HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

2nd Session of the 54th Legislature (2014)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 1715 By: Holt of the Senate

and

Grau of the House

COMMITTEE SUBSTITUTE

An Act relating to alcoholic beverages; amending 37 O.S. 2011, Sections 506, 518, 518.1, 521, as last amended by Section 1, Chapter 81, O.S.L. 2013, 523, 527.1, 528.1, 532.1, 535, 535.1, 535.2, 537, 537.1, 538, 554.1, 554.2, 561, 576, as amended by Section 1, Chapter 369, O.S.L. 2013, 577, 578, 579, 582, 584, 591, 596 and 599 (37 O.S. Supp. 2013, Sections 521 and 576), which relate to the Alcoholic Beverage Control Act; adding definition; adding licenses; setting fees; requiring public event licensees to purchase alcoholic beverages from certain entities; allowing wholesale licensees to sell spirits and wines to public event licensees; allowing annual public event licenses; allowing one-time public event licenses; expanding scope of employee licenses; requiring storage license under certain circumstances; modifying certain charitable event licenses; requiring license applicants to furnish proof of certain liability insurance; updating language; providing for the refusal of public event license under certain circumstances; authorizing suspension or revocation of public event license; modifying license suspension or revocation requirements; modifying list of certain unlawful acts; modifying limitations on rights and interests

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in certain property; prohibiting drunkenness on certain property; deleting certain prohibited act; providing penalty for certain prohibited act; authorizing cities, towns and counties to levy certain tax; requiring public event licensees to keep certain records; modifying gross receipt tax requirement; directing public event licensees to acquire certain tax permit and bond; requiring public event licensees to file monthly reports; authorizing Tax Commission to audit public event licensees; prohibiting possession or refilling of alcoholic beverage containers under certain circumstances; modifying certain prohibited act; authorizing issuance of additional hours license; 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. 2011, Section 506, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

12. "Hotel" or "motel" shall mean an establishment which is licensed to sell alcoholic beverages by the individual drink and which contains guestroom accommodations with respect to which the predominant relationship existing between the occupants thereof and the owner or operator of the establishment is that of innkeeper and

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guest. For purposes of this section, the existence of other legal relationships as between some occupants and the owner or operator thereof shall be immaterial;

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

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

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

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

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

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

19. "Meals" means foods commonly ordered at lunch or dinner and at least part of which is cooked on the licensed premises and requires the use of dining implements for consumption. Provided,

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that the service of only food such as appetizers, sandwiches, salads or desserts shall not be considered "meals";

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

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

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

23. "Motion picture theater" means a place where motion pictures are exhibited and to which the general public is admitted, but does not include a place where meals, as defined by this

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section, are served, if only persons over twenty-one (21) years of age are admitted;

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

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

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

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

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

29. "Premises" means the grounds and all buildings and appurtenances pertaining to the grounds including any adjacent premises if under the direct or indirect control of the licensee and the rooms and equipment under the control of the licensee and used in connection with or in furtherance of the business covered by a license. Provided that the ABLE Commission shall have the authority

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to designate areas to be excluded from the licensed premises solely for the purpose of:

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

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

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

30. "Public event" means any event that can be attended by the general public;

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

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~~31.~~ 32. "Regulation" or "rule" means a formal rule of general application promulgated by the ABLE Commission as herein required;

~~32.~~ 33. "Restaurant" means an establishment that is licensed to sell alcoholic beverages by the individual drink for on-premises consumption and where food is prepared and sold for immediate consumption on the premises;

~~33.~~ 34. "Retail container for spirits and wines" means an original package of any capacity approved by the United States Bureau of Alcohol, Tobacco and Firearms;

~~34.~~ 35. "Retailer" means the holder of a Package Store License;

~~35.~~ 36. "Sale" means any transfer, exchange or barter in any manner or by any means whatsoever, and includes and means all sales made by any person, whether as principal, proprietor or as an agent, servant or employee. The term "sale" is also declared to be and include the use or consumption in this state of any alcoholic beverage obtained within or imported from without this state, upon which the excise tax levied by the Oklahoma Alcoholic Beverage Control Act has not been paid or exempted;

~~36.~~ 37. "Short order food" means food other than full meals including but not limited to sandwiches, soups, and salads. Provided that popcorn, chips, and other similar snack food shall not be considered "short order food";

~~37.~~ 38. "Sparkling wine" means champagne or any artificially carbonated wine;

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~~38.~~ 39. "Spirits" means any beverage other than wine, beer or light beer, which contains more than one-half of one percent (1/2 of 1%) alcohol measured by volume and obtained by distillation, whether or not mixed with other substances in solution and includes those products known as whiskey, brandy, rum, gin, vodka, liqueurs, cordials and fortified wines and similar compounds; but shall not include any alcohol liquid completely denatured in accordance with the Acts of Congress and regulations pursuant thereto;

~~39.~~ 40. "Wholesaler" means and includes any person doing any such acts or carrying on any such business or businesses that would require such person to obtain a wholesaler's license or licenses hereunder;

~~40.~~ 41. "Wine" means and includes any beverage containing more than one-half of one percent (1/2 of 1%) alcohol by volume and not more than twenty-four percent (24%) alcohol by volume at sixty (60) degrees Fahrenheit obtained by the fermentation of the natural contents of fruits, vegetables, honey, milk or other products containing sugar, whether or not other ingredients are added, and includes vermouth and sake, known as Japanese rice wine;

~~41.~~ 42. "Winemaker" means any person who produces wine; and

~~42.~~ 43. "Oklahoma winemaker" means a business premises in Oklahoma licensed pursuant to the Oklahoma Alcoholic Beverage Control Act wherein wine is produced by the licensee who must be a resident of the state. The wine product fermented in said licensed

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premises shall be of grapes, berries and other fruits and vegetables imported into this state and processed herein or shall be of grapes, berries and other fruits and vegetables grown in Oklahoma.

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

SECTION 2. AMENDATORY 37 O.S. 2011, Section 518, is amended to read as follows:

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

1. Brewer License..... $1,250.00
2. Oklahoma Brewer License..... $125.00
3. Distiller License
   a. For each fiscal year ending after June 30, 2010..... $3,125.00
   b. For the fiscal years ending June 30, 2008, 2009 and 2010..... $1,250.00
4. Winemaker License..... $625.00
5. Oklahoma Winemaker License..... $75.00
6. Rectifier License
   a. For each fiscal year ending after June 30, 2010..... $3,125.00

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b. For the fiscal years ending June 30, 2008, 2009 and 2010..... $1,250.00

7. Wholesaler License..... $3,500.00

8. Class B Wholesaler License..... $625.00

9. The following package store license fees shall be determined by the latest Federal Decennial Census:

a. Package Store License for cities and towns from 200 to 2,500 population $305.00

b. Package Store License for cities and towns from 2,501 to 5,000 population $605.00

c. Package Store License for cities and towns over 5,000 population $905.00

10. Mixed Beverage License..... $1,005.00 (initial license)

$905.00 (renewal)

11. Mixed Beverage/Caterer Combination License..... $1,250.00

12. Beer and Wine License..... $500.00 (initial license)

$450.00 (renewal)

13. Bottle Club License..... $1,000.00 (initial license)

$900.00

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(renewal)

14. Caterer License..... $1,005.00

(initial license)

$905.00

(renewal)

15. Annual Special Event License..... $55.00

16. Quarterly Special Event License..... $55.00

17. Hotel Beverage License..... $1,005.00

(initial license)

$905.00

(renewal)

18. Airline/Railroad Beverage License..... $1,005.00

(initial license)

$905.00

(renewal)

19. Agent License..... $55.00

20. Employee License..... $30.00

21. Industrial License..... $23.00

22. Carrier License..... $23.00

23. Private Carrier License..... $23.00

24. Bonded Warehouse License..... $190.00

25. Storage License..... $23.00

26. Nonresident Seller License..... $750.00

27. Manufacturers Agent License..... $55.00

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28. Sacramental Wine Supplier License..... $100.00

29. Charitable Auction License..... $1.00

30. Charitable Alcoholic Beverage License..... $55.00

31. Winemaker Self-distribution License..... $750.00

32. Annual Public Event License..... $1005.00

33. One-time Public Event License..... $255.00

There shall be added to the initial or renewal fees for a Mixed Beverage License an administrative fee, which shall not be deemed to be a license fee, in the amount of Five Hundred Dollars ($500.00), which shall be paid at the same time and in the same manner as the license fees prescribed by paragraph 10 of this subsection; provided, this fee shall not be assessed against service organizations or fraternal beneficiary societies which are exempt under Section 501(c)(19), (8) or (10) of the Internal Revenue Code. There shall be added to the fee for a Mixed Beverage/Caterer Combination License an administrative fee, which shall not be deemed to be a license fee, in the amount of Two Hundred Fifty Dollars ($250.00), which shall be paid at the same time and in the same manner as the license fee prescribed by paragraph 11 of this subsection.

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

1. The license fee for a mixed beverage or bottle club license for those service organizations or fraternal beneficiary societies

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which are exempt under Section 501(c)(19), (8) or (10) of the Internal Revenue Code shall be Five Hundred Dollars ($500.00) per year;

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

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

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

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

E. The holder of a license, issued by the ABLE Commission, for a bottle club located in a county of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized, may exchange the bottle club license for a mixed beverage license or a beer and wine license and operate the licensed premises as a mixed beverage establishment or a beer and wine establishment subject to the provisions of the

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Oklahoma Alcoholic Beverage Control Act. There shall be no additional fee for such exchange and the mixed beverage license or beer and wine license issued shall expire one (1) year from the date of issuance of the original bottle club license.

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

1. Nonresident Seller..... $2,500.00
2. Wholesaler..... $2,500.00
3. Class B Wholesaler without an active low-point beer license..... $1,000.00
4. Class B Wholesaler with an active low-point beer license..... $1,500.00
5. Package Store for cities and towns over 5,000 population..... $250.00
6. Package Store for cities and towns from 2,501 to 5,000 population..... $200.00
7. Package Store for cities and towns from 200 to 2,500 population..... $150.00
8. Mixed Beverage..... $25.00
9. Mixed Beverage/Caterer Combination..... $25.00
10. Caterer..... $25.00
11. Beer and Wine..... $25.00
12. Annual Public Event License..... $25.00

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

SECTION 3. AMENDATORY 37 O.S. 2011, Section 518.1, is amended to read as follows:

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

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

SECTION 4. AMENDATORY 37 O.S. 2011, Section 521, as last amended by Section 1, Chapter 81, O.S.L. 2013 (37 O.S. Supp. 2013, Section 521), is amended to read as follows:

Section 521. A. A brewer license shall authorize the holder thereof: To manufacture, bottle, package, and store beer on

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licensed premises; to sell beer in this state to holders of Class B wholesaler licenses and retail licenses and to sell beer out of this state to qualified persons; and to serve free samples of beer produced by the licensee to visitors twenty-one (21) years of age or older. For purposes of this section, no visitor may sample more than a total of twelve (12) fluid ounces of beer per day. The brewer must restrict the distribution and consumption of beer samples to an area within the licensed premises designated by the brewer. A current floor plan that includes the designated sampling area must be on file with the Oklahoma Alcoholic Beverage Laws Enforcement (ABLE) Commission. No visitor under twenty-one (21) years of age shall be permitted to enter this designated sampling area when samples are being distributed or consumed. Samples may only be distributed or consumed between ten a.m. and nine p.m. Samples of beer served by a brewery under this section shall not be considered a "sale" of beer within the meaning of Article XXVIII of the Oklahoma Constitution or Section 506 of this title; however, such samples of beer shall be considered beer removed or withdrawn from the brewery for "use or consumption" within the meaning of Section 542 of this title for excise tax determination and reporting requirements.

B. A distiller license shall authorize the holder thereof: To manufacture, bottle, package, and store spirits on licensed premises; to sell spirits in this state to licensed wholesalers and

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manufacturers only; to sell spirits out of this state to qualified persons; to purchase from licensed distillers and rectifiers in this state, and import spirits from without this state for manufacturing purposes in accordance with federal laws and regulations.

C. A winemaker license shall authorize the holder thereof: To manufacture (including such mixing, blending and cellar treatment as authorized by federal law), bottle, package, and store on licensed premises wine containing not more than twenty-four percent (24%) alcohol by volume, provided the bottle or package sizes authorized shall be limited to the capacities approved by the United States Alcohol and Tobacco Tax and Trade Bureau; to sell wine in this state to licensed wholesalers and manufacturers; to sell bottles of wine produced at the winery from grapes and other fruits and berries grown in this state, if available, to consumers on the premises of the winery; to serve visitors on the licensed premises samples of wine produced on the premises; to serve samples of wine produced at the winery at festivals and trade shows; to sell wine produced at the winery, in original sealed containers, at festivals and trade shows; to sell wine out of this state to qualified persons; to purchase from licensed winemakers, distillers and rectifiers in this state, and to import into this state wine, brandy and fruit spirits for use in manufacturing in accordance with federal laws and regulations; provided, a winemaker either within or without this state that annually produces no more than ten thousand (10,000)

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gallons of wine may elect to sell and self-distribute the wine produced by such winemaker directly to licensed retail package stores and restaurants in this state; and provided further that:

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

2. If a winemaker or winery sells directly to a retail package store or restaurant, the winemaker shall transport the wine from the winemaker's winery to the premises where the wine is to be delivered only in vehicles owned or leased by the winemaker and not by common or private contract carrier and shall obtain all necessary permits as required by the Oklahoma Alcoholic Beverage Control Act; and

3. If the production volume limit applicable to winemakers is ruled to be unconstitutional by a court of competent jurisdiction, then no winemaker shall be permitted to directly sell its wine to retail package stores or restaurants in this state.

D. A winemaker self-distribution license shall authorize a licensed winemaker within or without this state which is permitted by Section 3 of Article XXVIII of the Oklahoma Constitution and subsection C of this section, to distribute its wine directly to retail package stores and restaurants in this state and that elects

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to do so, to sell and deliver its wines directly to licensed retail package stores and restaurants in this state in full case lots only, and in accordance with the provisions of the Oklahoma Alcoholic Beverage Control Act and such rules as the ABLE Commission shall adopt.

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

F. 1. A wholesaler license shall authorize the holder thereof: To purchase and import into this state spirits and wines from persons authorized to sell same who are the holders of a nonresident seller license, and their agents who are the holders of manufacturers agent licenses; to purchase spirits and wines from licensed distillers, rectifiers and winemakers in this state; to purchase spirits and wines from licensed wholesalers, to the extent set forth in paragraphs 2 and 3 of this subsection; to sell in retail containers in this state to retailers, mixed beverage, caterer, special event, <u>public event,</u> hotel beverage or airline/railroad beverage licensees, spirits and wines which have

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been received and unloaded at the bonded warehouse facilities of the wholesaler before such sale; to sell to licensed wholesalers, to the extent set forth in paragraphs 2 and 3 of this subsection, spirits and wines which have been received and unloaded at the bonded warehouse facilities of the wholesaler before such sale; and to sell spirits and wines out of this state to qualified persons. Provided, however, sales of spirits and wine in containers with a capacity of less than one-twentieth (1/20) gallon by a holder of a wholesaler license shall be in full case lots and in the original unbroken case. Wholesalers shall be authorized to place such signs outside their place of business as are required by Acts of Congress and by such laws and regulations promulgated under such Acts.

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

a. the total volume of spirits sales of the wholesaler, by liter, from the previous calendar year, and

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b. the total volume of wine sales of the wholesaler, by liter, from the previous calendar year, and

c. the volume of sales of each brand of spirits or wine of the wholesaler, by liter, from the previous calendar year.

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

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

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

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

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

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

G. A Class B wholesaler license shall authorize the holder thereof: To purchase and import into this state beer from persons authorized to sell same who are the holders of nonresident seller licenses, and their agents who are the holders of manufacturers agent licenses; to purchase beer from licensed brewers and Class B wholesalers in this state; to sell in retail containers to retailers, mixed beverage, caterer, special event, public event, hotel beverage and airline/railroad beverage licensees in this state, beer which has been unloaded and stored at the holder's self-

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owned or leased and self-operated warehouse facilities for a period of at least twenty-four (24) hours before such sale; and to sell beer in this state to Class B wholesalers and out of this state to qualified persons, including federal instrumentalities and voluntary associations of military personnel on federal enclaves in this state over which this state has ceded jurisdiction.

H. A package store license shall authorize the holder thereof: To purchase alcohol, spirits, beer and wine in retail containers from the holder of a brewer, wholesaler or Class B wholesaler license and to purchase wine from a winemaker who is permitted and has elected to self-distribute as provided in Section 3 of Article XXVIII of the Oklahoma Constitution and to sell same on the licensed premises in such containers to consumers for off-premises consumption only and not for resale; provided, wine may be sold to charitable organizations that are holders of charitable auction or charitable wine event licenses. All alcoholic beverages that are sold by a package store are to be sold at ordinary room temperature.

I. A mixed beverage license shall authorize the holder thereof: To purchase alcohol, spirits, beer or wine in retail containers from the holder of a wholesaler or Class B wholesaler license or as specifically provided by law and to sell, offer for sale and possess mixed beverages for on-premises consumption only; provided, the holder of a mixed beverage license issued for an establishment which is also a restaurant may purchase wine directly from a winemaker who

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is permitted and has elected to self-distribute as provided in Section 3 of Article XXVIII of the Oklahoma Constitution.

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

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

K. A caterer license shall authorize the holder thereof: To sell mixed beverages for on-premises consumption incidental to the sale or distribution of food at particular functions, occasions, or

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events which are temporary in nature. A caterer license shall not be issued in lieu of a mixed beverage license. A caterer license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. A separate license shall be required for each place of business.

L. 1. An annual special event license shall authorize the holder thereof: To sell and distribute mixed beverages for consumption on the premises for which the license has been issued for up to four events to be held over a period not to exceed one (1) year, not to exceed two such events in any three-month period. For purposes of this paragraph, an event shall not exceed a period of ten (10) consecutive days. An annual special event license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. The holder of an annual special event license shall provide written notice to the ABLE Commission of each special event not less than ten (10) days before the event is held.

2. A quarterly special event license shall authorize the holder thereof: To sell and distribute mixed beverages for consumption on the premises for which the license has been issued for up to three events to be held over a period not to exceed three (3) months. For purposes of this paragraph, an event shall not exceed a period of ten (10) consecutive days. A quarterly special event license shall

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

3. An annual public event license shall authorize the holder thereof: to sell and distribute mixed beverages for consumption on the premises for which the license has been issued for up to six events to be held over a period not to exceed one (1) calendar year. For purposes of this paragraph, an event shall not exceed a period of three (3) consecutive days. An annual public event license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. The holder of an annual public event license shall provide written notice to the ABLE Commission of each promoted public event not less than ten (10) days before the event is held. A public event license shall not be used in lieu of a mixed beverage license.

4. A one-time public event license shall authorize the holder thereof: to sell and distribute mixed beverages for consumption on the premises for which the license has been issued. For purposes of this paragraph, an event shall not exceed a period of three (3) consecutive days. A public event license shall only be issued in counties of this state where the sale of alcoholic beverages by the

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individual drink for on-premises consumption has been authorized. The holder of a public event license shall provide written notice to the ABLE Commission of each public event not less than ten (10) days before the event is held. A public event license shall not be used in lieu of a mixed beverage license.

M. A hotel beverage license shall authorize the holder thereof: To sell or serve alcoholic beverages in 50 milliliter spirits, 187 milliliter wine, and 12-ounce malt beverage containers which are distributed from a hotel room mini-bar. A hotel beverage license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. A hotel beverage license shall only be issued to a hotel or motel as defined by Section 506 of this title which is also the holder of a mixed beverage license. Provided, that application may be made simultaneously for both such licenses. A separate license shall be required for each place of business.

N. An airline/railroad beverage license shall authorize the holder thereof: To sell or serve alcoholic beverages in or from any size container on a commercial passenger airplane or railroad operated in compliance with a valid license, permit or certificate issued under the authority of the United States or this state, even though the airplane or train, in the course of its travel, may cross an area in which the sale of alcoholic beverages by the individual

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drink is not authorized and to store alcoholic beverages in sealed containers of any size at any airport or station regularly served by the licensee, in accordance with rules promulgated by the Alcoholic Beverage Laws Enforcement Commission. Alcoholic beverages purchased by the holder of an airline/railroad license from the holder of a wholesaler license shall be presumed to be purchased for consumption outside the State of Oklahoma or in interstate commerce, and shall be exempt from the excise tax provided for in Section 553 of this title.

O. An agent license shall authorize the holder thereof: To represent only the holders of licenses within this state, other than retailers, authorized to sell alcoholic beverages to retail dealers in Oklahoma, and to solicit and to take orders for the purchase of alcoholic beverages from retailers including licensees authorized to sell alcoholic beverages by the individual drink for on-premises consumption. Such license shall be issued only to agents and employees of the holder of a license under the Oklahoma Alcoholic Beverage Control Act, but no such license shall be required of an employee making sales of alcoholic beverages on licensed premises of the employee's principal. No person holding an agent license shall be entitled to a manufacturers agent license.

P. An employee license shall authorize the holder thereof: To work in a package store, mixed beverage establishment, bottle club, public event or any establishment where alcohol or alcoholic

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beverages are sold, mixed, or served. Persons employed by a mixed beverage licensee, public event licensee or a bottle club who do not participate in the service, mixing, or sale of mixed beverages shall not be required to have an employee license. Provided, however, that a manager employed by a mixed beverage licensee, public event licensee or a bottle club shall be required to have an employee license whether or not the manager participates in the service, mixing or sale of mixed beverages. Applicants for an employee license must have a health card issued by the county in which they are employed, if the county issues such a card. Employees of special event, caterer or airline/railroad beverage licensees shall not be required to obtain an employee license. Persons employed by a hotel licensee who participate in the stocking of hotel room mini-bars or in the handling of alcoholic beverages to be placed in such devices shall be required to have an employee license.

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

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

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

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

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

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

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

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

S. A private carrier license may be issued to any carrier other than a common carrier described in subsection Q of this section.

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Such license shall authorize the holder thereof to transport alcoholic beverages other than wine sold directly by a winemaker or winery to a retail package store or restaurant into, within, or out of this state under such terms, conditions, limitations, and restrictions as the ABLE Commission may prescribe by order issuing such license and by regulations. No carrier license or private carrier license shall be required of licensed brewers, distillers, winemakers, rectifiers, wholesalers, or Class B wholesalers, to transport alcoholic beverages from the place of purchase or acquisition to the licensed premises of such licensees and from such licensed premises to the licensed premises of the purchaser in vehicles owned or leased by such licensee when such transportation is for a lawful purpose and not for hire.

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

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

U. A storage license may be issued to a holder of a brewer, distiller, winemaker, rectifier, wholesaler, Class B wholesaler, nonresident seller, package store, mixed beverage, caterer, public event or hotel beverage license, and shall authorize the holder thereof: To store alcoholic beverages in a public warehouse holding a bonded warehouse license, and no goods, wares or merchandise other than alcoholic beverages may be stored in the same warehouse with alcoholic beverages in private warehouses owned or leased and operated by such licensees elsewhere than on their licensed premises. Provided:

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

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

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

4. A storage license shall be required for a public event licensee storing alcoholic beverages for use at a subsequent event; and

5. Notwithstanding the provisions of subsection I of this section or any other provision of this title, a licensee who wholly owns more than one licensed mixed beverage establishment may store alcoholic beverages for each of the licensed establishments in one location under one storage license. Alcoholic beverages purchased and stored pursuant to the provisions of a storage license, for one licensed mixed beverage establishment may be transferred by a licensee to another licensed mixed beverage establishment which is wholly owned by the same licensee. Notice of such a transfer shall be given in writing to the Oklahoma Tax Commission and the ABLE Commission within three (3) business days of the transfer. The notice shall clearly show the quantity, brand and size of every transferred bottle or case.

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

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

Sales and service of beer and wine by holders of beer and wine licenses shall be limited to the licensed premises of the licensee unless the holder of the beer and wine license also obtains a caterer license. A beer and wine license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. A separate license shall be required for each place of business. No beer and wine license shall be issued for any place of business

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functioning as a motion picture theater, as defined by Section 506 of this title. No spirits shall be stored, possessed or consumed on the licensed premises of a beer and wine licensee.

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

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

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

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

A charitable ~~wine or charitable beer~~ alcoholic beverage event shall be conducted solely to raise funds for charitable purposes. A charitable alcoholic beverage license will allow the event attendees access to tastings, samples, dinners and alcoholic beverages as

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parts of their entrance fee or ticket price. Wine, spirits and/or beer used in, served, or consumed at a charitable ~~wine or beer~~ alcoholic beverage event may be purchased by the charitable organization or donated by any person or entity. The charitable ~~wine event license or charitable beer~~ alcoholic beverage event license shall be issued for a period not exceeding four (4) days. Only ~~one~~ eight such ~~license~~ licenses may be issued to an organization in any twelve-month period. The charitable organization holding a charitable ~~wine event license or charitable beer~~ alcoholic beverage event license shall not be required to obtain a special event license. Charitable auction and charitable alcoholic beverage event license holders may also utilize a licensed caterer to provide additional alcohol services at the event and on the premises. The charitable auction license shall authorize the holder thereof to auction wine, spirits and/or beer purchased from a retail package store or received as a gift from an individual if the auction is conducted to raise funds for charitable purposes. The charitable auction license shall be issued for a period not to exceed two (2) days. Only ~~one~~ four such ~~license~~ licenses shall be issued to an organization in any twelve-month period. The maximum amount of wine, spirits and/or beer auctioned pursuant to the charitable auction license shall not exceed fifty (50) gallons. All wines auctioned pursuant to the charitable auction license shall be

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registered and all fees and taxes shall be paid in accordance with the Oklahoma Alcoholic Beverage Control Act.

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

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

AA. Except as provided in Sections 554.1 and 554.2 of this title with respect to cities, towns and counties, and except as may be provided under Title 68 of the Oklahoma Statutes with respect to the Oklahoma Tax Commission, no license or permit other than licenses as provided under the Oklahoma Alcoholic Beverage Control Act shall be required of any licensee by any agency, instrumentality

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or political subdivision of this state to engage in any activity covered by the Oklahoma Alcoholic Beverage Control Act anywhere within the State of Oklahoma and no agency, instrumentality or political subdivision of this state shall interfere with the ABLE Commission's regulation of, or a wholesaler's performance of, the sale, distribution, possession, handling or marketing of alcoholic beverages on any premises of any licensee as defined in Section 506 of this title.

SECTION 5. AMENDATORY 37 O.S. 2011, Section 523, is amended to read as follows:

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

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

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

2. A certificate of zoning issued by the municipality in which the applicant proposes to locate the applicant's principal place of

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business under the license, or by the county if ~~said~~ the principal place of business is located outside the incorporated limits of a municipality, certifying that the applicant's proposed location and use thereof comply with all municipal zoning ordinances or county zoning regulations if applicable;

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

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

5. A deed, management agreement, purchasing agreement, or lease; and

6. Proof of liability insurance covering both bodily injury and property damage.

C. The certificates required by paragraphs 2 and 3 of subsection B of this section shall be signed by the mayor of the municipality or the ~~chairman~~ chair of the board of county

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commissioners issuing same, unless the municipality, by ordinance, or the county designates some other officer or entity to issue the certificates. Applications for such certificates shall be in writing and shall contain information in such detail as the municipality or county may reasonably require describing the location and nature of operations to be conducted under the ABLE license. Municipalities and counties shall be required to act on all applications for such certificates within twenty (20) days of receipt of the written application.

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

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

Thereafter if a licensee fails to maintain compliance with municipal or county zoning ordinances and codes, the mayor or ~~chairman~~ chair of the board of county commissioners or their

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designee, shall forthwith notify the ABLE Commission in writing setting forth details of the noncompliance.

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

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

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

SECTION 6. AMENDATORY 37 O.S. 2011, Section 527.1, is amended to read as follows:

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Section 527.1 The Alcoholic Beverage Laws Enforcement Commission shall refuse to issue a mixed beverage, beer and wine, bottle club, public event or caterer license, either on an original application or a renewal application, if it has reasonable grounds to believe and finds any of the following to be true:

1. That the applicant, in the case of a natural person, is under twenty-one (21) years of age;

2. That the applicant, in the case of a corporation, has a stockholder who owns fifteen percent (15%) or more of the stock, officer, or director who is under twenty-one (21) years of age;

3. That the applicant, in the case of any type of partnership, has any partner who is under twenty-one (21) years of age;

4. That the applicant, in the case of a limited liability company, has a manager or member who is under twenty-one (21) years of age;

5. That the applicant or any type of partner has been convicted of a felony;

6. That the applicant, in the case of a corporation, has a stockholder owning fifteen percent (15%) of the stock, officer or director who has been convicted of a felony;

7. That the applicant, in the case of a limited liability company, has a manager or a member who has been convicted of a felony;

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8. That the applicant has made false statements to the ABLE Commission;

9. That the applicant is not the legitimate owner of the business for which a license is sought or that other persons have undisclosed ownership interests in the business;

10. That the applicant or any partner, within twelve (12) months after being issued a license, either on an original application or a renewal application, has violated any provision of the Oklahoma Alcoholic Beverage Control Act or regulation of the ABLE Commission issued pursuant hereto. Provided, however, that if the ABLE Commission, during said twelve-month period, has suspended any license sought to be renewed, such renewal application may be approved if the term of the suspension has been completed and the applicant has complied with any special conditions imposed in connection with the suspension;

11. That the applicant is not the real party in interest, or intends to carry on the business authorized by the license as the agent of another;

12. That the applicant is a person who appoints or is a law enforcement official or is an employee of the ABLE Commission or of the Director; or

13. That the applicant does not own or have a written lease for the premises for which a license is sought.

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SECTION 7. AMENDATORY 37 O.S. 2011, Section 528.1, is amended to read as follows:

Section 528.1 The governing board of any municipality, as to any mixed beverage, beer and wine, caterer, public event or bottle club licensee having its principal place of business in such municipality, and the board of county commissioners of any county, as to any mixed beverage, beer and wine, caterer, public event or bottle club licensee having its principal place of business in such county but outside the incorporated limits of a municipality, may initiate a license suspension or revocation proceeding as to such licensee by filing a written complaint with the ABLE Commission, setting forth the grounds for the proposed suspension or revocation. Such complaint may be based on any ground that the ABLE Commission might have asserted. Upon receipt of such complaint, the ABLE Commission shall forward a copy of the complaint to the licensee together with written notice of the time and place of hearing thereon. If the complaint is filed by a municipality the hearing shall be conducted within the corporate limits of said municipality. If the complaint is filed by a county, the hearing shall be conducted in said county. The hearing shall be held within the time limits, and in the manner, prescribed for suspension or revocation proceedings initiated by the ABLE Commission. In any proceeding initiated pursuant to this section, the municipality or county shall be deemed an interested party, shall have the right to be heard and

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to present evidence at the hearing on the complaint, and shall be entitled to appeal from any final order entered by the ABLE Commission in the manner otherwise provided in the Oklahoma Alcoholic Beverage Control Act. Such municipality or county shall not be required to give bond on appeal.

SECTION 8. AMENDATORY 37 O.S. 2011, Section 532.1, is amended to read as follows:

Section 532.1 All licenses issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act shall be displayed in a conspicuous place at all times on the licensed premises. No licensee may consent to or allow the use or display of his license by a person other than the person to whom the license was issued. No person may use a license or exercise any privileges granted by the license except at the place, address, premises or location for which the license is issued, except as otherwise provided by the Oklahoma Alcoholic Beverage Control Act.

If the mixed beverage, caterer, public event or bottle club license for a licensed premises is suspended or revoked by the ABLE Commission, all other licenses issued by the ABLE Commission for such premises shall cease to be valid. If a mixed beverage, caterer, public event or bottle club license is suspended or revoked for any licensed premises, this shall not invalidate licenses held by the licensee for other licensed premises.

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SECTION 9. AMENDATORY 37 O.S. 2011, Section 535, is amended to read as follows:

Section 535. It shall be unlawful for any manufacturer, wholesaler, Class B wholesaler, or person authorized to sell alcoholic beverages to a wholesaler, or any employee, officer, director, stockholder owning fifteen percent (15%) or more of the stock, any type of partner, manager, member or agent thereof, to directly or indirectly:

1. Have any financial interest in any premises upon which any alcoholic beverage or light beer is sold at retail or in any business connected with the retailing of alcoholic beverages or light beer as defined in Section 506 of this title;

2. Lend any money or other thing of value, or to make any gift or offer any gratuity, to any package store, mixed beverage, beer and wine, public event or bottle club licensee or caterer;

3. Guarantee any loan or the repayment of any financial obligation of any retailer, mixed beverage, beer and wine, public event or bottle club licensee or caterer;

4. Require any wholesaler, Class B wholesaler, retailer, mixed beverage, beer and wine licensee or caterer to purchase and dispose of any quota of alcoholic beverages, or to require any retailer to purchase any kind, type, size container, or brand of alcoholic beverages in order to obtain any other kind, type, size container, or brand of alcoholic beverages;

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5. Sell to any retailer, mixed beverage, beer and wine licensee, public event or caterer any alcoholic beverage on consignment, or upon condition, or with the privilege of return, or on any condition other than a bona fide sale; provided, the delivery in good faith, through mistake, inadvertence, or oversight, of alcoholic beverage that was not ordered by a retailer, mixed beverage licensee, beer and wine licensee, caterer, public event or special event licensee to such licensee shall not be considered a violation of this paragraph, as long as action is taken to correct the error and all invoices and records of the transaction are corrected. There shall be no time period imposed by the ABLE Commission for notification of or correction of the error; or

6. Extend credit to any retailer, other than holders of Federal Liquor Stamps on United States government reservations and installations, mixed beverage, public event or beer and wine licensee or caterer other than a state lodge located in a county which has approved the retail sale of alcoholic beverages by the individual drink for on-premises consumption. The acceptance of a postdated check or draft or the failure to deposit for collection a current check or draft by the second banking day after receipt shall be deemed an extension of credit. Violation of this ~~subsection~~ section shall be grounds for suspension of the license.

SECTION 10. AMENDATORY 37 O.S. 2011, Section 535.1, is amended to read as follows:

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Section 535.1 No mixed beverage, beer and wine, caterer, public event or bottle club licensee, partner in any type of partnership, manager or member of a limited liability company, officer, director or stockholder of any corporate licensee owning more than fifteen percent (15%) of the stock shall have any right, title, lien, claim or interest, financial or otherwise in, upon or to the premises, equipment, business or merchandise of any package store, manufacturer or wholesaler. The provisions of this section shall not prohibit a person who is an officer or director of a fraternal or veteran's organization which is a tax exempt organization under Section 501(c)(8), (10) or (19) of the Internal Revenue Code and which holds a license issued by the ABLE Commission from having a right, title, lien, claim, or interest in the premises, equipment, business, or merchandise of a package store.

SECTION 11. AMENDATORY 37 O.S. 2011, Section 535.2, is amended to read as follows:

Section 535.2 No manufacturer, wholesaler, partner in any type of partnership, manager or member of a limited liability company, or officer, director or stockholder of any nonresident seller or manufacturer licensee, owning more than fifteen percent (15%) of the stock shall have any right, title, claim or interest, financial or otherwise in, upon or to the premises, equipment, business or merchandise of any mixed beverage, beer and wine, caterer, public event or bottle club licensee.

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SECTION 12. AMENDATORY 37 O.S. 2011, Section 537, is amended to read as follows:

Section 537. A. No person shall:

1. Knowingly sell, deliver, or furnish alcoholic beverages to any person under twenty-one (21) years of age;

2. Sell, deliver or knowingly furnish alcoholic beverages to an intoxicated person or to any person who has been adjudged insane or mentally deficient;

3. Open a retail container or consume alcoholic beverages on the premises of a retail package store;

4. Import into this state, except as provided for in the Oklahoma Alcoholic Beverage Control Act, any alcoholic beverages; provided, that nothing herein shall prohibit the importation or possession for personal use of not more than one (1) liter of alcoholic beverages upon which the Oklahoma excise tax is delinquent;

5. Receive, possess, or use any alcoholic beverage in violation of the provisions of the Oklahoma Alcoholic Beverage Control Act;

6. Transport into, within, or through this state more than one (1) liter of alcoholic beverages upon which the Oklahoma excise tax has not been paid unless the person accompanying or in charge of the vehicle transporting same shall possess a true copy of a bill of lading, invoice, manifest or other document particularly identifying the alcoholic beverages being transported and showing the name and

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address of the consignor and consignee; provided, this prohibition shall not apply to the first one hundred eighty (180) liters of alcoholic beverages classified as household goods by military personnel, age twenty-one (21) or older when entering Oklahoma from temporary active assignment outside the contiguous United States;

7. Knowingly transport in any vehicle upon a public highway, street or alley any alcoholic beverage except in the original container which shall not have been opened and the seal upon which shall not have been broken and from which the original cap or cork shall not have been removed, unless the opened container be in the rear trunk or rear compartment, which shall include the spare tire compartment in a vehicle commonly known as a station wagon and panel truck, or any outside compartment which is not accessible to the driver or any other person in the vehicle while it is in motion;

8. Drink intoxicating liquor in public except on the premises of a licensee of the Alcoholic Beverage Laws Enforcement Commission who is authorized to sell or serve alcoholic beverages by the individual drink or be intoxicated in a public place. This provision shall be cumulative and in addition to existing law;

9. Forcibly resist lawful arrest, or by physical contact interfere with an investigation of any infringement of the Oklahoma Alcoholic Beverage Control Act or with any lawful search or seizure being made by an inspector or agent of the ABLE Commission, when such person knows or should know that such acts are being performed

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by a state, county, or municipal officer, inspector or agent of the ABLE Commission;

10. Manufacture, duplicate, counterfeit or in any way imitate any bottle club membership card required to be issued by the ABLE Commission without the permission of the Commission;

11. Consume or possess alcoholic beverages on the licensed premises of a bottle club unless such person possesses a valid membership card for that club issued by the club; or

12. Knowingly possess any bottle club membership card required to be issued by the ABLE Commission, which has been manufactured, counterfeited, imitated or in any way duplicated without the permission of the Commission.

B. No licensee of the ABLE Commission shall:

1. Receive, possess, or sell any alcoholic beverage except as authorized by the Oklahoma Alcoholic Beverage Control Act and by the license or permit which the licensee holds;

2. Employ any person under the age of twenty-one (21) in the selling or handling of alcoholic beverages. Provided, that a mixed beverage, beer and wine, caterer, public event, special event or bottle club licensee may employ servers who are at least eighteen (18) years of age, except persons under twenty-one (21) years of age may not serve in designated bar or lounge areas, and a mixed beverage, beer and wine, caterer, special event or bottle club licensee may employ or hire musical bands who have musicians who are

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under twenty-one (21) years of age if each such musician is either accompanied by a parent or legal guardian or has on their person, to be made available for inspection upon demand by any ABLE Commission officer or law enforcement officer, a written, notarized affidavit from the parent or legal guardian giving the underage musician permission to perform in designated bar or lounge areas;

3. Give any alcoholic beverage as a prize, premium or consideration for any lottery, game of chance or skill or any type of competition;

4. Advertise or offer "happy hours" or any other means or inducements to stimulate the consumption of alcoholic beverages including:

a. deliver more than two drinks to one person at one time,

b. sell or offer to sell to any person or group of persons any drinks at a price less than the price regularly charged for such drinks during the same calendar week, except at private functions not open to the public,

c. sell or offer to sell to any person an unlimited number of drinks during any set period of time for a fixed price, except at private functions not open to the public,

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d. sell or offer to sell drinks to any person or group of persons on any one day at prices less than those charged the general public on that day, except at private functions not open to the public,

e. increase the volume of alcoholic beverages contained in a drink without increasing proportionately the price regularly charged for such drink during the same calendar week, or

f. encourage or permit, on the licensed premises, any game or contest which involves drinking or the awarding of drinks as prizes.

Provided that the provisions of this paragraph shall not prohibit the advertising or offering of food or entertainment in licensed establishments;

5. Permit or allow any patron or person to exit the licensed premises with an open container of any alcoholic beverage. Provided, that this prohibition shall not be applicable to closed original containers of alcoholic beverages which are carried from the licensed premises of a bottle club by a patron, closed original wine containers removed from the premises of restaurants, hotels, and motels, or to closed original containers of alcoholic beverages transported to and from the place of business of a licensed caterer by the caterer or an employee of the caterer; ~~or~~

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6. Serve or sell alcoholic beverages with an expired license issued by the ABLE Commission; or

7. Permit any person to be drunk or intoxicated on the licensee's licensed premises.

C. No package store licensee shall:

1. Purchase or receive any alcoholic beverage other than from a person holding a brewer, wholesaler or Class B wholesaler license issued pursuant to the Oklahoma Alcoholic Beverage Control Act;

2. Suffer or permit any retail container to be opened, or any alcoholic beverage to be consumed, on the licensed premises;

3. Sell, or keep package store premises open for the purpose of selling, any alcoholic beverages at any hour other than between the hours of 10:00 a.m. and 9:00 p.m. Monday through Saturday; provided, that no such sales shall be made, or package store premises be allowed to remain open for the purpose of making such sales, on New Year's Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving Day or Christmas Day. Package store licensees shall be permitted to sell, or keep package store premises open for the purpose of selling, alcoholic beverages on the day of any General, Primary, Runoff Primary or Special Election whether on a national, state, county or city election, provided that the election day does not occur on any day on which such sales are otherwise prohibited by law;

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4. Operate a retail package store unless such store shall be located in a city or town having a population in excess of two hundred (200) according to the latest Federal Decennial Census;

5. Sell any alcoholic beverage on credit; provided that acceptance by a retail liquor store of a cash or debit card, or a nationally recognized credit card, in lieu of actual cash payment does not constitute the extension of credit; provided further, as used in this section:

a. "cash or debit card" means any instrument or device whether known as a debit card or by any other name, issued with or without fee by an issuer for the use of the cardholder in depositing, obtaining or transferring funds from a consumer banking electronic facility, and

b. "nationally recognized credit card" means any instrument or device, whether known as a credit card, credit plate, charge plate or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services or anything else of value on credit which is accepted by over one hundred merchants;

6. Offer or furnish any prize, premium, gift or similar inducement to a consumer in connection with the sale of alcoholic beverage, except that goods or merchandise included by the

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manufacturer in packaging with alcoholic beverages or for packaging with alcoholic beverages shall not be included in this prohibition, but no wholesaler or package store shall sell any alcoholic beverage prepackaged with other goods or merchandise at a price which is greater than the price at which the alcoholic beverage alone is sold;

7. Permit any person under twenty-one (21) years of age to enter into, remain within or loiter about the licensed premises; or

8. Pay for alcoholic beverages by a check or draft which is dishonored by the drawee when presented to such drawee for payment; and the ABLE Commission may cancel or suspend the license of any retailer who has given a check or draft, as maker or endorser, which is so dishonored upon presentation.

D. No wholesaler licensee shall:

1. Sell or deliver any amount of spirits or wines to any package store licensee on Saturday or Sunday; or

2. Sell or deliver any amount of spirits or wines to any package store licensee on New Year's Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving Day or Christmas Day.

E. No mixed beverage<u>, public event, special event</u> or beer and wine licensee shall:

1. Purchase or receive any alcoholic beverage other than from a person holding a wholesaler or Class B wholesaler license issued pursuant to the Oklahoma Alcoholic Beverage Control Act; provided, a

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mixed beverage or beer and wine licensee whose premises are a restaurant may purchase wine produced at wineries in this state directly from an Oklahoma winemaker as provided in Section 3 of Article XXVIII of the Oklahoma Constitution;

2. Transport alcoholic beverages from the place of purchase to the licensed premises unless the licensee also holds a private carrier license issued by the ABLE Commission;

3. Use or allow the use of any mark or label on a container of alcoholic beverage which is kept for sale which does not clearly and precisely indicate the nature of the contents or which might deceive or conceal the nature, composition, quantity, age or quality of such beverage;

4. Keep or knowingly permit any alcoholic beverage to be kept, brought or consumed on the licensed premises which is not allowed to be sold or served upon such premises; or

5. Allow any person under twenty-one (21) years of age to enter into, remain within or loiter about the designated bar area of the licensed premises, except for persons who incidentally pass through the designated area.

The prohibition in this subsection against persons under twenty-one (21) years of age entering or remaining within the designated bar area of the licensed premises shall not apply, if the licensed premises are closed to the public during a time the premises are legally permitted to be open for business and the premises are used

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for a private party at which alcoholic beverages may be served to persons twenty-one (21) years of age of older. Any alcoholic beverages served at a private party on the licensed premises may be purchased from the licensee at a negotiated price or purchased privately and served at the private party on the licensed premises. Any licensee who desires to conduct such a private party shall notify the ABLE Commission, in writing, at least ten (10) calendar days prior to the private party. The notification shall include the date, time, and purpose of the private party and any other information the ABLE Commission may deem necessary.

F. No bottle club licensee shall:

1. Use or allow the use of any mark or label on a container of alcoholic beverage which does not clearly and precisely indicate the nature of the contents or which might deceive or conceal the nature, composition, quantity, age or quality of any such beverage;

2. Act as an agent for any bottle club member and purchase any alcoholic beverage for the member;

3. Use or allow the use of any pool system of storage or purchase of alcoholic beverages;

4. Allow any person to enter or remain in the designated bar or lounge area of the club unless that person possesses a valid membership card for that club issued by the club;

5. Sell any alcoholic beverage;

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6. Deliver or furnish to any club member any alcoholic beverage that does not belong to the member;

7. Serve alcoholic beverages to any person who does not possess a valid membership card for that club issued by the club;

8. Issue a membership card for the club to a person under twenty-one (21) years of age; or

9. Allow any person under twenty-one (21) years of age to enter into, remain within or loiter about the designated bar area of the licensed premises, except for members of a musical band employed or hired as provided in paragraph 2 of subsection B of this section when the band is to perform within such area.

The prohibition in this subsection against persons under twenty-one (21) years of age entering or remaining within the designated bar area of the licensed premises shall not apply, if the licensed premises are closed to the public during a time the premises are legally permitted to be open for business and the premises are used for a private party at which alcoholic beverages may be served to persons twenty-one (21) years of age or older. Any alcoholic beverages served at a private party on the licensed premises may be purchased from the licensee at a negotiated price or purchased privately and served at the private party on the licensed premises. Any licensee who desires to conduct such a private party shall notify the ABLE Commission, in writing, at least ten (10) calendar days prior to the private party. The notification shall include the

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date, time, and purpose of the private party and any other information the ABLE Commission may deem necessary.

G. No special event or caterer licensee shall:

1. Purchase or receive any alcoholic beverage other than from a person holding a wholesaler or Class B wholesaler license issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act; provided, a special event or caterer licensee may purchase wine produced at wineries in this state directly from an Oklahoma winemaker as provided in Section 3 of Article XXVIII of the Oklahoma Constitution; or

2. Transport alcoholic beverages from the place of purchase to the licensed premises unless the licensee also holds a private carrier license issued by the ABLE Commission.

~~H. No person operating a cafe, restaurant, club, or any place of recreation shall permit any person to be drunk or intoxicated in the person's place of business.~~

SECTION 13. AMENDATORY 37 O.S. 2011, Section 537.1, is amended to read as follows:

Section 537.1 No mixed beverage, beer and wine, bottle club, caterer, public event or special event licensee or any employee, manager, operator or agent thereof shall:

1. Consume or be under the influence of alcoholic beverages during the hours he is on duty. For the purposes of this section, licensees will be deemed to be on duty from the time he first comes

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on duty until the time he goes off duty at the end of the shift, including any break periods permitted by management. This paragraph shall not apply to any person who works on the premises as an entertainer only;

2. Permit or tolerate any conduct or language which is intended to threaten another with physical harm or any fighting or offensive physical contact, in or upon the licensed premises or areas just outside the licensed premises which are controlled by the licensee;

3. Permit empty or discarded alcoholic beverage containers to be in public view outside the licensed premises. All empty or discarded containers shall be disposed of in accordance with ABLE Commission rules and regulations;

4. Permit any illegal gambling activity, violations of the state narcotic and dangerous drug laws, or prostitution activity or any other criminal conduct to occur on the licensed premises;

5. Refuse or fail to promptly open a door to the licensed premises upon request of an agent or inspector of the Alcoholic Beverage Laws Enforcement Commission or any other peace officer to enter the premises, when the licensee or employee knows or should know that such request is made by an agent or inspector of the ABLE Commission or any other peace officer. This provision shall not be construed to deny agents of the ABLE Commission or any other peace officer access at any time to any licensed premises;

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6. Permit a sealed or unsealed container of alcoholic beverage to be removed from the licensed premises. Provided that restaurants, hotels and motels may permit the removal of closed original wine containers the contents of which have been partially consumed and bottle clubs may permit the removal by a club member of closed original containers of alcoholic beverages belonging to said members. The provisions of this paragraph shall not be construed to prohibit or restrict:

~~(a)~~

a. hotels or motels who are holders of mixed beverage or beer and wine licenses from allowing alcoholic beverages to be served away from the bar area anywhere on the licensed premises, or

~~(b)~~

b. licensees, who are lawfully operating at an event held in a facility owned or operated by any agency, political subdivision or public trust of this state, from allowing persons to transport alcoholic beverages from one licensed premises to another within the same building, provided that the building or a part thereof is defined as a common drinking area for consumption of alcohol by resolution of the governing body of the agency, political subdivision or public trust of this state; or

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7. Destroy, damage, alter, remove or conceal potential evidence, or attempt to do so, or refuse to surrender evidence when lawfully requested to do so by an inspector, agent or any other peace officer or incite another person to do any of the above.

SECTION 14. AMENDATORY 37 O.S. 2011, Section 538, is amended to read as follows:

Section 538. A. Any person who shall operate a whiskey still with intent to produce alcoholic beverages or any person who shall carry on the business of a distiller without having in his possession a valid and existing distiller's license issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act shall be guilty of a felony and upon conviction be fined not less than Two Thousand Five Hundred Dollars ($2,500.00) nor more than Five Thousand Dollars ($5,000.00), or imprisoned in the State Penitentiary for not more than three (3) years, or both such fine and imprisonment.

B. Any person who shall file a false or fraudulent return in connection with any tax imposed by the Oklahoma Alcoholic Beverage Control Act, or willfully evade, or attempt to evade, any tax herein levied shall be guilty of a felony and upon conviction be fined not less than Two Thousand Five Hundred Dollars ($2,500.00) nor more than Five Thousand Dollars ($5,000.00), or imprisoned in the State Penitentiary for not more than three (3) years, or both such fine and imprisonment.

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C. Any person who shall knowingly engage in any activity or perform any transaction or act for which a license is required under the Oklahoma Alcoholic Beverage Control Act, not having such license, shall be guilty of a misdemeanor and for the first offense be fined not more than Two Thousand Five Hundred Dollars ($2,500.00) and imprisoned for not less than thirty (30) days nor more than six (6) months, and for a second or subsequent offense shall be guilty of a felony and be fined not more than Two Thousand Five Hundred Dollars ($2,500.00), or imprisoned in the State Penitentiary for not more than one (1) year, or both such fine and imprisonment.

D. Any person holding a license issued pursuant to the Oklahoma Alcoholic Beverage Control Act who shall sell or deliver alcoholic beverage to any person not entitled to purchase or receive same, except as provided in subsection F of this section, or who shall possess for sale any alcoholic beverage which he is not entitled to sell under his license, or any person who buys any alcoholic beverage, either retail or wholesale, from any person other than a licensed dealer under the terms of the Oklahoma Alcoholic Beverage Control Act, shall be guilty of a misdemeanor and upon conviction be fined not more than One Thousand Five Hundred Dollars ($1,500.00), or imprisoned in the county jail for not more than six (6) months, or both such fine and imprisonment.

E. Any person under twenty-one (21) years of age who shall misrepresent his age in writing or by presenting false documentation

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of age for the purpose of inducing any person to sell or serve him alcoholic beverage or issue him a bottle club membership card, or who enters or attempts to enter a package store or a separate or enclosed bar area as designated by the ABLE Commission, shall be guilty of a misdemeanor and fined not more than Fifty Dollars ($50.00). In addition, if a person is convicted or pleads guilty to a violation of the provisions of this subsection in any court having jurisdiction over said offense, the court may order the Department of Public Safety to cancel or deny the offender's privilege to operate a motor vehicle and, upon such order, shall require that the operator's or chauffeur's license, if any, be surrendered to the Department pursuant to Section 6-209 of Title 47 of the Oklahoma Statutes. The cancellation or denial period shall be for one (1) year, or until the person reaches twenty-one (21) years of age, whichever is longer.

Any person whose driving privileges are ordered cancelled or denied pursuant to this section may petition the court of original jurisdiction for review of the order. Upon notice and hearing, the court may modify or withdraw the order as the court deems appropriate except:

1. A court may not withdraw an order for at least ninety (90) days following the issuance of the order if it is the first such order issued regarding the person named; and

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2. A court may not withdraw an order for at least six (6) months following the issuance of the order if it is the second or subsequent such order issued regarding the person named. If the Department receives written notice from the court of original jurisdiction that it has withdrawn such an order, the Department shall immediately reinstate any driving privileges that have been canceled or denied under this section, without requiring payment of a reinstatement fee.

F. Any person who shall knowingly sell, furnish or give alcoholic beverage to a person under twenty-one (21) years of age shall be guilty of a felony, and shall be fined not less than Two Thousand Five Hundred Dollars ($2,500.00) nor more than Five Thousand Dollars ($5,000.00), or imprisoned in the State Penitentiary for not more than five (5) years, or both such fine and imprisonment. The ABLE Commission shall revoke the license of any person convicted of a violation of this subsection.

G. Any person who shall knowingly sell, furnish or give alcoholic beverage to an insane, mentally deficient, or intoxicated person shall be guilty of a felony, and shall be fined not less than Five Hundred Dollars ($500.00) nor more than One Thousand Dollars ($1,000.00), or imprisoned in the State Penitentiary for not more than one (1) year, or both such fine and imprisonment.

H. The payment of the special tax required of liquor dealers by the United States by any person within this state without a

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corresponding state license shall constitute prima facie evidence of an intention to violate the provisions of the Oklahoma Alcoholic Beverage Control Act.

I. ~~Any person operating a cafe, restaurant, club or any place of recreation who permits any person to be drunk or intoxicated in said place of business shall be guilty of a misdemeanor, and shall be fined not more than One Hundred Dollars ($100.00), or imprisoned for not more than thirty (30) days or by both such fine and imprisonment.~~

~~J.~~ Any person selling or keeping a package store open to sell any alcoholic beverage during any day or hours not authorized by the Oklahoma Alcoholic Beverage Control Act shall be guilty of a misdemeanor.

J. Any licensee permitting a person to be drunk or intoxicated on the licensee's licensed premises shall be guilty of a misdemeanor, and upon conviction punishable by a fine in an amount not exceeding One Hundred Dollars ($100.00), by imprisonment in the county jail for a term not more than thirty (30) days, or by both such fine and imprisonment.

SECTION 15. AMENDATORY 37 O.S. 2011, Section 554.1, is amended to read as follows:

Section 554.1 Cities and towns are hereby authorized to levy an annual occupational tax for the privilege of operating as a retailer, mixed beverage, beer and wine, caterer, public event or

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special event licensee, bottle club, manufacturer, wholesaler or Class B wholesaler, within their respective jurisdictions, not to exceed the state license fee for such licensees; provided that the aforementioned tax shall be levied only by the city or town in which such licensee has his principal place of business. This section shall not give any city or town any right to determine or regulate the issuance of any license, except as specifically provided for in this section, as the Alcoholic Beverage Laws Enforcement Commission shall have exclusive authority as to issuance and regulations of said licenses and no city or town may prescribe rules or regulations in conflict with or in addition to the statutes of this state or the rules of the ABLE Commission.

Cities or towns which levy an occupational tax under this section shall make an annual report to the ABLE Commission, covering the fiscal year, showing the number and class of licensees subject to said tax, and the amount of money received therefrom, which information is to be included in the annual report of the ABLE Commission submitted to the Governor, and transmitted to the Legislature.

SECTION 16. AMENDATORY 37 O.S. 2011, Section 554.2, is amended to read as follows:

Section 554.2 Counties are hereby authorized to levy an annual occupational tax for the privilege of operating as a mixed beverage, beer and wine, caterer, public event or special event licensee or as

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a bottle club, within their respective jurisdictions and not located in a city or town levying an occupation tax as provided by Section 554.1 of this title, not to exceed the state license fee for such licensees; provided that the aforementioned tax shall be levied only by the county in which such licensee has his <u>or her</u> principal place of business. All revenues derived from any such annual occupational tax shall be deposited in the general revenue fund of the county. This section shall not give any county any right to determine or regulate the issuance of any license, except as specifically provided for in this section, as the Alcoholic Beverage Laws Enforcement Commission shall have exclusive authority as to issuance and regulations of said licenses and no county may prescribe rules or regulations in conflict with or in addition to the statutes of this state or the rules of the ABLE Commission.

Counties which levy an occupational tax under this section shall make an annual report to the ABLE Commission, covering the fiscal year, showing the number and class of licensees subject to said tax, and the amount of money received therefrom, which information is to be included in the annual report of the ABLE Commission submitted to the Governor, and transmitted to the Legislature.

SECTION 17. AMENDATORY 37 O.S. 2011, Section 561, is amended to read as follows:

Section 561. Every manufacturer, wholesaler, Class B wholesaler, nonresident seller, retailer, mixed beverage, caterer,

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public event and special event licensee shall keep a record of all alcoholic beverages imported, purchased, received, manufactured, produced, sold, delivered, or otherwise disposed of, and the amount of all alcoholic beverages on hand, as herein provided. Such records must be kept for a period of at least three (3) years and shall include the date, the number of the invoice, manifest, bill of lading, or similar type document, and the total amount of alcoholic beverages purchased, imported, received, manufactured, produced, sold, delivered, or otherwise disposed of, by such licensee in each transaction. Each such licensee shall keep and maintain such other records in details as the Oklahoma Tax Commission may require.

SECTION 18. AMENDATORY 37 O.S. 2011, Section 576, as amended by Section 1, Chapter 369, O.S.L. 2013 (37 O.S. Supp. 2013, Section 576), is amended to read as follows:

Section 576. A. A tax at the rate of thirteen and one-half percent (13.5%) is hereby levied and imposed on the total gross receipts of a holder of a mixed beverage, caterer, public event or special event license, issued by the ABLE Commission, from:

1. The sale, preparation or service of mixed beverages;

2. The total retail value of complimentary or discounted mixed beverages;

3. Ice or nonalcoholic beverages that are sold, prepared or served for the purpose of being mixed with alcoholic beverages and

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consumed on the premises where the sale, preparation or service occurs; and

4. Any charges for the privilege of admission to a mixed beverage establishment which entitle a person to complimentary mixed beverages or discounted prices for mixed beverages.

B. For purposes of this section:

1. "Mixed beverages" means mixed beverages as defined by Section 506 of this title;

2. "Total gross receipts" means the total amount of consideration received as charges for admission to a mixed beverage establishment as provided in paragraph 4 of subsection A of this section and the total retail sale price received for the sale, preparation or service of mixed beverages, ice, and nonalcoholic beverages to be mixed with alcoholic beverages. The advertised price of a mixed beverage may be the sum of the total retail sale price and the gross receipts tax levied thereon; and

3. "Total retail value" means the total amount of consideration that would be required for the sale, preparation or service of mixed beverages.

C. The gross receipts tax levied by this section shall be in addition to the excise tax levied in Section 553 of this title, the sales tax levied in the Oklahoma Sales Tax Code~~, Section 1350 et seq. of Title 68 of the Oklahoma Statutes~~ and to any municipal or county sales taxes.

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D. The gross receipts tax levied by this section is hereby declared to be a direct tax upon the receipt of consideration for any charges for admission to a mixed beverage establishment as provided in paragraph 4 of subsection A of this section, for the sale, preparation or service of mixed beverages, ice, and nonalcoholic beverages to be mixed with alcoholic beverages, and the total retail value of complimentary or discounted mixed beverages.

E. The total of the retail sale price received for the sale, preparation or service of mixed beverages, ice, and nonalcoholic beverages to be mixed with alcoholic beverages shall be the total gross receipts for purposes of calculating the sales tax levied in the Oklahoma Sales Tax Code~~, Section 1350 et seq. of Title 68 of the Oklahoma Statutes~~.

SECTION 19. AMENDATORY 37 O.S. 2011, Section 577, is amended to read as follows:

Section 577. A. Every holder of a mixed beverage, beer and wine, caterer, hotel beverage<u>, public event</u> or special event license, issued by the Alcoholic Beverage Laws Enforcement Commission, shall obtain a mixed beverage tax permit from the Oklahoma Tax Commission prior to engaging, within this state, in the sale, preparation or service of mixed beverages, ice, or nonalcoholic beverages that are sold, prepared or served to be mixed with alcoholic beverages. Each licensee shall file a verified

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application for a mixed beverage tax permit with the Tax Commission, setting forth information as may be required by the Tax Commission.

The Tax Commission, or its designated agent, shall issue, without any fees or charges therefor, a mixed beverage tax permit in the name of the licensee for the place of business set forth in the application upon verification that:

1. The applicant is a holder of a mixed beverage, beer and wine, caterer, hotel beverage, public event or special event license issued by the Alcoholic Beverage Laws Enforcement Commission;

2. The applicant has posted a surety bond or other negotiable collateral to protect the proper payment of the gross receipts taxes;

3. The applicant is a holder of a sales tax permit for the place of business set forth in the application; and

4. The applicant is not delinquent in the payment of any gross receipts taxes or sales taxes.

A mixed beverage tax permit shall expire three (3) years after issuance; provided, if the holder thereof is also the holder of a sales tax permit, a mixed beverage tax permit shall be valid for three (3) years or until expiration of the sales tax permit, whichever is earlier, after which a renewal permit shall be valid for three (3) years.

B. A separate mixed beverage tax permit for each place of business to be operated must be obtained and no charge therefor

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shall be made by the Tax Commission. The Tax Commission shall grant and issue to each applicant a separate permit for each place of business in this state, upon proper application therefor and verification thereof by the Tax Commission.

C. A mixed beverage tax permit is not assignable and shall be valid only for the person in whose name it is issued and for the transaction of business at the place designated in the permit.

D. It shall be unlawful for any person to engage in a business subject to the provisions of this section prior to the issuance of a mixed beverage tax permit. Any person who engages in a business subject to the provisions of this section without a mixed beverage tax permit or permits, or after a permit has been suspended, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than One Thousand Dollars ($1,000.00) or incarcerated for not more than sixty (60) days, or by both such fine and imprisonment.

E. Any person operating under a mixed beverage tax permit as provided in this section shall, upon discontinuance of business by sale or otherwise, return such permit to the Tax Commission for cancellation, together with payment of any unpaid or accrued taxes. Failure to surrender a mixed beverage tax permit and pay any and all accrued taxes will be sufficient cause for the Tax Commission to refuse to issue a mixed beverage tax permit subsequently to such person to engage in or transact any business in this state subject

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to the provisions of this section. Notwithstanding the provisions of subsection H of Section 1364 of Title 68 of the Oklahoma Statutes, the Tax Commission shall not deny a purchaser of a business subject to the provisions of this section a mixed beverage or sales tax permit because of outstanding tax liabilities of the seller, provided the seller pays to the Tax Commission the estimated sales tax owed by the seller. Provided further, upon completion of an audit by the Tax Commission and determination of actual sales tax owed, the difference between the estimated sales tax paid and the actual sales tax owed shall be paid by the seller to the Tax Commission if taxes were underpaid or returned to the seller by the Tax Commission if taxes were overpaid.

F. Whenever a holder of a mixed beverage tax permit fails to comply with any provisions of any state alcoholic beverage laws or tax laws, the Tax Commission, after giving ten (10) days' notice in writing of the time and place of hearing to show cause why this permit should not be revoked, may revoke or suspend the permit. A mixed beverage tax permit shall be renewed upon removal of cause or causes of revocation or suspension. Mixed beverage tax permits are conditioned upon the proper and timely payment of all taxes due and in the event a holder of a mixed beverage tax permit becomes delinquent in reporting or paying any tax due under the provisions of state tax law, any duly authorized agent of the Tax Commission may cancel the permit and it shall be renewed only upon the filing

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of proper reports and payment of all taxes due and application for renewal in accordance with subsection A of this section.

G. Upon revocation or suspension of the mixed beverage, beer and wine, caterer, hotel beverage or special event license by the ABLE Commission, the Tax Commission, or its duly authorized agent, shall temporarily suspend the mixed beverage tax permit issued to the licensee in accordance with Section 212 of Title 68 of the Oklahoma Statutes.

SECTION 20. AMENDATORY 37 O.S. 2011, Section 578, is amended to read as follows:

Section 578. A. Every holder of a mixed beverage, beer and wine, caterer, public event or special event license issued by the Alcoholic Beverage Laws Enforcement Commission, as a condition precedent to the issuance of a mixed beverage tax permit, shall furnish to the Oklahoma Tax Commission a bond from a surety company chartered or authorized to do business in this state, cash bond, certificates of deposits, certificates of savings or U.S. Treasury bond, or an assignment of negotiable stocks or bonds, as the Tax Commission may deem necessary to secure payment of the gross receipts tax levied upon gross receipts of the licensees.

B. Any surety bond furnished under this section shall be a continuing instrument and shall constitute a new and separate obligation in the sum stated therein for each calendar year or a portion thereof while such bond is in force. Such bond shall remain

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in effect until the surety or sureties are released and discharged by the Tax Commission.

C. The Tax Commission, or its duly authorized agent, shall fix the amount of such bond or other security for each licensee for each place of business after considering the estimated gross receipts tax liability of such licensee. Such bond shall be no less than an amount equal to the average estimated quarterly gross receipts tax liability and no greater than an amount equal to three times the amount of the average estimated quarterly gross receipts tax liability. Effective July 1, 2001, the minimum bond required for a new permit holder shall be not less than One Thousand Five Hundred Dollars ($1,500.00).

D. Notwithstanding the provisions of subsection C of this section, if the permit holder has held the permit for at least four (4) years and is not delinquent in the payment of mixed beverage taxes, the Tax Commission shall not require any increase in the bond so long as the permit holder remains current in the payment of such taxes.

E. Any bond or other security shall be such as will protect this state against failure of the taxpayer or licensee to pay the tax levied by Section 576 of this title. The forfeiture or cancellation of such bond or security, for any reason whatsoever, shall automatically revoke the mixed beverage tax permit issued

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pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act.

SECTION 21. AMENDATORY 37 O.S. 2011, Section 579, is amended to read as follows:

Section 579. A. Every mixed beverage tax permit holder, or any person transacting business subject to the gross receipts tax levied by Section 576 of this title, shall file with the Oklahoma Tax Commission a monthly report for each place or location of business, on or before the twentieth day of the month immediately following the month of receipt. The reports shall be made under oath, on forms prescribed by the Tax Commission, which shall include the following information:

1. Name of mixed beverage tax permit holder;

2. Mixed beverage tax permit number;

3. Sales tax permit number;

4. Mixed beverage, caterer or special event license number;

5. Gross receipts for the month for the sale, preparation or service of mixed beverages, ice and nonalcoholic beverages mixed with alcoholic beverages;

6. Gross receipts for the month from charges for the privilege of admission to a mixed beverage establishment which entitle a person to complimentary mixed beverages or discounted prices for mixed beverages;

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7. Total retail value of complimentary or discounted alcoholic beverages served for the month; and

8. Such other information as may be required by the Tax Commission to enable it to collect taxes imposed as provided by law.

B. The gross receipts tax levied by Section 576 of this title shall be calculated by multiplying the tax rate, thirteen and one-half percent (13.5%), and the total gross receipts for each month from the sale, preparation or service of mixed beverages, ice and nonalcoholic beverages mixed with alcoholic beverages, the total gross receipts of charges received for admission to mixed beverage establishments as provided in paragraph 6 of subsection A of this section, and the total retail value of complimentary or discounted mixed beverages. Gross receipts from the sale of food prepared with alcoholic beverages shall not be included in the calculation of the monthly tax liability. The tax due for the preceding month shall accompany the report required in subsection A of this section. All taxes, penalties and interest imposed by Section 501 et seq. of this title may be paid in the form of electronic funds transfer or by a personal or company check, cashier's check, certified check or postal money order payable to the Tax Commission.

C. If the gross receipts tax levied pursuant to the provisions of Section 576 of this title is not paid on or before the twentieth day of each month, the tax shall be delinquent and interest and penalty shall accrue on and from the twenty-first day of each month,

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pursuant to the provisions of the Uniform Tax Procedure Code~~, Section 201 et seq. of Title 68 of the Oklahoma Statutes~~.

D. Every licensed wholesaler of alcoholic beverages in this state shall file with the Tax Commission a monthly report, under oath, on forms prescribed by the Tax Commission, which shall include the name, location and mixed beverage tax permit number of each mixed beverage, caterer, public event or special event licensee to whom the licensed wholesaler sold alcoholic beverages during the report month.

E. If the report required by subsection A of this section is not filed with the Tax Commission on or before the twentieth day of the month, the Tax Commission may assess an additional penalty of Five Dollars ($5.00) for each day thereafter that the report is not filed pursuant to the provisions of this section. The Tax Commission may waive the penalty assessed pursuant to the provisions of the Uniform Tax Procedure Code; provided, however, the additional penalty, if assessed, shall not exceed an amount equal to twice the amount of tax due for the period for which such report was required to be filed, or the sum of Three Hundred Dollars ($300.00), whichever is greater.

F. Taxes paid as provided by law represented by accounts receivable which are found to be worthless or uncollectible may be credited upon subsequent reports and remittances of such tax, in accordance with rules promulgated by the Tax Commission. If such

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accounts are thereafter collected, the same shall be reported and the tax shall be paid upon the amount so collected.

G. In addition to any other authority granted by law, the Tax Commission is hereby authorized to audit any mixed beverage, beer and wine, caterer, public event or special event licensee to determine if the correct amount of tax payable under Section 576 of this title has been collected; provided, if such an audit reveals that the amount collected is within the following percentages of the amount of tax payable, the taxpayer shall be deemed to be in compliance:

1. For spirits, eighty-four percent (84%) to one hundred sixteen percent (116%);

2. For wine, ninety percent (90%) to one hundred ten percent (110%);

3. For beer sold at draft and not in original packages, eighty-six percent (86%) to one hundred fourteen percent (114%); and

4. For beer sold in original packages, ninety-five percent (95%) to one hundred five percent (105%).

SECTION 22. AMENDATORY 37 O.S. 2011, Section 582, is amended to read as follows:

Section 582. A. No mixed beverage, beer and wine, caterer, public event or special event licensee nor any officer, agent or employee of such licensee may possess or permit to be possessed on the premises, for which such license was issued, any container of an

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alcoholic beverage which is not listed on an invoice from the wholesaler from whom the alcoholic beverage was purchased, unless otherwise permitted by statute.

B. All containers of alcoholic beverages which are on the premises of a mixed beverage, beer and wine, caterer, public event or special event licensee and which are not listed on an invoice from the wholesaler pursuant to the provisions of this section are declared contraband. Any duly authorized officer or employee of the ABLE Commission or the Oklahoma Tax Commission is authorized to seize such containers or cases and such seized containers or cases shall be subject to confiscation and forfeiture pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act.

C. Any holder of a wholesaler, mixed beverage, beer and wine, caterer, public event or special event license who violates the provisions of this section shall, upon conviction, be guilty of a misdemeanor and shall be subject to revocation or suspension of such license issued by the ABLE Commission pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act.

SECTION 23. AMENDATORY 37 O.S. 2011, Section 584, is amended to read as follows:

Section 584. No holder of a mixed beverage, beer and wine, caterer, special event, public event or airline/railroad beverage license shall refill with any substance a container which contained

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any alcoholic beverage on which the tax levied by Section 553 of this title has been paid.

SECTION 24. AMENDATORY 37 O.S. 2011, Section 591, is amended to read as follows:

Section 591. A. No alcoholic beverages may be sold, dispensed, served or consumed on the premises of a mixed beverage, caterer, public event, special event or beer and wine licensee between the hours of 2:00 a.m. and 10:00 a.m.

B. Counties that elect to authorize sales of alcoholic beverages by the individual drink may designate any or all of the following days as days or portions thereof on which the sales of alcoholic beverages are not authorized:

1. On the first day of the week, commonly called Sunday; and

2. On Decoration or Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

C. Counties that elect to authorize sales of alcoholic beverages by the individual drink shall not prohibit such sales on the day of any national, state, county or city election, including primary elections, provided that the election day does not occur on any day on which such sales may otherwise be prohibited by any other law.

SECTION 25. AMENDATORY 37 O.S. 2011, Section 596, is amended to read as follows:

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

SECTION 26. AMENDATORY 37 O.S. 2011, Section 599, is amended to read as follows:

Section 599. The Alcoholic Beverage Laws Enforcement Commission may issue an additional hours license to the holder of a caterer, public event or special event license. The additional hours license shall authorize the holder thereof to sell, dispense or serve alcoholic beverages from 6:00 a.m. to 10:00 a.m.

SECTION 27. This act shall become effective July 1, 2014.

SECTION 28. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY, dated 04/10/2014 - DO PASS, As Amended.

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