

1 STATE OF OKLAHOMA

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

3 SENATE BILL 659

By: Jolley

4  
5  
6 AS INTRODUCED

7 An Act relating to winemakers; amending 37 O.S. 2001,  
8 Section 506, as last amended by Section 1, Chapter  
9 173, O.S.L. 2005 (37 O.S. Supp. 2010, Section 506),  
10 which relates to definitions; modifying definition of  
11 Oklahoma winemaker; requiring wine fermented product  
12 to be exclusively grown in Oklahoma; amending 37 O.S.  
13 2001, Section 521, as last amended by Section 1,  
14 Chapter 64, O.S.L. 2009 (37 O.S. Supp. 2010, Section  
15 521), which relates to acts of licensees; modifying  
16 authorized acts of winemakers; limiting samples and  
17 serving ounces; defining certain terms; limiting wine  
18 selling and serving to certain times; requiring  
19 certain inspections and permits as required for food  
20 and beverage on-premise consumption; requiring  
21 certain wholesaler to maintain certain dollar-amount  
22 of inventory for certain purpose; modifying  
23 charitable license and purposes; amending 37 O.S.  
24 2001, Section 596, which relates to responsibility  
for violations; including winemaker; providing an  
effective date; and declaring an emergency.

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

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

1 Section 506. When used in the Oklahoma Alcoholic Beverage  
2 Control Act, the following words and phrases shall have the  
3 following meaning:

4 1. "ABLE Commission" means the Alcoholic Beverage Laws  
5 Enforcement Commission;

6 2. "Alcohol" means and includes hydrated oxide of ethyl, ethyl  
7 alcohol, ethanol, or spirits of wine, from whatever source or by  
8 whatever process produced. It does not include wood alcohol or  
9 alcohol which has been denatured or produced as denatured in  
10 accordance with Acts of Congress and regulations promulgated  
11 thereunder;

12 3. "Alcoholic beverage" means alcohol, spirits, beer, and wine  
13 as those terms are defined herein and also includes every liquid or  
14 solid, patented or not, containing alcohol, spirits, wine or beer  
15 and capable of being consumed as a beverage by human beings, but  
16 does not include low-point beer as that term is defined in Section  
17 163.2 of this title;

18 4. "Applicant" means any individual, legal or commercial  
19 business entity, or any individual involved in any legal or  
20 commercial business entity allowed to hold any license issued in  
21 accordance with the Oklahoma Alcoholic Beverage Control Act;

22 5. "Beer" means any beverage containing more than three and  
23 two-tenths percent (3.2%) of alcohol by weight and obtained by the  
24 alcoholic fermentation of an infusion or decoction of barley, or

1 other grain, malt or similar products. "Beer" may or may not  
2 contain hops or other vegetable products. "Beer" includes, among  
3 other things, beer, ale, stout, lager beer, porter and other malt or  
4 brewed liquors, but does not include sake, known as Japanese rice  
5 wine;

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

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

12 8. "Class B wholesaler" means and includes any person doing any  
13 such acts or carrying on any such business that would require such  
14 person to obtain a Class B wholesaler license hereunder;

15 9. "Convicted" and "conviction" mean and include a finding of  
16 guilt resulting from a plea of guilty or nolo contendere, the  
17 decision of a court or magistrate or the verdict of a jury,  
18 irrespective of the pronouncement of judgment or the suspension  
19 thereof;

20 10. "Director" means the Director of the Alcoholic Beverage  
21 Laws Enforcement Commission under the supervision of said  
22 Commission;

23 11. "Distiller" means any person who produces spirits from any  
24 source or substance, or any person who brews or makes mash, wort, or

1 wash, fit for distillation or for the production of spirits (except  
2 a person making or using such material in the authorized production  
3 of wine or beer, or the production of vinegar by fermentation), or  
4 any person who by any process separates alcoholic spirits from any  
5 fermented substance, or any person who, making or keeping mash,  
6 wort, or wash, has also in his or her possession or use a still;

7 12. "Hotel" or "motel" shall mean an establishment which is  
8 licensed to sell alcoholic beverages by the individual drink and  
9 which contains guestroom accommodations with respect to which the  
10 predominant relationship existing between the occupants thereof and  
11 the owner or operator of the establishment is that of innkeeper and  
12 guest. For purposes of this section, the existence of other legal  
13 relationships as between some occupants and the owner or operator  
14 thereof shall be immaterial;

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

18 14. "Licensee" means any person holding a license under the  
19 Oklahoma Alcoholic Beverage Control Act, and any agent, servant, or  
20 employee of such licensee while in the performance of any act or  
21 duty in connection with the licensed business or on the licensed  
22 premises;

23 15. "Light beer" means a low-point beer controlled under this  
24 title;

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

4        17. "Manufacturer's agent" means a salaried or commissioned  
5 salesman who sells to a wholesaler or Class B wholesaler only;

6        18. "Manufacturer" means a brewer, distiller, winemaker,  
7 rectifier, or bottler of any alcoholic beverage;

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

13        20. "Mini-bar" means a closed container, either refrigerated,  
14 in whole or in part, or nonrefrigerated, and access to the interior  
15 of which is (1) restricted by means of a locking device which  
16 requires the use of a key, magnetic card, or similar device, or (2)  
17 controlled at all times by the licensee;

18        21. "Mixed beverage cooler" means any beverage, by whatever  
19 name designated, consisting of an alcoholic beverage and fruit or  
20 vegetable juice, fruit or vegetable flavorings, dairy products or  
21 carbonated water containing more than one-half of one percent (1/2  
22 of 1%) of alcohol measured by volume but not more than seven percent  
23 (7%) alcohol by volume at sixty (60) degrees Fahrenheit and which is  
24 packaged in a container not larger than three hundred seventy-five

1 (375) milliliters. Such term shall include, but not be limited to,  
2 the beverage popularly known as a "wine cooler";

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

8 23. "Motion picture theater" means a place where motion  
9 pictures are exhibited and to which the general public is admitted,  
10 but does not include a place where meals, as defined by this  
11 section, are served, if only persons over twenty-one (21) years of  
12 age are admitted;

13 24. "Retail salesperson" means a salesperson soliciting orders  
14 from and calling upon retail alcoholic beverage stores with regard  
15 to his or her product;

16 25. "Occupation" as used in connection with "occupation tax"  
17 means the sites occupied as the places of business of the  
18 manufacturers, wholesalers, Class B wholesalers, retailers, mixed  
19 beverage licensees, beer and wine licensees, bottle clubs, caterers,  
20 and special event licensees;

21 26. "Original package" means any container of alcoholic  
22 beverage filled and stamped or sealed by the manufacturer;

23 27. "Patron" means any person, customer, or visitor who is not  
24 employed by a licensee or who is not a licensee;

1 28. "Person" means an individual, any type of partnership,  
2 corporation, association, limited liability company or any  
3 individual involved in the legal structure of any such business  
4 entity;

5 29. "Premises" means the grounds and all buildings and  
6 appurtenances pertaining to the grounds including any adjacent  
7 premises if under the direct or indirect control of the licensee and  
8 the rooms and equipment under the control of the licensee and used  
9 in connection with or in furtherance of the business covered by a  
10 license. Provided that the ABLE Commission shall have the authority  
11 to designate areas to be excluded from the licensed premises solely  
12 for the purpose of:

- 13 a. allowing the presence and consumption of alcoholic  
14 beverages by private parties which are closed to the  
15 general public, or
- 16 b. allowing the services of a caterer serving alcoholic  
17 beverages provided by a private party.

18 This exception shall in no way limit the licensee's concurrent  
19 responsibility for any violations of the Oklahoma Alcoholic Beverage  
20 Control Act occurring on the licensed premises;

21 30. "Rectifier" means any person who rectifies, purifies, or  
22 refines spirits or wines by any process (other than by original and  
23 continuous distillation, or original and continuous processing, from  
24 mash, wort, wash, or other substance, through continuous closed

1 vessels and pipes, until the production thereof is complete), and  
2 any person who, without rectifying, purifying, or refining spirits,  
3 shall by mixing (except for immediate consumption on the premises  
4 where mixed) such spirits, wine, or other liquor with any material,  
5 manufactures any spurious, imitation, or compound liquors for sale,  
6 under the name of whiskey, brandy, rum, gin, wine, spirits,  
7 cordials, or any other name;

8 31. "Regulation" or "rule" means a formal rule of general  
9 application promulgated by the ABLE Commission as herein required;

10 32. "Restaurant" means an establishment that is licensed to  
11 sell alcoholic beverages by the individual drink for on-premises  
12 consumption and where food is prepared and sold for immediate  
13 consumption on the premises;

14 33. "Retail container for spirits and wines" means an original  
15 package of any capacity approved by the United States Bureau of  
16 Alcohol, Tobacco and Firearms;

17 34. "Retailer" means the holder of a Package Store License;

18 35. "Sale" means any transfer, exchange or barter in any manner  
19 or by any means whatsoever, and includes and means all sales made by  
20 any person, whether as principal, proprietor or as an agent, servant  
21 or employee. The term "sale" is also declared to be and include the  
22 use or consumption in this state of any alcoholic beverage obtained  
23 within or imported from without this state, upon which the excise

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1 tax levied by the Oklahoma Alcoholic Beverage Control Act has not  
2 been paid or exempted;

3 36. "Short order food" means food other than full meals  
4 including but not limited to sandwiches, soups, and salads.  
5 Provided that popcorn, chips, and other similar snack food shall not  
6 be considered "short order food";

7 37. "Sparkling wine" means champagne or any artificially  
8 carbonated wine;

9 38. "Spirits" means any beverage other than wine, beer or light  
10 beer, which contains more than one-half of one percent (1/2 of 1%)  
11 alcohol measured by volume and obtained by distillation, whether or  
12 not mixed with other substances in solution and includes those  
13 products known as whiskey, brandy, rum, gin, vodka, liqueurs,  
14 cordials and fortified wines and similar compounds; but shall not  
15 include any alcohol liquid completely denatured in accordance with  
16 the Acts of Congress and regulations pursuant thereto;

17 39. "Wholesaler" means and includes any person doing any such  
18 acts or carrying on any such business or businesses that would  
19 require such person to obtain a wholesaler's license or licenses  
20 hereunder;

21 40. "Wine" means and includes any beverage containing more than  
22 one-half of one percent (1/2 of 1%) alcohol by volume and not more  
23 than twenty-four percent (24%) alcohol by volume at sixty (60)  
24 degrees Fahrenheit obtained by the fermentation of the natural

1 contents of fruits, vegetables, honey, milk or other products  
2 containing sugar, whether or not other ingredients are added, and  
3 includes vermouth and sake, known as Japanese rice wine;

4 41. "Winemaker" means any person who produces wine; and

5 42. "Oklahoma winemaker" means a ~~business premises person~~  
6 licensed to produce wine in Oklahoma ~~licensed~~ pursuant to the  
7 Oklahoma Alcoholic Beverage Control Act ~~wherein wine is produced by~~  
8 ~~the licensee who must be a resident of the state.~~ The wine product  
9 ~~fermented in said licensed premises~~ by an Oklahoma winemaker shall  
10 be of grapes, berries and other fruits and vegetables ~~imported into~~  
11 ~~this state and processed herein or shall be of grapes, berries and~~  
12 ~~other fruits and vegetables~~ grown exclusively in Oklahoma.

13 Words in the plural include the singular, and vice versa, and  
14 words imparting the masculine gender include the feminine, as well  
15 as persons and licensees as defined in this section.

16 SECTION 2. AMENDATORY 37 O.S. 2001, Section 521, as last  
17 amended by Section 1, Chapter 64, O.S.L. 2009 (37 O.S. Supp. 2010,  
18 Section 521), is amended to read as follows:

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

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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:

9 1. To manufacture (including such mixing, blending and cellar  
10 treatment as authorized by federal law), bottle, package, and store  
11 on licensed premises wine containing not more than twenty-four  
12 percent (24%) alcohol by volume, provided the bottle or package  
13 sizes authorized shall be limited to the capacities approved by the  
14 United States Alcohol and Tobacco Tax and Trade Bureau; ~~to~~

15 2. To sell wine in this state to licensed wholesalers and  
16 manufacturers; ~~to~~

17 3. To sell bottles of wine produced at the winery from grapes  
18 and other fruits and berries grown in this state, if available, to  
19 consumers on the premises of the winery; ~~to~~

20 4. To serve visitors on the licensed premises samples of wine  
21 produced on the premises, provided, wineries shall not serve more  
22 than two samples per person per day, and samples served on the  
23 licensed premises shall not exceed five (5) ounces per serving; ~~to~~

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1       5. To serve samples of wine produced at the winery at festivals  
2 and trade shows, provided, wineries shall not serve more than two  
3 samples per person per day, and samples served at festivals and  
4 trade shows shall not exceed one (1) ounce per serving. For  
5 purposes of this section, a "festival" and "trade show" shall be  
6 defined as an event whose primary purpose is to promote agricultural  
7 products made in Oklahoma, whose duration shall not exceed ten (10)  
8 calendar days per year, whose participation shall be open to all  
9 Oklahoma licensed winemakers, whose sponsor shall be a charitable  
10 organization in good standing and exempt from taxation under Section  
11 501(c) (3), (4), (5), (7), (8), (9), (10), or (19) of the United  
12 States Internal Revenue Code, or a local, county or state government  
13 entity, and whose sponsor shall have provided written notification  
14 of the event to the ABLE Commission at least thirty (30) days prior  
15 to the commencement of the event; ~~to~~

16       6. To sell wine produced at the winery, in original sealed  
17 containers, at festivals and trade shows; ~~to~~

18       7. To sell wine out of this state to qualified persons; ~~to~~

19       8. To purchase from licensed winemakers, distillers and  
20 rectifiers in this state, and to import into this state wine, brandy  
21 and fruit spirits for use in manufacturing in accordance with  
22 federal laws and regulations; provided, a winemaker either within or  
23 without this state that annually produces no more than ten thousand  
24 (10,000) gallons of wine may elect to sell and self-distribute the

1 wine produced by such winemaker directly to licensed retail package  
2 stores and restaurants in this state; and provided further that:

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

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

18 c. if the production volume limit applicable to  
19 winemakers is ruled to be unconstitutional by a court  
20 of competent jurisdiction, then no winemaker shall be  
21 permitted to directly sell its wine to retail package  
22 stores or restaurants in this state;

23 9. To sell or serve wine only on those days and hours in which  
24 package stores are permitted to sell alcoholic beverages; and

1        10. To sell or serve samples only when the winemaker has  
2 secured all local, county and state food and beverage inspections  
3 and permits required of any other vender that serves food or  
4 beverages for on-premise consumption.

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

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

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

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

- 11           a. the total volume of spirits sales of the wholesaler,  
12                 by liter, from the previous calendar year, and
- 13           b. the total volume of wine sales of the wholesaler, by  
14                 liter, from the previous calendar year, and
- 15           c. the volume of sales of each brand of spirits or wine  
16                 of the wholesaler, by liter, from the previous  
17                 calendar year.

18 A wholesaler who did not post any sales of spirits, wine or of a  
19 particular brand in the previous calendar year shall be deemed to  
20 have sold the same volume of spirits, wine or of a particular brand  
21 as the wholesaler posting the smallest volumes of sales in spirits,  
22 wine or of a particular brand for that year for the purposes of this  
23 paragraph. Notwithstanding the foregoing, wholesalers shall not  
24 purchase any inventory in spirits or wine from any other wholesaler

1 until such time that the purchasing wholesaler possesses and  
2 maintains an inventory valued at no less than Two Hundred Fifty  
3 Thousand Dollars (\$250,000.00). Inventory valuation shall be based  
4 on the original actual price paid by the purchasing wholesaler to  
5 the nonresident seller for said inventory.

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

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

17 5. All licensed wholesalers shall register prices, purchase and  
18 keep on hand or have on order a fifteen-day supply of all brands  
19 constituting the top eighteen brands in total sales by all Oklahoma  
20 wholesalers during the past twelve-month period, according to the  
21 records of the ABLE Commission as revised by the ABLE Commission  
22 quarterly; provided, however, that not more than three brands of any  
23 particular nonresident seller shall be included in the top-brands  
24 classification. All purchase orders for these top eighteen brands

1 must show an expected due delivery date. These purchase orders may  
2 only be canceled with prior approval of the Director of the ABLE  
3 Commission, unless a wholesaler shall have in its warehouse a  
4 fifteen-day supply of merchandise on such purchase order.

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

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

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1 and spirits, in liters, of any wholesaler having been in business  
2 for such period.

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

18 H. A package store license shall authorize the holder thereof:  
19 To purchase alcohol, spirits, beer and wine in retail containers  
20 from the holder of a brewer, wholesaler or Class B wholesaler  
21 license and to 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 and to sell same on the licensed  
24 premises in such containers to consumers for off-premises

1 consumption only and not for resale; provided, wine may be sold to  
2 charitable organizations that are holders of charitable auction or  
3 charitable wine event licenses. All alcoholic beverages that are  
4 sold by a package store are to be sold at ordinary room temperature.

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

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

1 J. A bottle club license shall authorize the holder thereof:  
2 To store, possess and mix alcoholic beverages belonging to members  
3 of the club and to serve such alcoholic beverages for on-premises  
4 consumption to club members. A bottle club license shall only be  
5 issued in counties of this state where the sale of alcoholic  
6 beverages by the individual drink for on-premises consumption has  
7 not been authorized. A separate license shall be required for each  
8 place of business.

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

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

1 only be issued in counties of this state where the sale of alcoholic  
2 beverages by the individual drink for on-premises consumption has  
3 been authorized. The holder of an annual special event license  
4 shall provide written notice to the ABLE Commission of each special  
5 event not less than ten (10) days before the event is held.

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

17 M. A hotel beverage license shall authorize the holder thereof:  
18 To sell or serve alcoholic beverages in 50 milliliter spirits, 187  
19 milliliter wine, and 12-ounce malt beverage containers which are  
20 distributed from a hotel room mini-bar. A hotel beverage license  
21 shall only be issued in counties of this state where the sale of  
22 alcoholic beverages by the individual drink for on-premises  
23 consumption has been authorized. A hotel beverage license shall  
24 only be issued to a hotel or motel as defined by Section 506 of this

1 title which is also the holder of a mixed beverage license.

2 Provided, that application may be made simultaneously for both such  
3 licenses. A separate license shall be required for each place of  
4 business.

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

21 O. An agent license shall authorize the holder thereof: To  
22 represent only the holders of licenses within this state, other than  
23 retailers, authorized to sell alcoholic beverages to retail dealers  
24 in Oklahoma, and to solicit and to take orders for the purchase of

1 alcoholic beverages from retailers including licensees authorized to  
2 sell alcoholic beverages by the individual drink for on-premises  
3 consumption. Such license shall be issued only to agents and  
4 employees of the holder of a license under the Oklahoma Alcoholic  
5 Beverage Control Act, Section 502 et seq. of this title but no such  
6 license shall be required of an employee making sales of alcoholic  
7 beverages on licensed premises of the employee's principal. No  
8 person holding an agent license shall be entitled to a manufacturers  
9 agent license.

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

1 of hotel room mini-bars or in the handling of alcoholic beverages to  
2 be placed in such devices shall be required to have an employee  
3 license.

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

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

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

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

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

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

20 No provisions of the Oklahoma Alcoholic Beverage Control Act  
21 shall apply to alcohol withdrawn by any person free of federal tax  
22 under a tax-free permit issued by the United States government, if  
23 such alcohol is received, stored, and used as authorized by federal  
24 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 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 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 wholesaler,  
24 nonresident seller, package store, mixed beverage, caterer, or hotel

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

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

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

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

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

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

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

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

23 Sales and service of beer and wine by holders of beer and wine  
24 licenses shall be limited to the licensed premises of the licensee

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

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

20 1. Bid sheets are accepted from interested bidders at the  
21 event;

22 2. The holders of tickets are allowed to bid online for a  
23 period not exceeding thirty (30) days prior to the event; or  
24

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

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

24

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

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

17 SECTION 3. AMENDATORY 37 O.S. 2001, Section 596, is  
18 amended to read as follows:

19 Section 596. Each bottle club or mixed beverage, beer and wine,  
20 caterer or special event, or winemaker licensee shall be held  
21 responsible for violation of any alcoholic beverage law or  
22 administrative rule of the Alcoholic Beverage Laws Enforcement  
23 Commission affecting his license privileges and for any act or  
24 omission of his servant, agent, employee or representative in

1 violation of any law, municipal ordinance or administrative rule  
2 affecting his license privileges.

3 SECTION 4. This act shall become effective July 1, 2011.

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

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