

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 3092

By: Williams

4
5 AS INTRODUCED

6 An Act relating to intoxicating liquors; amending 37
7 O.S. 2011, Sections 163.7, 163.8, 163.10, 163.11,
8 163.11a, 163.16, 213.1, 241 and 244, which relate to
9 low-point beer; removing the district court from the
10 low-point beer licensing and regulation process;
11 updating references to reflect modification of low-
12 point beer regulation; requiring certain information
13 be provided to the Oklahoma Tax Commission instead of
14 district court; requiring permit protests be heard by
15 Oklahoma Tax Commission; updating references to
16 reflect modification of low-point beer regulation;
17 and providing an effective date.

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

19 SECTION 1. AMENDATORY 37 O.S. 2011, Section 163.7, is
20 amended to read as follows:

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

1 1. Manufacturers: Every manufacturer, located and doing
2 business in this state, shall, before commencing the manufacture of
3 low-point beer, obtain from the Tax Commission a permit to engage in
4 such manufacture. As a condition of the issuance of this permit,
5 such manufacturer shall pay to the Tax Commission a license tax of
6 Four Hundred Fifty Dollars (\$450.00), which shall cover a three-year
7 period commencing with the effective date of such permit. This
8 permit must be renewed and the license tax paid thereafter at the
9 expiration of the preceding permit and license tax period. Each and
10 every other manufacturer of such beverages, coming within the
11 provisions of Section 163.1 et seq. of this title, shall before
12 selling or offering for sale such beverages within the State of
13 Oklahoma, qualify with the Secretary of State of the State of
14 Oklahoma for a permit to do business within the State of Oklahoma
15 and, after so qualifying, shall obtain a permit or license from the
16 Tax Commission and, in addition to any other license, taxes or fees,
17 pay therefor a license tax of Five Hundred Dollars (\$500.00), which
18 shall cover a one-year period commencing with the effective date of
19 such permit. The permit or license shall be for the privilege of
20 doing business in Oklahoma as a manufacturer of low-point beer. The
21 permit must be renewed and the license tax paid annually thereafter
22 at the expiration of the preceding permit and license tax period.
23 The receipt of payment of such permit or license shall be on file
24 with the Tax Commission before such manufacturer shall sell, or

1 offer for sale, such beverages to any person within the State of
2 Oklahoma. Provided, a manufacturer located and doing business in
3 this state may sell not more than five thousand (5,000) barrels
4 annually of its own products directly to consumers by procuring a
5 retail license.

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

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

1 Every wholesaler, located and doing business outside the state
2 desiring to pay the excise tax on sales to retail dealers, as
3 provided for in Section 163.1 et seq. of this title, shall procure
4 annually a permit and pay annually the license tax required of
5 wholesalers located and doing business in this state.

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

10 Permits issued to wholesalers shall not be transferable from one
11 person to another person but shall be transferable from one location
12 to another location; and

13 3. Retail Dealers: Every retail dealer shall, before offering
14 low-point beer for sale to the public, obtain from the Tax
15 Commission a permit to engage in such sales pursuant to Section
16 163.11 of this title, and shall pay to the Tax Commission, in
17 advance of the issuance of the permit, the license tax, as follows:

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

1 Dollars (\$100.00) shall be deposited in the Community-
2 based Substance Abuse Revolving Fund established in
3 Section ~~2~~ 2-311 of ~~this act~~ Title 43A of the Oklahoma
4 Statutes. The fee for every permit issued or renewed
5 on or after July 1, 2006, shall be Five Hundred
6 Dollars (\$500.00), of which Two Hundred Dollars
7 (\$200.00) shall be deposited in the Community-based
8 Substance Abuse Revolving Fund,

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

22 c. each retail dealer who sells low-point beer purchased
23 from a licensed manufacturer or licensed wholesaler
24 for consumption on or off the premises and who sells

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

1 own more than fifty percent (50%) of the interest in
2 each place or entity that has a permit issued pursuant
3 to this subparagraph. A retail dealer, that has
4 obtained a permit pursuant to this subparagraph, may
5 sell low-point beer manufactured by the same retailer
6 pursuant to special licenses issued pursuant to
7 subparagraph d of this paragraph,

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

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

1 2006, shall be Two Hundred Thirty Dollars (\$230.00),
2 of which Two Hundred Dollars (\$200.00) shall be
3 deposited in the Community-based Substance Abuse
4 Revolving Fund. It shall be unlawful for such off-
5 premise dealer to allow any bottle, can, or original
6 package to be broken or opened, or to allow any of
7 such low-point beer to be consumed, in or upon the
8 premises described in such permit; provided, however,
9 a manufacturer located and doing business in this
10 state and selling its own products for off-premises
11 consumption may serve visitors on the premises free
12 samples of low-point beer produced on the premises
13 provided such samples shall not exceed twelve (12)
14 fluid ounces per customer per visit,

15 f. a retail dealer who has obtained a permit pursuant to
16 this paragraph and who ceases to offer low-point beer
17 for sale to the public shall be entitled to receive a
18 refund of the permit fee from the Tax 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 Commission. The manner and
22 prorated refund shall be prescribed by the Tax
23 Commission, and
24

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 of this paragraph until the
5 permit is renewed.

6 SECTION 2. AMENDATORY 37 O.S. 2011, Section 163.8, is
7 amended to read as follows:

8 Section 163.8 ~~Prior to applying to the Oklahoma Tax Commission~~
9 ~~for a permit to engage in the retail sale of low point beer, the~~
10 ~~applicant shall first obtain and furnish proof to the Oklahoma Tax~~
11 ~~Commission of a county permit as required by Section 163.11 of this~~
12 ~~title. Said proof shall include the effective and expiration dates~~
13 ~~of the permit.~~ On approval of the application and payment of the
14 license tax imposed by Sections 163.1 through ~~163.21~~ 163.20 of this
15 title, the Oklahoma Tax Commission shall grant the applicant a
16 permit to conduct business in the state. Provided, however, that
17 when a retailer has qualified for and secured a permit to sell low-
18 point beer in original packages only for consumption off the
19 premises and subsequently applies for a permit to sell said
20 beverages on draught and in original packages for consumption on or
21 off the premises, before the expiration of the former permit, the
22 Tax Commission is authorized to credit such retailer with the value
23 of the unused portion of the former permit, prorated in an amount
24 specified by the Oklahoma Tax Commission. The permit must be

1 renewed and the license tax paid thereafter at the expiration of the
2 preceding permit and license tax period.

3 The permits issued to retail dealers shall not be transferable
4 from one person to another person, but shall be transferable from
5 one location to another location, provided that such transfer is
6 made with the approval of the Tax Commission ~~and the judge of the~~
7 ~~district court.~~

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

17 Application for the issuance of the initial and renewal permits
18 required and provided for by this section shall be filed with the
19 Tax Commission and must be accompanied by the required license tax
20 payment in the form of cash, cashier's check, bank draft, or money
21 order payable to the Tax Commission. Permits shall be issued and
22 renewed in the discretion of the Tax Commission upon full compliance
23 with the provisions of Section 163.1 et seq. of this title by the
24 applicant. ~~Proof of the issuance of a permit by the district court~~

1 ~~clerk, including the effective and expiration dates of the permit,~~
2 ~~shall entitle the applicant to a permit from the Oklahoma Tax~~
3 ~~Commission and the revocation of any such permit shall be cause for~~
4 ~~cancellation of the permit issued by the Oklahoma Tax Commission.~~

5 SECTION 3. AMENDATORY 37 O.S. 2011, Section 163.10, is
6 amended to read as follows:

7 Section 163.10 No tax, license fee, or charge upon the
8 distribution, possession, or handling of low-point beer, as defined
9 by Section 163.2 of this title, shall be levied or collected by any
10 political subdivision of this state, except the sales tax, and the
11 general ad valorem tax, ~~and the county low point beer permit fee.~~
12 Municipal corporations may require the payment of an annual license
13 fee of not more than Twenty Dollars (\$20.00) from retail dealers, as
14 defined by Section 163.2 of this title, selling low-point beer for
15 consumption on or off the premises, and an annual license fee of not
16 more than Ten Dollars (\$10.00) from retail dealers, as defined by
17 Section 163.2 of this title, selling said beverages in original
18 packages and not for consumption on the premises.

19 SECTION 4. AMENDATORY 37 O.S. 2011, Section 163.11, is
20 amended to read as follows:

21 Section 163.11 A. It shall be unlawful for any person to
22 maintain or operate any place where low-point beer, as herein
23 defined, is sold for consumption on or off the premises without
24 first securing a permit issued by the ~~district court clerk of the~~

1 ~~county in which the premises are located~~ Oklahoma Tax Commission
2 pursuant to Section 163.7 of this title.

3 B. 1. The person applying for a permit must file a verified
4 application every three (3) years and that he or she has never been
5 convicted of violating any of the laws prohibiting the traffic in
6 any spirituous, vinous, fermented or malt liquors, or of any of the
7 gambling laws of this state, or of any other state of the United
8 States, within three (3) years immediately preceding the date of his
9 or her petition, or any of the laws commonly called "Prohibition
10 Laws", or had any permit or license to sell low-point beer revoked
11 in any county of this state within twelve (12) months.

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

16 C. No permit shall be issued to sell low-point beer for on-
17 premises consumption unless the person applying for such permit
18 shall have signed an affidavit stating that the location of the
19 building in which low-point beer is to be sold is not prohibited by
20 the provisions of Section 163.27 of this title.

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

1 E. Upon ~~petition~~ initial application being filed, the ~~district~~
2 ~~court clerk~~ Tax Commission shall give fifteen (15) days' notice for
3 an initial application, and it is the applicant's responsibility to
4 cause the same to be posted by the entrance on the front of the
5 building in which said low-point beer is to be sold and to file
6 proof of posting in such case; and a copy of said notice shall also
7 be mailed to the district attorney, the sheriff and the chief of
8 police or marshal of any city or town in which said business is to
9 be operated. Said notice shall contain the name of the applicant
10 and the location of said place of business. ~~The initial permit~~
11 ~~shall be valid for a period of three (3) years and shall expire if~~
12 ~~not renewed with proper showing required by subsection B of this~~
13 ~~section, and upon payment of proper fees. A permit may be renewed~~
14 ~~within ten (10) days of expiration, upon proper application pursuant~~
15 ~~to subsection B of this section and payment of the proper fees, but~~
16 ~~without the payment of any late fees. Provided, however, that if a~~
17 ~~proper application under subsection B of this section is filed~~
18 ~~within eleven (11) days but not more than thirty (30) days after the~~
19 ~~expiration date of the permit, upon payment of a fee of One Hundred~~
20 ~~Dollars (\$100.00) in addition to the initial permit fee, the court~~
21 ~~clerk is authorized to treat said application as one for renewal and~~
22 ~~to issue a renewal permit to the applicant, if all requirements have~~
23 ~~otherwise been met by the applicant. A renewal permit granted~~

24

1 ~~during the thirty day grace period shall become effective upon the~~
2 ~~date of its issuance by the court clerk.~~

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

10 ~~G. A person who has obtained a permit pursuant to this section~~
11 ~~and who ceases to maintain or operate any place where low point beer~~
12 ~~is sold for consumption on or off the premises shall be entitled to~~
13 ~~receive a refund of the permit fee from the district court clerk~~
14 ~~prorated with respect to the amount of time remaining until~~
15 ~~expiration of the permit, upon surrender of the existing permit to~~
16 ~~the district court clerk. The manner and prorated refund shall be~~
17 ~~prescribed by the Administrative Director of the Courts.~~

18 ~~H. F. If there are no protests and the petition is sufficient~~
19 ~~on its face, then said permit shall be granted by the district court~~
20 ~~clerk Tax Commission. Provided, that if any citizen of the county~~
21 ~~files a written protest setting forth objections, then the district~~
22 ~~court clerk Tax Commission shall advise the chief judge who shall~~
23 ~~assign such petition to a district judge or associate district judge~~
24 ~~a date for hearing.~~

1 ~~F.~~ G. The application for such permit must be verified and in
2 writing, contain the information above required, and must be set for
3 hearing on a date named in the notice required to be posted.

4 ~~J.~~ H. All testimony before the ~~district court~~ Tax Commission
5 shall be under oath.

6 ~~K.~~ I. ~~A judge of the district court~~ The Tax Commission, upon
7 five (5) days' notice to the person holding such permit, shall
8 revoke such permit for any one of the following reasons:

9 1. Drunkenness of the person holding such permit or permitting
10 any intoxicated person to loiter in or around his or her place of
11 business;

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

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

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

22 5. Nonpayment of any of the taxes or license fees imposed by
23 the provisions of Section 163.1 et seq. of this title on complaint
24 of the ~~Oklahoma~~ Tax Commission;

1 6. Violating any of the laws of the state commonly called
2 "Prohibition Laws" or violating any of the gambling laws of the
3 state or permitting anyone to violate any of said laws in such
4 places or violating any of the provisions of Section 163.1 et seq.
5 of this title;

6 7. Conviction for the violation of any of the laws of this
7 state or the United States for the sale or possession of
8 intoxicating liquors within three (3) years immediately preceding
9 the issuance of such dealer's license; or

10 8. Violating any law pertaining to the use, possession, or sale
11 of drugs or narcotics or the violation of the narcotics laws of the
12 State of Oklahoma or the United States.

13 ~~H.~~ J. After the revocation of any such permit, for any of the
14 above reasons, except paragraph 5 of subsection ~~K~~ I of this section
15 for nonpayment of taxes, or license fees, or except as otherwise
16 provided in this subsection, no new permit shall be issued to the
17 same person or to a relative of such person for the same location or
18 premises prior to the expiration of a period of one (1) year from
19 the date of such revocation. Upon the fourth or subsequent
20 revocation of a permit for a violation of paragraph 3 or 4 of
21 subsection ~~K~~ I of this section, no new permit shall be issued to the
22 same person or to a relative of such person for the same location or
23 premises prior to the expiration of a period of three (3) years from
24 the date of such revocation.

1 ~~M. On or before the tenth day of each month each district court~~
2 ~~clerk shall file with the Oklahoma Tax Commission, on forms~~
3 ~~prescribed and furnished by the Commission, a report showing the~~
4 ~~name, address, and county permit number of each such person to whom~~
5 ~~a county permit has been issued or whose permit has been revoked, or~~
6 ~~who shall have been refused a county permit, during the previous~~
7 ~~calendar month. In case of the revocation of a permit by a judge of~~
8 ~~the district court, the district court clerk shall within five (5)~~
9 ~~days report such action to the Oklahoma Tax Commission. If county~~
10 ~~permits shall have been issued, revoked or refused during the month,~~
11 ~~the district court clerk shall make a report accordingly to the~~
12 ~~Commission.~~

13 ~~N. K.~~ Upon application to and approval by the court clerk of
14 ~~the district court~~ Tax Commission, a retail dealer as defined by
15 Section 163.2 of this title who meets the requirements of this
16 section and Section 163.11a of this title may be granted a special
17 event permit without the requirement of notice or posting, after
18 payment of a fee of ~~Twenty-five Dollars (\$25.00) in addition to~~
19 ~~other fees required by law, which fees shall not be refundable or~~
20 ~~apportionable~~ the fees required pursuant to Section 163.7 of this
21 title. A special event permit issued under this subsection shall
22 authorize the holder thereof to sell and distribute low-point beer
23 for a period not to exceed ten (10) consecutive days from the date
24 of issuance. A separate permit shall be required for each

1 individual place of business, whether permanent or a temporary
2 assemblage. Provided, retail dealers shall not be required to
3 obtain a special permit for each bar or service unit within the same
4 enclosed area or within the general vicinity of each other for
5 events held outside a physical structure. A special event permit
6 shall not be renewable. A municipality shall not, by ordinance or
7 otherwise, refuse to issue a special event permit or special event
8 license on the basis that the applicant already possesses a permit
9 or license in the applicant's same name.

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

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

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

1 Provided, that this defense shall not relieve from liability any
2 person cited for a violation of this section if such person failed
3 to exercise reasonable diligence to determine whether the physical
4 description and picture on the driver license or other government-
5 issued photo identification was that of the individual who presented
6 it. The availability of the defense described in this subsection
7 does not affect the availability of any other defense under any
8 other provision of law.

9 SECTION 5. AMENDATORY 37 O.S. 2011, Section 163.11a, is
10 amended to read as follows:

11 Section 163.11a A. Every person applying to ~~a district court~~
12 ~~clerk of this state~~ the Oklahoma Tax Commission for a permit to sell
13 low-point beer at retail, as provided for in Section 163.11 of this
14 title, shall by affidavit at the time of applying for said permit
15 and by such further proof as the ~~district court clerk~~ Tax Commission
16 may require, make the following proof:

17 1. Noncorporate Persons. That each applicant for a permit or
18 other individual who has a beneficial interest in the business for
19 which permit is sought, has for at least one (1) year next preceding
20 the filing of the application maintained a bona fide residence in
21 the State of Oklahoma, and is at the time of making said application
22 maintaining and actually residing in a residence in the county or
23 adjoining county in which said application is made; and
24

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

9 B. Renewal permits may be granted to corporations which have
10 undergone a name change after the initial permit was granted,
11 provided that the new corporation's affidavit and application
12 demonstrate that the corporation has retained the same officers, and
13 that it is otherwise the same corporation which received the initial
14 permit, in addition to payment of proper fees. The initial permits
15 issued to noncorporate persons which have changed legal identities
16 or entities may be renewed upon proper application demonstrating
17 that the identity of the renewal permit holder is the same as that
18 sought to be renewed, and that the business address is the same, in
19 addition to payment of proper fees.

20 SECTION 6. AMENDATORY 37 O.S. 2011, Section 163.16, is
21 amended to read as follows:

22 Section 163.16 Any license issued to a wholesaler or retail
23 dealer, as defined herein, may be refused or revoked by the Oklahoma
24 Tax Commission upon ten (10) days' notice in writing to such

1 wholesaler or retail dealer, and after opportunity to be heard
2 before the said Commission for any of the following reasons:

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

6 ~~2.~~ Nonpayment of delinquent tax, license fee or permit fees or
7 penalties;

8 ~~3.~~ 2. Possession or display for sale by any retail dealer of
9 low-point beer, as herein defined, upon which the tax imposed by any
10 law of this state shall not have been paid; or

11 ~~4.~~ 3. Failure on the part of any wholesaler or retail dealer to
12 comply with all laws, or the regulations prescribed by the Oklahoma
13 Tax Commission pursuant thereto relating to the enforcement duties
14 imposed upon the Oklahoma Tax Commission by Section 163.1 et seq. of
15 this title.

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

1 SECTION 7. AMENDATORY 37 O.S. 2011, Section 213.1, is
2 amended to read as follows:

3 Section 213.1 A. No owner, operator, partner, manager, or
4 person having supervisory control of any establishment licensed to
5 sell low-point beer shall permit any of the following on or about
6 any commercial premises where low-point beer is dispensed or
7 consumed:

8 1. The performance by any person of acts, or simulated acts, of
9 sexual intercourse, masturbation, sodomy, bestiality, oral
10 copulation, flagellation, or any sexual acts which are otherwise
11 prohibited by law;

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

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

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

24

1 B. Any person convicted of violating the provisions of this
2 section shall be guilty of a misdemeanor punishable by a fine of not
3 more than Five Hundred Dollars (\$500.00) for each offense. Each act
4 in violation of any provision of this section shall be deemed a
5 separate offense. Conviction for the violation of the provisions of
6 this section shall be sufficient grounds for revocation by the ~~judge~~
7 ~~of the district court~~ Oklahoma Tax Commission of any license held by
8 such person authorizing the sale of low-point beer ~~or intoxicating~~
9 ~~beverages~~.

10 SECTION 8. AMENDATORY 37 O.S. 2011, Section 241, is
11 amended to read as follows:

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

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

1 which sales or serving of said beverages are incidental to the main
2 purpose, as long as persons under twenty-one (21) years of age are
3 not sold or served said beverages; however, the incidental service
4 of food in the bar area shall not exempt a licensee, agent, servant,
5 or employee from the provisions of this section.

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

11 D. Any person violating the provisions of subsection A, B or C
12 of this section shall upon conviction be guilty of a misdemeanor for
13 a first violation and shall be punished by a fine of not more than
14 Five Hundred Dollars (\$500.00), or imprisoned in the county jail for
15 not more than one (1) year, or by both such fine and imprisonment.
16 Any person convicted of a second violation within one (1) year of
17 the first violation shall be guilty of a misdemeanor and shall be
18 punished by a fine of not more than Two Thousand Five Hundred
19 Dollars (\$2,500.00), or imprisoned in the county jail for not more
20 than one (1) year, or by both such fine and imprisonment. Any
21 person convicted of a third violation within one (1) year of the
22 first violation shall be guilty of a felony and shall be punished by
23 a fine of not more than Five Thousand Dollars (\$5,000.00), or by
24 imprisonment in the custody of the Department of Corrections for not

1 more than five (5) years, or by both such fine and imprisonment.
2 The filing of a supplemental information shall be subject to the
3 discretion of the district attorney. One-half (1/2) of any fine
4 collected shall be deposited in the Prevention of Youth Access to
5 Alcohol Revolving Fund established by Section 608 of this title.

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

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

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

20 Provided, that this defense shall not relieve from liability any
21 person cited for a violation of this section if such person failed
22 to exercise reasonable diligence to determine whether the physical
23 description and picture on the driver license or other government-
24 issued photo identification was that of the individual who presented

1 it. The availability of the defense described in this subsection
2 does not affect the availability of any other defense under any
3 other provision of law.

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

15 G. Cities and towns may enact and municipal police officers may
16 enforce ordinances prohibiting and penalizing conduct under the
17 provisions of this section, but the provisions of the municipal
18 ordinances shall be the same as provided for in this section, and
19 the penalty provisions under such ordinances shall not be more
20 stringent than those of this section and shall be limited to the
21 provisions of Section 14-111 of Title 11 of the Oklahoma Statutes.

22 SECTION 9. AMENDATORY 37 O.S. 2011, Section 244, is
23 amended to read as follows:
24

1 Section 244. A. The violation by any person of the provisions
2 of Section 241 or 243 of this title or any statute pertaining to the
3 sale of low-point beer, as defined in Section 163.2 of this title,
4 shall be sufficient ground for mandatory suspension or revocation by
5 the ~~judge of the district court~~ Oklahoma Tax Commission of any
6 permit held by such person authorizing the sale of low-point beer.
7 The permit shall be suspended as follows:

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

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

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

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

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

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

11 SECTION 10. This act shall become effective January 1, 2013.

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