license from the district court clerk. The person
2 | applying for the license shall appear once each year and satisfy the
3 | district court clerk that he or she is a person of good moral
4 | character; that he or she has never been convicted of violating any
5 | of the laws regulating the traffic in any spirituous, vinous,
6 | fermented, or malt liquors, or any of the intoxicating beverage or
7 | ~~low-point~~ beer laws of this state, or convicted of violating any of
8 | the gambling laws of this state. A fee of Twenty-five Dollars
9 | (\$25.00) every three (3) years shall be charged for the license.
10 | Upon application, the district court clerk shall give five (5) days'
11 | notice by posting notices, one notice to be posted at the county
12 | courthouse, one notice to be served on the district attorney or the
13 | district attorney's assistant, and three (3) notices in the city or
14 | town where the pool hall shall be located. The notice shall contain
15 | the name of the applicant and the location of the pool or billiard
16 | hall. Any citizen of the city or town may file a written protest to
17 | the issuance of the license with the district court clerk and the
18 | court shall set the matter of protest for hearing. Any person
19 | violating any provision of this section shall be punished by fine,
20 | not less than Twenty-five Dollars (\$25.00) nor more than One Hundred
21 | Dollars (\$100.00), for each offense.

22 | SECTION 5. AMENDATORY 21 O.S. 2001, Section 1103, is
23 | amended to read as follows:

24 |

1 Section 1103. A judge of the district court, upon five (5)
2 days' notice to the person holding such license, may revoke such
3 license for any one of the following reasons:

4 1. Drunkenness of the person holding such license or permitting
5 any intoxicated person to loiter in such place;

6 2. Violation of any provision of law relating to persons under
7 twenty-one (21) years of age and alcoholic beverages as defined in
8 Section 506 of Title 37 ~~or low point beer as defined in Section~~
9 ~~163.2 of Title 37~~ of the Oklahoma Statutes; or

10 3. Violating any of the intoxicating beverage ~~or low point beer~~
11 laws of the state; or permitting anyone to violate any of these laws
12 in such place.

13 SECTION 6. AMENDATORY 21 O.S. 2001, Section 1190, is
14 amended to read as follows:

15 Section 1190. A. No student organization or any person
16 associated with any organization sanctioned or authorized by the
17 governing board of any public or private school or institution of
18 higher education in this state shall engage or participate in
19 hazing.

20 B. Any hazing activity described in subsection F of this
21 section upon which the initiation or admission into or affiliation
22 with an organization sanctioned or authorized by a public or private
23 school or by any institution of higher education in this state is
24 directly or indirectly conditioned shall be presumed to be a forced

1 activity, even if the student willingly participates in such
2 activity.

3 C. A copy of the policy or the rules and regulations of the
4 public or private school or institution of higher education which
5 prohibits hazing shall be given to each student enrolled in the
6 school or institution and shall be deemed to be part of the bylaws
7 of all organizations operating at the public school or the
8 institution of higher education.

9 D. Any organization sanctioned or authorized by the governing
10 board of a public or private school or of an institution of higher
11 education in this state which violates subsection A of this section,
12 upon conviction, shall be guilty of a misdemeanor, and may be
13 punishable by a fine of not more than One Thousand Five Hundred
14 Dollars (\$1,500.00) and the forfeit for a period of not less than
15 one (1) year all of the rights and privileges of being an
16 organization organized or operating at the public or private school
17 or at the institution of higher education.

18 E. Any individual convicted of violating the provisions of
19 subsection A of this section shall be guilty of a misdemeanor, and
20 may be punishable by imprisonment for not to exceed ninety (90) days
21 in the county jail, or by the imposition of a fine not to exceed
22 Five Hundred Dollars (\$500.00), or by both such imprisonment and
23 fine.

24 F. For purposes of this section:

1 1. "Hazing" means an activity which recklessly or intentionally
2 endangers the mental health or physical health or safety of a
3 student for the purpose of initiation or admission into or
4 affiliation with any organization operating subject to the sanction
5 of the public or private school or of any institution of higher
6 education in this state;

7 2. "Endanger the physical health" shall include but not be
8 limited to any brutality of a physical nature, such as whipping,
9 beating, branding, forced calisthenics, exposure to the elements,
10 forced consumption of any food, alcoholic beverage as defined in
11 Section 506 of Title 37 of the Oklahoma Statutes, ~~low point beer as~~
12 ~~defined in Section 163.2 of Title 37 of the Oklahoma Statutes~~, drug,
13 controlled dangerous substance, or other substance, or any other
14 forced physical activity which could adversely affect the physical
15 health or safety of the individual; and

16 3. "Endanger the mental health" shall include any activity,
17 except those activities authorized by law, which would subject the
18 individual to extreme mental stress, such as prolonged sleep
19 deprivation, forced prolonged exclusion from social contact, forced
20 conduct which could result in extreme embarrassment, or any other
21 forced activity which could adversely affect the mental health or
22 dignity of the individual.

23

24

1 SECTION 7. AMENDATORY 21 O.S. 2001, Section 1215, as
2 amended by Section 5, Chapter 61, O.S.L. 2006 (21 O.S. Supp. 2010,
3 Section 1215), is amended to read as follows:

4 Section 1215. It shall be unlawful for any person under the age
5 of twenty-one (21) years to be in the possession of any ~~intoxicating~~
6 alcoholic beverage ~~containing more than three and two tenths percent~~
7 ~~(3.2%) alcohol by weight or any low point beer~~ as defined by Section
8 ~~163.2~~ 506 of Title 37 of the Oklahoma Statutes while such person is
9 upon any public street, road, or highway or in any public building
10 or place.

11 SECTION 8. AMENDATORY 21 O.S. 2001, Section 1220, as
12 last amended by Section 1, Chapter 16, O.S.L. 2006 (21 O.S. Supp.
13 2010, Section 1220), is amended to read as follows:

14 Section 1220. A. Except as provided in subsection C of this
15 section, it shall be unlawful for any operator to knowingly
16 transport or for any passenger to possess in any moving vehicle upon
17 a public highway, street or alley any ~~intoxicating~~ alcoholic
18 beverage ~~or low point beer~~, as defined by ~~Sections 163.1 and 163.2~~
19 Section 506 of Title 37 of the Oklahoma Statutes, except in the
20 original container which shall not have been opened and from which
21 the original cap or seal shall not have been removed, unless the
22 opened container be in the rear trunk or rear compartment, which
23 shall include the spare tire compartment in a station wagon or panel
24 truck, or any outside compartment which is not accessible to the

1 driver or any other person in the vehicle while it is in motion.
2 Any person violating the provisions of this section shall be deemed
3 guilty of a misdemeanor, and upon conviction shall be punished as
4 provided in subsection A of Section 566 of Title 37 of the Oklahoma
5 Statutes.

6 B. Any person convicted of violating any provision of
7 subsection A of this section shall, in addition to any fine imposed,
8 pay a special assessment trauma-care fee of One Hundred Dollars
9 (\$100.00) to be deposited into the Trauma Care Assistance Revolving
10 Fund created in Section 1-2522 of Title 63 of the Oklahoma Statutes.

11 C. The provisions of subsection A of this section shall not
12 apply to the passenger area of buses and limousines; however, it
13 shall be unlawful for the driver of the bus or limousine to consume
14 or have in the driver's immediate possession any ~~intoxicating~~
15 alcoholic beverage or low-point beer as defined by Section 506 of
16 Title 37 of the Oklahoma Statutes.

17 D. No city, town, or county may adopt any order, ordinance,
18 rule or regulation concerning the consumption or serving of
19 ~~intoxicating~~ alcoholic beverage or low-point beer as defined by
20 Section 506 of Title 37 of the Oklahoma Statutes in buses or
21 limousines.

22 E. As used in this section:

23 1. "Bus" means a vehicle as defined in Section 1-105 of Title
24 47 of the Oklahoma Statutes chartered for transportation of persons

1 for hire. It shall not mean a school bus, as defined by Section 1-
2 160 of Title 47 of the Oklahoma Statutes, transporting children or a
3 vehicle operated pursuant to a franchise with a city or town
4 operating over a regularly scheduled route; and

5 2. "Limousine" means a chauffeur-driven motor vehicle, other
6 than a bus or taxicab, as defined by Section 1-174 of Title 47 of
7 the Oklahoma Statutes, designed and used for transportation of
8 persons for compensation.

9 SECTION 9. AMENDATORY 21 O.S. 2001, Section 1272.1, is
10 amended to read as follows:

11 Section 1272.1

12 CARRYING FIREARMS WHERE LIQUOR IS CONSUMED

13 A. It shall be unlawful for any person to carry or possess any
14 weapon designated in Section 1272 of this title in any establishment
15 where ~~low-point beer, as defined by Section 163.2 of Title 37 of the~~
16 ~~Oklahoma Statutes, or~~ alcoholic beverages, as defined by Section 506
17 of Title 37 of the Oklahoma Statutes, are consumed. This provision
18 shall not apply to a peace officer, as defined in Section 99 of this
19 title, or to private investigators with a firearms authorization
20 when acting in the scope and course of employment, and shall not
21 apply to an owner or proprietor of the establishment having a
22 pistol, rifle, or shotgun on the premises. Provided however, a
23 person possessing a valid concealed handgun license pursuant to the
24 provisions of the Oklahoma Self-Defense Act, Section 1290.1 et seq.

1 of this title may carry the concealed handgun into any restaurant or
2 other establishment licensed to dispense ~~low point beer or~~ alcoholic
3 beverages where the sale of ~~low point beer or~~ alcoholic beverages
4 does not constitute the primary purpose of the business.

5 Provided further, nothing in this section shall be interpreted
6 to authorize any peace officer in actual physical possession of a
7 weapon to consume ~~low point beer or~~ alcoholic beverages, except in
8 the authorized line of duty as an undercover officer.

9 Nothing in this section shall be interpreted to authorize any
10 private investigator with a firearms authorization in actual
11 physical possession of a weapon to consume ~~low point beer or~~
12 alcoholic beverages in any establishment where ~~low point beer or~~
13 alcoholic beverages are consumed.

14 B. Any person violating the provisions of this section shall be
15 punished as provided in Section 1272.2 of this title.

16 SECTION 10. AMENDATORY 22 O.S. 2001, Section 1402, as
17 amended by Section 5, Chapter 456, O.S.L. 2010 (22 O.S. Supp. 2010,
18 Section 1402), is amended to read as follows:

19 Section 1402. As used in the Oklahoma Racketeer-Influenced and
20 Corrupt Organizations Act:

21 1. "Beneficial interest" includes:

22 a. the interest of a person as a beneficiary pursuant to
23 a trust, in which the trustee holds legal title to
24 personal or real property, or

1 b. the interest of a person as a beneficiary pursuant to
2 any other arrangement under which any other person
3 holds legal title to personal or real property for the
4 benefit of such person.

5 The term beneficial interest does not include the interest of a
6 stockholder in a corporation or the interest of a partner in either
7 a general or limited partnership;

8 2. "Enterprise" includes any individual, sole proprietorship,
9 partnership, corporation, trust, governmental entity, or other legal
10 entity, or any union, association, unincorporated association or
11 group of persons, associated in fact although not a legal entity,
12 involved in any lawful or unlawful project or undertaking or any
13 foreign organization that the United States Secretary of State has
14 designated a foreign terrorist organization pursuant to Title 8
15 U.S.C.A., Section 1189;

16 3. "Innocent party" includes bona fide purchasers and victims;

17 4. "Lien notice" means the notice pursuant to the provisions of
18 Section 1412 of this title;

19 5. "Pattern of racketeering activity" means two or more
20 occasions of conduct:

21 a. that include each of the following:

22 (1) constitute racketeering activity,

23 (2) are related to the affairs of the enterprise,

24 (3) are not isolated, and

1 (4) are not so closely related to each other and
2 connected in point of time and place that they
3 constitute a single event, and

4 b. where each of the following is present:

5 (1) at least one of the occasions of conduct occurred
6 after November 1, 1988,

7 (2) the last of the occasions of conduct occurred
8 within three (3) years, excluding any period of
9 imprisonment served by any person engaging in the
10 conduct, of a prior occasion of conduct, and

11 (3) for the purposes of Section 1403 of this title
12 each of the occasions of conduct constituted a
13 felony pursuant to the laws of this state;

14 6. "Pecuniary value" means:

15 a. anything of value in the form of money, a negotiable
16 instrument, or a commercial interest, or anything
17 else, the primary significance of which is economic
18 advantage, or

19 b. any other property or service that has a value in
20 excess of One Hundred Dollars (\$100.00);

21 7. "Person" means any individual or entity holding or capable
22 of holding a legal or beneficial interest in property;

23 8. "Personal property" includes any personal property, or any
24 interest in such personal property, or any right, including bank

1 accounts, debts, corporate stocks, patents or copyrights. Personal
2 property and beneficial interest in personal property shall be
3 deemed to be located where the trustee, the personal property, or
4 the instrument evidencing the right is located;

5 9. "Principal" means a person who engages in conduct
6 constituting a violation of the Oklahoma Racketeer-Influenced and
7 Corrupt Organizations Act or who is legally accountable for the
8 conduct of another who engages in a violation of the Oklahoma
9 Racketeer-Influenced and Corrupt Organizations Act;

10 10. "Racketeering activity" means engaging in, attempting to
11 engage in, conspiring to engage in, or soliciting, coercing, or
12 intimidating another person to engage in any conduct which is
13 chargeable or indictable as constituting a felony violation of one
14 or more of the following provisions of the Oklahoma Statutes,
15 regardless of whether such act is in fact charged or indicted:

16 a. relating to homicide pursuant to the provisions of
17 Section 651, 652, 653, 701.7, 701.8, 701.16, 711 or
18 716 of Title 21 of the Oklahoma Statutes or relating
19 to concealment of homicidal death pursuant to the
20 provisions of Section 543 of Title 21 of the Oklahoma
21 Statutes,

22 b. relating to kidnapping pursuant to the provisions of
23 Section 741, 745, 891 or 1119 of Title 21 of the
24 Oklahoma Statutes,

- 1 c. relating to sex offenses pursuant to the provisions of
2 Section 886, 888, 1021, 1021.2, 1021.4, 1024.2, 1111,
3 1111.1, 1114 or 1123 of Title 21 of the Oklahoma
4 Statutes,
- 5 d. relating to bodily harm pursuant to the provisions of
6 Section 645, 650, 650.2, 1289.16, 1302, 1303 or 1767.1
7 of Title 21 of the Oklahoma Statutes,
- 8 e. relating to theft, where the offense constitutes a
9 felony, pursuant to the provisions of Section 1704,
10 1707, 1708, 1709, 1710, 1711, 1713, 1716, 1719, 1720,
11 1721, 1722, 1723 or 1731 of Title 21 of the Oklahoma
12 Statutes,
- 13 f. relating to forgery pursuant to the provisions of
14 Section 1561, 1562, 1571, 1572, 1574, 1575, 1577,
15 1578, 1579, 1580, 1581, 1582, 1583, 1584, 1585, 1586,
16 1587, 1588, 1589, 1590, 1591 or 1593 of Title 21 of
17 the Oklahoma Statutes,
- 18 g. relating to robbery pursuant to the provisions of
19 Section 797, 800 or 801 of Title 21 of the Oklahoma
20 Statutes,
- 21 h. relating to burglary pursuant to the provisions of
22 Section 1431, 1435 or 1437 of Title 21 of the Oklahoma
23 Statutes,
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- 1 i. relating to arson pursuant to the provisions of
2 Section 1368, 1401, 1402, 1403 or 1404 of Title 21 of
3 the Oklahoma Statutes,
- 4 j. relating to use or possession of a firearm or other
5 offensive weapon while committing or attempting to
6 commit a felony pursuant to the provisions of Section
7 1287, 1289.20 or 1289.21 of Title 21 of the Oklahoma
8 Statutes,
- 9 k. relating to gambling pursuant to the provisions of
10 Section 941, 942, 944, 945, 946, 948, 954, 956, 957,
11 969, 970, 971, 981, 982, 983, 984, 985, 986, 987, 991
12 or 992 of Title 21 of the Oklahoma Statutes,
- 13 l. relating to bribery in contests pursuant to the
14 provisions of Section 399 or 400 of Title 21 of the
15 Oklahoma Statutes,
- 16 m. relating to interference with public officers pursuant
17 to the provisions of Section 434, 436, 437, 438, 439,
18 440, 441, 443, 444, 521, 522, 532, 540, 543, 545 or
19 546 of Title 21 of the Oklahoma Statutes,
- 20 n. relating to interference with judicial procedure
21 pursuant to the provisions of Section 388, 453, 455,
22 456, 491, 496 or 504 of Title 21 of the Oklahoma
23 Statutes,
- 24

- 1 o. relating to official misconduct pursuant to the
2 provisions of Section 380, 381, 382, 383, 384, 385,
3 386, 389, 390, 950 or 976 of Title 21 of the Oklahoma
4 Statutes,
- 5 p. relating to the Uniform Controlled Dangerous
6 Substances Act, where the offense constitutes a
7 felony, pursuant to the provisions of Section 2-101 et
8 seq. of Title 63 of the Oklahoma Statutes,
- 9 q. relating to automobile theft pursuant to the
10 provisions of Section 4-102, 4-103, 4-107, 4-108,
11 4-109 or 4-110 of Title 47 of the Oklahoma Statutes,
- 12 r. relating to embezzlement pursuant to the provisions of
13 Section 1412 of Title 6 of the Oklahoma Statutes,
14 Section 641 of Title 19 of the Oklahoma Statutes,
15 Section 341, 531 or 1451 of Title 21 of the Oklahoma
16 Statutes, Section 163.4 of Title 37 of the Oklahoma
17 Statutes, Section 114 of Title 64 of the Oklahoma
18 Statutes or Section 1361 of Title 68 of the Oklahoma
19 Statutes,
- 20 s. relating to extortion, where the offense constitutes a
21 felony, pursuant to the provisions of Section 1304,
22 1481, 1482, 1485, 1486 or 1488 of Title 21 of the
23 Oklahoma Statutes,
24

- 1 t. relating to fraud, where the offense constitutes a
2 felony, pursuant to the provisions of Section 208.6,
3 208.7 or 208.8 of Title 3A of the Oklahoma Statutes,
4 Section 552.18 of Title 18 of the Oklahoma Statutes,
5 Section 358, 1411, 1412, 1413, 1414, 1415, 1416, 1503,
6 1521, 1541.1, 1541.3, 1542, 1543, 1544, 1550.2,
7 1550.22, 1550.23, 1550.24, 1550.25, 1550.26, 1550.27,
8 1550.28, 1550.29, 1550.30, 1550.31, 1550.32, 1632,
9 1635 or 1662 of Title 21 of the Oklahoma Statutes,
10 Section 243 of Title 56 of the Oklahoma Statutes, or
11 Section 604 of Title 62 of the Oklahoma Statutes,
12 u. relating to conspiracy, where the offense constitutes
13 a felony, pursuant to the provisions of Section 421,
14 422 or 424 of Title 21 of the Oklahoma Statutes,
15 v. relating to prostitution, pornography or obscenity
16 pursuant to the provisions of Section 1021, 1040.52,
17 1081, 1085, 1086, 1087 or 1088 of Title 21 of the
18 Oklahoma Statutes,
19 w. relating to the Oklahoma Alcoholic Beverage Control
20 Law Enforcement Act, where the offense constitutes a
21 felony, pursuant to the provisions of Section 506.1 et
22 seq. of Title 37 of the Oklahoma Statutes,
23 x. relating to the Oklahoma Uniform Securities Act of
24 2004, where the offense constitutes a felony, pursuant

1 to the provisions of Sections 1-101 through 1-701 of
2 Title 71 of the Oklahoma Statutes,

3 y. relating to human trafficking or trafficking in
4 children pursuant to the provisions of Section 748,
5 866 or 867 of Title 21 of the Oklahoma Statutes,

6 z. relating to illegal aliens pursuant to the provisions
7 of Section 446 of Title 21 of the Oklahoma Statutes,

8 aa. relating to organized voter fraud pursuant to the
9 provisions of Section 16-102, 16-102.1, 16-102.2, 16-
10 103, 16-103.1, 16-104, 16-105, 16-106, 16-113, 16-118,
11 16-120, 16-121 or 16-123.1 of Title 26 of the Oklahoma
12 Statutes, or

13 bb. relating to terrorism and terrorist activities
14 pursuant to the provisions of the Sabotage Prevention
15 Act or the Oklahoma Antiterrorism Act.

16 In addition, "racketeering activity" may be proven by proof of
17 engaging in, attempting to engage in, conspiring to engage in, or
18 soliciting, coercing, or intimidating another person to engage in
19 any of the above described conduct within another state, regardless
20 of whether said conduct is chargeable or indictable in that state;

21 11. "Real property" means any real property or any interest in
22 real property, including any lease of, or mortgage upon real
23 property. Real property and beneficial interest in real property
24 shall be deemed to be located where the real property is located;

1 12. "Trustee" includes trustees, a corporate as well as a
2 natural person and a successor or substitute trustee in accordance
3 with the Oklahoma Trust Act; and

4 13. "Unlawful debt" means any money or other thing of value
5 constituting principal or interest of a debt that is unenforceable
6 in the courts of Oklahoma, because the debt was incurred or
7 contracted in violation of a law relating to the business of
8 gambling activity or in violation of federal or state law but does
9 not include any debt owed to a bank, savings and loan association,
10 credit union or supervised lender licensed by the Oklahoma
11 Administrator of Consumer Credit or to any debt referred or assigned
12 to a debt collection agency, which referral or assignment is
13 accepted in good faith by the debt collection agency as a debt
14 collectible under the Uniform Commercial Code or other laws of this
15 state and enforceable in the courts of this state.

16 SECTION 11. AMENDATORY 37 O.S. 2001, Section 8, is
17 amended to read as follows:

18 Section 8. Any person who shall, in any public place, or in or
19 upon any passenger coach, streetcar, or in or upon any other vehicle
20 commonly used for the transportation of passengers, or in or about
21 any depot, platform, waiting station or room, drink or otherwise
22 consume any intoxicating liquor unless authorized by the Oklahoma
23 Alcoholic Beverage ~~Control~~ Law Enforcement Act, intoxicating
24 substance, or intoxicating compound of any kind, or inhale glue,

1 paint or other intoxicating substance, or if any person shall be
2 drunk or intoxicated in any public or private road, or in any
3 passenger coach, streetcar, or any public place or building, or at
4 any public gathering, from drinking or consuming such intoxicating
5 liquor, intoxicating substance or intoxicating compound or from
6 inhalation of glue, paint or other intoxicating substance, or if any
7 person shall be drunk or intoxicated from any cause and shall
8 disturb the peace of any person, he shall be guilty of a
9 misdemeanor, and upon conviction thereof shall be punished by a fine
10 of not less than Ten Dollars (\$10.00), nor more than One Hundred
11 Dollars (\$100.00), or by imprisonment for not less than five (5)
12 days nor more than thirty (30) days, or by both such fine and
13 imprisonment.

14 SECTION 12. AMENDATORY 37 O.S. 2001, Section 163.1, as
15 amended by Section 1, Chapter 229, O.S.L. 2010 (37 O.S. Supp. 2010,
16 Section 163.1), is amended to read as follows:

17 Section 163.1 ~~All beverages containing more than three and two-~~
18 ~~tenths percent (3.2%) alcohol by weight and all mixed beverage~~
19 ~~coolers, as defined in Section 506 of this title, regardless of~~
20 ~~percent of alcoholic content, are hereby declared to be~~
21 ~~intoxicating. All beverages containing more than one-half of one~~
22 ~~percent (1/2 of 1%) alcohol by volume and not more than three and~~
23 ~~two-tenths percent (3.2%) alcohol by weight are hereby declared to~~
24 ~~be low point beer. Wherever the term "nonintoxicating beverage" or~~

1 ~~"nonintoxicating malt beverage" appears in the Oklahoma Statutes,~~
2 ~~such term shall be construed to mean low point beer. The~~
3 ~~manufacture, distribution and sale of low point beer, including but~~
4 ~~not limited to beer or cereal malt beverages, are hereby declared~~
5 ~~subject to the provisions of Section 163.1 et seq. of this title.~~
6 ~~Provided, that nothing herein shall prevent a person from making~~
7 ~~low point beer, as defined by Section 163.2 of this title, by simple~~
8 ~~fermentation for personal use if the maker of such beverages has~~
9 ~~first applied for and possesses a valid personal use permit issued~~
10 ~~by the Alcoholic Beverage Laws Enforcement Commission, as provided~~
11 ~~in Section 4 520A of this ~~act~~ title, and the total volume of low-~~
12 ~~point beer produced in any given calendar year is less than two~~
13 ~~hundred (200) gallons. No beverage made pursuant to a personal use~~
14 ~~permit shall be sold or offered for sale.~~

15 SECTION 13. AMENDATORY 37 O.S. 2001, Section 163.2, as
16 last amended by Section 1, Chapter 289, O.S.L. 2010 (37 O.S. Supp.
17 2010, Section 163.2), is amended to read as follows:

18 Section 163.2 In the administration of Section 163.1 et seq. of
19 this title, the following words and phrases are given the meanings
20 respectively indicated:

21 1. ~~"Low point beer Beer" means and includes beverages~~
22 ~~containing more than one half of one percent (1/2 of 1%) alcohol by~~
23 ~~volume, and not more than three and two tenths percent (3.2%)~~
24 ~~alcohol by weight, including but not limited to beer or cereal malt~~

1 ~~beverages obtained by the alcoholic fermentation of an infusion of~~
2 ~~barley or other grain, malt or similar products~~ any beverage
3 containing more than one-half of one percent (1/2 of 1%) of alcohol
4 measured by volume and obtained by the alcoholic fermentation of an
5 infusion or decoction of barley, or other grain, malt or similar
6 products. "Beer" may or may not contain hops or other vegetable
7 products. "Beer" includes, among other things, beer, ale, stout,
8 lager beer, porter and other malt or brewed liquors, but does not
9 include sake, known as Japanese rice wine;

10 2. "Person" means and includes an individual, a trust or
11 estate, a partnership, an association or a corporation;

12 3. "Manufacturer" means and includes any person who prepares
13 for human consumption by the use of raw materials or other
14 ingredients any ~~low-point~~ beer, as defined herein, upon which a
15 license fee and a tax are imposed by any law of this state;

16 4. ~~Wholesaler~~ Beer wholesaler" means and includes any person
17 who sells any ~~low-point~~ beer, as defined herein, to a licensed
18 retail dealer, as hereinafter defined, for resale, and who holds a
19 license as provided by subsection F of Section 521 of this title;

20 5. "Retail dealer" means and includes any person who sells any
21 ~~low-point~~ beer, as defined herein, at retail for consumption or use,
22 and such definitions include state and county fair associations, and
23 special licenses may be issued for the sale of ~~low-point~~ beer, as
24 herein defined, by such associations, and to other persons for the

1 sale of such ~~low-point~~ beer at rodeos, picnics, or other organized
2 temporary assemblages of people. The term "retail dealer" also
3 includes railways for the sale of such beverages, and licenses may
4 be issued for each dining car or railway train, which railways and
5 dining cars shall pay the same license fees as regular retail
6 dealers;

7 6. "Sale" or "sales", for the purpose of the collection of the
8 taxes imposed by any law of the state upon ~~low-point~~ beer, as
9 defined herein, is hereby defined to mean and include all sales by
10 all beer wholesalers within this state, for money or any other
11 valuable consideration, to retail dealers for resale; and, also, the
12 term "sale" or "sales" taxable under Section 163.1 et seq. of this
13 title means and includes all sales from manufacturers or wholesalers
14 from outside this state, to retail dealers for resale to consumers
15 or otherwise. The term "sale" or "sales" shall also include sales
16 from manufacturers without the state to wholesalers located within
17 the state;

18 7. "Meals" means foods commonly ordered at lunch or dinner and
19 at least part of which is cooked on the licensed premises and
20 requires the use of dining implements for consumption. Provided,
21 that the service of only food such as appetizers, sandwiches, salads
22 or desserts shall not be considered "meals";

23 8. "Motion picture theater" means a place where motion pictures
24 are exhibited and to which the general public is admitted, but does

1 not include a place where meals, as defined by this section, are
2 served, if only persons twenty-one (21) years of age or older are
3 admitted;

4 9. "Existing wholesaler" means a wholesaler who distributes a
5 particular brand of low-point beer at the time a successor
6 manufacturer acquires rights to manufacture or import the particular
7 brand of low-point beer;

8 10. "Fair market value" means the value that would be
9 determined in a transaction entered into without duress or threat of
10 termination of the existing wholesaler's right and shall include all
11 elements of value, including goodwill and going-concern value;

12 11. "Good cause" means:

13 a. failure by the wholesaler to comply with the
14 provisions of a written agreement or understanding
15 with the manufacturer, or

16 b. failure by the wholesaler to comply with the duty of
17 good faith;

18 12. "Good faith" means the duty of each party to any franchise
19 and all officers, employees or agents thereof to act with honesty in
20 fact and within reasonable standards of fair dealing in the trade;

21 13. "Successor manufacturer" means a primary source of supply,
22 a brewer or an importer that acquires rights to a ~~low-point~~ beer
23 brand from a predecessor manufacturer;

24

1 14. "Successor wholesaler" means one or more wholesalers
2 designated by a successor manufacturer to replace the existing
3 wholesaler, for all or part of the existing wholesaler's territory,
4 in the distribution of the existing ~~low-point~~ beer brand or brands;
5 and

6 15. "On-premise consumption" shall include consumption within a
7 single building owned or operated by any agency, political
8 subdivision or public trust of this state, if the building or a part
9 thereof is defined as a common drinking area for consumption of ~~low-~~
10 ~~point~~ beer by resolution of the governing body that owns or operates
11 the building.

12 SECTION 14. AMENDATORY 37 O.S. 2001, Section 163.3, as
13 last amended by Section 2, Chapter 229, O.S.L. 2010 (37 O.S. Supp.
14 2010, Section 163.3), is amended to read as follows:

15 Section 163.3 There is hereby levied on all ~~low-point~~ beer
16 ~~containing more than one half of one percent (1/2 of 1%) of alcohol~~
17 ~~measured by volume and not more than three and two tenths percent~~
18 ~~(3.2%) of alcohol measured by weight which are is manufactured and~~
19 sold, or removed for consumption or sale, within this state a tax of
20 Eleven Dollars and twenty-five cents (\$11.25) for every barrel
21 containing not more than thirty-one (31) gallons, and at a like rate
22 of tax for any other quantities or for a fractional part of a
23 barrel. Provided, any ~~low-point~~ beer manufactured in this state for
24 export or produced pursuant to a valid personal use permit issued by

1 the Alcoholic Beverage Laws Enforcement Commission pursuant to
2 Section 4 520A of this ~~act~~ title shall not be taxed as provided in
3 this section.

4 Each beer wholesaler making reports and remittances to the
5 Oklahoma Tax Commission shall be allowed the sum of one percent (1%)
6 of the tax remittances collected for maintaining and collecting the
7 tax for the benefit of this state.

8 Machinery and equipment directly used in the manufacture within
9 this state of ~~low-point~~ beer taxed pursuant to the provisions of
10 this section shall be exempt from taxation under any other law of
11 this state levying a sales or consumers or use tax.

12 SECTION 15. AMENDATORY 37 O.S. 2001, Section 163.4, as
13 last amended by Section 2, Chapter 484, O.S.L. 2003 (37 O.S. Supp.
14 2010, Section 163.4), is amended to read as follows:

15 Section 163.4 The excise tax levied on ~~low-point~~ beer under
16 Section 163.3 of this title shall be paid by the following:

17 1. Manufacturers. When the sale is made by a manufacturer,
18 located and doing business in this state, to a beer wholesaler,
19 located and doing business in this state, the tax shall be paid by
20 the beer wholesaler.

21 When the sale is made by a manufacturer located outside of the
22 state and doing business in this state by virtue of and under permit
23 issued as hereinafter provided to a beer wholesaler located and
24

1 doing business in this state, the tax shall be paid by the beer
2 wholesaler.

3 When the sale is made by a manufacturer located and doing
4 business in this state to a retail dealer located and doing business
5 in this state, the tax shall be paid by the manufacturer, who must
6 also be the holder of an effective wholesale beverage dealer's
7 license. Before making any such sale to a retail dealer the
8 manufacturer must apply for and procure a license as a beer
9 wholesaler, provided for in Section 163.1 et seq. of this title.

10 When the sale is made by a manufacturer located and doing
11 business in this state to a consumer in this state, the tax shall be
12 paid by the manufacturer;

13 2. Beer Wholesalers. When the sale is made by a beer
14 wholesaler, located and doing business in this state, to a retail
15 dealer located and doing business in this state, the tax shall be
16 paid by the beer wholesaler. Such beer wholesalers may sell only to
17 licensed retail dealers ~~low-point~~ beer upon which the tax provided
18 by Section 163.3 of this title has first been paid by such beer
19 wholesaler.

20 When the sale is made by a beer wholesaler, located and doing
21 business outside this state, and who has obtained an Oklahoma
22 wholesale beverage dealer's license, to a retail dealer located and
23 doing business in this state, the beer wholesaler shall be liable
24 for and must pay to the Tax Commission the beverage tax due on such

1 sales. In the event of a retail dealer, doing business in this
2 state, purchases beverage from a beer wholesaler doing business
3 outside this state, and who does not have an Oklahoma wholesale
4 beverage dealer's license, the retailer shall be liable for and must
5 pay to the Oklahoma Tax Commission the tax due on such sales. Both
6 the beer wholesalers and retailers liable for the payment of such
7 tax shall, on forms prescribed by the Tax Commission, report to the
8 Tax Commission such sales and deliveries.

9 For the purpose of collecting and remitting the tax imposed
10 under Section 163.1 et seq. of this title, the beer wholesaler
11 collecting such tax is hereby declared to be the agent of the state
12 for such purposes; and

13 3. Retail Dealers. Retail dealers, where the out-of-state
14 manufacturer or beer wholesaler has paid the tax under the
15 provisions of Section 163.1 et seq. of this title, shall not be
16 required to pay the tax. However, nothing in Section 163.1 et seq.
17 of this title shall operate to relieve any retail dealer from
18 payment of the tax where such retail dealer has at any time in his
19 or her possession or exhibits for sale ~~low-point~~ beer upon which the
20 tax has not been paid. In such case all the provisions of Section
21 163.1 et seq. of this title relating to reports, returns, and
22 payment of the tax shall apply to such retail dealer, and any
23 refusal to comply with the requirements regarding reports, returns,
24 and payment of the tax, or any violation of any of the penal

1 sections of Section 163.1 et seq. of this title, shall likewise
2 subject such retail dealer to the penalties and punishments
3 prescribed for other taxpayers. In addition, any retail dealer that
4 manufactures ~~low-point~~ beer for consumption on the licensed premises
5 shall be required to pay the tax.

6 Except as provided in paragraph 1 of Section 163.7 of this
7 title, no retail dealer may sell any ~~low-point~~ beer except at
8 retail, for consumption or use; and no retail dealer may have in his
9 or her possession, or offer for sale, any such beverage upon which
10 the tax shall not have been paid.

11 SECTION 16. AMENDATORY 37 O.S. 2001, Section 163.5, is
12 amended to read as follows:

13 Section 163.5 The excise tax levied by Section 163.3 of this
14 title on ~~low-point~~ beer shall be due and payable on or before the
15 tenth day of each month for the preceding calendar month. At the
16 time of paying such tax each taxpayer shall, upon forms prescribed,
17 prepared and furnished by the Tax Commission, file with the Tax
18 Commission a return, under oath, showing the total sales of such
19 beverages during the preceding calendar month, the amount of taxes
20 due, and such further information as the Tax Commission may require
21 to enable it to compute correctly and collect the taxes levied under
22 Section 163.1 et seq. of this title. Any tax not paid within ten
23 (10) days after the close of the preceding calendar month shall be
24 delinquent.

1 SECTION 17. AMENDATORY 37 O.S. 2001, Section 163.6, is
2 amended to read as follows:

3 Section 163.6 All monies collected pursuant to the provisions
4 of Section 163.1 et seq. of this title shall be apportioned to the
5 General Revenue Fund of the state, unless otherwise provided by law.

6 SECTION 18. AMENDATORY 37 O.S. 2001, Section 163.7, as
7 last amended by Section 25, Chapter 5, O.S.L. 2004 (37 O.S. Supp.
8 2010, Section 163.7), is amended to read as follows:

9 Section 163.7 In addition to the excise tax payable under
10 Section 163.1 et seq. of this title, and in addition to the license
11 required to be procured from the judge of the district court, the
12 following permits shall be required and the following annual license
13 taxes shall be payable to the Oklahoma Tax Commission with respect
14 to ~~low-point~~ beer; provided, any such permit issued prior to
15 November 1, 1995, with respect to ~~low-point~~ beer shall be valid
16 until it expires:

17 1. Manufacturers: Every manufacturer, located and doing
18 business in this state, shall, before commencing the manufacture of
19 ~~low-point~~ beer, obtain from the ~~Tax~~ Oklahoma Alcoholic Beverage Laws
20 Enforcement Commission a permit to engage in such manufacture. As a
21 condition of the issuance of this permit, such manufacturer shall
22 pay to the ~~Tax~~ Oklahoma Alcoholic Beverage Laws Enforcement
23 Commission a license ~~tax~~ fee of Four Hundred Fifty Dollars
24 (\$450.00), which shall cover a three-year period commencing with the

1 effective date of such permit. This permit must be renewed and the
2 license tax paid thereafter at the expiration of the preceding
3 permit and license tax period. Each and every other manufacturer of
4 such beverages, coming within the provisions of Section 163.1 et
5 seq. of this title, shall before selling or offering for sale such
6 beverages within the State of Oklahoma, qualify with the Secretary
7 of State of the State of Oklahoma for a permit to do business within
8 the State of Oklahoma and, after so qualifying, shall obtain a
9 permit or license from the ~~Tax~~ Oklahoma Alcoholic Beverage Laws
10 Enforcement Commission and, in addition to any other license, taxes
11 or fees, pay therefor a license ~~tax~~ fee of Five Hundred Dollars
12 (\$500.00), which shall cover a one-year period commencing with the
13 effective date of such permit. The permit or license shall be for
14 the privilege of doing business in Oklahoma as a manufacturer of
15 ~~low-point~~ beer. The permit must be renewed and the license tax paid
16 annually thereafter at the expiration of the preceding permit and
17 license tax period. The receipt of payment of such permit or
18 license shall be on file with the ~~Tax~~ Oklahoma Alcoholic Beverage
19 Laws Enforcement Commission before such manufacturer shall sell, or
20 offer for sale, such beverages to any person within the State of
21 Oklahoma. Provided, a manufacturer located and doing business in
22 this state may sell not more than five thousand (5,000) barrels
23 annually of its own products directly to consumers by procuring a
24 retail license.

1 Every manufacturer, located and doing business outside the State
2 of Oklahoma, desiring to pay the excise tax on sales to retail
3 dealers, as provided for in Section 163.1 et seq. of this title,
4 shall procure annually a permit and pay annually the license ~~tax~~ fee
5 required of beer wholesalers, as provided for under this section.
6 The payment of such fee shall be in addition to the payment of the
7 license fee or tax in the sum of Five Hundred Dollars (\$500.00) as
8 provided herein;

9 2. ~~Wholesalers~~ Beer wholesalers: Every beer wholesaler,
10 located and doing business in this state, must annually obtain from
11 the ~~Tax~~ Oklahoma Alcoholic Beverage Laws Enforcement Commission a
12 permit to sell ~~low-point~~ beer. As a condition of the issuance of
13 this permit, such beer wholesaler shall pay to the ~~Tax~~ Oklahoma
14 Alcoholic Beverage Laws Enforcement Commission a license fee of Two
15 Hundred Fifty Dollars (\$250.00) which shall cover a one-year period
16 commencing with the effective date of such permit. The permit must
17 be renewed and the license tax paid annually thereafter at the
18 expiration of the preceding permit and license tax period. The fee
19 shall be reduced by seventy-five percent (75%) if the applicant is a
20 holder of a license to manufacture ~~low-point~~ beer and is located and
21 doing business in this state.

22 Every beer wholesaler, located and doing business outside the
23 state desiring to pay the excise tax on sales to retail dealers, as
24 provided for in Section 163.1 et seq. of this title, shall procure

1 annually a permit and pay annually the license ~~tax~~ fee required of
2 beer wholesalers located and doing business in this state.

3 ~~Wholesalers~~ Beer wholesalers within this state shall be required
4 to secure an annual permit and must pay an annual license tax for
5 each city or incorporated town from which deliveries of ~~low-point~~
6 beer are made to retail dealers.

7 Permits issued to beer wholesalers shall not be transferable
8 from one person to another person but shall be transferable from one
9 location to another location; and

10 3. Retail Dealers: Every retail dealer shall, before offering
11 ~~low-point~~ beer for sale to the public, obtain from the ~~Tax~~ Oklahoma
12 Alcoholic Beverage Laws Enforcement Commission a permit to engage in
13 such sales, and shall pay to the ~~Tax~~ Oklahoma Alcoholic Beverage
14 Laws Enforcement Commission, in advance of the issuance of the
15 permit, the license ~~tax~~ fee, as follows:

16 a. each retail dealer who sells ~~low-point~~ beer, on
17 draught and in original packages, for consumption on
18 or off the premises, shall obtain a permit which shall
19 be valid for a period of three (3) years and shall pay
20 a license ~~tax~~ fee of Four Hundred Dollars (\$400.00)
21 for every permit issued or renewed on or after July 1,
22 2003, but prior to July 1, 2006, of which One Hundred
23 Dollars (\$100.00) shall be deposited in the Community-
24 based Substance Abuse Revolving Fund established in

1 Section ~~2~~ 2-311 of ~~this act~~ Title 43A of the Oklahoma
2 Statutes. The fee for every permit issued or renewed
3 on or after July 1, 2006, shall be Five Hundred
4 Dollars (\$500.00), of which Two Hundred Dollars
5 (\$200.00) shall be deposited in the Community-based
6 Substance Abuse Revolving Fund,

7 b. each retail dealer who sells such beverages in
8 original packages only for consumption on or off the
9 premises shall obtain a permit which shall be valid
10 for a period of three (3) years and shall pay a
11 license ~~tax~~ fee of Two Hundred Fifty Dollars (\$250.00)
12 for each permit issued or renewed on or after July 1,
13 2003, but before July 1, 2006, of which One Hundred
14 Dollars (\$100.00) shall be deposited in the Community-
15 based Substance Abuse Revolving Fund. The fee for
16 every permit issued on or after July 1, 2006, shall be
17 Three Hundred Fifty Dollars (\$350.00), of which Two
18 Hundred Dollars (\$200.00) shall be deposited in the
19 Community-based Substance Abuse Revolving Fund,

20 c. each retail dealer who sells ~~low point~~ beer purchased
21 from a licensed manufacturer or licensed beer
22 wholesaler for consumption on or off the premises and
23 who sells ~~low point~~ beer manufactured by the retail
24 dealer for consumption on or off the premises shall

1 obtain a permit which shall be valid for a period of
2 three (3) years and shall pay a license fee of Five
3 Hundred Fifty Dollars (\$550.00) for each permit issued
4 or renewed on or after July 1, 2003, but before July
5 1, 2006, of which One Hundred Dollars (\$100.00) shall
6 be deposited in the Community-based Substance Abuse
7 Revolving Fund. The fee for every permit issued on or
8 after July 1, 2006, shall be Six Hundred Fifty Dollars
9 (\$650.00), of which Two Hundred Dollars (\$200.00)
10 shall be deposited in the Community-based Substance
11 Abuse Revolving Fund. Provided, a retail dealer
12 licensed pursuant to this subparagraph shall not
13 manufacture more than five thousand (5,000) barrels of
14 ~~low point~~ beer per year. A retail dealer, that has
15 obtained a permit pursuant to this subparagraph, may
16 sell ~~low point~~ beer manufactured by the retail dealer,
17 at any of the retail dealer's places of business, as
18 defined in Section 163.8 of this title, or any other
19 place owned and operated by an entity which has common
20 owners with the licensed dealer, regardless of which
21 place of business brews the beverage. "Common owners"
22 means that the owners at each place or entity together
23 own more than fifty percent (50%) of the interest in
24 each place or entity that has a permit issued pursuant

1 to this subparagraph. A retail dealer, that has
2 obtained a permit pursuant to this subparagraph, may
3 sell ~~low-point~~ beer manufactured by the same retailer
4 pursuant to special licenses issued pursuant to
5 subparagraph d of this paragraph,

6 d. special licenses, as provided, may be issued by the
7 Oklahoma Alcoholic Beverage Laws Enforcement
8 Commission for the sum of Five Dollars (\$5.00) per day
9 for each license; provided, that in the event any
10 state or county fair association shall meet for more
11 than five (5) days in any year, a special license for
12 the sale of such beverages shall be issued for the sum
13 of Twenty-five Dollars (\$25.00),

14 e. each retail dealer who sells such beverages in
15 original packages and not for consumption on the
16 premises, shall obtain a permit which shall be valid
17 for a period of three (3) years and shall pay a
18 license ~~tax~~ fee of One Hundred Thirty Dollars
19 (\$130.00) for each permit issued or renewed on or
20 after July 1, 2003, but prior to July 1, 2006, of
21 which One Hundred Dollars (\$100.00) shall be deposited
22 in the Community-based Substance Abuse Revolving Fund.
23 The fee for every permit issued or renewed on or after
24 July 1, 2006, shall be Two Hundred Thirty Dollars

1 (\$230.00), of which Two Hundred Dollars (\$200.00)
2 shall be deposited in the Community-based Substance
3 Abuse Revolving Fund. It shall be unlawful for such
4 off-premise dealer to allow any bottle, can, or
5 original package to be broken or opened, or to allow
6 any of such ~~low-point~~ beer to be consumed, in or upon
7 the premises described in such permit; provided,
8 however, a manufacturer located and doing business in
9 this state and selling its own products for off-
10 premises consumption may serve visitors on the
11 premises free samples of ~~low-point~~ beer produced on
12 the premises provided such samples shall not exceed
13 twelve (12) fluid ounces per customer per visit,

14 f. a retail dealer who has obtained a permit pursuant to
15 this paragraph and who ceases to offer ~~low-point~~ beer
16 for sale to the public shall be entitled to receive a
17 refund of the permit fee from the ~~Tax~~ Oklahoma
18 Alcoholic Beverage Laws Enforcement Commission
19 prorated with respect to the amount of time remaining
20 until expiration of the permit, upon surrender of the
21 permit to the Oklahoma ~~Tax~~ Alcoholic Beverage Laws
22 Enforcement Commission. The manner and prorated
23 refund shall be prescribed by the ~~Tax~~ Oklahoma
24 Alcoholic Beverage Laws Enforcement Commission, and

1 g. a retail dealer who has obtained a permit pursuant to
2 this paragraph prior to July 1, 2003, shall not be
3 subject to the increased fees provided for in
4 subparagraphs a, b, c or e until the permit is
5 renewed.

6 SECTION 19. AMENDATORY 37 O.S. 2001, Section 163.8, as
7 amended by Section 1, Chapter 170, O.S.L. 2004 (37 O.S. Supp. 2010,
8 Section 163.8), is amended to read as follows:

9 Section 163.8 Prior to applying to the Oklahoma ~~Tax~~ Alcoholic
10 Beverage Laws Enforcement Commission for a permit to engage in the
11 retail sale of ~~low-point~~ beer, the applicant shall first obtain and
12 furnish proof to the Oklahoma ~~Tax~~ Alcoholic Beverage Laws
13 Enforcement Commission of a county permit as required by Section
14 163.11 of this title. Said proof shall include the effective and
15 expiration dates of the permit. On approval of the application and
16 payment of the license ~~tax~~ fee imposed by Sections 163.1 through
17 163.21 of this title, the Oklahoma ~~Tax~~ Alcoholic Beverage Laws
18 Enforcement Commission shall grant the applicant a permit to conduct
19 business in the state. Provided, however, that when a retailer has
20 qualified for and secured a permit to sell ~~low-point~~ beer in
21 original packages only for consumption off the premises and
22 subsequently applies for a permit to sell said beverages on draught
23 and in original packages for consumption on or off the premises,
24 before the expiration of the former permit, the ~~Tax~~ Oklahoma

1 Alcoholic Beverage Laws Enforcement Commission is authorized to
2 credit such retailer with the value of the unused portion of the
3 former permit, prorated in an amount specified by the Oklahoma ~~Tax~~
4 Alcoholic Beverage Laws Enforcement Commission. The permit must be
5 renewed and the license ~~tax~~ fee paid thereafter at the expiration of
6 the preceding permit and license ~~tax~~ fee period.

7 The permits issued to retail dealers shall not be transferable
8 from one person to another person, but shall be transferable from
9 one location to another location, provided that such transfer is
10 made with the approval of the ~~Tax~~ Oklahoma Alcoholic Beverage Laws
11 Enforcement Commission and the judge of the district court.

12 Retail dealers shall be required to secure a permit and must pay
13 a license ~~tax~~ fee for each place of business at which ~~low-point~~ beer
14 is sold. "Place of business" as herein used shall mean each room,
15 bar or other service unit from which ~~low-point~~ beer is served,
16 delivered or otherwise furnished. Provided, retail dealers applying
17 for a special license under the provisions of Section 163.7 of this
18 title shall not be required to obtain a special permit for each bar
19 or service unit within the same enclosed area or within the general
20 vicinity of each other for events held outside a physical structure.

21 Application for the issuance of the initial and renewal permits
22 required and provided for by this section shall be filed with the
23 ~~Tax~~ Oklahoma Alcoholic Beverage Laws Enforcement Commission and must
24 be accompanied by the required license ~~tax~~ fee payment in the form

1 of cash, cashier's check, bank draft, or money order payable to the
2 ~~Tax~~ Oklahoma Alcoholic Beverage Laws Enforcement Commission.
3 Permits shall be issued and renewed in the discretion of the Tax
4 Commission upon full compliance with the provisions of Section 163.1
5 et seq. of this title by the applicant. Proof of the issuance of a
6 permit by the district court clerk, including the effective and
7 expiration dates of the permit, shall entitle the applicant to a
8 permit from the Oklahoma ~~Tax~~ Alcoholic Beverage Laws Enforcement
9 Commission and the revocation of any such permit shall be cause for
10 cancellation of the permit issued by the Oklahoma ~~Tax~~ Alcoholic
11 Beverage Laws Enforcement Commission.

12 SECTION 20. AMENDATORY 37 O.S. 2001, Section 163.9, is
13 amended to read as follows:

14 Section 163.9 Any person who operates as a retail ~~low-point~~
15 beer dealer at any time, without having applied to the Commission
16 for an effective permit, may be required to secure a permit and pay
17 the license ~~tax~~ fee for the balance of the license year from the
18 date on which he or she began operating, and in this event, shall be
19 required to pay fifty cents (\$0.50) for each day which he or she
20 operated before applying for a license; provided the first fifteen
21 (15) days of such delinquency shall be exempt from the fifty-cent-
22 per-day penalty, and provided the total penalty shall not exceed the
23 amount of the license fee for the license which is required.
24 Provided, further, that the said fifty-cent-per-day penalty shall

1 apply likewise to an original applicant and the applicant for a
2 renewal permit and, provided, further, the total penalty shall not
3 exceed the amount of the license fee for the license which is
4 required in case where license is ultimately issued. Any person who
5 operates as such dealer who has applied for a permit but which said
6 permit is ultimately rejected by the Oklahoma Tax Commission, shall
7 each be liable to the Oklahoma ~~Tax~~ Alcoholic Beverage Laws
8 Enforcement Commission for One Dollar (\$1.00) per day for each day
9 of such unauthorized operation, said penalty to be paid on demand of
10 the Oklahoma ~~Tax~~ Alcoholic Beverage Laws Enforcement Commission, and
11 in case of an operator who has applied for a permit, but has been
12 refused, the amount or so much thereof as is necessary of the
13 advanced license fee paid by such applicant, shall be retained by
14 the Oklahoma ~~Tax~~ Alcoholic Beverage Laws Enforcement Commission and
15 applied on the penalty, the remainder of said penalty, if any, to be
16 collected as in case of delinquent ~~tax~~ fee. In case the penalty is
17 not equal to the amount of money deposited in advance, then the
18 balance shall be refunded to the applicant.

19 SECTION 21. AMENDATORY 37 O.S. 2001, Section 163.10, is
20 amended to read as follows:

21 Section 163.10 No tax, license fee, or charge upon the
22 distribution, possession, or handling of ~~low-point~~ beer, as defined
23 by Section 163.2 of this title, shall be levied or collected by any
24 political subdivision of this state, except the sales tax, the

1 general ad valorem tax, and the county ~~low-point~~ beer permit fee.
2 Municipal corporations may require the payment of an annual license
3 fee of not more than Twenty Dollars (\$20.00) from retail dealers, as
4 defined by Section 163.2 of this title, selling ~~low-point~~ beer for
5 consumption on or off the premises, and an annual license fee of not
6 more than Ten Dollars (\$10.00) from retail dealers, as defined by
7 Section 163.2 of this title, selling said beverages in original
8 packages and not for consumption on the premises.

9 SECTION 22. AMENDATORY 37 O.S. 2001, Section 163.11, as
10 last amended by Section 7, Chapter 61, O.S.L. 2006 (37 O.S. Supp.
11 2010, Section 163.11), is amended to read as follows:

12 Section 163.11 A. It shall be unlawful for any person to
13 maintain or operate any place where ~~low-point~~ beer, as herein
14 defined, is sold for consumption on or off the premises without
15 first securing a permit issued by the district court clerk of the
16 county in which the premises are located.

17 B. 1. The person applying for a permit must file a verified
18 application every three (3) years and that he or she has never been
19 convicted of violating any of the laws prohibiting the traffic in
20 any spirituous, vinous, fermented or malt liquors, or of any of the
21 gambling laws of this state, or of any other state of the United
22 States, within three (3) years immediately preceding the date of his
23 or her petition, or any of the laws commonly called "Prohibition
24

1 Laws", or had any permit or license to sell ~~low-point~~ beer revoked
2 in any county of this state within twelve (12) months.

3 2. A person who has been convicted of a felony shall not be
4 eligible for a permit unless the person received a pardon for the
5 felony or a period of ten (10) years has elapsed since the
6 completion of the sentence imposed for the felony.

7 C. No permit shall be issued to sell ~~low-point~~ beer for on-
8 premises consumption unless the person applying for such permit
9 shall have signed an affidavit stating that the location of the
10 building in which ~~low-point~~ beer is to be sold is not prohibited by
11 the provisions of Section 163.27 of this title.

12 D. A fee of One Hundred Fifty Dollars (\$150.00) shall be
13 charged for the issuance or renewal of such three-year permit, which
14 fee shall be deposited in the county court fund, in addition to
15 other fees required by law.

16 E. Upon petition being filed, the district court clerk shall
17 give fifteen (15) days' notice for an initial application, and it is
18 the applicant's responsibility to cause the same to be posted by the
19 entrance on the front of the building in which said ~~low-point~~ beer
20 is to be sold and to file proof of posting in such case; and a copy
21 of said notice shall also be mailed to the district attorney, the
22 sheriff and the chief of police or marshal of any city or town in
23 which said business is to be operated. Said notice shall contain
24 the name of the applicant and the location of said place of

1 business. The initial permit shall be valid for a period of three
2 (3) years and shall expire if not renewed with proper showing
3 required by subsection B of this section, and upon payment of proper
4 fees. A permit may be renewed within ten (10) days of expiration,
5 upon proper application pursuant to subsection B of this section and
6 payment of the proper fees, but without the payment of any late
7 fees. Provided, however, that if a proper application under
8 subsection B of this section is filed within eleven (11) days but
9 not more than thirty (30) days after the expiration date of the
10 permit, upon payment of a fee of One Hundred Dollars (\$100.00) in
11 addition to the initial permit fee, the court clerk is authorized to
12 treat said application as one for renewal and to issue a renewal
13 permit to the applicant, if all requirements have otherwise been met
14 by the applicant. A renewal permit granted during the thirty-day
15 grace period shall become effective upon the date of its issuance by
16 the court clerk.

17 F. A permit issued prior to September 1, 1994, shall be valid
18 until it expires and shall be renewed for a period of three (3)
19 years or until expiration of the sales tax permit issued by the
20 Oklahoma Tax Commission, if any, held by the person at the time of
21 such renewal, whichever is earlier. The manner and prorated fee for
22 renewals of less than three (3) years shall be prescribed by the
23 court clerk.

24

1 G. A person who has obtained a permit pursuant to this section
2 and who ceases to maintain or operate any place where ~~low-point~~ beer
3 is sold for consumption on or off the premises shall be entitled to
4 receive a refund of the permit fee from the district court clerk
5 prorated with respect to the amount of time remaining until
6 expiration of the permit, upon surrender of the existing permit to
7 the district court clerk. The manner and prorated refund shall be
8 prescribed by the Administrative Director of the Courts.

9 H. If there are no protests and the petition is sufficient on
10 its face, then said permit shall be granted by the district court
11 clerk. Provided, that if any citizen of the county files a written
12 protest setting forth objections, then the district court clerk
13 shall advise the chief judge who shall assign such petition to a
14 district judge or associate district judge for hearing.

15 I. The application for such permit must be verified and in
16 writing, contain the information above required, and must be set for
17 hearing on a date named in the notice required to be posted.

18 J. All testimony before the district court shall be under oath.

19 K. A judge of the district court, upon five (5) days' notice to
20 the person holding such permit, shall revoke such permit for any one
21 of the following reasons:

22 1. Drunkenness of the person holding such permit or permitting
23 any intoxicated person to loiter in or around his or her place of
24 business;

1 2. Person under the influence of drugs holding such permit or
2 permitting any drugged person to loiter in or around his or her
3 place of business;

4 3. The sale to any person under twenty-one (21) years of age of
5 ~~low-point~~ beer;

6 4. Permitting persons under the age of twenty-one (21) in a
7 separate or enclosed bar area which has as its main purpose the
8 selling or serving of ~~low-point~~ beer for consumption on the
9 premises, in violation of the provisions of Sections 241 through 246
10 of this title;

11 5. Nonpayment of any of the taxes or license fees imposed by
12 the provisions of Section 163.1 et seq. of this title on complaint
13 of the Oklahoma Tax Commission;

14 6. Violating any of the laws of the state commonly called
15 "Prohibition Laws" or violating any of the gambling laws of the
16 state or permitting anyone to violate any of said laws in such
17 places or violating any of the provisions of Section 163.1 et seq.
18 of this title;

19 7. Conviction for the violation of any of the laws of this
20 state or the United States for the sale or possession of
21 intoxicating liquors within three (3) years immediately preceding
22 the issuance of such dealer's license; or
23
24

1 8. Violating any law pertaining to the use, possession, or sale
2 of drugs or narcotics or the violation of the narcotics laws of the
3 State of Oklahoma or the United States.

4 L. After the revocation of any such permit, for any of the
5 above reasons, except paragraph 5 of subsection K of this section
6 for nonpayment of taxes, or license fees, or except as otherwise
7 provided in this subsection, no new permit shall be issued to the
8 same person or to a relative of such person for the same location or
9 premises prior to the expiration of a period of one (1) year from
10 the date of such revocation. Upon the fourth or subsequent
11 revocation of a permit for a violation of paragraph 3 or 4 of
12 subsection K of this section, no new permit shall be issued to the
13 same person or to a relative of such person for the same location or
14 premises prior to the expiration of a period of three (3) years from
15 the date of such revocation.

16 M. On or before the tenth day of each month each district court
17 clerk shall file with the Oklahoma ~~Tax~~ Alcoholic Beverage Laws
18 Enforcement Commission, on forms prescribed and furnished by the
19 Commission, a report showing the name, address, and county permit
20 number of each such person to whom a county permit has been issued
21 or whose permit has been revoked, or who shall have been refused a
22 county permit, during the previous calendar month. In case of the
23 revocation of a permit by a judge of the district court, the
24 district court clerk shall within five (5) days report such action

1 to the Oklahoma ~~Tax~~ Alcoholic Beverage Laws Enforcement Commission.
2 If county permits shall have been issued, revoked or refused during
3 the month, the district court clerk shall make a report accordingly
4 to the Commission.

5 N. Upon application to and approval by the court clerk of the
6 district court, a retail dealer as defined by Section 163.2 of this
7 title who meets the requirements of this section and Section 163.11a
8 of this title may be granted a special event permit without the
9 requirement of notice or posting, after payment of a fee of Twenty-
10 five Dollars (\$25.00) in addition to other fees required by law,
11 which fees shall not be refundable or apportionable. A special
12 event permit issued under this subsection shall authorize the holder
13 thereof to sell and distribute ~~low-point~~ beer for a period not to
14 exceed ten (10) consecutive days from the date of issuance. A
15 separate permit shall be required for each individual place of
16 business, whether permanent or a temporary assemblage. Provided,
17 retail dealers shall not be required to obtain a special permit for
18 each bar or service unit within the same enclosed area or within the
19 general vicinity of each other for events held outside a physical
20 structure. A special event permit shall not be renewable. A
21 municipality shall not, by ordinance or otherwise, refuse to issue a
22 special event permit or special event license on the basis that the
23 applicant already possesses a permit or license in the applicant's
24 same name.

1 0. That the person demanded, was shown, and reasonably relied
2 upon proof of age shall be a rebuttable presumption to any action
3 brought pursuant to this section. A person cited for violating this
4 section shall be deemed to have reasonably relied upon proof of age,
5 and such person shall not be found guilty of such violation if:

6 1. The individual who purchased or received the ~~low-point~~ beer
7 presented what a reasonable person would have believed was a driver
8 license or other government-issued photo identification purporting
9 to establish that such individual was twenty-one (21) years of age
10 or older; or

11 2. The person cited for the violation confirmed the validity of
12 the driver license or other government-issued photo identification
13 presented by such individual by performing a transaction scan by
14 means of a transaction scan device.

15 Provided, that this defense shall not relieve from liability any
16 person cited for a violation of this section if such person failed
17 to exercise reasonable diligence to determine whether the physical
18 description and picture on the driver license or other government-
19 issued photo identification was that of the individual who presented
20 it. The availability of the defense described in this subsection
21 does not affect the availability of any other defense under any
22 other provision of law.

23 SECTION 23. AMENDATORY 37 O.S. 2001, Section 163.11a, is
24 amended to read as follows:

1 Section 163.11a A. Every person applying to a district court
2 clerk of this state for a permit to sell ~~low-point~~ beer at retail,
3 as provided for in Section 163.11 of this title, shall by affidavit
4 at the time of applying for said permit and by such further proof as
5 the district court clerk may require, make the following proof:

6 1. Noncorporate Persons. That each applicant for a permit or
7 other individual who has a beneficial interest in the business for
8 which permit is sought, has for at least one (1) year next preceding
9 the filing of the application maintained a bona fide residence in
10 the State of Oklahoma, and is at the time of making said application
11 maintaining and actually residing in a residence in the county or
12 adjoining county in which said application is made; and

13 2. Corporate Persons. That such corporations are duly
14 authorized to transact business in the State of Oklahoma, and that
15 the agent or employees managing or in charge of the place of
16 business for which the permit is sought is maintaining and residing
17 in a residence located in said county, or adjoining county, and that
18 such corporation consents that any and all notices required to be
19 served under the provisions of Section 163.1 et seq. of this title
20 may be served on such resident agent or employee.

21 B. Renewal permits may be granted to corporations which have
22 undergone a name change after the initial permit was granted,
23 provided that the new corporation's affidavit and application
24 demonstrate that the corporation has retained the same officers, and

1 that it is otherwise the same corporation which received the initial
2 permit, in addition to payment of proper fees. The initial permits
3 issued to noncorporate persons which have changed legal identities
4 or entities may be renewed upon proper application demonstrating
5 that the identity of the renewal permit holder is the same as that
6 sought to be renewed, and that the business address is the same, in
7 addition to payment of proper fees.

8 SECTION 24. AMENDATORY 37 O.S. 2001, Section 163.12, is
9 amended to read as follows:

10 Section 163.12 Every beer wholesaler, as herein defined, after
11 applying for a license and before the same is issued by the ~~Tax~~
12 Oklahoma Alcoholic Beverage Laws Enforcement Commission, shall file
13 with said Commission a surety or collateral or cash bond in such
14 amount as the Commission may prescribe in an amount of not less than
15 One Thousand Dollars (\$1,000.00), nor more than Ten Thousand Dollars
16 (\$10,000.00) payable to the State of Oklahoma, and conditioned upon
17 compliance with the provisions of the laws of this state relating to
18 the sale of ~~low-point~~ beer, as herein defined, and the rules and
19 regulations of the Oklahoma ~~Tax~~ Alcoholic Beverage Laws Enforcement
20 Commission.

21 Provided that the Oklahoma ~~Tax~~ Alcoholic Beverage Laws
22 Enforcement Commission after an examination of the books and
23 records, and an inventory of the stock on hand of any beer
24 wholesaler, may demand an additional bond of such beer wholesaler in

1 any amount that in the opinion of said Commission is necessary to
2 properly protect the Commission in the collection of the tax herein
3 levied, provided, that said additional bond shall not exceed the sum
4 of Fifteen Thousand Dollars (\$15,000.00). If said additional bond
5 is not posted with the Oklahoma ~~Tax~~ Alcoholic Beverage Laws
6 Enforcement Commission within ten (10) days after notice in writing
7 to the beer wholesaler, to be served in person or by registered mail
8 addressed to the beer wholesaler at the address of his or her
9 principal place of business, the Oklahoma ~~Tax~~ Alcoholic Beverage
10 Laws Enforcement Commission may, in its discretion, cancel the
11 license of said beer wholesaler without further notice, and at the
12 same time declare all taxes levied under Section 163.1 et seq. of
13 this title to be immediately due and payable upon all beverages not
14 sold and in the hands of such beer wholesaler.

15 In cases where retail dealers, as herein defined, are liable for
16 the payment of the taxes imposed by any law of the state upon the
17 sale of ~~low-point~~ beer, as herein defined, on account of purchases
18 from without the state, or otherwise, where the tax is not paid by
19 the beer wholesaler or manufacturer, upon demand of the Oklahoma ~~Tax~~
20 Alcoholic Beverage Laws Enforcement Commission, such retail dealer,
21 as defined herein, shall likewise file with the ~~Tax~~ Commission a
22 surety bond in an amount of not less than One Thousand Dollars
23 (\$1,000.00), payable to the State of Oklahoma and conditioned upon
24 compliance with the provisions of the laws of this state relating to

1 the sale of ~~low-point~~ beer, as herein defined, and the rules and
2 regulations of the Oklahoma ~~Tax~~ Alcoholic Beverage Laws Enforcement
3 Commission.

4 SECTION 25. AMENDATORY 37 O.S. 2001, Section 163.13, is
5 amended to read as follows:

6 Section 163.13 Each and every licensee, subject to the payment
7 of a tax hereunder, is hereby required to keep accurate records,
8 covering the business carried on, and shall, for a period of three
9 (3) years, file and keep his invoices or other memoranda, showing
10 all sales or purchases of such beverages, as herein defined; and
11 such invoices, or memoranda, shall at all times be subject to the
12 examination and inspection of any member or agent of the Oklahoma
13 Tax Commission or of the Oklahoma Alcoholic Beverage Laws
14 Enforcement Commission in the enforcement of this act.

15 SECTION 26. AMENDATORY 37 O.S. 2001, Section 163.14, is
16 amended to read as follows:

17 Section 163.14 A. Each and every manufacturer shall report to
18 the Oklahoma Tax Commission in writing, under oath, monthly, not
19 later than the tenth of each month, all sales of beverages, as
20 herein defined, made during the preceding month to licensed beer
21 wholesalers within the State of Oklahoma; and all sales made
22 otherwise, during said period, including those for delivery outside
23 the state. Such reports shall be upon forms prepared and furnished
24

1 by said Commission and shall contain such information as may be
2 required by it.

3 B. Each beer wholesaler shall, likewise, report to the
4 Commission, in writing, under oath, not later than the tenth day of
5 each month, each and every sale of beverages, as herein defined,
6 made for delivery outside the state, and shall likewise report the
7 volume of sales to persons within the state. At the same time each
8 beer wholesaler shall report to the Commission, in writing, each and
9 every purchase or consignment of beverage received.

10 C. Each and every retail dealer shall keep accurate records of
11 all sales of ~~low-point~~ beer, whether purchased or manufactured by
12 the retail dealer, to consumers or users, and of all purchases of
13 such beverages from beer wholesalers or otherwise; and such records
14 shall be preserved for a period of three (3) years and shall be open
15 to inspection at all times by the Commission or any of its
16 employees.

17 SECTION 27. AMENDATORY 37 O.S. 2001, Section 163.16, is
18 amended to read as follows:

19 Section 163.16 Any license issued to a beer wholesaler or
20 retail dealer, as defined herein, may be refused or revoked by the
21 Oklahoma Tax Commission upon ten (10) days' notice in writing to
22 such beer wholesaler or retail dealer, and after opportunity to be
23 heard before the said Commission for any of the following reasons:
24

1 1. The refusal by the judge of the district court to issue any
2 permit to a retail dealer, or the cancellation by the judge of the
3 district court of the county permit of any retail dealer;

4 2. Nonpayment of delinquent tax, license fee or permit fees or
5 penalties;

6 3. Possession or display for sale by any retail dealer of ~~low-~~
7 ~~point~~ beer, as herein defined, upon which the tax imposed by any law
8 of this state shall not have been paid;

9 4. Failure on the part of any beer wholesaler or retail dealer
10 to comply with all laws, or the regulations prescribed by the
11 Oklahoma Tax Commission pursuant thereto relating to the enforcement
12 duties imposed upon the Oklahoma Tax Commission by Section 163.1 et
13 seq. of this title.

14 In any case, before a revocation of license by the Commission,
15 any licensee shall be given ten (10) days' notice in writing and an
16 opportunity to be heard shall be afforded, after which order of
17 revocation may be issued by the Oklahoma Tax Commission, and the
18 same shall thereupon become final; except, that no notice or hearing
19 shall be required in case of a revocation by the Oklahoma Tax
20 Commission after county permit has been revoked by the judge of the
21 district court or application for renewal of county permit shall
22 have been refused by the judge of the district court.

23 SECTION 28. AMENDATORY 37 O.S. 2001, Section 163.17, is
24 amended to read as follows:

1 Section 163.17 Upon application in the name of the State of
2 Oklahoma on relation of the Oklahoma ~~Tax~~ Alcoholic Beverage Laws
3 Enforcement Commission, any court of competent jurisdiction in this
4 state shall have jurisdiction, and it shall be its duty to issue an
5 injunction against any manufacturer, beer wholesaler or retail
6 dealer as defined by this act:

7 (a) For failure by any taxpayer to pay any tax or penalty
8 imposed or accrued under this act;

9 (b) For violation of the provisions of this Act or of the rules
10 and regulations prescribed by the Oklahoma ~~Tax~~ Alcoholic Beverage
11 Laws Enforcement Commission pertaining to the enforcement of any tax
12 or penalty imposed by this act.

13 SECTION 29. AMENDATORY 37 O.S. 2001, Section 163.18, is
14 amended to read as follows:

15 Section 163.18 A. Every beer wholesaler ~~of low point beer~~, as
16 defined by Section 163.1 et seq. of this title, whether acting for
17 himself or herself or for some other person, who sells such
18 beverages for transportation by railroad or other common carrier, or
19 truck or other vehicle, for transportation from any point within
20 this state to any other point within this state for delivery to a
21 duly-licensed retail dealer, shall deliver to such purchaser of the
22 same an invoice covering each purchase, which invoice shall
23 accurately describe the cargo as to quantity, and shall show the
24 date of sale or delivery, the name, location and ~~Tax~~ Oklahoma

1 Alcoholic Beverage Laws Enforcement Commission number of the beer
2 wholesaler, the name, location and ~~Tax~~ Oklahoma Alcoholic Beverage
3 Laws Enforcement Commission number of the purchaser, the quantity
4 and description of the cargo, the amount of tax thereon and by whom
5 paid. Every invoice must be identified by consecutive numbers
6 printed on the invoices and every beer wholesaler must account for
7 each copy of the invoice and each number thereof. Every beer
8 wholesaler must retain one copy of each invoice as a part of the
9 permanent records of such beer wholesaler for a period of at least
10 three (3) years.

11 B. Every person who purchases or receives ~~low-point~~ beer, as
12 defined herein, within this state, and transports the same, or
13 causes the same to be transported, from any point within this state
14 to any other point within this state, by railroad or other common
15 carrier, or by truck or other vehicle, must, at all times, while
16 such beverages are in transit, have in his or her possession or in
17 the possession of the carrier or deliverer thereon, an invoice of
18 the load being transported, properly describing the cargo as to
19 quantity, and showing the amount of tax thereon to have been paid,
20 and by whom paid. Such person must retain each invoice at the
21 location for which the ~~low-point~~ beer permit was issued and such
22 invoices must be retained by the retail dealer as a part of his or
23 her permanent records for a period of at least three (3) years.

24

1 C. Every person who shall purchase, accept or receive, for
2 himself or herself or any other person, any such ~~low-point~~ beer,
3 shall, at the time of delivery or acceptance of such beverages,
4 demand and receive the statement or invoice specified in subsections
5 A and B of this section.

6 D. Each and every truck or other vehicle or conveyance used in
7 the transportation of ~~low-point~~ beer, as defined by Section 163.1 et
8 seq. of this title, on or over the roads and highways in this state,
9 except common carrier in the state, and carriers in interstate
10 commerce, and purchasers at retail, as defined in subsection H of
11 this section, must have painted on both front and rear ends of each
12 vehicle, in a conspicuous position, where it may easily be seen and
13 read, in letters and figures at least four (4) inches high, the beer
14 wholesaler's or retail dealer's license number, preceded by the
15 initials "O.T.C. Bev.". If a trailer unit is attached, the
16 foregoing initials and number must be painted on the rear end of the
17 last unit.

18 E. If any beer wholesaler or retail dealer, as hereinabove
19 described, causes to be transported, as hereinabove stated, any such
20 ~~low-point~~ beer, or any private carrier or other person employed by
21 such beer wholesaler or retail dealer, such private carrier or other
22 person shall place upon the truck or the conveyance used, the
23 license number and "~~O.T.C.~~ ABLE Bev." marking of such beer
24 wholesaler or retail dealer, as hereinabove provided, which

1 provisions, and the provisions relating to invoices, shall apply to
2 such private carrier or other person, who, for the purposes of
3 Section 163.1 et seq. of this title, shall be the agent of such beer
4 wholesaler or retail dealer.

5 F. Any person or persons violating any of the provisions of
6 subsection A, B, C, D or E of this section shall be guilty of a
7 misdemeanor and upon conviction shall be punished by a fine of not
8 more than One Thousand Dollars (\$1,000.00), or by a term in jail of
9 not exceeding one (1) year, or by both such fine and imprisonment.
10 The venue for any prosecution arising under this section shall be in
11 the district court of any county in which any of said crimes are
12 committed.

13 G. Any person within the State of Oklahoma, while acting for
14 himself or herself or who aids or abets any other person, in
15 purchasing, selling, transporting, delivering or using, any ~~low-~~
16 ~~point~~ beer, as defined in Section 163.1 et seq. of this title,
17 within the State of Oklahoma, with the intent and purpose of evading
18 or avoiding the payment of the tax on such beverage imposed by law
19 of the state, shall be guilty of a misdemeanor, and upon conviction
20 shall be punished therefor as provided in subsection F of this
21 section.

22 H. The provisions of this section, relating to the marking of
23 trucks or other vehicles conveying such ~~low-point~~ beer, shall not be
24 construed to apply to manufacturers or beer wholesalers delivering

1 beverages from without the state to points within the state, nor to
2 common carriers engaged in shipping such beverages in, into or
3 through the state, in interstate commerce, nor to a purchaser at
4 retail of ~~low-point~~ beer upon which the tax has been paid.

5 I. Common carriers transporting ~~low-point~~ beer, as defined by
6 law, to points within the State of Oklahoma, shall furnish monthly
7 reports to the ~~Tax~~ Oklahoma Alcoholic Beverage Laws Enforcement
8 Commission showing the point of origin, the consignor, consignee,
9 the date, and the amount of each shipment or consignment of such
10 beverages so transported. Failure of any common carrier to comply
11 with this provision shall be deemed a misdemeanor, and upon
12 conviction thereof shall be punished for a misdemeanor as provided
13 for under the general statutes of this state.

14 SECTION 30. AMENDATORY 37 O.S. 2001, Section 163.18A, is
15 amended to read as follows:

16 Section 163.18A A. In order to provide for regulation of the
17 sales and distribution of ~~low-point~~ beer, as defined in Section
18 163.2 of this title, in this state, the Legislature hereby declares
19 it is necessary to implement the provisions of the ~~Low-Point Beer~~
20 Distribution Act. Sections 163.18A through 163.18H of this title
21 shall be known and may be cited as the "~~Low-Point Beer Distribution~~
22 Act".
23
24

1 B. Statutory regulation of the sales and distribution of
2 designated brands in designated territories by beer wholesalers
3 shall include, but not be limited to:

4 1. A requirement for written agreements between a manufacturer
5 and beer wholesaler designating a specific territory within which
6 the beer wholesaler may sell the designated brands of the
7 manufacturer;

8 2. Provisions for prohibited acts applicable to the beer
9 wholesaler and manufacturer; and

10 3. Provisions for penalties for violations of the provisions of
11 the ~~Low-Point~~ Beer Distribution Act.

12 SECTION 31. AMENDATORY 37 O.S. 2001, Section 163.18B, is
13 amended to read as follows:

14 Section 163.18B Every manufacturer of ~~low-point~~ beer licensed
15 by the Oklahoma ~~Tax~~ Alcoholic Beverage Laws Enforcement Commission
16 authorizing the licensee to sell its ~~low-point~~ beer in this state
17 shall:

18 1. Enter into an agreement with a licensed beer wholesaler to
19 sell the designated brands of the licensed manufacturer which
20 designates the sales territory of that licensed beer wholesaler and
21 the designated brands to be sold by the licensed beer wholesaler.
22 All such agreements shall specifically authorize the sale of the
23 designated brands by a licensed beer wholesaler within that sales
24 territory;

1 2. Sell its registered and approved designated brands only to a
2 licensed beer wholesaler with whom that licensed manufacturer has an
3 agreement designating the sales territory of the licensed beer
4 wholesaler and the designated brands to be sold by the licensed beer
5 wholesaler;

6 3. Authorize only one licensed beer wholesaler for each
7 designated sales territory. Such licensed beer wholesaler shall be
8 the only licensed beer wholesaler for the designated brands of the
9 authorizing licensed manufacturer within that designated sales
10 territory; and

11 4. Designate who is responsible for the distribution of its
12 designated brands.

13 SECTION 32. AMENDATORY 37 O.S. 2001, Section 163.18C, is
14 amended to read as follows:

15 Section 163.18C In order to regulate distribution of ~~low-point~~
16 beer in this state, and assure collection of all applicable taxes
17 and fees, all ~~low-point~~ beer sold in this state by a licensed beer
18 wholesaler shall only be transported within this state to the
19 licensed address and location of a licensed retailer or between the
20 licensed addresses and locations of licensed retailers by a marked
21 conveyance owned or leased by a licensed beer wholesaler.

22 SECTION 33. AMENDATORY 37 O.S. 2001, Section 163.18D, is
23 amended to read as follows:

24

1 Section 163.18D A. A licensed beer wholesaler designated as
2 the licensed beer wholesaler for a ~~low-point~~ beer within a
3 designated sales territory shall present that ~~low-point~~ beer for
4 sale to all licensed retailers within the designated sales territory
5 without discrimination. A licensed beer wholesaler shall not sell,
6 supply, or deliver either directly or indirectly through a third
7 party, a ~~low-point~~ beer to a licensed retailer outside of the
8 designated sales territory of the designated beer wholesaler, nor to
9 any person the licensed beer wholesaler has reason to believe will
10 sell or supply any quantity of the ~~low-point~~ beer to any retail
11 location outside of the designated sales territory of the designated
12 beer wholesaler.

13 B. All ~~low-point~~ beer shall only be transported by a marked
14 conveyance owned or leased by the licensed beer wholesaler and
15 operated by the licensed beer wholesaler or an employee of the beer
16 wholesaler for the products of a licensed manufacturer within the
17 designated sales territory to the address and location of a licensed
18 retail dealer within that designated sales territory.

19 C. Any ~~low-point~~ beer sold by the licensed beer wholesaler
20 shall not be delivered to, received by, or stored at any place other
21 than the address and location of the licensed retailer for which
22 state and local retail dealer licenses and permits have been issued.

23 D. With the approval of the licensed manufacturer, a licensed
24 beer wholesaler may sell the designated brands to a licensed

1 retailer located in a designated sales territory of another licensed
2 beer wholesaler if that licensed beer wholesaler is temporarily
3 unable for any reason to provide the designated brands of the
4 licensed manufacturer within its designated sales territory.

5 E. All ~~low-point~~ beer purchased by a licensed beer wholesaler
6 for resale in this state shall physically come into the possession
7 of the licensed beer wholesaler and be unloaded in and distributed
8 from the licensed warehouse of the licensed beer wholesaler located
9 in this state, prior to being resold in this state.

10 SECTION 34. AMENDATORY 37 O.S. 2001, Section 163.18E, as
11 amended by Section 2, Chapter 144, O.S.L. 2009 (37 O.S. Supp. 2010,
12 Section 163.18E), is amended to read as follows:

13 Section 163.18E A. Nothing in this section shall apply to a
14 manufacturer that produces less than three hundred thousand
15 (300,000) gallons of ~~low-point~~ beer per calendar year.

16 B. 1. Except as provided in subsections C, D and E of this
17 section, no manufacturer shall terminate an agreement with any beer
18 wholesaler unless all of the following occur:

- 19 a. the manufacturer establishes good cause for such
20 termination,
21 b. the beer wholesaler receives written notification by
22 certified mail, return receipt requested, from the
23 manufacturer of the alleged noncompliance and is
24

1 afforded no less than sixty (60) days in which to cure
2 such noncompliance,

3 c. the beer wholesaler fails to cure such noncompliance
4 within the allotted cure period, and

5 d. the manufacturer provides written notice by certified
6 mail, return receipt requested, to the beer wholesaler
7 of such continued noncompliance. The notification
8 shall contain a statement of the intention of the
9 manufacturer to terminate or not renew the agreement,
10 the reasons for termination or nonrenewal and the date
11 the termination or nonrenewal shall take effect.

12 2. If a beer wholesaler cures an alleged noncompliance within
13 the cure period provided in subparagraph b of paragraph 1 of this
14 subsection, any notice of termination from a manufacturer to a beer
15 wholesaler shall be null and void.

16 C. A manufacturer may immediately terminate an agreement with a
17 beer wholesaler, effective upon furnishing written notification to
18 the beer wholesaler by certified mail, return receipt requested, for
19 any of the following reasons:

20 1. The beer wholesaler's failure to pay any account when due
21 and upon written demand by the manufacturer for such payment, in
22 accordance with agreed payment terms;

23 2. The assignment or attempted assignment by the beer
24 wholesaler for the benefit of creditors, the institution of

1 proceedings in bankruptcy by or against the beer wholesaler, the
2 dissolution or liquidation of the beer wholesaler or the insolvency
3 of the beer wholesaler;

4 3. The revocation or suspension of, or the failure to renew for
5 a period of more than fourteen (14) days, a beer wholesaler's state,
6 local or federal license or permit to sell ~~low-point~~ beer in this
7 state;

8 4. Failure of a beer wholesaler to sell his or her ownership
9 interest in the distribution rights to the manufacturer's ~~low-point~~
10 beer within one hundred twenty (120) days after such a beer
11 wholesaler has been convicted of a felony that, in the
12 manufacturer's sole judgment, adversely affects the goodwill of the
13 beer wholesaler or manufacturer;

14 5. A beer wholesaler has been convicted of, found guilty of or
15 pled guilty or nolo contendere to, a charge of violating a law or
16 regulation of the United States or of this state if it materially
17 and adversely affects the ability of the beer wholesaler or
18 manufacturer to continue to sell its ~~low-point~~ beer in this state;

19 6. Any attempted transfer of ownership of the beer wholesaler,
20 stock of the beer wholesaler or stock of any parent corporation of
21 the beer wholesaler, or any change in the beneficial ownership or
22 control of any entity, without obtaining the prior written approval
23 of the manufacturer, except as may otherwise be permitted pursuant
24 to a written agreement between the parties;

1 7. Fraudulent conduct in the beer wholesaler's dealings with
2 the manufacturer or its ~~low-point~~ beer, including the intentional
3 sale of ~~low-point~~ beer outside the manufacturer's established
4 quality standards;

5 8. The beer wholesaler ceases to conduct business for five (5)
6 consecutive business days, unless conducting the business is
7 prevented or rendered impractical due to events beyond the beer
8 wholesaler's reasonable control as a result of an act of God, an
9 insured casualty, war, or a condition of national, state or local
10 emergency; or

11 9. Any sale of ~~low-point~~ beer, directly or indirectly, to
12 customers located outside the territory assigned to the beer
13 wholesaler by the manufacturer unless expressly authorized by the
14 manufacturer.

15 D. The manufacturer shall have the right to terminate an
16 agreement with a beer wholesaler at any time by giving the beer
17 wholesaler at least ninety (90) days' written notice by certified
18 mail, return receipt requested; provided, that the manufacturer
19 shall give a similar notice to all other beer wholesalers in all
20 other states who have entered into the same distribution agreement
21 with the manufacturer.

22 E. If a particular brand of ~~low-point~~ beer is transferred by
23 purchase or otherwise from a manufacturer to a successor
24 manufacturer, the following shall occur:

1 1. The successor manufacturer shall become obligated to all of
2 the terms and conditions of the agreement in effect on the date of
3 succession. This subsection applies regardless of the character or
4 form of the succession. A successor manufacturer has the right to
5 contractually require its beer wholesaler to comply with operational
6 standards of performance, if the standards are uniformly established
7 for all of the successor manufacturer's beer wholesalers. A
8 successor manufacturer may, upon written notice, terminate its
9 agreement, in whole or in part, with a wholesaler of the
10 manufacturer it succeeded, for the purpose of transferring the
11 distribution rights in the beer wholesaler's territory to a new beer
12 wholesaler, provided that the successor beer wholesaler first pays
13 to the existing wholesaler the fair market value of the existing
14 beer wholesaler's business with respect to the terminated brand or
15 brands;

16 2. If the successor manufacturer decides to terminate its
17 agreement with the existing beer wholesaler for purposes of
18 transfer, the successor manufacturer shall notify the existing beer
19 wholesaler in writing of the successor manufacturer's intent not to
20 appoint the existing beer wholesaler for all or part of the existing
21 beer wholesaler's territory for the ~~low-point~~ beer. The successor
22 manufacturer shall mail the notice of termination by certified mail,
23 return receipt requested, to the existing beer wholesaler. The
24 successor manufacturer shall include in the notice the names,

1 addresses and telephone numbers of the successor beer wholesaler or
2 beer wholesalers;

3 3. a. The successor beer wholesaler shall negotiate with the
4 existing beer wholesaler to determine the fair market
5 value of the existing beer wholesaler's right to
6 distribute the ~~low-point~~ beer in the existing beer
7 wholesaler's territory. The successor beer wholesaler
8 and the existing beer wholesaler shall negotiate the
9 fair market value in good faith.

10 b. The existing beer wholesaler shall continue to
11 distribute the ~~low-point~~ beer in good faith until
12 payment of the compensation agreed to under
13 subparagraph a of this paragraph, or awarded under
14 paragraph 4 of this subsection, is received; and

15 4. a. If the successor beer wholesaler and the existing beer
16 wholesaler fail to reach a written agreement on the
17 fair market value within thirty (30) days after the
18 existing beer wholesaler receives the notice required
19 pursuant to paragraph 2 of this subsection, the
20 successor beer wholesaler or the existing beer
21 wholesaler shall send a written notice to the other
22 party requesting arbitration pursuant to the Uniform
23 Arbitration Act, Part 2 of Article 22 of Title 13,
24 C.R.S. Arbitration shall be held for the purpose of

1 determining the fair market value of the existing beer
2 wholesaler's right to distribute the ~~low point~~ beer in
3 the existing beer wholesaler's territory.

4 b. Notice of intent to arbitrate shall be sent, as
5 provided in subparagraph a of this paragraph, not
6 later than forty (40) days after the existing beer
7 wholesaler receives the notice required pursuant to
8 paragraph 2 of this subsection. The arbitration
9 proceeding shall conclude not later than sixty (60)
10 days after the date the notice of intent to arbitrate
11 is mailed to a party, unless this time is extended by
12 mutual agreement of the parties and the arbitrator.

13 c. Any arbitration held pursuant to this subsection shall
14 be conducted in a city within this state that:

15 (1) is closest to the existing wholesaler, and

16 (2) has a population of more than twenty thousand
17 (20,000) people.

18 d. Any arbitration held pursuant to this paragraph shall
19 be conducted before one impartial arbitrator to be
20 selected by the American Arbitration Association or
21 its successor. The arbitration shall be conducted in
22 accordance with the rules and procedures of the
23 Uniform Arbitration Act, Part 2 of Article 22 of Title
24 13, C.R.S.

1 e. An arbitrator's award in any arbitration held pursuant
2 to this paragraph shall be monetary only and shall not
3 enjoin or compel conduct. Any arbitration held
4 pursuant to this paragraph shall be in lieu of all
5 other remedies and procedures.

6 f. The cost of the arbitrator and any other direct costs
7 of an arbitration held pursuant to this paragraph
8 shall be equally divided by the parties engaged in the
9 arbitration. All other costs shall be paid by the
10 party incurring them.

11 g. The arbitrator in any arbitration held pursuant to
12 this paragraph shall render a written decision not
13 later than thirty (30) days after the conclusion of
14 the arbitration, unless this time is extended by
15 mutual agreement of the parties and the arbitrator.
16 The decision of the arbitrator is final and binding on
17 the parties. The arbitrator's award may be enforced
18 by commencing a civil action in any court of competent
19 jurisdiction. Under no circumstances may the parties
20 appeal the decision of the arbitrator.

21 h. An existing beer wholesaler or successor beer
22 wholesaler who fails to participate in the arbitration
23 hearings in any arbitration held pursuant to this
24 paragraph waives all rights the existing beer

1 wholesaler or successor beer wholesaler would have had
2 in the arbitration and is considered to have consented
3 to the determination of the arbitrator.

4 i. If the existing beer wholesaler does not receive
5 payment from the successor beer wholesaler of the
6 settlement or arbitration award required under
7 paragraph 2 or 3 of this subsection within thirty (30)
8 days after the date of the settlement or arbitration
9 award:

10 (1) the existing beer wholesaler shall remain the
11 beer wholesaler of the ~~low-point~~ beer in the
12 existing beer wholesaler's territory to at least
13 the same extent that the existing beer wholesaler
14 distributed the ~~low-point~~ beer immediately before
15 the successor manufacturer acquired rights to the
16 ~~low-point~~ beer, and

17 (2) the existing beer wholesaler is not entitled to
18 the settlement or arbitration award.

19 F. 1. Any beer wholesaler or manufacturer who is aggrieved by
20 a violation of any provision of subsections B and D of this section
21 shall be entitled to recovery of damages caused by the violation.
22 Except for a dispute arising under subsection E of this section,
23 damages shall be sought in a civil action in any court of competent
24 jurisdiction.

1 2. Any dispute arising under subsections B and D of this
2 section may also be settled by such dispute resolution procedures as
3 may be provided by a written agreement between the parties.

4 G. Nothing in this section shall be construed to limit or
5 prohibit good-faith settlements voluntarily entered into by the
6 parties.

7 H. Nothing in this section shall be construed to give an
8 existing beer wholesaler or a successor beer wholesaler any right to
9 compensation if an agreement with the existing beer wholesaler or
10 successor beer wholesaler is terminated by a successor manufacturer
11 pursuant to subsections B, C and D of this section.

12 I. No manufacturer shall require any beer wholesaler to waive
13 compliance with any provision of this section.

14 J. This section shall apply to any agreement entered into, and
15 any renewals, extensions, amendments, or conduct constituting a
16 modification of an agreement, by a manufacturer on or after the
17 effective date of this act.

18 SECTION 35. AMENDATORY 37 O.S. 2001, Section 163.18F, is
19 amended to read as follows:

20 Section 163.18F The Oklahoma ~~Tax~~ Alcoholic Beverage Laws
21 Enforcement Commission shall be responsible for developing and
22 adopting rules and regulations for implementing the provisions of
23 Sections 163.1 through 163.20, 163.22 through ~~163.25~~ 163.29, and 231
24

1 ~~of Title 37 of the Oklahoma Statutes, and Sections 1 through 8 of~~
2 ~~this act~~ 163.18A through 163.18H of this title.

3 SECTION 36. AMENDATORY 37 O.S. 2001, Section 163.18G, is
4 amended to read as follows:

5 Section 163.18G Any aggrieved person shall have a cause of
6 action for violations of the provisions of the ~~Low Point~~ Beer
7 Distribution Act and Section 231 of this title and may recover
8 damages or obtain injunctive relief or both.

9 SECTION 37. AMENDATORY 37 O.S. 2001, Section 163.18H, is
10 amended to read as follows:

11 Section 163.18H A. In addition to any other powers conferred
12 on the Oklahoma ~~Tax~~ Alcoholic Beverage Laws Enforcement Commission
13 to impose penalties for violations of Sections 163.1 through ~~163.25~~
14 163.29 and 231 of this title, whenever in the judgment of the
15 Commission any person has committed an act which constitutes a
16 violation of the ~~Low Point~~ Beer Distribution Act and Section 231 of
17 this title, the Commission may:

18 1. After notice and hearing, issue a cease and desist order to
19 any person that is licensed as a manufacturer or beer wholesaler;

20 2. Impose a fine of not more than Five Thousand Dollars
21 (\$5,000.00) for each violation in the event that after the issuance
22 of an order to cease and desist the illegal activity, the person
23 that the order is directed to commits any act in violation of the
24 order; and

1 3. Make application to the appropriate court for an order
2 enjoining such acts or practices, and upon a showing by the
3 Commission that such violations have occurred, an injunction,
4 restraining order, or such other order as may be appropriate shall
5 be granted by such court, without bond.

6 B. Each day a violation is continuing shall constitute a
7 separate offense.

8 C. Administrative fines imposed pursuant to the provisions of
9 this section shall be enforceable in the district courts of this
10 state.

11 D. All administrative fines collected by the Commission
12 pursuant to the provisions of this section shall be forwarded to the
13 State Treasurer for deposit in the General Revenue Fund.

14 E. Any manufacturer or beer wholesaler injured by a violation
15 of the ~~Low-Point~~ Beer Distribution Act may:

16 1. Bring an action for recovery of damages. Judgment shall be
17 entered for actual damages plus reasonable attorney's fees and
18 costs; and

19 2. Bring an action to restrain and enjoin the violation of the
20 ~~Low-Point~~ Beer Distribution Act.

21 SECTION 38. AMENDATORY 37 O.S. 2001, Section 163.19, is
22 amended to read as follows:

23 Section 163.19 A. No ~~low-point~~ beer, as herein defined, may be
24 sold by any licensed beer wholesaler or retail dealer, unless a

1 label or other device is affixed or attached to each bottle, keg, or
2 other container from which such beverage is immediately consumed or
3 served, bearing the trade name of such beverage and the name and
4 address of the manufacturer thereof. No retail dealer shall sell or
5 dispense any beverage, as defined herein, from draught or in bulk,
6 and not in the manufacturer's original container, unless each
7 faucet, draught arm, or other dispensing apparatus is equipped with
8 a sign clearly indicating the name of brand of the beverage being at
9 the time dispensed through or by means of such faucet, draught arm,
10 or other apparatus, and which sign shall be in legible lettering and
11 in full sight of the purchaser.

12 B. No person shall:

13 1. Transfer to any bottle, keg, or other container, any label
14 originally attached to any bottle, keg, or other container as
15 required by subsection A of this section;

16 2. Print, use, utter, or attach to any such container any false
17 label or descriptive device in imitation of or substitute for such
18 label or device;

19 3. Attach to any container of any substitute for any such
20 beverage, as defined, by Section 163.1 et seq. of this title, the
21 trade name or label of any manufacturer or beer wholesaler; or

22 4. Attach to any container of such beverage any label or device
23 which misrepresents the contents of such container ~~or in any manner~~
24 ~~indicates the alcoholic content of said beverage or which by~~

1 ~~wording, lettering, numbering or illustration, or in any manner~~
2 ~~carries any reference, allusion, or suggestion as to the alcoholic~~
3 ~~strength of such beverage in excess of three and two tenths percent~~
4 ~~(3.2%) by weight, or upon which appears any such word or combination~~
5 ~~of words, or abbreviations thereof, as "strong", "full strength",~~
6 ~~"high test", "high proof", "prewar strength", "full old time~~
7 ~~alcoholic strength", or any words or figures or other marks or~~
8 ~~characters alluding or referring to "proof", "balling", or "extract"~~
9 ~~contents of the beverage, or which bears a label that is untrue in~~
10 ~~any particular, or which directly, or by ambiguity, omission, or~~
11 ~~inference tends to create a misleading impression or causes or is~~
12 ~~reasonably calculated to cause deception of the consumer or~~
13 ~~purchaser with respect to such beverage.~~

14 C. Any person violating any of the provisions of this section
15 shall be guilty of a misdemeanor and upon conviction shall be fined
16 not to exceed One Thousand Dollars (\$1,000.00), or imprisoned in the
17 county jail not exceeding one (1) year or shall be punished by both
18 such fine and imprisonment.

19 SECTION 39. AMENDATORY 37 O.S. 2001, Section 163.20, is
20 amended to read as follows:

21 Section 163.20 A. Any person who shall engage in the sale of
22 ~~low point~~ beer in violation of the provisions of Sections 163.1
23 through 163.25 of this title shall be deemed guilty of a
24

1 misdemeanor, and upon conviction thereof shall be punished for such
2 misdemeanor as provided for by the general statutes of this state.

3 B. Any person who engages in the sale or shipping of ~~low-point~~
4 beer in violation of the provisions of Section ~~±~~ 163.26 of this ~~act~~
5 title on or after the effective date of Section 20.1 of Title 21 of
6 the Oklahoma Statutes, upon conviction, shall be guilty of a
7 Schedule G felony if the sale or delivery is made to a person under
8 twenty-one (21) years of age, or a misdemeanor if the sale or
9 delivery is made to a person twenty-one (21) years of age or older.
10 Any person who engages in the sale or shipping of ~~low-point~~ beer in
11 violation of the provisions of Section ~~±~~ 163.26 of this ~~act~~ title
12 before the effective date of Section 20.1 of Title 21 of the
13 Oklahoma Statutes shall be guilty of a felony punishable by
14 imprisonment for not more than two (2) years, if the sale or
15 delivery is made to a person under twenty-one (21) years of age, or
16 a misdemeanor, if the sale or delivery is made to a person twenty-
17 one (21) years of age or older. The fine for a violation of Section
18 ~~±~~ 163.26 of this ~~act~~ title shall be not more than Five Thousand
19 Dollars (\$5,000.00). In addition, if such person holds a permit
20 issued by the Oklahoma Tax Commission pursuant to Section 163.7 of
21 this title, the permit shall be revoked pursuant to the procedures
22 set forth in Section 163.18H of this title.

23 SECTION 40. AMENDATORY 37 O.S. 2001, Section 163.22, is
24 amended to read as follows:

1 Section 163.22 No manufacturer of ~~low-point~~ beer, as defined by
2 Section 163.2 of this title, may sell or offer for sale in this
3 state any ~~low-point~~ beer as so defined, at prices higher than the
4 lowest price at which the specific, or comparable, item is being
5 currently sold or offered for sale to any beer wholesaler anywhere
6 in any state which adjoins the State of Oklahoma.

7 SECTION 41. AMENDATORY 37 O.S. 2001, Section 163.23, is
8 amended to read as follows:

9 Section 163.23 Failure on the part of any manufacturer to
10 comply with the provisions of Section 1 hereof shall subject such
11 manufacturer to the revocation of permit by the Oklahoma ~~Tax~~
12 Alcoholic Beverage Laws Enforcement Commission under penalties and
13 procedures set forth in Section 163.16, ~~Title 37 of the Oklahoma~~
14 ~~Statutes~~ this title, and penal provisions provided by Section
15 163.20, ~~Title 37 of the Oklahoma Statutes~~ this title.

16 SECTION 42. AMENDATORY 37 O.S. 2001, Section 163.25, is
17 amended to read as follows:

18 Section 163.25 No retail license or permit to sell ~~low-point~~
19 beer shall be issued for any establishment that functions as a
20 motion picture theater. If an establishment, which has functioned
21 for some other purpose, has been licensed to sell such beverages and
22 subsequently is operated as a motion picture theater, the license or
23 permit shall be revoked.

24

1 SECTION 43. AMENDATORY 37 O.S. 2001, Section 163.26, is
2 amended to read as follows:

3 Section 163.26 No person shall manufacture, sell, possess,
4 store, import into or export from this state, transport, or deliver
5 any ~~low-point~~ beer except as specifically provided in this title.
6 It is unlawful for any manufacturer, beer wholesaler or retailer of
7 ~~low-point~~ beer, located and doing business from outside this state,
8 to make retail sales of ~~low-point~~ beer to purchasers located in this
9 state or to ship ~~low-point~~ beer sold at retail to persons located in
10 this state.

11 SECTION 44. AMENDATORY 37 O.S. 2001, Section 163.27, is
12 amended to read as follows:

13 Section 163.27 It shall be unlawful for any place which has
14 received a permit or which has been licensed to sell ~~low-point~~ beer
15 and which has as its main purpose the selling or serving of ~~low-~~
16 ~~point~~ beer for consumption on the premises to be located within
17 three hundred (300) feet of any public or private school or church
18 property primarily and regularly used for worship services and
19 religious activities. The distance indicated in this section shall
20 be measured from the nearest property line of such public or private
21 school or church to the nearest perimeter wall of the premises of
22 any such place which has received a permit or which has been
23 licensed to sell ~~low-point~~ beer. The provisions of this section
24 shall not apply to places which have received a permit or which have

1 | been licensed to sell ~~low-point~~ beer for on-premises consumption
2 | prior to the effective date of this act. If any school or church
3 | shall be established within three hundred (300) feet of any place
4 | subject to the provisions of this section after such place has
5 | received a permit or been licensed, the provisions of this section
6 | shall not be a deterrent to the renewal of such permit or license if
7 | there has not been a lapse of more than sixty (60) days. When any
8 | place subject to the provisions of this section which has a permit
9 | or license to sell ~~low-point~~ beer for on-premises consumption
10 | changes ownership or the operator thereof is changed, and such
11 | change results in the same type of business being conducted on the
12 | premises, the provisions of this section shall not be a deterrent to
13 | the issuance of a license or permit to the new owner or operator if
14 | he or she is otherwise qualified.

15 | If an establishment selling ~~low-point~~ beer also is the holder of
16 | a mixed beverage or beer and wine license issued by the Alcoholic
17 | Beverage Laws Enforcement Commission, the establishment shall be
18 | subject to the zoning provisions of Section 3 of this act rather
19 | than the provisions of this section.

20 | SECTION 45. AMENDATORY 37 O.S. 2001, Section 163.28, is
21 | amended to read as follows:

22 | Section 163.28 A. This section applies to a licensee or
23 | permittee who is authorized to sell ~~low-point~~ beer to an ultimate
24 | consumer for consumption off the premises.

1 B. The holder of a license or permit described in subsection A
2 of this section may resell ~~low-point~~ beer only in the packaging in
3 which the holder received the ~~low-point~~ beer or may resell the
4 contents of the packages as individual containers.

5 C. Except for purposes of resale as individual containers, a
6 licensee or permittee shall not:

7 1. Mutilate, tear apart, or cut apart original packaging in
8 which ~~low-point~~ beer was received; or

9 2. Repackage ~~low-point~~ beer in a manner misleading to the
10 consumer or that results in required labeling being omitted or
11 obscured.

12 D. The Oklahoma ~~Tax~~ Alcoholic Beverage Laws Enforcement
13 Commission shall impose the following penalties for a violation of
14 subsection B or C of this section:

15 1. After notice and hearing, immediately revoke the license or
16 permit of the licensee or permittee committing the violation; and

17 2. Impose a fine of not more than One Thousand Dollars
18 (\$1,000.00) for each violation.

19 Any licensee or permittee whose license or permit is revoked
20 pursuant to this subsection shall not be eligible to reapply for a
21 license for at least three (3) months from the date of the
22 revocation. Any stock of ~~low-point~~ beer in the possession of such
23 licensee or permittee shall be repurchased by the beer wholesaler.

24

1 E. Administrative fines collected pursuant to this section
2 shall be enforceable in the district courts of this state. All
3 administrative fines collected by the Oklahoma ~~Tax~~ Alcoholic
4 Beverage Laws Enforcement Commission pursuant to this section shall
5 be forwarded to the State Treasurer for deposit in the General
6 Revenue Fund.

7 F. To assure and control quality, the holder of a distributor's
8 license or beer wholesaler's permit, at the time of a regular
9 delivery, may withdraw with the permission of the retailer, a
10 quantity of ~~low point~~ beer in undamaged original packaging from the
11 retailer's stock if:

12 1. The distributor or beer wholesaler replaces the stock with
13 ~~low point~~ beer of identical brands, quantities, and packages as the
14 ~~low point~~ beer withdrawn;

15 2. The stock is withdrawn before the date, or immediately after
16 the date considered by the manufacturer of the product to be the
17 date the product becomes inappropriate for sale to a consumer.

18 G. A consignment sale of ~~low point~~ beer is not authorized under
19 subsection F of this section.

20 SECTION 46. AMENDATORY Section 1, Chapter 156, O.S.L.
21 2003 (37 O.S. Supp. 2010, Section 163.29), is amended to read as
22 follows:

23 Section 163.29 A. For purposes of this section:
24

1 1. "Beer keg" means any brewery-sealed, single container that
2 contains not less than four (4) gallons of ~~low point~~ beer, as
3 defined by Section 163.2 of Title 37 of the Oklahoma Statutes;

4 2. "Licensed retailer" means a retail dealer licensed to sell
5 ~~low point~~ beer in original containers for consumption off the
6 premises;

7 3. "Commission" means the Oklahoma ~~Tax~~ Alcoholic Beverage Laws
8 Enforcement Commission; and

9 4. "Identification seal" means any device approved by the
10 Commission which is designed to be affixed to beer kegs and which
11 displays an identification number and any other information as may
12 be prescribed by the Commission.

13 B. No licensed retailer shall sell beer kegs unless that
14 retailer affixes an identification seal to each beer keg. An
15 identification seal shall consist of durable material as determined
16 by the Commission that is not easily removed or destroyed.

17 Identification seals used may contain a nonpermanent adhesive
18 material in order to apply the seal directly to an outside surface
19 of a beer keg at the time of sale. Identification seals shall be
20 attached to beer kegs at the time of sale as determined by the
21 Commission. The identification information contained on the seal
22 shall include the licensed retailer's name, address, beer license
23 number, and telephone number; a unique beer keg number assigned by
24 the licensed retailer; and a prominently visible warning that

1 intentional removal or defacement of the seal is a misdemeanor.
2 Upon return of a beer keg to the licensed retailer that sold the
3 beer keg and attached the identification seal, the licensed retailer
4 shall be responsible for the complete and thorough removal of the
5 entire identification seal, and any adhesive or attachment devices
6 of the seal. The seal beer keg identification number must be kept
7 on file with the retailer for not less than one (1) year from the
8 date of return.

9 C. A licensed retailer shall not sell a beer keg unless the
10 beer keg has attached a seal complying with the standards
11 established by subsection B of this section.

12 D. 1. A licensed retailer who sells a beer keg must at the
13 time of the sale record:

14 a. the purchaser's name and address and the number of the
15 purchaser's driver license, identification card issued
16 by the Department of Public Safety, military
17 identification card, or valid United States or foreign
18 passport,

19 b. the date and time of the purchase,

20 c. the beer keg identification seal number required by
21 subsection B of this section, and

22 d. the purchaser's signature.

23 2. The record shall be retained for not less than one (1) year
24 after the date of the sale.

1 E. A licensed retailer required to retain records under
2 subsection D of this section shall make the records available during
3 regular business hours for inspection by a law enforcement officer
4 or an agent of the Commission.

5 F. 1. A person required to record information under subsection
6 D of this section shall not knowingly make a materially false entry
7 in the book or register required under subsection D of this section.
8 In a prosecution under this subsection, it is a defense for the
9 defendant to prove by a preponderance of the evidence that the
10 defendant reasonably and in good faith relied upon the
11 identification provided by the purchaser of a beer keg.

12 2. No person other than a licensed retailer, a licensed beer
13 wholesaler ~~of low point beer~~, a law enforcement officer, or an agent
14 of the Commission may intentionally remove a seal placed on a beer
15 keg in compliance with subsection C of this section. No person may
16 intentionally deface or damage the seal on a beer keg to make it
17 unreadable.

18 3. Any person who purchases a beer keg and who fails to return
19 the keg or who returns a keg with a damaged or missing seal shall be
20 subject to a fine of Five Hundred Dollars (\$500.00).

21 4. Any licensed retailer who fails to report an individual
22 provided for in paragraph 3 of this subsection to law enforcement
23 shall be guilty of a misdemeanor and shall be subject to fines of
24 not less than Five Hundred Dollars (\$500.00) for first and second

1 offenses. A third violation by a licensed retailer of the
2 provisions of this paragraph shall result in the revocation of the
3 retailer's license to sell ~~low-point~~ beer for up to one (1) year.

4 G. Any person who purchases a beer keg which is subsequently
5 stolen from such person shall not be liable for any penalty imposed
6 pursuant to the provisions of this section if such person properly
7 reported the theft of the beer keg to law enforcement authorities
8 within twenty-four (24) hours of the discovery of the theft.

9 H. The Commission shall promulgate rules for the implementation
10 and application of this section.

11 SECTION 47. AMENDATORY 37 O.S. 2001, Section 213, is
12 amended to read as follows:

13 Section 213. A. It shall be unlawful for any place licensed to
14 sell beverages containing more than one-half of one percent (1/2 of
15 1%) of alcohol by volume ~~and not more than three and two tenths~~
16 ~~percent (3.2%) of alcohol by weight~~ to sell, dispense, or serve such
17 beverages for consumption on the premises between the hours of two
18 o'clock a.m. and seven o'clock a.m. or allow such beverages to be
19 consumed on the premises between the hours of two o'clock a.m. and
20 seven o'clock a.m. excepting Saturday nights when such beverages may
21 not be sold, dispensed, served, or consumed on the premises between
22 the hours of two o'clock a.m. and twelve o'clock noon on Sundays;
23 provided, the governing body of any city or town is hereby
24 authorized to prohibit, by ordinance regularly enacted, the sale,

1 dispensing, serving, and consumption of such beverages between the
2 hours of two o'clock a.m. on Sunday and seven o'clock a.m. of the
3 following Monday.

4 B. It shall be unlawful for any place that is a commercial
5 premises to allow beverages containing more than one-half of one
6 percent (1/2 of 1%) alcohol by volume ~~and not more than three and~~
7 ~~two-tenths percent (3.2%) of alcohol by weight~~ to be consumed on
8 such commercial premises between the hours of two o'clock a.m. and
9 seven o'clock a.m. As used in this subsection, "commercial
10 premises" means a location or establishment at which this type of
11 business or activity is carried on for profit.

12 C. Any person violating any provision of this section shall be
13 deemed guilty of a misdemeanor and, upon conviction, shall be
14 punished by a fine of not more than Five Hundred Dollars (\$500.00)
15 or by imprisonment in the county jail for a term of not more than
16 six (6) months, or by both such fine and imprisonment. In addition,
17 such violation shall be grounds for revocation of any license or
18 permit for the sale of such beverages, as and in the manner provided
19 by law.

20 SECTION 48. AMENDATORY 37 O.S. 2001, Section 213.1, is
21 amended to read as follows:

22 Section 213.1 A. No owner, operator, partner, manager, or
23 person having supervisory control of any establishment licensed to
24 sell ~~low-point~~ beer shall permit any of the following on or about

1 any commercial premises where ~~low-point~~ beer is dispensed or
2 consumed:

3 1. The performance by any person of acts, or simulated acts, of
4 sexual intercourse, masturbation, sodomy, bestiality, oral
5 copulation, flagellation, or any sexual acts which are otherwise
6 prohibited by law;

7 2. The actual intentional touching or caressing or fondling by
8 any person of the breasts, anus or genitals;

9 3. Any person on the licensed premises while such person is
10 unclothed or in such attire, costume or clothing as to expose to
11 view any portion of the areola of the female breast or any portion
12 of the pubic hair, buttocks or genitals; or

13 4. Any person to perform acts of, or acts which simulate,
14 sexual acts which are prohibited by law, or permit any person to use
15 artificial devices or inanimate objects to depict any prohibited
16 activities or permit the showing of films, still pictures,
17 electronic reproductions or other visual reproductions depicting any
18 of the prohibited activities described in this paragraph.

19 B. Any person convicted of violating the provisions of this
20 section shall be guilty of a misdemeanor punishable by a fine of not
21 more than Five Hundred Dollars (\$500.00) for each offense. Each act
22 in violation of any provision of this section shall be deemed a
23 separate offense. Conviction for the violation of the provisions of
24 this section shall be sufficient grounds for revocation by the judge

1 of the district court of any license held by such person authorizing
2 the sale of ~~low point~~ beer or intoxicating beverages.

3 SECTION 49. AMENDATORY 37 O.S. 2001, Section 213.2, is
4 amended to read as follows:

5 Section 213.2 A. No owner, operator, partner, manager, or
6 person having supervisory control of any establishment that permits
7 any person on the premises who is unclothed or in such attire,
8 costume, or clothing as to expose to view any portion of the areola
9 of the female breast or any portion of the pubic hair, buttocks or
10 genitals, shall permit ~~low point~~ beer, as defined by Section 163.2
11 of this title, on or about the premises.

12 B. Any person convicted of violating the provisions of this
13 section shall be guilty of a misdemeanor punishable by a fine of not
14 more than Five Hundred Dollars (\$500.00) for each offense. Each act
15 in violation of this section shall be deemed a separate offense.

16 SECTION 50. AMENDATORY 37 O.S. 2001, Section 219, is
17 amended to read as follows:

18 Section 219. All municipalities of this state may enact
19 ordinances prohibiting or regulating nudity or drink solicitation in
20 establishments licensed to sell beverages containing more than
21 one-half of one percent (1/2 of 1%) of alcohol by volume ~~and not~~
22 ~~more than three and two tenths percent (3.2%) of alcohol by weight,~~
23 for consumption on the premises of said establishments.

24

1 SECTION 51. AMENDATORY 37 O.S. 2001, Section 219.1, is
2 amended to read as follows:

3 Section 219.1 The sale of ~~low-point~~ beer, as defined in Section
4 163.2 of this title, for off-premises consumption is hereby
5 prohibited between the hours of two o'clock a.m. and six o'clock
6 a.m. of the same day. Any holder of a retail license or permit to
7 sell ~~low-point~~ beer, or an employee or agent of a holder of such a
8 license or permit, who sells ~~low-point~~ beer in violation of the
9 provisions of this section shall be guilty of a misdemeanor and,
10 upon conviction, shall be punished by a fine of not more than Five
11 Hundred Dollars (\$500.00) or by imprisonment in the county jail for
12 a term of not more than six (6) months, or by both such fine and
13 imprisonment. Such violation shall be additional grounds for
14 revocation of any license or permit for the sale of ~~low-point~~ beer,
15 as and in the manner provided by law.

16 SECTION 52. AMENDATORY Section 1, Chapter 178, O.S.L.
17 2005 (37 O.S. Supp. 2010, Section 220), is amended to read as
18 follows:

19 Section 220. A. No owner, operator, partner, manager, agent,
20 employee, or person having supervisory control of any establishment
21 licensed to sell ~~low-point~~ beer for consumption on the premises and
22 subject to the provisions of subsection B of Section 246 of ~~Title 37~~
23 ~~of the Oklahoma Statutes~~ this title shall:

24

1 1. Sell or offer to sell to any person or group of persons any
2 ~~low-point~~ beer at a price less than the price regularly charged for
3 ~~low-point~~ beer during the same calendar week, except at private
4 functions not open to the public;

5 2. Sell or offer to sell to any person an unlimited number of
6 drinks of ~~low-point~~ beer during any set period of time for a fixed
7 price, except at private functions not open to the public; or

8 3. Sell or offer to sell ~~low-point~~ beer to any person or group
9 of persons on any one day at prices less than those charged the
10 general public on that day, except at private functions not open to
11 the public.

12 B. Any person convicted of violating the provisions of this
13 section shall be guilty of a misdemeanor punishable by a fine of not
14 more than Five Hundred Dollars (\$500.00) for each offense. Each act
15 in violation of this section shall be deemed a separate offense.

16 SECTION 53. AMENDATORY 37 O.S. 2001, Section 231, as
17 last amended by Section 1, Chapter 479, O.S.L. 2005 (37 O.S. Supp.
18 2010, Section 231), is amended to read as follows:

19 Section 231. A. It shall be unlawful for any person, firm,
20 corporation, or others associated therein or employed thereby,
21 engaged in business as a manufacturer, importer, or beer wholesaler,
22 or other holder of a basic permit from the United States Secretary
23 of the Treasury, of ~~low-point~~ beer, individually or through or by
24 affiliates, subsidiaries, associates, agents, or stockholders,

1 directly or indirectly, to do or cause to be done any of the
2 following acts:

3 1. Acquire, hold, or own any interest in the permit, license,
4 premises, or business of a retail dealer in ~~low-point~~ beer;

5 2. Acquire, hold, or own any interest in the real or personal
6 property owned, occupied, or used by a retail dealer in ~~low-point~~
7 beer in the conduct of his or her business;

8 3. Furnish, give, rent, lend, or sell to a retail dealer in
9 ~~low-point~~ beer any equipment, fixture, outdoor advertising
10 structures, supplies, or other things having a real or substantial
11 value. Provided that this paragraph shall not be construed to
12 prohibit the furnishing of normal point of purchase advertising
13 matter to such retail dealer in ~~low-point~~ beer;

14 4. Pay or credit a retail dealer in ~~low-point~~ beer for any
15 advertising display or distribution service;

16 5. Guarantee or procure another to guarantee any loan or the
17 payment of any financial obligation of a retail dealer in ~~low-point~~
18 beer;

19 6. Extend credit to a retail dealer in ~~low-point~~ beer;

20 7. Offer or give any bonus, premium, or compensation to an
21 officer, employee, associate, relative, or representative of a
22 retail dealer in ~~low-point~~ beer;

23 8. Sell, offer for sale, or contract to sell to any retail
24 dealer in ~~low-point~~ beer any ~~low-point~~ beer on consignment, or with

1 the privilege of return, or on any basis other than a bona fide cash
2 sale;

3 9. Use or employ any device or scheme to subsidize in any
4 manner any retail dealer in ~~low-point~~ beer; or

5 10. Permit any retail dealer in ~~low-point~~ beer to do for such
6 brewer, importer, beer wholesaler, or other holder of a basic permit
7 from the United States Secretary of the Treasury, of ~~low-point~~ beer
8 any of the above acts hereby made unlawful to be done on behalf of
9 such retail dealer in ~~low-point~~ beer.

10 B. The provisions of this section shall not preclude a retail
11 dealer from manufacturing ~~low-point~~ beer for consumption on or off
12 the licensed premises of the retail dealer. As used in this
13 subsection, "licensed premises" means any place of business, as
14 defined by Section 163.8 of this title, for which a retail dealer
15 has obtained a permit pursuant to subparagraph c of paragraph 3 of
16 Section 163.7 of this title or any location for which a retail
17 dealer has obtained a special license pursuant to subparagraph d of
18 paragraph 3 of Section 163.7 of this title.

19 C. Outright one-hundred percent (100%) ownership of a retail
20 business by an in-state manufacturer or an in-state manufacturer
21 with a wholesaler permit is not an interest which results in a
22 violation of this section. An in-state manufacturer or an in-state
23 manufacturer with a beer wholesaler permit shall not sell at its own
24

1 retail business more than five thousand (5,000) barrels annually of
2 ~~low point~~ beer it produces.

3 SECTION 54. AMENDATORY 37 O.S. 2001, Section 233, is
4 amended to read as follows:

5 Section 233. The provisions of Section 231 et seq. of this
6 title shall apply to the business of dealing in ~~low point~~ beer only,
7 and if any section, sentence, subdivision, or clause hereof shall
8 for any reason be held to be invalid or unconstitutional, such
9 decision shall not affect the validity of the remaining portions of
10 Section 231 et seq. of this title.

11 SECTION 55. AMENDATORY 37 O.S. 2001, Section 241, as
12 amended by Section 8, Chapter 61, O.S.L. 2006 (37 O.S. Supp. 2010,
13 Section 241), is amended to read as follows:

14 Section 241. A. It shall be unlawful for any person to sell,
15 barter, or give to any person under twenty-one (21) years of age any
16 ~~low point~~ beer, as defined in Section 163.2 of this title.

17 B. It shall be unlawful for any person who holds a license to
18 sell and dispense ~~low point~~ beer for consumption on the premises, or
19 any agent, servant, or employee of said license holder, to permit
20 any person under twenty-one (21) years of age to be admitted to or
21 remain in a separate or enclosed bar area of the licensed premises,
22 which has as its main purpose the selling or serving of ~~low point~~
23 beer for consumption on the premises. The provisions of this
24 section shall not prohibit persons under twenty-one (21) years of

1 age from being admitted to an area which has as its main purpose
2 some objective other than the sale or serving of ~~low-point~~ beer, in
3 which sales or serving of said beverages are incidental to the main
4 purpose, as long as persons under twenty-one (21) years of age are
5 not sold or served said beverages; however, the incidental service
6 of food in the bar area shall not exempt a licensee, agent, servant,
7 or employee from the provisions of this section.

8 C. It shall be unlawful for any person who holds a license to
9 sell and dispense ~~low-point~~ beer, for consumption on the premises,
10 or any agent, servant or employee of said license holder to permit
11 any person under twenty-one (21) years of age to consume any ~~low-~~
12 ~~point~~ beer on the licensed premises.

13 D. Any person violating the provisions of subsection A, B or C
14 of this section shall upon conviction be guilty of a misdemeanor for
15 a first violation and shall be punished by a fine of not more than
16 Five Hundred Dollars (\$500.00), or imprisoned in the county jail for
17 not more than one (1) year, or by both such fine and imprisonment.
18 Any person convicted of a second violation within one (1) year of
19 the first violation shall be guilty of a misdemeanor and shall be
20 punished by a fine of not more than Two Thousand Five Hundred
21 Dollars (\$2,500.00), or imprisoned in the county jail for not more
22 than one (1) year, or by both such fine and imprisonment. Any
23 person convicted of a third violation within one (1) year of the
24 first violation shall be guilty of a felony and shall be punished by

1 a fine of not more than Five Thousand Dollars (\$5,000.00), or by
2 imprisonment in the custody of the Department of Corrections for not
3 more than five (5) years, or by both such fine and imprisonment.
4 The filing of a supplemental information shall be subject to the
5 discretion of the district attorney. One-half (1/2) of any fine
6 collected shall be deposited in the Prevention of Youth Access to
7 Alcohol Revolving Fund established by Section 13 of this act.

8 E. That the person demanded, was shown, and reasonably relied
9 upon proof of age shall be a rebuttable presumption to any action
10 brought pursuant to this section. A person cited for violating this
11 section shall be deemed to have reasonably relied upon proof of age,
12 and such person shall not be found guilty of such violation if:

13 1. The individual who purchased or received the ~~low-point~~ beer
14 presented what a reasonable person would have believed was a driver
15 license or other government-issued photo identification purporting
16 to establish that the individual was twenty-one (21) years of age or
17 older; or

18 2. The person cited for the violation confirmed the validity of
19 the driver license or other government-issued photo identification
20 presented by the individual by performing a transaction scan by
21 means of a transaction scan device.

22 Provided, that this defense shall not relieve from liability any
23 person cited for a violation of this section if such person failed
24 to exercise reasonable diligence to determine whether the physical

1 description and picture on the driver license or other government-
2 issued photo identification was that of the individual who presented
3 it. The availability of the defense described in this subsection
4 does not affect the availability of any other defense under any
5 other provision of law.

6 F. Upon violation of any of the provisions of this section by
7 any agent, servant, or employee, the law enforcement agency shall
8 notify the owner of the premises of the violation, the Oklahoma ~~Tax~~
9 Alcoholic Beverage Laws Enforcement Commission, and the district
10 court clerk of the county in which the premises are located. For
11 purposes of this subsection, notification to the owner of the
12 premises shall be deemed given if the law enforcement agency mails,
13 by mail with delivery confirmation, the notification to the address
14 which is on file with the Oklahoma ~~Tax~~ Alcoholic Beverage Laws
15 Enforcement Commission of the owner of the location at which the
16 violation occurred and the law enforcement agency received delivery
17 confirmation from the United States Postal Service.

18 SECTION 56. AMENDATORY 37 O.S. 2001, Section 243, is
19 amended to read as follows:

20 Section 243. A. It shall be unlawful for any person under
21 eighteen (18) years of age to be employed or permitted to work, in
22 any capacity whatsoever, in a place where ~~low-point~~ beer is sold or
23 dispensed for consumption on the premises.

24

1 B. It shall be unlawful for any person under the age of
2 majority to be employed or permitted to work, in any capacity
3 whatsoever, in the separate or enclosed bar area of a place where
4 the main purpose of the area is the sale or consumption of ~~low-point~~
5 beer. The provisions of this subsection shall not apply to any area
6 which has as its main purpose some objective other than the sale or
7 serving of ~~low-point~~ beer, in which sales or serving of said
8 beverages are incidental to the main purpose; however, the
9 incidental service of food in the bar area shall not exempt a holder
10 of a license to sell ~~low-point~~ beer for consumption on the premises
11 from the provisions of this subsection.

12 C. A parent as regards the employment of his or her own child
13 or children is excepted from the provisions of this section,
14 provided that such employment shall in no capacity whatsoever be
15 related to the selling or dispensing of such beverages.

16 D. The provisions of subsection A of this section shall not
17 apply to any business or establishment where sales of said beverages
18 do not exceed twenty-five percent (25%) of the gross sales of the
19 business or establishment.

20 SECTION 57. AMENDATORY 37 O.S. 2001, Section 244, as
21 amended by Section 9, Chapter 61, O.S.L. 2006 (37 O.S. Supp. 2010,
22 Section 244), is amended to read as follows:

23 Section 244. A. The violation by any person of the provisions
24 of Section 241 or 243 of this title or any statute pertaining to the

1 sale of ~~low-point~~ beer, as defined in Section 163.2 of this title,
2 shall be sufficient ground for mandatory suspension or revocation by
3 the judge of the district court of any permit held by such person
4 authorizing the sale of ~~low-point~~ beer. The permit shall be
5 suspended as follows:

6 1. A first conviction of a violation of the provisions of
7 Section 241 or 243 of this title, may result in a suspension of not
8 more than thirty (30) days; provided, however, the court shall waive
9 suspension of the permit upon proof that the employees of the permit
10 holder have participated in an alcohol compliance education program
11 within the past twenty-four (24) months;

12 2. A second conviction of a violation of the provisions of
13 Section 241 or 243 of this title, within twenty-four (24) months
14 shall result in a mandatory suspension of thirty (30) days, if both
15 violations were committed by the same person or employee or if the
16 court finds that the violations are of an egregious nature;

17 3. A third conviction of a violation of the provisions of
18 Section 241 or 243 of this title, within twenty-four (24) months
19 shall result in a mandatory suspension of thirty (30) days. If all
20 three convictions were committed by the same person or employee, the
21 period of suspension shall be for one hundred eighty (180) days; or

22 4. A fourth or subsequent conviction of a violation of the
23 provisions of Section 241 or 243 of this title, within twenty-four
24 (24) months, shall result in a mandatory revocation of the permit.

1 B. No new permit shall be issued to such person or to a
2 relative of such person for the period of suspension or revocation.

3 C. Each holder of a retail license or permit to sell and
4 dispense ~~low-point~~ beer, as defined in Section 163.2 of this title,
5 shall be held responsible for any violation of Section 241 or 243 of
6 this title committed by a servant, agent, employee or representative
7 of the license or permit holder.

8 SECTION 58. AMENDATORY 37 O.S. 2001, Section 246, as
9 amended by Section 10, Chapter 61, O.S.L. 2006 (37 O.S. Supp. 2010,
10 Section 246), is amended to read as follows:

11 Section 246. A. No person under twenty-one (21) years of age
12 shall consume or possess with the intent to consume ~~low-point~~ beer,
13 as defined in Section 163.2 of this title. It shall be unlawful for
14 any person under twenty-one (21) years of age to purchase or attempt
15 to purchase ~~low-point~~ beer, as defined in Section 163.2 of this
16 title, except under supervision of law enforcement officers. Any
17 person violating any of the provisions of this subsection shall be
18 guilty, upon conviction, of a misdemeanor and punished by a fine not
19 to exceed Three Hundred Dollars (\$300.00) or ordered to perform
20 community service not to exceed thirty (30) hours, or both such fine
21 and community service. In addition, if the person has an Oklahoma
22 driver license issued by the Department of Public Safety, that
23 license shall be revoked for the period of time provided in Section
24 6-107.1 of Title 47 of the Oklahoma Statutes. If the person does

1 not have an Oklahoma driver license, the person shall be ineligible
2 to obtain an Oklahoma driver license for the period of time provided
3 in Section 6-107.1 of Title 47 of the Oklahoma Statutes. For a
4 second offense, any person who is convicted of violating the
5 provisions of this subsection shall be guilty of a misdemeanor and
6 punished by a fine of not to exceed Six Hundred Dollars (\$600.00) or
7 ordered to perform community service not to exceed sixty (60) hours
8 or both such fine and community service. In addition, if the person
9 has an Oklahoma driver license issued by the Department of Public
10 Safety, that license shall be revoked for the period of time
11 provided in Section 6-107.1 of Title 47 of the Oklahoma Statutes.
12 If the person does not have an Oklahoma driver license, the person
13 shall be ineligible to obtain an Oklahoma driver license for the
14 period of time provided in Section 6-107.1 of Title 47 of the
15 Oklahoma Statutes. For a third offense, any person who is convicted
16 of violating the provisions of this subsection shall be guilty of a
17 misdemeanor and punished by a fine of not to exceed Nine Hundred
18 Dollars (\$900.00) or ordered to perform community service not to
19 exceed ninety (90) hours or both such fine and community service.
20 In addition, if the person has an Oklahoma driver license issued by
21 the Department of Public Safety, that license shall be revoked for
22 the period of time provided in Section 6-107.1 of Title 47 of the
23 Oklahoma Statutes. If the person does not have an Oklahoma driver
24 license, the person shall be ineligible to obtain an Oklahoma driver

1 license for the period of time provided in Section 6-107.1 of Title
2 47 of the Oklahoma Statutes. Provided, the provisions of this
3 subsection shall not apply when such persons are under the direct
4 supervision of their parent or guardian, but in no instance shall
5 this exception be interpreted to allow such persons to consume such
6 beverages in any place licensed to dispense ~~low-point~~ beer as
7 provided in Section 163.11 of this title.

8 In addition to any penalty or condition imposed pursuant to the
9 provisions of this subsection, the person shall be subject to an
10 assessment of the person's degree of alcohol abuse, in the same
11 manner as prescribed in subsection G of Section 11-902 of Title 47
12 of the Oklahoma Statutes, which may result in treatment as deemed
13 appropriate by the court.

14 B. If the premises of a holder of a license to sell ~~low-point~~
15 beer contains a separate or enclosed bar area which has as its main
16 purpose the sale or serving of ~~low-point~~ beer for consumption on the
17 premises, no person under twenty-one (21) years of age shall enter,
18 attempt to enter, or remain in said area. The provisions of this
19 subsection shall not prohibit persons under twenty-one (21) years of
20 age from entering or remaining in an area which has as its main
21 purpose some objective other than the sale or serving of ~~low-point~~
22 beer, in which sales or serving of said beverages are incidental to
23 the main purpose, if the persons under twenty-one (21) years of age
24 are not sold or served or do not consume ~~low-point~~ beer anywhere on

1 the premises; however, the incidental service of food in the bar
2 area shall not exempt persons under twenty-one (21) years of age
3 from the provisions of this subsection. Any person convicted of
4 violating the provisions of this subsection shall be guilty of a
5 misdemeanor and punished by a fine not to exceed One Hundred Dollars
6 (\$100.00).

7 In addition, if the person has an Oklahoma driver license issued
8 by the Department of Public Safety, that license shall be revoked
9 for the period of time provided in Section 6-107.1 of Title 47 of
10 the Oklahoma Statutes. If the person does not have an Oklahoma
11 driver license, the person shall be ineligible to obtain an Oklahoma
12 driver license for the period of time provided in Section 6-107.1 of
13 Title 47 of the Oklahoma Statutes.

14 C. Except as otherwise provided, an admission charge shall not
15 be considered in any calculation designed to determine the main
16 purpose of an area pursuant to subsection B of this section. For
17 purposes of this section, an "admission charge" shall mean any form
18 of consideration received by an establishment from a person in order
19 for that person to gain entry into the establishment or an area
20 thereof.

21 D. The provisions of subsection C of this section shall not
22 apply:

23 1. If only persons eighteen (18) years of age or older are
24 permitted to enter the licensed premises;

1 2. If the licensed premises are owned or operated by a service
2 organization or fraternal establishment which is exempt under
3 Section 501(c)(19), (8), or (10) of the Internal Revenue Code; or

4 3. To a public event held in a facility owned or operated by
5 any agency, political subdivision or public trust of this state.

6 E. A violation of the provisions of this section shall not be a
7 basis for instituting juvenile proceedings to determine if a person
8 under eighteen (18) years of age is a delinquent child; however, if
9 a person under eighteen (18) years of age habitually violates the
10 provisions of this section, juvenile proceedings may be brought to
11 determine if the person is a delinquent child. A person under
12 eighteen (18) years of age who has been convicted of violating the
13 provisions of this section shall be subject to the penalty
14 provisions provided in this section.

15 SECTION 59. AMENDATORY 37 O.S. 2001, Section 247, is
16 amended to read as follows:

17 Section 247. No holder of a retail license or permit to sell
18 ~~low-point~~ beer, or an employee or agent of a holder of such a
19 license or permit, shall knowingly, willfully and wantonly sell,
20 deliver or furnish ~~low-point~~ beer to an intoxicated person. Any
21 person violating the provisions of this section shall be guilty of a
22 misdemeanor and, upon conviction, shall be punished by a fine of not
23 more than Five Hundred Dollars (\$500.00) or by imprisonment in the
24 county jail for a term of not more than six (6) months, or by both

1 such fine and imprisonment. Such violation shall be additional
2 grounds for revocation of any license or permit for the sale of ~~low-~~
3 ~~point~~ beer as and in the manner provided by law.

4 SECTION 60. AMENDATORY 37 O.S. 2001, Section 502, is
5 amended to read as follows:

6 Section 502. Sections ~~2 through 105 of this act and Sections~~
7 ~~504, 516, 533, 543.1, 562 and 566~~ 502 through 599 of this title
8 shall be known and may be cited as the "Oklahoma Alcoholic Beverage
9 ~~Control~~ Law Enforcement Act".

10 SECTION 61. AMENDATORY 37 O.S. 2001, Section 503, is
11 amended to read as follows:

12 Section 503. A. The Oklahoma Alcoholic Beverage ~~Control~~ Law
13 Enforcement Act shall be deemed an exercise of the police power of
14 the State of Oklahoma for the protection of the welfare, health,
15 peace, temperance and safety of the people of the state, and all the
16 provisions hereof shall be construed for the accomplishment of that
17 purpose.

18 B. Municipalities are authorized to enact ordinances consistent
19 with the provisions of the Oklahoma Alcoholic Beverage ~~Control~~ Law
20 Enforcement Act. In municipalities with populations of thirty-five
21 thousand (35,000) or more these ordinances may provide for maximum
22 penalties of fines not to exceed One Thousand Dollars (\$1,000.00)
23 plus court costs, and imprisonment not to exceed ninety (90) days,
24 or both such fine and imprisonment.

1 C. All municipalities of this state may enact ordinances
2 prohibiting or regulating nudity or drink solicitation in
3 establishments licensed pursuant to the provisions of the Oklahoma
4 Alcoholic Beverage ~~Control~~ Law Enforcement Act.

5 D. The provisions of this section shall not authorize any city
6 or town to regulate by ordinance or issue any licenses for
7 activities for which a license is required to be issued pursuant to
8 the provisions of the Oklahoma Alcoholic Beverage ~~Control~~ Law
9 Enforcement Act.

10 SECTION 62. AMENDATORY 37 O.S. 2001, Section 504, is
11 amended to read as follows:

12 Section 504. All alcoholic beverages as herein defined except
13 alcohol produced for use as a motor fuel under a permit issued by
14 the State Department of Agriculture shall be subject to the
15 provisions of the Oklahoma Alcoholic Beverage ~~Control~~ Law
16 Enforcement Act.

17 SECTION 63. AMENDATORY 37 O.S. 2001, Section 505, as
18 amended by Section 3, Chapter 229, O.S.L. 2010 (37 O.S. Supp. 2010,
19 Section 505), is amended to read as follows:

20 Section 505. A. No person shall manufacture, rectify, sell,
21 possess, store, import into or export from this state, transport, or
22 deliver any alcoholic beverage except as specifically provided in
23 the Oklahoma Alcoholic Beverage ~~Control~~ Law Enforcement Act.

24 Provided, that nothing herein shall prevent the possession and

1 transportation of alcoholic beverages for the personal use of the
2 possessor and his or her family and guests, so long as the Oklahoma
3 excise tax has been paid thereon, except for beer. Provided,
4 further, that nothing herein shall prevent a person from making
5 beer, as defined by Section 506 of this title, cider, or wine, as
6 defined by Section 506 of this title, by simple fermentation and
7 without distillation for personal use if the maker of such beverages
8 has first applied for and possesses a valid personal use permit
9 issued by the Alcoholic Beverage Laws Enforcement Commission as
10 provided in Section 4 of this act and the total volume of beer,
11 cider or wine produced in any given calendar year is less than two
12 hundred (200) gallons. No beverages made pursuant to a personal use
13 permit shall be sold or offered for sale.

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

22 2. The possession, transportation and dispensation of wine by
23 any authorized representative of any church for the conducting of a
24 bona fide rite or religious ceremony conducted by such church shall

1 not be prohibited by the Oklahoma Alcoholic Beverage ~~Control~~ Law
2 Enforcement Act; nor shall such act prevent the sale, shipping or
3 delivery of sacramental wine by any person holding a sacramental
4 wine supplier license issued pursuant to the Oklahoma Alcoholic
5 Beverage ~~Control~~ Law Enforcement Act to any religious corporation or
6 society of this state holding a valid exemption from taxation issued
7 pursuant to Section 501(a) of the Internal Revenue Code, 1954, and
8 listed as an exempt organization in Section 501(c)(3) of the
9 Internal Revenue Code, 1954, of the United States, as amended.

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

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

1 subsection, upon conviction, shall be guilty of a felony punishable
2 by imprisonment for not more than five (5) years, if the sale or
3 delivery is made to a person under twenty-one (21) years of age, or
4 a misdemeanor, if the sale or delivery is made to a person twenty-
5 one (21) years of age or older.

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

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

11 SECTION 64. AMENDATORY 37 O.S. 2001, Section 506, as
12 amended by Section 1, Chapter 173, O.S.L. 2005 (37 O.S. Supp. 2010,
13 Section 506), is amended to read as follows:

14 Section 506. When used in the Oklahoma Alcoholic Beverage
15 ~~Control~~ Law Enforcement Act, the following words and phrases shall
16 have the following meaning:

17 1. "ABLE Commission" means the Alcoholic Beverage Laws
18 Enforcement Commission;

19 2. "Alcohol" means and includes hydrated oxide of ethyl, ethyl
20 alcohol, ethanol, or spirits of wine, from whatever source or by
21 whatever process produced. It does not include wood alcohol or
22 alcohol which has been denatured or produced as denatured in
23 accordance with Acts of Congress and regulations promulgated
24 thereunder;

1 3. "Alcoholic beverage" means alcohol, spirits, beer, and wine
2 as those terms are defined herein and also includes every liquid or
3 solid, patented or not, containing alcohol, spirits, wine or beer
4 and capable of being consumed as a beverage by human beings, ~~but~~
5 ~~does not include low point beer as that term is defined in Section~~
6 ~~163.2 of this title;~~

7 4. "Applicant" means any individual, legal or commercial
8 business entity, or any individual involved in any legal or
9 commercial business entity allowed to hold any license issued in
10 accordance with the Oklahoma Alcoholic Beverage ~~Control~~ Law
11 Enforcement Act;

12 5. "Beer" means any beverage containing more than ~~three and~~
13 ~~two tenths percent (3.2%) of alcohol by weight~~ one-half of one
14 percent (1/2 of 1%) alcohol by volume and obtained by the alcoholic
15 fermentation of an infusion or decoction of barley, or other grain,
16 malt or similar products. "Beer" may or may not contain hops or
17 other vegetable products. "Beer" includes, among other things,
18 beer, ale, stout, lager beer, porter and other malt or brewed
19 liquors, but does not include sake, known as Japanese rice wine;

20 6. "Bottle club" means any establishment in a county which has
21 not authorized the retail sale of alcoholic beverages by the
22 individual drink, which is required to be licensed to keep, mix, and
23 serve alcoholic beverages belonging to club members on club
24 premises;

1 7. "Brewer" means any person who produces beer in this state;

2 8. "~~Class B~~ Beer wholesaler" means and includes any person
3 doing any such acts or carrying on any such business that would
4 require such person to obtain a ~~Class B~~ beer wholesaler license
5 hereunder;

6 9. "Convicted" and "conviction" mean and include a finding of
7 guilt resulting from a plea of guilty or nolo contendere, the
8 decision of a court or magistrate or the verdict of a jury,
9 irrespective of the pronouncement of judgment or the suspension
10 thereof;

11 10. "Director" means the Director of the Alcoholic Beverage
12 Laws Enforcement Commission under the supervision of said
13 Commission;

14 11. "Distiller" means any person who produces spirits from any
15 source or substance, or any person who brews or makes mash, wort, or
16 wash, fit for distillation or for the production of spirits (except
17 a person making or using such material in the authorized production
18 of wine or beer, or the production of vinegar by fermentation), or
19 any person who by any process separates alcoholic spirits from any
20 fermented substance, or any person who, making or keeping mash,
21 wort, or wash, has also in his or her possession or use a still;

22 12. "Hotel" or "motel" shall mean an establishment which is
23 licensed to sell alcoholic beverages by the individual drink and
24 which contains guestroom accommodations with respect to which the

1 predominant relationship existing between the occupants thereof and
2 the owner or operator of the establishment is that of innkeeper and
3 guest. For purposes of this section, the existence of other legal
4 relationships as between some occupants and the owner or operator
5 thereof shall be immaterial;

6 13. "Legal newspaper" means a newspaper meeting the requisites
7 of a newspaper for publication of legal notices as prescribed in
8 Sections 101 through 114 of Title 25 of the Oklahoma Statutes;

9 14. "Licensee" means any person holding a license under the
10 Oklahoma Alcoholic Beverage ~~Control~~ Law Enforcement Act, and any
11 agent, servant, or employee of such licensee while in the
12 performance of any act or duty in connection with the licensed
13 business or on the licensed premises;

14 15. ~~"Light beer" means a low point beer controlled under this~~
15 ~~title;~~

16 ~~16.~~ "Light wine" means any wine containing not more than
17 fourteen percent (14%) alcohol measured by volume at sixty (60)
18 degrees Fahrenheit;

19 ~~17.~~ 16. "Manufacturer's agent" means a salaried or commissioned
20 salesman who sells to a wholesaler or ~~Class B beer~~ beer wholesaler only;

21 ~~18.~~ 17. "Manufacturer" means a brewer, distiller, winemaker,
22 rectifier, or bottler of any alcoholic beverage;

23 ~~19.~~ 18. "Meals" means foods commonly ordered at lunch or dinner
24 and at least part of which is cooked on the licensed premises and

1 requires the use of dining implements for consumption. Provided,
2 that the service of only food such as appetizers, sandwiches, salads
3 or desserts shall not be considered "meals";

4 ~~20.~~ 19. "Mini-bar" means a closed container, either
5 refrigerated, in whole or in part, or nonrefrigerated, and access to
6 the interior of which is (1) restricted by means of a locking device
7 which requires the use of a key, magnetic card, or similar device,
8 or (2) controlled at all times by the licensee;

9 ~~21.~~ 20. "Mixed beverage cooler" means any beverage, by whatever
10 name designated, consisting of an alcoholic beverage and fruit or
11 vegetable juice, fruit or vegetable flavorings, dairy products or
12 carbonated water containing more than one-half of one percent (1/2
13 of 1%) of alcohol measured by volume but not more than seven percent
14 (7%) alcohol by volume at sixty (60) degrees Fahrenheit and which is
15 packaged in a container not larger than three hundred seventy-five
16 (375) milliliters. Such term shall include, but not be limited to,
17 the beverage popularly known as a "wine cooler";

18 ~~22.~~ 21. "Mixed beverages" means one or more servings of a
19 beverage composed in whole or part of an alcoholic beverage in a
20 sealed or unsealed container of any legal size for consumption on
21 the premises where served or sold by the holder of a mixed beverage,
22 beer and wine, caterer, or special event license;

23 ~~23.~~ 22. "Motion picture theater" means a place where motion
24 pictures are exhibited and to which the general public is admitted,

1 but does not include a place where meals, as defined by this
2 section, are served, if only persons over twenty-one (21) years of
3 age are admitted;

4 ~~24.~~ 23. "Retail salesperson" means a salesperson soliciting
5 orders from and calling upon retail alcoholic beverage stores with
6 regard to his or her product;

7 ~~25.~~ 24. "Occupation" as used in connection with "occupation
8 tax" means the sites occupied as the places of business of the
9 manufacturers, wholesalers, ~~Class B~~ beer wholesalers, retailers,
10 mixed beverage licensees, beer and wine licensees, bottle clubs,
11 caterers, and special event licensees;

12 ~~26.~~ 25. "Original package" means any container of alcoholic
13 beverage filled and stamped or sealed by the manufacturer;

14 ~~27.~~ 26. "Patron" means any person, customer, or visitor who is
15 not employed by a licensee or who is not a licensee;

16 ~~28.~~ 27. "Person" means an individual, any type of partnership,
17 corporation, association, limited liability company or any
18 individual involved in the legal structure of any such business
19 entity;

20 ~~29.~~ 28. "Premises" means the grounds and all buildings and
21 appurtenances pertaining to the grounds including any adjacent
22 premises if under the direct or indirect control of the licensee and
23 the rooms and equipment under the control of the licensee and used
24 in connection with or in furtherance of the business covered by a

1 license. Provided that the ABLE Commission shall have the authority
2 to designate areas to be excluded from the licensed premises solely
3 for the purpose of:

4 a. allowing the presence and consumption of alcoholic
5 beverages by private parties which are closed to the
6 general public, or

7 b. allowing the services of a caterer serving alcoholic
8 beverages provided by a private party.

9 This exception shall in no way limit the licensee's concurrent
10 responsibility for any violations of the Oklahoma Alcoholic Beverage
11 ~~Control~~ Law Enforcement Act occurring on the licensed premises;

12 ~~30.~~ 29. "Rectifier" means any person who rectifies, purifies,
13 or refines spirits or wines by any process (other than by original
14 and continuous distillation, or original and continuous processing,
15 from mash, wort, wash, or other substance, through continuous closed
16 vessels and pipes, until the production thereof is complete), and
17 any person who, without rectifying, purifying, or refining spirits,
18 shall by mixing (except for immediate consumption on the premises
19 where mixed) such spirits, wine, or other liquor with any material,
20 manufactures any spurious, imitation, or compound liquors for sale,
21 under the name of whiskey, brandy, rum, gin, wine, spirits,
22 cordials, or any other name;

23 ~~31.~~ 30. "Regulation" or "rule" means a formal rule of general
24 application promulgated by the ABLE Commission as herein required;

1 ~~32.~~ 31. "Restaurant" means an establishment that is licensed to
2 sell alcoholic beverages by the individual drink for on-premises
3 consumption and where food is prepared and sold for immediate
4 consumption on the premises;

5 ~~33.~~ 32. "Retail container for spirits and wines" means an
6 original package of any capacity approved by the United States
7 Bureau of Alcohol, Tobacco and Firearms;

8 ~~34.~~ 33. "Retailer" means the holder of a Package Store License;

9 ~~35.~~ 34. "Sale" means any transfer, exchange or barter in any
10 manner or by any means whatsoever, and includes and means all sales
11 made by any person, whether as principal, proprietor or as an agent,
12 servant or employee. The term "sale" is also declared to be and
13 include the use or consumption in this state of any alcoholic
14 beverage obtained within or imported from without this state, upon
15 which the excise tax levied by the Oklahoma Alcoholic Beverage
16 ~~Control~~ Law Enforcement Act has not been paid or exempted;

17 ~~36.~~ 35. "Short order food" means food other than full meals
18 including but not limited to sandwiches, soups, and salads.
19 Provided that popcorn, chips, and other similar snack food shall not
20 be considered "short order food";

21 ~~37.~~ 36. "Sparkling wine" means champagne or any artificially
22 carbonated wine;

23 ~~38.~~ 37. "Spirits" means any beverage other than wine, beer or
24 light beer, which contains more than one-half of one percent (1/2 of

1 1%) alcohol measured by volume and obtained by distillation, whether
2 or not mixed with other substances in solution and includes those
3 products known as whiskey, brandy, rum, gin, vodka, liqueurs,
4 cordials and fortified wines and similar compounds; but shall not
5 include any alcohol liquid completely denatured in accordance with
6 the Acts of Congress and regulations pursuant thereto;

7 ~~39.~~ 38. "Wholesaler" means and includes any person doing any
8 such acts or carrying on any such business or businesses that would
9 require such person to obtain a wholesaler's license or licenses
10 hereunder;

11 ~~40.~~ 39. "Wine" means and includes any beverage containing more
12 than one-half of one percent (1/2 of 1%) alcohol by volume and not
13 more than twenty-four percent (24%) alcohol by volume at sixty (60)
14 degrees Fahrenheit obtained by the fermentation of the natural
15 contents of fruits, vegetables, honey, milk or other products
16 containing sugar, whether or not other ingredients are added, and
17 includes vermouth and sake, known as Japanese rice wine;

18 ~~41.~~ 40. "Winemaker" means any person who produces wine; and

19 ~~42.~~ 41. "Oklahoma winemaker" means a business premises in
20 Oklahoma licensed pursuant to the Oklahoma Alcoholic Beverage
21 ~~Control~~ Law Enforcement Act wherein wine is produced by the licensee
22 who must be a resident of the state. The wine product fermented in
23 said licensed premises shall be of grapes, berries and other fruits
24 and vegetables imported into this state and processed herein or

1 shall be of grapes, berries and other fruits and vegetables grown in
2 Oklahoma.

3 Words in the plural include the singular, and vice versa, and
4 words imparting the masculine gender include the feminine, as well
5 as persons and licensees as defined in this section.

6 SECTION 65. AMENDATORY 37 O.S. 2001, Section 506.1, as
7 amended by Section 4, Chapter 204, O.S.L. 2003 (37 O.S. Supp. 2010,
8 Section 506.1), is amended to read as follows:

9 Section 506.1 A. The Alcoholic Beverage Laws Enforcement
10 Commission, also referred to in the Oklahoma Alcoholic Beverage
11 ~~Control~~ Law Enforcement Act as the ABLE Commission, created pursuant
12 to the provisions of Section 1 of Article XXVIII of the Oklahoma
13 Constitution, as the successor to the Oklahoma Alcoholic Beverage
14 Control Board, shall be organized as follows:

15 1. The five (5) members serving on the Oklahoma Alcoholic
16 Beverage Control Board on September 18, 1984, shall serve as the
17 five (5) at-large members of the ABLE Commission until the dates on
18 which their terms of office on the Oklahoma Alcoholic Beverage
19 Control Board would have expired. Thereafter, the term of office of
20 a member appointed at-large to the ABLE Commission shall be five (5)
21 years.

22 2. Within ninety (90) days after September 18, 1984, the two
23 members required by the provisions of Article XXVIII of the Oklahoma
24 Constitution to have law enforcement experience in this state shall

1 be appointed. The terms of office of these members and of
2 successors to these positions shall be five (5) years. Members with
3 law enforcement experience shall meet the qualifications for
4 permanent appointment of police or peace officers provided for in
5 Section 3311 of Title 70 of the Oklahoma Statutes.

6 B. Members of the ABLE Commission shall be citizens of the
7 United States, shall be qualified electors in this state, shall have
8 been residents of this state for at least ten (10) consecutive years
9 immediately preceding the date of their appointment and
10 qualification, and shall be persons of outstanding character,
11 experienced, efficient, and successful in business affairs, and of
12 good reputation in their communities. Said members shall execute
13 the loyalty oath required by law for elected state officials before
14 assuming the duties of their office. No person shall be appointed
15 who has been convicted of or shall have pleaded guilty to a felony,
16 or of any violation of any federal or state law concerning the
17 manufacture or sale of alcoholic beverage or cereal malt beverages
18 prior or subsequent to the passage of the Oklahoma Alcoholic
19 Beverage ~~Control~~ Law Enforcement Act, or who has paid a fine or
20 penalty in settlement in any prosecution against him in any
21 violation of such laws, or who shall have forfeited his bond to
22 appear in court to answer charges for any such violation. No
23 appointee shall serve if he or any person related to him in the
24 third degree by consanguinity or affinity is an officer, director,

1 employee, or stockholder in any corporation or partnership which has
2 as its business the manufacture, sale, or distribution of an
3 alcoholic beverage. ABLE Commission members shall not own,
4 mortgage, or lease any retail or wholesale store or warehouse, any
5 establishment selling alcoholic beverages by the individual drink
6 for on-premises consumption, any establishment operated by a caterer
7 who provides alcoholic beverages by the individual drink pursuant to
8 a caterer's license, or any bottle club as provided in the alcoholic
9 beverage control laws of this state. The provisions of the Oklahoma
10 Alcoholic Beverage ~~Control~~ Law Enforcement Act shall not prevent any
11 member of the ABLE Commission from purchasing and keeping in his
12 possession, for his own use or use by the members of his family or
13 any guests, any alcoholic beverage which may be purchased or kept by
14 any person by virtue of the provisions of the Oklahoma Alcoholic
15 Beverage ~~Control~~ Law Enforcement Act. In order to establish the
16 qualifications of members of the ABLE Commission, a national
17 criminal history record check as defined in Section 150.9 of Title
18 74 of the Oklahoma Statutes shall be required for each member.

19 C. A majority of the members of the ABLE Commission shall
20 constitute a quorum to transact business, but no vacancy shall
21 impair the right of the remaining members to exercise all of the
22 powers of said Commission, and every act of a majority of the
23 members shall be deemed to be the act of the ABLE Commission. The
24 ABLE Commission shall appoint the Director as secretary who shall

1 keep a record of all proceedings and official acts of the Commission
2 and who shall be the custodian of all records and perform such other
3 duties as the ABLE Commission shall prescribe.

4 D. Each member of the ABLE Commission shall receive
5 reimbursement for travel expenses incurred in attending meetings as
6 provided for in the State Travel Reimbursement Act.

7 E. The office of the ABLE Commission shall be in Oklahoma City
8 in office space provided by the Office of Public Affairs. All
9 meetings of the ABLE Commission shall be open to the public and all
10 records of the ABLE Commission shall be public records and open for
11 public inspection. The ABLE Commission shall hold regular meetings
12 at least once a month at its office, and may hold such special
13 meetings as it deems necessary at any time and at any place within
14 the state. The ABLE Commission, for authentication of its records,
15 process, and proceedings, may adopt, keep, and use a common seal, of
16 which seal judicial notice shall be taken in all the courts of the
17 state. Any process, notice, or other paper which the ABLE
18 Commission may be authorized by law to issue shall be deemed
19 sufficient if signed by the secretary of the ABLE Commission and
20 authenticated by such seal. All acts, orders, proceedings, rules,
21 regulations, entries, minutes, and other records of the ABLE
22 Commission, and all reports and documents filed with the ABLE
23 Commission may be proved in any court of this state by copy thereof
24 certified by the secretary of the ABLE Commission with the seal of

1 the ABLE Commission attached. The ABLE Commission shall not adopt
2 or promulgate any rule or regulation inconsistent with the
3 provisions of the Oklahoma Alcoholic Beverage ~~Control~~ Law
4 Enforcement Act or any law of this state.

5 F. All unexpended funds, property, records, personnel, and
6 outstanding financial obligations and encumbrances of the Oklahoma
7 Alcoholic Beverage Control Board shall be transferred to the
8 Alcoholic Beverage Laws Enforcement Commission.

9 SECTION 66. AMENDATORY 37 O.S. 2001, Section 508, is
10 amended to read as follows:

11 Section 508. The Alcoholic Beverage Laws Enforcement Commission
12 shall appoint a Director to serve at the pleasure of the ABLE
13 Commission and who shall devote his entire time to the duties of his
14 office. The Director shall be the principal administrative officer
15 of the ABLE Commission. The ABLE Commission may delegate to the
16 Director such of its powers, functions and duties relating to the
17 administration and enforcement of the Oklahoma Alcoholic Beverage
18 ~~Control~~ Law Enforcement Act as it may in its discretion deem
19 desirable, except that it shall not deny any applicant for a license
20 or any licensee the right to a hearing before the ABLE Commission as
21 herein provided.

22 SECTION 67. AMENDATORY 37 O.S. 2001, Section 509, is
23 amended to read as follows:

24

1 Section 509. The Director shall employ an Assistant Director
2 and inspectors, agents, clerks, stenographers, accountants, chemists
3 and such other personnel as are necessary to properly enforce and
4 administer this law. He or she shall require bonds in such
5 instances and amounts as the Alcoholic Beverage Laws Enforcement
6 Commission may direct. He or she shall be in direct charge of all
7 records and if authorized by the ABLE Commission shall have the
8 following duties and responsibilities:

9 A. Immediately upon the appointment and qualification of the
10 Director he or she shall become vested with the duties and powers of
11 the management and control of the office of Director, and shall
12 become vested with all duties and powers imposed upon him or her by
13 any orders, rules and regulations as may be prescribed by the ABLE
14 Commission, and in addition thereto shall have the following
15 specific powers and duties:

16 1. To issue licenses provided for in the Oklahoma Alcoholic
17 Beverage ~~Control~~ Law Enforcement Act, Section 502 et seq. of this
18 title, and to approve or reject any official bond required to be
19 filed with the Director or the ABLE Commission;

20 2. To appoint and employ, supervise and discharge such
21 personnel, clerical, skilled and semiskilled help, labor and other
22 employees as may be determined necessary for the proper discharge of
23 the duties of the office of Director, upon salary fixed and
24 determined by the ABLE Commission and subject to all the rules and

1 regulations that may be promulgated by the ABLE Commission. The
2 Director and the ABLE Commission, in appointing and employing
3 personnel, shall give preference to honorably discharged members of
4 the Armed Forces of the United States;

5 3. To conduct such investigations and make such reports as may
6 be necessary to keep the ABLE Commission and members thereof advised
7 concerning any violations of the provisions of the Oklahoma
8 Alcoholic Beverage ~~Control~~ Law Enforcement Act and make orders for
9 its enforcement;

10 4. To make recommendations to the ABLE Commission concerning
11 the suspension or revocation of any licenses, the levying of fines
12 against licensees for violations of the provisions of the Oklahoma
13 Alcoholic Beverage ~~Control~~ Law Enforcement Act or regulations or
14 rules of the ABLE Commission, or any action that should be filed or
15 commenced against any official bond theretofore approved by the
16 Director or the ABLE Commission;

17 5. To regularly inspect all places of business of licensees,
18 brewers, distributors, winemakers, rectifiers, wholesalers, ~~Class B~~
19 beer wholesalers, industrial licensees, private carriers, bonded
20 warehouses, and package stores, and all other persons, firms or
21 corporations dealing in the manufacture, distribution,
22 transportation, sale or service of alcoholic beverages under the
23 provisions of the Oklahoma Alcoholic Beverage ~~Control~~ Law
24 Enforcement Act, and report to the ABLE Commission concerning any

1 and all violations with his recommendation to the ABLE Commission
2 for its determination;

3 6. To aid the enforcement authorities of this state or any
4 county or municipality of the state, or federal government, in
5 prosecutions of violations of the Oklahoma Alcoholic Beverage
6 ~~Control~~ Law Enforcement Act;

7 7. To approve and pay claims for services of professional and
8 clerical, skilled, semiskilled help, labor and other employees in
9 the absence of the ABLE Commission, when the salaries and wages of
10 such persons shall have been previously approved by the ABLE
11 Commission; and

12 8. To enforce the provisions of the Prevention of Youth Access
13 to Tobacco Act, Sections ~~2~~ 600.1 through ~~13~~ 600.12 of this ~~act~~
14 title, including, but not limited to, the levying of administrative
15 fines against persons violating the provisions of the Prevention of
16 Youth Access to Tobacco Act, and to at least annually conduct random
17 unannounced inspections at locations where tobacco products are sold
18 or distributed and conduct targeted inspections at those locations
19 which have been in violation of the provisions of the Prevention of
20 Youth Access to Tobacco Act.

21 B. If a witness in attendance before the Director refuses
22 without reasonable cause to be examined or to answer a legal or
23 pertinent question, or to produce a book, record or paper when
24 ordered to do so by the Director, the Director may apply to the

1 judge of the district court of any county where such witness is in
2 attendance, upon proof by affidavit of the fact, for a rule or order
3 returnable in not less than two (2) nor more than five (5) days,
4 directing such witness to show cause before the judge who made the
5 order, or any other district judge of said county, why he or she
6 should not be punished for contempt; upon the return of such order,
7 the judge before whom the matter shall come for hearing shall
8 examine under oath such witness or person, and such person shall be
9 given an opportunity to be heard; and if the judge shall determine
10 that such person has refused, without reasonable cause or legal
11 excuse, to be examined or answer a legal or pertinent question, or
12 to produce a book, record or paper which he or she was ordered to
13 bring or produce, he or she may punish the offender as for contempt
14 of court and shall fix the penalty in any sum not less than Two
15 Hundred Fifty Dollars (\$250.00) but not to exceed Five Hundred
16 Dollars (\$500.00) or require him or her to serve a maximum of thirty
17 (30) days in jail, or both.

18 C. Subpoenas shall be served and witness fees and mileage paid
19 as in civil cases in the district court in the county to which such
20 witness shall be called. Witnesses subpoenaed at the instance of
21 the Director shall be paid their fees and mileage by the Director
22 out of funds appropriated to the ABLE Commission. Court cost in
23 this contempt proceedings shall be paid as taxed by the court.

24

1 SECTION 68. AMENDATORY 37 O.S. 2001, Section 510, is
2 amended to read as follows:

3 Section 510. The Director shall, subject to the approval by the
4 Alcoholic Beverage Laws Enforcement Commission and subject to any
5 laws of this state of general application relating to salaries and
6 classification, fix the salaries and prescribe the duties of the
7 Assistant Director, inspectors, agents, clerks, stenographers,
8 accountants, chemists and such other personnel as are necessary to
9 properly enforce and administer the provisions of the Oklahoma
10 Alcoholic Beverage ~~Control~~ Law Enforcement Act.

11 SECTION 69. AMENDATORY 37 O.S. 2001, Section 511, is
12 amended to read as follows:

13 Section 511. A. No member of the Alcoholic Beverage Laws
14 Enforcement Commission, Director, Assistant Director, or employee of
15 the ABLE Commission shall be appointed or serve who has been
16 convicted of a felony or of any violation of any federal or state
17 law relating to alcoholic beverages. No member of the ABLE
18 Commission, Director, Assistant Director, or employee of the ABLE
19 Commission shall directly or indirectly, individually or as a member
20 of a partnership, or as a shareholder of a corporation, have any
21 interest whatsoever in the manufacture, sale or distribution of
22 alcoholic beverages, nor receive any compensation or profit
23 therefrom, nor have any interest, directly or indirectly, in any
24 business authorized by a license issued pursuant to the provisions

1 of the Oklahoma Alcoholic Beverage ~~Control~~ Law Enforcement Act,
2 Section 501 et seq. of this title. The holding of membership or
3 elective or appointed office in fraternal organizations which obtain
4 mixed beverage or bottle club licenses shall not be considered to be
5 engagement in the alcoholic beverage business. No member of the
6 ABLE Commission, Director, Assistant Director, or employee of the
7 ABLE Commission shall solicit or accept any gift, gratuity,
8 emolument, or employment from any person subject to the provisions
9 of the Oklahoma Alcoholic Beverage ~~Control~~ Law Enforcement Act, or
10 from any officer, agent or employee thereof, nor solicit, request
11 from or recommend, directly or indirectly, to any such person or to
12 any officer, agent or employee thereof, the appointment of any
13 person to any place or position, and every such person, and every
14 officer, agent or employee thereof, is hereby forbidden to offer to
15 any member of the ABLE Commission, the Director, Assistant Director,
16 or to any employee of the ABLE Commission, any gift, gratuity,
17 emolument or employment. No member of the ABLE Commission,
18 Director, Assistant Director, or employee of the ABLE Commission
19 shall accept employment within the liquor industry for any holder of
20 a license issued pursuant to the provisions of the Oklahoma
21 Alcoholic Beverage ~~Control~~ Law Enforcement Act, or represent,
22 directly or indirectly, any such licensee in any proceedings before
23 the Director or the ABLE Commission within two (2) years following
24 his separation from the ABLE Commission. Violation of any provision

1 of this subsection shall constitute a misdemeanor. In addition to
2 the penal provisions, any person convicted shall be immediately
3 removed from the office or position he holds.

4 B. No license of any kind shall be granted to or retained by
5 any person or any partnership containing any partner who is related
6 to any member of the ABLE Commission or to the Director or Assistant
7 Director by affinity or consanguinity within the third degree. No
8 member of the ABLE Commission nor the Director or Assistant Director
9 shall be entitled to receive any compensation or other monies from
10 the State of Oklahoma while a license is held in violation of the
11 provisions of this subsection.

12 C. It shall be unlawful for any member of the ABLE Commission,
13 the Director, Assistant Director, any inspector, attorney or other
14 agent or employee of the ABLE Commission, to actively participate,
15 as a candidate or otherwise, in any political campaign held in this
16 state. Nor shall any such member of the ABLE Commission, Director,
17 Assistant Director, or other agent or employee of the ABLE
18 Commission lend, expend or contribute any money, funds, property or
19 other thing of value, or use his official position, for the purpose
20 of securing the nomination or election or the defeat of any
21 candidate for public office in the State of Oklahoma. Any person
22 who shall violate the provisions of this subsection shall, upon
23 conviction, be fined not less than Two Thousand Five Hundred Dollars
24 (\$2,500.00) nor more than Five Thousand Dollars (\$5,000.00), or

1 imprisoned in the county jail for not more than one (1) year, or
2 both such fine and imprisonment. Any person found guilty of
3 violating the provisions of this subsection shall, in addition to
4 the criminal penalty imposed herein, be discharged from the office
5 or position he holds upon conviction and shall not be rehired to any
6 state position.

7 D. If the voters of a county in which a state lodge is located
8 approve sale of alcoholic beverages by the individual drink for
9 on-premises consumption, then such sale of alcoholic beverages on
10 the premises of such lodge shall be authorized if a license for such
11 sale, issued pursuant to the provisions of the Oklahoma Alcoholic
12 Beverage ~~Control~~ Law Enforcement Act, is obtained. Provided,
13 further, that a bottle club may be licensed on the premises of a
14 state lodge located in a county where sale of alcoholic beverages by
15 the individual drink for on-premises consumption is not authorized.

16 E. The provisions of subsection D of this section shall not
17 prohibit the state or a political subdivision of the state from
18 leasing a public building or facility to a person who obtains a
19 mixed beverage license, bottle club license, special event license,
20 contracts for the services of a licensed caterer, or subleases the
21 building or facility to a person who obtains a mixed beverage
22 license, bottle club license, special event license or contracts for
23 the services of a licensed caterer.

24

1 F. Provided, that nothing in this section shall prohibit the
2 sale of alcoholic beverage legally confiscated as provided by law.

3 SECTION 70. AMENDATORY 37 O.S. 2001, Section 511A, is
4 amended to read as follows:

5 Section 511A. A. All employees of the State of Oklahoma and
6 its political subdivisions are hereby permitted to obtain licenses
7 from the Alcoholic Beverage Laws Enforcement Commission and to be
8 involved in the alcoholic beverage business unless such involvement
9 and licensing is prohibited by this section or otherwise prohibited
10 by law.

11 B. The following officers and employees of the State of
12 Oklahoma and its political subdivisions are hereby prohibited from
13 engaging in the alcoholic beverage business:

14 1. All judges, district attorneys, assistant district attorneys
15 and any public official who sits in a judicial capacity with
16 jurisdiction over the Oklahoma Alcoholic Beverage ~~Control~~ Law
17 Enforcement Act, Section 501 et seq. of this title;

18 2. All employees certified as peace officers engaging in law
19 enforcement activities; and

20 3. All employees of the Oklahoma Tax Commission who engage in
21 the auditing, enforcement and collection of alcoholic beverage
22 taxes.

23 C. The holding of membership or elective or appointed office in
24 fraternal organizations which obtain mixed beverage or bottle club

1 licenses by employees of the state or a political subdivision shall
2 not be considered to be engagement in the alcoholic beverage
3 business.

4 SECTION 71. AMENDATORY 37 O.S. 2001, Section 512, is
5 amended to read as follows:

6 Section 512. A. The members of the Commission, Director, and
7 such agents and inspectors as the ABLE Commission appoints in
8 writing shall have all the powers and authority of peace officers of
9 this state for the purpose of enforcing the provisions of the
10 Oklahoma Alcoholic Beverage ~~Control~~ Law Enforcement Act.

11 B. The Director or any agent or inspector duly appointed, as
12 provided in subsection A of this section, shall be authorized to
13 arrest violators for offenses against laws of this state committed
14 in the presence of the Director or said agents or inspectors, and
15 further upon the request of a sheriff or another peace officer of
16 this state or any political subdivision thereof assist in
17 apprehension and arrest of a violator or suspected violator of any
18 of the laws of this state.

19 C. Effective July 1, 1988:

20 1. A commissioned employee of the ABLE Commission shall be
21 entitled to receive, upon retirement by reason of length of service,
22 the continued custody and possession of the sidearm and badge
23 carried by such employee immediately prior to retirement;

24

1 2. A commissioned employee of the ABLE Commission may be
2 entitled to receive, upon retirement by reason of disability, the
3 continued custody and possession of the sidearm and badge carried by
4 such employee immediately prior to retirement, upon approval of the
5 Director;

6 3. Custody and possession of the sidearm and badge of a
7 commissioned employee of the ABLE Commission, killed in the line of
8 duty may be awarded by the Director to the spouse or next of kin of
9 the deceased employee.

10 SECTION 72. AMENDATORY 37 O.S. 2001, Section 513a, is
11 amended to read as follows:

12 Section 513a. The Director may employ attorneys, who shall be
13 unclassified employees of the state, or contract with attorneys, as
14 needed. These attorneys may advise the Director, the Alcoholic
15 Beverage Laws Enforcement Commission and Commission personnel on all
16 legal matters and shall appear for and represent the Director, the
17 Commission and Commission personnel in all administrative hearings
18 and all litigation or other proceedings which may arise in the
19 discharge of their duties. At the request of the Alcoholic Beverage
20 Laws Enforcement Commission, such attorney shall assist the district
21 attorney in prosecuting charges of violators of the Oklahoma
22 Alcoholic Beverage ~~Control~~ Law Enforcement Act. Provided, if a
23 conflict of interest would be created by such attorney representing
24 the Director, the Commission or Commission personnel, additional

1 counsel may be hired upon approval of the Alcoholic Beverage Laws
2 Enforcement Commission.

3 SECTION 73. AMENDATORY 37 O.S. 2001, Section 514, is
4 amended to read as follows:

5 Section 514. The Alcoholic Beverage Laws Enforcement Commission
6 shall have the following powers and duties:

7 1. To supervise, inspect, and regulate every phase of the
8 business of manufacturing, importing, exporting, transporting,
9 storing, selling, distributing, and possessing for the purpose of
10 sale, all alcoholic beverages which shall be necessary and proper to
11 carry out the purposes of the Oklahoma Alcoholic Beverage ~~Control~~
12 Law Enforcement Act;

13 2. To promulgate rules and regulations, in the manner herein
14 provided, to carry out the purposes of the Oklahoma Alcoholic
15 Beverage ~~Control~~ Law Enforcement Act;

16 3. To have the sole authority to issue any license provided for
17 in the Oklahoma Alcoholic Beverage ~~Control~~ Law Enforcement Act;

18 4. To refuse to issue any license provided for in the Oklahoma
19 Alcoholic Beverage ~~Control~~ Law Enforcement Act for cause provided
20 for in said act;

21 5. To revoke or suspend, for cause after hearing, any license
22 issued under the authority of the Oklahoma Alcoholic Beverage
23 ~~Control~~ Law Enforcement Act;

24

1 6. To prescribe the forms of applications for licenses and the
2 information to be shown thereon, and of all reports which it deems
3 necessary in administering the Oklahoma Alcoholic Beverage ~~Control~~
4 Law Enforcement Act;

5 7. To fix standards, not in conflict with those prescribed by
6 any law of this state or of the United States, to secure the use of
7 proper ingredients and methods of manufacture and dispensing of
8 alcoholic beverages;

9 8. To make seizures of alcoholic beverages manufactured, sold,
10 possessed, imported, or transported in violation of the Oklahoma
11 Alcoholic Beverage ~~Control~~ Law Enforcement Act, and apply for the
12 confiscation thereof whenever required by said act, and cooperate in
13 the prosecution of offenders before any court of competent
14 jurisdiction;

15 9. To submit to the Governor and members of the State
16 Legislature annual or semiannual reports upon request of the
17 Governor;

18 10. To inspect or cause to be inspected any premises where
19 alcoholic beverages are manufactured, stored, distributed, sold,
20 dispensed or served;

21 11. In the conduct of any hearing authorized to be held by the
22 ABLE Commission, to examine or cause to be examined, under oath, any
23 person, and to examine or cause to be examined books and records of
24 any licensee; to hear testimony and take proof material for the ABLE

1 Commission's information and the discharge of its duties hereunder;
2 to administer or cause to be administered oaths; and for any such
3 purposes to issue subpoenas for the attendance of witnesses and the
4 production of books or records which shall be effective in any part
5 of the state; and any district court or any judge thereof, either in
6 term or vacation, may by order duly entered require the attendance
7 of witnesses and the production of relevant books or records
8 subpoenaed by the ABLE Commission, and the court or judge may compel
9 obedience to its or his order by proceedings for contempt;

10 12. To prescribe the kind and size of retail containers of
11 alcoholic beverages other than beer which may be purchased,
12 possessed and sold by a licensee;

13 13. To prescribe by regulations, in addition to those herein
14 required, the kinds of records to be kept and reports to be rendered
15 by licensees, and the information to be shown therein; provided,
16 that the period for which all such records and reports be retained
17 shall not be less than five (5) years;

18 14. To gather, compile and print such statistical data as may
19 in the opinion of the ABLE Commission be needed or useful, and
20 prescribe charges or fees to be collected from any person or company
21 to whom such data shall be provided. No reports shall contain sales
22 information of either wholesalers, retailers, mixed beverage
23 licensees, caterers or special event licensees by name or license
24 number;

1 15. To educate persons employed by licensees to serve alcoholic
2 beverages as to the provisions of Article XXVIII of the Oklahoma
3 Constitution and the Oklahoma Alcoholic Beverage ~~Control~~ Law
4 Enforcement Act, with emphasis on recognizing and preventing
5 intoxication and particular emphasis on those provisions prohibiting
6 the serving of alcoholic beverages to minors. The ABLE Commission
7 may contract with one or more persons to perform the duties
8 specified in this paragraph; and

9 16. To exercise all other powers and duties conferred by the
10 Oklahoma Alcoholic Beverage ~~Control~~ Law Enforcement Act, and all
11 powers incidental, convenient or necessary to enable it to
12 administer or carry out any of the provisions of the Oklahoma
13 Alcoholic Beverage ~~Control~~ Law Enforcement Act.

14 SECTION 74. AMENDATORY 37 O.S. 2001, Section 517, is
15 amended to read as follows:

16 Section 517. All regulations and rules of the Alcoholic
17 Beverage Laws Enforcement Commission shall be promulgated and filed
18 pursuant to the provisions of the Administrative Procedures Act,
19 Sections 301 through 323 of Title 75 of the Oklahoma Statutes and
20 also shall be filed with the Secretary of State and the State
21 Librarian pursuant to the provisions of Sections 251 through 253 of
22 Title 75 of the Oklahoma Statutes. Copies of all regulations and
23 rules shall be made available to each county clerk, district
24 attorney, sheriff and chief of police in the state upon request.

1 The ABLE Commission shall send a notice of application for a license
2 to sell alcohol, alcoholic beverage, wine, or beer under the
3 Oklahoma Alcoholic Beverage ~~Control~~ Law Enforcement Act to the
4 district attorney of the county wherein the premises is located at
5 least fifteen (15) days prior to the approval or disapproval of said
6 application.

7 For any applicant for a license issued pursuant to the
8 provisions of the Oklahoma Alcoholic Beverage ~~Control~~ Law
9 Enforcement Act whose place of business for which the license is
10 being sought is located in a city or town, the ABLE Commission shall
11 mail a notice of application to the city or town, the sheriff of the
12 county in which the city or town is located, and the district
13 attorney of the county in which the city or town is located. The
14 city or town may make recommendations on whether or not the
15 applicant should be issued a license by the ABLE Commission within
16 twenty (20) days after the date the copies of the application were
17 mailed.

18 For any applicant for a license issued pursuant to the
19 provisions of the Oklahoma Alcoholic Beverage ~~Control~~ Law
20 Enforcement Act whose place of business for which the license is
21 being sought is located outside of the incorporated boundaries of a
22 city or town, the ABLE Commission shall mail a notice of application
23 to the board of county commissioners of the county in which the
24 place of business is located, the sheriff of said county, and the

1 district attorney of said county. The board of county commissioners
2 shall make recommendations on whether or not the applicant should be
3 issued a license by the ABLE Commission within twenty (20) days
4 after the date the copies of the application were mailed.

5 SECTION 75. AMENDATORY 37 O.S. 2001, Section 518, as
6 last amended by Section 2, Chapter 289, O.S.L. 2010 (37 O.S. Supp.
7 2010, Section 518), is amended to read as follows:

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

- 11 1. Brewer License..... \$1,250.00
- 12 2. Oklahoma Brewer License..... \$125.00
- 13 3. Distiller License
 - 14 a. For each fiscal year ending
 - 15 after June 30, 2010..... \$3,125.00
 - 16 b. For the fiscal years ending
 - 17 June 30, 2008, 2009 and 2010..... \$1,250.00
- 18 4. Winemaker License..... \$625.00
- 19 5. Oklahoma Winemaker License..... \$75.00
- 20 6. Rectifier License
 - 21 a. For each fiscal year ending
 - 22 after June 30, 2010..... \$3,125.00
 - 23 b. For the fiscal years ending
 - 24 June 30, 2008, 2009 and 2010..... \$1,250.00

1	7.	Wholesaler License.....	\$3,500.00
2	8.	Class B <u>Beer</u> Wholesaler License.....	\$625.00
3	9.	The following package store license fees shall	
4		be determined by the latest Federal Decennial	
5		Census:	
6	a.	Package Store License for cities	
7		and towns from 200 to 2,500	
8		population.....	\$305.00
9	b.	Package Store License for cities	
10		and towns from 2,501 to 5,000	
11		population.....	\$605.00
12	c.	Package Store License for cities	
13		and towns over 5,000 population.....	\$905.00
14	10.	Mixed Beverage License.....	\$1,005.00
15			(initial license)
16			\$905.00
17			(renewal)
18	11.	Mixed Beverage/Caterer Combination License.....	\$1,250.00
19	12.	Beer and Wine License.....	\$500.00
20			(initial license)
21			\$450.00
22			(renewal)
23	13.	Bottle Club License.....	\$1,000.00
24			(initial license)

1		\$900.00
2		(renewal)
3	14. Caterer License.....	\$1,005.00
4		(initial license)
5		\$905.00
6		(renewal)
7	15. Annual Special Event License.....	\$55.00
8	16. Quarterly Special Event License.....	\$55.00
9	17. Hotel Beverage License.....	\$1,005.00
10		(initial license)
11		\$905.00
12		(renewal)
13	18. Airline/Railroad Beverage License.....	\$1,005.00
14		(initial license)
15		\$905.00
16		(renewal)
17	19. Agent License.....	\$55.00
18	20. Employee License.....	\$30.00
19	21. Industrial License.....	\$23.00
20	22. Carrier License.....	\$23.00
21	23. Private Carrier License.....	\$23.00
22	24. Bonded Warehouse License.....	\$190.00
23	25. Storage License.....	\$23.00
24	26. Nonresident Seller License.....	\$750.00

- 1 27. Manufacturers Agent License..... \$55.00
- 2 28. Sacramental Wine Supplier License..... \$100.00
- 3 29. Charitable Auction License..... \$1.00
- 4 30. Winemaker Self-distribution License \$750.00

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

13 There shall be added to the fee for a Mixed Beverage/Caterer
14 Combination License an administrative fee, which shall not be deemed
15 to be a license fee, in the amount of Two Hundred Fifty Dollars
16 (\$250.00), which shall be paid at the same time and in the same
17 manner as the license fee prescribed by paragraph 11 of this
18 subsection.

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

- 21 1. The license fee for a mixed beverage or bottle club license
22 for those service organizations or fraternal beneficiary societies
23 which are exempt under Section 501(c)(19), (8) or (10) of the
24

1 Internal Revenue Code shall be Five Hundred Dollars (\$500.00) per
2 year;

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

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

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

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

17 E. The holder of a license, issued by the ABLE Commission, for
18 a bottle club located in a county of this state where the sale of
19 alcoholic beverages by the individual drink for on-premises
20 consumption has been authorized, may exchange the bottle club
21 license for a mixed beverage license or a beer and wine license and
22 operate the licensed premises as a mixed beverage establishment or a
23 beer and wine establishment subject to the provisions of the
24 Oklahoma Alcoholic Beverage ~~Control~~ Law Enforcement Act. There

1 shall be no additional fee for such exchange and the mixed beverage
2 license or beer and wine license issued shall expire one (1) year
3 from the date of issuance of the original bottle club license.

4 F. In addition to the applicable licensing fee, the following
5 surcharge shall be assessed annually on the following licenses:

- 6 1. Nonresident Seller..... \$2,500.00
- 7 2. Wholesaler..... \$2,500.00
- 8 3. ~~Class B Beer~~ Wholesaler without an active
9 ~~low point~~ beer license..... \$1,000.00
- 10 4. ~~Class B Beer~~ Wholesaler with an active ~~low point~~
11 beer license..... \$1,500.00
- 12 5. Package Store for cities and towns over 5,000
13 population..... \$250.00
- 14 6. Package Store for cities and towns from 2,501
15 to 5,000 population..... \$200.00
- 16 7. Package Store for cities and towns from 200 to
17 2,500 population..... \$150.00
- 18 8. Mixed Beverage..... \$25.00
- 19 9. Mixed Beverage/Caterer Combination..... \$25.00
- 20 10. Caterer..... \$25.00
- 21 11. Beer and Wine..... \$25.00

22 The surcharge shall be paid concurrent with the licensee's annual
23 licensing fee and shall be deposited in the ABLE Commission
24 Revolving Fund established pursuant to Section 567 of this title.

1 SECTION 76. AMENDATORY 37 O.S. 2001, Section 518.1, is
2 amended to read as follows:

3 Section 518.1 The holder of a mixed beverage, beer and wine,
4 caterer, special event or airline/railroad beverage license shall
5 purchase alcoholic beverages only from a licensed wholesaler or
6 ~~Class-B~~ beer wholesaler or as specifically provided by law;
7 provided, the holder of a mixed beverage, beer and wine, caterer or
8 special event license issued for an establishment which is also a
9 restaurant may purchase wine produced at wineries in this state
10 directly from an Oklahoma winemaker as provided in Section 3 of
11 Article XXVIII of the Oklahoma Constitution.

12 A wholesaler or ~~Class-B~~ beer wholesaler may deliver such
13 products to licensees authorized to sell alcoholic beverages for
14 on-premises consumption; provided, such licensees may pick up
15 alcoholic beverage orders if they hold a private carrier license
16 issued by the Alcoholic Beverage Laws Enforcement Commission.

17 SECTION 77. AMENDATORY 37 O.S. 2001, Section 521, as
18 last amended by Section 1, Chapter 64, O.S.L. 2009 (37 O.S. Supp.
19 2010, Section 521), is amended to read as follows:

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

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

8 C. A winemaker license shall authorize the holder thereof: To
9 manufacture (including such mixing, blending and cellar treatment as
10 authorized by federal law), bottle, package, and store on licensed
11 premises wine containing not more than twenty-four percent (24%)
12 alcohol by volume, provided the bottle or package sizes authorized
13 shall be limited to the capacities approved by the United States
14 Alcohol and Tobacco Tax and Trade Bureau; to sell wine in this state
15 to licensed wholesalers and manufacturers; 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; to serve visitors on the licensed premises samples of
19 wine produced on the premises; to serve samples of wine produced at
20 the winery at festivals and trade shows; to sell wine produced at
21 the winery, in original sealed containers, at festivals and trade
22 shows; to sell wine out of this state to qualified persons; to
23 purchase from licensed winemakers, distillers and rectifiers in this
24 state, and to import into this state wine, brandy and fruit spirits

1 for use in manufacturing in accordance with federal laws and
2 regulations; provided, a winemaker either within or without this
3 state that annually produces no more than ten thousand (10,000)
4 gallons of wine may elect to sell and self-distribute the wine
5 produced by such winemaker directly to licensed retail package
6 stores and restaurants in this state; and provided further that:

7 a. any such winemaker which elects to directly sell its
8 wine to package stores and restaurants shall not also
9 use a licensed wholesale distributor as a means of
10 distribution, and shall be required to sell its wines
11 to every package store and restaurant licensee who
12 desires to purchase the same, on the same price basis
13 and without discrimination, and

14 b. if a winemaker or winery sells directly to a retail
15 package store or restaurant, the winemaker shall
16 transport the wine from the winemaker's winery to the
17 premises where the wine is to be delivered only in
18 vehicles owned or leased by the winemaker and not by
19 common or private contract carrier and shall obtain
20 all necessary permits as required by the Oklahoma
21 Alcoholic Beverage Control ~~Control~~ Law Enforcement Act, and

22 c. if the production volume limit applicable to
23 winemakers is ruled to be unconstitutional by a court
24 of competent jurisdiction, then no winemaker shall be

1 permitted to directly sell its wine to retail package
2 stores or restaurants in this state.

3 D. A winemaker self-distribution license shall authorize a
4 licensed winemaker within or without this state which is permitted
5 by Section 3 of Article XXVIII of the Oklahoma Constitution and
6 paragraph 3 of subsection C of this section, to distribute its wine
7 directly to retail package stores and restaurants in this state and
8 that elects to do so, to sell and deliver its wines directly to
9 licensed retail package stores and restaurants in this state in full
10 case lots only, and in accordance with the provisions of the
11 Oklahoma Alcoholic Beverage ~~Control~~ Law Enforcement Act and such
12 rules as the Oklahoma Alcoholic Beverage Laws Enforcement (ABLE)
13 Commission shall adopt.

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

22 F. 1. A wholesaler license shall authorize the holder thereof:
23 To purchase and import into this state spirits and wines from
24 persons authorized to sell same who are the holders of a nonresident

1 seller license, and their agents who are the holders of
2 manufacturers agent licenses; to purchase spirits and wines from
3 licensed distillers, rectifiers and winemakers in this state; to
4 purchase spirits and wines from licensed wholesalers, to the extent
5 set forth in paragraphs 2 and 3 of this subsection; to sell in
6 retail containers in this state to retailers, mixed beverage,
7 caterer, special event, hotel beverage or airline/railroad beverage
8 licensees, spirits and wines which have been received and unloaded
9 at the bonded warehouse facilities of the wholesaler before such
10 sale; to sell to licensed wholesalers, to the extent set forth in
11 paragraphs 2 and 3 of this subsection, spirits and wines which have
12 been received and unloaded at the bonded warehouse facilities of the
13 wholesaler before such sale; and to sell spirits and wines out of
14 this state to qualified persons. Provided, however, sales of
15 spirits and wine in containers with a capacity of less than one-
16 twentieth (1/20) gallon by a holder of a wholesaler license shall be
17 in full case lots and in the original unbroken case. Wholesalers
18 shall be authorized to place such signs outside their place of
19 business as are required by Acts of Congress and by such laws and
20 regulations promulgated under such Acts.

21 2. Wholesalers are prohibited from purchasing annually in
22 excess of fifteen percent (15%) of their total spirits inventory and
23 fifteen percent (15%) of their total wine inventory from one or more
24 wholesalers. Wholesalers are also prohibited from purchasing

1 annually in excess of fifteen percent (15%) of their inventory of
2 any individual brand of spirits or wine from one or more
3 wholesalers. The volume of spirits and wine and of each brand that
4 each wholesaler is permitted to purchase annually from other
5 wholesalers shall be calculated by the ABLE Commission by
6 multiplying fifteen percent (15%) by:

- 7 a. the total volume of spirits sales of the wholesaler,
8 by liter, from the previous calendar year, and
- 9 b. the total volume of wine sales of the wholesaler, by
10 liter, from the previous calendar year, and
- 11 c. the volume of sales of each brand of spirits or wine
12 of the wholesaler, by liter, from the previous
13 calendar year.

14 A wholesaler who did not post any sales of spirits, wine or of a
15 particular brand in the previous calendar year shall be deemed to
16 have sold the same volume of spirits, wine or of a particular brand
17 as the wholesaler posting the smallest volumes of sales in spirits,
18 wine or of a particular brand for that year for the purposes of this
19 paragraph. Notwithstanding the foregoing, wholesalers shall not
20 purchase any inventory in spirits or wine from any other wholesaler
21 until such time that the purchasing wholesaler possesses an
22 inventory valued at no less than Two Hundred Fifty Thousand Dollars
23 (\$250,000.00). Inventory valuation shall be based on the original
24

1 actual price paid by the purchasing wholesaler to the nonresident
2 seller for said inventory.

3 3. A wholesaler may sell spirits and wine to other wholesalers
4 or purchase spirits and wines from other wholesalers without
5 complying with paragraph 2 of this subsection in the case of the
6 sale, purchase, or other transfer or acquisition of the entire
7 business of a wholesaler, including the inventory of spirits and
8 wine.

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

14 5. All licensed wholesalers shall register prices, purchase and
15 keep on hand or have on order a fifteen-day supply of all brands
16 constituting the top eighteen brands in total sales by all Oklahoma
17 wholesalers during the past twelve-month period, according to the
18 records of the ABLE Commission as revised by the ABLE Commission
19 quarterly; provided, however, that not more than three brands of any
20 particular nonresident seller shall be included in the top-brands
21 classification. All purchase orders for these top eighteen brands
22 must show an expected due delivery date. These purchase orders may
23 only be canceled with prior approval of the Director of the ABLE

24

1 Commission, unless a wholesaler shall have in its warehouse a
2 fifteen-day supply of merchandise on such purchase order.

3 In order to allow the ABLE Commission to determine the top
4 eighteen brands, wholesalers must submit to the ABLE Commission
5 every sixty (60) days a sworn affidavit listing their top twenty-
6 five brands in sales for the previous sixty (60) days, excluding
7 sales to wholesalers. Such affidavits shall be submitted in
8 conjunction with the original price postings of wholesalers.

9 A fifteen-day supply of a particular brand for a particular
10 wholesaler shall be based upon the market share of the wholesaler,
11 determined by first multiplying the total number of liters of such
12 brand sold by all wholesalers to all retailers during the previous
13 calendar year by the percentage that the total sales of wine and
14 spirits of the particular wholesaler, in liters, for such calendar
15 year bears to the total sales of wine and spirits, in liters,
16 reported by all wholesalers for such calendar year; and then
17 dividing by twenty-four (24); provided, that a fifteen-day supply
18 for a wholesaler who has not been in business for the entirety of
19 the previous calendar year shall be deemed to be equal to that of
20 the wholesaler who was in business for the entirety of the previous
21 calendar year and who reported the lowest volume of sales of wine
22 and spirits, in liters, of any wholesaler having been in business
23 for such period.

24

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

16 H. A package store license shall authorize the holder thereof:
17 To purchase alcohol, spirits, beer and wine in retail containers
18 from the holder of a brewer, wholesaler or ~~Class-B~~ beer wholesaler
19 license and to purchase wine from a winemaker who is permitted and
20 has elected to self-distribute as provided in Section 3 of Article
21 XXVIII of the Oklahoma Constitution and to sell same on the licensed
22 premises in such containers to consumers for off-premises
23 consumption only and not for resale; provided, wine may be sold to
24 charitable organizations that are holders of charitable auction or

1 charitable wine event licenses. All alcoholic beverages that are
2 sold by a package store are to be sold at ordinary room temperature.

3 I. A mixed beverage license shall authorize the holder thereof:
4 To purchase alcohol, spirits, beer or wine in retail containers from
5 the holder of a wholesaler or Class B wholesaler license or as
6 specifically provided by law and to sell, offer for sale and possess
7 mixed beverages for on-premises consumption only; provided, the
8 holder of a mixed beverage license issued for an establishment which
9 is also a restaurant may purchase wine directly from a winemaker who
10 is permitted and has elected to self-distribute as provided in
11 Section 3 of Article XXVIII of the Oklahoma Constitution.

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

23 J. A bottle club license shall authorize the holder thereof:
24 To store, possess and mix alcoholic beverages belonging to members

1 of the club and to serve such alcoholic beverages for on-premises
2 consumption to club members. A bottle club license shall only be
3 issued in counties of this state where the sale of alcoholic
4 beverages by the individual drink for on-premises consumption has
5 not been authorized. A separate license shall be required for each
6 place of business.

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

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

1 | been authorized. The holder of an annual special event license
2 | shall provide written notice to the ABLE Commission of each special
3 | event not less than ten (10) days before the event is held.

4 | 2. A quarterly special event license shall authorize the holder
5 | thereof: To sell and distribute mixed beverages for consumption on
6 | the premises for which the license has been issued for up to three
7 | events to be held over a period not to exceed three (3) months. For
8 | purposes of this paragraph, an event shall not exceed a period of
9 | ten (10) consecutive days. A quarterly 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 a quarterly 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 | M. A hotel beverage license shall authorize the holder thereof:
16 | To sell or serve alcoholic beverages in 50 milliliter spirits, 187
17 | milliliter wine, and 12-ounce malt beverage containers which are
18 | distributed from a hotel room mini-bar. A hotel beverage license
19 | shall only be issued in counties of this state where the sale of
20 | alcoholic beverages by the individual drink for on-premises
21 | consumption has been authorized. A hotel beverage license shall
22 | only be issued to a hotel or motel as defined by Section 506 of this
23 | title which is also the holder of a mixed beverage license.
24 | Provided, that application may be made simultaneously for both such

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

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

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

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

8 P. An employee license shall authorize the holder thereof: To
9 work in a package store, mixed beverage establishment, bottle club,
10 or any establishment where alcohol or alcoholic beverages are sold,
11 mixed, or served. Persons employed by a mixed beverage licensee or
12 a bottle club who do not participate in the service, mixing, or sale
13 of mixed beverages shall not be required to have an employee
14 license. Provided, however, that a manager employed by a mixed
15 beverage licensee or a bottle club shall be required to have an
16 employee license whether or not the manager participates in the
17 service, mixing or sale of mixed beverages. Applicants for an
18 employee license must have a health card issued by the county in
19 which they are employed, if the county issues such a card.

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

22 Persons employed by a hotel licensee who participate in the stocking
23 of hotel room mini-bars or in the handling of alcoholic beverages to
24

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

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

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

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

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

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

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

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

1 R. A carrier license may be issued to any common carrier
2 operating under a certificate of convenience and necessity issued by
3 any duly authorized federal or state regulatory agency. Such
4 license shall authorize the holder thereof to transport alcoholic
5 beverages other than wine sold directly by a winemaker or winery to
6 a retail package store or restaurant into, within, and out of this
7 state under such terms, conditions, limitations, and restrictions as
8 the ABLE Commission may prescribe by order issuing such license and
9 by regulations.

10 S. A private carrier license may be issued to any carrier other
11 than a common carrier described in subsection Q of this section.
12 Such license shall authorize the holder thereof to transport
13 alcoholic beverages other than wine sold directly by a winemaker or
14 winery to a retail package store or restaurant into, within, or out
15 of this state under such terms, conditions, limitations, and
16 restrictions as the ABLE Commission may prescribe by order issuing
17 such license and by regulations. No carrier license or private
18 carrier license shall be required of licensed brewers, distillers,
19 winemakers, rectifiers, wholesalers, or ~~Class B~~ beer wholesalers, to
20 transport alcoholic beverages from the place of purchase or
21 acquisition to the licensed premises of such licensees and from such
22 licensed premises to the licensed premises of the purchaser in
23 vehicles owned or leased by such licensee when such transportation
24 is for a lawful purpose and not for hire.

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

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

22 U. A storage license may be issued to a holder of a brewer,
23 distiller, winemaker, rectifier, wholesaler, ~~Class B~~ beer
24 wholesaler, nonresident seller, package store, mixed beverage,

1 caterer, or hotel beverage license, and shall authorize the holder
2 thereof: To store alcoholic beverages in a public warehouse holding
3 a bonded warehouse license, and no goods, wares or merchandise other
4 than alcoholic beverages may be stored in the same warehouse with
5 alcoholic beverages in private warehouses owned or leased and
6 operated by such licensees elsewhere than on their licensed
7 premises. Provided:

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

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

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

19 4. Notwithstanding the provisions of subsection H of this
20 section or any other provision of this title, a licensee who wholly
21 owns more than one licensed mixed beverage establishment may store
22 alcoholic beverages for each of the licensed establishments in one
23 location under one storage license. Alcoholic beverages purchased
24 and stored pursuant to the provisions of a storage license, for one

1 licensed mixed beverage establishment may be transferred by a
2 licensee to another licensed mixed beverage establishment which is
3 wholly owned by the same licensee. Notice of such a transfer shall
4 be given in writing to the Oklahoma Tax Commission and the ABLE
5 Commission within three (3) business days of the transfer. The
6 notice shall clearly show the quantity, brand and size of every
7 transferred bottle or case.

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

15 W. A beer and wine license shall authorize the holder thereof:
16 To purchase beer and wine in retail containers from the holder of a
17 wholesaler or ~~Class B~~ beer wholesaler license or as specifically
18 provided by law and to sell, offer for sale and possess beer and
19 wine for on-premises consumption only; provided, the holder of a
20 beer and wine license issued for an establishment which is also a
21 restaurant may purchase wine from a winemaker who is permitted and
22 has elected to self-distribute as provided in Section 3 of Article
23 XXVIII of the Oklahoma Constitution.

24

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

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

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

24

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

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

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

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

3 Y. 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~~ Law Enforcement Act applicable to mixed
8 beverage licenses or caterer licenses, or the holders thereof, shall
9 also be applicable to mixed beverage/caterer combination licenses or
10 the holders thereof, except where specifically otherwise provided.

11 A 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 Z. In the event any portion of this section is declared invalid
16 for any reason, the invalid portion shall be severed and the rest
17 and remainder of the section shall be saved and given full force and
18 application.

19 SECTION 78. AMENDATORY 37 O.S. 2001, Section 522, is
20 amended to read as follows:

21 Section 522. Applicants for original brewer, distiller,
22 winemaker, rectifier, wholesaler, ~~Class-B~~ beer wholesaler, mixed
23 beverage, beer and wine, bottle club, caterer or package store
24 licenses shall, prior to applying for such license, twice publish,

1 in such form and containing such information as the Alcoholic
2 Beverage Laws Enforcement Commission shall by regulation prescribe,
3 a notice of its intention to apply for any such license, once a week
4 for two (2) successive weeks in a legal newspaper of general
5 circulation within the county where the proposed premises is to be
6 located, and file proof of such publication with the ABLE
7 Commission. Unless otherwise provided, the ABLE Commission shall
8 give notice of approval or disapproval of an application for a
9 license within thirty (30) days after the filing of said
10 application. The ABLE Commission shall give notice of approval or
11 disapproval of an application for a mixed beverage, beer and wine,
12 bottle club or caterer license within sixty (60) days after the
13 filing of said application. Provided, the ABLE Commission may
14 extend the period for making a determination of whether to approve
15 or disapprove an application an additional thirty (30) days for good
16 cause.

17 The ABLE Commission may conditionally approve any application
18 which is subject to Section 523 of this title if:

19 1. Construction, modification or alteration of premises
20 proposed for licensed operations is not completed; and

21 2. The applicant furnishes a conditional certification issued
22 by the municipality or county that the applicant's plans and
23 specifications indicate that the proposed premises will comply with
24

1 the municipality's or county's zoning, fire, safety, and health
2 codes.

3 The ABLE Commission shall issue its final notice of approval
4 when the applicant furnishes final certificates required by Section
5 523 of this title.

6 SECTION 79. AMENDATORY 37 O.S. 2001, Section 523, is
7 amended to read as follows:

8 Section 523. A. No license provided for in the Oklahoma
9 Alcoholic Beverage ~~Control~~ Law Enforcement Act shall be issued
10 except pursuant to an application filed with the Alcoholic Beverage
11 Laws Enforcement Commission. The ABLE Commission may, however,
12 provide for a form of simplified application for renewal of license.
13 Payment of the prescribed fee shall accompany each application for a
14 license.

15 B. Every applicant for an original license, except applicants
16 for an employee, special event or airline/railroad beverage license,
17 shall also furnish the following:

18 1. A tax receipt proving payment of ad valorem taxes, including
19 real and personal taxes, or furnish to the ABLE Commission
20 satisfactory evidence that no taxes are due or delinquent;

21 2. A certificate of zoning issued by the municipality in which
22 the applicant proposes to locate the applicant's principal place of
23 business under the license, or by the county if said principal place
24 of business is located outside the incorporated limits of a

1 municipality, certifying that the applicant's proposed location and
2 use thereof comply with all municipal zoning ordinances or county
3 zoning regulations if applicable;

4 3. A certificate issued by the municipality in which the
5 applicant proposes to locate the applicant's principal place of
6 business under the license, or by the county if said principal place
7 of business is located outside the incorporated limits of a
8 municipality, certifying that the applicant's existing or proposed
9 operations under the license comply with all municipal or county
10 fire codes, safety codes, or health codes, if applicable;

11 4. Authorization, on forms furnished by the ABLE Commission,
12 for complete investigation of the applicant's current financial
13 status as it relates to the application for a license, including but
14 not limited to access to bank accounts, loan agreements, and
15 financial statements; and

16 5. A deed, management agreement, purchasing agreement, or
17 lease.

18 C. The certificates required by paragraphs 2 and 3 of
19 subsection B of this section shall be signed by the mayor of the
20 municipality or the chairman of the board of county commissioners
21 issuing same, unless the municipality, by ordinance, or the county
22 designates some other officer or entity to issue the certificates.
23 Applications for such certificates shall be in writing and shall
24 contain information in such detail as the municipality or county may

1 reasonably require describing the location and nature of operations
2 to be conducted under the ABLE license. Municipalities and counties
3 shall be required to act on all applications for such certificates
4 within twenty (20) days of receipt of the written application.

5 D. Municipalities and counties may grant conditional
6 certificates for premises proposed for licensed operations for which
7 construction, modification, or alteration is not completed.
8 Conditional certificates shall indicate that the proposed premises
9 will comply with the municipal or county zoning, fire, safety, and
10 health codes. The granting of conditional certificates shall not
11 relieve the applicant of the duty of obtaining the certificates
12 required by paragraphs 2 and 3 of subsection B of this section after
13 completion of the construction, modification, or alteration.

14 E. A municipality or county shall issue the certificates
15 required by paragraphs 2 and 3 of subsection B of this section
16 within ten (10) days after all final inspections are completed.

17 Thereafter if a licensee fails to maintain compliance with
18 municipal or county zoning ordinances and codes, the mayor or
19 chairman of the board of county commissioners or their designee,
20 shall forthwith notify the ABLE Commission in writing setting forth
21 details of the noncompliance.

22 F. Upon issuance of any license, the ABLE Commission shall
23 furnish the Oklahoma Tax Commission with a list of such licenses.

24

1 G. In the event of denial of an application for a license, the
2 ABLE Commission shall refund to the applicant the amount of the
3 tendered fee, less ten percent (10%), which it shall retain as cost
4 of processing the application.

5 H. Any licensee, except an employee licensee, who fails to
6 renew his license prior to the expiration date of said license shall
7 be subject to a late renewal penalty as provided by ABLE Commission
8 rules and regulations. Further, any licensee, except an employee
9 licensee, who fails to renew his license within sixty (60) days of
10 the expiration of said license shall be required to submit a new
11 license application. An employee licensee who fails to renew prior
12 to the expiration of the license shall be required to submit a new
13 license application; provided, however, that under no circumstances
14 shall any licensee, including an employee licensee, whose license to
15 serve or sell alcoholic beverages has expired, continue to serve or
16 sell alcoholic beverages.

17 SECTION 80. AMENDATORY 37 O.S. 2001, Section 523.1, is
18 amended to read as follows:

19 Section 523.1 A. Any corporation applying for a mixed
20 beverage, beer and wine, caterer, or bottle club license shall
21 submit to the Alcoholic Beverage Laws Enforcement Commission the
22 following:

23 1. A certificate of good standing from the office of the
24 Secretary of State;

1 2. A list of all corporate officers, directors, executive
2 committee members or members of a similar governing body and their
3 addresses; and

4 3. A list of all stockholders owning fifteen percent (15%) or
5 more of the stock and their addresses.

6 B. A corporate licensee shall notify the ABLE Commission in
7 writing of any change in the officers or directors of said
8 corporation or in the principal managers of premises licensed to
9 said corporation and shall pay a fee of One Hundred Dollars
10 (\$100.00) for each notification of change. Provided, service
11 organizations which are exempt under Section 501(c)(8), (10), or
12 (14) of the Internal Revenue Code shall be exempt from said fee.

13 C. A corporate licensee shall notify the ABLE Commission any
14 time a person, any type of partnership, limited liability company,
15 or other entity acquires fifteen percent (15%) or more of the stock
16 of said corporation. Such notification shall be within thirty (30)
17 days of acquisition and the corporation shall pay a fee of One
18 Hundred Dollars (\$100.00) for each notification of change.

19 D. The ABLE Commission may disapprove a change of officers,
20 directors or principal managers or the acquisition of more than
21 fifteen percent (15%) of the stock in a licensed corporation if the
22 ABLE Commission feels that such change would materially affect the
23 conditions under which the license was issued, such that the license
24 would not have been issued had such change been in existence at the

1 time of the original application. If such disapproval occurs, the
2 ABLE Commission shall notify the licensee in writing and in the case
3 of a publicly traded corporation, allow a reasonable time for the
4 licensee to remove such officer, director or manager or for the
5 stockholder to divest himself of any stock held in excess of fifteen
6 percent (15%) of the stock. Provided that a reasonable time may not
7 exceed a ninety-day period following notification of denial by the
8 ABLE Commission. Failure to comply with the provisions of this
9 subsection may result in revocation or suspension of such license.

10 E. Any person who was an officer or director or who has owned
11 fifteen percent (15%) or more of the stock in a corporation which
12 has been denied a license or had a license revoked or suspended
13 pursuant to the provisions of the Oklahoma Alcoholic Beverage
14 ~~Control~~ Law Enforcement Act shall not own stock in any other
15 corporation seeking a license pursuant to the provisions of the
16 Oklahoma Alcoholic Beverage ~~Control~~ Law Enforcement Act for a period
17 of twelve (12) months from the date said license was revoked or
18 suspended.

19 F. Any person who was a manager or a member of a limited
20 liability company which has been denied a license or had a license
21 revoked or suspended pursuant to the provisions of the Oklahoma
22 Alcoholic Beverage ~~Control~~ Law Enforcement Act shall not own stock
23 in any corporation seeking a license pursuant to the provisions of
24 the Oklahoma Alcoholic Beverage ~~Control~~ Law Enforcement Act for a

1 period of twelve (12) months from the date said license was revoked
2 or suspended.

3 SECTION 81. AMENDATORY 37 O.S. 2001, Section 523.2, is
4 amended to read as follows:

5 Section 523.2 A. Any limited liability company, formed as
6 provided for in the Limited Liability Company Act, may apply for a
7 beer and wine, bottle club, caterer, or mixed beverage license
8 issued pursuant to the Oklahoma Alcoholic Beverage ~~Control~~ Law
9 Enforcement Act. Any limited liability company applying for a
10 license shall submit to the Alcoholic Beverage Laws Enforcement
11 Commission, the following:

12 1. A Certificate of Good Standing from the Office of the
13 Secretary of State;

14 2. The Articles of Organization with all amendments and
15 corrections filed with the Office of the Secretary of State with
16 proof that same has been filed in accordance with the Limited
17 Liability Company Act;

18 3. The name and address of the resident agent;

19 4. The name and address of the manager;

20 5. The operating agreement;

21 6. A current list of the full name, social security number, and
22 address of each member; and

23 7. A copy of the issued Certificate of Membership Interest for
24 each member.

1 B. A limited liability company licensee shall notify the ABLE
2 Commission in writing of any change in the manager of the licensed
3 company within thirty (30) days of said change and shall pay a fee
4 of One Hundred Dollars (\$100.00) for each notification of change.

5 C. A limited liability company shall notify the ABLE Commission
6 in writing any time a membership is assigned or members are added or
7 disassociated within thirty (30) days of said change. The limited
8 liability company shall pay a fee of One Hundred Dollars (\$100.00)
9 for each notification of change.

10 D. The ABLE Commission may disapprove a change of manager or
11 new membership in a licensed liability company if the ABLE
12 Commission feels that such change would materially affect any
13 conditions under which the license was issued, such that the license
14 would not have been issued had such change been in existence at the
15 time of the original application. If such disapproval occurs, the
16 ABLE Commission shall notify the licensee in writing and allow a
17 reasonable time for the licensee to remove such manager or for a
18 member to be disassociated from the company. Provided that a
19 reasonable time not exceed a ninety-day period following
20 notification of denial by the ABLE Commission. Failure to comply
21 with the provisions of this subsection may result in revocation or
22 suspension of such license.

23 E. Any person who has been a licensee, a partner in a license,
24 an officer, director or fifteen percent (15%) or more stockholder of

1 a corporation holding a license revoked or suspended, pursuant to
2 the provisions of the Oklahoma Alcoholic Beverage ~~Control~~ Law
3 Enforcement Act, shall not serve as a manager or be a member in a
4 limited liability company seeking a license pursuant to the
5 provisions of the Oklahoma Alcoholic Beverage ~~Control~~ Law
6 Enforcement Act for a period of twelve (12) months from the date
7 said license was revoked or suspended.

8 F. Any person who has been a manager, member or participant in
9 any business entity which was a manager or member of a limited
10 liability company which has been denied a license or has a license
11 revoked or suspended, pursuant to the provisions of the Oklahoma
12 Alcoholic Beverage ~~Control~~ Law Enforcement Act shall not serve as a
13 manager or member in a limited liability company seeking a license
14 pursuant to the provisions of the Oklahoma Alcoholic Beverage
15 ~~Control~~ Law Enforcement Act for a period of twelve (12) months from
16 date said license was revoked or suspended.

17 G. Any person who has been convicted of a felony for which a
18 pardon has not been granted shall not be elected as a manager or be
19 a member of a limited liability company.

20 SECTION 82. AMENDATORY 37 O.S. 2001, Section 524, as
21 amended by Section 3, Chapter 289, O.S.L. 2010 (37 O.S. Supp. 2010,
22 Section 524), is amended to read as follows:

23 Section 524. A. A nonresident seller license shall be required
24 of all out-of-state distillers, winemakers, brewers, importers,

1 brokers and others who sell alcoholic beverages to wholesalers and
2 Class B wholesalers in Oklahoma regardless of whether such sales are
3 consummated within or without the State of Oklahoma.

4 A nonresident seller license shall authorize the holder thereof
5 to solicit and take orders for alcoholic beverages from the holders
6 of licenses authorized to import the same into this state, and to
7 ship or deliver, or cause to be shipped or delivered, alcoholic
8 beverages into Oklahoma pursuant to such sales.

9 B. The Alcoholic Beverage Laws Enforcement Commission may,
10 subject to the provisions of the Oklahoma Alcoholic Beverage ~~Control~~
11 Law Enforcement Act requiring notice and hearing in the case of
12 sanctions against holders of licenses, suspend or revoke a
13 nonresident seller license for any violation of the Oklahoma
14 Alcoholic Beverage ~~Control~~ Law Enforcement Act by the holder
15 thereof.

16 C. No licensee in this state authorized to import alcoholic
17 beverages into this state shall purchase or receive any alcoholic
18 beverages from without this state from any person not holding a
19 valid and existing nonresident seller license. Every nonresident
20 seller license shall expire on the June 30 following its issuance or
21 renewal, and shall be eligible for subsequent renewal terms of one
22 (1) year beginning on the July 1 following each expiration. License
23 fees for a new or initial nonresident seller license applied for
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1 after July 1 may be prorated through the following June 30 on a
2 quarterly basis.

3 D. The holder of a nonresident seller license shall, promptly
4 upon consignment of any alcoholic beverages to an importer in
5 Oklahoma, forward to the ABLE Commission a true copy of the invoice,
6 bill of lading, or other document as the ABLE Commission may by
7 regulations prescribe, showing the details of such shipment.

8 E. Any person, not otherwise a dealer in alcoholic beverages,
9 coming into possession of any alcoholic beverages as security for or
10 in payment of a debt, or as an insurer (or its transferee or
11 assignee) for the salvage or liquidation of an insured casualty or
12 damage or loss, or as an executor, administrator, trustee or other
13 fiduciary may sell the beverages in one lot or parcel to a duly
14 licensed wholesaler. However, immediately after taking possession
15 of the alcoholic beverages, the person shall register with the
16 Director and furnish to him a detailed list of the alcoholic
17 beverages and post with the Director a bond in such amount as the
18 Director deems sufficient to protect the state from any taxes due on
19 the alcoholic beverages. The person shall pay to the Director a
20 registration fee of Ten Dollars (\$10.00), which fee shall permit the
21 sale of only the alcoholic beverages detailed in the registration
22 request.

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1 SECTION 83. AMENDATORY 37 O.S. 2001, Section 527, as
2 amended by Section 1, Chapter 131, O.S.L. 2008 (37 O.S. Supp. 2010,
3 Section 527), is amended to read as follows:

4 Section 527. The Alcoholic Beverage Laws Enforcement Commission
5 shall refuse to issue a wholesaler, ~~Class B~~ beer wholesaler or
6 package store license either on an original application or a renewal
7 application, if it has reasonable grounds to believe and finds any
8 of the following to be true:

9 1. That the applicant is not a citizen of the United States or
10 is not a qualified elector in this state, or has not been a
11 continuous resident of this state for the ten (10) years next
12 preceding the application for the license;

13 2. That the applicant is under twenty-one (21) years of age;

14 3. That the applicant or any partner, or spouse of the
15 applicant or any partner, has been convicted of a felony;

16 4. That the applicant or any partner, or spouse of the
17 applicant or any partner, has been convicted of a violation of any
18 state or federal law relating to alcoholic beverages, has forfeited
19 a bond while any charge of such violation was pending, nor may any
20 license be granted for any purpose under the Oklahoma Alcoholic
21 Beverage ~~Control~~ Law Enforcement Act, Section 501 et seq. of this
22 title, to an Oklahoma resident, who has held or whose spouse has
23 held a Federal Liquor Stamp in Oklahoma before the adoption of
24 Article XXVII of the Oklahoma Constitution unless said Liquor Stamp

1 was granted for supplying alcoholic beverages to a federal military
2 installation, or was granted under this title;

3 5. That the applicant or any partner has, within twelve (12)
4 months next preceding the date of the application, violated any
5 provision of the Oklahoma Alcoholic Beverage ~~Control~~ Law Enforcement
6 Act or regulation of the ABLE Commission issued pursuant hereto.
7 Provided, however, that if the ABLE Commission has, during said
8 twelve-month period, suspended any license sought to be renewed,
9 such renewal application may be approved if the term of the
10 suspension has been completed and the applicant has complied with
11 any special conditions imposed in connection with the suspension;

12 6. That the applicant is not of good moral character, or that
13 the applicant is in the habit of using alcoholic beverages to
14 excess, or is mentally incapacitated. Provided, that the record in
15 any municipal court showing a conviction of violation of any
16 municipal ordinances or state statutes involving moral character or
17 public nuisance obtained after passage and approval of the Oklahoma
18 Alcoholic Beverage ~~Control~~ Law Enforcement Act shall be received in
19 evidence by the ABLE Commission;

20 7. That the applicant does not own or have a written lease for
21 the premises for which a license is sought;

22 8. That the applicant has, within twelve (12) months next
23 preceding the date of application, been the holder of a license
24 revoked for cause;

1 9. That the applicant is not the real party in interest, or
2 intends to carry on the business authorized by the license as the
3 agent of another;

4 10. That the applicant, in the case of an application for
5 renewal of any license, would not be eligible for such license on a
6 first application;

7 11. That the applicant is a person who appoints or is a law
8 enforcement official or is an employee of the ABLE Commission or of
9 the Director;

10 12. That the proposed location of the licensed premises would
11 violate a valid municipal nondiscriminatory zoning ordinance;

12 13. That, in the case of an application for a wholesaler
13 license, or ~~Class-B~~ beer wholesaler license, any manufacturer,
14 including an officer, director or principal stockholder thereof, or
15 any partner, has any financial interest in the business to be
16 conducted under the license;

17 14. That the issuance of the license applied for would result
18 in a violation of any provision of the Oklahoma Alcoholic Beverage
19 ~~Control~~ Law Enforcement Act;

20 15. That, in the case of an application for a wholesaler or
21 ~~Class-B~~ beer wholesaler license, the applicant or any partner, or
22 spouse of the applicant or any partner, is the holder or partner of
23 the holder of any other class of license issued under the provisions
24 of the Oklahoma Alcoholic Beverage ~~Control~~ Law Enforcement Act,

1 other than an agent or employee license for employment by the
2 applicant, or a storage license, bonded warehouse license, carrier
3 license or private carrier license; or

4 16. That, in the case of an application for a package store
5 license, the applicant or any partner is the holder or partner of
6 the holder, or employee of such holder of any other class of license
7 issued under the provisions of the Oklahoma Alcoholic Beverage
8 ~~Control~~ Law Enforcement Act, other than a storage license or an
9 employee license for the proposed licensed premises of the applicant
10 or of a retail dealer's permit for the same location issued by the
11 Oklahoma Tax Commission for the sale of ~~low-point~~ beer for
12 consumption on the premises as provided by Section 163.7 of this
13 title.

14 SECTION 84. AMENDATORY 37 O.S. 2001, Section 527.1, is
15 amended to read as follows:

16 Section 527.1 The Alcoholic Beverage Laws Enforcement
17 Commission shall refuse to issue a mixed beverage, beer and wine,
18 bottle club, or caterer license, either on an original application
19 or a renewal application, if it has reasonable grounds to believe
20 and finds any of the following to be true:

21 1. That the applicant, in the case of a natural person, is
22 under twenty-one (21) years of age;

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1 2. That the applicant, in the case of a corporation, has a
2 stockholder who owns fifteen percent (15%) or more of the stock,
3 officer, or director who is under twenty-one (21) years of age;

4 3. That the applicant, in the case of any type of partnership,
5 has any partner who is under twenty-one (21) years of age;

6 4. That the applicant, in the case of a limited liability
7 company, has a manager or member who is under twenty-one (21) years
8 of age;

9 5. That the applicant or any type of partner has been convicted
10 of a felony;

11 6. That the applicant, in the case of a corporation, has a
12 stockholder owning fifteen percent (15%) of the stock, officer or
13 director who has been convicted of a felony;

14 7. That the applicant, in the case of a limited liability
15 company, has a manager or a member who has been convicted of a
16 felony;

17 8. That the applicant has made false statements to the ABLE
18 Commission;

19 9. That the applicant is not the legitimate owner of the
20 business for which a license is sought or that other persons have
21 undisclosed ownership interests in the business;

22 10. That the applicant or any partner, within twelve (12)
23 months after being issued a license, either on an original
24 application or a renewal application, has violated any provision of

1 the Oklahoma Alcoholic Beverage ~~Control~~ Law Enforcement Act or
2 regulation of the ABLE Commission issued pursuant hereto. Provided,
3 however, that if the ABLE Commission, during said twelve-month
4 period, has suspended any license sought to be renewed, such renewal
5 application may be approved if the term of the suspension has been
6 completed and the applicant has complied with any special conditions
7 imposed in connection with the suspension;

8 11. That the applicant is not the real party in interest, or
9 intends to carry on the business authorized by the license as the
10 agent of another;

11 12. That the applicant is a person who appoints or is a law
12 enforcement official or is an employee of the ABLE Commission or of
13 the Director; or

14 13. That the applicant does not own or have a written lease for
15 the premises for which a license is sought.

16 SECTION 85. AMENDATORY 37 O.S. 2001, Section 528, as
17 amended by Section 1, Chapter 365, O.S.L. 2007 (37 O.S. Supp. 2010,
18 Section 528), is amended to read as follows:

19 Section 528. A. Any license issued pursuant to the provisions
20 of the Oklahoma Alcoholic Beverage ~~Control~~ Law Enforcement Act,
21 Section 501 et seq. of this title, by order of the Alcoholic
22 Beverage Laws Enforcement Commission, after due notice and hearing,
23 may be revoked or suspended if the ABLE Commission finds or has
24 grounds to believe that the licensee has:

- 1 1. Violated any rule adopted by the ABLE Commission;
- 2 2. Procured a license through fraud, or misrepresentation, or
3 concealment of a material fact;
- 4 3. Made any false representation or statement to the ABLE
5 Commission in order to prevent or induce action by the ABLE
6 Commission;
- 7 4. Maintained an unsanitary establishment or has supplied
8 impure or otherwise deleterious beverages or food;
- 9 5. Stored, possessed, mixed or served on the premises of a
10 bottle club any alcoholic beverage upon which the tax levied by
11 Section 553 of this title has not been paid as provided for in the
12 Oklahoma Alcoholic Beverage ~~Control~~ Law Enforcement Act, in a county
13 of this state where the sale of alcoholic beverages by the
14 individual drink for on-premises consumption has not been
15 authorized;
- 16 6. Misrepresented to a customer or the public any alcoholic
17 beverage sold by the licensee; or
- 18 7. Had any permit or license issued by the ~~Oklahoma Tax~~ ABLE
19 Commission and required by the Oklahoma Alcoholic Beverage ~~Control~~
20 Law Enforcement Act, suspended or revoked by the ~~Tax~~ ABLE
21 Commission.
- 22 B. The ABLE Commission may revoke or suspend the license of any
23 mixed beverage, caterer or bottle club licensee if the ABLE
24 Commission finds or has grounds to believe that such licensee:

- 1 1. Has acted as an agent of a manufacturer or wholesaler of
2 alcoholic beverages;
- 3 2. Is a manufacturer or wholesaler of alcoholic beverages;
- 4 3. Has borrowed money or property or accepted gratuities or
5 rebates from a manufacturer or wholesaler of alcoholic beverages;
- 6 4. Has obtained the use of equipment from any manufacturer or
7 wholesaler of alcoholic beverages or any agent thereof;
- 8 5. Has violated any of the provisions of the Oklahoma Alcoholic
9 Beverage ~~Control~~ Law Enforcement Act for which mandatory revocation
10 or suspension is not required; or
- 11 6. Has been convicted on or after July 1, 1985, of a violation
12 of any state or federal law relating to alcoholic beverage for which
13 mandatory revocation or suspension is not required.
- 14 C. The ABLE Commission may revoke or suspend the license of any
15 retail, mixed beverage, caterer, or bottle club licensee if the ABLE
16 Commission finds or has grounds to believe that such licensee has
17 borrowed money or property or accepted gratuities, discounts,
18 rebates, free goods, allowances, or other inducements from a
19 wholesaler of alcoholic beverages.
- 20 D. The ABLE Commission shall revoke the license of any licensee
21 if said Commission finds:
- 22 1. That the licensee knowingly sold alcoholic beverages or
23 allowed such beverages to be sold, delivered or furnished to any
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1 person under the age of twenty-one (21) years, or to any person
2 visibly intoxicated or adjudged insane or mentally deficient;

3 2. That the licensee, any general or limited partner of the
4 licensee, or in the case of a corporation, an officer or director of
5 the corporation, has been convicted of a felony;

6 3. That, in the case of a wholesaler, ~~Class B~~ beer wholesaler,
7 or retail package store licensee, the holder of the license or any
8 member of a general or limited partnership which is the holder of
9 such a license, has been convicted of a prohibitory law relating to
10 the sale, manufacture, or transportation of alcoholic beverages
11 which constitutes a felony or a misdemeanor.

12 E. If the ABLE Commission shall find by a preponderance of the
13 evidence as in civil cases that the holder of a package store
14 license has knowingly sold any alcoholic beverage to any person
15 under the age of twenty-one (21) years, after a public hearing it
16 shall revoke said license and no discretion as to said revocation
17 shall be exercised by the ABLE Commission.

18 F. The ABLE Commission shall have the authority to promulgate
19 rules and regulations to establish a penalty schedule for violations
20 of any provision of the Oklahoma Alcoholic Beverage ~~Control~~ Law
21 Enforcement Act or any rule or regulation of the ABLE Commission.
22 The schedule shall provide for suspension or revocation of any
23 license for major and minor violations as determined by the ABLE
24

1 Commission. Penalties shall be increasingly severe with each
2 violation by a licensee.

3 Provided, that for a fourth major violation by a licensee within
4 a twenty-four-month period the penalty shall be mandatory revocation
5 of license. The twenty-four-month period shall be calculated from
6 the date of the most recent violation as set forth in an order
7 signed by the Director or the designee of the Director.

8 G. The ABLE Commission may impose a monetary penalty in lieu of
9 or in addition to suspension of a license. The amount of fine for a
10 major violation shall be computed by multiplying the proposed number
11 of days of the suspension period by One Hundred Dollars (\$100.00).
12 The amount of fine for a minor violation shall be computed by
13 multiplying the number of days of the proposed suspension period by
14 Fifty Dollars (\$50.00).

15 H. The failure of any licensee to pay a fine or serve a
16 suspension imposed by the ABLE Commission shall result in the
17 revocation of the license of said licensee.

18 I. If the ABLE Commission finds that public health, safety or
19 welfare require emergency action, and incorporates a finding to that
20 effect in its order, summary suspension of a license may be ordered
21 pending proceeding for revocation or other action, pursuant to the
22 provisions of Section 314 of Title 75 of the Oklahoma Statutes.

23 SECTION 86. AMENDATORY 37 O.S. 2001, Section 528.1, is
24 amended to read as follows:

1 Section 528.1 The governing board of any municipality, as to
2 any mixed beverage, beer and wine, caterer, or bottle club licensee
3 having its principal place of business in such municipality, and the
4 board of county commissioners of any county, as to any mixed
5 beverage, beer and wine, caterer, or bottle club licensee having its
6 principal place of business in such county but outside the
7 incorporated limits of a municipality, may initiate a license
8 suspension or revocation proceeding as to such licensee by filing a
9 written complaint with the ABLE Commission, setting forth the
10 grounds for the proposed suspension or revocation. Such complaint
11 may be based on any ground that the ABLE Commission might have
12 asserted. Upon receipt of such complaint, the ABLE Commission shall
13 forward a copy of the complaint to the licensee together with
14 written notice of the time and place of hearing thereon. If the
15 complaint is filed by a municipality the hearing shall be conducted
16 within the corporate limits of said municipality. If the complaint
17 is filed by a county, the hearing shall be conducted in said county.
18 The hearing shall be held within the time limits, and in the manner,
19 prescribed for suspension or revocation proceedings initiated by the
20 ABLE Commission. In any proceeding initiated pursuant to this
21 section, the municipality or county shall be deemed an interested
22 party, shall have the right to be heard and to present evidence at
23 the hearing on the complaint, and shall be entitled to appeal from
24 any final order entered by the ABLE Commission in the manner

1 otherwise provided in the Oklahoma Alcoholic Beverage ~~Control~~ Law
2 Enforcement Act. Such municipality or county shall not be required
3 to give bond on appeal.

4 SECTION 87. AMENDATORY 37 O.S. 2001, Section 532, is
5 amended to read as follows:

6 Section 532. Any license issued pursuant to the provisions of
7 the Oklahoma Alcoholic Beverage ~~Control~~ Law Enforcement Act shall be
8 a purely personal privilege. It shall not constitute property nor be
9 subject to attachment, garnishment, or execution, or be alienable or
10 transferable, either voluntarily or involuntarily; nor shall it
11 descend by the laws of descent and distribution, but shall cease
12 upon the death of the licensee; provided, however, that the
13 Alcoholic Beverage Laws Enforcement Commission, under such
14 regulations and subject to such restrictions as it may prescribe,
15 may permit the executors or administrators of the estate of any
16 deceased licensee, or the trustees of an insolvent or bankrupt
17 licensee, or the legal guardian of a licensee who has been adjudged
18 to be incompetent or insane, to exercise the privileges under any
19 license held by him for such period as the ABLE Commission may deem
20 equitable during the administration of the deceased or bankrupt
21 licensee's estate, but not to exceed two (2) years. A license may
22 not be transferred to a new location, except upon application to the
23 ABLE Commission and endorsement on the license by the ABLE
24 Commission showing the new location. An application for transfer of

1 license shall be accompanied by a certificate reflecting, as to the
2 proposed new location, compliance with municipal zoning ordinances
3 or county zoning regulations and municipal or county fire, safety
4 and health codes as required by Section 523 of this title. A mixed
5 beverage or bottle club licensee who transfers his license to a new
6 location shall pay a transfer fee of One Hundred Dollars (\$100.00)
7 to the ABLE Commission.

8 SECTION 88. AMENDATORY 37 O.S. 2001, Section 532.1, is
9 amended to read as follows:

10 Section 532.1 All licenses issued pursuant to the provisions of
11 the Oklahoma Alcoholic Beverage ~~Control~~ Law Enforcement Act shall be
12 displayed in a conspicuous place at all times on the licensed
13 premises. No licensee may consent to or allow the use or display of
14 his license by a person other than the person to whom the license
15 was issued. No person may use a license or exercise any privileges
16 granted by the license except at the place, address, premises or
17 location for which the license is issued, except as otherwise
18 provided by the Oklahoma Alcoholic Beverage ~~Control~~ Law Enforcement
19 Act.

20 If the mixed beverage, caterer or bottle club license for a
21 licensed premises is suspended or revoked by the ABLE Commission,
22 all other licenses issued by the ABLE Commission for such premises
23 shall cease to be valid. If a mixed beverage, caterer or bottle
24 club license is suspended or revoked for any licensed premises, this

1 shall not invalidate licenses held by the licensee for other
2 licensed premises.

3 SECTION 89. AMENDATORY 37 O.S. 2001, Section 533, is
4 amended to read as follows:

5 Section 533. Any manufacturer or subsidiary of a manufacturer
6 who markets his or its products solely through a subsidiary or
7 subsidiaries, a distiller, rectifier, bottler, winemaker, brewer, or
8 importer of alcoholic beverages, bottled or made in a foreign
9 country, either within or without this state, shall be required to
10 sell such brands or kinds of alcoholic beverages to every licensed
11 wholesaler or ~~Class B~~ beer wholesaler who desires to purchase the
12 same, on the same price basis and without discrimination or
13 inducements, and shall further be required to sell such beverages
14 only to those persons licensed as wholesalers or ~~Class B~~ beer
15 wholesalers.

16 No manufacturer shall require a wholesaler or ~~Class B~~ beer
17 wholesaler to purchase any alcoholic beverages or any goods, wares
18 or merchandise as a condition to the wholesaler or ~~Class B~~ beer
19 wholesaler obtaining or being entitled to purchase any alcoholic
20 beverages.

21 Violation of this section shall be a misdemeanor. Conviction
22 hereunder shall automatically revoke the violator's license.

23

24

1 SECTION 90. AMENDATORY 37 O.S. 2001, Section 534, as
2 last amended by Section 1, Chapter 268, O.S.L. 2010 (37 O.S. Supp.
3 2010, Section 534), is amended to read as follows:

4 Section 534. A. No package store license shall be issued for
5 premises unless said premises are separated from premises on which
6 any other goods, wares or merchandise are sold or services are
7 rendered by nontransparent walls which may be broken by a passageway
8 to which the public is not admitted. Provided, it shall be unlawful
9 for any person or persons to take any alcoholic beverage from such
10 store through said passageway for the purpose of selling, reselling,
11 or delivering in connection with the sale of said alcoholic
12 beverage. Such licenses shall apply only to the premises described
13 in the application. No person may own any interest in more than one
14 package store. For the purpose only of establishing whether or not
15 a person owns an interest in more than one package store, any person
16 having a beneficial interest in any package store shall be deemed to
17 be a partner in said package store except that the spouse of any
18 package store license holder or partner shall not be deemed to be a
19 partner or have a beneficial interest in a package store unless his
20 or her name appears on the license. A beneficial interest shall be
21 any interest that benefits from any sales or profits of said package
22 store.

23 B. For purposes of this section, any spouse of a package store
24 license holder shall not hold another license provided for pursuant

1 to the Oklahoma Alcoholic Beverage ~~Control~~ Law Enforcement Act,
2 except a package store license, beer and wine license, or a mixed
3 beverage license.

4 C. Package stores licensed under the Oklahoma Alcoholic
5 Beverage ~~Control~~ Law Enforcement Act may sell only alcoholic
6 beverages in retail containers as defined in Section 506 of this
7 title, in the original package for consumption off the premises.
8 Provided, all alcoholic beverages are to be sold at ordinary room
9 temperature, except for beer which may be sold refrigerated or at
10 ordinary room temperature. All retail sales shall be made on the
11 licensed premises and all deliveries off the premises, at retail, of
12 intoxicating liquor or beer are hereby prohibited.

13 SECTION 91. AMENDATORY 37 O.S. 2001, Section 535, is
14 amended to read as follows:

15 Section 535. It shall be unlawful for any manufacturer,
16 wholesaler, ~~Class-B beer~~ beer wholesaler, or person authorized to sell
17 alcoholic beverages to a wholesaler, or any employee, officer,
18 director, stockholder owning fifteen percent (15%) or more of the
19 stock, any type of partner, manager, member or agent thereof, to
20 directly or indirectly:

21 1. Have any financial interest in any premises upon which any
22 alcoholic beverage or ~~light~~ beer is sold at retail or in any
23 business connected with the retailing of alcoholic beverages or
24 ~~light~~ beer as defined in Section 506 of this title;

1 2. Lend any money or other thing of value, or to make any gift
2 or offer any gratuity, to any package store, mixed beverage, beer
3 and wine or bottle club licensee or caterer;

4 3. Guarantee any loan or the repayment of any financial
5 obligation of any retailer, mixed beverage, beer and wine or bottle
6 club licensee or caterer;

7 4. Require any wholesaler, ~~Class-B~~ beer wholesaler, retailer,
8 mixed beverage, beer and wine licensee or caterer to purchase and
9 dispose of any quota of alcoholic beverages, or to require any
10 retailer to purchase any kind, type, size container, or brand of
11 alcoholic beverages in order to obtain any other kind, type, size
12 container, or brand of alcoholic beverages;

13 5. Sell to any retailer, mixed beverage, beer and wine licensee
14 or caterer any alcoholic beverage on consignment, or upon condition,
15 or with the privilege of return, or on any condition other than a
16 bona fide sale; provided, the delivery in good faith, through
17 mistake, inadvertence, or oversight, of alcoholic beverage that was
18 not ordered by a retailer, mixed beverage licensee, beer and wine
19 licensee, caterer or special event licensee to such licensee shall
20 not be considered a violation of this paragraph, as long as action
21 is taken to correct the error and all invoices and records of the
22 transaction are corrected. There shall be no time period imposed by
23 the ABLE Commission for notification of or correction of the error;
24 or

1 6. Extend credit to any retailer, other than holders of Federal
2 Liquor Stamps on United States government reservations and
3 installations, mixed beverage or beer and wine licensee or caterer
4 other than a state lodge located in a county which has approved the
5 retail sale of alcoholic beverages by the individual drink for
6 on-premises consumption. The acceptance of a postdated check or
7 draft or the failure to deposit for collection a current check or
8 draft by the second banking day after receipt shall be deemed an
9 extension of credit. Violation of this subsection shall be grounds
10 for suspension of the license.

11 SECTION 92. AMENDATORY 37 O.S. 2001, Section 535.3, is
12 amended to read as follows:

13 Section 535.3 A. As used in this section:

14 1. "Interactive entertainment facility" means premises that
15 feature interactive computer and video entertainment attractions,
16 themed merchandise, food, alcoholic beverages, and ~~low-point~~ beer;
17 and

18 2. "Main purpose of the business" means that the total gross
19 income derived from interactive entertainment exceeds the total
20 gross income derived from the sale, mixing, or serving of alcoholic
21 beverages and ~~low-point~~ beer.

22 B. Nothing in Sections 535, 535.1 or 535.2 of Title 37 of the
23 Oklahoma Statutes shall be construed as prohibiting the issuance,
24 transfer, or renewal of any mixed beverage license to any person or

1 corporation with respect to premises that are an integral part of an
2 interactive entertainment facility in which a manufacturer,
3 nonresident seller, distiller, or rectifier has an interest,
4 directly or indirectly, of less than thirty percent (30%) if all the
5 following conditions are met:

6 1. The main purpose of the business conducted within the
7 facility is providing interactive entertainment, not the sale of
8 alcoholic beverages;

9 2. The mixed beverage licensee shall serve other brands of
10 wine, ~~low-point~~ beer, and alcoholic beverages in addition to the
11 brands manufactured, produced, or distributed by any distiller,
12 rectifier, nonresident seller, or manufacturer that has a direct or
13 indirect interest in the mixed beverage license;

14 3. No more than twenty percent (20%) of the mixed beverage
15 licensee's purchases of alcoholic beverages for sale on its licensed
16 premises shall be products manufactured, produced, or distributed by
17 the manufacturer, distiller, rectifier, or nonresident seller that
18 has a direct or indirect interest in the licensed premises;

19 4. The licensee purchases all alcoholic beverages and ~~low-point~~
20 beer sold on the premises from wholesalers that are licensed in
21 Oklahoma;

22 5. The distiller, rectifier, nonresident seller, or
23 manufacturer does not control, directly or indirectly, the day-to-
24 day operation of the licensed premises; and

1 6. Officers, directors, and employees of the distiller,
2 rectifier, nonresident seller, or manufacturer do not serve as
3 officers or directors of the entity operating the licensed premises.

4 SECTION 93. AMENDATORY 37 O.S. 2001, Section 537, as
5 last amended by Section 4, Chapter 289, O.S.L. 2010 (37 O.S. Supp.
6 2010, Section 537), is amended to read as follows:

7 Section 537. A. No person shall:

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

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

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

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

21 5. Receive, possess, or use any alcoholic beverage in violation
22 of the provisions of the Oklahoma Alcoholic Beverage ~~Control~~ Law
23 Enforcement Act;

24

1 6. Transport into, within, or through this state more than one
2 (1) liter of alcoholic beverages upon which the Oklahoma excise tax
3 has not been paid unless the person accompanying or in charge of the
4 vehicle transporting same shall possess a true copy of a bill of
5 lading, invoice, manifest or other document particularly identifying
6 the alcoholic beverages being transported and showing the name and
7 address of the consignor and consignee; provided, this prohibition
8 shall not apply to the first one hundred eighty (180) liters of
9 alcoholic beverages classified as household goods by military
10 personnel, age twenty-one (21) or older when entering Oklahoma from
11 temporary active assignment outside the contiguous United States;

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

21 8. Drink intoxicating liquor in public except on the premises
22 of a licensee of the Alcoholic Beverage Laws Enforcement Commission
23 who is authorized to sell or serve alcoholic beverages by the
24

1 individual drink or be intoxicated in a public place. This
2 provision shall be cumulative and in addition to existing law;

3 9. Forcibly resist lawful arrest, or by physical contact
4 interfere with an investigation of any infringement of the Oklahoma
5 Alcoholic Beverage ~~Control~~ Law Enforcement Act or with any lawful
6 search or seizure being made by an inspector or agent of the ABLE
7 Commission, when such person knows or should know that such acts are
8 being performed by a state, county, or municipal officer, inspector
9 or agent of the ABLE Commission;

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

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

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

20 B. No licensee of the ABLE Commission shall:

21 1. Receive, possess, or sell any alcoholic beverage except as
22 authorized by the Oklahoma Alcoholic Beverage ~~Control~~ Law
23 Enforcement Act and by the license or permit which the licensee
24 holds;

1 2. Employ any person under the age of twenty-one (21) in the
2 selling or handling of alcoholic beverages. Provided, that a mixed
3 beverage, beer and wine, caterer, special event or bottle club
4 licensee may employ servers who are at least eighteen (18) years of
5 age, except persons under twenty-one (21) years of age may not serve
6 in designated bar or lounge areas, and a mixed beverage, beer and
7 wine, caterer, special event or bottle club licensee may employ or
8 hire musical bands who have musicians who are under twenty-one (21)
9 years of age if each such musician is either accompanied by a parent
10 or legal guardian or has on their person, to be made available for
11 inspection upon demand by any ABLE Commission officer or law
12 enforcement officer, a written, notarized affidavit from the parent
13 or legal guardian giving the underage musician permission to perform
14 in designated bar or lounge areas;

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

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

- 21 a. deliver more than two drinks to one person at one
22 time,
- 23 b. sell or offer to sell to any person or group of
24 persons any drinks at a price less than the price

1 regularly charged for such drinks during the same
2 calendar week, except at private functions not open to
3 the public,

4 c. sell or offer to sell to any person an unlimited
5 number of drinks during any set period of time for a
6 fixed price, except at private functions not open to
7 the public,

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

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

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

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

22 5. Permit or allow any patron or person to exit the licensed
23 premises with an open container of any alcoholic beverage.

24 Provided, that this prohibition shall not be applicable to closed

1 original containers of alcoholic beverages which are carried from
2 the licensed premises of a bottle club by a patron, closed original
3 wine containers removed from the premises of restaurants, hotels,
4 and motels, or to closed original containers of alcoholic beverages
5 transported to and from the place of business of a licensed caterer
6 by the caterer or an employee of the caterer; or

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

9 C. No package store licensee shall:

10 1. Purchase or receive any alcoholic beverage other than from a
11 person holding a brewer, wholesaler or ~~Class B~~ beer wholesaler
12 license issued pursuant to the Oklahoma Alcoholic Beverage ~~Control~~
13 Law Enforcement Act;

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

16 3. Sell, or keep package store premises open for the purpose of
17 selling, any alcoholic beverages at any hour other than between the
18 hours of 10:00 a.m. and 9:00 p.m. Monday through Saturday; provided,
19 that no such sales shall be made, or package store premises be
20 allowed to remain open for the purpose of making such sales, on New
21 Year's Day, Memorial Day, the Fourth of July, Labor Day,
22 Thanksgiving Day or Christmas Day. Package store licensees shall be
23 permitted to sell, or keep package store premises open for the
24 purpose of selling, alcoholic beverages on the day of any General,

1 Primary, Runoff Primary or Special Election whether on a national,
2 state, county or city election, provided that the election day does
3 not occur on any day on which such sales are otherwise prohibited by
4 law;

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

8 5. Sell any alcoholic beverage on credit; provided that
9 acceptance by a retail liquor store of a cash or debit card, or a
10 nationally recognized credit card, in lieu of actual cash payment
11 does not constitute the extension of credit; provided further, as
12 used in this section:

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

19 b. "nationally recognized credit card" means any
20 instrument or device, whether known as a credit card,
21 credit plate, charge plate or by any other name,
22 issued with or without fee by an issuer for the use of
23 the cardholder in obtaining money, goods, services or
24

1 anything else of value on credit which is accepted by
2 over one hundred merchants;

3 6. Offer or furnish any prize, premium, gift or similar
4 inducement to a consumer in connection with the sale of alcoholic
5 beverage, except that goods or merchandise included by the
6 manufacturer in packaging with alcoholic beverages or for packaging
7 with alcoholic beverages shall not be included in this prohibition,
8 but no wholesaler or package store shall sell any alcoholic beverage
9 prepackaged with other goods or merchandise at a price which is
10 greater than the price at which the alcoholic beverage alone is
11 sold;

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

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

19 D. No wholesaler licensee shall:

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

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

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

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

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

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

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

21 5. Allow any person under twenty-one (21) years of age to enter
22 into, remain within or loiter about the designated bar area of the
23 licensed premises, except for persons who incidentally pass through
24 the designated area.

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

16 F. No bottle club licensee shall:

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

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

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

- 1 4. Allow any person to enter or remain in the designated bar or
2 lounge area of the club unless that person possesses a valid
3 membership card for that club issued by the club;
- 4 5. Sell any alcoholic beverage;
- 5 6. Deliver or furnish to any club member any alcoholic beverage
6 that does not belong to the member;
- 7 7. Serve alcoholic beverages to any person who does not possess
8 a valid membership card for that club issued by the club;
- 9 8. Issue a membership card for the club to a person under
10 twenty-one (21) years of age; or
- 11 9. Allow any person under twenty-one (21) years of age to enter
12 into, remain within or loiter about the designated bar area of the
13 licensed premises, except for members of a musical band employed or
14 hired as provided in paragraph 2 of subsection B of this section
15 when the band is to perform within such area.

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

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

7 G. No special event or caterer licensee shall:

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

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

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

21 SECTION 94. AMENDATORY 37 O.S. 2001, Section 538, is
22 amended to read as follows:

23 Section 538. A. Any person who shall operate a whiskey still
24 with intent to produce alcoholic beverages or any person who shall

1 carry on the business of a distiller without having in his
2 possession a valid and existing distiller's license issued pursuant
3 to the provisions of the Oklahoma Alcoholic Beverage ~~Control~~ Law
4 Enforcement Act shall be guilty of a felony and upon conviction be
5 fined not less than Two Thousand Five Hundred Dollars (\$2,500.00)
6 nor more than Five Thousand Dollars (\$5,000.00), or imprisoned in
7 the State Penitentiary for not more than three (3) years, or both
8 such fine and imprisonment.

9 B. Any person who shall file a false or fraudulent return in
10 connection with any tax imposed by the Oklahoma Alcoholic Beverage
11 ~~Control~~ Law Enforcement Act, or willfully evade, or attempt to
12 evade, any tax herein levied shall be guilty of a felony and upon
13 conviction be fined not less than Two Thousand Five Hundred Dollars
14 (\$2,500.00) nor more than Five Thousand Dollars (\$5,000.00), or
15 imprisoned in the State Penitentiary for not more than three (3)
16 years, or both such fine and imprisonment.

17 C. Any person who shall knowingly engage in any activity or
18 perform any transaction or act for which a license is required under
19 the Oklahoma Alcoholic Beverage ~~Control~~ Law Enforcement Act, not
20 having such license, shall be guilty of a misdemeanor and for the
21 first offense be fined not more than Two Thousand Five Hundred
22 Dollars (\$2,500.00) and imprisoned for not less than thirty (30)
23 days nor more than six (6) months, and for a second or subsequent
24 offense shall be guilty of a felony and be fined not more than Two

1 Thousand Five Hundred Dollars (\$2,500.00), or imprisoned in the
2 State Penitentiary for not more than one (1) year, or both such fine
3 and imprisonment.

4 D. Any person holding a license issued pursuant to the Oklahoma
5 Alcoholic Beverage ~~Control~~ Law Enforcement Act who shall sell or
6 deliver alcoholic beverage to any person not entitled to purchase or
7 receive same, except as provided in subsection F of this section, or
8 who shall possess for sale any alcoholic beverage which he is not
9 entitled to sell under his license, or any person who buys any
10 alcoholic beverage, either retail or wholesale, from any person
11 other than a licensed dealer under the terms of the Oklahoma
12 Alcoholic Beverage ~~Control~~ Law Enforcement Act, shall be guilty of a
13 misdemeanor and upon conviction be fined not more than One Thousand
14 Five Hundred Dollars (\$1,500.00), or imprisoned in the county jail
15 for not more than six (6) months, or both such fine and
16 imprisonment.

17 E. Any person under twenty-one (21) years of age who shall
18 misrepresent his age in writing or by presenting false documentation
19 of age for the purpose of inducing any person to sell or serve him
20 alcoholic beverage or issue him a bottle club membership card, or
21 who enters or attempts to enter a package store or a separate or
22 enclosed bar area as designated by the ABLE Commission, shall be
23 guilty of a misdemeanor and fined not more than Fifty Dollars
24 (\$50.00). In addition, if a person is convicted or pleads guilty to

1 a violation of the provisions of this subsection in any court having
2 jurisdiction over said offense, the court may order the Department
3 of Public Safety to cancel or deny the offender's privilege to
4 operate a motor vehicle and, upon such order, shall require that the
5 operator's or chauffeur's license, if any, be surrendered to the
6 Department pursuant to Section 6-209 of Title 47 of the Oklahoma
7 Statutes. The cancellation or denial period shall be for one (1)
8 year, or until the person reaches twenty-one (21) years of age,
9 whichever is longer.

10 Any person whose driving privileges are ordered cancelled or
11 denied pursuant to this section may petition the court of original
12 jurisdiction for review of the order. Upon notice and hearing, the
13 court may modify or withdraw the order as the court deems
14 appropriate except:

15 1. A court may not withdraw an order for at least ninety (90)
16 days following the issuance of the order if it is the first such
17 order issued regarding the person named; and

18 2. A court may not withdraw an order for at least six (6)
19 months following the issuance of the order if it is the second or
20 subsequent such order issued regarding the person named.

21 If the Department receives written notice from the court of
22 original jurisdiction that it has withdrawn such an order, the
23 Department shall immediately reinstate any driving privileges that
24

1 have been canceled or denied under this section, without requiring
2 payment of a reinstatement fee.

3 F. Any person who shall knowingly sell, furnish or give
4 alcoholic beverage to a person under twenty-one (21) years of age
5 shall be guilty of a felony, and shall be fined not less than Two
6 Thousand Five Hundred Dollars (\$2,500.00) nor more than Five
7 Thousand Dollars (\$5,000.00), or imprisoned in the State
8 Penitentiary for not more than five (5) years, or both such fine and
9 imprisonment. The ABLE Commission shall revoke the license of any
10 person convicted of a violation of this subsection.

11 G. Any person who shall knowingly sell, furnish or give
12 alcoholic beverage to an insane, mentally deficient, or intoxicated
13 person shall be guilty of a felony, and shall be fined not less than
14 Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars
15 (\$1,000.00), or imprisoned in the State Penitentiary for not more
16 than one (1) year, or both such fine and imprisonment.

17 H. The payment of the special tax required of liquor dealers by
18 the United States by any person within this state without a
19 corresponding state license shall constitute prima facie evidence of
20 an intention to violate the provisions of the Oklahoma Alcoholic
21 Beverage ~~Control~~ Law Enforcement Act.

22 I. Any person operating a cafe, restaurant, club or any place
23 of recreation who permits any person to be drunk or intoxicated in
24 said place of business shall be guilty of a misdemeanor, and shall

1 be fined not more than One Hundred Dollars (\$100.00), or imprisoned
2 for not more than thirty (30) days or by both such fine and
3 imprisonment.

4 J. Any person selling or keeping a package store open to sell
5 any alcoholic beverage during any day or hours not authorized by the
6 Oklahoma Alcoholic Beverage ~~Control~~ Law Enforcement Act shall be
7 guilty of a misdemeanor.

8 SECTION 95. AMENDATORY 37 O.S. 2001, Section 538.2, is
9 amended to read as follows:

10 Section 538.2 In case of natural disaster or civil disturbance
11 the Governor may, for the duration of such natural disaster or civil
12 disturbance thereof, immediately suspend without notice any license
13 granted under the provisions of the Oklahoma Alcoholic Beverage
14 ~~Control~~ Law Enforcement Act.

15 SECTION 96. AMENDATORY 37 O.S. 2001, Section 538.3, is
16 amended to read as follows:

17 Section 538.3 All law enforcement officers, upon arrest of any
18 holder of a license issued by the Alcoholic Beverage Laws
19 Enforcement Commission for a violation of any state law or municipal
20 ordinance in which the violation of any alcoholic beverage law had
21 any part, shall immediately notify the ABLE Commission thereof.
22 Such officers shall notify the ABLE Commission of any acts,
23 practices or other conduct of any such licensee which may be
24 subversive to the general welfare or contrary to the spirit of the

1 Oklahoma Alcoholic Beverage ~~Control~~ Law Enforcement Act and shall
2 recommend appropriate action to be taken by the ABLE Commission.

3 SECTION 97. AMENDATORY 37 O.S. 2001, Section 539, is
4 amended to read as follows:

5 Section 539. A. A search warrant may be issued pursuant to the
6 provisions of Sections 1221 through 1264 of Title 22 of the Oklahoma
7 Statutes, as amended, for the purpose of searching for, seizing,
8 destroying or holding any alcoholic beverages possessed, sold,
9 transported, manufactured, kept, or stored in violation of the
10 Oklahoma Alcoholic Beverage ~~Control~~ Law Enforcement Act; for the
11 purpose of searching for and seizing any apparatus, vehicle,
12 equipment, or instrumentality used for, or intended for use in,
13 manufacturing or transporting any alcoholic beverage in violation of
14 the Oklahoma Alcoholic Beverage ~~Control~~ Law Enforcement Act; and all
15 such property shall be forfeited to the State of Oklahoma. This
16 section shall not be construed to require a search warrant for duly
17 authorized agents of the Alcoholic Beverage Laws Enforcement
18 Commission to enter upon and inspect any licensed premises, but such
19 right of entry and inspection shall be a condition on which every
20 license shall be issued and the application for, and acceptance of,
21 any license hereunder shall conclusively be deemed to be consent of
22 the applicant and licensee to such entry and inspection.

23 B. Any alcoholic beverages upon which the appropriate federal
24 excise tax has not been paid at the time of seizure under this

1 section shall be destroyed by the sheriff who seized the same or to
2 whom the same has been delivered in accordance with the provisions
3 of Section 1261 of Title 22 of the Oklahoma Statutes, as amended,
4 after the same is no longer needed as evidence in any criminal
5 prosecution. All other property, including alcoholic beverages upon
6 which the appropriate federal excise tax has been paid, seized under
7 this section shall be forfeited to the State of Oklahoma by order of
8 the court issuing the process by virtue of which such property was
9 seized, or before which the persons violating the law, or to which
10 such property was taken by the officer or officers making the
11 seizure. Said court shall, without a jury, order an immediate
12 hearing as to whether the property so seized was subject to seizure
13 under this section, and take such legal evidence as is offered, and
14 determine the same as in civil cases. If the court finds from a
15 preponderance of the evidence that the property so seized was
16 subject to seizure under this section, it shall render judgment
17 accordingly and order said property forfeited to the State of
18 Oklahoma unless seized by county or municipal law enforcement
19 officers in which case said property shall be forfeited to the
20 county or municipality, whichever is appropriate, in which the
21 seizure of the property took place. Such seized property shall be
22 sold by the officer having the same in charge, after giving ten (10)
23 days' notice by one publication in a legal newspaper of the county
24 or, if no legal newspaper is published in said county, after five

1 notices of such sale have been posted in conspicuous places in the
2 city or town wherein such sale is to be made, at least ten (10) days
3 before such sale. Appeal from such an order may be taken as in
4 civil cases. When such property is sold under the provisions of
5 this section, the proceeds thereof shall be distributed as follows:
6 First, to the payment of the costs of the case in which the order of
7 forfeiture was made and the actual expenses of preserving the
8 property; and second, the remainder shall be deposited with the
9 county or municipal treasurer of the county or municipality in which
10 the seizure took place if the property was seized by county or
11 municipal law enforcement officials or with the State Treasurer to
12 the credit of the General Revenue Fund of the State of Oklahoma in
13 all other cases.

14 SECTION 98. AMENDATORY 37 O.S. 2001, Section 540, is
15 amended to read as follows:

16 Section 540. A. The Oklahoma Tax Commission shall promulgate
17 rules to implement a reporting method of taxing all alcoholic
18 beverages sold or delivered in this state to eliminate the use of
19 any type of stamps.

20 B. Every manufacturer or brewer manufacturing or brewing any
21 beer in this state, for sale in this state, and every manufacturer
22 or brewer outside of the state, shipping any beer into this state,
23 shall cause to be printed, upon an affixed label around and upon the
24 body of each bottle or upon the top or the lid of each can of such

1 beer, a symbol or other designation, approved by the Tax Commission,
2 that will serve to indicate ~~that the beer has an~~ alcoholic content
3 ~~in excess of three and two tenths percent (3.2%)~~ by ~~weight~~ volume,
4 and such other information as the Tax Commission may require.

5 Brewers shall be required to submit samples of crowns, tops and
6 labels to the Tax Commission for approval.

7 C. Payment of the excise tax levied by the Oklahoma Alcoholic
8 Beverage ~~Control~~ Law Enforcement Act, Section 501 et seq. of this
9 title, with respect to beer shall be made by the manufacturer or
10 brewer as to all beer produced by such brewer within the state for
11 sale within this state, and shall be made by the importing
12 manufacturer or ~~Class B~~ beer wholesaler who is the original
13 consignee of beer manufactured or produced outside of this state as
14 to all beer imported into this state by such importing licensee. It
15 is the duty of each Oklahoma licensed brewer with respect to beer
16 produced by such brewer within this state, and of each Oklahoma
17 licensed ~~Class B~~ beer wholesaler as to beer produced outside of this
18 state and imported into this state by such ~~Class B~~ beer wholesaler,
19 to pay the excise tax on such beer to the Oklahoma Tax Commission as
20 hereinafter provided.

21 D. Notwithstanding any other provision of law, the tax levied
22 by the Oklahoma Alcoholic Beverage ~~Control~~ Law Enforcement Act shall
23 be part of the gross proceeds or gross receipts from the sale of
24

1 alcoholic beverages, as those terms are defined in paragraph 7 of
2 Section 1352 of Title 68 of the Oklahoma Statutes.

3 SECTION 99. AMENDATORY 37 O.S. 2001, Section 542, is
4 amended to read as follows:

5 Section 542. A. Payment of the excise tax levied by Section
6 553 of the Oklahoma Alcoholic Beverage ~~Control~~ Law Enforcement Act
7 with respect to beer shall be made by the brewer or the ~~Class-B~~ beer
8 wholesaler as herein provided. The tax shall be due and payable on
9 the first day of each month for the preceding calendar month and if
10 not paid on or before the tenth day of each month shall thereafter
11 be delinquent.

12 B. Every brewer, and ~~Class-B~~ beer wholesaler, shall make and
13 transmit to the Oklahoma Tax Commission on or before the tenth day
14 of each calendar month, upon a form prescribed and furnished by the
15 Tax Commission, an itemized and verified report, for the preceding
16 calendar month, showing the following information:

17 1. Total quantity and description of opening inventory of beer
18 as of the first day of said month;

19 2. Total receipts and acquisitions during month from every
20 source. This shall be itemized showing imports and purchases within
21 and without this state separately; the kind and quantity of each
22 type of beer as shown by the shipper's or seller's invoices thereof;
23 the date of each purchase; the amounts purchased; the date received;
24 the person from whom purchased; the manifest, bill of lading or

1 delivery invoice number of each shipment, which number shall be the
2 number used by the original seller as shown on the basic shipping
3 records which accompany the shipment; the point of origin and point
4 of destination of each shipment; and the name and Alcoholic Beverage
5 Laws Enforcement Commission license number of the carrier if shipped
6 by carrier;

7 3. The kind and quantity of all beer sold or withdrawn from
8 stock for sale, use or consumption in the State of Oklahoma during
9 the preceding calendar month; the date of each sale; the kind and
10 quantity of beer in each sale; the name, address and ABLE Commission
11 license number of each purchaser, the manifest, bill of lading or
12 delivery invoice number, which number shall be the number as shown
13 on the basic shipping records which accompany the delivery; and the
14 name and ABLE Commission license number of the carrier if shipped by
15 carrier;

16 4. All nontaxable sales and dispositions made during said
17 month, including exports and sales and deliveries to military
18 installations located within this state, shall be reported and
19 information in reference to each such nontaxable sale, disposition,
20 and export shall be shown in detail as is required for sales in the
21 State of Oklahoma and shall be supported by evidence satisfactory to
22 the Oklahoma Tax Commission;

23 5. Closing inventory of beer as of the last day of the calendar
24 month; and

1 6. Such other information pertaining to the brewer's, and ~~Class~~
2 ~~B~~ beer wholesaler's, beginning inventory of beer, receipts or
3 acquisitions thereof, sales and dispositions thereof, and the
4 closing inventory, as the Oklahoma Tax Commission may, by form or
5 regulation, require.

6 C. Every brewer, and ~~Class-B~~ beer wholesaler, at the time of
7 making the monthly report required by this section, shall remit to
8 the Oklahoma Tax Commission the total amount of the excise tax due
9 as shown by said report.

10 It shall be unlawful for any brewer, or ~~Class-B~~ beer wholesaler,
11 to sell or offer for sale any beer while delinquent in the payment
12 of any excise tax due the state.

13 D. Reports and remittances, as required herein, which are
14 mailed on the tenth day of the month and received by the Oklahoma
15 Tax Commission subsequent to the tenth of the month in which the
16 excise tax is payable, shall be deemed to have been received by the
17 Tax Commission before becoming delinquent. Postmark or registry
18 receipt showing deposit in the United States mails shall be
19 conclusive evidence of the date of mailing. The time for filing
20 returns and paying the excise tax levied by the Oklahoma Alcoholic
21 Beverage ~~Control~~ Law Enforcement Act shall not be extended.

22 E. If upon investigation it is determined by the Oklahoma Tax
23 Commission that any nontaxable disposition or sale claimed by any
24 brewer or ~~Class-B~~ beer wholesaler is not supported by a valid

1 invoice, or is fraudulently or falsely claimed in any manner by such
2 brewer or ~~Class B~~ beer wholesaler or any agent of such licensee, the
3 Tax Commission shall disallow any such deduction and shall assess
4 and collect the tax, together with the penalty and interest thereon,
5 on the total amount of the disallowed deduction taken by said
6 licensee.

7 F. The taking and claiming of any deduction not authorized by
8 law, upon a report by any brewer or ~~Class B~~ beer wholesaler, or the
9 failure to file monthly reports or to pay any excise tax due, shall
10 constitute grounds for the revocation of such person's license by
11 the ABLE Commission and the Tax Commission shall promptly notify
12 such ABLE Commission of all such cases.

13 SECTION 100. AMENDATORY 37 O.S. 2001, Section 543, is
14 amended to read as follows:

15 Section 543. A. Every wholesaler, or other person authorized
16 under the Oklahoma Alcoholic Beverage ~~Control~~ Law Enforcement Act to
17 import alcoholic beverages into this state, shall make and transmit
18 to the Oklahoma Tax Commission on or before the tenth day of each
19 month, upon a form prescribed and furnished by the Oklahoma Tax
20 Commission, an itemized and verified report for the preceding
21 calendar month, showing the following information:

- 22 1. Opening inventory of alcoholic beverages other than beer;
- 23 2. Total receipts and acquisitions during month from every
- 24 source. This shall be itemized showing imports and purchases from

1 within and without this state separately; the kind, proof and
2 quantity of each type of alcoholic beverages as shown by the
3 shipper's or seller's invoices thereof; the date of each purchase;
4 the amount purchased; the date received; the person from whom
5 purchased; the manifest, bill of lading or delivery invoice number
6 of each shipment, which number shall be the number used by the
7 original seller as shown on the basic shipping records which
8 accompany the shipment; and the point of origin and point of
9 destination of each shipment;

10 3. The kind and quantity of all alcoholic beverages sold or
11 withdrawn from inventory for sale, use, or consumption during the
12 calendar month; the date of each sale; and the kind, proof and
13 quantity of alcoholic beverages in each sale; the name, address and
14 Alcoholic Beverage Laws Enforcement Commission license number of
15 each purchaser, and the manifest, bill of lading or delivery invoice
16 number, which number shall be the number as shown on the basic
17 shipping records which accompany the delivery;

18 4. All nontaxable sales and dispositions made during said
19 month, supported by evidence satisfactory to the Oklahoma Tax
20 Commission;

21 5. Closing inventory of alcoholic beverages as of the last day
22 of the calendar month; and

23 6. Such other information pertaining to the wholesaler's
24 beginning inventory of alcoholic beverages, receipts or acquisitions

1 thereof, sales and dispositions thereof, and closing inventory, as
2 the Oklahoma Tax Commission may by form or regulation require.

3 B. If upon investigation it is determined by the Oklahoma Tax
4 Commission that any nontaxable disposition or sale claimed by any
5 licensee is not supported by a valid invoice, or is fraudulently or
6 falsely claimed in any manner by such licensee or any agent of such
7 licensee, the Oklahoma Tax Commission shall disallow any such
8 deduction and shall assess and collect the excise tax, together with
9 the penalty and interest thereon, on the total amount of the
10 disallowed deduction taken by said licensee.

11 C. The taking and claiming of any deduction not authorized by
12 law, upon a report by any wholesaler or the failure to file monthly
13 reports or pay any excise tax due, shall constitute grounds for the
14 revocation of such person's license, distributor permit or
15 wholesaler permit by the ABLE Commission and the Oklahoma Tax
16 Commission shall promptly notify the ABLE Commission of all such
17 cases.

18 SECTION 101. AMENDATORY 37 O.S. 2001, Section 545, is
19 amended to read as follows:

20 Section 545. A. All bottles or other original containers of
21 alcoholic beverages in the possession of any person upon which the
22 taxes have not been paid as required by the Oklahoma Alcoholic
23 Beverage ~~Control~~ Law Enforcement Act and the rules and regulations
24 thereunder are declared to be contraband. Any duly authorized

1 officer or employee of the Alcoholic Beverage Laws Enforcement
2 Commission or Oklahoma Tax Commission is authorized to seize the
3 same, and such containers of alcoholic beverages so seized shall be
4 subject to confiscation and forfeiture by the ABLE Commission as
5 hereinafter provided.

6 B. If, upon examination of invoices or from other
7 investigation, the Tax Commission or the ABLE Commission finds that
8 any alcoholic beverages, except beer, have been sold without tax
9 payment as required by the Oklahoma Alcoholic Beverage ~~Control~~ Law
10 Enforcement Act, the Tax Commission shall have the power to require
11 such person to pay to the Tax Commission as such tax a sum equal to
12 twice the amount of the tax due. If any person is unable to furnish
13 evidence to the Tax Commission of excise tax payment to cover
14 purchases of alcoholic beverages, except beer, made by such person,
15 the prima facie presumption shall arise that such alcoholic
16 beverages were sold without excise tax payment.

17 It is expressly provided, except where specific provisions of
18 the Oklahoma Alcoholic Beverage ~~Control~~ Law Enforcement Act require
19 otherwise, that the procedures and remedies contained in the Uniform
20 Tax Procedure Code, of the Oklahoma Statutes in connection with the
21 making of assessments, and the enforcement and collection thereof,
22 the penalties and interest to be applied, all lien and tax warrant
23 provisions, all incidental remedies, including procedure for an
24 injunction, and all other provisions of the Uniform Tax Procedure

1 Code which may be applied or used to enforce the provisions of the
2 Oklahoma Alcoholic Beverage ~~Control~~ Law Enforcement Act, shall be
3 applicable and available to the Oklahoma Tax Commission in
4 administering the provisions hereof and collecting the taxes herein
5 levied on alcoholic beverages.

6 SECTION 102. AMENDATORY 37 O.S. 2001, Section 546, is
7 amended to read as follows:

8 Section 546. Any officer or enforcement employee of the
9 Alcoholic Beverage Laws Enforcement Commission or Oklahoma Tax
10 Commission shall have power and authority, without a warrant, to
11 enter and examine the licensed premises of all licensees to
12 determine whether any licensee has in his possession any container
13 of alcoholic beverage upon which the taxes have not been paid as
14 required by the Oklahoma Alcoholic Beverage ~~Control~~ Law Enforcement
15 Act and the rules and regulations thereunder, and if such officer or
16 employee shall find any such container of alcoholic beverages he
17 shall immediately seize the same. Such officers and employees of
18 the ABE Commission or Oklahoma Tax Commission shall be given free
19 access to and shall not be hindered or interfered with in their
20 examination of the licensed premises of any licensees, and, in case
21 any such officer or employee is denied free access or is hindered or
22 interfered with in making such examination, any license held by the
23 person preventing such free access or interfering with or hindering

24

1 such officer or employee shall be subject to suspension or
2 revocation.

3 SECTION 103. AMENDATORY 37 O.S. 2001, Section 547, is
4 amended to read as follows:

5 Section 547. A. After the seizure of such container of
6 alcoholic beverage upon which the taxes have not been paid, any
7 officer or employee of the Alcoholic Beverage Laws Enforcement
8 Commission, designated in writing by the Director, shall hold a
9 hearing to determine whether the container of alcoholic beverage
10 seized did not have the necessary taxes paid as required by the
11 Oklahoma Alcoholic Beverage ~~Control~~ Law Enforcement Act and the
12 rules and regulations thereunder. The ABLE Commission shall give
13 not less than seven (7) days' notice of the time and place of such
14 hearing to the owner of such container of alcoholic beverage if he
15 is known, and also to the person in whose possession such container
16 was found if such person is known and if such person in possession
17 is not the owner of said property. The Director, or any officer or
18 employee of the ABLE Commission, designated to conduct such hearing,
19 shall have power to administer oaths, and the power to issue
20 subpoenas requiring the attendance of and the giving of testimony by
21 witnesses, and subpoenas duces tecum requiring the production of
22 books, papers, records and memoranda.

23 B. Pursuant to such hearing, the ABLE Commission shall
24 determine whether the container of alcoholic beverage seized did not

1 have the taxes paid as required by the Oklahoma Alcoholic Beverage
2 ~~Control~~ Law Enforcement Act and the rules and regulations
3 thereunder, and upon a decision to that effect an order shall be
4 entered that such container of alcoholic beverage is confiscated and
5 forfeited to the State of Oklahoma. The ABLE Commission shall give
6 notice of such order to the owner of such container of alcoholic
7 beverage if he is known and also to the person in whose possession
8 said property so taken was found if such person is known and if such
9 person in possession is not the owner of said property.

10 SECTION 104. AMENDATORY 37 O.S. 2001, Section 549, is
11 amended to read as follows:

12 Section 549. Every person who shall have in his possession more
13 than one (1) liter of alcoholic beverages, the bottle or other
14 original container upon which the excise tax levied by Section 553
15 of this title has not been paid as provided for by the Oklahoma
16 Alcoholic Beverage ~~Control~~ Law Enforcement Act, shall be guilty of a
17 misdemeanor, and if such person is the holder of a license under
18 this act such license shall be subject to revocation or suspension
19 by the Alcoholic Beverage Laws Enforcement Commission. The ABLE
20 Commission may adopt rules and regulations for hearings on a
21 revocation of a license for violation of the provisions of this
22 section. Provided the ABLE Commission may suspend any license for a
23 violation of this section for a period of thirty (30) days with
24 notice of hearing as the ABLE Commission may determine.

1 SECTION 105. AMENDATORY 37 O.S. 2001, Section 550, is
2 amended to read as follows:

3 Section 550. Any person who erases, removes, obliterates,
4 destroys, or renders illegible in any manner any serial numbers,
5 marks, brands, legends, license numbers, case numbers or other
6 information required by the Oklahoma Alcoholic Beverage ~~Control~~ Law
7 Enforcement Act or by Acts of Congress to be attached or placed upon
8 any original containers or cases containing alcoholic beverages,
9 before the contents of such packages or cases have been entirely
10 removed, is guilty of a misdemeanor.

11 SECTION 106. AMENDATORY 37 O.S. 2001, Section 551, is
12 amended to read as follows:

13 Section 551. Every manufacturer of alcoholic beverages other
14 than beer shall package, ship, store and deliver same in cases, and
15 no alcoholic beverage other than beer shall be sold, shipped, stored
16 or delivered by any such manufacturer except in sealed cases. Every
17 manufacturer of alcoholic beverages other than beer shall serially
18 number such cases on the end of the case where the brand and product
19 are identified. All such cases shall be sealed by tape or such
20 other method as the Alcoholic Beverage Laws Enforcement Commission
21 by rules and regulations may provide so that the contents of such
22 cases cannot be removed without breaking or destroying such seal.
23 It shall be unlawful for any person to remove the alcoholic beverage
24 contents of a case so sealed without breaking or destroying such

1 seal. No wholesaler or ~~Class B~~ beer wholesaler shall receive or
2 accept any alcoholic beverages other than beer in this state except
3 in sealed cases so numbered. Any holder of a license or permit
4 violating the provisions of this section shall be subject to
5 revocation or suspension of his license.

6 SECTION 107. AMENDATORY 37 O.S. 2001, Section 552, is
7 amended to read as follows:

8 Section 552. All licensees under the Oklahoma Alcoholic
9 Beverage ~~Control~~ Law Enforcement Act shall keep books and records
10 with regard to alcoholic beverages which shall contain such
11 information and itemization thereof as the Alcoholic Beverage Laws
12 Enforcement Commission may prescribe by rules and regulations. All
13 books, records, inventories, invoices and other accounting documents
14 required by this act shall be kept for three (3) years and shall at
15 all times be available for inspection by duly authorized
16 representatives of the ABLE Commission and Oklahoma Tax Commission.

17 SECTION 108. AMENDATORY 37 O.S. 2001, Section 553, as
18 last amended by Section 1, Chapter 398, O.S.L. 2008 (37 O.S. Supp.
19 2010, Section 553), is amended to read as follows:

20 Section 553. A. Except as provided in paragraph 5 of this
21 subsection, an excise tax is hereby levied and imposed upon all
22 alcoholic beverages imported or manufactured, for sale, use or
23 distribution, or used or possessed in this state at the following
24 rates:

1 1. One Dollar and forty-seven cents (\$1.47) per liter, and a
2 proportionate rate on fractions thereof, on each liter of spirits;

3 2. Nineteen cents (\$0.19) per liter, and a proportionate rate
4 on fractions thereof, on each liter of wine;

5 3. Fifty-five cents (\$0.55) per liter, and a proportionate rate
6 on fractions thereof, on each liter of sparkling wine;

7 4. Twelve Dollars and fifty cents (\$12.50) per barrel (thirty-
8 one (31) wine gallons) ~~and a proportionate rate on portions thereof,~~
9 ~~on each barrel of beer~~ for wine; and

10 5. Beer manufactured in this state for export shall not be
11 taxed.

12 B. The excise tax levied on alcoholic beverages except beer
13 under subsection A of this section shall be paid as follows:

14 1. Payment of the excise tax levied by this section with
15 respect to all alcoholic beverages, other than beer, shall be made
16 by the person shipping the same into Oklahoma, or in the case of
17 direct imports from foreign countries by the importer, or in the
18 case of alcoholic beverages manufactured in Oklahoma by the first
19 seller thereof;

20 2. On and after January 1, 1981, the due and payable excise tax
21 levied by this section shall be made by tax returns filed with the
22 Oklahoma Tax Commission. The tax returns shall be made under oath
23 by the person liable for the tax on forms prescribed and provided by
24 the Oklahoma Tax Commission and shall be accompanied by payment of

1 the taxes due and any additional sums due as provided by this
2 section. Invoices describing all alcoholic beverages as described
3 in this section which are shipped into this state or which are first
4 sold in this state shall be delivered to the Oklahoma Tax Commission
5 and to the Alcoholic Beverage Laws Enforcement Commission
6 immediately following shipment of liquors into the state or delivery
7 to the first purchaser. Tax returns and payment of excise tax and
8 other sums due shall be delivered to the Oklahoma Tax Commission no
9 later than the tenth day of the month immediately succeeding the
10 month of shipment, importation or first sale of the alcoholic
11 beverages as provided in paragraph 1 of this subsection;

12 3. All tax returns required to be filed during the twelve-month
13 period beginning January 1, 1981, shall be accompanied by payment of
14 the excise tax due plus an additional payment in the amount of
15 twenty percent (20%) of said tax. Up to ten percent (10%) of the
16 total payments made during said period may be made in the form of
17 revenue stamps previously purchased pursuant to Section 540 of this
18 title; and

19 4. On and after February 1, 1982, each person required to file
20 a tax return pursuant to this section shall remit the excise tax
21 due, less an amount not to exceed two percent (2%) of the total of
22 the additional payments made by said taxpayer pursuant to paragraph
23 3 of this subsection. The total of said deductions shall not exceed
24 the total of the additional payments made pursuant to paragraph 3 of

1 this subsection. Up to ten percent (10%) of each tax payment made
2 under this subsection may be made in the form of revenue stamps
3 previously purchased pursuant to Section 540 of this title.

4 C. For the purpose of collecting and remitting the excise tax
5 imposed under this section, the person liable for such tax is hereby
6 declared to be the agent of the state for such purposes.

7 D. Nothing herein shall be construed to impose an additional
8 excise tax on intoxicating beverages held in inventory by
9 wholesalers and retailers upon which the excise tax was paid prior
10 to the effective date of any excise tax increase.

11 SECTION 109. AMENDATORY 37 O.S. 2001, Section 554, as
12 amended by Section 5, Chapter 229, O.S.L. 2010 (37 O.S. Supp. 2010,
13 Section 554), is amended to read as follows:

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

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

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

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

23 4. Beer, cider and wine made for personal use pursuant to a
24 personal use permit issued as provided in Section 505 of this title;

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

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

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

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

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

14 SECTION 110. AMENDATORY 37 O.S. 2001, Section 554.1, is
15 amended to read as follows:

16 Section 554.1 Cities and towns are hereby authorized to levy an
17 annual occupational tax for the privilege of operating as a
18 retailer, mixed beverage, beer and wine, caterer or special event
19 licensee, bottle club, manufacturer, wholesaler or ~~Class-B~~ beer
20 wholesaler, within their respective jurisdictions, not to exceed the
21 state license fee for such licensees; provided that the
22 aforementioned tax shall be levied only by the city or town in which
23 such licensee has his principal place of business. This section
24 shall not give any city or town any right to determine or regulate

1 the issuance of any license, except as specifically provided for in
2 this section, as the Alcoholic Beverage Laws Enforcement Commission
3 shall have exclusive authority as to issuance and regulations of
4 said licenses and no city or town may prescribe rules or regulations
5 in conflict with or in addition to the statutes of this state or the
6 rules of the ABLE Commission.

7 Cities or towns which levy an occupational tax under this
8 section shall make an annual report to the ABLE Commission, covering
9 the fiscal year, showing the number and class of licensees subject
10 to said tax, and the amount of money received therefrom, which
11 information is to be included in the annual report of the ABLE
12 Commission submitted to the Governor, and transmitted to the
13 Legislature.

14 SECTION 111. AMENDATORY 37 O.S. 2001, Section 559, is
15 amended to read as follows:

16 Section 559. Every manufacturer, importer, broker or other who
17 sells alcoholic beverages to a wholesaler, or ~~Class-B~~ beer
18 wholesaler in Oklahoma, after having been issued a license by the
19 Alcoholic Beverage Laws Enforcement Commission, shall, before
20 manufacturing, purchasing, or selling any alcoholic beverage within
21 this state, file with the Oklahoma Tax Commission a bond issued by a
22 surety company authorized to transact business in this state, in
23 such amount as the Oklahoma Tax Commission may fix, but which shall
24 be at least equal to the estimated amount of the tax liability of

1 such licensee for a three-month period, to secure the payment of all
2 excise taxes due from sales of alcoholic beverages to a wholesaler,
3 or ~~Class B~~ beer wholesaler, under the provisions of the Oklahoma
4 Alcoholic Beverage ~~Control~~ Law Enforcement Act. Provided, that the
5 amount of the bond for every wholesaler or ~~Class B~~ beer wholesaler
6 shall be not less than One Thousand Dollars (\$1,000.00). Such bonds
7 shall be payable to the State of Oklahoma and conditioned upon the
8 compliance with the excise tax provisions of the Oklahoma Alcoholic
9 Beverage ~~Control~~ Law Enforcement Act and the rules and regulations
10 of the Oklahoma Tax Commission relating thereto. In lieu of such
11 surety bond, any such manufacturer, wholesaler, or ~~Class B~~ beer
12 wholesaler, may deposit cash or negotiable securities, approved by
13 the Oklahoma Tax Commission, in such amount as it may prescribe.

14 SECTION 112. AMENDATORY 37 O.S. 2001, Section 560, is
15 amended to read as follows:

16 Section 560. A. Every manufacturer, wholesaler, ~~Class B~~ beer
17 wholesaler and nonresident seller, selling alcoholic beverages in
18 this state, or selling alcoholic beverages for shipment into this
19 state shall, at the time such sale is made, make and deliver to the
20 purchaser or transporter an invoice, bill of lading, manifest, or
21 other document describing such alcoholic beverages, showing the date
22 of such sale or delivery, the name and Alcoholic Beverage Laws
23 Enforcement Commission license number of the seller, the point of
24 origin of the movement of such alcoholic beverages and the

1 destination of same, the kind and quantity and a description of such
2 alcoholic beverages, including the proof of all spirits, the name
3 and ABLE Commission license number of the purchaser, the sale price
4 and such other information as the Oklahoma Tax Commission may, by
5 form or regulation, require. Every such invoice, bill of lading,
6 manifest, or other document describing such alcoholic beverages,
7 except beer, must be identified by consecutive numbers printed upon
8 the invoice or document, and each such seller and purchaser must
9 account for each copy of his invoice and each number thereof.

10 B. Every common carrier and private carrier, and every person
11 who transports any alcoholic beverages from any point within this
12 state to any other point within or without this state, or who
13 transports alcoholic beverages into this state, shall at all times
14 while such alcoholic beverages are in transit have in the possession
15 of the driver or operator of the transporting carrier or vehicle the
16 invoice, bill of lading, manifest, or other document describing such
17 alcoholic beverages being transported.

18 C. Every manufacturer, wholesaler, or ~~Class B~~ beer wholesaler,
19 importing into or purchasing in this state any alcoholic beverage,
20 and any retailer purchasing any alcoholic beverage in this state,
21 shall at the time of delivery or acceptance of such alcoholic
22 beverage demand and receive a proper bill of lading, invoice,
23 manifest, or other document, particularly describing such alcoholic
24 beverage and showing the proof of all spirits.

1 D. Every manufacturer, wholesaler, ~~Class-B~~ beer wholesaler,
2 nonresident seller, and retailer shall retain one copy of each
3 invoice, bill of lading, manifest, or similar document covering all
4 such sales and purchases by such licensee, as a part of the
5 permanent records of such licensee for a period of at least three
6 (3) years.

7 E. Any person violating any of the provisions of this section,
8 whether acting for himself or as the agent or employee of any
9 licensee hereunder, shall be guilty of a misdemeanor and, upon
10 conviction, shall be punished as provided by law. Any violation of
11 the provisions of this section shall also constitute grounds for the
12 revocation by the ABLE Commission of any license issued under the
13 Oklahoma Alcoholic Beverage ~~Control~~ Law Enforcement Act.

14 SECTION 113. AMENDATORY 37 O.S. 2001, Section 561, is
15 amended to read as follows:

16 Section 561. Every manufacturer, wholesaler, ~~Class-B~~ beer
17 wholesaler, nonresident seller, retailer, mixed beverage, caterer,
18 and special event licensee shall keep a record of all alcoholic
19 beverages imported, purchased, received, manufactured, produced,
20 sold, delivered, or otherwise disposed of, and the amount of all
21 alcoholic beverages on hand, as herein provided. Such records must
22 be kept for a period of at least three (3) years and shall include
23 the date, the number of the invoice, manifest, bill of lading, or
24 similar type document, and the total amount of alcoholic beverages

1 purchased, imported, received, manufactured, produced, sold,
2 delivered, or otherwise disposed of, by such licensee in each
3 transaction. Each such licensee shall keep and maintain such other
4 records in details as the Oklahoma Tax Commission may require.

5 SECTION 114. AMENDATORY 37 O.S. 2001, Section 563, as
6 amended by Section 17, Chapter 426, O.S.L. 2009 (37 O.S. Supp. 2010,
7 Section 563), is amended to read as follows:

8 Section 563. All revenue accruing from the excise tax levied by
9 Section 553 of this title shall be collected by the Oklahoma Tax
10 Commission and distributed as follows:

11 1. Two-thirds of ninety-seven percent (2/3 of 97%) of such tax
12 revenue shall be paid to the State Treasurer and placed to the
13 credit of the General Revenue Fund of the state; provided, beginning
14 July 1, 2010, any amounts derived from the tax levied pursuant to
15 paragraphs 2 and 3 of subsection A of Section 553 of this title that
16 exceed an amount equal to the total amount collected from such tax
17 levy for the fiscal year ending on June 30, 2010, shall be
18 distributed to the Oklahoma Viticulture and Enology Center
19 Development Revolving Fund created pursuant to Section 16 of this
20 act, but in no event shall the distribution to the Oklahoma
21 Viticulture and Enology Center Development Revolving Fund in any
22 fiscal year exceed Three Hundred Fifty Thousand Dollars
23 (\$350,000.00);

24

1 2. One-third of ninety-seven percent (1/3 of 97%) of such
2 revenue is hereby allocated to the counties of this state and shall
3 be paid to the county treasurers on the basis of area and population
4 (giving equal weight to area and population) wherein the sale of
5 alcoholic beverages is lawful, and all of said funds shall be
6 appropriated by the county commissioners of each county and
7 apportioned by the county treasurer to all incorporated cities and
8 towns in said county on the basis of population within each city and
9 town on a per capita basis based on the last preceding Federal
10 Decennial Census. For the purpose of appropriating and paying the
11 excise taxes collected under the Oklahoma Alcoholic Beverage Control
12 Law Enforcement Act, or any act which is amendatory thereof or
13 supplemental thereto, to the incorporated cities and towns in any
14 county, city or town, the corporate limits of which include
15 territory within more than one county, shall be considered and
16 treated as being a city or town in only the county within which more
17 than fifty percent (50%) of the entire population of such city or
18 town, as shown by the last preceding Federal Decennial Census,
19 reside, and, for such purpose, shall not be considered or treated as
20 being a city or town in any other county; and, in the event that the
21 last preceding Federal Decennial Census fails to disclose
22 information from which such fact may be determined by the board of
23 county commissioners which is appropriating the tax money then
24 involved to the cities and towns in its county, said board of county

1 commissioners shall make an estimate, from the best information then
2 available to it, as to the percentage of the entire population of
3 such city or town then residing in said county. If such board of
4 county commissioners determines, either from information disclosed
5 by the last preceding Federal Decennial Census, or from the best
6 information then available to said board (when such information is
7 not disclosed by the last preceding Federal Decennial Census), that
8 more than fifty percent (50%) of the population of such a city or
9 town resides in that county, such city or town shall receive its pro
10 rata share of such tax money, on the basis of its entire population
11 according to the last preceding Federal Decennial Census; but if
12 such board of county commissioners so determines that more than
13 fifty percent (50%) of the population of such city or town does not
14 reside in that county, no part of such tax money shall be
15 appropriated or paid to such city or town; and

16 3. The remaining three percent (3%) of such excise tax revenue
17 shall be paid to the State Treasurer and placed to the credit of the
18 Oklahoma Tax Commission Fund to be paid out of said fund pursuant to
19 appropriations made by the State Legislature.

20 SECTION 115. AMENDATORY 37 O.S. 2001, Section 564, is
21 amended to read as follows:

22 Section 564. The county excise board of each county in the
23 state, in approving the estimates of needs for cities and towns for
24 the fiscal year ending June 30, 1960, and each fiscal year

1 thereafter, shall make reasonable estimates of the revenue to be
2 derived under the provisions of the Oklahoma Alcoholic Beverage
3 ~~Control~~ Law Enforcement Act.

4 SECTION 116. AMENDATORY 37 O.S. 2001, Section 567, as
5 amended by Section 6, Chapter 289, O.S.L. 2010 (37 O.S. Supp. 2010,
6 Section 567), is amended to read as follows:

7 Section 567. A. There is hereby created in the State Treasury
8 a fund to be known as the Alcoholic Beverage ~~Control~~ Law Enforcement
9 Fund which shall consist of revenues collected by the state from
10 license and registration fees, with any interest, fines or penalties
11 levied and collected by the Alcoholic Beverage Laws Enforcement
12 Commission pursuant to the provisions of the Oklahoma Alcoholic
13 Beverage ~~Control~~ Law Enforcement Act. Any unappropriated balance in
14 the Oklahoma Alcoholic Beverage ~~Control~~ Law Enforcement Fund at the
15 close of each fiscal year shall revert to the General Revenue Fund
16 of the State of Oklahoma, except for the amount necessary to satisfy
17 any appropriations made or to be made from said fund by the Oklahoma
18 State Legislature for the ensuing fiscal year.

19 ~~Beginning July 1, 1984, all~~ All such monies collected by the
20 Alcoholic Beverage Laws Enforcement Commission pursuant to the
21 provisions of the Oklahoma Alcoholic Beverage ~~Control~~ Law
22 Enforcement Act shall be deposited in the State Treasury for credit
23 to the General Revenue Fund of the state, except as provided in
24 subsection B of this section.

1 B. There is hereby created in the State Treasury a revolving
2 fund for the Oklahoma Alcoholic Beverage Laws Enforcement Commission
3 to be designated the "ABLE Commission Revolving Fund". The fund
4 shall be a continuing fund, not subject to fiscal year limitations,
5 and shall consist of any monies received from the surcharge
6 collected by the Alcoholic Beverage Laws Enforcement Commission
7 pursuant to subsection F of Section 518 of this title and any other
8 sources of funds provided by law. All monies accruing to the credit
9 of said fund shall be budgeted and expended by the Oklahoma
10 Alcoholic Beverage Laws Enforcement Commission for general
11 operations of the agency. Expenditures from said fund shall be made
12 upon warrants issued by the State Treasurer against claims filed as
13 prescribed by law with the Director of the Office of State Finance
14 for approval and payment.

15 SECTION 117. AMENDATORY 37 O.S. 2001, Section 569, is
16 amended to read as follows:

17 Section 569. All sheriffs, marshals, and police officers, all
18 district and city or town attorneys, and all members of the
19 Alcoholic Beverage Laws Enforcement Commission, the Director, and
20 all enforcement employees of the ABLE Commission, shall diligently
21 enforce all provisions of the Oklahoma Alcoholic Beverage ~~Control~~
22 Law Enforcement Act. If any such officer, ABLE Commission member,
23 Director, or employee shall fail or refuse to do or perform any duty
24 required by the provisions of such statutes he shall be removed from

1 office as hereinafter provided. In all cases where any sheriff,
2 marshal, police officer, district or city or town attorney shall
3 fail or refuse to perform any such duty a petition shall be filed in
4 the district court of the county wherein such person resides, in the
5 name of the state, upon the recommendation of a grand jury or on the
6 relation of the board of county commissioners or of any attorney
7 appointed by the Governor under the provisions of applicable
8 statutes. In all cases where a member of the Alcoholic Beverage
9 Laws Enforcement Commission fails to perform any duty imposed upon
10 him, said member shall be subject to removal from office in the
11 manner provided for state officers not subject to impeachment, and,
12 in all cases where an enforcement employee of the ABLE Commission is
13 involved in the failure to perform any duties required by law, such
14 failure shall constitute cause for the removal of any such employee
15 pursuant to the provisions of Section 833 of Title 74 of the
16 Oklahoma Statutes. The Oklahoma State Bureau of Investigation and
17 the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control
18 Commission shall also have enforcement authority for the provisions
19 of the Oklahoma Alcoholic Beverage ~~Control~~ Law Enforcement Act, with
20 the power to initiate complaints with the ABLE Commission and by
21 filing charges, if appropriate, with the district attorney in the
22 county where the violation occurred.

23 SECTION 118. AMENDATORY 37 O.S. 2001, Section 571, is
24 amended to read as follows:

1 Section 571. The Alcoholic Beverage Laws Enforcement Commission
2 is hereby authorized to promulgate rules and regulations governing
3 the labeling of alcoholic beverages bottled, packaged, sold, or
4 possessed for sale within this state, not inconsistent with the
5 provisions of the Oklahoma Alcoholic Beverage ~~Control~~ Law
6 Enforcement Act.

7 SECTION 119. AMENDATORY 37 O.S. 2001, Section 572, is
8 amended to read as follows:

9 Section 572. The bottling, packaging, sale, or possession by
10 any licensee of any alcoholic beverage not labeled in conformity
11 with such rules and regulations and the provisions of the Oklahoma
12 Alcoholic Beverage ~~Control~~ Law Enforcement Act shall be grounds for
13 suspension, revocation, or cancellation of the license.

14 SECTION 120. AMENDATORY 37 O.S. 2001, Section 578, is
15 amended to read as follows:

16 Section 578. A. Every holder of a mixed beverage, beer and
17 wine, caterer or special event license issued by the Alcoholic
18 Beverage Laws Enforcement Commission, as a condition precedent to
19 the issuance of a mixed beverage tax permit, shall furnish to the
20 Oklahoma Tax Commission a bond from a surety company chartered or
21 authorized to do business in this state, cash bond, certificates of
22 deposits, certificates of savings or U.S. Treasury bond, or an
23 assignment of negotiable stocks or bonds, as the Tax Commission may
24

1 deem necessary to secure payment of the gross receipts tax levied
2 upon gross receipts of the licensees.

3 B. Any surety bond furnished under this section shall be a
4 continuing instrument and shall constitute a new and separate
5 obligation in the sum stated therein for each calendar year or a
6 portion thereof while such bond is in force. Such bond shall remain
7 in effect until the surety or sureties are released and discharged
8 by the Tax Commission.

9 C. The Tax Commission, or its duly authorized agent, shall fix
10 the amount of such bond or other security for each licensee for each
11 place of business after considering the estimated gross receipts tax
12 liability of such licensee. Such bond shall be no less than an
13 amount equal to the average estimated quarterly gross receipts tax
14 liability and no greater than an amount equal to three times the
15 amount of the average estimated quarterly gross receipts tax
16 liability. Effective July 1, 2001, the minimum bond required for a
17 new permit holder shall be not less than One Thousand Five Hundred
18 Dollars (\$1,500.00).

19 D. Notwithstanding the provisions of subsection C of this
20 section, if the permit holder has held the permit for at least four
21 (4) years and is not delinquent in the payment of mixed beverage
22 taxes, the Tax Commission shall not require any increase in the bond
23 so long as the permit holder remains current in the payment of such
24 taxes.

1 E. Any bond or other security shall be such as will protect
2 this state against failure of the taxpayer or licensee to pay the
3 tax levied by Section 576 of this title. The forfeiture or
4 cancellation of such bond or security, for any reason whatsoever,
5 shall automatically revoke the mixed beverage tax permit issued
6 pursuant to the provisions of the Oklahoma Alcoholic Beverage
7 ~~Control~~ Law Enforcement Act.

8 SECTION 121. AMENDATORY 37 O.S. 2001, Section 579, as
9 last amended by Section 1, Chapter 430, O.S.L. 2005 (37 O.S. Supp.
10 2010, Section 579), is amended to read as follows:

11 Section 579. A. Every mixed beverage tax permit holder, or any
12 person transacting business subject to the gross receipts tax levied
13 by Section 576 of this title, shall file with the Oklahoma Tax
14 Commission a monthly report for each place or location of business,
15 on or before the twentieth day of the month immediately following
16 the month of receipt. The reports shall be made under oath, on
17 forms prescribed by the Tax Commission, which shall include the
18 following information:

- 19 1. Name of mixed beverage tax permit holder;
- 20 2. Mixed beverage tax permit number;
- 21 3. Sales tax permit number;
- 22 4. Mixed beverage, caterer or special event license number;

23
24

1 5. Gross receipts for the month for the sale, preparation or
2 service of mixed beverages, ice and nonalcoholic beverages mixed
3 with alcoholic beverages;

4 6. Gross receipts for the month from charges for the privilege
5 of admission to a mixed beverage establishment which entitle a
6 person to complimentary mixed beverages or discounted prices for
7 mixed beverages;

8 7. Total retail value of complimentary or discounted alcoholic
9 beverages, except beer, served for the month; and

10 8. Such other information as may be required by the Tax
11 Commission to enable it to collect taxes imposed as provided by law.

12 B. The gross receipts tax levied by Section 576 of this title
13 shall be calculated by multiplying the tax rate, thirteen and one-
14 half percent (13.5%), and the total gross receipts for each month
15 from the sale, preparation or service of mixed beverages, ice and
16 nonalcoholic beverages mixed with alcoholic beverages, the total
17 gross receipts of charges received for admission to mixed beverage
18 establishments as provided in paragraph 6 of subsection A of this
19 section, and the total retail value of complimentary or discounted
20 mixed beverages. Gross receipts from the sale of food prepared with
21 alcoholic beverages shall not be included in the calculation of the
22 monthly tax liability. The tax due for the preceding month shall
23 accompany the report required in subsection A of this section. All
24 taxes, penalties and interest imposed by Section 501 et seq. of this

1 title may be paid in the form of electronic funds transfer or by a
2 personal or company check, cashier's check, certified check or
3 postal money order payable to the Tax Commission.

4 C. If the gross receipts tax levied pursuant to the provisions
5 of Section 576 of this title is not paid on or before the twentieth
6 day of each month, the tax shall be delinquent and interest and
7 penalty shall accrue on and from the twenty-first day of each month,
8 pursuant to the provisions of the Uniform Tax Procedure Code,
9 Section 201 et seq. of Title 68 of the Oklahoma Statutes.

10 D. Every licensed wholesaler of alcoholic beverages in this
11 state shall file with the Tax Commission a monthly report, under
12 oath, on forms prescribed by the Tax Commission, which shall include
13 the name, location and mixed beverage tax permit number of each
14 mixed beverage, caterer or special event licensee to whom the
15 licensed wholesaler sold alcoholic beverages during the report
16 month.

17 E. If the report required by subsection A of this section is
18 not filed with the Tax Commission on or before the twentieth day of
19 the month, the Tax Commission may assess an additional penalty of
20 Five Dollars (\$5.00) for each day thereafter that the report is not
21 filed pursuant to the provisions of this section. The Tax
22 Commission may waive the penalty assessed pursuant to the provisions
23 of the Uniform Tax Procedure Code; provided, however, the additional
24 penalty, if assessed, shall not exceed an amount equal to twice the

1 amount of tax due for the period for which such report was required
2 to be filed, or the sum of Three Hundred Dollars (\$300.00),
3 whichever is greater.

4 F. Taxes paid as provided by law represented by accounts
5 receivable which are found to be worthless or uncollectible may be
6 credited upon subsequent reports and remittances of such tax, in
7 accordance with rules promulgated by the Tax Commission. If such
8 accounts are thereafter collected, the same shall be reported and
9 the tax shall be paid upon the amount so collected.

10 G. In addition to any other authority granted by law, the Tax
11 Commission is hereby authorized to audit any mixed beverage, beer
12 and wine, caterer or special event licensee to determine if the
13 correct amount of tax payable under Section 576 of this title has
14 been collected; provided, if such an audit reveals that the amount
15 collected is within the following percentages of the amount of tax
16 payable, the taxpayer shall be deemed to be in compliance:

17 1. For spirits, eighty-four percent (84%) to one hundred
18 sixteen percent (116%);

19 2. For wine, ninety percent (90%) to one hundred ten percent
20 (110%);

21 3. For beer sold at draft and not in original packages, eighty-
22 six percent (86%) to one hundred fourteen percent (114%); and

23 4. For beer sold in original packages, ninety-five percent
24 (95%) to one hundred five percent (105%).

1 SECTION 122. AMENDATORY 37 O.S. 2001, Section 580, is
2 amended to read as follows:

3 Section 580. The mixed beverage tax permit holder or taxpayer
4 may retain one percent (1%) of the tax due and timely reported and
5 paid, in accordance with the provisions of Section ~~92~~ 579 of this
6 ~~act~~ title, as remuneration for establishing and maintaining the
7 records required by the Oklahoma Alcoholic Beverage ~~Control~~ Law
8 Enforcement Act. If such tax becomes delinquent, such taxpayer
9 forfeits his claim to the one percent (1%) discount.

10 SECTION 123. AMENDATORY 37 O.S. 2001, Section 582, as
11 amended by Section 8, Chapter 289, O.S.L. 2010 (37 O.S. Supp. 2010,
12 Section 582), is amended to read as follows:

13 Section 582. A. No mixed beverage, beer and wine, caterer or
14 special event licensee nor any officer, agent or employee of such
15 licensee may possess or permit to be possessed on the premises, for
16 which such license was issued, any container of an alcoholic
17 beverage which is not listed on an invoice from the wholesaler from
18 whom the alcoholic beverage was purchased, unless otherwise
19 permitted by statute.

20 B. All containers of alcoholic beverages which are on the
21 premises of a mixed beverage, beer and wine, caterer or special
22 event licensee and which are not listed on an invoice from the
23 wholesaler pursuant to the provisions of this section are declared
24 contraband. Any duly authorized officer or employee of the ABLE

1 Commission or the Oklahoma Tax Commission is authorized to seize
2 such containers or cases and such seized containers or cases shall
3 be subject to confiscation and forfeiture pursuant to the provisions
4 of the Oklahoma Alcoholic Beverage ~~Control~~ Law Enforcement Act.

5 C. Any holder of a wholesaler, mixed beverage, beer and wine,
6 caterer or special event license who violates the provisions of this
7 section shall, upon conviction, be guilty of a misdemeanor and shall
8 be subject to revocation or suspension of such license issued by the
9 ABLE Commission pursuant to the provisions of the Oklahoma Alcoholic
10 Beverage ~~Control~~ Law Enforcement Act.

11 SECTION 124. AMENDATORY 37 O.S. 2001, Section 586, is
12 amended to read as follows:

13 Section 586. The Oklahoma Tax Commission shall promulgate rules
14 as may be necessary to facilitate the uniform and orderly collection
15 of the taxes levied pursuant to the provisions of the Oklahoma
16 Alcoholic Beverage ~~Control~~ Law Enforcement Act.

17 SECTION 125. AMENDATORY 37 O.S. 2001, Section 588, is
18 amended to read as follows:

19 Section 588. Any establishment which, upon the effective date
20 of this act, is operating as a private club pursuant to a permit or
21 license issued by a municipality may continue to operate pursuant to
22 such permit or license until July 1, 1985.

23 Until September 1, 1985, the ABLE Commission shall be authorized
24 to issue interim licenses to applicants for mixed beverage, caterer,

1 bottle club, and airline/railroad beverage licenses, prior to
2 issuance of permanent licenses. The issuance of interim licenses
3 may take place before all the procedures required by the Oklahoma
4 Alcoholic Beverage ~~Control~~ Law Enforcement Act for such licensing
5 are completed.

6 To obtain an interim license an applicant shall file an
7 application for a license authorized by this section with the ABLE
8 Commission and shall furnish all other information required by the
9 Oklahoma Alcoholic Beverage ~~Control~~ Law Enforcement Act and rules
10 and regulations promulgated by the ABLE Commission, except that, if
11 certificates of zoning or compliance with fire, safety, or health
12 codes, required pursuant to Section 523 of this title, have not been
13 issued by the applicable municipality or county, proof of
14 application for said certificates shall be sufficient for issuance
15 of the interim license. The certificates shall be furnished to the
16 ABLE Commission prior to issuance of a permanent license. The
17 interim license shall remain valid until final action either issuing
18 a license or denying the application for a license is taken by the
19 ABLE Commission on the application for a license, on which date the
20 interim license shall expire.

21 SECTION 126. AMENDATORY 37 O.S. 2001, Section 593, is
22 amended to read as follows:

23 Section 593. A. No person shall be allowed to enter or remain
24 in the designated bar or lounge area of a bottle club unless that

1 person possesses a valid membership card for that club issued by the
2 club.

3 Membership cards issued by a bottle club shall be purchased by
4 the club from the Alcoholic Beverage Laws Enforcement Commission at
5 a cost of Three Dollars (\$3.00) per temporary membership card and
6 Twenty-five Dollars (\$25.00) per annual membership card. A
7 temporary membership card shall be valid for a period of seventy-two
8 (72) consecutive hours from issuance to the member. The date of
9 issuance of a temporary membership shall be clearly and prominently
10 marked upon the card. When the card is issued to a member by the
11 club, the club may require said members to reimburse the club for
12 the cost of the card. No membership card shall be issued to any
13 person under twenty-one (21) years of age.

14 The ABLE Commission shall have the authority to promulgate rules
15 and regulations concerning bottle club membership cards.

16 B. A bottle club license authorizes alcoholic beverages
17 belonging to members of the club to be:

- 18 1. Stored, possessed and mixed on club premises; and
- 19 2. Served for on-premises consumption to members. Each member
20 shall be served only from the member's individually owned bottle of
21 alcoholic beverage which shall be marked with the owner's full name
22 or code number. Such numbers shall be maintained on the club
23 premises, available for inspection by agents of the ABLE Commission
24 or by any other peace officer.

1 Pool systems of storage and purchase of alcoholic beverages in a
2 bottle club are specifically prohibited.

3 C. The sale, preparation or service of ice or nonalcoholic
4 beverages that are sold, prepared or served for the purpose of being
5 mixed with alcoholic beverages for consumption on the premises where
6 such sale, preparation or service occurs shall be subject to the
7 sales tax levied by the Oklahoma Sales Tax Code and to any municipal
8 or county sales taxes.

9 D. Any bottle club licensee, or employee or agent of said
10 licensee who sells to a member any alcoholic beverage shall be
11 deemed guilty of a misdemeanor and upon conviction thereof shall be
12 punished by a fine of One Thousand Dollars (\$1,000.00) and the club
13 license shall be revoked for a period of thirty (30) days. Any
14 bottle club licensee, or employee or agent of said licensee who
15 delivers or furnishes to a member any alcoholic beverage that does
16 not belong to said member shall be deemed guilty of a misdemeanor
17 and upon conviction thereof shall be punished by a fine of not less
18 than Five Hundred Dollars (\$500.00) nor more than One Thousand
19 Dollars (\$1,000.00) and the club license shall be revoked for a
20 period of thirty (30) days. Any bottle club licensee, or employee
21 or agent of said licensee who permits any person who is not a member
22 to enter and remain in the designated bar or lounge area of the club
23 premises shall be deemed guilty of a misdemeanor and upon conviction
24 thereof shall be punished by a fine of One Thousand Dollars

1 (\$1,000.00) and the bottle club license shall be suspended for a
2 period of thirty (30) days. No bottle club licensee, or employee or
3 agent of said licensee shall serve alcoholic beverages to any person
4 that does not possess a valid membership card for that club issued
5 by the club.

6 E. Any bottle club licensed under the provisions of the
7 Oklahoma Alcoholic Beverage ~~Control~~ Law Enforcement Act shall pay
8 the license fee provided by law and obtain a separate license for
9 each separate place of business.

10 F. In counties of this state where retail sale of alcoholic
11 beverages by the individual drink has not been authorized no person
12 shall serve alcoholic beverages by the individual drink for
13 on-premises consumption or permit the consumption of alcoholic
14 beverages except in a bottle club licensed pursuant to this section
15 or in a private residence, provided, that this shall not prohibit a
16 winery from serving visitors on the licensed premises free samples
17 of wine produced on the premises. No member of a bottle club shall
18 serve alcoholic beverages lawfully prepared for said member in the
19 designated bar or lounge area of a bottle club to any person who
20 does not possess a valid membership card for the bottle club.

21 SECTION 127. AMENDATORY 37 O.S. 2001, Section 594, as
22 amended by Section 1, Chapter 343, O.S.L. 2010 (37 O.S. Supp. 2010,
23 Section 594), is amended to read as follows:

24

1 Section 594. A. 1. A caterer license may be issued to any
2 person for the purpose of sale, delivery or distribution of
3 alcoholic beverages incidental to the sale or distribution of food
4 on a premises not licensed by the ABLE Commission. For purposes of
5 this section, "incidental to the sale or distribution of food" means
6 food sales constituting at least thirty-five percent (35%) of the
7 caterer's total combined annual sales. A caterer license shall not
8 be issued to a person whose main purpose is the sale of alcoholic
9 beverages ~~or low point beer~~.

10 2. A caterer license may only be issued to those persons that
11 prepare, sell and distribute food for consumption either on a
12 licensed or unlicensed premises. In order to renew a caterer
13 license, annual food sales must constitute at least thirty-five
14 percent (35%) of the caterer's total combined sales based on the
15 most recent calendar year. A caterer shall not be required to
16 prepare, sell and distribute food at every catered event as long as
17 the caterer satisfies the requirement set forth in this section.

18 3. Each caterer shall submit an annual sales report containing
19 revenue attributable to alcoholic beverages, food, ~~low point beer,~~
20 and all other revenues attributable to the catering service. ~~For~~
21 ~~purposes of this section, low point beer shall be counted~~
22 ~~separately, and it shall not be counted either as food or an~~
23 ~~alcoholic beverage.~~ The annual sales report must be submitted
24 thirty (30) days prior to expiration of the caterer license on forms

1 prescribed by the ABLE Commission. The caterer license may not be
2 renewed if the caterer fails to provide complete or sufficient
3 financial data.

4 4. Each caterer shall submit a monthly event report containing
5 information on all events scheduled for the subsequent month. If an
6 event is scheduled after the first day of the month for an event to
7 occur in the same month, then the caterer shall report that event
8 within twenty-four (24) hours of scheduling the event or within
9 twenty-four (24) hours prior to the event, whichever occurs first.
10 The monthly event report shall be submitted on the first day of each
11 month.

12 5. All reports shall be submitted electronically on forms
13 prescribed by the ABLE Commission. Provided, if the caterer does
14 not have access to the Internet, then monthly reports must be
15 submitted by facsimile to the ABLE Commission's office in Oklahoma
16 City, in which case the caterer must retain a copy of the facsimile
17 confirmation sheet for at least twelve (12) months.

18 6. Any caterer who fails to submit a monthly report shall have
19 the caterer license automatically suspended until such time that the
20 caterer has fully complied with all reporting requirements. Any
21 caterer whose annual food sales do not exceed thirty-five percent
22 (35%) of his or her total annual combined sales shall not have the
23 caterer's license renewed.

24

1 B. The ABLE Commission shall adopt rules governing the
2 application for and the issuance of caterer licenses.

3 C. The restrictions and regulations which apply to the sale of
4 mixed beverages on the premises of a mixed beverage licensee also
5 apply to the sale under the authority of a caterer license. Any act
6 which if done on the premises of a mixed beverage licensee would be
7 a ground for revocation or suspension of the mixed beverage license
8 is a ground for revocation or suspension of a caterer license.

9 D. If the premises, where the event being catered is held, are
10 already operating pursuant to another type of license issued by the
11 ABLE Commission, the caterer and other said licensee shall both be
12 responsible for the actions of the caterer and shall both be subject
13 to penalties for violations, by the caterer, of the Oklahoma
14 Alcoholic Beverage ~~Control~~ Law Enforcement Act and any rules
15 promulgated thereto.

16 E. A caterer licensee may not store alcoholic beverages unless
17 said licensee has a storage license issued by the ABLE Commission.

18 F. A caterer may provide alcoholic beverage sales on the
19 premises of a person currently applying for a mixed beverage
20 license, provided the following terms have been satisfied:

21 1. The caterer shall take reasonable steps to ensure that the
22 mixed beverage applicant uses only licensed employees to perform
23 licensable activities while using the caterer's license. The
24 caterer shall use his or her best efforts to attempt to have a

1 licensed employee on-site supervising the sale of such caterer's
2 alcoholic beverages at all times, but the caterer shall not be
3 disciplined for failing to have a licensed employee on-site. The
4 caterer expressly acknowledges that he or she is liable for all
5 violations of ABLE Commission statutes and rules that are committed
6 by the mixed beverage applicant and its employees during this
7 period;

8 2. The caterer and mixed beverage applicant must submit to the
9 ABLE Commission a written agreement setting forth all the terms of
10 the catering agreement at least twenty-four (24) hours prior to the
11 commencement of the catered event; and

12 3. The caterer may not provide alcoholic beverage sales on the
13 unlicensed premises of the mixed beverage applicant for more than
14 sixty (60) days, or after the applicant's license has been denied,
15 whichever occurs first.

16 SECTION 128. AMENDATORY 37 O.S. 2001, Section 598, as
17 last amended by Section 2, Chapter 343, O.S.L. 2010 (37 O.S. Supp.
18 2010, Section 598), is amended to read as follows:

19 Section 598. A. 1. If the premises of a licensee of the
20 Alcoholic Beverage Laws Enforcement Commission contains a separate
21 or enclosed lounge or bar area, which has as its main purpose the
22 sale or distribution of alcoholic beverages for on-premises
23 consumption, notwithstanding that as an incidental service, meals or
24 short order foods are made available therein, no person under

1 twenty-one (21) years of age shall be admitted to such area, except
2 for members of a musical band employed or hired as provided in
3 paragraph 2 of subsection B of Section 537 of this title when the
4 band is to perform within such area, or persons under twenty-one
5 (21) years of age who are on the licensed premises for the limited
6 purpose of performing maintenance, construction, remodeling,
7 painting or other similar services relating to the building or
8 equipment installation, repair or maintenance on the premises during
9 those hours when the licensed establishment is closed for business.
10 The provisions of this section shall not prohibit persons under
11 twenty-one (21) years of age from being admitted to an area which
12 has as its main purpose some objective other than the sale or mixing
13 or serving of said beverages, in which sales or serving of said
14 beverages are incidental to the main purpose, as long as the persons
15 under twenty-one (21) years of age are not sold or served alcoholic
16 beverages. The incidental service of food in the bar area shall not
17 exempt a licensee from the provisions of this section. The ABLE
18 Commission shall have the authority to designate the portions of the
19 premises of a licensee where persons under twenty-one (21) years of
20 age shall not be admitted pursuant to this section. ~~When~~
21 ~~determining a licensee's main purpose, low-point beer sales shall be~~
22 ~~counted separately, and it shall not be considered a food or an~~
23 ~~alcoholic beverage.~~

24

1 2. A new licensee that claims as its main purpose some
2 objective other than the sale of alcoholic beverages may be granted
3 a separate or enclosed lounge or bar area for a period of ninety
4 (90) days. At the end of that ninety-day period, the licensee shall
5 have the burden of showing that the business continues to qualify
6 for a separate or enclosed bar area. If the licensee fails to
7 satisfy this burden, then that licensee's main purpose shall
8 automatically convert to the sale of alcoholic beverages.

9 B. Except as otherwise provided, an admission charge shall not
10 be considered in any calculation designed to determine the main
11 purpose of an establishment pursuant to subsection A of this
12 section. As used in this section, "admission charge" means any form
13 of consideration received by an establishment from a person in order
14 for that person to gain entrance into the establishment.

15 C. The provisions of subsection B of this section shall not
16 apply:

17 1. If only persons eighteen (18) years of age or older are
18 permitted to enter the licensed premises; provided however, if the
19 licensee is claiming an exception from the requirements of
20 subsection B of this section pursuant to this paragraph and fails to
21 restrict the entry by persons under age eighteen (18) into the
22 licensed premises, the ABLE Commission shall designate that only
23 persons twenty-one (21) years of age or older are allowed on the
24 licensed premises;

1 2. If the licensed premises are owned or operated by a service
2 organization or fraternal establishment which is exempt under
3 Section 501(c)(19), (8), or (10) of the Internal Revenue Code; or

4 3. To a public event held in a facility owned or operated by
5 any agency, political subdivision or public trust of this state.

6 D. The ABLE Commission shall promulgate rules necessary to
7 implement the provisions of this section.

8 SECTION 129. AMENDATORY 37 O.S. 2001, Section 601, is
9 amended to read as follows:

10 Section 601. Sections ~~59~~ 601 through ~~64~~ 606 of this ~~act~~ title
11 shall be known and may be cited as the "Prevention of Youth Access
12 to Alcoholic Beverages ~~and Low Point Beer Act~~".

13 SECTION 130. AMENDATORY 37 O.S. 2001, Section 602, is
14 amended to read as follows:

15 Section 602. As used in Sections ~~59~~ 601 through ~~64~~ 606 of this
16 ~~act~~ title:

17 1. "Alcoholic beverage" means any beverage so defined ~~pursuant~~
18 ~~to~~ by Section 506 2a of Title 37 Article XXVIII of the Oklahoma
19 Statutes Constitution;

20 2. ~~"Low point beer" means any beverage so defined pursuant to~~
21 ~~Section 163.2 of Title 37 of the Oklahoma Statutes;~~

22 3. "Person" means any individual, firm, fiduciary, partnership,
23 corporation, trust, or association, however formed; and

24

1 4- 3. "Proof of age" means a driver license or a card issued
2 for identification only pursuant to Section 6-105 of Title 47 of the
3 Oklahoma Statutes, or other generally accepted means of
4 identification that describes the individual as twenty-one (21)
5 years of age or older and contains a photograph or other likeness of
6 the individual and appears on its face to be valid.

7 SECTION 131. AMENDATORY 37 O.S. 2001, Section 603, is
8 amended to read as follows:

9 Section 603. A. Every person who sells alcoholic beverages at
10 retail shall post conspicuously and keep so posted at the place of
11 business a sign stating the following: "IT'S THE LAW. WE DO NOT
12 SELL ALCOHOLIC BEVERAGES TO PERSONS UNDER 21 YEARS OF AGE". ~~Every~~
13 ~~person who sells low point beer at retail shall post conspicuously~~
14 ~~and keep so posted at the place of business a sign stating the~~
15 ~~following: "IT'S THE LAW. WE DO NOT SELL LOW-POINT BEER TO PERSONS~~
16 ~~UNDER 21 YEARS OF AGE".~~

17 B. A violation of subsection A of this section constitutes a
18 misdemeanor and upon conviction thereof a violator shall be assessed
19 a fine not to exceed Fifty Dollars (\$50.00) for each day such
20 offense occurred. The notices required by subsection A of this
21 section shall be the only notices required to be posted or
22 maintained in any store that sells alcoholic beverages ~~or low point~~
23 ~~beer~~ at retail.

24

1 SECTION 132. AMENDATORY 37 O.S. 2001, Section 604, is
2 amended to read as follows:

3 Section 604. A. Every person engaged in the business of
4 selling alcoholic beverages ~~or low point beer~~ at retail shall notify
5 each individual employed by that person as a retail sales clerk or
6 server that state law:

7 1. Prohibits the sale or distribution of alcoholic beverages
8 ~~and low point beer~~ to any person under twenty-one (21) years of age
9 and the purchase or receipt of alcoholic beverages ~~and low point~~
10 ~~beer~~ by any person under twenty-one (21) years of age; and

11 2. Requires that proof of age be demanded from a prospective
12 purchaser or recipient if an ordinary person would conclude on the
13 basis of appearance that the prospective purchaser or recipient may
14 be under twenty-one (21) years of age.

15 B. This notice shall be provided before the individual
16 commences work as a retail sales clerk or server, or, in the case of
17 an individual employed as a retail sales clerk or server on the date
18 when this section becomes effective, within thirty (30) days of that
19 date. The individual shall signify that he or she has received the
20 notice required by this section by signing a form stating as
21 follows:

22 "I understand that state law prohibits the sale or distribution of
23 alcoholic beverages ~~and low point beer~~ to persons under twenty-one
24 (21) years of age, and requires proof of age of purchaser or

1 recipient if an ordinary person would conclude on the basis of
2 appearance that the prospective purchaser or recipient may be under
3 twenty-one (21) years of age. I have been advised on the law and I
4 understand the penalty for violating it."

5 SECTION 133. AMENDATORY 37 O.S. 2001, Section 605, is
6 amended to read as follows:

7 Section 605. A. All law enforcement agencies are authorized
8 and empowered to enforce the provisions of this act. The provisions
9 shall be enforced in a manner that can reasonably be expected to
10 reduce the extent to which alcoholic beverages ~~and low point beer~~
11 are sold or distributed to persons under twenty-one (21) years of
12 age.

13 B. Persons under twenty-one (21) years of age may be enlisted
14 by law enforcement agencies to assist in enforcement. Provided,
15 however, that such persons may be used to test compliance only if
16 the testing is conducted under the direct supervision of the law
17 enforcement agency; provided, written parental consent shall be
18 obtained prior to the use of any person under the age of eighteen
19 (18) years. Any other use of persons under twenty-one (21) years of
20 age to test compliance shall be unlawful and punishable by
21 assessment of an administrative fine of One Hundred Dollars
22 (\$100.00).

23 SECTION 134. AMENDATORY 37 O.S. 2001, Section 606, is
24 amended to read as follows:

1 Section 606. Nothing in the Prevention of Youth Access to
2 Alcoholic Beverages and ~~Low Point Beer~~ Act shall be construed to
3 prevent the imposition of any penalty as otherwise specified in the
4 Oklahoma Statutes.

5 SECTION 135. AMENDATORY Section 1, Chapter 333, O.S.L.
6 2010 (37 O.S. Supp. 2010, Section 609), is amended to read as
7 follows:

8 Section 609. A. It shall be unlawful for any person owning or
9 operating a hired bus or limousine service vehicle licensed as a
10 "motor carrier of persons or property", as defined in the Motor
11 Carrier Act of 1995, Section 230.23 et seq. of Title 47 of the
12 Oklahoma Statutes, to knowingly transport a minor or minors, under
13 the age of twenty-one (21) years, who are in possession of or
14 consuming alcoholic beverages, ~~including low point beer~~ as defined
15 by Section ~~163.19~~ 506 of Title ~~37~~ of the Oklahoma Statutes this
16 title.

17 B. The operator of any vehicle found in violation of this act
18 shall upon conviction be subject to a misdemeanor offense punishable
19 by a fine of not more than Five Hundred Dollars (\$500.00) and upon a
20 second or subsequent conviction such operator shall be subject to
21 the fine and mandatory revocation of his or her driving privileges
22 pursuant to Section 6-205 of Title 47 of the Oklahoma Statutes.

23 C. The owner of any vehicle found in violation of this section
24 shall upon conviction be subject to a misdemeanor offense punishable

1 by a fine of not more than Five Hundred Dollars (\$500.00) and upon a
2 second or subsequent conviction such owner shall be subject to the
3 fine and forfeiture of his or her Interstate Registration
4 Certificate and/or other license issued pursuant to Section 230.21
5 et seq. of Title 47 of the Oklahoma Statutes, in addition to any
6 other government-issued license authorizing the owner to operate
7 such vehicle for a period of one (1) year.

8 D. Any law enforcement agency issuing a citation for a
9 violation of this section shall, upon the violator's conviction,
10 report the violation to the Corporation Commission. The Corporation
11 Commission shall, upon an administrative hearing, proceed with
12 revocation proceedings pursuant to the provisions of this act.

13 E. Any person found in violation of this section and subject to
14 the license or permit revocations herein may apply for reinstatement
15 of such license or permit following the conclusion of the two-year
16 period with the appropriate state agency pursuant to law.

17 F. The Corporation Commission, the Department of Public Safety
18 and any other state agency affected by the provisions of this
19 section are authorized to promulgate rules as necessary to implement
20 the provisions of this act.

21 SECTION 136. AMENDATORY Section 2, Chapter 354, O.S.L.
22 2003, as last amended by Section 1, Chapter 129, O.S.L. 2007 (43A
23 O.S. Supp. 2010, Section 2-311), is amended to read as follows:

24

1 Section 2-311. There is hereby created in the State Treasury a
2 revolving fund for the Department of Mental Health and Substance
3 Abuse Services to be designated the Community-based Substance Abuse
4 Revolving Fund. The fund shall be a continuing fund, not subject to
5 fiscal year limitations, and shall consist of all monies received by
6 the Department of Mental Health and Substance Abuse Services from
7 ~~low-point~~ beer permits pursuant to Section 163.7 of Title 37 of the
8 Oklahoma Statutes, enrollment fees for alcohol and drug substance
9 abuse courses pursuant to the provisions of Section 3-453 of this
10 title, and fees from certification of assessment agencies and
11 assessment personnel pursuant to the provisions of Section 3-460 of
12 this title. All monies accruing to the credit of the fund are
13 hereby appropriated and may be budgeted and expended by the
14 Department of Mental Health and Substance Abuse Services for the
15 purpose of providing training and administrative services pursuant
16 to the provisions of Sections 3-453 and 3-460 of this title,
17 contracting with private facilities, organizations and tribal
18 programs to provide treatment, counseling, rehabilitation, and other
19 related services directed toward alcohol- and drug-dependent
20 persons, and contracting with statewide substance abuse
21 organizations to provide training and to establish and maintain a
22 collaborative network of providers to maintain and improve the
23 continuum of care between agencies that provide substance abuse
24 prevention, treatment, and advocacy programs using best practices

1 and innovative programs that focus on substance abuse services and
2 co-occurring disorders. Expenditures from the fund shall be made
3 upon warrants issued by the State Treasurer against claims filed as
4 prescribed by law with the Director of the Office of State Finance
5 for approval and payment.

6 SECTION 137. AMENDATORY 57 O.S. 2001, Section 21, as
7 last amended by Section 1, Chapter 459, O.S.L. 2009 (57 O.S. Supp.
8 2010, Section 21), is amended to read as follows:

9 Section 21. A. Any person who, without authority, brings into
10 or has in his or her possession in any jail or state penal
11 institution or other place where prisoners are located, any gun,
12 knife, bomb or other dangerous instrument, any controlled dangerous
13 substance as defined by Section 2-101 et seq. of Title 63 of the
14 Oklahoma Statutes, any ~~intoxicating beverage or low point beer~~
15 alcoholic beverage as defined by ~~Sections 163.1 and 163.2~~ Section
16 506 of Title 37 of the Oklahoma Statutes, money, or financial
17 documents for a person other than the inmate or a spouse of the
18 inmate, including but not limited to tax returns, shall be guilty of
19 a felony and, upon conviction, shall be punished by imprisonment in
20 the custody of the Department of Corrections for a term of not less
21 than one (1) year nor more than five (5) years, or by a fine of not
22 less than One Hundred Dollars (\$100.00) nor more than One Thousand
23 Dollars (\$1,000.00), or by both such fine and imprisonment.

24

1 B. If an inmate is found to be in possession of any item
2 prohibited by this section, upon conviction, such inmate shall be
3 guilty of a felony and shall be punished by imprisonment for a term
4 of not less than five (5) years nor more than twenty (20) years in
5 the custody of the Department of Corrections.

6 C. If the person found to be in possession of any item
7 prohibited by this section has committed, prior to the commission of
8 an offense in violation of this section, two or more felony
9 offenses, and the possession of contraband in violation of this
10 section is within ten (10) years of the completion of the execution
11 of the sentence for any prior offense, such person, upon conviction,
12 shall be guilty of a felony and shall be punished by imprisonment in
13 the custody of the Department of Corrections for a term of not less
14 than twenty (20) years. Felony offenses relied upon shall not have
15 arisen out of the same transaction or occurrence or series of events
16 closely related in time and location.

17 D. Any person who, without authority, brings into or has in his
18 or her possession in any jail or state penal institution or other
19 place where prisoners are located, cigarettes, cigars, snuff,
20 chewing tobacco, or any other form of tobacco product shall, upon
21 conviction, be guilty of a misdemeanor punishable by imprisonment in
22 the county jail not to exceed one (1) year, or by a fine not
23 exceeding Five Hundred Dollars (\$500.00), or by both such fine and
24 imprisonment.

1 E. Any person who knowingly, willfully and without authority
2 brings into or has in his or her possession in any secure area of a
3 jail or state penal institution or other secure place where
4 prisoners are located any cellular phone or electronic device
5 capable of sending or receiving any electronic communication shall,
6 upon conviction, be guilty of a felony punishable by imprisonment in
7 the custody of the Department of Corrections for a term not
8 exceeding two (2) years, or by a fine not exceeding Two Thousand
9 Five Hundred Dollars (\$2,500.00), or by both such fine and
10 imprisonment.

11 F. "Electronic communication" means any transfer of signs,
12 signals, writings, images, sounds, data, or intelligence of any
13 nature transmitted in whole or part by a wire, radio,
14 electromagnetic, photo-electronic, or photo-optical system, and
15 includes, but is not limited to, the transfer of that communication
16 through the Internet.

17 SECTION 138. AMENDATORY 59 O.S. 2001, Section 1315, as
18 amended by Section 59, Chapter 222, O.S.L. 2010 (59 O.S. Supp. 2010,
19 Section 1315), is amended to read as follows:

20 Section 1315. A. The following persons or classes shall not be
21 bail bondsmen and shall not directly or indirectly receive any
22 benefits from the execution of any bail bond:
23
24

- 1 1. Persons convicted of, or who have pled guilty or nolo
2 contendere to, a felony or a misdemeanor involving dishonesty or
3 moral turpitude;
- 4 2. Jailers;
- 5 3. Police officers;
- 6 4. Committing judges;
- 7 5. Municipal or district court judges;
- 8 6. Prisoners;
- 9 7. Sheriffs, deputy sheriffs and any person having the power to
10 arrest or having anything to do with the control of federal, state,
11 county or municipal prisoners;
- 12 8. Any person who possesses a permit pursuant to the provisions
13 of Section 163.11 of Title 37 of the Oklahoma Statutes or is an
14 officer, director or stockholder of any corporation holding such a
15 permit;
- 16 9. Any person who is an agent or owner of any establishment at
17 which ~~low-point~~ beer as defined by Section 163.2 of Title 37 of the
18 Oklahoma Statutes is sold for on-premises consumption;
- 19 10. Any person who holds any license provided for in Section
20 518 of Title 37 of the Oklahoma Statutes or is an agent or officer
21 of any such licensee, except for an individual holding an employee
22 license pursuant to paragraph 20 of subsection A of Section 518 of
23 Title 37 of the Oklahoma Statutes;

24

1 11. Any person who holds any license or permit from any city,
2 town, county, or other governmental subdivision for the operation of
3 any private club at which alcoholic beverages are consumed or
4 provided; and

5 12. Any person or agent of a retail liquor package store.

6 B. This section shall not apply to a sheriff, deputy sheriff,
7 police officer, or officer of the law who is not on duty and who
8 assists in the apprehension of a defendant.

9 C. The provisions of this section shall not apply to persons
10 possessing permits or licenses pertaining to ~~low-point~~ beer or
11 alcoholic beverages, as defined in Sections 163.2 and 506 of Title
12 37 of the Oklahoma Statutes, which were issued prior to May 23,
13 1984. No one shall be permitted to maintain an office for
14 conducting bail bonds business where ~~low-point~~ beer or alcoholic
15 beverages are sold for on-premises consumption.

16 SECTION 139. AMENDATORY 60 O.S. 2001, Section 178.4, as
17 last amended by Section 1, Chapter 195, O.S.L. 2010 (60 O.S. Supp.
18 2010, Section 178.4), is amended to read as follows:

19 Section 178.4 A. Trusts created under the provisions of
20 Sections 176 through 180.55 of this title or any amendments or
21 extensions thereof shall not include any trust purpose, function nor
22 activity in the distribution centers for ~~intoxicating~~ alcoholic
23 ~~beverages and low-point beer~~ as defined in Section 506 of Title 37
24 of the Oklahoma Statutes; nor shall it include a residential

1 enterprise or function except as provided in Section 178.6 of this
2 title.

3 B. Nothing in this section shall preclude the financing,
4 construction, ownership or leasing of a warehouse as a permissible
5 trust purpose, function or activity, so long as such warehouse is
6 not used directly or indirectly for housing, storage or distribution
7 of ~~intoxicating~~ alcoholic beverages or low point beer as defined in
8 Section 506 of Title 37 of the Oklahoma Statutes.

9 SECTION 140. AMENDATORY 63 O.S. 2001, Section 1-1522, as
10 amended by Section 3, Senate Joint Resolution No. 21, p. 2357,
11 O.S.L. 2003 (63 O.S. Supp. 2010, Section 1-1522), is amended to read
12 as follows:

13 Section 1-1522. As used in this act:

14 1. "Educational facility" means a building owned, leased or
15 under the control of a public or private school system, college or
16 university;

17 2. "Health facility" means an entity which provides health
18 services, including, but not limited to, hospitals, nursing homes,
19 long-term care facilities, kidney disease treatment centers, health
20 maintenance organizations and ambulatory treatment centers;

21 3. "Indoor workplace" means any indoor place of employment or
22 employment-type service for or at the request of another individual
23 or individuals, or any public or private entity, whether part-time
24 or full-time and whether for compensation or not. Such services

1 shall include, without limitation, any service performed by an
2 owner, employee, independent contractor, agent, partner, proprietor,
3 manager, officer, director, apprentice, trainee, associate, servant
4 or volunteer. An indoor workplace includes work areas, employee
5 lounges, restrooms, conference rooms, classrooms, employee
6 cafeterias, hallways, any other spaces used or visited by employees,
7 and all space between a floor and ceiling that is predominantly or
8 totally enclosed by walls or windows, regardless of doors, doorways,
9 open or closed windows, stairways, or the like. The provisions of
10 this section shall apply to such indoor workplace at any given time,
11 whether or not work is being performed;

12 4. "Meeting" means a meeting as defined in the Oklahoma Open
13 Meeting Act;

14 5. "Public body" means a public body as defined in the Oklahoma
15 Open Meeting Act;

16 6. "Public place" means any enclosed indoor area where
17 individuals other than employees are invited or permitted;

18 7. "Restaurant" means any eating establishment regardless of
19 seating capacity;

20 8. "Smoking" means the carrying by a person of a lighted cigar,
21 cigarette, pipe or other lighted smoking device; and

22 9. "Stand-alone bar", "stand-alone tavern", and "cigar bar"
23 mean an establishment that derives more than sixty percent (60%) of
24 its gross receipts, subject to verification by competent authority,

1 from the sale of alcoholic beverages and ~~low-point~~ beer and no
2 person under twenty-one (21) years of age is admitted, except for
3 members of a musical band employed or hired as provided in paragraph
4 2 of subsection B of Section 537 of Title 37 of the Oklahoma
5 Statutes and that is not located within, and does not share any
6 common entryway or common indoor area with, any other enclosed
7 indoor workplace, including a restaurant.

8 SECTION 141. AMENDATORY 68 O.S. 2001, Section 205, as
9 last amended by Section 2, Chapter 459, O.S.L. 2010 (68 O.S. Supp.
10 2010, Section 205), is amended to read as follows:

11 Section 205. A. The records and files of the Oklahoma Tax
12 Commission concerning the administration of the Uniform Tax
13 Procedure Code or of any state tax law shall be considered
14 confidential and privileged, except as otherwise provided for by
15 law, and neither the Tax Commission nor any employee engaged in the
16 administration of the Tax Commission or charged with the custody of
17 any such records or files nor any person who may have secured
18 information from the Tax Commission shall disclose any information
19 obtained from the records or files or from any examination or
20 inspection of the premises or property of any person.

21 B. Except as provided in paragraph 26 of subsection C of this
22 section, neither the Tax Commission nor any employee engaged in the
23 administration of the Tax Commission or charged with the custody of
24 any such records or files shall be required by any court of this

1 state to produce any of the records or files for the inspection of
2 any person or for use in any action or proceeding, except when the
3 records or files or the facts shown thereby are directly involved in
4 an action or proceeding pursuant to the provisions of the Uniform
5 Tax Procedure Code or of the state tax law, or when the
6 determination of the action or proceeding will affect the validity
7 or the amount of the claim of the state pursuant to any state tax
8 law, or when the information contained in the records or files
9 constitutes evidence of violation of the provisions of the Uniform
10 Tax Procedure Code or of any state tax law.

11 C. The provisions of this section shall not prevent the Tax
12 Commission from disclosing the following information and no
13 liability whatsoever, civil or criminal, shall attach to any member
14 of the Tax Commission or any employee thereof for any error or
15 omission in the disclosure of such information:

16 1. The delivery to a taxpayer or a duly authorized
17 representative of the taxpayer of a copy of any report or any other
18 paper filed by the taxpayer pursuant to the provisions of the
19 Uniform Tax Procedure Code or of any state tax law;

20 2. The exchange of information that is not protected by the
21 federal Privacy Protection Act, 42 U.S.C., Section 2000aa et seq.,
22 pursuant to reciprocal agreements entered into by the Tax Commission
23 and other state agencies or agencies of the federal government;

24

1 3. The publication of statistics so classified as to prevent
2 the identification of a particular report and the items thereof;

3 4. The examination of records and files by the State Auditor
4 and Inspector or the duly authorized agents of the State Auditor and
5 Inspector;

6 5. The disclosing of information or evidence to the Oklahoma
7 State Bureau of Investigation, Attorney General, Oklahoma State
8 Bureau of Narcotics and Dangerous Drugs Control, any district
9 attorney, or agent of any federal law enforcement agency when the
10 information or evidence is to be used by such officials to
11 investigate or prosecute violations of the criminal provisions of
12 the Uniform Tax Procedure Code or of any state tax law or of any
13 federal crime committed against this state. Any information
14 disclosed to the Oklahoma State Bureau of Investigation, Attorney
15 General, Oklahoma State Bureau of Narcotics and Dangerous Drugs
16 Control, any district attorney, or agent of any federal law
17 enforcement agency shall be kept confidential by such person and not
18 be disclosed except when presented to a court in a prosecution for
19 violation of the tax laws of this state or except as specifically
20 authorized by law, and a violation by the Oklahoma State Bureau of
21 Investigation, Attorney General, Oklahoma State Bureau of Narcotics
22 and Dangerous Drugs Control, district attorney, or agent of any
23 federal law enforcement agency by otherwise releasing the
24 information shall be a felony;

1 6. The use by any division of the Tax Commission of any
2 information or evidence in the possession of or contained in any
3 report or return filed with any other division of the Tax
4 Commission;

5 7. The furnishing, at the discretion of the Tax Commission, of
6 any information disclosed by its records or files to any official
7 person or body of this state, any other state, the United States, or
8 foreign country who is concerned with the administration or
9 assessment of any similar tax in this state, any other state or the
10 United States. The provisions of this paragraph shall include the
11 furnishing of information by the Tax Commission to a county assessor
12 to determine the amount of gross household income pursuant to the
13 provisions of Section 8C of Article X of the Oklahoma Constitution
14 or Section 2890 of this title. The Tax Commission shall promulgate
15 rules to give guidance to the county assessors regarding the type of
16 information which may be used by the county assessors in determining
17 the amount of gross household income pursuant to Section 8C of
18 Article X of the Oklahoma Constitution or Section 2890 of this
19 title. The provisions of this paragraph shall also include the
20 furnishing of information to the State Treasurer for the purpose of
21 administration of the Uniform Unclaimed Property Act;

22 8. The furnishing of information to other state agencies for
23 the limited purpose of aiding in the collection of debts owed by
24 individuals to such requesting agencies;

1 9. The furnishing of information requested by any member of the
2 general public and stated in the sworn lists or schedules of taxable
3 property of public service corporations organized, existing, or
4 doing business in this state which are submitted to and certified by
5 the State Board of Equalization pursuant to the provisions of
6 Section 2858 of this title and Section 21 of Article X of the
7 Oklahoma Constitution, provided such information would be a public
8 record if filed pursuant to Sections 2838 and 2839 of this title on
9 behalf of a corporation other than a public service corporation;

10 10. The furnishing of information requested by any member of
11 the general public and stated in the findings of the Tax Commission
12 as to the adjustment and equalization of the valuation of real and
13 personal property of the counties of the state, which are submitted
14 to and certified by the State Board of Equalization pursuant to the
15 provisions of Section 2865 of this title and Section 21 of Article X
16 of the Oklahoma Constitution;

17 11. The furnishing of information to an Oklahoma wholesaler of
18 ~~low-point~~ beer, licensed under the provisions of Section 163.1 et
19 seq. of Title 37 of the Oklahoma Statutes, or an association or
20 organization whose membership is comprised of such wholesalers, of
21 the licensed retailers authorized by law to purchase ~~low-point~~ beer
22 in this state or the furnishing of information to a licensed
23 Oklahoma wholesaler of ~~low-point~~ beer of shipments by licensed
24 manufacturers into this state;

1 12. The furnishing of information as to the issuance or
2 revocation of any tax permit, license or exemption by the Tax
3 Commission as provided for by law. Such information shall be
4 limited to the name of the person issued the permit, license or
5 exemption, the name of the business entity authorized to engage in
6 business pursuant to the permit, license or exemption, the address
7 of the business entity, and the grounds for revocation;

8 13. The posting of notice of revocation of any tax permit or
9 license upon the premises of the place of business of any business
10 entity which has had any tax permit or license revoked by the Tax
11 Commission as provided for by law. Such notice shall be limited to
12 the name of the person issued the permit or license, the name of the
13 business entity authorized to engage in business pursuant to the
14 permit or license, the address of the business entity, and the
15 grounds for revocation;

16 14. The furnishing of information upon written request by any
17 member of the general public as to the outstanding and unpaid amount
18 due and owing by any taxpayer of this state for any delinquent tax,
19 together with penalty and interest, for which a tax warrant or a
20 certificate of indebtedness has been filed pursuant to law;

21 15. After the filing of a tax warrant pursuant to law, the
22 furnishing of information upon written request by any member of the
23 general public as to any agreement entered into by the Tax
24

1 Commission concerning a compromise of tax liability for an amount
2 less than the amount of tax liability stated on such warrant;

3 16. The disclosure of information necessary to complete the
4 performance of any contract authorized by this title to any person
5 with whom the Tax Commission has contracted;

6 17. The disclosure of information to any person for a purpose
7 as authorized by the taxpayer pursuant to a waiver of
8 confidentiality. The waiver shall be in writing and shall be made
9 upon such form as the Tax Commission may prescribe;

10 18. The disclosure of information required in order to comply
11 with the provisions of Section 2369 of this title;

12 19. The disclosure to an employer, as defined in Sections
13 2385.1 and 2385.3 of this title, of information required in order to
14 collect the tax imposed by Section 2385.2 of this title;

15 20. The disclosure to a plaintiff of a corporation's last-known
16 address shown on the records of the Franchise Tax Division of the
17 Tax Commission in order for such plaintiff to comply with the
18 requirements of Section 2004 of Title 12 of the Oklahoma Statutes;

19 21. The disclosure of information directly involved in the
20 resolution of the protest by a taxpayer to an assessment of tax or
21 additional tax or the resolution of a claim for refund filed by a
22 taxpayer, including the disclosure of the pendency of an
23 administrative proceeding involving such protest or claim, to a
24 person called by the Tax Commission as an expert witness or as a

1 witness whose area of knowledge or expertise specifically addresses
2 the issue addressed in the protest or claim for refund. Such
3 disclosure to a witness shall be limited to information pertaining
4 to the specific knowledge of that witness as to the transaction or
5 relationship between taxpayer and witness;

6 22. The disclosure of information necessary to implement an
7 agreement authorized by Section 2702 of this title when such
8 information is directly involved in the resolution of issues arising
9 out of the enforcement of a municipal sales tax ordinance. Such
10 disclosure shall be to the governing body or to the municipal
11 attorney, if so designated by the governing body;

12 23. The furnishing of information regarding incentive payments
13 made pursuant to the provisions of Sections 3601 through 3609 of
14 this title or incentive payments made pursuant to the provisions of
15 Sections 3501 through 3508 of this title;

16 24. The furnishing to a prospective purchaser of any business,
17 or his or her authorized representative, of information relating to
18 any liabilities, delinquencies, assessments or warrants of the
19 prospective seller of the business which have not been filed of
20 record, established, or become final and which relate solely to the
21 seller's business. Any disclosure under this paragraph shall only
22 be allowed upon the presentment by the prospective buyer, or the
23 buyer's authorized representative, of the purchase contract and a
24 written authorization between the parties;

1 25. The furnishing of information as to the amount of state
2 revenue affected by the issuance or granting of any tax permit,
3 license, exemption, deduction, credit or other tax preference by the
4 Tax Commission as provided for by law. Such information shall be
5 limited to the type of permit, license, exemption, deduction, credit
6 or other tax preference issued or granted, the date and duration of
7 such permit, license, exemption, deduction, credit or other tax
8 preference and the amount of such revenue. The provisions of this
9 paragraph shall not authorize the disclosure of the name of the
10 person issued such permit, license, exemption, deduction, credit or
11 other tax preference, or the name of the business entity authorized
12 to engage in business pursuant to the permit, license, exemption,
13 deduction, credit or other tax preference;

14 26. The examination of records and files of a person or entity
15 by the Oklahoma State Bureau of Narcotics and Dangerous Drugs
16 Control pursuant to a court order by a magistrate in whose
17 territorial jurisdiction the person or entity resides, or where the
18 Tax Commission records and files are physically located. Such an
19 order may only be issued upon a sworn application by an agent of the
20 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control,
21 certifying that the person or entity whose records and files are to
22 be examined is the target of an ongoing investigation of a felony
23 violation of the Uniform Controlled Dangerous Substances Act and
24 that information resulting from such an examination would likely be

1 relevant to that investigation. Any records or information obtained
2 pursuant to such an order may only be used by the Oklahoma State
3 Bureau of Narcotics and Dangerous Drugs Control in the investigation
4 and prosecution of a felony violation of the Uniform Controlled
5 Dangerous Substances Act. Any such order issued pursuant to this
6 paragraph, along with the underlying application, shall be sealed
7 and not disclosed to the person or entity whose records were
8 examined, for a period of ninety (90) days. The issuing magistrate
9 may grant extensions of such period upon a showing of good cause in
10 furtherance of the investigation. Upon the expiration of ninety
11 (90) days and any extensions granted by the magistrate, a copy of
12 the application and order shall be served upon the person or entity
13 whose records were examined, along with a copy of the records or
14 information actually provided by the Tax Commission;

15 27. The disclosure of information, as prescribed by this
16 paragraph, which is related to the proposed or actual usage of tax
17 credits pursuant to Section 2357.7 of this title, the Small Business
18 Capital Formation Incentive Act or the Rural Venture Capital
19 Formation Incentive Act. Unless the context clearly requires
20 otherwise, the terms used in this paragraph shall have the same
21 meaning as defined by Section 2357.7, 2357.61 or 2357.72 of this
22 title. The disclosure of information authorized by this paragraph
23 shall include:

24

- 1 a. the legal name of any qualified venture capital
2 company, qualified small business capital company, or
3 qualified rural small business capital company,
- 4 b. the identity or legal name of any person or entity
5 that is a shareholder or partner of a qualified
6 venture capital company, qualified small business
7 capital company, or qualified rural small business
8 capital company,
- 9 c. the identity or legal name of any Oklahoma business
10 venture, Oklahoma small business venture, or Oklahoma
11 rural small business venture in which a qualified
12 investment has been made by a capital company, or
- 13 d. the amount of funds invested in a qualified venture
14 capital company, the amount of qualified investments
15 in a qualified small business capital company or
16 qualified rural small business capital company and the
17 amount of investments made by a qualified venture
18 capital company, qualified small business capital
19 company, or qualified rural small business capital
20 company;

21 28. The disclosure of specific information as required by
22 Section 46 of Title 62 of the Oklahoma Statutes;

23 29. The disclosure of specific information as required by
24 Section 205.5 of this title; or

1 30. The disclosure of specific information as required by
2 Section ~~3~~ 205.5 of ~~this act~~ Title 68 of the Oklahoma Statutes.

3 D. The Tax Commission shall cause to be prepared and made
4 available for public inspection in the office of the Tax Commission
5 in such manner as it may determine an annual list containing the
6 name and post office address of each person, whether individual,
7 corporate, or otherwise, making and filing an income tax return with
8 the Tax Commission.

9 It is specifically provided that no liability whatsoever, civil
10 or criminal, shall attach to any member of the Tax Commission or any
11 employee thereof for any error or omission of any name or address in
12 the preparation and publication of the list.

13 E. The Tax Commission shall prepare or cause to be prepared a
14 report on all provisions of state tax law that reduce state revenue
15 through exclusions, deductions, credits, exemptions, deferrals or
16 other preferential tax treatments. The report shall be prepared not
17 later than October 1 of each even-numbered year and shall be
18 submitted to the Governor, the President Pro Tempore of the Senate
19 and the Speaker of the House of Representatives. The Tax Commission
20 may prepare and submit supplements to the report at other times of
21 the year if additional or updated information relevant to the report
22 becomes available. The report shall include, for the previous
23 fiscal year, the Tax Commission's best estimate of the amount of
24 state revenue that would have been collected but for the existence

1 of each such exclusion, deduction, credit, exemption, deferral or
2 other preferential tax treatment allowed by law. The Tax Commission
3 may request the assistance of other state agencies as may be needed
4 to prepare the report. The Tax Commission is authorized to require
5 any recipient of a tax incentive or tax expenditure to report to the
6 Tax Commission such information as requested so that the Tax
7 Commission may provide the information to the Incentive Review
8 Committee or fulfill its obligations as required by this subsection.
9 The Tax Commission may require this information to be submitted in
10 an electronic format. The Tax Commission may disallow any claim of
11 a person for a tax incentive due to its failure to file a report as
12 required under the authority of this subsection. The Tax Commission
13 may consult with the Incentive Review Committee to develop a
14 reporting system to obtain the information requested in a manner
15 that is the least burdensome on the taxpayer.

16 F. It is further provided that the provisions of this section
17 shall be strictly interpreted and shall not be construed as
18 permitting the disclosure of any other information contained in the
19 records and files of the Tax Commission relating to income tax or to
20 any other taxes.

21 G. Unless otherwise provided for in this section, any violation
22 of the provisions of this section shall constitute a misdemeanor and
23 shall be punishable by the imposition of a fine not exceeding One
24 Thousand Dollars (\$1,000.00) or by imprisonment in the county jail

1 for a term not exceeding one (1) year, or by both such fine and
2 imprisonment, and the offender shall be removed or dismissed from
3 office.

4 H. Offenses described in Section 2376 of this title shall be
5 reported to the appropriate district attorney of this state by the
6 Tax Commission as soon as the offenses are discovered by the Tax
7 Commission or its agents or employees. The Tax Commission shall
8 make available to the appropriate district attorney or to the
9 authorized agent of the district attorney its records and files
10 pertinent to prosecutions, and such records and files shall be fully
11 admissible as evidence for the purpose of such prosecutions.

12 SECTION 142. AMENDATORY Section 3, Chapter 458, O.S.L.
13 2002 (68 O.S. Supp. 2010, Section 216.2), is amended to read as
14 follows:

15 Section 216.2 For the purpose of encouraging the voluntary
16 disclosure and payment of taxes owed to this state, the Oklahoma Tax
17 Commission is hereby authorized and directed to establish a tax
18 amnesty program during which penalties and one-half interest due on
19 delinquent taxes assessed by the Tax Commission and imposed pursuant
20 to the provisions of ~~Title 68 of the Oklahoma Statutes~~ this title
21 and the Oklahoma Alcoholic Beverage ~~Control~~ Law Enforcement Act
22 shall be waived, except as provided herein. The amnesty program
23 shall not include any penalties or interest that may have been
24 assessed pursuant to the Ad Valorem Tax Code or the Motor Vehicle

1 Excise Tax Code or penalties or interest assessed by an agency other
2 than the Tax Commission. A taxpayer shall be entitled to a waiver
3 of penalty and one-half interest due on taxes which are delinquent
4 prior to August 15, 2002, if the taxpayer voluntarily files
5 delinquent tax returns and pays the taxes and remaining interest due
6 during the amnesty period. The amnesty period shall extend from
7 August 15, 2002, through November 15, 2002. The waiver of penalties
8 and one-half (1/2) interest shall apply to:

- 9 1. The under-reporting of tax liabilities;
- 10 2. The nonpayment of taxes; and
- 11 3. The nonreporting of tax liabilities.

12 The Tax Commission shall promulgate rules detailing the terms
13 and other conditions of this program.

14 The Tax Commission is authorized to expend necessary available
15 funds to publicly advertise this program and shall be exempt from
16 the provisions of Section 85.7 of Title 74 for the purpose of
17 implementing this section.

18 SECTION 143. AMENDATORY 70 O.S. 2001, Section 24-101.3,
19 as last amended by Section 84, Chapter 228, O.S.L. 2009 (70 O.S.
20 Supp. 2010, Section 24-101.3), is amended to read as follows:

21 Section 24-101.3 A. Any student who is guilty of an act
22 described in paragraph 1 of subsection C of this section may be
23 suspended out-of-school in accordance with the provisions of this
24 section. Each school district board of education shall adopt a

1 policy with procedures which provides for out-of-school suspension
2 of students. The policy shall address the term of the out-of-school
3 suspension, provide an appeals process as described in subsection B
4 of this section, and provide that before a student is suspended out-
5 of-school, the school or district administration shall consider and
6 apply, if appropriate, alternative in-school placement options that
7 are not to be considered suspension, such as placement in an
8 alternative school setting, reassignment to another classroom, or
9 in-school detention. The policy shall address education for
10 students subject to the provisions of subsection D of this section
11 and whether participation in extracurricular activities shall be
12 permitted.

13 B. 1. Students suspended out-of-school for ten (10) or fewer
14 days shall have the right to appeal the decision of the
15 administration as provided in the policy required in subsection A of
16 this section. The policy shall specify whether appeals for short-
17 term suspensions as provided in this subsection shall be to a local
18 committee composed of district administrators or teachers or both,
19 or to the district board of education. Upon full investigation of
20 the matter, the committee or board shall determine the guilt or
21 innocence of the student and the reasonableness of the term of the
22 out-of-school suspension. If the policy requires appeals for short-
23 term suspensions to a committee, the policy adopted by the board

24

1 may, but is not required to, provide for appeal of the committee's
2 decision to the board.

3 2. Students suspended out-of-school for more than ten (10) days
4 and students suspended pursuant to the provisions of paragraph 2 of
5 subsection C of this section may request a review of the suspension
6 with the administration of the district. If the administration does
7 not withdraw the suspension, the student shall have the right to
8 appeal the decision of the administration to the district board of
9 education. Except as otherwise provided for in paragraph 2 of
10 subsection C of this section, no out-of-school suspension shall
11 extend beyond the current semester and the succeeding semester.
12 Upon full investigation of the matter, the board shall determine the
13 guilt or innocence of the student and the reasonableness of the term
14 of the out-of-school suspension. A board of education may conduct
15 the hearing and render the final decision or may appoint a hearing
16 officer to conduct the hearing and render the final decision. The
17 decision of the district board of education or the hearing officer,
18 if applicable, shall be final.

19 C. 1. Students who are guilty of any of the following acts may
20 be suspended out-of-school by the administration of the school or
21 district:

- 22 a. violation of a school regulation,
- 23 b. immorality,

24

- 1 c. adjudication as a delinquent for an offense that is
2 not a violent offense. For the purposes of this
3 section, "violent offense" shall include those
4 offenses listed as the exceptions to the term
5 "nonviolent offense" as specified in Section 571 of
6 Title 57 of the Oklahoma Statutes. "Violent offense"
7 shall include the offense of assault with a dangerous
8 weapon but shall not include the offense of assault,
9 d. possession of an ~~intoxicating~~ alcoholic beverage, ~~low~~
10 ~~point beer~~, as defined by Section ~~163.2~~ 506 of Title
11 37 of the Oklahoma Statutes, or missing or stolen
12 property if the property is reasonably suspected to
13 have been taken from a student, a school employee, or
14 the school during school activities, and
15 e. possession of a dangerous weapon or a controlled
16 dangerous substance, as defined in the Uniform
17 Controlled Dangerous Substances Act. Possession of a
18 firearm shall result in out-of-school suspension as
19 provided in paragraph 2 of this subsection.

20 2. Any student found in possession of a firearm while on any
21 public school property or while in any school bus or other vehicle
22 used by a public school for transportation of students or teachers
23 shall be suspended out-of-school for a period of not less than one
24 (1) year, to be determined by the district board of education

1 pursuant to the provisions of this section. The term of the
2 suspension may be modified by the district superintendent on a case-
3 by-case basis. For purposes of this paragraph the term "firearm"
4 shall mean and include all weapons as defined by 18 U.S.C., Section
5 921.

6 3. Any student in grades six through twelve found to have
7 assaulted, attempted to cause physical bodily injury, or acted in a
8 manner that could reasonably cause bodily injury to a school
9 employee or a person volunteering for a school as prohibited
10 pursuant to Section 81 of this act shall be suspended for the
11 remainder of the current semester and the next consecutive semester,
12 to be determined by the board of education pursuant to the
13 provisions of this section. The term of the suspension may be
14 modified by the district superintendent on a case-by-case basis.

15 D. At its discretion a school district may provide an education
16 plan for students suspended out-of-school for five (5) or fewer days
17 pursuant to the provisions of this subsection. The following
18 provisions shall apply to students who are suspended out-of-school
19 for more than five (5) days and who are guilty of acts listed in
20 subparagraphs a, b, c and d of paragraph 1 of subsection C of this
21 section. Upon the out-of-school suspension, the parent or guardian
22 of a student suspended out-of-school pursuant to the provisions of
23 this subsection shall be responsible for the provision of a
24 supervised, structured environment in which the parent or guardian

1 shall place the student and bear responsibility for monitoring the
2 student's educational progress until the student is readmitted into
3 school. The school administration shall provide the student with an
4 education plan designed for the eventual reintegration of the
5 student into school which provides only for the core units in which
6 the student is enrolled. A copy of the education plan shall also be
7 provided to the student's parent or guardian. For the purposes of
8 this section, the core units shall consist of the minimum English,
9 mathematics, science, social studies and art units required by the
10 State Board of Education for grade completion in grades kindergarten
11 through eight and for high school graduation in grades nine through
12 twelve. The plan shall set out the procedure for education and
13 shall address academic credit for work satisfactorily completed.

14 E. A student who has been suspended out-of-school from a public
15 or private school in the State of Oklahoma or another state for a
16 violent act or an act showing deliberate or reckless disregard for
17 the health or safety of faculty or other students shall not be
18 entitled to enroll in a public school of this state, and no public
19 school shall be required to enroll the student, until the terms of
20 the suspension have been met or the time of suspension has expired.

21 F. No public school of this state shall be required to provide
22 education services in the regular school setting to any student who
23 has been adjudicated as a delinquent for an offense defined in
24 Section 571 of Title 57 of the Oklahoma Statutes as an exception to

1 a nonviolent offense or convicted as an adult of an offense defined
2 in Section 571 of Title 57 of the Oklahoma Statutes as an exception
3 to a nonviolent offense, who has been removed from a public or
4 private school in the State of Oklahoma or another state by
5 administrative or judicial process for a violent act or an act
6 showing deliberate or reckless disregard for the health or safety of
7 faculty or other students, or who has been suspended as provided for
8 in paragraph 3 of subsection C of this section until the school in
9 which the student is subsequently enrolled determines that the
10 student no longer poses a threat to self, other students or school
11 district faculty or employees. Until the school in which such
12 student subsequently enrolls or re-enrolls determines that the
13 student no longer poses a threat to self, other students or school
14 district faculty or employees, the school may provide education
15 services through an alternative school setting, home-based
16 instruction, or other appropriate setting. If the school provides
17 education services to such student at a district school facility,
18 the school shall notify any student or school district faculty or
19 employee victims of such student, when known, and shall ensure that
20 the student will not be allowed in the general vicinity of or
21 contact with a victim of the student, provided such victim notifies
22 the school of the victim's desire to refrain from contact with the
23 offending student.

24

1 G. Students suspended out-of-school who are on an
2 individualized education plan pursuant to the Individuals with
3 Disabilities Education Act, P.L. No. 101-476, or who are subject to
4 the provisions of subsection F of this section and who are on an
5 individualized education plan shall be provided the education and
6 related services in accordance with the student's individualized
7 education plan.

8 H. A student who has been suspended for a violent offense which
9 is directed towards a classroom teacher shall not be allowed to
10 return to that teacher's classroom without the approval of that
11 teacher.

12 I. No school board, administrator or teacher may be held
13 civilly liable for any action taken in good faith which is
14 authorized by this section.

15 SECTION 144. AMENDATORY 70 O.S. 2001, Section 24-102, is
16 amended to read as follows:

17 Section 24-102. The superintendent, principal, teacher, or
18 security personnel of any public school in the State of Oklahoma,
19 upon reasonable suspicion, shall have the authority to detain and
20 search or authorize the search, of any pupil or property in the
21 possession of the pupil when said pupil is on any school premises,
22 or while in transit under the authority of the school, or while
23 attending any function sponsored or authorized by the school, for
24 dangerous weapons, controlled dangerous substances, as defined in

1 the Uniform Controlled Dangerous Substances Act, ~~intoxicating~~
2 alcoholic beverages, ~~low point beer~~, as defined by Section ~~163.2~~ 506
3 of Title 37 of the Oklahoma Statutes, or for missing or stolen
4 property if said property be reasonably suspected to have been taken
5 from a pupil, a school employee or the school during school
6 activities. The search shall be conducted by a person of the same
7 sex as the person being searched and shall be witnessed by at least
8 one other authorized person, said person to be of the same sex if
9 practicable.

10 The extent of any search conducted pursuant to this section
11 shall be reasonably related to the objective of the search and not
12 excessively intrusive in light of the age and sex of the student and
13 the nature of the infraction. In no event shall a strip search of a
14 student be allowed. No student's clothing, except cold weather
15 outerwear, shall be removed prior to or during the conduct of any
16 warrantless search.

17 The superintendent, principal, teacher, or security personnel
18 searching or authorizing the search shall have authority to detain
19 the pupil to be searched and to preserve any dangerous weapons,
20 controlled dangerous substances, ~~intoxicating~~ alcoholic beverages,
21 ~~low point beer~~, or missing or stolen property that might be in the
22 pupil's possession including the authority to authorize any other
23 persons they deem necessary to restrain such pupil or to preserve
24 any dangerous weapons, controlled dangerous substances, ~~intoxicating~~

1 alcoholic beverages, ~~low point beer~~, or missing or stolen property.
2 Students found to be in possession of such an item shall be subject
3 to the provisions of Section 24-101.3 of this title.

4 Pupils shall not have any reasonable expectation of privacy
5 towards school administrators or teachers in the contents of a
6 school locker, desk, or other school property. School personnel
7 shall have access to school lockers, desks, and other school
8 property in order to properly supervise the welfare of pupils.
9 School lockers, desks, and other areas of school facilities may be
10 opened and examined by school officials at any time and no reason
11 shall be necessary for such search. Schools shall inform pupils in
12 the student discipline code that they have no reasonable expectation
13 of privacy rights towards school officials in school lockers, desks,
14 or other school property.

15 SECTION 145. AMENDATORY 70 O.S. 2001, Section 24-132, is
16 amended to read as follows:

17 Section 24-132. A. Any public school administrator, teacher or
18 counselor having reasonable cause to suspect that a student is under
19 the influence of ~~low point beer as defined in Section 163.2 of Title~~
20 ~~37 of the Oklahoma Statutes~~, alcoholic beverages as defined in
21 Section 506 of Title 37 of the Oklahoma Statutes or a controlled
22 dangerous substance as defined in Section 2-101 of Title 63 of the
23 Oklahoma Statutes or has in the student's possession ~~low point beer~~,
24 alcoholic beverages or a controlled dangerous substance, who reports

1 such information to the appropriate school official, court
2 personnel, community substance abuse prevention and treatment
3 personnel or any law enforcement agency, pursuant to the school's
4 policy shall have immunity from any civil liability that might
5 otherwise be incurred or imposed as a result of the making of such a
6 report.

7 B. Every school authority shall immediately deliver any
8 controlled dangerous substance, removed or otherwise seized from any
9 minor or other person, to a law enforcement authority for
10 appropriate disposition.

11 SECTION 146. AMENDATORY 70 O.S. 2001, Section 24-138, is
12 amended to read as follows:

13 Section 24-138. A. Whenever it appears to any public school
14 teacher that a student may be under the influence of ~~low point beer~~
15 ~~as defined in Section 163.2 of Title 37 of the Oklahoma Statutes,~~
16 alcoholic beverages as defined in Section 506 of Title 37 of the
17 Oklahoma Statutes or a controlled dangerous substance, as defined in
18 Section 2-101 of Title 63 of the Oklahoma Statutes, that teacher
19 shall report the matter, upon recognition, to the school principal
20 or his or her designee. The principal or designee shall immediately
21 notify the superintendent of schools or designee and a parent or
22 legal guardian of the student of the matter.

23 No officer or employee of any public school district or member
24 of any school board shall be subject to any civil liability for any

1 statement, report, or action taken in assisting or referring for
2 assistance to any medical treatment, social service agency or
3 facility or any substance abuse prevention and treatment program any
4 student reasonably believed to be abusing or incapacitated by the
5 use of ~~low-point beer~~, alcoholic beverages or a controlled dangerous
6 substance unless such assistance or referral was made in bad faith
7 or with malicious purpose. No such officer or employee of any
8 public school district, member of any school board, school or school
9 district shall be responsible for any treatment costs incurred by a
10 student as a result of any such assistance or referral to any
11 medical treatment, social service agency or facility, or substance
12 abuse prevention and treatment program.

13 B. Every school district shall have and deliver to each
14 classroom teacher a written policy that such teachers shall follow
15 if they have a student who appears to be under the influence of ~~low-~~
16 ~~point beer~~, alcoholic beverages or a controlled dangerous substance
17 in their classroom. The written policy shall be developed by the
18 local superintendent of schools and adopted by the local board of
19 education. The provisions of subsection A of this section shall be
20 the minimum requirements of such written policy. The written policy
21 shall be filed with the office of the State Superintendent of Public
22 Instruction within ninety (90) days of the effective date of this
23 act. If such filing is not timely made, the public schools in such
24

1 school district shall lose their accreditation until the written
2 policy is filed.

3 SECTION 147. AMENDATORY 70 O.S. 2001, Section 1210.229-
4 3, is amended to read as follows:

5 Section 1210.229-3 For purposes of the Oklahoma Alcohol and
6 Drug Abuse Prevention and Life Skills Education Act, Section
7 1210.229-1 et seq. of this title:

8 1. "Alcohol" means any ~~low point beer as defined in Section~~
9 ~~163.2 of Title 37 of the Oklahoma Statutes~~ or alcoholic beverage as
10 defined in Section 506 of Title 37 of the Oklahoma Statutes;

11 2. "Board" means the State Board of Education;

12 3. "Department" means the State Department of Education;

13 4. "Drug" means a controlled dangerous substance as defined in
14 the Uniform Controlled Dangerous Substances Act, Section 2-101 et
15 seq. of Title 63 of the Oklahoma Statutes; and

16 5. "Life skills" includes but is not limited to fostering
17 skills in responsibility, decision making, communication, self-
18 confidence and goal setting. Life skills shall not include values
19 clarification or sex education.

20 SECTION 148. AMENDATORY Section 56, Chapter 363, O.S.L.
21 2005 (74 O.S. Supp. 2010, Section 2255), is amended to read as
22 follows:

23 Section 2255. A. There is hereby created a petty cash fund in
24 the revolving fund of each of the properties or activities with

1 sales under the control of the Department. The petty cash funds
2 shall be such amounts as are determined to be necessary by the
3 Director of the Office of State Finance and the Executive Director
4 of the Department. Petty cash funds may be expended for the payment
5 of emergency purchases, for postage due, for bank charges, for
6 resale merchandise and firewood purchases under One Hundred Dollars
7 (\$100.00), for refund of charges for returned merchandise, for
8 refund of advance deposits, to reimburse lease concessions, for
9 purchases charged to guests' statement of account, to reimburse
10 employees for gratuities charged to guests' statement of accounts,
11 to pay artisans the net proceeds resulting from the sale of
12 consignment arts and crafts products, to purchase beverage and
13 vending licenses, and to purchase ~~low-point~~ beer.

14 B. The petty cash funds may be reimbursed by the State
15 Treasurer upon the filing of a claim with the proper receipts or
16 from the agency clearing account if the petty cash disbursement was
17 a refund of erroneous or excessive collections or credits. Petty
18 cash funds may be reimbursed from the agency clearing account for
19 shortages accruing to the account. Reimbursements are to be made
20 from the revolving fund. The Director of the Office of State
21 Finance shall prescribe all forms, systems and procedures for
22 administering the petty cash funds of the various properties or
23 activities with sales of the Department.

24

1 SECTION 149. REPEALER 37 O.S. 2001, Sections 163.15,
2 516, and Section 2, Chapter 156, O.S.L. 2003 (37 O.S. Supp. 2010,
3 Section 521.1), are hereby repealed.

4 SECTION 150. This act shall become effective January 1, 2012.

5 SECTION 151. The provisions of this act shall be contingent
6 upon approval of the amendments to Article XXVIII of the
7 Constitution of the State of Oklahoma as contained in Enrolled House
8 Joint Resolution No. _____ of the 1st Session of the 53rd Oklahoma
9 Legislature.

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