

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 SENATE BILL 633

By: Brooks

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5
6 AS INTRODUCED

7 An Act relating to low-point beer licenses; amending
8 37 O.S. 2011, Section 163.11, as amended by Section
9 1, Chapter 86, O.S.L. 2012 (37 O.S. Supp. 2012,
10 Section 163.11), which relates to county retail
11 permits; modifying language; adding certain required
12 statements to application for permit; providing for
13 revocation of license for certain cause; and
14 providing an effective date.

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

16 SECTION 1. AMENDATORY 37 O.S. 2011, Section 163.11, as
17 amended by Section 1, Chapter 86, O.S.L. 2012 (37 O.S. Supp. 2012,
18 Section 163.11), is amended to read as follows:

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

24 B. 1. The person applying for a permit must file a verified
application every three (3) years stating that he or she has never
been convicted of violating any of the laws prohibiting the traffic

1 in any spirituous, vinous, fermented or malt liquors or the laws
2 related to the Uniform Controlled Dangerous Substances Act in this
3 state or another state or the United States, or of any of the
4 gambling laws of this state, ~~or of any other~~ another state ~~of~~ or the
5 United States, within three (3) years immediately preceding the date
6 of his or her petition, or any of the laws commonly called
7 "Prohibition Laws", or had any permit or license to sell low-point
8 beer revoked in any county of this state within twelve (12) months.

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

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

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

22 E. Upon petition being filed, the district court clerk shall
23 give fifteen (15) days' notice for an initial application, and it is
24 the applicant's responsibility to cause the same to be posted by the

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

23 F. An application shall be denied upon any ground that would
24 require the permit to be revoked.

1 G. A person who has obtained a permit pursuant to this section
2 and who ceases to maintain or operate any place where low-point beer
3 is sold for consumption on or off the premises shall be entitled to
4 receive a refund of the permit fee from the district court clerk
5 prorated with respect to the amount of time remaining until
6 expiration of the permit, upon surrender of the existing permit to
7 the district court clerk. The manner and prorated refund shall be
8 prescribed by the Administrative Director of the Courts.

9 H. If there are no protests and the petition is sufficient on
10 its face, then ~~said~~ the permit shall be granted by the district
11 court clerk. Provided, that if any citizen of the county files a
12 written protest setting forth objections, then the district court
13 clerk shall advise the chief judge who shall assign such petition to
14 a district judge or associate district judge for hearing.

15 I. The application for ~~such~~ the permit must be verified and in
16 writing, contain the information above required, and must be set for
17 hearing on a date named in the notice required to be posted.

18 J. All testimony before the district court shall be under oath.

19 K. A judge of the district court, upon five (5) days' notice to
20 the person holding ~~such~~ the permit, shall revoke ~~such~~ the permit for
21 any one of the following reasons:

22 1. Drunkenness of the person holding ~~such~~ the permit or
23 permitting any intoxicated person to loiter in or around his or her
24 place of business;

1 2. Person under the influence of drugs or any controlled
2 substance holding ~~such~~ the permit or permitting any drugged or drug
3 abusing person to loiter in or around his or her place of business;

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

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

11 5. Nonpayment of any of the taxes or license fees imposed by
12 the provisions of Section 163.1 et seq. of this title on complaint
13 of the Oklahoma Tax Commission;

14 6. Violating any of the laws of the state commonly called
15 "Prohibition Laws" or violating any of the gambling laws of the
16 state or permitting anyone to violate any of ~~said~~ the laws in such
17 places or violating any of the provisions of Section 163.1 et seq.
18 of this title;

19 7. Conviction for the violation of any of the laws of this
20 state, another state or the United States for the sale or possession
21 of intoxicating liquors within three (3) years immediately preceding
22 the issuance of ~~such~~ the dealer's license;

23 8. Violating any law pertaining to the use, possession,
24 manufacture or sale of ~~drugs or narcotics or the violation of the~~

1 ~~narcotics laws of the State of Oklahoma or~~ any controlled substance
2 pursuant to the Uniform Controlled Dangerous Substances Act, or
3 violation of any rule promulgated or order issued to control a new
4 product or noncontrolled product or substance pursuant to Section 2-
5 201 of Title 63 of the Oklahoma Statutes, or violation of any drug
6 or narcotic law of the United States; or

7 9. A material false statement in the application.

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

20 M. On or before the tenth day of each month each district court
21 clerk shall file with the Oklahoma Tax Commission, on forms
22 prescribed and furnished by the Commission, a report showing the
23 name, address, and county permit number of each ~~such~~ person to whom
24 a county permit has been issued or whose permit has been revoked, or

1 who shall have been refused a county permit, during the previous
2 calendar month. In case of the revocation of a permit by a judge of
3 the district court, the district court clerk shall within five (5)
4 days report ~~such~~ the action to the Oklahoma Tax Commission. If
5 county permits shall have been issued, revoked or refused during the
6 month, the district court clerk shall make a report accordingly to
7 the Commission.

8 N. 1. Upon application to and approval by the court clerk of
9 the district court, an applicant to be a retail dealer as defined by
10 Section 163.2 of this title who meets the requirements of this
11 section and Section 163.11a of this title may be granted a special
12 event permit after payment of a fee of Twenty-five Dollars (\$25.00)
13 in addition to other fees required by law, which fees shall not be
14 refundable or apportionable. A special event permit for the sale
15 and on-premises consumption of low-point beer shall be issued
16 fourteen (14) days after the date of filing with the district court
17 of the application, unless a protest is filed as provided in this
18 subsection.

19 2. Every application for a special event permit shall contain
20 proof that a copy of the application has been mailed to the chief of
21 police or marshal of the city or town, and the sheriff and district
22 attorney of the county, wherein the special event is to be located.
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1 a. If no objection is filed within ten (10) days after
2 service of notice of the application, the court clerk
3 may grant the special event permit.

4 b. If a written objection or request for restrictions is
5 filed within ten (10) days after service of the
6 application, a judge of the district court, upon five
7 (5) days' notice to the applicant, chief of police or
8 marshal of the city or town, and sheriff and district
9 attorney of the county, where the event is to occur,
10 shall determine whether the special permit should be
11 granted, restricted or denied, based upon the totality
12 of circumstances concerning the proposed event,
13 including, but not limited to, the location of the
14 event, qualifications of the applicant, history of the
15 applicant, and specific concerns regarding public
16 safety.

17 3. A special event permit issued under this subsection shall
18 authorize the holder thereof to sell and distribute low-point beer
19 for a period not to exceed ten (10) consecutive days from the date
20 of issuance. A separate permit shall be required for each
21 individual place of business, whether permanent or a temporary
22 assemblage. Provided, retail dealers shall not be required to
23 obtain a special permit for each bar or service unit within the same
24 enclosed area or within the general vicinity of each other for

1 events held outside a physical structure. A special event permit
2 shall not be renewable. A municipality shall not, by ordinance or
3 otherwise, refuse to issue a special event permit or special event
4 license for any event for which the applicant has received a special
5 event permit as provided in this section.

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

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

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

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

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

4 SECTION 2. This act shall become effective November 1, 2013.

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