HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

1st Session of the 54th Legislature (2013)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 789 By: Johnson (Rob) of the Senate

and

Jackson of the House

COMMITTEE SUBSTITUTE

An Act relating to intoxicating liquors; prohibiting certain acts relating to low-point beer; allowing for the recovery of certain damages, court costs and attorney fees; amending 37 O.S. 2011, Section 524, which relates to nonresident seller licenses; clarifying prices for certain goods; allowing wholesalers to sell certain quantities of alcoholic beverages at agreed-upon prices in certain circumstances; setting limits on total lots that can be sold; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 163.19A of Title 37, unless there is created a duplication in numbering, reads as follows:

A. No state agency or political subdivision thereof, county or political subdivision thereof, or municipalities or political

subdivisions thereof shall use public or private funds, employees or resources to alter, obliterate, mark or modify low-point beer packaging on the premises of a retail dealer or to promote or support such alteration, obliteration, marking or modification of low-point beer packaging on the premises of a retail dealer.

B. If a state agency or political subdivision thereof, county or political subdivision thereof, or a municipality or political subdivision thereof is found to have violated the provisions of subsection A of this section, the party aggrieved by the actions of such entity shall be entitled to recover against such entity any damages, court costs or attorney fees incurred by the aggrieved party contesting the actions of the state agency or political subdivision thereof, county or political subdivision thereof, or a municipality or political subdivision thereof.

SECTION 2. AMENDATORY 37 O.S. 2011, Section 524, is amended to read as follows:

Section 524. A. A nonresident seller license shall be required of all out-of-state distillers, winemakers, brewers, importers, brokers and others who sell alcoholic beverages to wholesalers and Class B wholesalers in Oklahoma regardless of whether such sales are consummated within or without the State of Oklahoma.

A nonresident seller license shall authorize the holder thereof to solicit and take orders for alcoholic beverages from the holders of licenses authorized to import the same into this state, and to

ship or deliver, or cause to be shipped or delivered, alcoholic beverages into Oklahoma pursuant to such sales.

B. The Alcoholic Beverage Laws Enforcement (ABLE) Commission may, subject to the provisions of the Oklahoma Alcoholic Beverage Control Act requiring notice and hearing in the case of sanctions against holders of licenses, suspend or revoke a nonresident seller license for any violation of the Oklahoma Alcoholic Beverage Control Act by the holder thereof.

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

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

E. Any person, not otherwise a dealer in alcoholic beverages, coming into possession of any alcoholic beverages as security for or in payment of a debt, or as an insurer (or its transferee or assignee) for the salvage or liquidation of an insured casualty or damage or loss, or as an executor, administrator, trustee or other fiduciary may sell the beverages in one lot or parcel to a duly licensed wholesaler at an agreed-upon price without regard to current posted prices. However, immediately after taking possession of the alcoholic beverages, the person shall register with the Director and furnish to him a detailed list of the alcoholic beverages and post with the Director a bond in such amount as the Director deems sufficient to protect the state from any taxes due on the alcoholic beverages. The person shall pay to the Director a registration fee of Ten Dollars ($10.00), which fee shall permit the sale of only the alcoholic beverages detailed in the registration request. A wholesaler receiving a lot or parcel of alcoholic beverages pursuant to this subsection may sell it in one lot or parcel or more than one lot or parcel to a licensed package store or mixed beverage licensee or more than one licensed package store or mixed beverage licensee at an agreed-upon price without regard to current posted prices; provided, the total of the lots sold by the wholesaler shall not exceed four lots in total.

SECTION 3. This act shall become effective November 1, 2013.

COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT AND FINANCIAL SERVICES, dated 04/04/2013 - DO PASS, As Amended.