

STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

HOUSE BILL 2675

By: Williams

AS INTRODUCED

An Act relating to intoxicating liquors; amending 37 O.S. 2011, Section 163.26, which relates to low-point beer; preventing certain interpretation; amending 37 O.S. 2011, Section 506, as last amended by Section 1, Chapter 275, O.S.L. 2015 (37 O.S. Supp. 2015, Section 506), which relates to Oklahoma Alcoholic Beverage Control Act definitions; modifying definitions; amending 37 O.S. 2011, Section 520A, which relates to personal use permits; authorizing certain activities; defining term; prohibiting certain acts; prohibiting certain owners and employees from certain definitions; and providing an effective date.

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

SECTION 1. AMENDATORY 37 O.S. 2011, Section 163.26, is amended to read as follows:

Section 163.26 No person shall manufacture, sell, possess, store, import into or export from this state, transport, or deliver any low-point beer except as specifically provided in this title; provided however, this provision shall not be interpreted to prevent the operation of brew-on-premises stores as defined in Section 520A of this title. It is unlawful for any manufacturer, wholesaler or retailer of low-point beer, located and doing business from outside

1 this state, to make retail sales of low-point beer to purchasers  
2 located in this state or to ship low-point beer sold at retail to  
3 persons located in this state.

4 SECTION 2. AMENDATORY 37 O.S. 2011, Section 506, as last  
5 amended by Section 1, Chapter 275, O.S.L. 2015 (37 O.S. Supp. 2015,  
6 Section 506), is amended to read as follows:

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

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

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

18 3. "Alcoholic beverage" means alcohol, spirits, beer, and wine  
19 as those terms are defined herein and also includes every liquid or  
20 solid, patented or not, containing alcohol, spirits, wine or beer  
21 and capable of being consumed as a beverage by human beings, but  
22 does not include low-point beer as that term is defined in Section  
23 163.2 of this title;

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

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

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

18 7. "Brewer" means any person who produces beer in this state  
19 but shall not mean an owner or employee of a brew-on-premises store  
20 as defined in Section 520A of this title;

21 8. "Class B wholesaler" means and includes any person doing any  
22 such acts or carrying on any such business that would require such  
23 person to obtain a Class B wholesaler license hereunder;  
24

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

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

9 11. "Distiller" means any person who produces spirits from any  
10 source or substance, or any person who brews or makes mash, wort, or  
11 wash, fit for distillation or for the production of spirits (except  
12 a person making or using such material in the authorized production  
13 of wine or beer, or the production of vinegar by fermentation), or  
14 any person who by any process separates alcoholic spirits from any  
15 fermented substance, or any person who, making or keeping mash,  
16 wort, or wash, has also in his or her possession or use a still but  
17 shall not mean an owner or employee of a brew-on-premises store as  
18 defined in Section 520A of this title;

19 12. "Hotel" or "motel" shall mean an establishment which is  
20 licensed to sell alcoholic beverages by the individual drink and  
21 which contains guestroom accommodations with respect to which the  
22 predominant relationship existing between the occupants thereof and  
23 the owner or operator of the establishment is that of innkeeper and  
24 guest. For purposes of this section, the existence of other legal

1 relationships as between some occupants and the owner or operator  
2 thereof shall be immaterial;

3 13. "Legal newspaper" means a newspaper meeting the requisites  
4 of a newspaper for publication of legal notices as prescribed in  
5 Sections 101 through ~~114~~ 115 of Title 25 of the Oklahoma Statutes;

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

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

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

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

18 18. "Manufacturer" means a brewer, distiller, winemaker,  
19 rectifier, or bottler of any alcoholic beverage but shall not mean  
20 an owner or employee of a brew-on-premises store as defined in  
21 Section 520A of this title;

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

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

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

8 21. "Mixed beverage cooler" means any beverage, by whatever  
9 name designated, consisting of an alcoholic beverage and fruit or  
10 vegetable juice, fruit or vegetable flavorings, dairy products or  
11 carbonated water containing more than one-half of one percent (1/2  
12 of 1%) of alcohol measured by volume but not more than seven percent  
13 (7%) alcohol by volume at sixty (60) degrees Fahrenheit and which is  
14 packaged in a container not larger than three hundred seventy-five  
15 (375) milliliters. Such term shall include, but not be limited to,  
16 the beverage popularly known as a "wine cooler";

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

23 23. "Motion picture theater" means a place where motion  
24 pictures are exhibited and to which the general public is admitted,

1 but does not include a place where meals, as defined by this  
2 section, are served, if only persons over twenty-one (21) years of  
3 age are admitted;

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

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

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

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

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

20 29. "Premises" means the grounds and all buildings and  
21 appurtenances pertaining to the grounds including any adjacent  
22 premises if under the direct or indirect control of the licensee and  
23 the rooms and equipment under the control of the licensee and used  
24 in connection with or in furtherance of the business covered by a

1 license. Provided that the ABLE Commission shall have the authority  
2 to designate areas to be excluded from the licensed premises solely  
3 for the purpose of:

- 4 a. allowing the presence and consumption of alcoholic  
5 beverages by private parties which are closed to the  
6 general public, or
- 7 b. allowing the services of a caterer serving alcoholic  
8 beverages provided by a private party.

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

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

14 31. "Private event" means a social gathering or event attended  
15 by invited guests who share a common cause, membership, business or  
16 task and have a prior established relationship. For purposes of  
17 this definition, advertisement for general public attendance or  
18 sales of tickets to the general public shall not constitute a  
19 private event;

20 32. "Rectifier" means any person who rectifies, purifies, or  
21 refines spirits or wines by any process (other than by original and  
22 continuous distillation, or original and continuous processing, from  
23 mash, wort, wash, or other substance, through continuous closed  
24 vessels and pipes, until the production thereof is complete), and

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

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

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

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

16 36. "Retailer" means the holder of a Package Store License;

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

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

5 39. "Sparkling wine" means champagne or any artificially  
6 carbonated wine;

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

15 41. "Wholesaler" means and includes any person doing any such  
16 acts or carrying on any such business or businesses that would  
17 require such person to obtain a wholesaler's license or licenses  
18 hereunder but shall not mean an owner or employee of a brew-on-  
19 premises store as defined in Section 520A of this title;

20 42. "Wine" means and includes any beverage containing more than  
21 one-half of one percent (1/2 of 1%) alcohol by volume and not more  
22 than twenty-four percent (24%) alcohol by volume at sixty (60)  
23 degrees Fahrenheit obtained by the fermentation of the natural  
24 contents of fruits, vegetables, honey, milk or other products

1 containing sugar, whether or not other ingredients are added, and  
2 includes vermouth and sake, known as Japanese rice wine;

3 43. "Winemaker" means any person who produces wine; and

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

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

14 SECTION 3. AMENDATORY 37 O.S. 2011, Section 520A, is  
15 amended to read as follows:

16 Section 520A. A. The Alcoholic Beverage Laws Enforcement  
17 Commission is authorized to issue, upon application of a person who  
18 is twenty-one (21) years of age or older, an annual personal use  
19 permit which when granted authorizes the holder thereof to make,  
20 store, possess and transport for personal use, low-point beer as  
21 defined by Section 163.2 of this title, beer as defined by Section  
22 506 of this title, fermented non-distilled ciders, and wine as  
23 defined by Section 506 of this title. The total volume of each  
24 authorized beverage made and possessed for personal use in a given

1 calendar year shall be limited to a volume less than two hundred  
2 (200) gallons. The term "personal use" as used in this section and  
3 Sections 163.1 and 505 of ~~Title 37 of the Oklahoma Statutes~~ this  
4 title means the individual making beverages pursuant to a valid  
5 personal use permit issued by the Alcoholic Beverage Laws  
6 Enforcement Commission produces such beverages solely for his or her  
7 use and consumption, for consumption by his or her family and  
8 guests, and for transport to and use at organized affairs,  
9 exhibitions or competitions, including, but not limited to,  
10 homemaker contests, tastings or judgments. No beverage made pursuant  
11 to a personal use permit shall be sold or offered for sale.

12 B. 1. An annual personal use permit shall authorize the holder  
13 to engage in the activities authorized under subsection A of this  
14 section on the premises of a brew-on-premises store.

15 2. A "brew-on-premises store" means a facility that provides  
16 the ingredients and equipment for a customer to use to brew malt  
17 liquor or wine on the premises of the store.

18 3. Alcoholic beverages shall not be sold or otherwise provided  
19 to customers of a brew-on-premises store.

20 4. An owner or employee of a brew-on-premises store shall not  
21 be considered a brewer, distiller, manufacturer or wholesaler of  
22 intoxicating liquor.

1 SECTION 4. This act shall become effective November 1, 2016.

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