

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 HOUSE BILL 2953

By: McAffrey and Dorman

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5  
6 AS INTRODUCED

7 An Act relating to intoxicating liquors; amending 37  
8 O.S. 2011, Section 163.1, 505 and 520A, which relate  
9 to personal use permit; allowing certain acts related  
to personal use permits; providing an effective date;  
and declaring an emergency.

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

13 SECTION 1. AMENDATORY 37 O.S. 2011, Section 163.1, is  
14 amended to read as follows:

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

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

14 SECTION 2. AMENDATORY 37 O.S. 2011, Section 505, is  
15 amended to read as follows:

16 Section 505. A. No person shall manufacture, rectify, sell,  
17 possess, store, import into or export from this state, transport, or  
18 deliver any alcoholic beverage except as specifically provided in  
19 the Oklahoma Alcoholic Beverage Control Act. Provided, that nothing  
20 herein shall prevent the possession and transportation of alcoholic  
21 beverages for the personal use of the possessor and his or her  
22 family and guests, so long as the Oklahoma excise tax has been paid  
23 thereon, except for beer. Provided, further, that nothing herein  
24 shall prevent a person from making beer, as defined by Section 506

1 of this title, cider, or wine, as defined by Section 506 of this  
2 title, by simple fermentation and without distillation for personal  
3 use if the maker of such beverages has first applied for and  
4 possesses a valid personal use permit issued by the Alcoholic  
5 Beverage Laws Enforcement Commission as provided in Section 4 520A  
6 of this ~~act~~ title and the total volume of beer, cider or wine  
7 produced in any given calendar year is less than two hundred (200)  
8 gallons. ~~No~~ Except as provided in Section 520A of this title, no  
9 beverages made pursuant to a personal use permit shall be sold or  
10 offered for sale.

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

19 2. The possession, transportation and dispensation of wine by  
20 any authorized representative of any church for the conducting of a  
21 bona fide rite or religious ceremony conducted by such church shall  
22 not be prohibited by the Oklahoma Alcoholic Beverage Control Act;  
23 nor shall such act prevent the sale, shipping or delivery of  
24 sacramental wine by any person holding a sacramental wine supplier

1 license issued pursuant to the Oklahoma Alcoholic Beverage Control  
2 Act to any religious corporation or society of this state holding a  
3 valid exemption from taxation issued pursuant to Section 501(a) of  
4 the Internal Revenue Code, 1954, and listed as an exempt  
5 organization in Section 501(c) (3) of the Internal Revenue Code,  
6 1954, of the United States, as amended.

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

15 C. 1. Except as otherwise authorized by law, it is unlawful  
16 for any manufacturer, wholesaler or retailer of alcoholic beverages,  
17 located and doing business from outside this state, to make retail  
18 sales of alcoholic beverages to purchasers located in this state or  
19 to ship alcoholic beverages sold at retail to persons located in  
20 this state. Any person who engages in the sale or shipping of  
21 alcoholic beverages in violation of the provisions of this  
22 subsection, upon conviction, shall be guilty of a felony punishable  
23 by imprisonment for not more than five (5) years, if the sale or  
24 delivery is made to a person under twenty-one (21) years of age, or

1 a misdemeanor, if the sale or delivery is made to a person twenty-  
2 one (21) years of age or older.

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

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

8 SECTION 3. AMENDATORY 37 O.S. 2011, Section 520A, is  
9 amended to read as follows:

10 Section 520A. The Alcoholic Beverage Laws Enforcement  
11 Commission is authorized to issue, upon application of a person who  
12 is twenty-one (21) years of age or older, an annual personal use  
13 permit which when granted authorizes the holder thereof to make,  
14 store, possess and transport for personal use, low-point beer as  
15 defined by Section 163.2 of this title, beer as defined by Section  
16 506 of this title, fermented non-distilled ciders, and wine as  
17 defined by Section 506 of this title. The total volume of each  
18 authorized beverage made and possessed for personal use in a given  
19 calendar year shall be limited to a volume less than two hundred  
20 (200) gallons. The term "personal use" as used in this section and  
21 Sections 163.1 and 505 of ~~Title 37 of the Oklahoma Statutes~~ this  
22 title means the individual making beverages pursuant to a valid  
23 personal use permit issued by the Alcoholic Beverage Laws  
24 Enforcement Commission produces such beverages solely for his or her

1 use and consumption, for consumption by his or her family and  
2 guests, and for transport to and use at organized affairs,  
3 exhibitions or competitions, including, but not limited to,  
4 homemaker contests, tastings or judgings. No beverage made pursuant  
5 to a personal use permit shall be sold or offered for sale. The  
6 sale of tickets for admission to an event where beverages are served  
7 that were produced pursuant to a license issued pursuant to this  
8 section shall not be prohibited if the following conditions are met:

9 1. The organization holding the event is exempt from taxation  
10 pursuant to the provisions of subsection (c) of Section 501 of the  
11 United States Internal Revenue Code, as amended, 26 U.S.C., Section  
12 501(c) et seq.; and

13 2. The beverages were donated.

14 SECTION 4. This act shall become effective July 1, 2012.

15 SECTION 5. It being immediately necessary for the preservation  
16 of the public peace, health and safety, an emergency is hereby  
17 declared to exist, by reason whereof this act shall take effect and  
18 be in full force from and after its passage and approval.

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20 53-2-9204 CJB 01/19/12

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