

OKLAHOMA STATE SENATE
CONFERENCE
COMMITTEE REPORT

May 23, 2016

Mr. President:

Mr. Speaker:

The Conference Committee, to which was referred

SB 383

By: Bice and Jolley of the Senate and Mulready and Roberts (Dustin) of the House


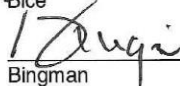
Title: Intoxicating liquor; relating to authority under certain licenses; modifying retail package store authority; allowing chilled beer. Effective date.

together with Engrossed House Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the House recede from all Amendments.
2. That the attached Conference Committee Substitute be adopted.

Respectfully submitted,

SENATE CONFEREES:


Bice

Bingman

Bass

Newberry


Treat


Floyd


Jolley

HOUSE CONFEREES:

Conference Committee on Alcohol, Tobacco, and Controlled Substances

Senate Action _____ Date _____ House Action _____ Date _____

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 CONFERENCE COMMITTEE
4 SUBSTITUTE FOR ENGROSSED
5 SENATE BILL NO. 383

By: Bice and Jolley of the
Senate

6 and

7 Mulready and Roberts
8 (Dustin) of the House

9
10 CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to intoxicating liquors; providing
12 short title; stating purpose and legislative
13 declaration; specifying beverages subject to act;
14 defining terms; recreating Alcoholic Beverage Laws
15 Enforcement Commission; providing for membership,
16 appointments, vacancies, qualifications, removal from
17 office and duties; requiring oath; prohibiting
18 appointment of and service by certain persons;
19 requiring criminal history record check; providing
20 for quorum, proceedings, travel expenses, offices,
21 seal, records and rules; providing that act be deemed
22 exercise of police powers; specifying powers and
23 duties of ABLE Commission; providing for promulgation
24 of act; providing for appointment of Director and
other personnel; authorizing employing or contracting
with attorneys; specifying powers and duties of
Director; specifying powers and authority of members
and employees of ABLE Commission; allowing certain
employees to receive custody and possession of
sidearm and badge; prohibiting certain acts by member
or employee of ABLE Commission; providing penalties;
allowing and permitting certain employees to obtain
licenses; prohibiting licensure of certain persons or
partnerships; authorizing and prohibiting certain
persons from obtaining licenses or being engaged in
alcoholic beverage business; specifying conditions of
certain transactions; prohibiting licensure of

1 certain persons; setting license fees and surcharges;
2 setting forth acts authorized by and restricted by
3 various licenses; assigning responsibility for
4 certain violations; requiring license, contract or
5 agreement for certain sales; providing for suspension
6 or revocation of license for violation; prohibiting
7 purchase or receipt from unlicensed persons;
8 providing for expiration of certain licenses;
9 requiring filing of certain documents with ABLE
10 Commission; authorizing sale of certain beverages;
11 prohibiting requirement of license or permit by
12 political subdivisions; specifying requirements for
13 certain transactions; prohibiting certain locations
14 of mixed beverage or beer and wine establishments or
15 bottle clubs; authorizing certain waivers and
16 exceptions; providing procedure to protest
17 application on basis of location; providing for
18 personal use permits; requiring publication of notice
19 of intent to apply for certain licenses and providing
20 procedures; allowing conditional license approval
21 under certain circumstances; providing procedures for
22 license application; requiring certain certificates;
23 providing procedures in event of failure to maintain
24 compliance with certain codes; setting forth
restrictions on and procedures for license renewal;
requiring corporation to submit certain documents and
provide notification of change in corporate
structure; prohibiting certain stock ownership;
requiring limited liability company to submit certain
documents and provide notification of change in
organizational structure; providing that conviction
of felony for which pardon granted not grounds for
adverse license action; prohibiting granting of
certain licenses for certain grounds; specifying
grounds for license revocation or suspension;
allowing imposition of in lieu monetary penalty;
requiring notice of and providing procedures in event
of license denial; requiring certain hearings;
providing procedures for appeal of licensing
decisions; setting forth conditions of licensure;
specifying circumstances under which license is
transferable; requiring display of license; stating
effect of licensing actions upon certain premises;
providing that liability not arise against Board or
Division for certain transfer; setting forth
restrictions on issuance of certain licenses to
certain business entities; prohibiting interest in

multiple package stores; providing for determination of interests in business entities; restricting sales by package stores; specifying requirements for winery self-distribution; requiring certain notification to ABLE Commission; prohibiting certain transportation or distribution arrangements; providing penalties; allowing Governor to suspend licenses under certain conditions; prohibiting certain actions relating to alcoholic beverages except as specifically provided; allowing certain possession, transportation, production, dispensation and sale; prohibiting unauthorized sales; providing penalties; authorizing ABLE Commission to promulgate certain rules; requiring certain notice and procedures; defining terms; specifying procedures relating to sale of beer kegs; requiring identification seals and keeping of certain records; prohibiting certain acts; providing for shipping by Oklahoma wineries; providing for issuance of Direct Wine Shipper and Consumer permits and setting forth restrictions thereon; setting forth conditions under which brewer may terminate distribution sales agreement with nonresident seller; providing procedures in event of brand transfer; prohibiting inducements in connection with distribution sales agreement; stating legislative intent; providing for regulation of sales and distribution of brands in designated territories; specifying requirements applicable to brewers; providing for assignment of distribution rights; restricting transportation of beer; providing for sales of beer on same price basis and without discrimination and providing procedures; providing for termination of distributor agreements; providing for arbitration in certain circumstances; allowing recovery of damages under certain circumstances; providing procedures for resolution of certain disputes; providing for construction of certain provisions; specifying conditions for operation and maintenance of brewpubs; specifying authority and requirements of small brewers; providing for service of free samples and providing limitations thereon; specifying conditions for retailers and brewpubs to sale beer for off premises consumption; providing penalties; requirement deposit of certain revenues; providing for stock withdrawals; requiring certain sales be made on same price basis and without discrimination or inducements; providing conditions

1 on certain purchases; providing for packaging of
2 alcoholic beverages with promotional items; requiring
3 certain mark-up on sales of alcoholic beverages;
4 providing exceptions; making certain acts unlawful;
5 prohibiting interest in certain businesses by certain
6 licensees; providing exception; defining terms;
7 providing that certain provisions not be construed to
8 prohibit licensing actions for certain entities under
9 certain conditions; prohibiting certain price
10 discrimination or inducements; authorizing
11 promulgation of certain rules; allowing certain
12 suspensions or revocations; providing procedures for
13 county elections to allow sale of alcoholic beverages
14 by the individual drink for on-premises consumption;
15 restricting days and hours of such sales; specifying
16 requirements applicable to bottle clubs; subjecting
17 certain sales to sales tax; specifying authority of
18 municipalities with respect to alcoholic beverages;
19 allowing governing body of municipality to initiate
20 license suspension or revocation proceeding;
21 providing procedures; authorizing certain zoning
22 classification and occupational taxes; requiring
23 certain reports; providing for enforcement of Act;
24 providing procedures in case of failure to perform
duty; levying excise tax on alcoholic beverages;
providing for rate, payment and collection thereof;
providing for agency of state; subjecting certain
sales to sales tax; providing for incidence of tax on
ultimate retail consumer; providing exemptions;
providing for apportionment of revenues; levying tax
on gross receipts of certain license holders;
defining terms; specifying requirements and
procedures; providing for apportionment of revenues;
requiring certain entities to obtain mixed beverage
tax permit from Oklahoma Tax Commission and providing
procedures; providing for revocation or suspension of
permits under certain circumstances; requiring Tax
Commission to promulgate certain rules; requiring
certain labels; providing procedure for payment of
excise taxes; granting certain authority to Tax
Commission and specifying requirements for certain
applications; specifying requirements for payment of
certain taxes and reports; prohibiting certain
deductions; providing for distributor and wholesaler
permits; requiring copies to be furnished to certain
sellers and wholesalers; requiring maintenance of
certain records; declaring certain property to be

1 contraband and allowing seizure thereof; granting
2 powers to Tax Commission; specifying prima facie
3 presumption of nonpayment of excise taxes; applying
4 provisions of Uniform Tax Procedure Code; allowing
5 ABLE Commission and Tax Commission employees to enter
6 and examine certain premises without warrant and
7 seize certain property; granting such employees free
8 access to premises; requiring hearing after such
9 seizure and providing procedures; providing
10 procedures for sale of forfeited alcoholic beverages;
11 providing penalty for possession of certain amount of
12 alcoholic beverage upon which tax unpaid; providing
13 for packaging and shipment in cases and requiring
14 sealing and numbering; requiring licensees to keep
15 certain books and records for certain time period and
16 make such available for certain inspection; requiring
17 certain reports and bonds to Tax Commission;
18 requiring certain documents to be made and delivered
19 at time of sale of alcoholic beverages; requiring
20 documents be in possession of carriers transporting
21 such beverages; requiring records to be retained for
22 certain period; specifying duty of county excise
23 boards; creating certain funds and providing for
24 deposits thereto and expenditures therefrom;
authorizing ABLE Commission to promulgate certain
rules; specifying grounds for license actions;
providing procedures for labeling of alcoholic
beverages; specifying fees; prohibiting refilling of
certain containers; requiring certain license holders
to furnish surety bond and providing procedures;
requiring certain tax permit holders to file monthly
reports and providing procedures; providing for
calculation and payment of gross receipts tax;
authorizing certain audits; allowing retention of
percentage by tax permit holder or taxpayer;
prohibiting possession of unlisted containers;
prohibiting certain acts and providing penalties;
authorizing removal of certain persons from licensed
premises and adjacent areas; providing for seizure
and forfeiture of certain property; prohibiting
admittance of persons under twenty-one years of age
to certain premises and providing exceptions;
providing procedures; prohibiting filing of false tax
return or willful tax evasion; prohibiting
misrepresentation of age; allowing court to order
cancellation or denial of driving privileges;
providing for substance abuse prevention programs;

1 prohibiting furnishing of alcoholic beverages to
2 certain persons; providing that payment of certain
3 tax constitutes prima facie evidence of intent to
4 violate certain provisions; providing penalty for
5 selling or keeping package store open to sell
6 alcoholic beverages during unauthorized hours;
7 providing penalty for permitting person to be drunk
8 or intoxicated on certain premises; providing general
9 penalties; requiring law enforcement officers to
10 notify ABLE Commission of certain arrests or acts;
11 allowing issuance of certain search warrants;
12 providing for forfeiture and destruction of certain
13 property; providing procedures; providing procedures
14 in case of certain witness refusals; providing for
15 subpoena of witnesses; repealing 37 O.S. 2011,
16 Section 8, as amended by Section 1, Chapter 210,
17 O.S.L. 2013, Section 2, Chapter 210, O.S.L. 2013,
18 8.2, 163.1, 163.2, 163.3, 163.4, 163.5, as amended by
19 Section 1, Chapter 357, O.S.L. 2012, 163.6, 163.7, as
20 amended by Section 1, Chapter 120, O.S.L. 2012,
21 163.8, 163.9, 163.10, as amended by Section 2,
22 Chapter 120, O.S.L. 2012, 163.11, as last amended by
23 Section 1, Chapter 205, O.S.L. 2013, 163.11a, as
24 amended by Section 2, Chapter 86, O.S.L. 2012,
163.12, 163.13, 163.14, 163.15, 163.16, 163.17,
163.18, 163.18A, 163.18B, 163.18C, 163.18D, 163.18E,
163.18F, 163.18G, 163.18H, 163.19, Section 1, Chapter
382, O.S.L. 2013, 163.20, 163.22, 163.23, 163.25,
163.26, 163.27, as amended by Section 1, Chapter 214,
O.S.L. 2012, 163.28, 163.29, 213, 213.1, 213.2, 215,
216, 217, 219, 219.1, 220, 231, 232, 233, 241, 243,
244, 246, as amended by Section 1, Chapter 213,
O.S.L. 2015, 247, 501, 502, 503, 504, 505, 506, as
last amended by Section 1, Chapter 48, O.S.L. 2015,
506, as last amended by Section 1, Chapter 275,
O.S.L. 2015, 506.1, as amended by Section 125,
Chapter 304, O.S.L. 2012, 507.1, 507.2, 508, 509,
510, 510A, as amended by Section 126, Chapter 304,
O.S.L. 2012, 511, 511A, 512, 513a, 514, as amended by
Section 3, Chapter 120, O.S.L. 2012, 515, 516, 517,
518, as last amended by Section 2, Chapter 48, O.S.L.
2015, 518.1, as amended by Section 3, Chapter 298,
O.S.L. 2014, 518.3, as amended by Section 2, Chapter
214, O.S.L. 2012, 520A, 521, as last amended by
Section 3, Chapter 48, O.S.L. 2015, 521, as last
amended by Section 2, Chapter 275, O.S.L. 2015,
521.1, 521.2, 521.3, 522, 523, as last amended by

1 Section 3, Chapter 275, O.S.L. 2015, 523.1, as
2 amended by Section 4, Chapter 275, O.S.L. 2015,
3 523.2, as amended by Section 5, Chapter 275, O.S.L.
4 2015, 524, as last amended by Section 2, Chapter 160,
5 O.S.L. 2015, 525, Section 1, Chapter 160, O.S.L.
6 2015, 526.1, 527, 527.1, as last amended by Section
7 6, Chapter 275, O.S.L. 2015, 528, 528.1, as amended
8 by Section 7, Chapter 298, O.S.L. 2014, 528.2, 529,
9 530, 530.1, 531, 532, 532.1, as amended by Section 8,
10 Chapter 298, O.S.L. 2014, 532.2, 533, 534, 534.1,
11 535, as last amended by Section 7, Chapter 275,
12 O.S.L. 2015, 535.1, as amended by Section 10, Chapter
13 298, O.S.L. 2014, 535.2, Section 11, Chapter 298,
14 O.S.L. 2014, 535.3, 536, 536.1, 537, as amended by
15 Section 12, Chapter 298, O.S.L. 2014, 537.1, as last
16 amended by Section 8, Chapter 275, O.S.L. 2015,
17 537.2, 537.3, 538, as amended by Section 14, Chapter
18 298, O.S.L. 2014, 538.1, 538.2, 538.3, 539, 540, 541,
19 542, 543, 543.1, 543.2, 545, 546, 547, 548, 549, 550,
20 551, 552, 553, as amended by Section 2, Chapter 357,
21 O.S.L. 2012, 554, as amended by Section 9, Chapter
22 275, O.S.L. 2015, 554.1, as amended by Section 15,
23 Chapter 298, O.S.L. 2014, 554.2, as amended by
24 Section 16, Chapter 298, O.S.L. 2014, 555, 556, 557,
559, 560, 561, as amended by Section 17, Chapter 298,
O.S.L. 2014, 562, 563, 563.1, as last amended by
Section 1, Chapter 283, O.S.L. 2015, 564, 565, 566,
567, as amended by Section 128, Chapter 304, O.S.L.
2012, 568, 569, 570, 571, 572, 573, 576, as last
amended by Section 18, Chapter 298, O.S.L. 2014,
576.1, 577, as last amended by Section 10, Chapter
275, O.S.L. 2015, 578, as amended by Section 20,
Chapter 298, O.S.L. 2014, 579, as amended by Section
21, Chapter 298, O.S.L. 2014, 580, 582, as amended by
Section 22, Chapter 298, O.S.L. 2014, 584, as amended
by Section 23, Chapter 298, O.S.L. 2014, 586, 588,
590, 591, as last amended by Section 11, Chapter 275,
O.S.L. 2015, 592, 593, 594, as amended by Section 12,
Chapter 275, O.S.L. 2015, 594.1, 595, 596, as last
amended by Section 13, Chapter 275, O.S.L. 2015, 597,
598, and 599, as amended by Section 26, Chapter 298,
O.S.L. 2014 (37 O.S. Supp. 2015, Sections 8, 8a,
163.5, 163.7, 163.10, 163.11, 163.11a, 163.19A,
163.27, 246, 506, 506, 506.1, 510A, 514, 518, 518.1,
518.3, 521, 521, 523, 523.1, 523.2, 524, 525A, 527.1,
528.1, 532.1, 535, 535.1, 535.2, 537, 537.1, 538,
553, 554, 554.1, 554.2, 561, 563.1, 567, 576, 577,

1 578, 579, 582, 584, 591, 594, 596 and 599), which
2 relate to the Alcoholic Beverage Control Act;
3 providing for codification; providing for
4 recodification; providing for severability; providing
5 conditional effectiveness; and providing effective
6 dates.

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

7 SECTION 1. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 1-101 of Title 37A, unless there
9 is created a duplication in numbering, reads as follows:

10 Sections 1 through 168 of this act shall be known and may be
11 cited as the "Oklahoma Alcoholic Beverage Control Act".

12 SECTION 2. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 1-102 of Title 37A, unless there
14 is created a duplication in numbering, reads as follows:

15 A. The purpose of the Oklahoma Alcoholic Beverage Control Act
16 is to implement the provisions of Article XVIII A of the Oklahoma
17 Constitution, as referred to the people for their approval or
18 rejection by the Secretary of State pursuant to the provisions of
19 Enrolled Senate Joint Resolution No. 68 of the 2nd Session of the
20 55th Oklahoma Legislature. The Legislature hereby declares that the
21 Oklahoma Alcoholic Beverage Control Act is deemed to be a code,
22 digest or revision of statutes pursuant to the provisions of Section
23 57 of Article V of the Oklahoma Constitution.

1 B. All alcoholic beverages as herein defined except alcohol
2 produced for use as a motor fuel under a permit issued by the
3 Oklahoma State Department of Agriculture, Food, and Forestry shall
4 be subject to the provisions of the Oklahoma Alcoholic Beverage
5 Control Act.

6 SECTION 3. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 1-103 of Title 37A, unless there
8 is created a duplication in numbering, reads as follows:

9 As used in the Oklahoma Alcoholic Beverage Control Act:

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

22 4. "Applicant" means any individual, legal or commercial
23 business entity, or any individual involved in any legal or
24

1 commercial business entity allowed to hold any license issued in
2 accordance with the Oklahoma Alcoholic Beverage Control Act;

3 5. "Beer" means any beverage of alcohol by volume and obtained
4 by the alcoholic fermentation of an infusion or decoction of barley,
5 or other grain, malt or similar products. "Beer" may or may not
6 contain hops or other vegetable products. "Beer" includes, among
7 other things, beer, ale, stout, lager beer, porter and other malt or
8 brewed liquors, but does not include sake, known as Japanese rice
9 wine;

10 6. "Beer keg" means any manufacturer-sealed, single container
11 that contains not less than four (4) gallons of beer;

12 7. "Beer distributor" means and includes any person licensed to
13 distribute beer for retail sale in the state, but does not include a
14 holder of a small brewer self-distribution license or brewpub self-
15 distribution license. The term "distributor", as used in this act,
16 shall be construed to refer to a beer distributor;

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

22 9. "Brand" means any word, name, group of letters, symbol or
23 combination thereof, that is adopted and used by a licensed
24

1 manufacturer to identify a specific beer and to distinguish that
2 product from another beer;

3 10. "Brand extension" means:

4 a. after the effective date of this act, any brand of
5 beer introduced by a manufacturer in this state which
6 either:

7 (1) incorporates all or a substantial part of the
8 unique features of a preexisting brand of the
9 same licensed manufacturer, or

10 (2) relies to a significant extent on the goodwill
11 associated with the preexisting brand, or

12 b. any brand of beer that a manufacturer, the majority of
13 whose total volume of all brands of beer distributed
14 in this state by such manufacturer on January 1, 2016,
15 was distributed as low-point beer, desires to sell,
16 introduces, begins selling or theretofore has sold and
17 desires to continue selling a strong beer in this
18 state which either:

19 (1) incorporates or incorporated all or a substantial
20 part of the unique features of a preexisting low-
21 point beer brand of the same licensed
22 manufacturer, or
23
24

1 (2) relies or relied to a significant extent on the
2 goodwill associated with a preexisting low-point
3 beer brand;

4 11. "Brewer" means and includes any person who manufactures for
5 human consumption by the use of raw materials or other ingredients
6 any beer upon which a license fee and a tax are imposed by any law
7 of this state;

8 12. "Brewpub" means a licensed establishment operated on the
9 premises of, or on premises located contiguous to, a small brewer,
10 that prepares and serves food and beverages, including alcoholic
11 beverages, for on-premises consumption;

12 13. "Cider" means any alcoholic beverage obtained by the
13 alcoholic fermentation of fruit juice, including but not limited to
14 flavored, sparkling or carbonated cider. For the purposes of the
15 distribution of this product, cider may be distributed by either
16 wine and spirits wholesalers or beer distributors;

17 14. "Convenience store" means any person primarily engaged in
18 retailing a limited range of general household items and groceries,
19 with extended hours of operation, whether or not engaged in retail
20 sales of automotive fuels in combination with such sales;

21 15. "Convicted" and "conviction" mean and include a finding of
22 guilt resulting from a plea of guilty or nolo contendere, the
23 decision of a court or magistrate or the verdict of a jury,
24

1 irrespective of the pronouncement of judgment or the suspension
2 thereof;

3 16. "Director" means the Director of the ABLE Commission;

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

12 18. "Distributor agreement" means the written agreement between
13 the distributor and manufacturer as set forth in Section 78 of this
14 act;

15 19. "Drug store" means a person primarily engaged in retailing
16 prescription and nonprescription drugs and medicines;

17 20. "Dual strength beer" means a brand of beer that,
18 immediately prior to the effective date of this act, was being sold
19 and distributed in this state:

20 a. as a low-point beer pursuant to the Low-Point Beer
21 Distribution Act in effect immediately prior to the
22 effective date of this act, and
23
24

1 b. as strong beer pursuant to the Alcoholic Beverage
2 Control Act in effect immediately prior to the
3 effective date of this act.

4 Dual strength beer does not include a brand of beer that arose
5 as a result of a brand extension as defined in this section;

6 21. "Fair market value" means the value in the subject
7 territory covered by the written agreement with the distributor or
8 wholesaler that would be determined in an arm's length transaction
9 entered into without duress or threat of termination of the
10 distributor's or wholesaler's rights and shall include all elements
11 of value, including goodwill and going-concern value;

12 22. "Good cause" means:

13 a. failure by the distributor to comply with the material
14 and reasonable provisions of a written agreement or
15 understanding with the manufacturer, or

16 b. failure by the distributor to comply with the duty of
17 good faith;

18 23. "Good faith" means the duty of each party to any
19 distributor agreement and all officers, employees or agents thereof
20 to act with honesty in fact and within reasonable standards of fair
21 dealing in the trade;

22 24. "Grocery store" means a person primarily engaged in
23 retailing a general line of food, such as canned or frozen foods,
24

1 fresh fruits and vegetables, and fresh and prepared meats, fish and
2 poultry;

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

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

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

19 28. "Low-point beer" shall mean any beverages containing more
20 than one-half of one percent (1/2 of 1%) alcohol by volume, and not
21 more than three and two-tenths percent (3.2%) alcohol by weight,
22 including but not limited to, beer or cereal malt beverages obtained
23 by the alcoholic fermentation of an infusion by barley or other
24 grain, malt or similar products;

1 29. "Manufacturer" means a brewer, distiller, winemaker,
2 rectifier or bottler of any alcoholic beverage and its subsidiaries,
3 affiliates and parent companies;

4 30. "Manufacturer's agent" means a salaried or commissioned
5 salesperson who is the agent authorized to act on behalf of the
6 manufacturer or nonresident seller in the state;

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

12 32. "Mini-bar" means a closed container, either refrigerated in
13 whole or in part, or nonrefrigerated, and access to the interior of
14 which is:

- 15 a. restricted by means of a locking device which requires
16 the use of a key, magnetic card or similar device, or
17 b. controlled at all times by the licensee;

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

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

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

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

14 36. "Nonresident seller" means any person licensed pursuant to
15 Section 47 of this act;

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

19 38. "Occupation" as used in connection with "occupation tax"
20 means the sites occupied as the places of business of the
21 manufacturers, wholesalers, beer distributors, retailers, mixed
22 beverage licensees, on-premises beer and wine licensees, bottle
23 clubs, caterers, public event and special event licensees;

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

3 40. "Package store" means any sole proprietor or partnership
4 that qualifies to sell wine, beer and/or spirits for off-premise
5 consumption and that is not a grocery store, convenience store or
6 drug store, or other retail outlet that is not permitted to sell
7 wine or beer for off-premise consumption;

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

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

14 43. "Premises" means the grounds and all buildings and
15 appurtenances pertaining to the grounds including any adjacent
16 premises if under the direct or indirect control of the licensee and
17 the rooms and equipment under the control of the licensee and used
18 in connection with or in furtherance of the business covered by a
19 license. Provided that the ABLE Commission shall have the authority
20 to designate areas to be excluded from the licensed premises solely
21 for the purpose of:

- 22 a. allowing the presence and consumption of alcoholic
23 beverages by private parties which are closed to the
24 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;

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

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

46. "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;

1 47. "Regulation" or "rule" means a formal rule of general
2 application promulgated by the ABLE Commission as herein required;

3 48. "Restaurant" means an establishment that is licensed to
4 sell alcoholic beverages by the individual drink for on-premises
5 consumption and where food is prepared and sold for immediate
6 consumption on the premises;

7 49. "Retail container for spirits and wines" means an original
8 package of any capacity approved by the United States Bureau of
9 Alcohol, Tobacco and Firearms;

10 50. "Retailer" means a package store, grocery store,
11 convenience store or drug store licensed to sell alcoholic beverages
12 for off-premise consumption pursuant to a Retail Spirits License,
13 Retail Wine License or Retail Beer License;

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

22 52. "Short order food" means food other than full meals
23 including but not limited to sandwiches, soups and salads. Provided
24

1 that popcorn, chips and other similar snack food shall not be
2 considered "short order food";

3 53. "Small brewer" means a brewer who manufactures less than
4 twenty-five thousand (25,000) barrels of beer annually pursuant to a
5 validly issued Small Brewer License hereunder;

6 54. "Small farm wine" means a wine that is produced by a small
7 farm winery with seventy-five percent (75%) or more Oklahoma-grown
8 grapes, berries, other fruits, honey or vegetables;

9 55. "Small farm winery" means a wine-making establishment that
10 does not annually produce for sale more than fifteen thousand
11 (15,000) gallons of wine as reported on the United States Department
12 of the Treasury, Alcohol and Tobacco Tax and Trade Bureau, Report of
13 Wine Premises Operations (TTB Form 5120.17);

14 56. "Sparkling wine" means champagne or any artificially
15 carbonated wine;

16 57. "Special event" means an entertainment, recreation or
17 marketing event that occurs at a single location on an irregular
18 basis and at which alcoholic beverages are sold;

19 58. "Spirits" means any beverage other than wine or beer, which
20 contains more than one-half of one percent (1/2 of 1%) alcohol
21 measured by volume, and obtained by distillation, whether or not
22 mixed with other substances in solution and includes those products
23 known as whiskey, brandy, rum, gin, vodka, liqueurs, cordials and
24 fortified wines and similar compounds, but shall not include any

1 alcohol liquid completely denatured in accordance with the Acts of
2 Congress and regulations pursuant thereto;

3 59. "Strong beer" means beer which, prior to the effective date
4 of this act, was distributed pursuant to the Oklahoma Alcoholic
5 Beverage Control Act, Section 501 et seq. of Title 37 of the
6 Oklahoma Statutes;

7 60. "Successor manufacturer" means a primary source of supply,
8 a brewer or an importer that acquires rights to a beer brand from a
9 predecessor manufacturer;

10 61. "Tax Commission" means the Oklahoma Tax Commission;

11 62. "Territory" means a geographic region with a specified
12 boundary;

13 63. "Wine and spirits wholesaler" or "wine and spirits
14 distributor" means and includes any sole proprietorship or
15 partnership licensed to distribute wine and spirits in the state.
16 The term "wholesaler", as used in this act, shall be construed to
17 refer to a wine and spirits wholesaler; and

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

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

4 SECTION 4. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 1-104 of Title 37A, unless there
6 is created a duplication in numbering, reads as follows:

7 A. The Alcoholic Beverage Laws Enforcement Commission created
8 in Section 1 of Article XXVIII of the Oklahoma Constitution is
9 hereby recreated. The purpose of the Commission shall be to enforce
10 the alcoholic beverage laws of the State, and the Commission shall
11 have such power and authority to enforce such laws, rules and
12 regulations as shall be prescribed by the Oklahoma Alcoholic
13 Beverage Control Act.

14 B. The Commission shall consist of seven (7) members, to be
15 appointed by the Governor with the advice and consent of the State
16 Senate; provided, members serving on the effective date of this act
17 shall continue to serve until such time as their terms would have
18 expired pursuant to the provisions of Section 1 of Article XXVIII of
19 the Oklahoma Constitution. Five of the members shall be at-large
20 members representing the lay citizenry. The remaining two members
21 shall be persons with law enforcement experience in this state. Any
22 time there is a vacancy on the Commission, the Governor shall
23 appoint a replacement, with the advice and consent of the State
24 Senate, within ninety (90) days.

1 C. Members of the Commission shall be appointed for a term of
2 five (5) years.

3 D. No more than four members of the Commission shall be
4 appointed from the same political party. No more than two members
5 of the Commission shall be appointed from the same federal
6 congressional district.

7 E. No member of the Commission shall hold any license
8 authorized by the Oklahoma Alcoholic Beverage Control Act, or have
9 any interest in any capacity, in the manufacture, sale, distribution
10 or transportation of alcoholic beverages.

11 F. The members of the Commission shall be removable from office
12 for cause as other officers not subject to impeachment.

13 G. The Commission shall appoint a Director, whose duties shall
14 be defined as provided in Section 8 of this act.

15 H. The State of Oklahoma shall take all necessary steps to
16 ensure the timely implementation of Enrolled Senate Joint Resolution
17 No. 68 of the 2nd Session of the 55th Oklahoma Legislature, if
18 approved by the voters. Consistent with this objective, the ABLE
19 Commission shall have the power to issue interim licenses prior to
20 October 1, 2018, as follows:

21 1. Except for the sale of wine or beer to the public, an
22 interim license shall allow all qualified retail wine and retail
23 beer licensees to perform all activities permissible under a full
24 license including but not limited to purchasing, stocking and

1 storing the wine and/or full-strength beer prior to October 1, 2018.

2 In order to qualify for an interim license, the licensee must
3 satisfy all the requirements set forth in Article XXVIII A of the
4 Oklahoma Constitution and this act. The interim license shall
5 convert to a full license on October 1, 2018;

6 2. Package stores may install refrigerated coolers for the
7 storage of beer and wine prior to October 1, 2018, provided the
8 refrigerated coolers shall not be used to cool product below room
9 temperature until after October 1, 2018; and

10 3. An interim license shall allow all qualified wine and
11 spirits wholesalers to perform all activities permissible under a
12 full license including but not limited to selling and delivering
13 wine and/or full-strength beer to all qualified retail wine and
14 retail beer licensees. In order to qualify for an interim license,
15 the wine and spirits wholesaler must comply with the provisions set
16 forth in Article XXVIII A of the Oklahoma Constitution and this act.
17 The interim license shall convert to a full license on October 1,
18 2018.

19 I. No retail wine or retail beer licensee may sell wine and/or
20 beer, other than low-point beer, and no package store may sell
21 refrigerated wine and/or beer, prior to October 1, 2018. The sale
22 or refrigeration of wine and/or beer in violation of this subsection
23 shall result in the revocation of the interim license and a monetary
24 fine of Twenty-five Thousand dollars (\$25,000.00).

1 SECTION 5. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1-105 of Title 37A, unless there
3 is created a duplication in numbering, reads as follows:

4 A. Members of the ABLE Commission shall:

5 1. Be citizens of the United States;

6 2. Be qualified electors in this state;

7 3. Have been residents of this state for at least ten (10)
8 consecutive years immediately preceding the date of their
9 appointment and qualification; and

10 4. Be persons of outstanding character, experienced, efficient
11 and successful in business affairs and of good reputation in their
12 communities.

13 B. Members shall execute the loyalty oath required by law for
14 elected state officials before assuming the duties of their office.

15 C. No person shall be appointed who:

16 1. Has been convicted of, or shall have pleaded guilty to, a
17 felony or any violation of any federal or state law concerning the
18 manufacture or sale of alcoholic beverages or cereal malt beverages
19 prior or subsequent to the passage of the Oklahoma Alcoholic
20 Beverage Control Act;

21 2. Has paid a fine or penalty in settlement in any prosecution
22 against the person in any violation of such laws; or

23 3. Shall have forfeited a bond to appear in court to answer
24 charges for any such violation.

1 D. No appointee shall serve if the appointee or any person
2 related to the appointee in the third degree by consanguinity or
3 affinity is an officer, director, employee or stockholder in any
4 corporation or partnership which has as its business the
5 manufacture, sale or distribution of an alcoholic beverage.

6 E. No member of the ABLE Commission shall own, mortgage or
7 lease any retail or wholesale store or warehouse, any establishment
8 selling alcoholic beverages by the individual drink for on-premises
9 consumption, any establishment operated by a caterer who provides
10 alcoholic beverages by the individual drink pursuant to a caterer's
11 license or any bottle club as provided in the alcoholic beverage
12 control laws of this state.

13 F. The provisions of the Oklahoma Alcoholic Beverage Control
14 Act shall not prevent any member of the ABLE Commission from
15 purchasing and possessing, for personal use or use by the members of
16 the member's family or any guests, any alcoholic beverage which may
17 be purchased or kept by any person by virtue of the provisions of
18 the Oklahoma Alcoholic Beverage Control Act.

19 G. In order to establish the qualifications of members of the
20 ABLE Commission, a national criminal history record check as defined
21 in Section 150.9 of Title 74 of the Oklahoma Statutes shall be
22 required for each member.

23 H. A majority of the members of the ABLE Commission shall
24 constitute a quorum to transact business, but no vacancy shall

1 impair the right of the remaining members to exercise all of the
2 powers of the Commission, and every act of a majority of the members
3 shall be deemed to be the act of the ABLE Commission. The ABLE
4 Commission shall appoint the Director as secretary who shall keep a
5 record of all proceedings and official acts of the Commission and
6 who shall be the custodian of all records and perform such other
7 duties as the ABLE Commission shall prescribe.

8 I. Each member of the ABLE Commission shall receive
9 reimbursement for travel expenses incurred in attending meetings as
10 provided for in the State Travel Reimbursement Act.

11 J. The office of the ABLE Commission shall be in Oklahoma City
12 in office space provided by the Office of Management and Enterprise
13 Services. All meetings of the ABLE Commission shall be open to the
14 public and all records of the ABLE Commission shall be public
15 records and open for public inspection. The ABLE Commission shall
16 hold regular meetings at least once a month at its office and may
17 hold such special meetings as it deems necessary at any time and at
18 any place within the state.

19 K. The ABLE Commission, for authentication of its records,
20 process and proceedings, may adopt, keep and use a common seal, of
21 which seal judicial notice shall be taken in all the courts of the
22 state. Any process, notice or other paper which the ABLE Commission
23 may be authorized by law to issue shall be deemed sufficient if
24 signed by the secretary of the ABLE Commission and authenticated by

1 such seal. All acts, orders, proceedings, rules, regulations,
2 entries, minutes and other records of the ABLE Commission, and all
3 reports and documents filed with the ABLE Commission may be proved
4 in any court of this state by copy thereof certified by the
5 secretary of the ABLE Commission with the seal of the ABLE
6 Commission attached.

7 L. The ABLE Commission shall not adopt or promulgate any rule
8 or regulation inconsistent with the provisions of the Oklahoma
9 Alcoholic Beverage Control Act or any law of this state.

10 SECTION 6. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 1-106 of Title 37A, unless there
12 is created a duplication in numbering, reads as follows:

13 The Oklahoma Alcoholic Beverage Control Act shall be deemed an
14 exercise of the police power of the State of Oklahoma for the
15 protection of the welfare, health, peace, temperance and safety of
16 the people of this state, and all provisions hereof shall be
17 construed for the accomplishment of that purpose.

18 SECTION 7. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 1-107 of Title 37A, unless there
20 is created a duplication in numbering, reads as follows:

21 A. The ABLE Commission shall have the following powers and
22 duties:

23 1. To supervise, inspect and regulate every phase of the
24 business of manufacturing, importing, exporting, transporting,

1 storing, selling, distributing and possessing for the purpose of
2 sale, all alcoholic beverages which shall be necessary and proper to
3 carry out the purposes of the Oklahoma Alcoholic Beverage Control
4 Act;

5 2. To promulgate rules, in the manner herein provided, to carry
6 out the purposes of the Oklahoma Alcoholic Beverage Control Act;

7 3. To have the sole authority to issue any license provided for
8 in the Oklahoma Alcoholic Beverage Control Act and except as
9 provided in Sections 101 and 102 of this act with respect to cities,
10 towns and counties, and except as may be provided under Title 68 of
11 the Oklahoma Statutes with respect to the Oklahoma Tax Commission,
12 no other agency, instrumentality or political subdivision of this
13 state shall be authorized to issue any license or permit allowing
14 any licensee to engage in any activity covered by the Oklahoma
15 Alcoholic Beverage Control Act anywhere within the State of
16 Oklahoma;

17 4. To refuse to issue any license provided for in the Oklahoma
18 Alcoholic Beverage Control Act for cause provided for in the
19 Oklahoma Alcoholic Beverage Control Act;

20 5. To revoke or suspend, for cause after hearing, any license
21 issued under the authority of the Oklahoma Alcoholic Beverage
22 Control Act;

1 6. To prescribe the forms of all reports which it deems
2 necessary in administering the Oklahoma Alcoholic Beverage Control
3 Act;

4 7. To fix standards not in conflict with those prescribed by
5 any law of this state or of the United States, to secure the use of
6 proper ingredients and methods of manufacture and dispensing of
7 alcoholic beverages;

8 8. To make seizures of alcoholic beverages manufactured, sold,
9 possessed, imported or transported in violation of the Oklahoma
10 Alcoholic Beverage Control Act, and apply for the confiscation
11 thereof whenever required by the Oklahoma Alcoholic Beverage Control
12 Act, and cooperate in the prosecution of offenders before any court
13 of competent jurisdiction;

14 9. To submit to the Governor and members of the State
15 Legislature annual or semiannual reports upon request of the
16 Governor;

17 10. To inspect or cause to be inspected any premises where
18 alcoholic beverages are manufactured, stored, distributed, sold,
19 dispensed or served;

20 11. In the conduct of any hearing authorized to be held by the
21 ABLE Commission:

22 a. to examine or cause to be examined, under oath, any
23 person,
24

- 1 b. to examine or cause to be examined books and records
2 of any licensee,
3 c. to hear testimony and take proof material for the ABLE
4 Commission's information and the discharge of its
5 duties hereunder,
6 d. to administer or cause to be administered oaths, and
7 e. to issue subpoenas for the attendance of witnesses and
8 the production of books or records which shall be
9 effective in any part of the state. Any district
10 court or any judge thereof, either in term or
11 vacation, may by order duly entered require the
12 attendance of witnesses and the production of relevant
13 books or records subpoenaed by the ABLE Commission,
14 and the court or judge may compel obedience to the
15 order by proceedings for contempt;

16 12. To prescribe the kind and size of retail containers of
17 alcoholic beverages which may be purchased, possessed and sold by a
18 licensee;

19 13. To prescribe by rule, in addition to those herein required,
20 the kinds of records to be kept and reports to be rendered by
21 licensees, and the information to be shown therein; provided, that
22 the period for which all such records and reports be retained shall
23 not be less than five (5) years;
24

1 14. To gather, compile and print such statistical data as may
2 in the opinion of the ABLE Commission be needed or useful, and
3 prescribe charges or fees to be collected from any person or company
4 to whom such data shall be provided. No reports shall contain sales
5 information by name or license number;

6 15. To educate persons employed by licensees to sell or serve
7 alcoholic beverages as to the provisions of Article XXVIII A of the
8 Oklahoma Constitution and the Oklahoma Alcoholic Beverage Control
9 Act, with emphasis on recognizing and preventing intoxication and
10 particular emphasis on those provisions prohibiting the selling or
11 serving of alcoholic beverages to minors. The ABLE Commission may
12 contract with one or more entities, including but not limited to the
13 Oklahoma Department of Mental Health and Substance Abuse Services,
14 to perform the duties specified in this paragraph;

15 16. To purchase motor vehicles necessary for use in its
16 operations. Such motor vehicles shall not be required to have any
17 type of identifying marking thereon;

18 17. To purchase insurance on the motor vehicles owned and
19 operated by the ABLE Commission in accordance with statutory
20 provisions, subject to the approval of the Risk Management
21 Administrator as provided for in Section 85.58A of Title 74 of the
22 Oklahoma Statutes;

23 18. To approve or reject any official bond required to be filed
24 with the ABLE Commission; and

1 19. To exercise all other powers and duties conferred by the
2 Oklahoma Alcoholic Beverage Control Act, and all powers incidental,
3 convenient or necessary to enable it to administer or carry out any
4 of the provisions of the Oklahoma Alcoholic Beverage Control Act.

5 B. The ABLE Commission shall promulgate rules, pursuant to the
6 Administrative Procedures Act, to carry out the purposes of the
7 Oklahoma Alcoholic Beverage Control Act.

8 SECTION 8. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 1-108 of Title 37A, unless there
10 is created a duplication in numbering, reads as follows:

11 A. The ABLE Commission shall appoint a Director, who shall
12 employ an Assistant Director and such other personnel as are
13 necessary to properly enforce and administer the Oklahoma Alcoholic
14 Beverage Control Act. The Director shall require bonds in such
15 instances and amounts as the ABLE Commission may direct, and shall
16 be in direct charge of all records. The Director shall further have
17 the following specific powers and duties:

18 1. To issue licenses provided for in the Oklahoma Alcoholic
19 Beverage Control Act, and to approve or reject any official bond
20 required to be filed with the Director or the ABLE Commission;

21 2. To appoint and employ, supervise and discharge such
22 employees as may be determined necessary for the proper discharge of
23 the duties of the office of Director, upon duties and salary fixed
24 and determined by the ABLE Commission and subject to all the rules

1 that may be promulgated by the ABLE Commission. The Director and
2 the ABLE Commission, in appointing and employing personnel, shall
3 give preference to honorably discharged members of the Armed Forces
4 of the United States;

5 3. To conduct such investigations and make such reports as may
6 be necessary to keep the ABLE Commission advised concerning any
7 violations of the provisions of the Oklahoma Alcoholic Beverage
8 Control Act and make orders for its enforcement;

9 4. To make recommendations to the ABLE Commission concerning
10 the suspension or revocation of any licenses, the levying of fines
11 against licensees for violations of the provisions of the Oklahoma
12 Alcoholic Beverage Control Act or rules of the ABLE Commission or
13 any action that should be filed or commenced against any official
14 bond theretofore approved by the Director or the ABLE Commission;

15 5. To regularly inspect all places of business of licensees,
16 and all other persons, firms or corporations dealing in the
17 manufacture, distribution, transportation, sale or service of
18 alcoholic beverages under the provisions of the Oklahoma Alcoholic
19 Beverage Control Act and report to the ABLE Commission concerning
20 any and all violations with a recommendation to the ABLE Commission
21 for its determination;

22 6. To refer any evidence of a violation of any provision of the
23 Oklahoma Alcoholic Beverage Control Act which carries a criminal
24 penalty to the appropriate law enforcement authority for action;

1 7. To aid the enforcement authorities of this state or any
2 county or municipality of the state, or the federal government, in
3 prosecutions of violations of the Oklahoma Alcoholic Beverage
4 Control Act; and

5 8. To enforce the provisions of the Prevention of Youth Access
6 to Tobacco Act including but not limited to the levying of
7 administrative fines against persons violating the provisions of the
8 Prevention of Youth Access to Tobacco Act, and to at least annually
9 conduct random unannounced inspections at locations where tobacco
10 products are sold or distributed and conduct targeted inspections at
11 those locations which have been in violation of the provisions of
12 the Prevention of Youth Access to Tobacco Act.

13 B. The Director may employ or contract with attorneys, as
14 needed, to advise the Director and the ABLE Commission on all legal
15 matters and shall appear for and represent the Director and the ABLE
16 Commission in all administrative hearings and all litigation or
17 other proceedings which may arise in the discharge of their duties.
18 At the request of the ABLE Commission, such attorneys shall assist
19 district attorneys in prosecuting charges of violators of the
20 Oklahoma Alcoholic Beverage Control Act.

21 SECTION 9. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 1-109 of Title 37A, unless there
23 is created a duplication in numbering, reads as follows:

1 A. The members of the ABLE Commission, the Director and such
2 agents and inspectors as the ABLE Commission appoints in writing
3 shall have all the powers and authority of peace officers of this
4 state for the purpose of enforcing the provisions of the Oklahoma
5 Alcoholic Beverage Control Act.

6 B. The Director or any agent or inspector duly appointed, as
7 provided in subsection A of this section, shall be authorized to
8 arrest violators for offenses against laws of this state committed
9 in the presence of the Director or such agents or inspectors, and
10 further, upon the request of a sheriff or another peace officer of
11 this state or any political subdivision thereof, assist in
12 apprehension and arrest of a violator or suspected violator of any
13 of the laws of this state.

14 C. 1. A commissioned employee of the ABLE Commission shall be
15 entitled to receive, upon retirement by reason of length of service,
16 the continued custody and possession of the sidearm and badge
17 carried by such employee immediately prior to retirement;

18 2. A commissioned employee of the ABLE Commission may be
19 entitled to receive, upon retirement by reason of disability, the
20 continued custody and possession of the sidearm and badge carried by
21 such employee immediately prior to retirement, upon approval of the
22 Director;

23 3. Custody and possession of the sidearm and badge of a
24 commissioned employee of the ABLE Commission, killed in the line of

1 duty, may be awarded by the Director to the spouse or next of kin of
2 the deceased employee.

3 SECTION 10. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 1-110 of Title 37A, unless there
5 is created a duplication in numbering, reads as follows:

6 A. No member or employee of the ABLE Commission shall:

7 1. Be appointed or serve who has been convicted of a felony or
8 of any violation of any federal or state law relating to alcoholic
9 beverages;

10 2. Directly or indirectly, individually or as a member of a
11 partnership, or as a shareholder of a corporation, have any interest
12 whatsoever in the manufacture, sale or distribution of alcoholic
13 beverages;

14 3. Receive any compensation or profit therefrom, nor have any
15 interest, directly or indirectly, in any business authorized by a
16 license issued pursuant to the provisions of the Oklahoma Alcoholic
17 Beverage Control Act. The holding of membership or elective or
18 appointed office in fraternal organizations which obtain licenses
19 authorized by the Oklahoma Alcoholic Beverage Control Act shall not
20 be considered to be engagement in the alcoholic beverage business;

21 4. Solicit or accept any gift, gratuity, emolument or
22 employment from any person subject to the provisions of the Oklahoma
23 Alcoholic Beverage Control Act, or from any officer, agent or
24 employee thereof;

1 5. Solicit, request from or recommend, directly or indirectly,
2 to any such person or to any officer, agent or employee thereof, the
3 appointment of any person to any place or position, and every such
4 person, and every officer, agent or employee thereof, is hereby
5 forbidden to offer to any member or employee of the ABLE Commission
6 any gift, gratuity, emolument or employment;

7 6. Accept employment within the alcoholic beverage industry for
8 any holder of a license issued pursuant to the provisions of the
9 Oklahoma Alcoholic Beverage Control Act; or

10 7. Represent, directly or indirectly, any such licensee in any
11 proceedings before the Director, the ABLE Commission or the Tax
12 Commission within two (2) years following separation from the ABLE
13 Commission.

14 B. Violation of any provision of subsection A of this section
15 shall constitute a misdemeanor. In addition to the penal
16 provisions, any person convicted shall be immediately removed from
17 the office or position he or she holds.

18 C. No license of any kind shall be granted to or retained by
19 any person or any partnership containing any partner who is related
20 to any member or employee of the ABLE Commission by affinity or
21 consanguinity within the third degree. If a license is held in
22 violation of the provisions of this subsection, the member or
23 employee of the ABLE Commission shall not be entitled to receive any
24

1 compensation or other monies from the State of Oklahoma while a
2 license is held in violation of the provisions of this subsection.

3 D. It shall be unlawful for any member or employee of the ABLE
4 Commission to lend, expend or contribute any money, funds, property
5 or other thing of value, or use his or her official position for the
6 purpose of securing the nomination or election or the defeat of any
7 candidate for public office in the State of Oklahoma.

8 E. Any person who shall violate the provisions of subsection D
9 of this section shall, upon conviction, be fined not less than Two
10 Thousand Five Hundred Dollars (\$2,500.00) nor more than Five
11 Thousand Dollars (\$5,000.00), or be imprisoned in the county jail
12 for not more than one (1) year, or by both such fine and
13 imprisonment. Any person found guilty of violating the provisions
14 of this subsection shall, upon conviction, in addition to the
15 criminal penalty imposed herein, be discharged from the office or
16 position he or she holds and shall not be rehired to any state
17 position.

18 SECTION 11. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 1-111 of Title 37A, unless there
20 is created a duplication in numbering, reads as follows:

21 A. Employees of the State of Oklahoma and its political
22 subdivisions are hereby permitted to obtain licenses from the ABLE
23 Commission and to be involved in the alcoholic beverage business
24 unless such involvement and licensing is prohibited by law.

1 B. The following officers and employees of the State of
2 Oklahoma and its political subdivisions are hereby prohibited from
3 engaging in the alcoholic beverage business:

4 1. All judges, district attorneys, assistant district attorneys
5 and any public official who sits in a judicial capacity with
6 jurisdiction over the Oklahoma Alcoholic Beverage Control Act;

7 2. All employees certified as peace officers engaging in law
8 enforcement activities; and

9 3. All employees of the Oklahoma Tax Commission who engage in
10 the auditing, enforcement and collection of alcoholic beverage
11 taxes.

12 C. The holding of membership or elective or appointed office in
13 fraternal organizations which obtain mixed beverage or bottle club
14 licenses by employees of the state or a political subdivision shall
15 not be considered to be engagement in the alcoholic beverage
16 business.

17 D. If the voters of a county in which a state lodge is located
18 approve sale of alcoholic beverages by the individual drink for on-
19 premises consumption, then such sale of alcoholic beverages on the
20 premises of such lodge shall be authorized if a license for such
21 sale, issued pursuant to the provisions of the Oklahoma Alcoholic
22 Beverage Control Act, is obtained. Provided, further, that a bottle
23 club may be licensed on the premises of a state lodge located in a
24

1 county where sale of alcoholic beverages by the individual drink for
2 on-premises consumption is not authorized.

3 E. The provisions of subsection D of this section shall not
4 prohibit the state or a political subdivision of the state from
5 leasing a public building or facility to a person who obtains a
6 mixed beverage license, bottle club license, special event license,
7 contracts for the services of a licensed caterer or subleases the
8 building or facility to a person who obtains a mixed beverage
9 license, bottle club license, special event license or contracts for
10 the services of a licensed caterer.

11 F. Provided, that nothing in this section shall prohibit the
12 sale of alcoholic beverage legally confiscated as provided by law.

13 SECTION 12. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 1-112 of Title 37A, unless there
15 is created a duplication in numbering, reads as follows:

16 The ABLE Commission shall not issue a license to any person not
17 in good standing with the Oklahoma Tax Commission with respect to
18 the payment of all taxes due to this state or any political
19 subdivision thereof. The ABLE Commission shall not issue a license
20 to any business entity if the entity or any officer or director
21 thereof is not in good standing with the Tax Commission with respect
22 to the payment of all taxes due to this state or any political
23 subdivision thereof. Any license issued before or after the
24 effective date of this act which is deemed to have been issued in

1 violation of the provisions of this section shall be immediately
2 revoked, and the holder thereof shall not be eligible to receive any
3 license issued by the ABLE Commission until such time as the Tax
4 Commission determines that the holder is in good standing with the
5 Tax Commission with respect to the payment of all taxes due to this
6 state or any political subdivision thereof, including payment of any
7 interest or penalties due.

8 SECTION 13. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 2-101 of Title 37A, unless there
10 is created a duplication in numbering, reads as follows:

11 A. Except as otherwise provided in this section, the licenses
12 issued by the ABLE Commission, and the annual fees therefor, shall
13 be as follows:

- 14 1. Brewer License..... \$1,250.00
- 15 2. Small Brewer License..... \$125.00
- 16 3. Distiller License..... \$3,125.00
- 17 4. Winemaker License..... \$625.00
- 18 5. Small Farm Winery License..... \$75.00
- 19 6. Rectifier License..... \$3,125.00
- 20 7. Wine and Spirits Wholesaler License..... \$3,000.00
- 21 8. Beer Distributor License..... \$750.00
- 22 9. The following retail spirits license fees shall be
23 determined by the latest Federal Decennial Census:
- 24

1	a.	Retail Spirits License for cities and towns from 200	
2		to 2,500 population.....	\$305.00
3	b.	Retail Spirits License for cities and towns from 2,501	
4		to 5,000 population.....	\$605.00
5	c.	Retail Spirits License for cities and towns over 5,000	
6		population.....	\$905.00
7	10.	Retail Wine License.....	\$1,000.00
8	11.	Retail Beer License.....	\$500.00
9	12.	Mixed Beverage License.....	\$1,005.00
10			(initial license)
11			\$905.00
12			(renewal)
13	13.	Mixed Beverage/Caterer Combination License.....	\$1,250.00
14	14.	On Premises Beer and Wine License.....	\$500.00
15			(initial license)
16			\$450.00
17			(renewal)
18	15.	Bottle Club License.....	\$1,000.00
19			(initial license)
20			\$900.00
21			(renewal)
22	16.	Caterer License.....	\$1,005.00
23			(initial license)
24			\$905.00

1		(renewal)	
2	17.	Annual Special Event License.....	\$55.00
3	18.	Quarterly Special Event License.....	\$55.00
4	19.	Hotel Beverage License.....	\$1,005.00
5		(initial license)	
6			\$905.00
7		(renewal)	
8	20.	Airline/Railroad Beverage License.....	\$1,005.00
9		(initial license)	
10			\$905.00
11		(renewal)	
12	21.	Agent License.....	\$55.00
13	22.	Employee License.....	\$30.00
14	23.	Industrial License.....	\$23.00
15	24.	Carrier License.....	\$23.00
16	25.	Private Carrier License.....	\$23.00
17	26.	Bonded Warehouse License.....	\$190.00
18	27.	Storage License.....	\$23.00
19	28.	Nonresident, Seller License or Manufacturer's	
20		License.....	\$750.00
21	29.	Manufacturer's Agent License.....	\$55.00
22	30.	Sacramental Wine Supplier License.....	\$100.00
23	31.	Charitable Auction License.....	\$1.00
24	32.	Charitable Alcoholic Beverage License.....	\$55.00

1	33.	Winemaker Self-Distribution License.....	\$750.00
2	34.	Annual Public Event License.....	\$1,005.00
3	35.	One-Time Public Event License.....	\$255.00
4	36.	Small Brewer Self-Distribution License.....	\$750.00
5	37.	Brewpub License.....	\$1,005.00
6	38.	Brewpub Self-Distribution License.....	\$750.00

B. 1. 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 subsection A of this section; 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.

2. 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 subsection A of this section.

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

1 1. The license fee for a mixed beverage or bottle club license
2 for those service organizations or fraternal beneficiary societies
3 which are exempt under Section 501(c)(19), (8) or (10) of the
4 Internal Revenue Code shall be Five Hundred Dollars (\$500.00) per
5 year; and

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

9 D. An applicant may apply for and receive both an on-premises
10 beer and wine license and a caterer license.

11 E. All licenses, except as otherwise provided, shall be valid
12 for one (1) year from date of issuance unless revoked or
13 surrendered. Provided, all employee licenses shall be valid for two
14 (2) years.

15 F. The holder of a license, issued by the ABLE Commission, for
16 a bottle club located in a county of this state where the sale of
17 alcoholic beverages by the individual drink for on-premises
18 consumption has been authorized, may exchange the bottle club
19 license for a mixed beverage license or an on-premises beer and wine
20 license and operate the licensed premises as a mixed beverage
21 establishment or an on-premises beer and wine establishment subject
22 to the provisions of the Oklahoma Alcoholic Beverage Control Act.
23 There shall be no additional fee for such exchange and the mixed
24 beverage license or on-premises beer and wine license issued shall

1 expire one (1) year from the date of issuance of the original bottle
2 club license.

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

- 5 1. Nonresident Seller or Manufacturer License..... \$2,500.00
- 6 2. Wine and Spirits Wholesaler License..... \$2,500.00
- 7 3. Beer Distributor..... \$1,000.00
- 8 4. Retail Spirits License for cities and towns
9 over 5,000 population..... \$250.00
- 10 5. Retail Spirits License for cities and towns
11 from 2,501 to 5,000 population..... \$200.00
- 12 6. Retail Spirits License for cities and towns
13 from 200 to 2,500 population..... \$150.00
- 14 7. Retail Wine License..... \$250.00
- 15 8. Retail Beer License..... \$250.00
- 16 9. Mixed Beverage License..... \$25.00
- 17 10. Mixed Beverage/Caterer Combination License..... \$25.00
- 18 11. Caterer License..... \$25.00
- 19 12. On-Premises Beer and Wine License..... \$25.00
- 20 13. Annual Public Event License..... \$25.00
- 21 14. Small Farm Winery License..... \$25.00
- 22 15. Small Brewer License..... \$35.00

23 The surcharge shall be paid concurrent with the licensee's
24 annual licensing fee and shall be deposited in the Alcoholic

1 Beverage Governance Revolving Fund established pursuant to Section
2 131 of this act.

3 SECTION 14. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 2-102 of Title 37A, unless there
5 is created a duplication in numbering, reads as follows:

6 A. A brewer license shall authorize the holder thereof:

7 1. To manufacture, bottle, package and store beer on the
8 licensed premises; and

9 2. To sell beer in this state to holders of beer distributor
10 licenses and to sell beer out of this state to qualified persons.

11 B. A small brewer license shall authorize the holder thereof:

12 1. To manufacture, bottle, package and store beer produced by
13 the licensee on licensed premises;

14 2. To sell beer in this state to holders of beer distributor
15 licenses and retail licenses or to sell beer out of this state to
16 qualified persons;

17 3. To serve free samples of beer produced by the licensee to
18 visitors twenty-one (21) years of age or older;

19 4. To sell beer produced by the licensee for either on-premises
20 or off-premises consumption to consumers on the brewery premises, or
21 on premises located contiguous thereto; and

22 5. To sell beer at public events such as trade shows or
23 festivals.

24

1 C. Nothing in this act shall prohibit the holder of a small
2 brewer license from also holding or owning an interest in the holder
3 of a brewpub license.

4 D. For purposes of this section, no visitor may sample more
5 than a total of twelve (12) fluid ounces of beer per day. The
6 brewer must restrict the distribution and consumption of beer
7 samples to an area within the licensed premises designated by the
8 brewer. A current floor plan that includes the designated sampling
9 area must be on file with the ABLE Commission. No visitor under
10 twenty-one (21) years of age shall be permitted to enter this
11 designated sampling area when samples are being distributed or
12 consumed. Samples of beer served by a brewery under this section
13 shall not be considered a sale of beer within the meaning of Article
14 XXVIII A of the Oklahoma Constitution or Section 3 of this act;
15 however, such samples of beer shall be considered beer removed or
16 withdrawn from the brewery for use or consumption within the meaning
17 of Section 113 of this act for excise tax determination and
18 reporting requirements;

19 E. A small brewer self-distribution license shall authorize
20 holders of a small brewer license to distribute beer produced only
21 by such licensee to a holder of a retail beer license, retail
22 spirits license, mixed beverage license, beer and wine license,
23 caterer's license, special event license, public event license,
24 charitable auction license or brewpub license. A small brewer shall

1 elect whether it will distribute through a distributor or self-
2 distribute in a subject territory; however, a small brewer may not
3 elect to do both simultaneously in a subject territory. The
4 election shall be made through notice to the ABLE Commission. Any
5 changes to the election shall require immediate notification to the
6 ABLE Commission before the change in election will take effect. A
7 small brewer that elects to self-distribute in multiple territories
8 shall only be required to have one small brewer self-distribution
9 license.

10 SECTION 15. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 2-103 of Title 37A, unless there
12 is created a duplication in numbering, reads as follows:

13 A distiller license shall authorize the holder thereof:

14 1. To manufacture, bottle, package and store spirits on
15 licensed premises;

16 2. To sell spirits in this state to licensed wholesalers and
17 manufacturers only;

18 3. To sell spirits out of this state to qualified persons; to
19 purchase from licensed distillers and rectifiers in this state, and
20 import spirits from without this state for manufacturing purposes in
21 accordance with federal laws and regulations; and

22 4. To serve free samples of spirits produced only by the
23 licensee to visitors twenty-one (21) years of age and older. For
24 purposes of this section, no visitor may sample more than a total of

1 three (3) fluid ounces of spirits per day. The distiller shall
2 restrict the distribution and consumption of spirits samples to an
3 area within the licensed premises designated by the distiller. A
4 current floor plan that includes the designated sampling area shall
5 be on file with the ABLE Commission. No visitor under twenty-one
6 (21) years of age shall be permitted to enter the designated
7 sampling area when samples are being distributed and consumed.
8 Samples of spirits served by a distiller under this section shall
9 not be considered a sale of spirits within the meaning of Article
10 XXVIII A of the Oklahoma Constitution or Section 3 of this act;
11 provided, such samples of spirits shall be considered removed or
12 withdrawn from the distillery for use or consumption within the
13 meaning of Section 113 of this act for excise tax determination and
14 reporting requirements.

15 SECTION 16. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 2-104 of Title 37A, unless there
17 is created a duplication in numbering, reads as follows:

18 A winemaker license shall authorize the holder thereof:

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

1 2. To sell wine in this state to licensed wholesalers and
2 manufacturers;

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

6 4. To serve free samples of wine produced at the winery to
7 visitors twenty-one (21) years of age and older. For purposes of
8 this section, no visitor may sample more than a total of six (6)
9 fluid ounces of wine per day. The winery shall restrict the
10 distribution and consumption of wine samples to an area within the
11 licensed premises designated by the winery. A current floor plan
12 that includes the designated sampling area shall be on file with the
13 ABLE Commission. No visitor under twenty-one (21) years of age
14 shall be permitted to enter the designated sampling area when
15 samples are being distributed and consumed. Samples of wine served
16 by a winery under this section shall not be considered a sale of
17 wine within the meaning of Article XXVIII A of the Oklahoma
18 Constitution or Section 3 of this act; provided, such samples of
19 wine shall be considered removed or withdrawn from the winery for
20 use or consumption within the meaning of Section 113 of this act for
21 excise tax determination and reporting requirements;

22 5. To serve samples of wine produced at the winery at public
23 events such as festivals and trade shows;
24

1 6. To sell wine produced at the winery, in original sealed
2 containers, at public events such as festivals and trade shows;

3 7. To sell wine out of this state to qualified persons; and

4 8. To purchase from licensed winemakers, distillers and
5 rectifiers in this state, and to import into this state wine, brandy
6 and fruit spirits for use in manufacturing in accordance with
7 federal laws and regulations.

8 SECTION 17. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 2-105 of Title 37A, unless there
10 is created a duplication in numbering, reads as follows:

11 A. A winemaker self-distribution license shall authorize a
12 licensed winemaker within or without this state which is permitted
13 by Article XXVIII A of the Oklahoma Constitution and this section:

14 1. To distribute its wine directly to retail spirits, retail
15 wine and retail beer licensees and restaurants in this state; and

16 2. If such a winemaker elects to do so, to sell and deliver its
17 wines directly to licensed retail package stores and restaurants in
18 this state in full case lots only, and in accordance with the
19 provisions of the Oklahoma Alcoholic Beverage Control Act and such
20 rules as the ABLE Commission shall promulgate.

21 B. A winemaker either within or without this state that
22 annually produces no more than fifteen thousand (15,000) gallons of
23 wine may elect to sell and self-distribute the wine produced by such
24

1 winemaker directly to licensed retail package stores and restaurants
2 in this state; provided:

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

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

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

20 SECTION 18. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 2-106 of Title 37A, unless there
22 is created a duplication in numbering, reads as follows:

23 A rectifier license shall authorize the holder thereof:
24

1 1. To rectify spirits and wines and to bottle, package and
2 store same on the licensed premises;

3 2. To sell spirits and wines in this state to licensed
4 wholesalers and manufacturers only;

5 3. To sell spirits and wines out of this state to qualified
6 persons;

7 4. To purchase from licensed manufacturers in this state; and

8 5. To import into this state for manufacturing purposes spirits
9 and wines in accordance with federal laws and regulations.

10 SECTION 19. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 2-107 of Title 37A, unless there
12 is created a duplication in numbering, reads as follows:

13 A. A wine and spirits wholesaler license shall authorize the
14 holder thereof:

15 1. To purchase and import into this state spirits and wines
16 from persons authorized to sell same who are the holders of a
17 manufacturer or nonresident seller license, and their agents who are
18 the holders of manufacturer's agent licenses;

19 2. To purchase spirits and wines from licensed distillers,
20 rectifiers and winemakers in this state;

21 3. To purchase spirits and wines from licensed wholesalers, to
22 the extent set forth in subsections B and C of this section;

23 4. To sell in retail containers in this state to retailers,
24 mixed beverage, caterer, special event, public event, hotel beverage

1 or airline/railroad beverage licensees, spirits and wines which have
2 been received and unloaded at the bonded warehouse facilities of the
3 wholesaler before such sale;

4 5. To sell to licensed wholesalers, to the extent set forth in
5 subsections B and C of this section, spirits and wines which have
6 been received and unloaded at the bonded warehouse facilities of the
7 wholesaler before such sale; and

8 6. To sell spirits and wines out of this state to qualified
9 persons.

10 Provided, however, sales of spirits and wine in containers with
11 a capacity of less than one-twentieth (1/20) gallon by a holder of a
12 wholesaler license shall be in full case lots and in the original
13 unbroken case. Wholesalers shall be authorized to place such signs
14 outside their place of business as are required by Acts of Congress
15 and by such laws and regulations promulgated under such Acts.

16 B. A wholesaler may sell spirits and wine to other wholesalers
17 or purchase spirits and wines from other wholesalers without
18 complying with subsection B of this subsection in the case of the
19 sale, purchase or other transfer or acquisition of the entire
20 business of a wholesaler, including the inventory of spirits and
21 wine.

22 C. A wholesaler license shall authorize the holder thereof to
23 operate a single bonded warehouse with a single central office
24 together with delivery facilities at a location in this state only

1 at the principal place of business for which the wholesaler license
2 was granted.

3 SECTION 20. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 2-108 of Title 37A, unless there
5 is created a duplication in numbering, reads as follows:

6 A. A beer distributor license shall authorize the holder
7 thereof:

8 1. To purchase and import into this state beer from persons
9 authorized to sell the same who are the holders of manufacturer's
10 licenses, and their agents who are the holders of manufacturer's
11 agent licenses;

12 2. To purchase beer from licensed brewers and beer distributors
13 in this state;

14 3. To sell in retail containers to retailers, mixed beverage,
15 caterer, special event, public event, hotel beverage and
16 airline/railroad beverage licensees in this state, beer which has
17 been received, unloaded and stored at the holder's self-owned or
18 leased and self-operated warehouse facilities before such sale,
19 unless otherwise permitted by this section; and

20 4. To sell beer in this state to beer distributors and out of
21 this state to qualified persons, including federal instrumentalities
22 and voluntary associations of military personnel on federal enclaves
23 in this state over which this state has ceded jurisdiction.

1 B. In the event that no in-state beer distributor for a
2 particular brewer is willing to deliver beer to a county or counties
3 located within the state, the ABLE Commission may grant an economic
4 hardship exemption to an out-of-state beer distributor for a
5 particular brewer and waive the at-rest requirement set forth in
6 this section, upon a good-faith showing that:

7 1. It is economically infeasible or impractical for an in-state
8 beer distributor for a particular brewer to deliver to the county or
9 counties due to remoteness, or population, or both;

10 2. No in-state beer distributor of a particular manufacturer
11 objects to the waiver within thirty (30) days of receiving written
12 notice of the economic hardship application sent by the ABLE
13 Commission; and

14 3. The out-of-state beer distributor agrees to pay all
15 necessary licensing fees and remit all applicable taxes to the State
16 of Oklahoma.

17 C. The economic hardship exemption provided for in subsection B
18 of this section shall renew annually, provided that no in-state beer
19 distributor for a particular brewer submits an executed distribution
20 agreement to assume responsibility to distribute the beer in the
21 subject county or counties at least sixty (60) days prior to the
22 renewal date of the exemption. The in-state beer distributor who
23 has executed a distribution agreement to assume responsibility to
24 distribute beer in the subject territory shall compensate the out-

1 of-state distributor the fair market value of the distribution
2 rights of the territory as determined pursuant to Section 78 of this
3 act.

4 D. Provided, nothing in this section shall require an Oklahoma
5 licensed beer distributor with an Oklahoma designated territory on
6 the effective date of this act to meet the hardship provisions in
7 subsections B and C of this section to continue to operate as a
8 licensed Oklahoma beer distributor.

9 SECTION 21. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 2-109 of Title 37A, unless there
11 is created a duplication in numbering, reads as follows:

12 A. A retail spirits license shall authorize the holder thereof:

13 1. To purchase wine or spirits from a wine and spirits
14 wholesaler;

15 2. To purchase beer from a beer distributor or from the holder
16 of a small brewer self-distribution license; and

17 3. To sell same on the licensed premises in such containers to
18 consumers for off-premises consumption only and not for resale;
19 provided, spirits, wine and beer may be sold to charitable
20 organizations that are holders of charitable alcoholic beverage
21 auction or charitable alcoholic beverage event licenses.

22 B. A retail wine license shall authorize the holder thereof:

23 1. To purchase wine from a wine and spirits wholesaler;

24

1 2. To purchase wine from a small farm winemaker who is
2 permitted and has elected to self-distribute as provided in Article
3 XXVIII A of the Oklahoma Constitution; and

4 3. To sell same on the licensed premises in such containers to
5 consumers for off-premises consumption only and not for resale;
6 provided, wine may be sold to charitable organizations that are
7 holders of charitable alcoholic beverage auction or charitable
8 alcoholic beverage event licenses.

9 Provided, no holder of a Retail Wine License may sell wine with
10 alcohol beverage volume in excess of fifteen percent (15%).

11 C. A retail beer license shall authorize the holder thereof:

12 1. To purchase beer from a beer distributor;

13 2. To purchase beer from the holder of a small brewer self-
14 distribution license; and

15 3. To sell same on the licensed premises in such containers to
16 consumers for off-premises consumption only and not for resale;
17 provided, beer may be sold to charitable organizations that are
18 holders of charitable alcoholic beverage auction or charitable
19 alcoholic beverage event licenses.

20 Provided, no holder of a Retail Beer License may sell a malt
21 beverage with alcohol beverage volume in excess of eight and ninety-
22 nine/one hundredths percent (8.99%).

1 SECTION 22. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2-110 of Title 37A, unless there
3 is created a duplication in numbering, reads as follows:

4 A mixed beverage license shall authorize the holder thereof:

5 1. To purchase alcohol, spirits, beer and/or wine in retail
6 containers from the holder of a wine and spirits wholesaler and beer
7 distributor license as specifically provided by law; and

8 2. To sell, offer for sale and possess mixed beverages for on-
9 premises consumption only; provided, the holder of a mixed beverage
10 license issued for an establishment which is also a restaurant may
11 purchase wine directly from a winemaker and beer directly from a
12 small brewer who is permitted and has elected to self-distribute as
13 provided in Article XXVIII A of the Oklahoma Constitution.

14 Sales and service of mixed beverages by holders of mixed
15 beverage licenses shall be limited to the licensed premises of the
16 licensee unless the holder of the mixed beverage license also
17 obtains a caterer license or a mixed beverage/caterer combination
18 license. A mixed beverage license shall only be issued in counties
19 of this state where the sale of alcoholic beverages by the
20 individual drink for on-premises consumption has been authorized. A
21 separate license shall be required for each place of business.

22 SECTION 23. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 2-111 of Title 37A, unless there
24 is created a duplication in numbering, reads as follows:

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

9 SECTION 24. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 2-112 of Title 37A, unless there
11 is created a duplication in numbering, reads as follows:

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

21 SECTION 25. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 2-113 of Title 37A, unless there
23 is created a duplication in numbering, reads as follows:

1 A. 1. A caterer license may be issued to any person for the
2 purpose of sale, delivery or distribution of alcoholic beverages
3 incidental to the sale or distribution of food on a premises not
4 licensed by the ABLE Commission. For purposes of this section,
5 "incidental to the sale or distribution of food" means food sales
6 constituting at least thirty-five percent (35%) of the caterer's
7 total combined annual sales. A caterer license shall not be issued
8 to a person whose main purpose is the sale of alcoholic beverages.

9 2. A caterer license may only be issued to those persons that
10 prepare, sell and distribute food for consumption either on licensed
11 or unlicensed premises. In order to renew a caterer license, annual
12 food sales must constitute at least thirty-five percent (35%) of the
13 caterer's total combined sales based on the most recent calendar
14 year. A caterer shall not be required to prepare, sell and
15 distribute food at every catered event as long as the caterer
16 satisfies the requirement set forth in this section.

17 3. Each caterer shall submit an annual sales report containing
18 revenue attributable to alcoholic beverages, food and all other
19 revenues attributable to the catering service. The annual sales
20 report must be submitted thirty (30) days prior to expiration of the
21 caterer license on forms prescribed by the ABLE Commission. The
22 caterer license may not be renewed if the caterer fails to provide
23 complete or sufficient financial data.

1 4. Each caterer shall submit a monthly event report containing
2 information on all events scheduled for the subsequent month. If an
3 event is scheduled after the first day of the month for an event to
4 occur in the same month, then the caterer shall report that event
5 within twenty-four (24) hours of scheduling the event or within
6 twenty-four (24) hours prior to the event, whichever occurs first.
7 The monthly event report shall be submitted on the first day of each
8 month.

9 5. All reports shall be submitted electronically on forms
10 prescribed by the ABLE Commission. Provided, if the caterer does
11 not have access to the Internet, then monthly reports must be
12 submitted by facsimile to the ABLE Commission's office in Oklahoma
13 City, in which case the caterer must retain a copy of the facsimile
14 confirmation sheet for at least twelve (12) months.

15 6. Any caterer who fails to submit a monthly report shall have
16 the caterer license automatically suspended until such time that the
17 caterer has fully complied with all reporting requirements. Any
18 caterer whose annual food sales do not exceed thirty-five percent
19 (35%) of his or her total annual combined sales shall not have the
20 caterer's license renewed.

21 B. The ABLE Commission shall promulgate rules governing the
22 application for and the issuance of caterer licenses.

23 C. The restrictions and rules which apply to the sale of mixed
24 beverages on the premises of a mixed beverage licensee also apply to

1 the sale under the authority of a caterer license. Any act which if
2 done on the premises of a mixed beverage licensee would be a ground
3 for revocation or suspension of the mixed beverage license is a
4 ground for revocation or suspension of a caterer license.

5 D. If the premises where the event being catered is held are
6 already operating pursuant to another type of license issued by the
7 ABLE Commission, the caterer and the other licensee shall both be
8 responsible for the actions of the caterer and shall both be subject
9 to penalties for violations by the caterer of the Oklahoma Alcoholic
10 Beverage Control Act and any rules promulgated thereto.

11 E. A caterer licensee may not store alcoholic beverages unless
12 the licensee has a storage license issued by the ABLE Commission.

13 F. A caterer may provide alcoholic beverage sales on the
14 premises of a person currently applying for a mixed beverage
15 license, provided the following terms have been satisfied:

16 1. The caterer shall take reasonable steps to ensure that the
17 mixed beverage applicant uses only licensed employees to perform
18 licensable activities while using the caterer's license. The
19 caterer shall use his or her best efforts to attempt to have a
20 licensed employee on-site supervising the sale of such caterer's
21 alcoholic beverages at all times, but the caterer shall not be
22 disciplined for failing to have a licensed employee on-site. The
23 caterer expressly acknowledges that he or she is liable for all
24 violations of the Oklahoma Alcoholic Beverage Control Act and rules

1 of the ABLE Commission that are committed by the mixed beverage
2 applicant and its employees during this period;

3 2. The caterer and mixed beverage applicant must submit to the
4 ABLE Commission a written agreement setting forth all the terms of
5 the catering agreement at least twenty-four (24) hours prior to the
6 commencement of the catered event; and

7 3. The caterer may not provide alcoholic beverage sales on the
8 unlicensed premises of the mixed beverage applicant for more than
9 sixty (60) days, or after the applicant's license has been denied,
10 whichever occurs first.

11 G. A caterer may provide alcoholic beverage services for
12 temporary public events which have been licensed and approved by the
13 ABLE Commission.

14 H. A caterer may provide alcoholic beverage services for a
15 mixed beverage licensee which holds a live performing arts
16 presentation and is open to the public not more than one hundred
17 twenty (120) days per year.

18 SECTION 26. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 2-114 of Title 37A, unless there
20 is created a duplication in numbering, reads as follows:

21 A. An annual special event license shall authorize the holder
22 thereof to sell and distribute mixed beverages for consumption on
23 the premises for which the license has been issued for up to four
24 events to be held over a period not to exceed one (1) year, not to

1 exceed two such events in any three-month period. For purposes of
2 this subsection, an event shall not exceed a period of ten (10)
3 consecutive days. An annual special event license shall only be
4 issued in counties of this state where the sale of alcoholic
5 beverages by the individual drink for on-premises consumption has
6 been authorized. The holder of an annual special event license
7 shall provide written notice to the ABLE Commission of each special
8 event not less than ten (10) days before the event is held.

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

20 C. An annual public event license shall authorize the holder
21 thereof to sell and distribute mixed beverages for consumption on
22 the premises for which the license has been issued for up to six
23 events to be held over a period not to exceed one (1) calendar year.
24 The applicant for an annual public event license, who does not

1 already hold a license issued by the ABLE Commission, shall make
2 application not less than sixty (60) days before its first event.
3 The ABLE Commission shall have the authority to waive the sixty-day
4 requirement at its discretion. For purposes of this subsection, an
5 event shall not exceed a period of three (3) consecutive days. An
6 annual public event license shall only be issued in counties of this
7 state where the sale of alcoholic beverages by the individual drink
8 for on-premises consumption has been authorized. The holder of an
9 annual public event license shall provide written notice to the ABLE
10 Commission of each promoted public event not less than ten (10) days
11 before the event is held. A public event license shall not be used
12 in lieu of a mixed beverage license.

13 D. A one-time public event license shall authorize the holder
14 thereof to sell and distribute mixed beverages for consumption on
15 the premises for which the license has been issued. The applicant
16 for a one-time public event license, who does not already hold a
17 license issued by the ABLE Commission, shall make application not
18 less than sixty (60) days before the event. The ABLE Commission
19 shall have the authority to waive the sixty-day requirement at its
20 discretion. For purposes of this paragraph, an event shall not
21 exceed a period of three (3) consecutive days. A public event
22 license shall only be issued in counties of this state where the
23 sale of alcoholic beverages by the individual drink for on-premises
24 consumption has been authorized. The holder of a public event

1 license shall provide written notice to the ABLE Commission of each
2 public event not less than ten (10) days before the event is held.
3 A public event license shall not be used in lieu of a mixed beverage
4 license.

5 SECTION 27. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 2-115 of Title 37A, unless there
7 is created a duplication in numbering, reads as follows:

8 A. A special event license may be issued to an organization,
9 association or nonprofit corporation organized for political,
10 fraternal, charitable, religious or social purposes. The holder of
11 a special event license is authorized to sell and distribute
12 alcoholic beverage on the premises for which the license is issued.

13 B. The ABLE Commission shall promulgate rules governing the
14 application for and the issuance of special event licenses.

15 C. The restrictions and rules which apply to the sale of mixed
16 beverages on the premises of a mixed beverage licensee also apply to
17 the sale of such beverages under the authority of a special event
18 license. Any act which if done on the premises of a mixed beverage
19 licensee would be a ground for revocation or suspension of the mixed
20 beverage license is a ground for revocation or suspension of a
21 special event license.

22 D. No special event license may be issued for any premises
23 already licensed by the ABLE Commission.

1 SECTION 28. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2-116 of Title 37A, unless there
3 is created a duplication in numbering, reads as follows:

4 A hotel beverage license shall authorize the holder thereof to
5 sell or serve alcoholic beverages in fifty (50) milliliter spirits,
6 one hundred eighty-seven (187) milliliter wine and twelve (12) ounce
7 malt beverage containers which are distributed from a hotel room
8 mini-bar. A hotel beverage license shall only be issued in counties
9 of this state where the sale of alcoholic beverages by the
10 individual drink for on-premises consumption has been authorized. A
11 hotel beverage license shall only be issued to a hotel or motel as
12 defined by Section 3 of this act which is also the holder of a mixed
13 beverage license. Provided, that application may be made
14 simultaneously for both such licenses. A separate license shall be
15 required for each place of business.

16 SECTION 29. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 2-117 of Title 37A, unless there
18 is created a duplication in numbering, reads as follows:

19 A. A hotel beverage license may be issued to a hotel or motel
20 which is also the holder of a mixed beverage license. Provided,
21 that application may be made simultaneously for both such licenses.

22 B. The ABLE Commission shall promulgate rules governing the
23 application for and the issuance of hotel beverage licenses.
24

1 C. Notwithstanding any other provision of the Oklahoma
2 Alcoholic Beverage Control Act, a hotel may sell alcoholic beverages
3 to its registered guests by means of a mini-bar located in the
4 guestrooms of those registered guests; provided:

5 1. Access to any mini-bar shall only be by a key, magnetic card
6 or similar device;

7 2. Access to a mini-bar in a particular guestroom is provided,
8 whether by furnishing a key, magnetic card or similar device only to
9 a registered guest over twenty-one (21) years of age registered to
10 stay in the guestroom;

11 3. The licensee shall verify that each registered guest to whom
12 a key, magnetic card or similar device to access a mini-bar is to be
13 provided is over twenty-one (21) years of age; and

14 4. All employees handling the alcoholic beverages to be placed
15 in the mini-bar possess an employee license issued by the ABLE
16 Commission.

17 SECTION 30. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 2-118 of Title 37A, unless there
19 is created a duplication in numbering, reads as follows:

20 A. An airline/railroad beverage license shall authorize the
21 holder thereof:

22 1. To sell or serve alcoholic beverages in or from any size
23 container on a commercial passenger airplane or railroad operated in
24 compliance with a valid license, permit or certificate issued under

1 the authority of the United States or this state, even though the
2 airplane or train, in the course of its travel, may cross an area in
3 which the sale of alcoholic beverages by the individual drink is not
4 authorized; and

5 2. To store alcoholic beverages in sealed containers of any
6 size at any airport or station regularly served by the licensee, in
7 accordance with rules promulgated by the ABLE Commission.

8 B. Alcoholic beverages purchased by the holder of an
9 airline/railroad license from the holder of a wholesaler license
10 shall be presumed to be purchased for consumption outside the State
11 of Oklahoma or in interstate commerce, and shall be exempt from the
12 excise tax provided for in Section 104 of this act.

13 SECTION 31. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 2-119 of Title 37A, unless there
15 is created a duplication in numbering, reads as follows:

16 An airline/railroad beverage license may be issued to any
17 corporation operating a commercial airline or railroad in or through
18 this state. Application and payment of the license fee shall be
19 made directly to the ABLE Commission.

20 SECTION 32. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 2-120 of Title 37A, unless there
22 is created a duplication in numbering, reads as follows:

23 A wholesaler's agent license shall authorize the holder thereof:
24

1 1. To represent only the holders of licenses within this state,
2 other than retailers, authorized to sell alcoholic beverages to
3 retail dealers in Oklahoma; and

4 2. To solicit and to take orders for the purchase of alcoholic
5 beverages from retailers including licensees authorized to sell
6 alcoholic beverages by the individual drink for on-premises
7 consumption.

8 Such license shall be issued only to agents and employees of the
9 holder of a license under the Oklahoma Alcoholic Beverage Control
10 Act, but no such license shall be required of an employee making
11 sales of alcoholic beverages on licensed premises of the employee's
12 principal.

13 SECTION 33. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 2-121 of Title 37A, unless there
15 is created a duplication in numbering, reads as follows:

16 An employee license shall authorize the holder thereof to work
17 in a licensed package store, retail spirits, retail wine or retail
18 beer establishment, brewpub, mixed beverage establishment, beer and
19 wine establishment, bottle club, public event or any establishment
20 where alcohol or alcoholic beverages are sold, mixed or served.
21 Persons employed by a mixed beverage, on-premises beer and wine,
22 retail wine, retail beer, public event or a bottle club licensee who
23 do not participate in the service, mixing or sale of mixed beverages
24 shall not be required to have an employee license. Provided,

1 however, that a manager employed by a mixed beverage licensee,
2 public event licensee or a bottle club shall be required to have an
3 employee license whether or not the manager participates in the
4 service, mixing or sale of mixed beverages. Applicants for an
5 employee license must be at least eighteen (18) years of age and
6 have a health card issued by the county in which they are employed,
7 if the county issues such a card; provided, the provisions of this
8 section shall not be construed to permit any person under twenty-one
9 (21) years of age to be employed to sell spirits. Employees of a
10 special event, caterer, unless catering a mixed beverage-licensed
11 premise or airline/railroad beverage licensees shall not be required
12 to obtain an employee license. Persons employed by a hotel licensee
13 who participate in the stocking of hotel room mini-bars or in the
14 handling of alcoholic beverages to be placed in such devices shall
15 be required to have an employee license. As a prerequisite to the
16 issuance of an employee license, the applicant shall be required to
17 have successfully completed a training program conducted by the ABLE
18 Commission, or by another entity approved by the ABLE Commission,
19 including an in-house training program conducted by the employer.

20 SECTION 34. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 2-122 of Title 37A, unless there
22 is created a duplication in numbering, reads as follows:

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

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

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

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

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

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

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

20 SECTION 35. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 2-123 of Title 37A, unless there
22 is created a duplication in numbering, reads as follows:

23 A carrier license may be issued to any common carrier operating
24 under a certificate of convenience and necessity issued by any duly

1 authorized federal or state regulatory agency. Such license shall
2 authorize the holder thereof to transport alcoholic beverages other
3 than wine sold directly by a winemaker or winery to a retail package
4 store or restaurant into, within, and out of this state under such
5 terms, conditions, limitations and restrictions as the ABLE
6 Commission may prescribe by order issuing such license and by rule.

7 SECTION 36. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 2-124 of Title 37A, unless there
9 is created a duplication in numbering, reads as follows:

10 A. A private carrier license may be issued to any carrier other
11 than a common carrier described in Section 35 of this act. Such
12 license shall authorize the holder thereof to transport alcoholic
13 beverages other than wine sold directly by a winemaker or winery to
14 a retail package store or restaurant into, within, or out of this
15 state under such terms, conditions, limitations and restrictions as
16 the ABLE Commission may prescribe by order issuing such license and
17 by rule. No carrier license or private carrier license shall be
18 required of licensed brewers, distillers, winemakers, rectifiers,
19 wholesalers or beer distributors, to transport alcoholic beverages
20 from the place of purchase or acquisition to the licensed premises
21 of such licensees and from such licensed premises to the licensed
22 premises of the purchaser in vehicles owned or leased by such
23 licensee when such transportation is for a lawful purpose and not
24 for hire.

1 B. No carrier license or private carrier license shall be
2 required of the holder of a retail spirits, retail wine, retail
3 beer, mixed beverage, caterer, special event, hotel beverage, public
4 event or airline/railroad license to pick up alcoholic beverage
5 orders from the licensee's wholesaler, beer distributor or holder of
6 a small brewer self-distribution license or brewpub self-
7 distribution license from whom they are purchased and to transport
8 such alcoholic beverages from the place of purchase or acquisition
9 to the licensed premise of such licensees in vehicles owned or under
10 the control of such licensee or a licensed employee of such licensee
11 under such terms, conditions, limitations and restrictions as the
12 ABLE Commission may prescribe.

13 SECTION 37. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 2-125 of Title 37A, unless there
15 is created a duplication in numbering, reads as follows:

16 A bonded warehouse license shall authorize the holder thereof to
17 receive and store alcoholic beverages for the holders of storage
18 licenses on the licensed premises of the bonded warehouse licensee.
19 No goods, wares or merchandise other than alcoholic beverages may be
20 stored in the same bonded warehouse with alcoholic beverages. The
21 holder of a bonded warehouse license shall furnish and file with the
22 ABLE Commission a bond running to all bailers of alcoholic beverages
23 under proper storage licenses and their assignees (including
24

1 mortgagees or other bona fide lienholders) conditioned upon faithful
2 performance of the terms and conditions of such bailments.

3 SECTION 38. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 2-126 of Title 37A, unless there
5 is created a duplication in numbering, reads as follows:

6 A storage license may be issued to a holder of a brewer,
7 distiller, winemaker, rectifier, wine or spirits wholesaler, beer
8 distributor, nonresident seller, mixed beverage, caterer, public
9 event or hotel beverage license and shall authorize the holder
10 thereof to store alcoholic beverages in a public warehouse holding a
11 bonded warehouse license. The holder of a small brewer license or
12 brewpub license shall not be required to obtain a storage license to
13 store beer within the limits set forth in Section 3 of this act. No
14 goods, wares or merchandise other than alcoholic beverages may be
15 stored in the same warehouse with alcoholic beverages in private
16 warehouses owned or leased and operated by such licensees elsewhere
17 than on their licensed premises. Provided:

18 1. A storage license issued to a beer distributor shall permit
19 the storage of beer and permit the sale and delivery to retailers
20 from the premises covered by such license;

21 2. Any licensee who is the holder of a mixed beverage/caterer
22 combination license or the holder of a mixed beverage license and a
23 hotel beverage license who is issued a storage license shall store
24

1 all inventories of alcoholic beverages either on the premises of the
2 mixed beverage establishment or in the warehouse;

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

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

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

20 SECTION 39. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 2-127 of Title 37A, unless there
22 is created a duplication in numbering, reads as follows:

23 A sacramental wine supplier license shall authorize the holder
24 thereof to sell, ship or deliver sacramental wine to any religious

1 corporation or society of this state holding a valid exemption from
2 taxation issued pursuant to Section 501(a) of the Internal Revenue
3 Code, 1986, and listed as an exempt organization in Section
4 501(c) (3) of the Internal Revenue Code, 1986, of the United States,
5 as amended.

6 SECTION 40. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 2-128 of Title 37A, unless there
8 is created a duplication in numbering, reads as follows:

9 A. An on-premises beer and wine license shall authorize the
10 holder thereof:

11 1. To purchase beer and wine in retail containers from the
12 holder of a wholesaler, beer distributor, small brewer self-
13 distribution or brewpub self-distribution license or as specifically
14 provided by law; and

15 2. To sell, offer for sale and possess beer and wine for on-
16 premises consumption only; provided, the holder of an on-premises
17 beer and wine license issued for an establishment which is also a
18 restaurant may purchase wine from a winemaker who is permitted and
19 has elected to self-distribute as provided in Article XXVIII A of the
20 Oklahoma Constitution.

21 B. Sales and service of beer and wine by holders of on-premises
22 beer and wine licenses shall be limited to the licensed premises of
23 the licensee unless the holder of the on-premises beer and wine
24 license also obtains a caterer license. An on-premises beer and

1 wine license shall only be issued in counties of this state where
2 the sale of alcoholic beverages by the individual drink for on-
3 premises consumption has been authorized. A separate license shall
4 be required for each place of business. No spirits shall be stored,
5 possessed or consumed on the licensed premises of an on-premises
6 beer and wine license.

7 SECTION 41. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 2-129 of Title 37A, unless there
9 is created a duplication in numbering, reads as follows:

10 A. A charitable auction or charitable alcoholic beverage event
11 license may be issued to a charitable organization exempt from
12 taxation under Section 501(c)(3), (4), (5), (6), (7), (8), (9), (10)
13 or (19) of the United States Internal Revenue Code. The charitable
14 alcoholic beverage event license shall authorize the holder thereof
15 to conduct a wine, spirit and/or beer event which may consist of one
16 or more of a wine, spirit and/or beer-tasting event, a wine, spirit
17 and/or beer dinner event or a wine, spirit and/or beer auction,
18 which may be either a live auction conducted by an auctioneer or a
19 silent auction for which:

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

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

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

3 B. A charitable alcoholic beverage event shall be conducted
4 solely to raise funds for charitable purposes. A charitable
5 alcoholic beverage license shall allow the event attendees access to
6 tastings, samples, dinners and alcoholic beverages as parts of their
7 entrance fee or ticket price. Wine, spirits and/or beer used in,
8 served or consumed at a charitable alcoholic beverage event may be
9 purchased by the charitable organization or donated by any person or
10 entity.

11 C. The charitable alcoholic beverage event license shall be
12 issued for a period not exceeding four (4) days. Only eight such
13 licenses may be issued to an organization in any twelve-month
14 period. The charitable organization holding a charitable alcoholic
15 beverage event license shall not be required to obtain a special
16 event license.

17 D. Charitable auction and charitable alcoholic beverage event
18 license holders may also utilize a licensed caterer to provide
19 additional alcohol services at the event and on the premises.

20 E. The charitable auction license shall authorize the holder
21 thereof to auction wine, spirits and/or beer purchased from a retail
22 package store or received as a gift from an individual if the
23 auction is conducted to raise funds for charitable purposes. The
24 charitable auction license shall be issued for a period not to

1 exceed two (2) days. Only four such licenses shall be issued to an
2 organization in any twelve-month period. The maximum amount of
3 wine, spirits and/or beer auctioned pursuant to the charitable
4 auction license shall not exceed fifty (50) gallons. All wines,
5 beer and spirits auctioned pursuant to the charitable auction
6 license shall be registered and all fees and taxes shall be paid in
7 accordance with the Oklahoma Alcoholic Beverage Control Act.

8 SECTION 42. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 2-130 of Title 37A, unless there
10 is created a duplication in numbering, reads as follows:

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

SECTION 43. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-131 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. A small farm winery license shall authorize the holder thereof:

1. To manufacture and bottle wines produced by that small farm winery; and

2. To bottle and sell wines produced by another small farm winery. In order for a small farm winery to bottle and sell another small farm winery's products, both the selling winery and the buying winery shall be small farm winery permit holders.

B. A small farm wine may display the trademarked "Oklahoma Grown" sticker available from the Oklahoma Grape Industry Council.

SECTION 44. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-132 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. A brewpub license shall authorize a small brewer to:

1. Manufacture, bottle, package and store beer on the licensed premises;

2. Sell beer produced by the licensee for either on-premises or off-premises consumption to consumers on the brewery premises, or premises located contiguous thereto;

3. Sell beer at public events such as trade shows or festivals;

1 4. Also hold a mixed beverage license, beer and wine license or
2 caterer's license; and

3 5. Hold a brewpub self-distribution license.

4 B. A brewpub self-distribution license shall authorize holders
5 of a brewpub license to distribute beer produced only by such
6 licensee and operated by an entity which has common owners with such
7 brewpub licensee, regardless of which place of business brews the
8 beverage. "Common owners" means that the owners at each place or
9 entity together own more than fifty percent (50%) of the interest in
10 each place or entity that holds a type of license listed in this
11 subsection.

12 SECTION 45. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 2-133 of Title 37A, unless there
14 is created a duplication in numbering, reads as follows:

15 Each bottle club or mixed beverage, beer and wine, caterer,
16 public event, charitable event or special event licensee shall be
17 held responsible for violation of any alcoholic beverage law or
18 administrative rule of the ABLE Commission affecting his or her
19 license privileges and for any act or omission of his or her
20 servant, agent, employee or representative in violation of any law,
21 municipal ordinance or administrative rule affecting his or her
22 license privileges.

1 SECTION 46. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2-134 of Title 37A, unless there
3 is created a duplication in numbering, reads as follows:

4 The ABLE Commission may issue an additional hours license to the
5 holder of a caterer, public event or special event license. The
6 additional hours license shall authorize the holder thereof to sell,
7 dispense or serve alcoholic beverages from 6:00 a.m. to 10:00 a.m.

8 SECTION 47. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 2-135 of Title 37A, unless there
10 is created a duplication in numbering, reads as follows:

11 A. All out-of-state distillers, winemakers, brewers, importers,
12 brokers and others who sell alcoholic beverages to wine and spirits
13 wholesalers and beer distributors in Oklahoma, regardless of whether
14 such sales are consummated within or without the state, must either
15 obtain a manufacturer's license or contract with a person that
16 maintains a nonresident seller license in order to sell alcoholic
17 beverages intended for consumption within the State of Oklahoma.

18 A manufacturer's license or nonresident seller license shall
19 authorize the holder thereof to solicit and take orders for
20 alcoholic beverages from the holders of licenses authorized to
21 import the same into this state, and to ship or deliver, or cause to
22 be shipped or delivered, alcoholic beverages into Oklahoma pursuant
23 to such sales.

24

1 B. A brewer not licensed in this state selling beer to a
2 nonresident seller shall have a written distribution sales agreement
3 with the nonresident seller. Such agreement shall be subject to
4 inspection by the ABLE Commission.

5 C. The ABLE Commission may, subject to the provisions of the
6 Oklahoma Alcoholic Beverage Control Act requiring notice and hearing
7 in the case of sanctions against holders of licenses, suspend or
8 revoke a manufacturer's license or nonresident seller license for
9 any violation of the Oklahoma Alcoholic Beverage Control Act by the
10 holder thereof.

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

22 E. The holder of a manufacturer's license or nonresident seller
23 license shall, promptly upon consignment of any alcoholic beverages
24 to an importer in Oklahoma, forward to the ABLE Commission a true

1 copy of the invoice, bill of lading or other document as the ABLE
2 Commission may by rule prescribe, showing the details of such
3 shipment.

4 F. Any person, not otherwise a dealer in alcoholic beverages,
5 coming into possession of any alcoholic beverages as security for or
6 in payment of a debt, or as an insurer or its transferee or assignee
7 for the salvage or liquidation of an insured casualty or damage or
8 loss, or as an executor, administrator, trustee or other fiduciary,
9 may sell the beverages in one lot or parcel to a duly licensed
10 wholesaler or beer distributor at an agreed-upon price without
11 regard to current posted prices. However, immediately after taking
12 possession of the alcoholic beverages, the person shall register
13 with the Director and furnish a detailed list of the alcoholic
14 beverages and post with the Director a bond in such amount as the
15 Director deems sufficient to protect the state from any taxes due on
16 the alcoholic beverages. The person shall pay to the Director a
17 registration fee of Fifty Dollars (\$50.00), which fee shall permit
18 the sale of only the alcoholic beverages detailed in the
19 registration request. A wholesaler or beer distributor receiving a
20 lot or parcel of alcoholic beverages pursuant to this subsection may
21 sell it in one lot or parcel or more than one lot or parcel to a
22 licensed package store or mixed beverage licensee or more than one
23 licensed package store or mixed beverage licensee at an agreed-upon
24 price without regard to current posted prices; provided, the total

1 of the lots sold by the wholesaler or beer distributor shall not
2 exceed four (4) lots.

3 SECTION 48. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 2-136 of Title 37A, unless there
5 is created a duplication in numbering, reads as follows:

6 A manufacturer's agent license shall authorize the holder
7 thereof to represent only the holders of a manufacturer's license or
8 nonresident seller license and to solicit and take orders for the
9 sale of wine and spirits for the purpose of resale. No such license
10 shall be issued to any person until it shall have been shown to the
11 satisfaction of the ABLE Commission that the applicant has been duly
12 authorized to act as the agent of the principal he or she proposes
13 to represent, and that the principal or principals he or she
14 proposes to represent has been duly authorized to do business in the
15 State of Oklahoma, and has appointed a service agent in this state.
16 No applicant for a manufacturer's agent license shall also hold an
17 agent license. It shall be unlawful for any person other than the
18 holder of a manufacturer's agent license or an agent license to
19 solicit or take orders in the state from a wine and spirits
20 wholesaler or beer distributor.

21 SECTION 49. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 2-137 of Title 37A, unless there
23 is created a duplication in numbering, reads as follows:

24

1 Except as provided in Sections 101 and 102 of this act with
2 respect to cities, towns and counties, and except as may be provided
3 under Title 68 of the Oklahoma Statutes with respect to the Oklahoma
4 Tax Commission, no license or permit other than licenses as provided
5 under the Oklahoma Alcoholic Beverage Control Act shall be required
6 of any licensee by any agency, instrumentality or political
7 subdivision of this state to engage in any activity covered by the
8 Oklahoma Alcoholic Beverage Control Act anywhere within the State of
9 Oklahoma and no agency, instrumentality or political subdivision of
10 this state shall interfere with the regulation of the ABLE
11 Commission, or the performance of a wholesaler with respect to the
12 sale, distribution, possession, handling or marketing of alcoholic
13 beverages on any premises of any licensee as defined in Section 3 of
14 this act.

15 SECTION 50. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 2-138 of Title 37A, unless there
17 is created a duplication in numbering, reads as follows:

18 The holder of a mixed beverage, beer and wine, caterer, special
19 event, public event or airline/railroad beverage license shall
20 purchase alcoholic beverages only from a licensed wine and spirits
21 wholesaler or beer distributor, or as otherwise specifically
22 provided by law; provided, the holder of a mixed beverage, beer and
23 wine, caterer or special event license issued for an establishment
24 which is also a restaurant may purchase wine produced at small farm

1 wineries or beer produced at small breweries in this state directly
2 from a winemaker or craft brewer as provided in Article XXVIII A of
3 the Oklahoma Constitution.

4 A wine and spirits wholesaler, beer distributor or a holder of a
5 small brewer self-distribution license or brewpub self-distribution
6 license may deliver such products to licensees authorized to sell
7 alcoholic beverages for on-premises consumption; provided, such
8 licensees may also pick up alcoholic beverage orders if they hold a
9 private carrier license issued by the ABLE Commission.

10 SECTION 51. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 2-139 of Title 37A, unless there
12 is created a duplication in numbering, reads as follows:

13 A. It shall be unlawful for any mixed beverage establishment,
14 beer and wine establishment or bottle club which has been licensed
15 by the ABLE Commission and which has as its main purpose the selling
16 or serving of alcoholic beverages for consumption on the premises,
17 or package store, to be located within three hundred (300) feet of
18 any public or private school or church property primarily and
19 regularly used for worship services and religious activities;
20 however, a college or university located within an improvement
21 district created pursuant to Section 39-103.1 of Title 11 of the
22 Oklahoma Statutes may waive the three-hundred-foot requirement by
23 providing written notice to the establishment seeking the license
24 and to the ABLE Commission. Provided, a college or university prior

1 to waiving the three-hundred-foot requirement found in this
2 subsection shall publish a notice of its intention to waive such
3 requirement in a legal newspaper of general circulation within the
4 state at least thirty (30) days but no more than forty (40) days
5 prior to providing any written notice, waiving the three-hundred-
6 foot requirement, to the establishment seeking the license or to the
7 ABLE Commission. As used in this subsection "legal newspaper of
8 general circulation within this state" means a newspaper meeting the
9 requisites of a newspaper for publication of legal notices as
10 prescribed in Section 106 of Title 25 of the Oklahoma Statutes in a
11 majority of the counties in this state.

12 B. The distance indicated in this section shall be measured
13 from the nearest property line of such public or private school or
14 church to the nearest perimeter wall of the premises of any such
15 mixed beverage establishment, beer and wine establishment, bottle
16 club or package store which has been licensed to sell alcoholic
17 beverages.

18 C. The provisions of this section shall not apply to mixed
19 beverage establishments, beer and wine establishments, or bottle
20 clubs, which have been licensed to sell alcoholic beverages for on-
21 premises consumption or retail package stores prior to November 1,
22 2000; provided, if at the time of application for license renewal
23 the licensed location has not been in actual operation for a
24

1 continuous period of more than sixty (60) days, the license shall
2 not be renewed.

3 D. If any school or church shall be established within three
4 hundred (300) feet of any package store, mixed beverage
5 establishment, beer and wine establishment or bottle club subject to
6 the provisions of this section after such package store, mixed
7 beverage establishment, beer and wine establishment or bottle club
8 has been licensed, the provisions of this section shall not be a
9 deterrent to the renewal of such license if there has not been a
10 lapse of more than sixty (60) days. When any mixed beverage
11 establishment, beer and wine establishment or bottle club subject to
12 the provisions of this section which has a license to sell alcoholic
13 beverages for on-premises consumption, or package store, changes
14 ownership or the operator thereof is changed and such change of
15 ownership results in the same type of business being conducted on
16 the premises, the provisions of this section shall not be a
17 deterrent to the issuance of a license to the new owner or operator
18 if he or she is otherwise qualified.

19 E. 1. Any interested party may protest the application for or
20 granting of a license for a package store, or for a mixed beverage
21 establishment, beer and wine establishment or bottle club which has
22 as its main purpose the selling or serving of alcoholic beverages
23 for consumption on the premises, based on an alleged violation of
24

1 this section. To be considered by the ABLE Commission, the protest
2 must:

- 3 a. be submitted in writing,
- 4 b. be signed by the person protesting,
- 5 c. contain the mailing address and address of residence,
6 if different from the mailing address of the
7 protester,
- 8 d. contain the title of the person signing the protest,
9 if the person is acting in an official capacity as a
10 church or school official, and
- 11 e. contain a concise statement explaining why the
12 application is being protested.

13 2. Within thirty (30) days of the date of receipt of a written
14 protest, the ABLE Commission shall conduct a hearing on the protest
15 if the protest meets the requirements of paragraph 1 of this
16 subsection.

17 3. As used in this subsection, "interested party" means:

- 18 a. a parent or legal guardian whose child or children
19 attend the church or school which is alleged to be
20 closer to the mixed beverage establishment or bottle
21 club which has as its main purpose the selling or
22 serving of alcoholic beverages for consumption on the
23 premises, or package store, than is allowed by this
24 section,

1 b. an official of a church which is alleged to be closer
2 to the mixed beverage establishment or bottle club
3 which has as its main purpose the selling or serving
4 of alcoholic beverages for consumption on the
5 premises, or package store, than is allowed by this
6 section, or

7 c. an official of a school which is alleged to be closer
8 to the mixed beverage establishment or bottle club
9 which has as its main purpose the selling or serving
10 of alcoholic beverages for consumption on the
11 premises, or package store, than is allowed by this
12 section.

13 SECTION 52. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 2-140 of Title 37A, unless there
15 is created a duplication in numbering, reads as follows:

16 The ABLE Commission is authorized to issue, upon application of
17 a person who is twenty-one (21) years of age or older, an annual
18 personal use permit which when granted authorizes the holder thereof
19 to make, store, possess and transport for personal use, beer,
20 fermented non-distilled ciders and wine, as defined by Section 3 of
21 this act. The total volume of each authorized beverage made and
22 possessed for personal use in a given calendar year shall be limited
23 to a volume less than two hundred (200) gallons. The term "personal
24 use", as used in this act, means the individual making beverages

1 pursuant to a valid personal use permit issued by the ABLE
2 Commission produces such beverages solely for his or her use and
3 consumption, for consumption by his or her family and guests, and
4 for transport to and use at organized affairs, exhibitions or
5 competitions, including but not limited to homemaker contests,
6 tastings or judgments. No beverage made pursuant to a personal use
7 permit shall be sold or offered for sale.

8 SECTION 53. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 2-141 of Title 37A, unless there
10 is created a duplication in numbering, reads as follows:

11 Applicants for original brewer, distiller, winemaker, rectifier,
12 wine and spirits wholesaler, beer distributor, mixed beverage, beer
13 and wine, bottle club, caterer, retail spirits, retail wine or
14 retail beer licenses shall, prior to applying for such license,
15 twice publish, in such form and containing such information as the
16 ABLE Commission shall by rule prescribe, a notice of its intention
17 to apply for any such license, once a week for two (2) successive
18 weeks in a legal newspaper of general circulation within the county
19 where the proposed premises is to be located, and file proof of such
20 publication with the ABLE Commission. Unless otherwise provided,
21 the ABLE Commission shall give notice of approval or disapproval of
22 an application for a license within thirty (30) days after the
23 filing of the application. The ABLE Commission shall give notice of
24 approval or disapproval of an application for a mixed beverage, beer

1 and wine, bottle club or caterer license within sixty (60) days
2 after the filing of the application. Provided, the ABLE Commission
3 may extend the period for making a determination of whether to
4 approve or disapprove an application an additional thirty (30) days
5 for good cause. The ABLE Commission may conditionally approve any
6 application which is subject to Section 54 of this act if:

7 1. Construction, modification or alteration of premises
8 proposed for licensed operations is not completed; and

9 2. The applicant furnishes a conditional certification issued
10 by the municipality or county that the applicant's plans and
11 specifications indicate that the proposed premises will comply with
12 the municipality's or county's zoning, fire, safety and health
13 codes.

14 The ABLE Commission shall issue its final notice of approval
15 when the applicant furnishes final certificates required by Section
16 54 of this act.

17 SECTION 54. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 2-142 of Title 37A, unless there
19 is created a duplication in numbering, reads as follows:

20 A. No license provided for in the Oklahoma Alcoholic Beverage
21 Control Act shall be issued except pursuant to an application filed
22 with the ABLE Commission. The ABLE Commission may, however, provide
23 for a form of simplified application for renewal of a license.
24

1 Payment of the prescribed fee shall accompany each application for a
2 license.

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

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

9 2. A certificate of zoning issued by the municipality in which
10 the applicant proposes to locate the applicant's principal place of
11 business under the license, or by the county if the principal place
12 of business is located outside the incorporated limits of a
13 municipality, certifying that the applicant's proposed location and
14 use thereof comply with all municipal zoning ordinances or county
15 zoning regulations if applicable;

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

23 4. Authorization, on forms furnished by the ABLE Commission,
24 for complete investigation of the applicant's current financial

1 status as it relates to the application for a license, including but
2 not limited to access to bank accounts, loan agreements and
3 financial statements;

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

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

8 C. The certificates required by paragraphs 2 and 3 of
9 subsection B of this section shall be signed by the mayor of the
10 municipality or the chair of the board of county commissioners
11 issuing same, unless the municipality, by ordinance, or the county
12 designates some other officer or entity to issue the certificates.
13 Applications for such certificates shall be in writing and shall
14 contain information in such detail as the municipality or county may
15 reasonably require describing the location and nature of operations
16 to be conducted under the license. Municipalities and counties
17 shall be required to act on all applications for such certificates
18 within twenty (20) days of receipt of the written application.

19 D. Municipalities and counties may grant conditional
20 certificates for premises proposed for licensed operations for which
21 construction, modification or alteration is not completed.
22 Conditional certificates shall indicate that the proposed premises
23 will comply with the municipal or county zoning, fire, safety and
24 health codes. The granting of conditional certificates shall not

1 relieve the applicant of the duty of obtaining the certificates
2 required by paragraphs 2 and 3 of subsection B of this section after
3 completion of the construction, modification, or alteration.

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

7 Thereafter if a licensee fails to maintain compliance with
8 municipal or county zoning ordinances and codes, the mayor or chair
9 of the board of county commissioners or their designee, shall
10 forthwith notify the ABLE Commission in writing setting forth
11 details of the noncompliance.

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

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

18 H. Any licensee, except an employee licensee, who fails to
19 renew the license prior to the expiration date of the license, shall
20 be subject to a late renewal penalty as provided by rules of the
21 ABLE Commission. Further, any licensee, except an employee
22 licensee, who fails to renew the license within sixty (60) days of
23 the expiration of the license shall be required to submit a new
24 license application. An employee licensee who fails to renew prior

1 to the expiration of the license shall be required to submit a new
2 license application; provided, however, that under no circumstances
3 shall any licensee, including an employee licensee, whose license to
4 serve or sell alcoholic beverages has expired, continue to serve or
5 sell alcoholic beverages.

6 I. The requirements in this section shall be required for a
7 public event license applicant, except for those certificates
8 required by paragraphs 2 and 3 of subsection B of this section as
9 the events are temporary in nature and the locations are not
10 permanently licensed.

11 SECTION 55. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 2-143 of Title 37A, unless there
13 is created a duplication in numbering, reads as follows:

14 A. Any corporation applying for a mixed beverage, beer and
15 wine, caterer, public event, beer distributor or bottle club, or as
16 an equity partner in a wine and spirits wholesaler, shall submit to
17 the ABLE Commission the following:

18 1. A certificate of good standing from the office of the
19 Secretary of State;

20 2. A list of all corporate officers, directors, executive
21 committee members or members of a similar governing body and their
22 addresses, except for a charitable organization exempt from taxation
23 under Section 501(c)(3), (4), (5), (6), (7), (8), (9), (10), or (19) of the
24

1 United States Internal Revenue Code, which shall only be required to
2 furnish its corporate officers; and

3 3. A list of all stockholders owning fifteen percent (15%) or
4 more of the stock and their addresses.

5 B. Any corporation applying for a retail wine or retail beer
6 license shall submit to the ABLE Commission the following:

7 1. A certificate of good standing from the office of the
8 Secretary of State;

9 2. A list of all corporate officers and directors, except for a
10 charitable organization exempt from taxation under Section
11 501(c)(3), (4), (5), (6), (7), (8), (9), (10), or (19) of the United States
12 Internal Revenue Code, which shall only be required to furnish its
13 corporate officers; and

14 3. A list of all stockholders owning fifty-one percent (51%) or
15 more of the stock.

16 C. A corporate licensee shall notify the ABLE Commission in
17 writing of any change in the officers or directors of the
18 corporation or in the principal managers of premises licensed to the
19 corporation and shall pay a fee of One Hundred Dollars (\$100.00) for
20 each notification of change. Provided, service organizations which
21 are exempt under Section 501(c)(8), (10), or (14) of the Internal
22 Revenue Code shall be exempt from such fee.

23 D. A corporate licensee shall notify the ABLE Commission any
24 time a person, any type of partnership, limited liability company or

1 other entity acquires the percentages specified in paragraph 3 of
2 subsection A or B of this section, or more, of the stock of the
3 corporation. Such notification shall be within thirty (30) days of
4 acquisition, and the corporation shall pay a fee of One Hundred
5 Dollars (\$100.00) for each notification of change.

6 E. The ABLE Commission may disapprove a change of officers,
7 directors or principal managers or the acquisition of more than the
8 percentages specified in paragraph 3 of subsection A or B of this
9 section of the stock in a licensed corporation if the ABLE
10 Commission feels that such change would materially affect the
11 conditions under which the license was issued, such that the license
12 would not have been issued had such change been in existence at the
13 time of the original application. If such disapproval occurs, the
14 ABLE Commission shall notify the licensee in writing and in the case
15 of a publicly traded corporation, allow a reasonable time for the
16 licensee to remove such officer, director or manager or for the
17 stockholder to divest himself or herself of any stock held in excess
18 of the percentages specified in paragraph 3 of subsection A or B of
19 this section; provided, a reasonable time may not exceed a ninety-
20 day period following notification of denial by the ABLE Commission.
21 Failure to comply with the provisions of this subsection may result
22 in revocation or suspension of such license.

23 F. Any person who was an officer or director or who has owned
24 the percentages specified in paragraph 3 of subsection A or B of

1 this section or more of the stock in a corporation which has been
2 denied a license or had a license revoked or suspended pursuant to
3 the provisions of the Oklahoma Alcoholic Beverage Control Act shall
4 not own stock in any other corporation seeking a license pursuant to
5 the provisions of the Oklahoma Alcoholic Beverage Control Act for a
6 period of twelve (12) months from the date the license was revoked
7 or suspended.

8 G. Any person who was a manager or a member of a limited
9 liability company which has been denied a license or had a license
10 revoked or suspended pursuant to the provisions of the Oklahoma
11 Alcoholic Beverage Control Act shall not own stock in any
12 corporation seeking a license pursuant to the provisions of the
13 Oklahoma Alcoholic Beverage Control Act for a period of twelve (12)
14 months from the date the license was revoked or suspended.

15 SECTION 56. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 2-144 of Title 37A, unless there
17 is created a duplication in numbering, reads as follows:

18 A. Any limited liability company, formed as provided for in the
19 Limited Liability Company Act, may apply for a mixed beverage, beer
20 and wine, bottle club, caterer, public event, beer distributor,
21 retail wine or retail beer license issued pursuant to the Oklahoma
22 Alcoholic Beverage Control Act. Any limited liability company
23 applying for a license shall submit to the ABLE Commission, the
24 following:

1 1. A Certificate of Good Standing from the Office of the
2 Secretary of State;

3 2. The Articles of Organization with all amendments and
4 corrections filed with the Office of the Secretary of State with
5 proof that same has been filed in accordance with the Limited
6 Liability Company Act;

7 3. The name and address of the resident agent;

8 4. The name and address of the manager;

9 5. The operating agreement;

10 6. A current list of the full name, social security number and
11 address of each member; and

12 7. A copy of the issued Certificate of Membership Interest for
13 each member.

14 B. A limited liability company licensee shall notify the ABLE
15 Commission in writing of any change in the manager of the licensed
16 company within thirty (30) days of the change and shall pay a fee of
17 One Hundred Dollars (\$100.00) for each notification of change.

18 C. A limited liability company shall notify the ABLE Commission
19 in writing any time a membership is assigned or members are added or
20 disassociated within thirty (30) days of the change. The limited
21 liability company shall pay a fee of One Hundred Dollars (\$100.00)
22 for each notification of change.

23 D. The ABLE Commission may disapprove a change of manager or
24 new membership in a licensed liability company if the ABLE

1 Commission feels that such change would materially affect any
2 conditions under which the license was issued, such that the license
3 would not have been issued had such change been in existence at the
4 time of the original application. If such disapproval occurs, the
5 ABLE Commission shall notify the licensee in writing and allow a
6 reasonable time for the licensee to remove such manager or for a
7 member to be disassociated from the company; provided, a reasonable
8 time not exceed a ninety-day period following notification of denial
9 by the ABLE Commission. Failure to comply with the provisions of
10 this subsection may result in revocation or suspension of such
11 license.

12 E. Any person who has been a licensee, a partner in a license,
13 an officer, director or fifteen percent (15%) or more stockholder of
14 a corporation holding a license revoked or suspended, pursuant to
15 the provisions of the Oklahoma Alcoholic Beverage Control Act, shall
16 not serve as a manager or be a member in a limited liability company
17 seeking a license pursuant to the provisions of the Oklahoma
18 Alcoholic Beverage Control Act for a period of twelve (12) months
19 from the date the license was revoked or suspended.

20 F. Any person who has been a manager, member or participant in
21 any business entity which was a manager or member of a limited
22 liability company which has been denied a license or has a license
23 revoked or suspended, pursuant to the provisions of the Oklahoma
24 Alcoholic Beverage Control Act shall not serve as a manager or

1 member in a limited liability company seeking a license pursuant to
2 the provisions of the Oklahoma Alcoholic Beverage Control Act for a
3 period of twelve (12) months from date the license was revoked or
4 suspended.

5 G. Any person who has been convicted of a felony for which a
6 pardon has not been granted shall not be elected as a manager or be
7 a member of a limited liability company.

8 SECTION 57. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 2-145 of Title 37A, unless there
10 is created a duplication in numbering, reads as follows:

11 Conviction of a felony for which a pardon has been granted,
12 shall not constitute grounds for the denial or revocation of any
13 license issued by the ABLE Commission.

14 Unless otherwise provided by law, any person who has received a
15 pardon for a felony conviction shall be eligible to apply for,
16 receive and renew any license granted by the ABLE Commission, which
17 by law is denied to a convicted felon, if:

18 1. The person meets all other qualifications and requirements
19 for obtaining and maintaining the license; and

20 2. The person has not been convicted of any other felony or
21 felonies for which a pardon has not been granted.

22 SECTION 58. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 2-146 of Title 37A, unless there
24 is created a duplication in numbering, reads as follows:

1 A. The ABLE Commission shall refuse to issue a wine and spirits
2 wholesaler, beer distributor, retail spirits, retail wine or retail
3 beer license, either on an original application or a renewal
4 application, if it has reasonable grounds to believe and finds any
5 of the following to be true:

6 1. Except in the case of a beer distributor, that the applicant
7 is not a citizen of the United States or is not a qualified elector
8 in this state, or has not been a continuous resident of this state
9 for the five (5) years next preceding the application for the
10 license;

11 2. That the applicant is under twenty-one (21) years of age;

12 3. That the applicant or any partner, or spouse of the
13 applicant or any partner, has been convicted of a felony;

14 4. That the applicant or any partner, or spouse of the
15 applicant or any partner, has been convicted of a violation of any
16 state or federal law relating to alcoholic beverages, has forfeited
17 a bond while any charge of such violation was pending, nor may any
18 license be granted for any purpose under the Oklahoma Alcoholic
19 Beverage Control Act to an Oklahoma resident, who has held or whose
20 spouse has held a Federal Liquor Stamp in Oklahoma before the
21 adoption of Article XXVIII A of the Oklahoma Constitution unless the
22 Liquor Stamp was granted for supplying alcoholic beverages to a
23 federal military installation, or was granted under the Oklahoma
24 Alcoholic Beverage Control Act;

1 5. That the applicant or any partner has, within twelve (12)
2 months next preceding the date of the application, violated any
3 provision of the Oklahoma Alcoholic Beverage Control Act or rule of
4 the ABLE Commission promulgated pursuant hereto. Provided, however,
5 that if the ABLE Commission has, during such twelve-month period,
6 suspended any license sought to be renewed, such renewal application
7 may be approved if the term of the suspension has been completed and
8 the applicant has complied with any special conditions imposed in
9 connection with the suspension;

10 6. That the applicant is not of good moral character, or that
11 the applicant is in the habit of using alcoholic beverages to
12 excess, or is mentally incapacitated. Provided, that the record in
13 any municipal court showing a conviction of violation of any
14 municipal ordinances or state statutes involving moral character or
15 public nuisance obtained after passage and approval of the Oklahoma
16 Alcoholic Beverage Control Act shall be received in evidence by the
17 ABLE Commission;

18 7. That the applicant does not own or have a written lease for
19 the premises for which a license is sought;

20 8. That the applicant, within twelve (12) months next preceding
21 the date of application, has been the holder of a license revoked
22 for cause;

23
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1 9. That the applicant is not the real party in interest, or
2 intends to carry on the business authorized by the license as the
3 agent of another;

4 10. That the applicant, in the case of an application for
5 renewal of any license, would not be eligible for such license on a
6 first application;

7 11. That the applicant is a person who appoints or is a law
8 enforcement official or is an employee of the ABLE Commission;

9 12. That the proposed location of the licensed premises would
10 violate a valid municipal nondiscriminatory zoning ordinance;

11 13. That, in the case of an application for a wine and spirits
12 wholesaler license or beer distributor license, any manufacturer,
13 including an officer, director or principal stockholder thereof or
14 any partner, has any financial interest in the business to be
15 conducted under the license, unless otherwise permitted by law;

16 14. That the issuance of the license applied for would result
17 in a violation of any provision of the Oklahoma Alcoholic Beverage
18 Control Act;

19 15. That, in the case of an application for a wine and spirits
20 wholesaler or beer distributor license, the applicant or any
21 partner, or spouse of the applicant or any partner, is the holder or
22 partner of the holder of any other class of license issued under the
23 provisions of the Oklahoma Alcoholic Beverage Control Act, other
24 than an agent or employee license for employment by the applicant,

1 or a storage license, bonded warehouse license, carrier license or
2 private carrier license; provided, nothing shall prohibit a wine and
3 spirits wholesaler, who is otherwise qualified, from maintaining
4 beer distributor licenses in the state, nor a beer distributor, who
5 is otherwise qualified, from maintaining a wine and spirits
6 wholesaler license in the state;

7 16. That, in the case of an application for a retail spirits,
8 retail wine or retail beer license, the applicant or any partner is
9 the holder or partner of the holder, or employee of such holder of
10 any other class of license issued under the provisions of the
11 Oklahoma Alcoholic Beverage Control Act, other than a storage
12 license or an employee license for the proposed licensed premises of
13 the applicant; or

14 17. That the applicant or any partner, spouse, employee or
15 other person affiliated with the applicant is not in compliance with
16 the tax laws of this state as required in Article XXVIII A of the
17 Oklahoma Constitution.

18 B. The provisions of this section shall not operate to prohibit
19 the issuance of a beer distributor license to a corporation.

20 SECTION 59. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 2-147 of Title 37A, unless there
22 is created a duplication in numbering, reads as follows:

23 A. The ABLE Commission shall refuse to issue a mixed beverage,
24 beer and wine, bottle club, public event, caterer, retail wine or

1 retail beer license, either on an original application or a renewal
2 application, if it has reasonable grounds to believe and finds any
3 of the following to be true:

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

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

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

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

14 5. That the applicant or any type of partner has been convicted
15 of a felony within fifteen (15) years prior to the application date;

16 6. That the applicant, in the case of a corporation, has a
17 stockholder owning fifteen percent (15%) of the stock, an officer or
18 a director who has been convicted of a felony within fifteen (15)
19 years prior to the application date;

20 7. That the applicant, in the case of a limited liability
21 company, has a manager or a member who has been convicted of a
22 felony within fifteen (15) years prior to the application date, and
23 such manager or member has an ownership interest greater than fifty
24 percent (50%);

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

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

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

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

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

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

23 14. That the applicant or any partner, spouse, employee or
24 other person affiliated with the applicant is not in compliance with

1 the tax laws of this state as required in Article XXVIII A of the
2 Oklahoma Constitution.

3 B. 1. The ABLE Commission may refuse to issue a mixed
4 beverage, beer and wine, bottle club, public event or caterer
5 license, either on an original application or a renewal application,
6 if it has reasonable grounds to believe and finds any of the
7 following to be true:

8 a. that the applicant or any type of partner has been
9 convicted of a felony described in paragraph 2 of this
10 subsection,

11 b. that the applicant, in the case of a corporation, has
12 a stockholder owning fifteen percent (15%) of the
13 stock, an officer or a director who has been convicted
14 of a felony described in paragraph 2 of this
15 subsection, and

16 c. that the applicant, in the case of a limited liability
17 company, has a manager or a member who has been
18 convicted of a felony within twenty-five (25) years
19 prior to the application date, who has been convicted
20 of a felony described in paragraph 2 of this
21 subsection.

22 2. The provisions of this section shall apply to the following
23 felony offenses:

24 a. an alcohol-related offense,

1 b. a violent crime as defined in Section 142A-1 of Title
2 21 of the Oklahoma Statutes, or

3 c. a crime which would subject a person to registration
4 pursuant to the Sex Offenders Registration Act.

5 SECTION 60. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 2-148 of Title 37A, unless there
7 is created a duplication in numbering, reads as follows:

8 A. Any license issued pursuant to the provisions of the
9 Oklahoma Alcoholic Beverage Control Act by the ABLE Commission,
10 after due notice and hearing, may be revoked or suspended if the
11 ABLE Commission finds or has grounds to believe that the licensee
12 has:

13 1. Violated any rule promulgated by the ABLE Commission;

14 2. Procured a license through fraud, or misrepresentation, or
15 concealment of a material fact;

16 3. Made any false representation or statement to the ABLE
17 Commission or the Oklahoma Tax Commission in order to prevent or
18 induce action by the ABLE Commission or the Tax Commission;

19 4. Maintained an unsanitary establishment or has supplied
20 impure or otherwise deleterious beverages or food;

21 5. Stored, possessed, mixed or served on the premises of a
22 bottle club any alcoholic beverage upon which the tax levied by
23 Section 104 of this act has not been paid as provided for in the
24 Oklahoma Alcoholic Beverage Control Act, in a county of this state

1 where the sale of alcoholic beverages by the individual drink for
2 on-premises consumption has not been authorized;

3 6. Misrepresented to a customer or the public any alcoholic
4 beverage sold by the licensee;

5 7. Had any permit or license issued by the Tax Commission and
6 required by the Oklahoma Alcoholic Beverage Control Act, suspended
7 or revoked by the Tax Commission; or

8 8. Is not in compliance with the tax laws of this state as
9 required in Article XXVIII A of the Oklahoma Constitution.

10 B. The ABLE Commission may revoke or suspend the license of any
11 mixed beverage, caterer or bottle club licensee if the ABLE
12 Commission finds or has grounds to believe that such licensee:

13 1. Has acted as an agent of a manufacturer or wholesaler of
14 alcoholic beverages;

15 2. Is a manufacturer or wholesaler of alcoholic beverages;

16 3. Has borrowed money or property or accepted gratuities or
17 rebates from a manufacturer or wholesaler of alcoholic beverages;

18 4. Has obtained the use of equipment from any manufacturer or
19 wholesaler of alcoholic beverages or any agent thereof;

20 5. Has violated any of the provisions of the Oklahoma Alcoholic
21 Beverage Control Act for which mandatory revocation or suspension is
22 not required;

23 6. Has been convicted within the past twenty-five (25) years,
24 of a violation of any state or federal law relating to alcoholic

1 beverage for which mandatory revocation or suspension is not
2 required; or

3 7. Is not in compliance with the tax laws of this state as
4 required in Article XXVIII A of the Oklahoma Constitution.

5 C. The ABLE Commission may revoke or suspend the license of any
6 retail, mixed beverage, caterer or bottle club licensee if the ABLE
7 Commission finds or has grounds to believe that such licensee has
8 borrowed money or property or accepted gratuities, discounts,
9 rebates, free goods, allowances or other inducements from a wine and
10 spirits wholesaler or beer distributor.

11 D. The ABLE Commission shall have the authority to revoke the
12 license of any licensee if the ABLE Commission finds:

13 1. That the licensee knowingly sold alcoholic beverages or
14 allowed such beverages to be sold, delivered or furnished to any
15 person under the age of twenty-one (21) years or to any person
16 visibly intoxicated or adjudged insane or mentally deficient;

17 2. That the licensee, any general or limited partner of the
18 licensee, or in the case of a corporation, an officer or director of
19 the corporation, has been convicted of a felony or is not in
20 compliance with the tax laws of this state as required in Article
21 XXVIII A of the Oklahoma Constitution;

22 3. That, in the case of a wine and spirits wholesaler, beer
23 distributor, retail spirits, retail wine or retail beer licensee,
24 the holder of the license or any member of a general or limited

1 partnership which is the holder of such a license, has been
2 convicted of a prohibitory law relating to the sale, manufacture or
3 transportation of alcoholic beverages which constitutes a felony.

4 E. If the ABLE Commission shall find by a preponderance of the
5 evidence as in civil cases that a licensee has knowingly sold any
6 alcoholic beverage to any person under the age of twenty-one (21)
7 years, after a public hearing, the ABLE Commission shall revoke such
8 license and no discretion as to the revocation shall be exercised by
9 the ABLE Commission.

10 F. The ABLE Commission shall have the authority to promulgate
11 rules to establish a penalty schedule for violations of any
12 provision of the Oklahoma Alcoholic Beverage Control Act or any rule
13 of the ABLE Commission. The schedule shall provide for suspension
14 or revocation of any license for major and minor violations as
15 determined by the ABLE Commission. Penalties shall be increasingly
16 severe with each violation by a licensee.

17 Provided, that for a fourth major violation by a licensee within
18 a twenty-four-month period, the penalty shall be mandatory
19 revocation of license. The twenty-four-month period shall be
20 calculated from the date of the most recent violation as set forth
21 in an order signed by the Director or the designee of the Director.

22 G. The ABLE Commission or the Tax Commission may impose a
23 monetary penalty in lieu of or in addition to suspension of a
24 license. The amount of the fine for a major violation shall be

1 computed by multiplying the proposed number of days of the
2 suspension period by One Hundred Dollars (\$100.00). The amount of
3 the fine for a minor violation shall be computed by multiplying the
4 number of days of the proposed suspension period by Fifty Dollars
5 (\$50.00).

6 H. The failure of any licensee to pay a fine or serve a
7 suspension imposed by the ABLE Commission or the Tax Commission
8 shall result in the revocation of the license of the licensee.

9 I. If the ABLE Commission or the Tax Commission finds that
10 public health, safety or welfare require emergency action, and
11 incorporates a finding to that effect in its order, summary
12 suspension of a license may be ordered pending proceeding for
13 revocation or other action, pursuant to the provisions of Section
14 314 of Title 75 of the Oklahoma Statutes.

15 SECTION 61. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 2-149 of Title 37A, unless there
17 is created a duplication in numbering, reads as follows:

18 In the case of denial of an application for an original license,
19 the ABLE Commission shall give written notice to the applicant
20 either by registered mail directed to the applicant's last-known
21 address or by delivery, stating the reason for such denial. If the
22 ABLE Commission proposes to deny renewal of any license or to
23 suspend or revoke a license, it shall give written notice to the
24 licensee addressed to the licensed premises by registered mail, by

1 personal delivery or by posting of the notice on the outside
2 entrance to the licensed premises, notifying the licensee of such
3 contemplated denial, suspension or revocation, and of the time and
4 place at which the licensee may be accorded a hearing before the
5 ABLE Commission on the matter, which time shall not be less than
6 fifteen (15) days from the date of mailing, delivery or posting of
7 such notice. Such notice shall set forth the grounds for the
8 proposed denial, suspension or revocation. The ABLE Commission may
9 delegate any part of this function to the Director, but any person
10 aggrieved by any order shall have the right to be heard by the ABLE
11 Commission and the ABLE Commission shall provide adequate procedure
12 to protect the right of persons desiring to do so.

13 SECTION 62. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 2-150 of Title 37A, unless there
15 is created a duplication in numbering, reads as follows:

16 Any person aggrieved by the action of the ABLE Commission in
17 denying an application for an original license may, within fifteen
18 (15) days after receipt of notice thereof, file with the ABLE
19 Commission written request for a hearing, and the ABLE Commission
20 shall, pursuant to such request, set a time and place for a hearing
21 on a denial of an application for an original license. At the time
22 and place set in a notice by the ABLE Commission of contemplated
23 denial of the renewal of a license or of a proposed suspension or
24 revocation of a license, the ABLE Commission shall afford the

1 applicant or the licensee an opportunity to be heard and to present
2 evidence in the applicant's or licensee's behalf. The hearing shall
3 be conducted within fifteen (15) days after receipt of the request
4 by the ABLE Commission. In the conduct of any such hearing, the
5 ABLE Commission shall have power to administer oaths, examine
6 witnesses and subpoena records and documents pertaining to the
7 issues involved. Upon request of and at the expense of the
8 aggrieved party, the ABLE Commission shall make or cause to be made
9 a complete record of all testimony and other evidence taken or
10 introduced at such hearing. Within fifteen (15) days after
11 conclusion of any such hearing, unless the time shall be extended by
12 the parties thereto in writing, the ABLE Commission shall enter an
13 order affirming or modifying its denial of an original application,
14 an order dismissing its notice of contemplated denial of renewal of
15 license or affirming same, or an order dismissing its notice of
16 contemplated suspension or revocation of a license or an order
17 suspending or revoking same. The ABLE Commission shall, by written
18 notice mailed to the applicant or licensee by certified mail or by
19 delivery in person to the applicant or licensee, or the applicant's
20 or licensee's attorney of record, advise of its action pursuant to
21 the hearing.

22 SECTION 63. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 2-151 of Title 37A, unless there
24 is created a duplication in numbering, reads as follows:

1 The ABLE Commission shall have the authority to conduct an
2 initial hearing when a hearing is required by law. The Director of
3 the ABLE Commission may employ such hearing officers and assistants
4 as are necessary to conduct the hearings. If a hearing is conducted
5 by a hearing officer, the hearing officer shall issue a report to
6 the ABLE Commission. The report of the hearing officer shall
7 include findings of fact and conclusions of law. Notice of the
8 recommendation of the hearing officer shall be sent to the last-
9 known address of the licensee. If the licensee disagrees with the
10 recommendation of the hearing officer, the licensee may request a
11 hearing before the ABLE Commission for a review of the record. If
12 the licensee fails to request a review of the record within fifteen
13 (15) days after the date of the notice of the hearing officer's
14 decision, the recommendation of the hearing officer shall become a
15 final order of the ABLE Commission. A failure to request a review
16 of the record by the ABLE Commission in a timely manner shall
17 constitute a failure to exhaust administrative remedies.

18 SECTION 64. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 2-152 of Title 37A, unless there
20 is created a duplication in numbering, reads as follows:

21 Within thirty (30) days after a final order of the ABLE
22 Commission, pursuant to a hearing as provided in Section 62 of this
23 act, an applicant or licensee may appeal from the order of the ABLE
24 Commission to the district court of the county in which the premises

1 licensed or sought to be licensed are located. At the time of
2 filing such an appeal, the party appealing shall give bond for costs
3 assessed against such party. The appeal shall be taken by filing
4 with the clerk of the district court of the proper county a written
5 notice stating that the party appeals from the action of the ABLE
6 Commission and stating the pertinent grounds on which the appeal is
7 founded. Such appeal shall consist of a hearing and review of the
8 record only as set forth in the Administrative Procedures Act. The
9 district court may affirm, reverse or modify the order of the ABLE
10 Commission and shall issue its order within sixty (60) days after
11 the appeal is heard. Appeals may be taken from a final order of the
12 district court to the Supreme Court by the applicant, licensee or by
13 the ABLE Commission. The ABLE Commission shall not be required to
14 give bond on appeal. The licensee may file a supersedeas bond in an
15 amount to be fixed by the ABLE Commission staying the order until
16 the final determination of all issues on an appeal but the order of
17 the ABLE Commission may not be stayed unless ordered by the judge of
18 the district court. Permission to stay the order of the ABLE
19 Commission shall not be granted by any court unless an application
20 therefor be made in the written notice of the applicant's or
21 licensee's intention to appeal from the order of the ABLE
22 Commission, and then only after a hearing before the court upon
23 notice to both parties wherein the court determines by a
24 preponderance of the evidence that in denying a license or in

1 ordering the suspension or a revocation of a license, the ABLE
2 Commission acted without legal cause or upon insufficient evidence.
3 Provided, that in all cases where the order of the ABLE Commission
4 is stayed by a supersedeas bond and the licensee is unsuccessful in
5 the appeal, and the action of the ABLE Commission becomes final,
6 such bond shall be forfeited to the State of Oklahoma by the court
7 considering such appeal if the court finds that the appeal was
8 frivolous or was filed for the purpose of delaying the effect of the
9 order. In such event, the Attorney General shall commence legal
10 proceedings in the name of the State of Oklahoma to recover the
11 amount of the bond, which money shall be placed to the credit of the
12 General Revenue Fund of the state.

13 SECTION 65. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 2-153 of Title 37A, unless there
15 is created a duplication in numbering, reads as follows:

16 Any license issued pursuant to the provisions of the Oklahoma
17 Alcoholic Beverage Control Act shall be a purely personal privilege.
18 It shall not constitute property nor be subject to attachment,
19 garnishment or execution, or be alienable or transferable, either
20 voluntarily or involuntarily; nor shall it descend by the laws of
21 descent and distribution, but shall cease upon the death of the
22 licensee. Provided, the ABLE Commission, under such regulations and
23 subject to such restrictions as it may prescribe, may permit the
24 executors or administrators of the estate of any deceased licensee,

1 or the trustees of an insolvent or bankrupt licensee, or the legal
2 guardian of a licensee who has been adjudged to be incompetent or
3 insane, to exercise the privileges under any license held by such
4 person for such period as the ABLE Commission may deem equitable
5 during the administration of the deceased or bankrupt licensee's
6 estate, but not to exceed two (2) years. A license may not be
7 transferred to a new location, except upon application to the ABLE
8 Commission and endorsement on the license by the ABLE Commission
9 showing the new location. An application for transfer of license
10 shall be accompanied by a certificate reflecting, as to the proposed
11 new location, compliance with municipal zoning ordinances or county
12 zoning regulations and municipal or county fire, safety and health
13 codes as required by Section 54 of this act. A mixed beverage or
14 bottle club licensee who transfers the license to a new location
15 shall pay a transfer fee of One Hundred Dollars (\$100.00) to the
16 ABLE Commission.

17 SECTION 66. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 2-154 of Title 37A, unless there
19 is created a duplication in numbering, reads as follows:

20 All licenses issued pursuant to the provisions of the Oklahoma
21 Alcoholic Beverage Control Act shall be displayed in a conspicuous
22 place at all times on the licensed premises. No licensee may
23 consent to or allow the use or display of the license by a person
24 other than the person to whom the license was issued. No person may

1 use a license or exercise any privileges granted by the license
2 except at the place, address, premises or location for which the
3 license is issued, except as otherwise provided by the Oklahoma
4 Alcoholic Beverage Control Act.

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

12 SECTION 67. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 2-155 of Title 37A, unless there
14 is created a duplication in numbering, reads as follows:

15 A. If a mixed beverage licensee sells or otherwise transfers
16 the licensee's financial interest in a licensed premises to another
17 party who obtains a mixed beverage license for the premises, any
18 alcoholic beverages on the premises may be transferred to the new
19 licensee. Provided, if the premises are not in continuous operation
20 as a mixed beverage establishment prior to and during the transfer
21 of financial interest in the premises, the transfer of alcoholic
22 beverages shall be limited to alcoholic beverages in the original
23 container which have not been opened and which have not had the seal
24 broken and the original cap or cork removed.

1 B. If an on-premises beer and wine licensee sells or otherwise
2 transfers the licensee's financial interest in a licensed premises
3 to another party who obtains an on-premises beer and wine license
4 for the premises, any beer and wine on the premises may be
5 transferred to the new licensee. Provided, if the premises are not
6 in continuous operation as a beer and wine establishment prior to
7 and during the transfer of financial interest in the premises, the
8 transfer of beer and wine shall be limited to beer and wine in the
9 original containers which have not been opened and which have not
10 had the seal broken and the original cap or cork removed.

11 C. There shall be no liability on the part of, and no cause of
12 action of any nature shall arise against the ABLE Commission for the
13 contents of any alcoholic beverages transferred pursuant to the
14 provisions of this section.

15 SECTION 68. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 2-156 of Title 37A, unless there
17 is created a duplication in numbering, reads as follows:

18 A. No retail spirits license shall be issued to a corporation,
19 limited liability company or similar business entity. No person may
20 own any interest in more than two package stores. For the purpose
21 only of establishing whether or not a person owns an interest in
22 more than one package store, any person having a beneficial interest
23 in any package store shall be deemed to be a partner in the package
24 store except that the spouse of any retail spirits license holder or

1 partner shall not be deemed to be a partner or have a beneficial
2 interest in a package store unless his or her name appears on the
3 license. A beneficial interest shall be any interest that benefits
4 from any sales or profits of the package store.

5 B. For purposes of this section, any spouse of a retail spirits
6 license holder shall not hold another license provided for pursuant
7 to the Oklahoma Alcoholic Beverage Control Act, except a retail wine
8 license, retail beer license, on-premises beer and wine license,
9 mixed beverage license or a caterer's license.

10 C. Package stores licensed under the Oklahoma Alcoholic
11 Beverage Control Act may sell only alcoholic beverages in retail
12 containers as defined in Section 3 of this act, in the original
13 package for consumption off the premises. All retail sales shall be
14 made on the licensed premises and all deliveries off the premises,
15 at retail, of intoxicating liquor or beer are hereby prohibited.
16 Provided, a holder of a Retail Spirits License shall be permitted to
17 sell at retail any item that may be purchased at a grocery store or
18 convenience store, as defined by law, except for motor fuel, so long
19 as the sale of items other than alcoholic beverages do not comprise
20 more than twenty percent (20%) of the holder's monthly sales.

21 SECTION 69. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 2-157 of Title 37A, unless there
23 is created a duplication in numbering, reads as follows:

1 A. Every winemaker or small farm winery electing to directly
2 sell its wines to retailers and restaurants must obtain a winery
3 self-distribution license and pay the applicable license fee and
4 shall register its products and post its prices with the state in
5 the same manner required of the holder of a nonresident seller
6 license.

7 B. Every winemaker or small farm winery electing to directly
8 sell its wines to retailers and restaurants shall report all sales
9 to retail package stores and restaurants in this state to the ABLE
10 Commission and to the Oklahoma Tax Commission at least monthly, or
11 in accordance with such rules as the ABLE Commission shall
12 promulgate and shall pay to the Tax Commission all excise and other
13 taxes imposed by this state upon such wine in the same manner
14 required of the holder of a nonresident seller license.

15 C. Any self-distributing winemaker within or without this state
16 who shall, in any calendar year, exceed the production volume limit
17 provided for in subsection B of Section 17 of this act, shall
18 immediately notify the ABLE Commission of such fact and shall
19 thereafter have the option to sell the wines they produce to every
20 licensed wholesale distributor who desires to purchase the same, on
21 the same price basis and without discrimination, and shall
22 thereafter be allowed to sell such beverages only to such licensed
23 wholesale distributors or cease to sell its products in this state.

1 D. All winemakers who conduct business in this state shall be
2 prohibited from creating, forming or participating in any kind of a
3 cooperative or pooled transportation or distribution arrangement.

4 E. Any licensed winemaker or winery that sells or distributes
5 its wine directly to a retailer or restaurant in this state after
6 having exceeded the production volume limit provided for in
7 subsection B of Section 17 of this act in any calendar year shall be
8 subject to a fine of Ten Thousand Dollars (\$10,000.00). In
9 addition, if the violation is a second or subsequent violation, the
10 winemaker or winery shall not be allowed to transport wine to a
11 retail package store or restaurant for three (3) years from the date
12 of the second or subsequent violation.

13 F. If Section 2 of Article XXVIII A of the Oklahoma Constitution
14 is ruled to be unconstitutional by a court of competent
15 jurisdiction, then any licensed winemaker or winery that then
16 continues to sell or distribute its wine directly to a retail
17 package store or restaurant in this state shall be subject to a fine
18 of Ten Thousand Dollars (\$10,000.00) per violation.

19 SECTION 70. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 2-158 of Title 37A, unless there
21 is created a duplication in numbering, reads as follows:

22 In case of natural disaster or civil disturbance the Governor
23 may, for the duration of such natural disaster or civil disturbance
24

1 thereof, immediately suspend without notice any license granted
2 under the provisions of the Oklahoma Alcoholic Beverage Control Act.

3 SECTION 71. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 3-101 of Title 37A, unless there
5 is created a duplication in numbering, reads as follows:

6 A. No person shall manufacture, rectify, sell, possess, store,
7 import into or export from this state, transport or deliver any
8 alcoholic beverage except as specifically provided in the Oklahoma
9 Alcoholic Beverage Control Act. Provided, that nothing herein shall
10 prevent the possession and transportation of alcoholic beverages for
11 the personal use of the possessor and his or her family and guests,
12 so long as the Oklahoma excise tax has been paid thereon, except for
13 beer. Provided, further, that nothing herein shall prevent a person
14 from making beer, cider or wine, by simple fermentation and without
15 distillation for personal use if the maker of such beverages has
16 first applied for and possesses a valid personal use permit issued
17 by the ABLE Commission and the total volume of beer, cider or wine
18 produced in any given calendar year is less than two hundred (200)
19 gallons. No beverages made pursuant to a personal use permit shall
20 be sold or offered for sale.

21 B. 1. Any duly licensed physician or dentist may possess and
22 use alcoholic beverages in the strict practice of the profession and
23 any hospital or other institution caring for sick or diseased
24 persons may possess and use alcoholic beverages for the treatment of

1 bona fide patients of such hospital or institution. Any drugstore
2 employing a licensed pharmacist may possess and use alcoholic
3 beverages in the preparation of prescriptions of duly licensed
4 physicians.

5 2. The possession, transportation and dispensation of wine by
6 any authorized representative of any church for the conducting of a
7 bona fide rite or religious ceremony conducted by such church shall
8 not be prohibited by the Oklahoma Alcoholic Beverage Control Act;
9 nor shall such act prevent the sale, shipping or delivery of
10 sacramental wine by any person holding a sacramental wine supplier
11 license issued pursuant to the Oklahoma Alcoholic Beverage Control
12 Act to any religious corporation or society of this state holding a
13 valid exemption from taxation issued pursuant to Section 501(a) of
14 the Internal Revenue Code, 1954, and listed as an exempt
15 organization in Section 501(c)(3) of the Internal Revenue Code,
16 1954, of the United States, as amended.

17 3. Provided further, that nothing in the Oklahoma Alcoholic
18 Beverage Control Act shall prevent the possession, transportation
19 and sale of alcoholic beverages within military reservations and in
20 accordance with the laws and rules governing such military
21 reservations, provided that the Oklahoma excise tax has been paid on
22 such beverages.

23 C. 1. Except as otherwise authorized by law, it is unlawful
24 for any manufacturer, wine and spirits wholesaler, beer distributor

1 or retailer of alcoholic beverages, located and doing business from
2 outside this state, to make retail sales of alcoholic beverages to
3 purchasers located in this state or to ship alcoholic beverages sold
4 at retail to persons located in this state. Any person who engages
5 in the sale or shipping of alcoholic beverages in violation of the
6 provisions of this subsection, upon conviction, shall be guilty of a
7 felony punishable by imprisonment for not more than five (5) years,
8 if the sale or delivery is made to a person under twenty-one (21)
9 years of age, or a misdemeanor, if the sale or delivery is made to a
10 person twenty-one (21) years of age or older.

11 2. The fine for a violation of this subsection shall be not
12 more than Five Thousand Dollars (\$5,000.00).

13 3. In addition, if the person holds a license issued by the
14 ABLE Commission, the license shall be revoked pursuant to Section 60
15 of this act.

16 SECTION 72. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 3-102 of Title 37A, unless there
18 is created a duplication in numbering, reads as follows:

19 The ABLE Commission is authorized to promulgate such rules with
20 respect to packaging, marking, branding and labeling of alcoholic
21 beverages sold or possessed for sale within this state, including
22 such rules:

23 1. As will prohibit deception of the consumer with respect to
24 such products or the quantity thereof and as will prohibit,

1 irrespective of falsity, such statement relating to age,
2 manufacturing processes, analyses, guarantees, and scientific or
3 irrelevant matter as the ABLE Commission finds likely to mislead or
4 confuse the consumer;

5 2. As will provide the consumer with adequate information as to
6 the identity and quality of the products, the net contents of the
7 package, and the manufacturer or importer of the product; and

8 3. As will prohibit statements on the label that are false,
9 misleading, obscene or indecent.

10 The ABLE Commission may promulgate, in whole or in part, or with
11 such modification as it deems desirable, rules of the federal
12 government relating to labeling of distilled spirits promulgated
13 under the Federal Alcohol Administration Act (27 U.S.C. 205).

14 SECTION 73. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 3-103 of Title 37A, unless there
16 is created a duplication in numbering, reads as follows:

17 All rules of the ABLE Commission shall be promulgated and filed
18 pursuant to the provisions of the Administrative Procedures Act, and
19 also shall be filed with the Secretary of State and the State
20 Librarian pursuant to the provisions of Sections 251 through 253 of
21 Title 75 of the Oklahoma Statutes. Copies of all rules shall be
22 made available to each county clerk, district attorney, sheriff and
23 chief of police in the state upon request.

24

1 The ABLE Commission shall send a notice of application for a
2 license to sell alcohol, alcoholic beverage, wine or beer under the
3 Oklahoma Alcoholic Beverage Control Act to the district attorney of
4 the county wherein the premises is located at least fifteen (15)
5 days prior to the approval or disapproval of the application.

6 For any applicant for a license issued pursuant to the
7 provisions of the Oklahoma Alcoholic Beverage Control Act whose
8 place of business for which the license is being sought is located
9 in a city or town, the ABLE Commission shall mail a notice of
10 application to the city or town, the sheriff of the county in which
11 the city or town is located, and the district attorney of the county
12 in which the city or town is located. The city or town may make
13 recommendations on whether or not the applicant should be issued a
14 license by the ABLE Commission within twenty (20) days after the
15 date the copies of the application were mailed.

16 For any applicant for a license issued pursuant to the
17 provisions of the Oklahoma Alcoholic Beverage Control Act whose
18 place of business for which the license is being sought is located
19 outside of the incorporated boundaries of a city or town, the ABLE
20 Commission shall mail a notice of application to the board of county
21 commissioners of the county in which the place of business is
22 located, the sheriff of the county and the district attorney of the
23 county. The board of county commissioners shall make
24 recommendations on whether or not the applicant should be issued a

1 license by the ABLE Commission within twenty (20) days after the
2 date the copies of the application were mailed.

3 SECTION 74. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 3-104 of Title 37A, unless there
5 is created a duplication in numbering, reads as follows:

6 A. For purposes of this section:

7 1. "Beer keg" means any brewery-sealed, single container that
8 contains not less than four (4) gallons of beer;

9 2. "Licensed retailer" means a licensed package store; and

10 3. "Identification seal" means any device approved by the ABLE
11 Commission which is designed to be affixed to beer kegs and which
12 displays an identification number and any other information as may
13 be prescribed by the ABLE Commission.

14 B. No licensed retailer shall sell beer kegs unless that
15 retailer affixes an identification seal to each beer keg. An
16 identification seal shall consist of durable material as determined
17 by the ABLE Commission that is not easily removed or destroyed.
18 Identification seals used may contain a nonpermanent adhesive
19 material in order to apply the seal directly to an outside surface
20 of a beer keg at the time of sale. Identification seals shall be
21 attached to beer kegs at the time of sale as determined by the ABLE
22 Commission. The identification information contained on the seal
23 shall include the licensed retailer's name, address, beer license
24 number and telephone number; a unique beer keg number assigned by

1 the licensed retailer; and a prominently visible warning that
2 intentional removal or defacement of the seal is a misdemeanor.
3 Upon return of a beer keg to the licensed retailer that sold the
4 beer keg and attached the identification seal, the licensed retailer
5 shall be responsible for the complete and thorough removal of the
6 entire identification seal and any adhesive or attachment devices of
7 the seal. The seal beer keg identification number must be kept on
8 file with the retailer for not less than one (1) year from the date
9 of return.

10 C. A licensed retailer shall not sell a beer keg unless the
11 beer keg has attached a seal complying with the standards
12 established by subsection B of this section.

13 D. 1. A licensed retailer who sells a beer keg must at the
14 time of the sale record:

- 15 a. the purchaser's name and address and the number of the
16 purchaser's driver license, identification card issued
17 by the Department of Public Safety, military
18 identification card or valid United States or foreign
19 passport,
 - 20 b. the date and time of the purchase,
 - 21 c. the beer keg identification seal number required by
22 subsection B of this section, and
 - 23 d. the purchaser's signature.
- 24

1 2. The record shall be retained for not less than one (1) year
2 after the date of the sale.

3 E. A licensed retailer required to retain records under
4 subsection D of this section shall make the records available during
5 regular business hours for inspection by a law enforcement officer
6 or an employee of the ABLE Commission.

7 F. 1. A person required to record information under subsection
8 D of this section shall not knowingly make a materially false entry
9 in the book or register required under subsection D of this section.
10 In a prosecution under this subsection, it is a defense for the
11 defendant to prove by a preponderance of the evidence that the
12 defendant reasonably and in good faith relied upon the
13 identification provided by the purchaser of a beer keg.

14 2. No person other than a licensed retailer, a licensed beer
15 distributor, a law enforcement officer or an employee of the ABLE
16 Commission may intentionally remove a seal placed on a beer keg in
17 compliance with subsection C of this section. No person may
18 intentionally deface or damage the seal on a beer keg to make it
19 unreadable.

20 3. Any person who purchases a beer keg and who fails to return
21 the keg or who returns a keg with a damaged or missing seal shall be
22 subject to a fine of Five Hundred Dollars (\$500.00).

23 4. Any licensed retailer who fails to report an individual
24 provided for in paragraph 3 of this subsection to law enforcement

1 shall be guilty of a misdemeanor and shall be subject to fines of
2 not less than Five Hundred Dollars (\$500.00) for first and second
3 offenses. A third violation by a licensed retailer of the
4 provisions of this paragraph shall result in the revocation of the
5 retailer's license for up to one (1) year.

6 G. Any person who purchases a beer keg which is subsequently
7 stolen from such person shall not be liable for any penalty imposed
8 pursuant to the provisions of this section if such person properly
9 reported the theft of the beer keg to law enforcement authorities
10 within twenty-four (24) hours of the discovery of the theft.

11 H. The ABLE Commission shall promulgate rules for the
12 implementation and application of this section.

13 SECTION 75. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 3-105 of Title 37A, unless there
15 is created a duplication in numbering, reads as follows:

16 A. Oklahoma wineries may ship products manufactured in the
17 state to consumers in other states, so long as the recipient is of
18 legal age and the laws of the recipient's state allow such
19 shipments.

20 B. Oklahoma wineries that ship products to consumers in other
21 states shall submit a monthly report of all shipments to the ABLE
22 Commission. The report shall contain the name, address and age of
23 the recipient and shall list the common carrier used to ship the
24 product. The contents of the reports shall be a matter of public

1 record and shall be made available to the public as well as any law
2 enforcement or regulatory official in Oklahoma or another state.

3 The manufacturer shall also keep a copy of all such reports on its
4 premises for a period of not less than five (5) years and shall make
5 those reports available for inspection by any law enforcement
6 officer of any state or federal agency upon request.

7 SECTION 76. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 3-106 of Title 37A, unless there
9 is created a duplication in numbering, reads as follows:

10 A. A Direct Wine Shipper's Permit may be issued by the Oklahoma
11 ABLE Commission to a winery licensed in this or any other state
12 within the United States as a wine producer. A Direct Wine
13 Shipper's Permit allows a winery to ship up to six nine-liter cases
14 of wine annually directly to an Oklahoma resident who is twenty-one
15 (21) years of age or older for such resident's personal use and not
16 for resale. No resident shall be permitted to purchase more than
17 thirty nine-liter cases of wine per year under the provisions of
18 this section.

19 B. A Direct Wine Consumer's Permit may be issued by the ABLE
20 Commission to a resident who is twenty-one (21) years of age or
21 older and wishes to purchase wine directly from a winery pursuant to
22 this section.

1 C. The ABLE Commission shall promulgate rules governing the
2 application, issuance and renewal of Direct Wine Shipper's Permits,
3 which shall include but not be limited to:

4 1. Proof of current licensure in this or any other state as a
5 wine producer;

6 2. Payment of a registration fee of Three Hundred Dollars
7 (\$300.00) for original permits and One Hundred Fifty Dollars
8 (\$150.00) for renewal permits; and

9 3. Any other documentation that the ABLE Commission believes is
10 reasonably necessary to verify the identity and physical location of
11 the winery.

12 D. The ABLE Commission shall promulgate rules governing the
13 application, issuance and renewal of Direct Wine Consumer's Permits,
14 which shall include but not be limited to:

15 1. A sworn statement verifying that the applicant is at least
16 twenty-one (21) years of age upon the date of application submission
17 and that the wine is intended for personal use and not for resale;
18 and

19 2. Any other documentation that the ABLE Commission believes is
20 reasonably necessary to verify the identity or age of the applicant.

21 E. With regard to direct wine shipments permitted by this
22 section, Direct Wine Shipper permit holders:

23 1. Shall not ship more than six nine-liter cases of wine
24 annually to any person for his or her personal use;

2. Shall not ship wine intended for resale;

3. Shall ensure that all containers of wine shipped directly to a resident in this state include the Direct Wine Consumer's Permit Number issued by the ABLE Commission and are conspicuously labeled with the words "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY.";

4. Shall require the transporter or common carrier that delivers the wine to obtain the signature of a person twenty-one (21) years of age or older at the delivery address at the time of delivery. At the expense of the Direct Wine Shipper, the Direct Wine Shipper shall receive a delivery confirmation from the express company, common carrier or contract carrier indicating the location of delivery, time of delivery and the name and signature of the individual who accepted the delivery. The ABLE Commission shall design and create a label or approve a label that must be affixed to the shipping container by the licensee;

5. Shall not ship wine otherwise available in Oklahoma;

6. Shall report to the ABLE Commission annually, by a method prescribed by the ABLE Commission, the total amount of wine shipped into the state the preceding calendar year;

7. Shall annually pay to the Oklahoma Tax Commission all applicable taxes due on sales authorized by this section to Oklahoma residents in the preceding calendar year. The amount of such taxes shall be calculated as if the sale were in Oklahoma at the location

1 where delivery is made. Upon request, permit holders shall permit
2 the Tax Commission to perform an audit of the permit holder's
3 records in order to assure compliance; and

4 8. Shall be deemed to have consented to the jurisdiction of any
5 agency or court of the State of Oklahoma tasked with the enforcement
6 of or adjudication of controversies related to this section and any
7 related laws or rules.

8 F. No express company, common carrier or contract carrier nor
9 any representative, agent or employee on behalf of the same shall
10 knowingly deliver any shipping container that contains an alcoholic
11 beverage into this state, unless it complies with the provisions of
12 this section. No express company, common carrier or contract
13 carrier nor any representative, agent or employee on behalf of the
14 same shall knowingly deliver any shipping container that is clearly
15 labeled as containing an alcoholic beverage, including but not
16 limited to the lawful shipment of wine under this section, to any
17 person in this state who is under the age of twenty-one (21) at the
18 time of delivery. Any express company, common carrier or contract
19 carrier that carries or transports alcoholic beverages for delivery
20 within this state in violation of this section shall be guilty of a
21 misdemeanor and for the first offense be fined not more than Two
22 Thousand Five Hundred Dollars (\$2,500.00), for a second offense
23 shall be fined not more than Five Thousand Dollars (\$5,000.00) and
24 for a third and subsequent offense be fined not more than Ten

1 Thousand Dollars (\$10,000.00). An express company, common carrier
2 and contract carrier shall be held vicariously liable for the
3 actions of its representatives, agents and employees for actions in
4 violation of this section.

5 SECTION 77. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 3-107 of Title 37A, unless there
7 is created a duplication in numbering, reads as follows:

8 A. In order to provide for regulation of the sales and
9 distribution of beer in this state by the ABLE Commission, this
10 Legislature hereby declares it is necessary to implement the
11 section.

12 B. Statutory regulation of the sales and distribution of
13 designated brands in designated territories by distributors shall
14 include but not be limited to:

15 1. A requirement for written distributor agreements between a
16 manufacturer and distributor designating a specific territory within
17 which the distributor may sell the designated brands of the
18 manufacturer;

19 2. Provisions for prohibited acts applicable to the distributor
20 and manufacturer; and

21 3. Provisions for penalties for violations.

22 SECTION 78. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 3-108 of Title 37A, unless there
24 is created a duplication in numbering, reads as follows:

1 A. The provisions of this section shall be in effect except as
2 otherwise provided in Article XXVIII A of the Oklahoma Constitution.

3 B. Subject to the provisions of subsection D of this section,
4 every licensed brewer authorized to sell its beer in this state
5 shall:

6 1. Enter into a distributor agreement with a licensed
7 distributor, as defined herein, to sell the designated brands,
8 including brand extensions, of the brewer. The agreement shall
9 designate the sales territory of that licensed distributor and the
10 designated brands to be sold by the licensed distributor. All such
11 distributor agreements shall specifically authorize this sale of the
12 designated brands by a licensed distributor within that sales
13 territory. All such distributor agreements shall further provide
14 that the licensed manufacturer who desires to sell a brand extension
15 of a low-point beer in Oklahoma must assign the low-point beer brand
16 extension to the licensed distributor to whom the licensed
17 manufacturer granted the exclusive sales territory to the low-point
18 beer brand from which the brand extension resulted;

19 2. Sell its registered and approved designated brands only to a
20 licensed distributor with whom that brewer has a distributor
21 agreement designating the sales territory of the licensed
22 distributor and the designated brands to be sold by the licensed
23 distributor;

1 3. Authorize only one licensed distributor for each designated
2 sales territory. Such licensed distributor shall be the only
3 licensed distributor for the designated brands of the authorizing
4 brewer within that designated sales territory; and

5 4. Designate who is responsible for the distribution of its
6 designated brands.

7 C. Subject to the provisions of subsection D of this section,
8 any and all licensed distributors possessing the rights to
9 distribute a low-point beer brand in a specific territory prior to
10 the introduction of that low-point beer's correlating beer brand
11 extension in that specific territory shall retain the right to
12 distribute the low-point beer from which the brand extension
13 resulted.

14 D. 1. No later than sixty (60) days after the effective date
15 of this act, a brewer shall assign the exclusive right to distribute
16 a beer brand, including brand extensions thereof, to the low-point
17 beer distributor who was, prior to the effective date of this act,
18 assigned the exclusive distribution rights to the low-point beer
19 from which the brand extension arose without charge or payment of
20 compensation, unless the low-point beer distributor is, on the
21 effective date of this act, a brewer of beer or low-point beer and
22 has therefore been distributing low-point beer pursuant to a license
23 to so distribute, subject to the provisions of subsection E of this
24

1 section. This subsection shall not apply to a small brewer as
2 defined in Section 3 of this act.

3 2. With respect to brand extensions which arise after the
4 effective date of this act, the brewer shall assign the exclusive
5 right to distribute the brand extension to the distributor who has
6 been assigned the exclusive distribution rights to the beer from
7 which the brand extension arose, without charge or payment of
8 compensation.

9 3. No later than sixty (60) days after the effective date of
10 this act, with respect to dual strength beer, the brewer thereof
11 shall assign the exclusive right to distribute the brands
12 represented by the dual strength beer to either the low-point beer
13 distributor or the nonresident seller who had theretofore been
14 assigned the exclusive distribution rights in the territory to
15 either version of the dual strength beer; provided, however,
16 whichever party is selected by the brewer must compensate the party
17 that was not selected by the brewer for the loss of the distribution
18 rights with respect to that particular territory. Whichever party
19 is selected shall obtain the requisite distributor license and shall
20 be subject to the provisions of this act.

21 4. Compensation for the purposes of this provision shall be the
22 fair market value of the party losing its distribution rights with
23 respect to the beer within that specific territory. Fair market
24 value shall be determined as set forth in Section 81 of this act and

1 shall take into account all aspects of brand valuation, including
2 but not limited to:

- 3 a. the diminished value of the distribution of one
4 version of beer as a consequence of the subsequent
5 introduction of the other version,
- 6 b. the expected annual sales and earnings of the
7 distributor agreement,
- 8 c. the length of time the existing distributor held in
9 the distribution sales agreement, and
- 10 d. any other relevant items of value, such as goodwill
11 and going concern.

12 E. If a brewer, whether directly or through an affiliate,
13 maintained one or more licenses to distribute low-point beer in this
14 state prior to the effective date of this act, then up to two (2) of
15 the brewer's low-point beer distribution licenses shall
16 automatically convert to beer distribution licenses upon the
17 effective date of this act, and such brewer shall be permitted to
18 continue to distribute beer in two (2) territories within which it
19 currently distributes without the appointment of a distributor for
20 such period of time as determined by the Legislature and consistent
21 with the Constitution of the State of Oklahoma; provided however, it
22 shall not be permitted to distribute beer outside of the territory
23 unless it enters into a distributor agreement with an independent
24 licensed distributor as provided in paragraph 1 of subsection B of

1 this section. This section shall not apply to small brewers that
2 have elected to self-distribute.

3 SECTION 79. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 3-109 of Title 37A, unless there
5 is created a duplication in numbering, reads as follows:

6 In order to regulate distribution of beer in this state and
7 assure collection of all applicable taxes and fees, all beer sold in
8 this state by a licensed distributor shall only be transported
9 within this state to the licensed address and location of a licensed
10 retailer or between the licensed addresses and locations of licensed
11 retailers by a marked conveyance owned or leased by a licensed
12 distributor.

13 SECTION 80. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 3-110 of Title 37A, unless there
15 is created a duplication in numbering, reads as follows:

16 A. A licensed distributor designated as the licensed
17 distributor for a beer brand within a designated sales territory
18 shall present that beer brand for sale to all on-premise licensees
19 on the same price basis and without discrimination and to all off-
20 premise licensees on the same price basis within a particular county
21 and without discrimination. A licensed distributor shall not sell,
22 supply or deliver, either directly or indirectly through a third
23 party, a beer brand to a licensed retailer outside of the designated
24 sales territory of the designated distributor nor to any person the

1 licensed distributor has reason to believe will sell or supply any
2 quantity of the beer brand to any retail location outside of the
3 designated sales territory of the designated distributor.

4 B. All beer shall only be transported by a marked conveyance
5 owned or leased by the licensed distributor and operated by the
6 licensed distributor or an employee of the distributor for the
7 products of a licensed manufacturer within the designated sales
8 territory to the address and location of a licensed retailer within
9 that designated sales territory.

10 C. Any beer sold by the licensed distributor shall not be
11 delivered to, received by or stored at any place other than the
12 address and location of the licensed retailer for which state and
13 local retailer licenses or permits have been issued.

14 D. With the approval of the licensed manufacturer, a licensed
15 distributor may sell the designated brands to a licensed retailer
16 located in a designated sales territory of another licensed
17 distributor if that licensed distributor is temporarily unable for
18 any reason to provide the designated brands of the licensed
19 manufacturer within its designated sales territory.

20 E. All beer purchased by a licensed distributor for resale in
21 this state shall physically come into the possession of the licensed
22 distributor and be unloaded in and distributed from the licensed
23 warehouse of the licensed distributor located in this state prior to
24 being resold in this state.

1 SECTION 81. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3-111 of Title 37A, unless there
3 is created a duplication in numbering, reads as follows:

4 A. Except as provided in subsection F of this section, a small
5 brewer is not subject to the termination provisions of this section.

6 B. 1. Except as provided in subsections C, D and E of this
7 section, no brewer shall terminate a distributor agreement with any
8 beer distributor unless all of the following occur:

9 a. the brewer establishes good cause for such
10 termination,

11 b. the beer distributor receives written notification by
12 certified mail, return receipt requested, from the
13 brewer of the alleged noncompliance and is afforded no
14 less than sixty (60) days in which to cure such
15 noncompliance. If not capable of being cured within
16 the sixty-day period, the beer distributor shall begin
17 the cure within the sixty-day period and diligently
18 pursue the cure as promptly as feasible,

19 c. the beer distributor fails to cure such noncompliance
20 within the allotted cure period, and

21 d. the brewer provides written notice by certified mail,
22 return receipt requested, to the beer distributor of
23 such continued noncompliance. The notification shall
24 contain a statement of the intention of the brewer to

1 terminate the distributor agreement, the reasons for
2 the termination and the date the termination shall
3 take effect.

4 2. If a beer distributor cures an alleged noncompliance within
5 the cure period provided in subparagraph b of paragraph 1 of this
6 subsection, any notice of termination from a brewer to a beer
7 distributor shall be null and void.

8 C. A brewer may immediately terminate a distributor agreement,
9 effective upon furnishing written notification to the beer
10 distributor by certified mail, return receipt requested, for any of
11 the following reasons:

12 1. The beer distributor's failure to pay any account when due
13 and upon written demand by the brewer for such payment, in
14 accordance with agreed payment terms;

15 2. The assignment or attempted assignment by the beer
16 distributor for the benefit of creditors, the institution of
17 proceedings in bankruptcy by or against the beer distributor, the
18 dissolution or liquidation of the beer distributor or the insolvency
19 of the beer distributor;

20 3. The revocation or suspension of, or the failure to renew for
21 a period of more than fourteen (14) days, a beer distributor's
22 state, local or federal license or permit to sell beer in this
23 state;

1 4. The beer distributor has been convicted of a felony that, in
2 the brewer's sole judgment, adversely affects the goodwill of the
3 beer distributor or brewer;

4 5. A beer distributor has been convicted of, found guilty of or
5 pled guilty or nolo contendere to, a charge of violating a law or
6 regulation of the United States or of this state if it materially
7 and adversely affects the ability of the beer distributor or brewer
8 to continue to sell its beer in this state;

9 6. Any attempted transfer of ownership of the beer distributor,
10 stock of the beer distributor or stock of any parent corporation of
11 the beer distributor, or any change in the beneficial ownership or
12 control of any entity having control of the beer distributor,
13 without obtaining the prior written approval of the brewer, which
14 may not be unreasonably withheld, except as may otherwise be
15 permitted pursuant to a written agreement between the parties;

16 7. Fraudulent conduct in the beer distributor's dealings with
17 the brewer of beer, including the intentional sale of beer outside
18 the brewer's established quality standards;

19 8. Cessation of the beer distributor to conduct business for
20 five (5) consecutive business days, unless conducting the business
21 is prevented or rendered impractical due to events beyond the
22 distributor's reasonable control as a result of an act of God, an
23 insured casualty, war or a condition of national, state or local
24 emergency; or

1 9. Any sale of beer, directly or indirectly, to customers
2 located outside the territory assigned to the beer distributor by
3 the brewer unless expressly authorized by the brewer.

4 Provided, the beer distributor shall have the opportunity to
5 sell the brewer's brands for one hundred twenty (120) days after
6 termination in accordance with the distributor agreement.

7 D. The brewer shall have the right to terminate an agreement
8 with a beer distributor at any time by giving the beer distributor
9 at least ninety-days' written notice by certified mail, return
10 receipt requested; provided, the brewer shall give a similar notice
11 to all other beer distributors in all other states who have entered
12 into the same distributor agreement with the brewer.

13 E. If a particular brand of beer is transferred by purchase or
14 otherwise from a brewer to a successor brewer, the following shall
15 occur:

16 1. The successor brewer shall become obligated to all of the
17 terms and conditions of the agreement in effect on the date of
18 succession. This subsection applies regardless of the character or
19 form of the succession. A successor brewer has the right to
20 contractually require its beer distributor to comply with
21 operational standards of performance, if the standards are uniformly
22 established for all of the successor brewer's distributors. A
23 successor brewer may, upon written notice, terminate its agreement,
24 in whole or in part, with a beer distributor of the brewer it

1 succeeded, for the purpose of transferring the distribution rights
2 in the beer distributor's territory to a new beer distributor,
3 provided that the successor beer distributor first pays to the
4 existing beer distributor the fair market value of the existing
5 distributor's business with respect to the terminated brand or
6 brands;

7 2. If the successor brewer decides to terminate its agreement
8 with the existing beer distributor for purposes of transfer, the
9 successor brewer shall notify the existing beer distributor in
10 writing of the successor brewer's intent not to appoint the existing
11 beer distributor for all or part of the existing beer distributor's
12 territory. The successor brewer shall mail the notice of
13 termination by certified mail, return receipt requested, to the
14 existing beer distributor. The successor brewer shall include in
15 the notice the names, addresses and telephone numbers of the
16 successor beer distributor or distributors;

17 3. a. the successor beer distributor shall negotiate with
18 the existing beer distributor to determine the fair
19 market value of the existing beer distributor's right
20 to distribute in the existing beer distributor's
21 territory. The successor beer distributor and the
22 existing beer distributor shall negotiate the fair
23 market value in good faith, and
24

1 b. the existing beer distributor shall continue to
2 distribute in good faith until payment of the
3 compensation agreed to under subparagraph a of this
4 paragraph, or awarded under paragraph 4 of this
5 subsection, is received; and

6 4. a. if the successor beer distributor and the existing
7 beer distributor fail to reach a written agreement on
8 the fair market value within thirty (30) days after
9 the existing beer distributor receives the notice
10 required pursuant to paragraph 2 of this subsection,
11 the successor beer distributor or the existing beer
12 distributor shall send a written notice to the other
13 party requesting arbitration pursuant to the Uniform
14 Arbitration Act, Part 2 of Article 22 of Title 13,
15 C.R.S. Arbitration shall be held for the purpose of
16 determining the fair market value of the existing beer
17 distributor's right to distribute in the existing beer
18 distributor territory,

19 b. notice of intent to arbitrate shall be sent, as
20 provided in subparagraph a of this paragraph, not
21 later than forty (40) days after the existing beer
22 distributor receives the notice required pursuant to
23 paragraph 2 of this subsection. The arbitration
24 proceeding shall conclude not later than sixty (60)

- 1 days after the date the notice of intent to arbitrate
2 is mailed to a party, unless this time is extended by
3 mutual agreement of the parties and the arbitrator,
- 4 c. any arbitration held pursuant to this subsection shall
5 be conducted in a city within this state that:
- 6 (1) is closest to the existing beer distributor, and
7 (2) has a population of more than twenty thousand
8 (20,000) people,
- 9 d. any arbitration held pursuant to this paragraph shall
10 be conducted before one impartial arbitrator to be
11 selected by the American Arbitration Association or
12 its successor. The arbitration shall be conducted in
13 accordance with the rules and procedures of the
14 Uniform Arbitration Act, Part 2 of Article 22 of Title
15 13, C.R.S.,
- 16 e. an arbitrator's award in any arbitration held pursuant
17 to this paragraph shall be monetary only and shall not
18 enjoin or compel conduct. Any arbitration held
19 pursuant to this paragraph shall be in lieu of all
20 other remedies and procedures,
- 21 f. the cost of the arbitrator and any other direct costs
22 of an arbitration held pursuant to this paragraph
23 shall be equally divided by the parties engaged in the
24

1 arbitration. All other costs shall be paid by the
2 party incurring them,

3 g. the arbitrator in any arbitration held pursuant to
4 this paragraph shall render a written decision not
5 later than thirty (30) days after the conclusion of
6 the arbitration, unless this time is extended by
7 mutual agreement of the parties and the arbitrator.
8 The decision of the arbitrator is final and binding on
9 the parties. The arbitrator's award may be enforced
10 by commencing a civil action in any court of competent
11 jurisdiction. Under no circumstances may the parties
12 appeal the decision of the arbitrator,

13 h. an existing beer distributor or successor beer
14 distributor who fails to participate in the
15 arbitration hearings in any arbitration held pursuant
16 to this paragraph waives all rights the existing beer
17 distributor or successor beer distributor would have
18 had in the arbitration and is considered to have
19 consented to the determination of the arbitrator, and

20 i. if the existing beer distributor does not receive
21 payment from the successor beer distributor of the
22 settlement or arbitration award required under
23 paragraph 2 or 3 of this subsection within thirty (30)
24

1 days after the date of the settlement or arbitration
2 award:

3 (1) the existing beer distributor shall remain the
4 beer distributor in the existing beer
5 distributor's territory to at least the same
6 extent that the existing beer distributor
7 distributed the beer immediately before the
8 successor brewer acquired rights to the brand,
9 and

10 (2) the existing beer distributor is not entitled to
11 the settlement or arbitration award.

12 F. 1. In addition to termination rights that may be set forth
13 in a distributor agreement, a small brewer who manufactures less
14 than twenty-five thousand (25,000) barrels of beer annually may
15 terminate a distributor agreement with any beer distributor provided
16 that, prior to the effective date of the termination, the small
17 brewer pays the beer distributor the fair market value of the
18 distribution rights which will be lost or diminished by reason of
19 the termination.

20 2. If such small brewer and beer distributor cannot mutually
21 agree to the fair market value of the applicable distribution rights
22 lost or diminished by reason of the termination, then the brewer
23 shall pay the beer distributor a good faith estimate of the fair
24 market value of the applicable distribution rights.

1 3. If the beer distributor being terminated under subparagraph
2 2 of this subsection disputes that the payment made by the small
3 brewer was less than the fair market value of the distribution
4 rights, then the beer distributor may within forty-five (45) days of
5 termination submit the question of fair market value of the
6 applicable distribution rights lost or diminished by reason of the
7 termination to binding arbitration before a panel of three neutral
8 arbitrators appointed in accordance with the commercial arbitration
9 rules of the American Arbitration Association, which panel shall
10 determine by majority decision whether the small brewer's payment
11 meets the requirements of subparagraph 2 of this subsection.

12 4. If the arbitration panel rules that the payment made by the
13 small brewer to the beer distributor upon termination was less than
14 the fair market value of distribution rights lost or diminished by
15 reason of the termination, then the small brewer must pay the beer
16 distributor the difference between the payment made to the beer
17 distributor and the determined fair market value plus interest.

18 5. If the arbitration panel rules that the payment made by the
19 small brewer to the beer distributor upon termination was more than
20 the fair market value of distribution rights lost or diminished by
21 reason of the termination, then the beer distributor must pay the
22 small brewer the difference between the payment made to the beer
23 distributor and the determined fair market value, plus interest.

1 6. All arbitration fees and expenses shall be equally divided
2 among the parties to the arbitration, except if the arbitration
3 panel determines that the small brewer's payment upon termination
4 was not a good faith estimate of the fair market value, then the
5 panel may award up to one hundred percent (100%) of the arbitration
6 costs to the small brewer.

7 G. 1. Any beer distributor or brewer who is aggrieved by a
8 violation of any provision of subsections B and D of this section
9 shall be entitled to recovery of damages caused by the violation.
10 Except for a dispute arising under subsection E of this section,
11 damages shall be sought in a civil action in any court of competent
12 jurisdiction.

13 2. Any dispute arising under subsections B and D of this
14 section may also be settled by such dispute resolution procedures as
15 may be provided by a written agreement between the parties.

16 H. Nothing in this section shall be construed to limit or
17 prohibit good-faith settlements voluntarily entered into by the
18 parties.

19 I. Nothing in this section shall be construed to give a beer
20 distributor any right to compensation if an agreement with the beer
21 distributor is terminated by a brewer pursuant to subsections B, C
22 and D of this section.

1 J. No brewer shall require any beer distributor to waive
2 compliance with any provision of the Oklahoma Alcoholic Beverage
3 Control Act.

4 K. No brewer shall charge or accept, and no beer distributor
5 shall pay or provide, any money, property, gratuity, rebate, free
6 goods, shipping charges different than those charged for all beer
7 distributors, allowances, thing of value or inducement from a beer
8 distributor in exchange for the brewer entering into a distributor
9 agreement with the beer distributor. However, a brewer who also
10 holds a beer distributor license and desires to sell all or a
11 portion of its beer distribution rights and business, or a holder of
12 small brewer license who desires to change its election from self-
13 distribution to the use of a distributor agreement may accept a
14 payment for the fair market value of its existing and established
15 distribution business in the subject territory.

16 L. This section shall apply to any agreement entered into and
17 any renewals, extensions, amendments or conduct constituting a
18 modification of a distributor agreement by a brewer existing on or
19 after the effective date of this act.

20 SECTION 82. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 3-112 of Title 37A, unless there
22 is created a duplication in numbering, reads as follows:

23 The operation and maintenance of a brewpub is subject to the
24 following conditions:

1 1. No person shall be permitted to own or operate a brewpub
2 without first paying the required fees set forth in Section 13 of
3 this act and obtaining a proper brewpub license from the ABLE
4 Commission in the manner provided in the Oklahoma Alcoholic Beverage
5 Control Act;

6 2. Each brewpub licensee shall comply with all other applicable
7 state and local license and permit requirements; and

8 3. In order to qualify for a brewpub license, a manufacturer
9 must meet the definition of a small brewer.

10 SECTION 83. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 3-113 of Title 37A, unless there
12 is created a duplication in numbering, reads as follows:

13 A. A small brewer is authorized to sell to either licensed
14 distributors or retailers. A small brewer shall elect whether it
15 will distribute through a distributor or self-distribute to
16 retailers; however, a small brewer may not elect to do both
17 simultaneously. The election shall be made through notice to the
18 ABLE Commission. Any changes to the election require immediate
19 notification to the ABLE Commission before the change in election
20 will take effect. A small brewer that elects to use a distributor
21 shall be subject to the terms and conditions of the Oklahoma
22 Alcoholic Beverage Control Act.

23 B. As a condition to the issuance of a Small Brewer License,
24 such small brewer shall pay the annual fees as set forth in Section

1 13 of this act and shall qualify with the Secretary of State of the
2 State of Oklahoma for a permit to do business within the State of
3 Oklahoma.

4 C. A small brewer may sell directly to consumers in this state
5 if it is the holder of a brewpub license. A licensed small brewer
6 may serve free samples of beer produced by the small brewer in this
7 state to visitors twenty-one (21) years of age or older. Samples
8 may only be distributed or consumed between 10:00 a.m. and 2:00 a.m.
9 Samples of beer served by a small brewer under this section shall
10 not be considered a "sale" of beer within the meaning of Article
11 XXVIII A of the Oklahoma Constitution or the Oklahoma Alcoholic
12 Beverage Control Act. However, such samples of beer shall be
13 considered beer removed or withdrawn from the small brewer for "use
14 or consumption" within the meaning of this title for excise tax
15 determination and reporting requirements.

16 SECTION 84. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 3-114 of Title 37A, unless there
18 is created a duplication in numbering, reads as follows:

19 A. This section applies to all retailers authorized to sell
20 beer for consumption off the premises.

21 B. The holder of a retail beer or retail spirits license may
22 resell beer only in the packaging in which the holder received the
23 beer or may resell the contents of the packages as individual
24 containers.

1 C. Except for purposes of resale as individual containers, the
2 licensee shall not:

3 1. Mutilate, tear apart or cut apart original packaging in
4 which beer was received; or

5 2. Repackage beer in a manner misleading to the consumer or
6 that results in required labeling being omitted or obscured.

7 D. The ABLE Commission shall impose the following penalties for
8 a violation of subsection B or C of this section:

9 1. After notice and hearing, immediately revoke the license of
10 the licensee committing the violation; and

11 2. Impose a fine of not more than One Thousand Dollars
12 (\$1,000.00) for each violation.

13 Any licensee whose license is revoked pursuant to this
14 subsection shall not be eligible to reapply for a license for at
15 least three (3) months from the date of the revocation. Any stock
16 of beer in undamaged original packaging in the possession of such
17 licensee shall be repurchased by the distributor as long as the
18 repurchased inventory falls within the date considered by the brewer
19 of the product to be appropriate for sale to a consumer.

20 E. Administrative fines collected pursuant to this section
21 shall be enforceable in the district courts of this state. All
22 administrative fines collected by the ABLE Commission pursuant to
23 this section shall be forwarded to the State Treasurer for deposit
24 in the General Revenue Fund.

SECTION 85. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-115 of Title 37A, unless there is created a duplication in numbering, reads as follows:

To assure and control quality, a beer distributor or a holder of a small brewer self-distribution license or brewpub self-distribution license, at the time of a regular delivery, may withdraw with the permission of the retailer, a quantity of beer in undamaged original packaging from the retailer's stock if:

1. The beer distributor or holder of a small brewer self-distribution license or brewpub self-distribution license replaces the stock with beer of identical, equivalent value as the beer withdrawn; or

2. The stock is withdrawn before the date, or immediately after the date, considered by the brewer of the product to be the date the product becomes inappropriate for sale to a consumer.

A consignment sale of beer is not authorized under this section.

SECTION 86. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-116 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. Any manufacturer or subsidiary of a manufacturer who markets its products solely through a subsidiary or subsidiaries, a distiller, rectifier, bottler, winemaker or importer of alcoholic beverages, bottled or made in a foreign country, either within or without this state, may sell such brands or kinds of alcoholic

1 beverages to every licensed wine and spirits wholesaler who desires
2 to purchase the same, on the same price basis and without
3 discrimination or inducements, and shall further be required to sell
4 such beverages only to those persons licensed as wine and spirits
5 wholesalers.

6 B. The provisions of subsection A of this section shall not
7 apply to a brewer.

8 C. No manufacturer shall require a wine and spirits wholesaler
9 or beer distributor to purchase any alcoholic beverages or any
10 goods, wares or merchandise as a condition to the wine and spirits
11 wholesaler or beer distributor obtaining or being entitled to
12 purchase any alcoholic beverages.

13 Violation of this section shall be a misdemeanor. Conviction
14 hereunder shall automatically revoke the violator's license.

15 SECTION 87. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 3-117 of Title 37A, unless there
17 is created a duplication in numbering, reads as follows:

18 A. A retailer may offer for sale and sell alcoholic beverages
19 which are packaged or are to be packaged with nonalcoholic
20 promotional items, if such packaging and all nonalcoholic
21 promotional items are provided by the manufacturer or agent of the
22 manufacturer at the expense of the manufacturer or agent of the
23 manufacturer, regardless of where such packages are assembled.

24

1 B. The manufacturer or agent of the manufacturer may provide
2 such packaging and any nonalcoholic promotional items to the
3 retailer at the retailer's premises, or otherwise, and may deliver
4 such packaging and all nonalcoholic promotional items provided by
5 the manufacturer or agent to the retailer by means of common
6 carrier, or otherwise, at no expense to the retailer, for the
7 retailer to incorporate the alcoholic beverage product of the
8 manufacturer into the manufacturer's packaging or with such
9 promotional items.

10 C. The manufacturers of alcoholic beverages, through their
11 agents, must make access to the packaging for such alcoholic
12 beverages with nonalcoholic promotional items available equally to
13 retailers in this state. Such access to the promotional packaging
14 is subject to the reasonable supplies of such packaging and subject
15 to the terms of the manufacturer's promotion. Such access to the
16 manufacturer's packaging by the retailers shall be commensurate to
17 the needs of the retailers based on the stock of the manufacturer's
18 product carried by the retailer. The manufacturers shall only be
19 required to carry reasonable supplies of such promotional packages
20 and shall make a good faith effort to ratably distribute such
21 packaging or items to those retailers who desire such packaging or
22 items.

SECTION 88. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-118 of Title 37A, unless there is created a duplication in numbering, reads as follows:

No alcoholic beverages intended for off-premise or on-premise consumption shall be sold at retail for less than a six percent (6%) markup, unless the sale meets one or more of the following conditions:

1. Where seasonable merchandise is sold in bona fide clearance sales, if advertised, marked and sold as such;

2. Where merchandise is imperfect or damaged or is being discontinued and is advertised, marked and sold as such;

3. Where merchandise is sold upon the final liquidation of any business;

4. Where merchandise is sold for charitable purposes or to relief agencies;

5. Where merchandise is sold on contract to departments of the government or governmental institutions;

6. Where merchandise is sold by any officer acting under the order or direction of any court; or

7. Where merchandise is sold at any bona fide auction sale.

SECTION 89. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-119 of Title 37A, unless there is created a duplication in numbering, reads as follows:

1 It shall be unlawful for any manufacturer, wine and spirits
2 wholesaler, beer distributor or person authorized to sell alcoholic
3 beverages to a wholesaler, or any employee, officer, director,
4 stockholder owning fifteen percent (15%) or more of the stock, any
5 type of partner, manager, member or agent thereof, to directly or
6 indirectly:

7 1. Have any financial interest in any premises upon which any
8 alcoholic beverage is sold at retail or in any business connected
9 with the retailing of alcoholic beverages; provided, nothing in this
10 act shall prohibit the operation of a mixed beverage licensee, beer
11 and wine licensee or caterer licensee by an entity which has common
12 owners with the holder of a small brewer license or a brewpub
13 license;

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

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

21 4. Require any wine and spirits wholesaler, beer distributor,
22 retailer, mixed beverage, on premises beer and wine licensee, public
23 event or caterer to purchase and dispose of any quota of alcoholic
24 beverages, or to require any retailer to purchase any kind, type,

1 size, container or brand of alcoholic beverages in order to obtain
2 any other kind, type, size, container or brand of alcoholic
3 beverages;

4 5. Sell to any retailer, mixed beverage, on-premises beer and
5 wine licensee, public event or caterer any alcoholic beverage on
6 consignment, or upon condition, or with the privilege of return, or
7 on any condition other than a bona fide sale; provided, the delivery
8 in good faith, through mistake, inadvertence or oversight, of an
9 alcoholic beverage that was not ordered by a retailer, mixed
10 beverage licensee, on-premises beer and wine licensee, caterer,
11 public event or special event licensee to such licensee shall not be
12 considered a violation of this paragraph, nor shall replacement of
13 breakage that occurred while the alcoholic beverages were in transit
14 from the wholesaler to the licensee, or replacement of product with
15 torn or defective labels, short-filled cases or other defects that
16 make the product unsaleable, as long as the licensee notifies the
17 wine and spirits wholesaler or the beer distributor of the error,
18 breakage or defect in writing within five (5) business days after
19 delivery of the product; or

20 6. Extend credit to any retailer, other than holders of Federal
21 Liquor Stamps on United States government reservations and
22 installations, mixed beverage, public event or on-premises beer and
23 wine licensee or caterer, other than a state lodge located in a
24 county which has approved the retail sale of alcoholic beverages by

1 the individual drink for on-premises consumption. The acceptance of
2 a postdated check or draft or the failure to deposit for collection
3 a current check or draft by the second banking day after receipt
4 shall be deemed an extension of credit. Violation of this section
5 shall be grounds for suspension of the license.

6 SECTION 90. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 3-120 of Title 37A, unless there
8 is created a duplication in numbering, reads as follows:

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

1 SECTION 91. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3-121 of Title 37A, unless there
3 is created a duplication in numbering, reads as follows:

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

12 SECTION 92. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 3-122 of Title 37A, unless there
14 is created a duplication in numbering, reads as follows:

15 A. As used in this section:

16 1. "Interactive entertainment facility" means premises that
17 feature interactive computer and video entertainment attractions,
18 themed merchandise, food and alcoholic beverages; and

19 2. "Main purpose of the business" means that the total gross
20 income derived from interactive entertainment exceeds the total
21 gross income derived from the sale, mixing, or serving of alcoholic
22 beverages.

23 B. Nothing in Sections 89 or 90 of this act shall be construed
24 as prohibiting the issuance, transfer or renewal of any mixed

1 beverage license to any person or corporation with respect to
2 premises that are an integral part of an interactive entertainment
3 facility in which a manufacturer, nonresident seller, distiller or
4 rectifier has an interest, directly or indirectly, of less than
5 thirty percent (30%) if all the following conditions are met:

6 1. The main purpose of the business conducted within the
7 facility is providing interactive entertainment, not the sale of
8 alcoholic beverages;

9 2. The mixed beverage licensee shall serve other brands of
10 wine, beer and alcoholic beverages in addition to the brands
11 manufactured, produced or distributed by any distiller, rectifier,
12 nonresident seller or manufacturer that has a direct or indirect
13 interest in the mixed beverage license;

14 3. No more than twenty percent (20%) of the mixed beverage
15 licensee's purchases of alcoholic beverages for sale on its licensed
16 premises shall be products manufactured, produced or distributed by
17 the manufacturer, distiller, rectifier or nonresident seller that
18 has a direct or indirect interest in the licensed premises;

19 4. The licensee purchases all alcoholic beverages and beer sold
20 on the premises from wholesalers that are licensed in Oklahoma;

21 5. The distiller, rectifier, nonresident seller or manufacturer
22 does not control, directly or indirectly, the day-to-day operation
23 of the licensed premises; and
24

1 6. Officers, directors and employees of the distiller,
2 rectifier, nonresident seller or manufacturer do not serve as
3 officers or directors of the entity operating the licensed premises.

4 SECTION 93. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 3-123 of Title 37A, unless there
6 is created a duplication in numbering, reads as follows:

7 A. It shall be unlawful for any person privileged to sell
8 alcoholic beverages to wholesalers or retailers:

9 1. To discriminate, directly or indirectly, in price between
10 one wine and spirits wholesaler and another wine and spirits
11 wholesaler, when that manufacturer has not designated a single wine
12 and spirits wholesaler, or between one retailer and another retailer
13 purchasing alcoholic beverages bearing the same brand or trade name
14 and of like age and quality; or

15 2. To grant, directly or indirectly, any discount, rebate, free
16 goods, allowance or other inducement.

17 B. The ABLE Commission is hereby authorized to promulgate rules
18 which are necessary to carry out the purpose of this section and to
19 prevent its circumvention by offering or giving of any rebate,
20 allowance, free goods, discount or any other thing or service of
21 value; provided, the posting or invoicing of charges per order for
22 processing minimum orders or per case for the handling or repacking
23 of goods by wine and spirits wholesalers and beer distributors for
24

1 sales in less than full case lots shall not constitute a violation
2 of this section.

3 C. For the violation of any provision of this section or of any
4 rule duly promulgated under this section, the ABLE Commission may
5 suspend or revoke a license as follows:

6 1. For a first offense, not exceeding ten (10) days' suspension
7 of license;

8 2. For a second offense, not exceeding thirty (30) days'
9 suspension of license; and

10 3. For a third offense, the ABLE Commission shall revoke the
11 license.

12 SECTION 94. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 3-124 of Title 37A, unless there
14 is created a duplication in numbering, reads as follows:

15 Sale of alcoholic beverages by the individual drink for on-
16 premises consumption shall be unlawful in any county of this state
17 unless the sale has been approved by a majority of the registered
18 voters of the county voting thereon at a special election called by
19 the board of county commissioners. Such election shall be called by
20 the board of county commissioners upon receipt of a petition signed
21 by registered voters constituting not less than fifteen percent
22 (15%) of the total votes cast in the county in the last General
23 Election for the Office of Governor, or such election may be called
24 by the board of county commissioners upon its own motion. At the

1 time such election is called, the proposition shall include those
2 days or portions of days, if any, on which sales of alcoholic
3 beverages by the individual drink are not authorized. If the
4 proposition is the result of a motion of the board of county
5 commissioners, then the ABLE Commission shall designate the days or
6 portions of days, if any, on which the sales of alcoholic beverages
7 are not authorized. If the proposition is the result of a petition,
8 such petition shall specify days or portions of days, if any, on
9 which the sales of alcoholic beverages are not authorized.

10 If, at the Special Election, the proposition to authorize the
11 sale of alcoholic beverages by the individual drink for on-premises
12 consumption fails to be approved by the registered voters of the
13 county, the county shall not hold another election on whether or not
14 to approve such sales, for at least two (2) years from the date the
15 proposition failed to be approved.

16 SECTION 95. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 3-125 of Title 37A, unless there
18 is created a duplication in numbering, reads as follows:

19 A. No alcoholic beverages may be sold, dispensed, served or
20 consumed on the premises of a mixed beverage, caterer, public event,
21 charitable event, special event, on-premises beer and wine, small
22 brewer or brewpub licensee between the hours of 2:00 a.m. and 10:00
23 a.m.
24

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

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

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

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

14 SECTION 96. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 3-126 of Title 37A, unless there
16 is created a duplication in numbering, reads as follows:

17 No alcoholic beverages may be dispensed, served or consumed on
18 the premise of a bottle club licensee between the hours of 2:00 a.m.
19 and 10:00 a.m.

20 SECTION 97. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 3-127 of Title 37A, unless there
22 is created a duplication in numbering, reads as follows:

23 A. No person shall be allowed to enter or remain in the
24 designated bar or lounge area of a bottle club unless that person

1 possesses a valid membership card for that club issued by the club.
2 Membership cards issued by a bottle club shall be purchased by the
3 club from the ABLE Commission at a cost of Three Dollars (\$3.00) per
4 temporary membership card and Twenty-five Dollars (\$25.00) per
5 annual membership card. A temporary membership card shall be valid
6 for a period of seventy-two (72) consecutive hours from issuance to
7 the member. The date of issuance of a temporary membership shall be
8 clearly and prominently marked upon the card. When the card is
9 issued to a member by the club, the club may require the member to
10 reimburse the club for the cost of the card. No membership card
11 shall be issued to any person under twenty-one (21) years of age.
12 The ABLE Commission shall have the authority to promulgate rules
13 concerning bottle club membership cards.

14 B. A bottle club license authorizes alcoholic beverages
15 belonging to members of the club to be:

- 16 1. Stored, possessed and mixed on club premises; and
- 17 2. Served for on-premises consumption to members. Each member
18 shall be served only from the member's individually owned bottle of
19 alcoholic beverage which shall be marked with the owner's full name
20 or code number. Such numbers shall be maintained on the club
21 premises, available for inspection by employees of the ABLE
22 Commission or by any peace officer.

23 Pool systems of storage and purchase of alcoholic beverages in a
24 bottle club are specifically prohibited.

1 C. The sale, preparation or service of ice or nonalcoholic
2 beverages that are sold, prepared or served for the purpose of being
3 mixed with alcoholic beverages for consumption on the premises where
4 such sale, preparation or service occurs shall be subject to the
5 sales tax levied by the Oklahoma Sales Tax Code and to any municipal
6 or county sales taxes.

7 D. Any bottle club licensee, or employee or agent of such a
8 licensee who sells to a member any alcoholic beverage shall be
9 deemed guilty of a misdemeanor and upon conviction thereof shall be
10 punished by a fine of One Thousand Dollars (\$1,000.00) and the club
11 license shall be revoked for a period of thirty (30) days. Any
12 bottle club licensee, or employee or agent of such a licensee who
13 delivers or furnishes to a member any alcoholic beverage that does
14 not belong to the member shall be deemed guilty of a misdemeanor and
15 upon conviction thereof shall be punished by a fine of not less than
16 Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars
17 (\$1,000.00) and the club license shall be revoked for a period of
18 thirty (30) days. Any bottle club licensee, or employee or agent of
19 such a licensee who permits any person who is not a member to enter
20 and remain in the designated bar or lounge area of the club premises
21 shall be deemed guilty of a misdemeanor and upon conviction thereof
22 shall be punished by a fine of One Thousand Dollars (\$1,000.00) and
23 the bottle club license shall be suspended for a period of thirty
24 (30) days. No bottle club licensee, or employee or agent of such a

1 licensee shall serve alcoholic beverages to any person that does not
2 possess a valid membership card for that club issued by the club.

3 E. Any bottle club licensed under the provisions of the
4 Oklahoma Alcoholic Beverage Control Act shall pay the license fee
5 provided by law and obtain a separate license for each separate
6 place of business.

7 F. In counties of this state where retail sale of alcoholic
8 beverages by the individual drink has not been authorized, no person
9 shall serve alcoholic beverages by the individual drink for on-
10 premises consumption or permit the consumption of alcoholic
11 beverages except in a bottle club licensed pursuant to this section
12 or in a private residence; provided, this shall not prohibit a
13 winery from serving visitors on the licensed premises free samples
14 of wine produced on the premises. No member of a bottle club shall
15 serve alcoholic beverages lawfully prepared for the member in the
16 designated bar or lounge area of a bottle club to any person who
17 does not possess a valid membership card for the bottle club.

18 SECTION 98. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 4-101 of Title 37A, unless there
20 is created a duplication in numbering, reads as follows:

21 A. Municipalities are authorized to enact ordinances consistent
22 with the provisions of the Oklahoma Alcoholic Beverage Control Act.
23 In municipalities with populations of thirty-five thousand (35,000)
24 or more according to the most recent federal decennial census, these

ordinances may provide for maximum penalties of fines not to exceed One Thousand Dollars (\$1,000.00) plus court costs, an imprisonment not to exceed ninety (90) days, or both such fine and imprisonment.

B. All municipalities of this state may enact ordinances prohibiting or regulating nudity or drink solicitation in establishments licensed pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act.

C. The provisions of this section shall not authorize any municipality to regulate by ordinance or issue any licenses for activities for which a license is required to be issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act.

SECTION 99. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4-102 of Title 37A, unless there is created a duplication in numbering, reads as follows:

The governing body 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. The complaint shall set forth the grounds for the proposed

1 suspension or revocation. Such complaint may be based on any ground
2 that the ABLE Commission might have asserted. Upon receipt of such
3 complaint, the ABLE Commission shall forward a copy of the complaint
4 to the licensee together with written notice of the time and place
5 of hearing thereon. If the complaint is filed by a municipality,
6 the hearing shall be conducted within the corporate limits of the
7 municipality. If the complaint is filed by a county, the hearing
8 shall be conducted in the county. The hearing shall be held within
9 the time limits and in the manner prescribed for suspension or
10 revocation proceedings initiated by the ABLE Commission. In any
11 proceeding initiated pursuant to this section, the municipality or
12 county shall be deemed an interested party, shall have the right to
13 be heard and to present evidence at the hearing on the complaint and
14 shall be entitled to appeal from any final order entered by the ABLE
15 Commission in the manner otherwise provided in the Oklahoma
16 Alcoholic Beverage Control Act. Such municipality or county shall
17 not be required to give bond on appeal.

18 SECTION 100. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 4-103 of Title 37A, unless there
20 is created a duplication in numbering, reads as follows:

21 Municipalities and counties are hereby authorized to create a
22 new zoning classification to regulate the location of establishments
23 that sell, serve, mix, dispense or allow consumption of alcoholic
24 beverages on the premises. Such zoning classification may include

1 but shall not be limited to reasonable parking, access regulations
2 and other such zoning regulations as the local authorities may deem
3 necessary for local control. This authority shall be in addition to
4 the authority to enact ordinances established in Section 98 of this
5 act.

6 Municipal courts are hereby authorized jurisdiction to hear
7 violations of any ordinances enacted pursuant to the provisions of
8 this section and Section 98 of this act.

9 SECTION 101. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 4-104 of Title 37A, unless there
11 is created a duplication in numbering, reads as follows:

12 Municipalities are hereby authorized to levy an annual
13 occupational tax for the privilege of operating as a retailer, mixed
14 beverage, beer and wine, caterer, public event or special event
15 licensee, bottle club, manufacturer, wine and spirits wholesaler or
16 beer distributor, within their respective jurisdictions, not to
17 exceed the state license fee for such licensees; provided, the tax
18 shall be levied only by the municipality in which such licensee has
19 its principal place of business. This section shall not give any
20 municipality any right to determine or regulate the issuance of any
21 license, except as specifically provided for in this section, as the
22 ABLE Commission shall have exclusive authority as to issuance and
23 regulations of licenses. No municipality may prescribe rules or
24

1 regulations in conflict with or in addition to the statutes of this
2 state or the rules of the ABLE Commission.

3 Municipalities which levy an occupational tax under this section
4 shall make an annual report to the ABLE Commission, covering the
5 fiscal year, showing the number and class of licensees subject to
6 the tax authorized by this section, and the amount of money received
7 therefrom, which information is to be included in the annual report
8 of the ABLE Commission submitted to the Governor, and transmitted to
9 the Legislature.

10 SECTION 102. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 4-105 of Title 37A, unless there
12 is created a duplication in numbering, reads as follows:

13 Counties are hereby authorized to levy an annual occupational
14 tax for the privilege of operating as a mixed beverage, beer and
15 wine, caterer, public event or special event licensee or as a bottle
16 club, within their respective jurisdictions and not located in a
17 municipality levying an occupation tax as provided by Section 101 of
18 this act, not to exceed the state license fee for such licensees;
19 provided, the tax shall be levied only by the county in which such
20 licensee has its principal place of business. All revenues derived
21 from any such annual occupational tax shall be deposited in the
22 general revenue fund of the county. This section shall not give any
23 county any right to determine or regulate the issuance of any
24 license, except as specifically provided for in this section, as the

1 ABLE Commission shall have exclusive authority as to issuance and
2 regulations of licenses. No county may prescribe rules or
3 regulations in conflict with or in addition to the statutes of this
4 state or the rules of the ABLE Commission.

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

11 SECTION 103. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 4-106 of Title 37A, unless there
13 is created a duplication in numbering, reads as follows:

14 All sheriffs, marshals and police officers, all district and
15 city or town attorneys and all employees of the ABLE Commission,
16 shall diligently enforce all provisions of the Oklahoma Alcoholic
17 Beverage Control Act. If any such person shall fail or refuse to do
18 or perform any duty required by the provisions of such statutes, he
19 or she shall be removed from office as hereinafter provided. In all
20 cases where any sheriff, marshal, police officer, district or city
21 or town attorney shall fail or refuse to perform any such duty, a
22 petition shall be filed in the district court of the county wherein
23 such person resides, in the name of the state, upon the
24 recommendation of a grand jury or on the relation of the board of

1 county commissioners or of any attorney appointed by the Governor
2 under the provisions of applicable statutes. In all cases where an
3 employee of the ABLE Commission fails to perform any duty imposed
4 upon him or her, such failure shall constitute cause for the
5 termination of any such employee as provided by law. The Oklahoma
6 State Bureau of Investigation and the Oklahoma State Bureau of
7 Narcotics and Dangerous Drugs Control shall also have enforcement
8 authority for the provisions of the Oklahoma Alcoholic Beverage
9 Control Act with the power to initiate complaints with the ABLE
10 Commission and by filing charges, if appropriate, with the district
11 attorney in the county where the violation occurred.

12 SECTION 104. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 5-101 of Title 37A, unless there
14 is created a duplication in numbering, reads as follows:

15 A. Except as provided in this subsection, an excise tax is
16 hereby levied and imposed upon all alcoholic beverages imported or
17 manufactured, for sale, use or distribution, or used or possessed in
18 this state at the following rates:

19 1. One Dollar and forty-seven cents (\$1.47) per liter, and a
20 proportionate rate on fractions thereof, on each liter of spirits;

21 2. Nineteen cents (\$0.19) per liter, and a proportionate rate
22 on fractions thereof, on each liter of wine;

23 3. Fifty-five cents (\$0.55) per liter, and a proportionate rate
24 on fractions thereof, on each liter of sparkling wine; and

1 4. Twelve Dollars and fifty cents (\$12.50) per barrel (thirty-
2 one (31) wine gallons) and a proportionate rate on portions thereof,
3 on each barrel of beer; provided, beer manufactured in this state
4 for export shall not be taxed.

5 B. The excise tax levied on alcoholic beverages except beer
6 under subsection A of this section shall be paid as follows:

7 1. Payment of the excise tax levied by this section with
8 respect to all alcoholic beverages, other than beer, shall be made
9 by the person shipping the same into Oklahoma, or in the case of
10 direct imports from foreign countries by the importer, or in the
11 case of alcoholic beverages manufactured in Oklahoma by the first
12 seller thereof;

13 2. The due and payable excise tax levied by this section shall
14 be remitted electronically with tax returns electronically filed
15 with the Oklahoma Tax Commission using procedures prescribed by the
16 Tax Commission. The tax returns shall be made under oath by the
17 person liable for the tax on forms prescribed and provided by the
18 Tax Commission and shall be accompanied by payment of the taxes due
19 and any additional sums due as provided by this section. Invoices
20 describing all alcoholic beverages as described in this section
21 which are shipped into this state or which are first sold in this
22 state shall be delivered to the Tax Commission immediately following
23 shipment of liquors into the state or delivery to the first
24 purchaser. Tax returns and payment of excise tax and other sums due

1 shall be electronically filed with the Tax Commission no later than
2 the twentieth day of the month immediately succeeding the month of
3 shipment, importation or first sale of the alcoholic beverages as
4 provided in paragraph 1 of this subsection; and

5 3. Each person required to file a tax return pursuant to this
6 section shall remit the excise tax due. Up to ten percent (10%) of
7 each tax payment made under this subsection may be made in the form
8 of revenue stamps previously purchased pursuant to Section 111 of
9 this act.

10 C. For the purpose of collecting and remitting the excise tax
11 imposed under this section, the person liable for such tax is hereby
12 declared to be the agent of the state for such purposes.

13 D. Nothing herein shall be construed to impose an additional
14 excise tax on alcoholic beverages held in inventory by wholesalers
15 and retailers upon which the excise tax was paid prior to the
16 effective date of any excise tax increase.

17 E. The retail sale of alcoholic beverages shall be subject to
18 the sales tax statutes enacted by the Legislature.

19 SECTION 105. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 5-102 of Title 37A, unless there
21 is created a duplication in numbering, reads as follows:

22 The excise tax levied by the Alcoholic Beverages Governance Act
23 is hereby declared and intended to be a direct tax upon the ultimate
24 retail consumer of alcoholic beverages in this state, and when such

1 tax is paid by, or collected from, any other person, as herein
2 provided for, such payment shall be considered as an advance payment
3 for convenience and facility only, and such tax shall thereafter be
4 added to the price of such alcoholic beverages and recovered from
5 the ultimate retail consumer thereof.

6 SECTION 106. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 5-103 of Title 37A, unless there
8 is created a duplication in numbering, reads as follows:

9 A. The excise tax levied by Section 104 of this act shall not
10 apply to:

11 1. Alcohol used exclusively for industrial purposes by the
12 holder of an industrial license;

13 2. Alcohol lawfully withdrawn and used free of tax under a tax-
14 free permit issued by the United States government;

15 3. Alcoholic beverages used exclusively by licensed physicians
16 and dentists in the bona fide practice of their professions or by
17 licensed pharmacists in compounding prescriptions;

18 4. Beer, cider and wine made for personal use pursuant to a
19 personal use permit issued as provided in Section 70 of this act;

20 5. Wine used exclusively for sacramental purposes in bona fide
21 religious ceremonies;

22 6. Alcoholic beverages, not exceeding one (1) liter, imported
23 into this state by the possessor for his or her own personal use;

24

1 7. Alcoholic beverages provided to attendees, free of charge,
2 at charitable events licensed and approved by the ABLE Commission;
3 and

4 8. Mixed beverage and public event licensees which utilize the
5 services of a licensed caterer.

6 B. As a condition precedent to the allowance of any exemption
7 authorized by subsection A of this section:

8 1. If a license or permit is required by the Oklahoma Alcoholic
9 Beverage Control Act, for such use, the person claiming any such
10 exemption must have obtained from the ABLE Commission the license or
11 permit authorizing such exempt use; and

12 2. There must be furnished such proof of the exclusive use for
13 such exempt purposes as the Oklahoma Tax Commission may require.

14 SECTION 107. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 5-104 of Title 37A, unless there
16 is created a duplication in numbering, reads as follows:

17 All revenue accruing from the excise tax levied by Section 104
18 of this act shall be collected by the Oklahoma Tax Commission and
19 distributed as follows:

20 1. Two-thirds of ninety-seven percent (2/3 of 97%) of such tax
21 revenue shall be paid to the State Treasurer and placed to the
22 credit of the General Revenue Fund of the state; provided, any
23 amounts derived from the tax levied pursuant to paragraphs 2 and 3
24 of subsection A of Section 104 of this act that exceed an amount

1 equal to the total amount collected from such tax levy for the
2 fiscal year ending on June 30, 2010, shall be distributed to the
3 Oklahoma Viticulture and Enology Center Development Revolving Fund
4 created pursuant to Section 132 of this act, but in no event shall
5 the distribution to the Oklahoma Viticulture and Enology Center
6 Development Revolving Fund in any fiscal year exceed Three Hundred
7 Fifty Thousand Dollars (\$350,000.00);

8 2. One-third of ninety-seven percent (1/3 of 97%) of such
9 revenue is hereby allocated to the counties of this state and shall
10 be paid to the county treasurers on the basis of area and population
11 (giving equal weight to area and population) wherein the sale of
12 alcoholic beverages is lawful, and all of such funds shall be
13 appropriated by the county commissioners of each county and
14 apportioned by the county treasurer to all incorporated cities and
15 towns in the county on the basis of population within each city and
16 town on a per capita basis based on the last preceding Federal
17 Decennial Census. For the purpose of appropriating and paying the
18 excise taxes collected under the Oklahoma Alcoholic Beverage Control
19 Act, or any act which is amendatory thereof or supplemental thereto,
20 to the incorporated cities and towns in any county, city or town,
21 the corporate limits of which include territory within more than one
22 county, shall be considered and treated as being a city or town in
23 only the county within which more than fifty percent (50%) of the
24 entire population of such city or town, as shown by the last

1 preceding Federal Decennial Census, reside, and, for such purpose,
2 shall not be considered or treated as being a city or town in any
3 other county. In the event that the last preceding Federal
4 Decennial Census fails to disclose information from which such fact
5 may be determined by the board of county commissioners which is
6 appropriating the tax money then involved to the cities and towns in
7 its county, the board of county commissioners shall make an
8 estimate, from the best information then available to it, as to the
9 percentage of the entire population of such city or town then
10 residing in the county. If such board of county commissioners
11 determines, either from information disclosed by the last preceding
12 Federal Decennial Census, or from the best information then
13 available to the ABLE Commission (when such information is not
14 disclosed by the last preceding Federal Decennial Census), that more
15 than fifty percent (50%) of the population of such a city or town
16 resides in that county, such city or town shall receive its pro rata
17 share of such tax money on the basis of its entire population
18 according to the last preceding Federal Decennial Census; but if
19 such board of county commissioners so determines that more than
20 fifty percent (50%) of the population of such city or town does not
21 reside in that county, no part of such tax money shall be
22 appropriated or paid to such city or town; and

23 3. The remaining three percent (3%) of such excise tax revenue
24 shall be paid to the State Treasurer and placed to the credit of the

1 Oklahoma Tax Commission Fund to be paid out of the fund pursuant to
2 appropriations made by the State Legislature.

3 SECTION 108. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 5-105 of Title 37A, unless there
5 is created a duplication in numbering, reads as follows:

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

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

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

13 3. Ice or nonalcoholic beverages that are sold, prepared or
14 served for the purpose of being mixed with alcoholic beverages and
15 consumed on the premises where the sale, preparation or service
16 occurs; and

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

20 B. For purposes of this section:

21 1. "Mixed beverages" means mixed beverages as defined by
22 Section 3 of this act;

23 2. "Total gross receipts" means the total amount of
24 consideration received as charges for admission to a mixed beverage

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

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

10 C. The gross receipts tax levied by this section shall be in
11 addition to the excise tax levied in Section 104 of this act, the
12 sales tax levied in the Oklahoma Sales Tax Code and to any municipal
13 or county sales taxes.

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

21 E. The total of the retail sale price received for the sale,
22 preparation or service of mixed beverages, ice and nonalcoholic
23 beverages to be mixed with alcoholic beverages shall be the total
24

1 gross receipts for purposes of calculating the sales tax levied in
2 the Oklahoma Sales Tax Code.

3 SECTION 109. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 5-106 of Title 37A, unless there
5 is created a duplication in numbering, reads as follows:

6 All revenues generated from the gross receipts tax levied
7 pursuant to Section 108 of this act shall be paid to the State
8 Treasurer and placed to the credit of the General Revenue Fund of
9 the State of Oklahoma.

10 SECTION 110. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 5-107 of Title 37A, unless there
12 is created a duplication in numbering, reads as follows:

13 A. Every holder of a mixed beverage, if not catered, beer and
14 wine, caterer, hotel beverage, public event, if not catered, or
15 special event license, issued by the ABLE Commission, shall obtain a
16 mixed beverage tax permit from the Oklahoma Tax Commission prior to
17 engaging within this state in the sale, preparation or service of
18 mixed beverages, ice or nonalcoholic beverages that are sold,
19 prepared or served to be mixed with alcoholic beverages. Each
20 licensee shall file a verified application for a mixed beverage tax
21 permit with the Tax Commission, setting forth information as may be
22 required by the Tax Commission.

23 The Tax Commission, or its designated agent, shall issue,
24 without any fees or charges therefor, a mixed beverage tax permit in

1 the name of the licensee for the place of business set forth in the
2 application upon verification that:

3 1. The applicant is a holder of a mixed beverage, if not
4 catered, beer and wine, caterer, hotel beverage, public event, if
5 not catered, or special event license issued by the ABLE Commission;

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

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

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

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

19 B. A separate mixed beverage tax permit for each place of
20 business to be operated must be obtained and no charge therefor
21 shall be made by the Tax Commission. The Tax Commission shall grant
22 and issue to each applicant a separate permit for each place of
23 business in this state, upon proper application therefor and
24 verification thereof by the Tax Commission.

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

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

13 E. Any person operating under a mixed beverage tax permit as
14 provided in this section shall, upon discontinuance of business by
15 sale or otherwise, return such permit to the Tax Commission for
16 cancellation, together with payment of any unpaid or accrued taxes.
17 Failure to surrender a mixed beverage tax permit and pay any and all
18 accrued taxes will be sufficient cause for the Tax Commission to
19 refuse to issue a mixed beverage tax permit subsequently to such
20 person to engage in or transact any business in this state subject
21 to the provisions of this section. Notwithstanding the provisions
22 of subsection H of Section 1364 of Title 68 of the Oklahoma
23 Statutes, the Tax Commission shall not deny a purchaser of a
24 business subject to the provisions of this section a mixed beverage

1 or sales tax permit because of outstanding tax liabilities of the
2 seller, provided the seller pays to the Tax Commission the estimated
3 sales tax owed by the seller. Provided, further, upon completion of
4 an audit by the Tax Commission and determination of actual sales tax
5 owed, the difference between the estimated sales tax paid and the
6 actual sales tax owed shall be paid by the seller to the Tax
7 Commission if taxes were underpaid or returned to the seller by the
8 Tax Commission if taxes were overpaid.

9 F. Whenever a holder of a mixed beverage tax permit fails to
10 comply with any provisions of any state alcoholic beverage laws or
11 tax laws, the Tax Commission, after giving ten-days' notice in
12 writing of the time and place of hearing to show cause why this
13 permit should not be revoked, may revoke or suspend the permit. A
14 mixed beverage tax permit shall be renewed upon removal of cause or
15 causes of revocation or suspension. Mixed beverage tax permits are
16 conditioned upon the proper and timely payment of all taxes due and
17 in the event a holder of a mixed beverage tax permit becomes
18 delinquent in reporting or paying any tax due under the provisions
19 of state tax law, any duly authorized agent of the Tax Commission
20 may cancel the permit and it shall be renewed only upon the filing
21 of proper reports and payment of all taxes due and application for
22 renewal in accordance with subsection A of this section.

23 G. Upon revocation or suspension of the mixed beverage, beer
24 and wine, caterer, hotel beverage, public event or special event

1 license by the ABLE Commission, the Tax Commission, or its duly
2 authorized agent, shall temporarily suspend the mixed beverage tax
3 permit issued to the licensee in accordance with Section 212 of
4 Title 68 of the Oklahoma Statutes.

5 SECTION 111. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 5-108 of Title 37A, unless there
7 is created a duplication in numbering, reads as follows:

8 A. The Oklahoma Tax Commission shall promulgate rules to
9 implement a reporting method of taxing all alcoholic beverages sold
10 or delivered in this state to eliminate the use of any type of
11 stamps.

12 B. Every manufacturer or brewer manufacturing or brewing any
13 beer in this state, for sale in this state, and every manufacturer
14 or brewer outside of the state, shipping any beer into this state,
15 shall cause to be printed, upon an affixed label around and upon the
16 body of each bottle or upon the top or the lid of each can of such
17 beer, a symbol or other designation, approved by the Tax Commission,
18 including such information as the Tax Commission may require.
19 Brewers shall be required to submit samples of crowns, tops and
20 labels to the Tax Commission for approval.

21 C. Payment of the excise tax levied by the Oklahoma Alcoholic
22 Beverage Control Act, with respect to beer shall be made by the
23 manufacturer or brewer as to all beer produced by such brewer within
24 the state for sale within this state, and shall be made by the

1 importing manufacturer or beer distributor who is the original
2 consignee of beer manufactured or produced outside of this state as
3 to all beer imported into this state by such importing licensee. It
4 is the duty of each Oklahoma licensed brewer with respect to beer
5 produced by such brewer within this state, and of each Oklahoma
6 licensed beer distributor as to beer produced outside of this state
7 and imported into this state by such beer distributor, to pay the
8 excise tax on such beer to the Oklahoma Tax Commission as
9 hereinafter provided.

10 D. Notwithstanding any other provision of law, the tax levied
11 by the Oklahoma Alcoholic Beverage Control Act shall be part of the
12 gross proceeds or gross receipts from the sale of alcoholic
13 beverages, as those terms are defined in paragraph 12 of Section
14 1352 of Title 68 of the Oklahoma Statutes.

15 SECTION 112. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 5-109 of Title 37A, unless there
17 is created a duplication in numbering, reads as follows:

18 The Oklahoma Tax Commission shall have authority to allow credit
19 for or make refunds of any money paid for stamps issued by the Tax
20 Commission in payment of state excise tax by the manufacturer
21 pursuant to authority granted by the Tax Commission. All
22 applications to the Tax Commission for credit or replacement under
23 the provisions of this section shall be verified by affidavit and
24 all proof and evidence supporting such application shall be made in

1 strict conformity with the rules of the Tax Commission setting forth
2 the requirements in connection with such evidence and application.

3 SECTION 113. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 5-110 of Title 37A, unless there
5 is created a duplication in numbering, reads as follows:

6 A. Payment of the excise tax levied by Section 104 of this act
7 with respect to beer shall be made by the brewer or the beer
8 distributor as herein provided. The tax shall be due and payable on
9 the first day of each month for the preceding calendar month and if
10 not paid on or before the tenth day of each month shall thereafter
11 be delinquent.

12 B. Every brewer and beer distributor shall make and transmit to
13 the Oklahoma Tax Commission on or before the tenth day of each
14 calendar month, upon a form prescribed and furnished by the Tax
15 Commission, an itemized and verified report, for the preceding
16 calendar month, showing the following information:

17 1. Total quantity and description of opening inventory of beer
18 as of the first day of the month;

19 2. Total receipts and acquisitions during month from every
20 source. This shall be itemized showing:

21 a. imports and purchases within and without this state
22 separately,

23 b. the kind and quantity of each type of beer as shown by
24 the shipper's or seller's invoices thereof,

- c. the date of each purchase,
- d. the quantities purchased,
- e. the date received,
- f. the person from whom purchased,
- g. the manifest, bill of lading or delivery invoice number of each shipment, which number shall be the number used by the original seller as shown on the basic shipping records which accompany the shipment,
- h. the point of origin and point of destination of each shipment, and
- i. the name and ABLE Commission license number of the carrier if shipped by carrier;

3. The kind and quantity of all beer sold or withdrawn from stock for sale, use or consumption in the State of Oklahoma during the preceding calendar month; the date of each sale; the kind and quantity of beer in each sale; the name, address and ABLE Commission license number of each purchaser; the manifest, bill of lading or delivery invoice number, which number shall be the number as shown on the basic shipping records which accompany the delivery; and the name and ABLE Commission license number of the carrier if shipped by carrier;

4. All nontaxable sales and dispositions made during the month, including exports and sales and deliveries to military installations located within this state, shall be reported and information in

1 reference to each such nontaxable sale, disposition and export shall
2 be shown in detail as is required for sales in the State of Oklahoma
3 and shall be supported by evidence satisfactory to the Tax
4 Commission;

5 5. Closing inventory of beer as of the last day of the calendar
6 month; and

7 6. Such other information pertaining to the brewer's and beer
8 distributor's beginning inventory of beer, receipts or acquisitions
9 thereof, sales and dispositions thereof, and the closing inventory,
10 as the Tax Commission may by form or rule require.

11 C. Every brewer and beer distributor, at the time of making the
12 monthly report required by this section, shall remit to the Tax
13 Commission the total amount of the excise tax due as shown by the
14 report. It shall be unlawful for any brewer or beer distributor to
15 sell or offer for sale any beer while delinquent in the payment of
16 any excise tax due the state.

17 D. Reports and remittances, as required herein, which are
18 mailed on the tenth day of the month and received by the Tax
19 Commission subsequent to the tenth of the month in which the excise
20 tax is payable, shall be deemed to have been received by the Tax
21 Commission before becoming delinquent. Postmark or registry receipt
22 showing deposit in the United States mails shall be conclusive
23 evidence of the date of mailing. The time for filing returns and
24

1 paying the excise tax levied by the Oklahoma Alcoholic Beverage
2 Control Act shall not be extended.

3 E. If upon investigation it is determined by the Tax Commission
4 that any nontaxable disposition or sale claimed by any brewer or
5 beer distributor is not supported by a valid invoice, or is
6 fraudulently or falsely claimed in any manner by such brewer or beer
7 distributor or any agent of such licensee, the Tax Commission shall
8 disallow any such deduction and shall assess and collect the tax,
9 together with the penalty and interest thereon, on the total amount
10 of the disallowed deduction taken by the licensee.

11 F. The taking and claiming of any deduction not authorized by
12 law, upon a report by any brewer or beer distributor, or the failure
13 to file monthly reports or to pay any excise tax due, shall
14 constitute grounds for the revocation of such person's license by
15 the ABLE Commission and the Tax Commission shall promptly notify the
16 ABLE Commission of all such cases.

17 SECTION 114. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 5-111 of Title 37A, unless there
19 is created a duplication in numbering, reads as follows:

20 A. Every wine and spirits wholesaler and/or other person
21 authorized under the Oklahoma Alcoholic Beverage Control Act to
22 import alcoholic beverages into this state, shall make and transmit
23 to the Oklahoma Tax Commission on or before the tenth day of each
24 month, upon a form prescribed and furnished by the Tax Commission,

1 an itemized and verified report for the preceding calendar month,
2 showing the following information:

3 1. Opening inventory of alcoholic beverages other than beer;

4 2. Total receipts and acquisitions during month from every
5 source. This shall be itemized showing:

6 a. imports and purchases from within and without this
7 state separately,

8 b. the kind, proof and quantity of each type of alcoholic
9 beverage as shown by the shipper's or seller's
10 invoices thereof,

11 c. the date of each purchase,

12 d. the amount purchased,

13 e. the date received,

14 f. the person from whom purchased,

15 g. the manifest, bill of lading or delivery invoice
16 number of each shipment, which number shall be the
17 number used by the original seller as shown on the
18 basic shipping records which accompany the shipment,
19 and

20 h. the point of origin and point of destination of each
21 shipment;

22 3. The kind and quantity of all alcoholic beverages sold or
23 withdrawn from inventory for sale, use or consumption during the
24 calendar month; the date of each sale; and the kind, proof and

1 quantity of alcoholic beverages in each sale; the name, address and
2 ABLE Commission license number of each purchaser; and the manifest,
3 bill of lading or delivery invoice number, which number shall be the
4 number as shown on the basic shipping records which accompany the
5 delivery;

6 4. All nontaxable sales and dispositions made during the month,
7 supported by evidence satisfactory to the Tax Commission;

8 5. Closing inventory of alcoholic beverages as of the last day
9 of the calendar month; and

10 6. Such other information pertaining to the wholesaler's
11 beginning inventory of alcoholic beverages, receipts or acquisitions
12 thereof, sales and dispositions thereof, and closing inventory, as
13 the Tax Commission may by form or rule require.

14 B. If upon investigation it is determined by the Tax Commission
15 that any nontaxable disposition or sale claimed by any licensee is
16 not supported by a valid invoice, or is fraudulently or falsely
17 claimed in any manner by such licensee or any agent of such
18 licensee, the Tax Commission shall disallow any such deduction and
19 shall assess and collect the excise tax, together with the penalty
20 and interest thereon, on the total amount of the disallowed
21 deduction taken by the licensee.

22 C. The taking and claiming of any deduction not authorized by
23 law, upon a report by any wholesaler or the failure to file monthly
24 reports or pay any excise tax due, shall constitute grounds for the

1 revocation of such person's license, distributor permit or
2 wholesaler permit by the ABLE Commission and the Tax Commission
3 shall promptly notify the ABLE Commission of all such cases.

4 SECTION 115. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 5-112 of Title 37A, unless there
6 is created a duplication in numbering, reads as follows:

7 A. All manufacturers, importers, brokers and others who sell
8 alcoholic beverages to a wholesaler in Oklahoma, regardless of
9 whether the sale is consummated within or without the State of
10 Oklahoma, shall obtain a distributor permit from the Oklahoma Tax
11 Commission.

12 B. Any person having a wholesaler's license shall obtain a
13 wholesaler permit from the Tax Commission.

14 C. A distributor permit or wholesaler permit may be obtained by
15 filing a verified permit application with the Tax Commission on a
16 form furnished by the Tax Commission.

17 SECTION 116. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 5-113 of Title 37A, unless there
19 is created a duplication in numbering, reads as follows:

20 A. The Oklahoma Tax Commission, as provided by the Uniform Tax
21 Procedure Code, may issue a distributor permit or wholesaler permit
22 to any person who sells alcoholic beverages to a wine and spirits
23 wholesaler or beer distributor or to any person having a wholesaler
24 license.

1 B. Each wholesaler shall furnish a copy of the wholesaler
2 permit to manufacturers, importers, brokers and others who sell
3 alcoholic beverages prior to purchasing alcoholic beverages from a
4 holder of a distributor permit. Each manufacturer, importer, broker
5 and other who sells alcoholic beverages shall furnish a copy of the
6 distributor permit to the wine and spirits wholesaler or beer
7 distributor prior to selling alcoholic beverages to a wholesaler.

8 C. Holders of distributor permits or wholesaler permits shall
9 maintain an itemized and verified record for the preceding calendar
10 month of all sales or purchases of alcoholic beverages and shall
11 transmit the verified record to the Tax Commission on or before the
12 tenth day of each month, upon a form prescribed and furnished by the
13 Tax Commission. Permit holders shall maintain records of sales and
14 purchases of alcoholic beverages for three (3) years.

15 SECTION 117. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 5-114 of Title 37A, unless there
17 is created a duplication in numbering, reads as follows:

18 A. All bottles or other original containers of alcoholic
19 beverages in the possession of any person upon which the taxes have
20 not been paid as required by the Oklahoma Alcoholic Beverage Control
21 Act and the rules thereunder are declared to be contraband. Any
22 duly authorized employee of the ABLE Commission or the Oklahoma Tax
23 Commission is authorized to seize the same, and such containers of
24

1 alcoholic beverages so seized shall be subject to confiscation and
2 forfeiture by the Tax Commission as hereinafter provided.

3 B. If, upon examination of invoices or from other
4 investigation, the Tax Commission finds that any alcoholic beverages
5 have been sold without tax payment as required by the Oklahoma
6 Alcoholic Beverage Control Act, the Tax Commission shall have the
7 power to require such person to pay to the Tax Commission as such
8 tax a sum equal to twice the amount of the tax due. If any person
9 is unable to furnish evidence to the Tax Commission of excise tax
10 payment to cover purchases of alcoholic beverages made by such
11 person, the prima facie presumption shall arise that such alcoholic
12 beverages were sold without excise tax payment.

13 It is expressly provided, except where specific provisions of
14 the Oklahoma Alcoholic Beverage Control Act require otherwise, that
15 the procedures and remedies contained in the Uniform Tax Procedure
16 Code of the Oklahoma Statutes in connection with the making of
17 assessments, and the enforcement and collection thereof, the
18 penalties and interest to be applied, all lien and tax warrant
19 provisions, all incidental remedies, including procedure for an
20 injunction, and all other provisions of the Uniform Tax Procedure
21 Code which may be applied or used to enforce the provisions of the
22 Oklahoma Alcoholic Beverage Control Act, shall be applicable and
23 available to the Tax Commission in administering the provisions
24

1 hereof and collecting the taxes herein levied on alcoholic
2 beverages.

3 SECTION 118. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 5-115 of Title 37A, unless there
5 is created a duplication in numbering, reads as follows:

6 Any employee of the ABLE Commission or the Oklahoma Tax
7 Commission shall have power and authority, without a warrant, to
8 enter and examine the licensed premises of all licensees to
9 determine whether any licensee possesses any container of alcoholic
10 beverage upon which the taxes have not been paid as required by the
11 Oklahoma Alcoholic Beverage Control Act and the rules thereunder,
12 and if such employee shall find any such container of alcoholic
13 beverages, he or she shall immediately seize the same. Such
14 employees of the ABLE Commission or the Tax Commission shall be
15 given free access to and shall not be hindered or interfered with in
16 their examination of the licensed premises of any licensees, and, in
17 case any such employee is denied free access or is hindered or
18 interfered with in making such examination, any license held by the
19 person preventing such free access or interfering with or hindering
20 such employee shall be subject to suspension or revocation.

21 SECTION 119. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 5-116 of Title 37A, unless there
23 is created a duplication in numbering, reads as follows:

24

1 A. After the seizure of such container of alcoholic beverage
2 upon which the taxes have not been paid, any officer or employee of
3 the ABLE Commission, designated in writing by the Director, shall
4 hold a hearing to determine whether the container of alcoholic
5 beverage seized did not have the necessary taxes paid as required by
6 the Oklahoma Alcoholic Beverage Control Act and the rules
7 thereunder. The ABLE Commission shall give not less than seven-
8 days' notice of the time and place of such hearing to the owner of
9 such container of alcoholic beverage, if known, and also to the
10 person in whose possession such container was found, if such person
11 is known, and if such person in possession is not the owner of the
12 property. The Director, or any employee of the ABLE Commission,
13 designated to conduct such hearing, shall have power to administer
14 oaths and the power to issue subpoenas requiring the attendance of
15 and the giving of testimony by witnesses and subpoenas duces tecum
16 requiring the production of books, papers, records and memoranda.

17 B. Pursuant to such hearing, the ABLE Commission shall
18 determine whether the container of alcoholic beverage seized did not
19 have the taxes paid as required by the Oklahoma Alcoholic Beverage
20 Control Act and the rules thereunder, and upon a decision to that
21 effect, an order shall be entered that such container of alcoholic
22 beverage is confiscated and forfeited to the State of Oklahoma. The
23 ABLE Commission shall give notice of such order to the owner of such
24 container of alcoholic beverage, if known, and also to the person in

1 whose possession the property so taken was found, if such person is
2 known, and if such person in possession is not the owner of the
3 property.

4 SECTION 120. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 5-117 of Title 37A, unless there
6 is created a duplication in numbering, reads as follows:

7 After an order of forfeiture, and when a proceeding for judicial
8 review of the order has been concluded or the time for judicial
9 review has expired, the ABLE Commission, to the extent that its
10 order is sustained on review, shall sell such forfeited alcoholic
11 beverage at such time and place and in such manner as it deems
12 advisable. Proceeds of such sales shall be deposited with the State
13 Treasurer for the credit of the General Revenue Fund of the State of
14 Oklahoma.

15 SECTION 121. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 5-118 of Title 37A, unless there
17 is created a duplication in numbering, reads as follows:

18 Every person who shall possess more than one (1) liter of
19 alcoholic beverage, the bottle or other original container upon
20 which the excise tax levied by Section 104 of this act has not been
21 paid as provided for by the Oklahoma Alcoholic Beverage Control Act,
22 shall be guilty of a misdemeanor, and if such person is the holder
23 of a license under the Oklahoma Alcoholic Beverage Control Act, such
24 license shall be subject to revocation or suspension by the ABLE

1 Commission. The Oklahoma Tax Commission may promulgate rules for
2 hearings on a revocation of a license for violation of the
3 provisions of this section. Provided, the ABLE Commission may
4 suspend any license for a violation of this section for a period of
5 thirty (30) days with notice of hearing as the ABLE Commission may
6 determine.

7 SECTION 122. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 5-119 of Title 37A, unless there
9 is created a duplication in numbering, reads as follows:

10 Every manufacturer of alcoholic beverages other than beer shall
11 package, ship, store and deliver same in cases, and no alcoholic
12 beverage other than beer shall be sold, shipped, stored or delivered
13 by any such manufacturer except in sealed cases. Every manufacturer
14 of alcoholic beverages other than beer shall serially number such
15 cases on the end of the case where the brand and product are
16 identified. All such cases shall be sealed by tape or such other
17 method as the ABLE Commission by rule may provide so that the
18 contents of such cases cannot be removed without breaking or
19 destroying such seal. It shall be unlawful for any person to remove
20 the alcoholic beverage contents of a case so sealed without breaking
21 or destroying such seal. No wholesaler or beer distributor shall
22 receive or accept any alcoholic beverages other than beer in this
23 state except in sealed cases so numbered. Any holder of a license
24

1 or permit violating the provisions of this section shall be subject
2 to revocation or suspension of the license.

3 SECTION 123. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 5-120 of Title 37A, unless there
5 is created a duplication in numbering, reads as follows:

6 All licensees under the Oklahoma Alcoholic Beverage Control Act
7 shall keep books and records with regard to alcoholic beverages
8 which shall contain such information and itemization thereof as the
9 ABLE Commission may prescribe by rule. All books, records,
10 inventories, invoices and other accounting documents required by the
11 Oklahoma Alcoholic Beverage Control Act shall be kept for three (3)
12 years and shall at all times be available for inspection by duly
13 authorized representatives of the ABLE Commission or the Oklahoma
14 Tax Commission.

15 SECTION 124. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 5-121 of Title 37A, unless there
17 is created a duplication in numbering, reads as follows:

18 Every holder of a nonresident seller license, when applicable,
19 shall make and transmit to the Oklahoma Tax Commission, on or before
20 the tenth day of each month upon a form prescribed and furnished by
21 the Tax Commission, an itemized and verified report for the
22 preceding calendar month, showing each shipment or sale of alcoholic
23 beverages into Oklahoma. Such report shall show:

- 24 1. The date of the shipment;

2. The total quantity of the shipment;

3. The name and ABLE Commission license number of the Oklahoma purchaser; and

4. The manifest, bill of lading or invoice number of each shipment.

Such report shall be accompanied by duplicate original copies of each manifest, invoice, bill of lading or other document showing the details, including the proof of all spirits, of all shipments during such calendar month.

SECTION 125. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-122 of Title 37A, unless there is created a duplication in numbering, reads as follows:

Every manufacturer, subject to licensing hereunder, shall make and transmit to the Oklahoma Tax Commission, on or before the tenth day of each calendar month, upon a form prescribed and furnished by the Tax Commission, an itemized and verified report, for the preceding calendar month, showing:

1. The kind and quantity of all alcoholic beverages manufactured within this state during the month, including:

a. the proof of all spirits,

b. the kind and quantity of all alcoholic beverages purchased within this state, including the proof of all spirits,

- c. the kind and quantity of all alcoholic beverages imported into this state during the month, including the proof of all spirits,
- d. the name and ABLE Commission license number of the person from whom purchased or received,
- e. the manifest, bill of lading or invoice number of each shipment, which number shall be the number used by the original seller as shown by the basic shipping records which accompanied the shipment,
- f. the date of receipt of each shipment,
- g. the name and ABLE Commission license number of the carrier, if transported by carrier; and

2. All sales of alcoholic beverages made by such manufacturer during such calendar month, both within and without Oklahoma, including in detail the kind and quantity of all alcoholic beverages sold, including:

- a. the proof of all spirits, as shown by the invoice covering each such sale,
- b. the invoice number,
- c. the date of each sale,
- d. the name, address and the ABLE Commission license number of the purchaser,
- e. the name and ABLE Commission license number of the carrier, if shipped by carrier, and

1 f. such other information as the Tax Commission may
2 require.

3 SECTION 126. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 5-123 of Title 37A, unless there
5 is created a duplication in numbering, reads as follows:

6 A. It shall be the duty of every railroad company, express
7 company, common or contract carrier, and of every firm or
8 corporation that shall bring, carry or transport wine, beer or
9 distilled spirits for delivery to any person in the state, except
10 wine or spirit wholesalers or beer distributors, to prepare and file
11 monthly with the Oklahoma Tax Commission, a report containing:

12 1. The name of the company, carrier, person, firm or
13 corporation making the report;

14 2. The period of time covered by the report;

15 3. The name and business address of each shipper of such
16 alcoholic beverages;

17 4. The name and address of each recipient of such alcoholic
18 beverages;

19 5. The quantity of alcoholic beverages delivered to each
20 consignee; and

21 6. The date of delivery.

22 Reports received by the Tax Commission shall be made available
23 to the public by the Oklahoma Open Records Act.

1 B. Upon the Tax Commission's request, the records supporting
2 the report shall be made available to the Tax Commission within
3 thirty (30) calendar days. The books, records, supporting papers
4 and documents containing information and data relating to such
5 reports shall be kept and preserved for a period of three (3) years,
6 unless their destruction sooner is authorized, in writing, by the
7 Tax Commission, and shall be open and available to inspection by the
8 Tax Commission at all times during business hours of the day.
9 Reports shall also be made available to any law enforcement or
10 regulatory body in the state in which a carrier included in a report
11 resides or does business.

12 C. Any person who knowingly violates any of the provisions of
13 this section or any of the rules of the Tax Commission for the
14 administration and enforcement of the provisions of this section is
15 subject to a written reprimand for the first offense. In the case
16 of a subsequent violation within the same calendar year, the carrier
17 shall be subject to a monetary fine of Two Thousand Five Hundred
18 Dollars (\$2,500.00) for a second offense, Five Thousand Dollars
19 (\$5,000.00) for a third offense and Ten Thousand Dollars
20 (\$10,000.00) for all subsequent offenses.

21 SECTION 127. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 5-124 of Title 37A, unless there
23 is created a duplication in numbering, reads as follows:
24

1 Every manufacturer, importer, broker or other who sells
2 alcoholic beverages to a wine and spirits wholesaler, or beer
3 distributor in Oklahoma, after having been issued a license by the
4 ABLE Commission, shall, before manufacturing, purchasing or selling
5 any alcoholic beverage within this state, file with the Oklahoma Tax
6 Commission a bond issued by a surety company authorized to transact
7 business in this state, in such amount as the Tax Commission may
8 fix, but which shall be at least equal to the estimated amount of
9 the tax liability of such licensee for a three-month period, to
10 secure the payment of all excise taxes due from sales of alcoholic
11 beverages to a wholesaler, or beer distributor, under the provisions
12 of the Oklahoma Alcoholic Beverage Control Act. Provided, the
13 amount of the bond for every wholesaler or beer distributor shall be
14 not less than One Thousand Dollars (\$1,000.00). Such bonds shall be
15 payable to the State of Oklahoma and conditioned upon compliance
16 with the excise tax provisions of the Oklahoma Alcoholic Beverage
17 Control Act and the rules of the Tax Commission relating thereto.
18 In lieu of such surety bond, any such manufacturer, wine and spirits
19 wholesaler, or beer distributor, may deposit cash or negotiable
20 securities, approved by the Tax Commission, in such amount as it may
21 prescribe.

22 SECTION 128. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 5-125 of Title 37A, unless there
24 is created a duplication in numbering, reads as follows:

1 A. Every manufacturer, wine and spirits wholesaler, beer
2 distributor or nonresident seller, selling alcoholic beverages in
3 this state, or selling alcoholic beverages for shipment into this
4 state shall, at the time such sale is made, make and deliver to the
5 purchaser or transporter an invoice, bill of lading, manifest or
6 other document describing such alcoholic beverages, showing:

- 7 1. The date of such sale or delivery;
- 8 2. The name and ABLE Commission license number of the seller;
- 9 3. The point of origin of the movement of such alcoholic
10 beverages and the destination of same;
- 11 4. The kind and quantity and a description of such alcoholic
12 beverages, including the proof of all spirits;
- 13 5. The name and ABLE Commission license number of the
14 purchaser;
- 15 6. The sale price; and
- 16 7. Such other information as the Oklahoma Tax Commission may,
17 by form or rule, require.

18 Every such invoice, bill of lading, manifest or other document
19 describing such alcoholic beverages, except beer, must be identified
20 by consecutive numbers printed upon the invoice or document, and
21 each such seller and purchaser must account for each copy of his or
22 her invoice and each number thereof.

23 B. Every common carrier and private carrier, and every person
24 who transports any alcoholic beverages from any point within this

1 state to any other point within or without this state, or who
2 transports alcoholic beverages into this state, shall at all times
3 while such alcoholic beverages are in transit have in the possession
4 of the driver or operator of the transporting carrier or vehicle the
5 invoice, bill of lading, manifest or other document describing such
6 alcoholic beverages being transported.

7 C. Every manufacturer, wine and spirits wholesaler or beer
8 distributor importing into or purchasing in this state any alcoholic
9 beverage, and any retailer purchasing any alcoholic beverage in this
10 state, shall at the time of delivery or acceptance of such alcoholic
11 beverage, demand and receive a proper bill of lading, invoice,
12 manifest or other document, particularly describing such alcoholic
13 beverage and showing the proof of all spirits.

14 D. Every manufacturer, wine and spirits wholesaler, beer
15 distributor, nonresident seller and retailer shall retain one copy
16 of each invoice, bill of lading, manifest or similar document
17 covering all such sales and purchases by such licensee, as a part of
18 the permanent records of such licensee for a period of at least
19 three (3) years.

20 E. Any person violating any of the provisions of this section,
21 whether acting for himself or herself or as the agent or employee of
22 any licensee hereunder, shall be guilty of a misdemeanor and, upon
23 conviction, shall be punished as provided by law. Any violation of
24 the provisions of this section shall also constitute grounds for the

1 revocation by the ABLE Commission of any license issued under the
2 Oklahoma Alcoholic Beverage Control Act.

3 SECTION 129. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 5-126 of Title 37A, unless there
5 is created a duplication in numbering, reads as follows:

6 Every manufacturer, wine and spirits wholesaler, beer
7 distributor, nonresident seller, retailer, mixed beverage, caterer,
8 public event and special event licensee shall keep a record of all
9 alcoholic beverages imported, purchased, received, manufactured,
10 produced, sold, delivered or otherwise disposed of, and the amount
11 of all alcoholic beverages on hand, as herein provided. Such
12 records must be kept for a period of at least three (3) years and
13 shall include:

14 1. The date;

15 2. The number of the invoice, manifest, bill of lading or
16 similar type document; and

17 3. The total amount of alcoholic beverages purchased, imported,
18 received, manufactured, produced, sold, delivered or otherwise
19 disposed of, by such licensee in each transaction.

20 Each such licensee shall keep and maintain such other records in
21 details as the Oklahoma Tax Commission may require.

22 SECTION 130. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 5-127 of Title 37A, unless there
24 is created a duplication in numbering, reads as follows:

1 The county excise board of each county in the state, in
2 approving the estimates of needs for cities and towns for each
3 fiscal year, shall make reasonable estimates of the revenue to be
4 derived under the provisions of the Oklahoma Alcoholic Beverage
5 Control Act.

6 SECTION 131. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 5-128 of Title 37A, unless there
8 is created a duplication in numbering, reads as follows:

9 A. There is hereby created in the State Treasury a fund to be
10 known as the "Alcoholic Beverage Control Fund" which shall consist
11 of revenues collected by the state from license and registration
12 fees, with any interest, fines or penalties levied and collected by
13 the ABLE Commission pursuant to the provisions of the Oklahoma
14 Alcoholic Beverage Control Act; provided, the first Three Hundred
15 Thousand Dollars (\$300,000.00) of such revenues collected each
16 fiscal year shall be deposited to the Community-Based Substance
17 Abuse Revolving Fund and the next Twenty Thousand Dollars
18 (\$20,000.00) of such revenues collected each fiscal year shall be
19 deposited in the Prevention of Youth Access to Alcohol Revolving
20 Fund. Any unappropriated balance in the Oklahoma Alcoholic Beverage
21 Control Fund at the close of each fiscal year shall revert to the
22 General Revenue Fund of the State of Oklahoma, except for the amount
23 necessary to satisfy any appropriations made or to be made from the
24 fund by the Oklahoma State Legislature for the ensuing fiscal year.

1 All such monies collected by the ABLE Commission pursuant to the
2 provisions of the Oklahoma Alcoholic Beverage Control Act shall be
3 deposited in the State Treasury for credit to the General Revenue
4 Fund of the state, except as provided in subsection B of this
5 section.

6 B. There is hereby created in the State Treasury a revolving
7 fund for the ABLE Commission to be designated the "Alcoholic
8 Beverage Governance Revolving Fund". The fund shall be a continuing
9 fund, not subject to fiscal year limitations, and shall consist of
10 any monies received from the surcharge collected by the Tax
11 Commission pursuant to subsection F of Section 13 of this act and
12 any other sources of funds provided by law. All monies accruing to
13 the credit of the fund shall be budgeted and expended by the ABLE
14 Commission for general operations. Expenditures from the fund shall
15 be made upon warrants issued by the State Treasurer against claims
16 filed as prescribed by law with the Director of the Office of
17 Management and Enterprise Services for approval and payment.

18 SECTION 132. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 5-129 of Title 37A, unless there
20 is created a duplication in numbering, reads as follows:

21 A. There is hereby created in the State Treasury a revolving
22 fund for the Oklahoma Department of Agriculture, Food, and Forestry
23 to be designated the "Oklahoma Viticulture and Enology Center
24 Development Revolving Fund".

1 B. The fund shall be a continuing fund, not subject to fiscal
2 year limitations, and shall consist of all monies distributed to the
3 fund:

4 1. From the apportionment provided in paragraph 1 of Section
5 107 of this act; and

6 2. From any other source in accordance with state and federal
7 law.

8 C. All monies accruing to the credit of the fund are hereby
9 appropriated and may be budgeted and expended by the Department for
10 the purpose of:

11 1. Establishing a Viticulture and Enology Center on the campus
12 of Redlands Community College;

13 2. Developing viticulture-related and enology-related education
14 programs;

15 3. Developing technologies, strategies or practices that aid in
16 the production of grapes and wine in Oklahoma; and

17 4. Increasing the positive economic impact of the Oklahoma wine
18 industry on this state.

19 D. Expenditures from the fund shall be made upon warrants
20 issued by the State Treasurer against claims filed as prescribed by
21 law with the Director of the Office of Management and Enterprise
22 Services for approval and payment.

1 SECTION 133. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 5-130 of Title 37A, unless there
3 is created a duplication in numbering, reads as follows:

4 The ABLE Commission is hereby authorized to promulgate rules
5 governing the labeling of alcoholic beverages bottled, packaged,
6 sold or possessed for sale within this state, not inconsistent with
7 the provisions of the Oklahoma Alcoholic Beverage Control Act.

8 SECTION 134. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 5-131 of Title 37A, unless there
10 is created a duplication in numbering, reads as follows:

11 The bottling, packaging, sale or possession by any licensee of
12 any alcoholic beverage not labeled in conformity with such rules and
13 the provisions of the Oklahoma Alcoholic Beverage Control Act shall
14 be grounds for suspension, revocation or cancellation of the
15 license.

16 SECTION 135. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 5-132 of Title 37A, unless there
18 is created a duplication in numbering, reads as follows:

19 A. Except as provided in subsection D of this section, no
20 alcoholic beverage shall be labeled, offered or advertised for sale
21 in this state unless in accordance with rules promulgated pursuant
22 to the provisions of Section 133 of this act and unless the brand
23 label shall have been registered with and approved by the ABLE
24

1 Commission and the appropriate fee paid as provided for in this
2 section.

3 B. An application for registration of a brand label shall be
4 filed by and fees paid by the manufacturer or brewer of the brand if
5 the manufacturer or brewer is licensed by the ABLE Commission;
6 however, if the manufacturer is represented by a manufacturer's
7 agent or licensed nonresident seller, then the manufacturer's agent
8 or nonresident seller shall submit each label for each product the
9 manufacturer offers for sale in this state. Cordials and wines
10 which differ only as to age or vintage year, as defined by such
11 rules, shall be considered the same brand, and those that differ as
12 to type or class may be considered the same brand by the ABLE
13 Commission where consistent with the purposes of this section.

14 C. The application for registration of a brand label shall be
15 filed on a form prescribed by the ABLE Commission, and shall contain
16 such information as the ABLE Commission shall require. Such
17 application shall be accompanied by a certified check, bank
18 officers' check or draft or money order in the amount of the annual
19 registration fee, or the properly prorated portion thereof
20 prescribed by this section.

21 D. 1. The annual fee for registration of any brand label for
22 spirits shall be Three Hundred Seventy-five Dollars (\$375.00). The
23 annual fee for registration of any brand label for beer shall be Two
24 Hundred Dollars (\$200.00). The annual fee for registration of any

1 brand label for wine made in the United States, or for registration
2 of any category of imported wine as defined by the Tax Commission,
3 shall be Two Hundred Dollars (\$200.00). Beer manufactured in this
4 state shall be exempt from brand label registration fees.

5 2. Each brand label registered and approved pursuant to this
6 section shall be valid for a term of up to one (1) year, expiring on
7 the June 30 next following registration, and may be renewed for
8 subsequent terms of one (1) year beginning on the July 1 following
9 the initial registration. Brand registration fees for labels
10 registered after July 1 may be prorated through the following June
11 30 on a quarterly basis. The brand registration fee shall not be
12 transferable.

13 E. If the ABLE Commission shall deny the application for
14 registration of a brand label, it shall return the registration fee
15 to the applicant, less twenty-five percent (25%) of such fee.

16 F. The ABLE Commission may at any time exempt any discontinued
17 brand from fee provisions of this section where a manufacturer or
18 wholesaler has an inventory of one hundred cases or less of liquor
19 or wine and five hundred cases or less of beer, and certifies to the
20 ABLE Commission in writing that such brand is being discontinued.

21 G. No private labels or control labels shall be approved for
22 sale in this state.
23
24

1 SECTION 136. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 5-133 of Title 37A, unless there
3 is created a duplication in numbering, reads as follows:

4 A. No holder of a mixed beverage, beer and wine, caterer,
5 special event, public event or airline/railroad beverage license
6 shall refill with any substance a container which contained any
7 alcoholic beverage on which the tax levied by Section 104 of this
8 act has been paid.

9 B. A mixed beverage licensee shall not be prohibited from
10 preparing and selling infused drinks on the licensed premises,
11 provided the licensee complies with this section. "Infusion" is the
12 process in which a distilled spirit has one or more ingredients
13 including but not limited to fruits, vegetables, spices or nuts
14 added to the distilled spirit. Provided, it shall not be lawful for
15 a distilled spirit to be infused with any hallucinogenic substances
16 or to have pure or supplemental caffeine or other stimulants added,
17 including but not limited to guarana, ginseng or taurine. A mixed
18 beverage licensee who prepares and sells infused drinks shall comply
19 with the following requirements:

20 1. The infusion shall be mixed and stored on the licensed
21 premises;

22 2. The container that the infusion is stored in cannot exceed
23 five (5) gallons, must have a lid, and be maintained in sanitary
24 condition;

1 3. The infusion shall not be aged more than fourteen (14) days;

2 4. The infusion must be used or destroyed within twenty-one
3 (21) days after the end of the aging process;

4 5. Cleaning reports for the container must be available for
5 inspection by the ABLE Commission; and

6 6. The container in which the infusion is stored must have a
7 label affixed to the container that provides the production date of
8 the infusion, the base spirit of the infusion, the date the infusion
9 will finish the aging process and the date in which the infusion
10 must be destroyed.

11 SECTION 137. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 5-134 of Title 37A, unless there
13 is created a duplication in numbering, reads as follows:

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

23 B. Any surety bond furnished under this section shall be a
24 continuing instrument and shall constitute a new and separate

1 obligation in the sum stated therein for each calendar year or a
2 portion thereof while such bond is in force. Such bond shall remain
3 in effect until the surety or sureties are released and discharged
4 by the Tax Commission.

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

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

20 E. Any bond or other security shall be such as will protect
21 this state against failure of the taxpayer or licensee to pay the
22 tax levied by Section 108 of this act. The forfeiture or
23 cancellation of such bond or security, for any reason whatsoever,
24 shall automatically revoke the mixed beverage tax permit issued

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

3 SECTION 138. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 5-135 of Title 37A, unless there
5 is created a duplication in numbering, reads as follows:

6 A. Every mixed beverage tax permit holder, or any person
7 transacting business subject to the gross receipts tax levied by
8 Section 108 of this act, shall file with the Oklahoma Tax Commission
9 a monthly report for each place or location of business, on or
10 before the twentieth day of the month immediately following the
11 month of receipt. The reports shall be made under oath, on forms
12 prescribed by the Tax Commission, which shall include the following
13 information:

- 14 1. Name of mixed beverage tax permit holder;
- 15 2. Mixed beverage tax permit number;
- 16 3. Sales tax permit number;
- 17 4. Mixed beverage, caterer, public event or special event
18 license number;
- 19 5. Gross receipts for the month for the sale, preparation or
20 service of mixed beverages, ice and nonalcoholic beverages mixed
21 with alcoholic beverages;
- 22 6. Gross receipts for the month from charges for the privilege
23 of admission to a mixed beverage establishment which entitles a
24

1 person to complimentary mixed beverages or discounted prices for
2 mixed beverages;

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

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

7 B. The gross receipts tax levied by Section 108 of this act
8 shall be calculated by multiplying the tax rate, thirteen and one-
9 half percent (13.5%), and the total gross receipts for each month
10 from the sale, preparation or service of mixed beverages, ice and
11 nonalcoholic beverages mixed with alcoholic beverages, the total
12 gross receipts of charges received for admission to mixed beverage
13 establishments, as provided in paragraph 6 of subsection A of this
14 section, and the total retail value of complimentary or discounted
15 mixed beverages. Gross receipts from the sale of food prepared with
16 alcoholic beverages shall not be included in the calculation of the
17 monthly tax liability. The tax due for the preceding month shall
18 accompany the report required in subsection A of this section. All
19 taxes, penalties and interest imposed by the Oklahoma Alcoholic
20 Beverage Control Act may be paid in the form of electronic funds
21 transfer or by a personal or company check, cashier's check,
22 certified check or postal money order payable to the Tax Commission.

23 C. If the gross receipts tax levied pursuant to the provisions
24 of Section 108 of this act is not paid on or before the twentieth

1 day of each month, the tax shall be delinquent, and interest and
2 penalty shall accrue on and from the twenty-first day of each month,
3 pursuant to the provisions of the Uniform Tax Procedure Code.

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

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

22 F. Taxes paid as provided by law represented by accounts
23 receivable which are found to be worthless or uncollectible may be
24 credited upon subsequent reports and remittances of such tax, in

1 accordance with rules promulgated by the Tax Commission. If such
2 accounts are thereafter collected, the same shall be reported and
3 the tax shall be paid upon the amount so collected.

4 G. In addition to any other authority granted by law, the Tax
5 Commission is hereby authorized to audit any mixed beverage, beer
6 and wine, caterer, public event or special event licensee to
7 determine if the correct amount of tax payable under Section 108 of
8 this act has been collected; provided, if such an audit reveals that
9 the amount collected is within the following percentages of the
10 amount of tax payable, the taxpayer shall be deemed to be in
11 compliance:

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

14 2. For wine, ninety percent (90%) to one hundred ten percent
15 (110%);

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

18 4. For beer sold in original packages, ninety-five percent
19 (95%) to one hundred five percent (105%).

20 SECTION 139. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 5-136 of Title 37A, unless there
22 is created a duplication in numbering, reads as follows:

23 The mixed beverage tax permit holder or taxpayer may retain one
24 percent (1%) of the tax due and timely reported and paid, in

1 accordance with the provisions of Section 138 of this act, as
2 remuneration for establishing and maintaining the records required
3 by the Oklahoma Alcoholic Beverage Control Act. If such tax becomes
4 delinquent, such taxpayer forfeits his or her claim to the one
5 percent (1%) discount.

6 SECTION 140. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 5-137 of Title 37A, unless there
8 is created a duplication in numbering, reads as follows:

9 A. No mixed beverage, beer and wine, caterer, public event or
10 special event licensee nor any officer, agent or employee of such
11 licensee may possess or permit to be possessed on the premises, for
12 which such license was issued, any container of an alcoholic
13 beverage which is not listed on an invoice from the wholesaler from
14 whom the alcoholic beverage was purchased, unless otherwise
15 permitted by statute.

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

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

7 SECTION 141. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 6-101 of Title 37A, unless there
9 is created a duplication in numbering, reads as follows:

10 A. No person shall:

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

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

16 3. Open a retail container or consume alcoholic beverages on
17 the premises of a package store, grocery store, convenience store or
18 drug store, unless otherwise permitted by law;

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

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

3 6. Transport into, within or through this state more than one
4 (1) liter of alcoholic beverages upon which the Oklahoma excise tax
5 has not been paid unless the person accompanying or in charge of the
6 vehicle transporting same shall possess a true copy of a bill of
7 lading, invoice, manifest or other document particularly identifying
8 the alcoholic beverages being transported and showing the name and
9 address of the consignor and consignee; provided, this prohibition
10 shall not apply to the first one hundred eighty (180) liters of
11 alcoholic beverages classified as household goods by military
12 personnel, age twenty-one (21) or older, when entering Oklahoma from
13 temporary active assignment outside the contiguous United States;

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

23 8. Consume spirits in public except on the premises of a
24 licensee of the ABLE Commission who is authorized to sell or serve

1 spirits by the individual drink, or be intoxicated in a public
2 place. This provision shall be cumulative and in addition to
3 existing law;

4 9. Forcibly resist lawful arrest, or by physical contact
5 interfere with an investigation of any infringement of the Oklahoma
6 Alcoholic Beverage Control Act or with any lawful search or seizure
7 being made by a law enforcement officer or an employee of the ABLE
8 Commission, when such person knows or should know that such acts are
9 being performed by a state, county or municipal officer or employee
10 of the ABLE Commission;

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

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

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

21 13. Knowingly and willfully permit any individual under twenty-
22 one (21) years of age who is an invitee to the person's residence,
23 any building, structure or room owned, occupied, leased or otherwise
24 procured by the person or on any land owned, occupied, leased or

1 otherwise procured by the person, to possess or consume any
2 alcoholic beverage as defined by Section 3 of this act, any
3 controlled dangerous substance as defined in the Uniform Controlled
4 Dangerous Substances Act, or any combination thereof, in such place.

5 B. Except as provided for in subsection C of this section,
6 punishment for violation of paragraph 13 of subsection A of this
7 section shall be as follows:

8 1. Any person who is convicted of a violation of the provisions
9 of paragraph 13 of subsection A of this section shall be deemed
10 guilty of a misdemeanor for the first offense and be punished by a
11 fine of not more than Five Hundred Dollars (\$500.00);

12 2. Any person who, within ten (10) years after previous
13 convictions of a violation:

14 a. of paragraph 13 of subsection A of this section,

15 b. of the provisions of any law of another state
16 prohibiting the offense provided for in paragraph 13
17 of subsection A of this section, or

18 c. in a municipal criminal court of record for the
19 violation of a municipal ordinance prohibiting the
20 offense provided for in paragraph 13 of subsection A
21 of this section,

22 shall be guilty of a misdemeanor and shall be punished by a fine of
23 not more than One Thousand Dollars (\$1,000.00);
24

1 3. Any person who, within ten (10) years after two or more
2 previous convictions of a violation:

3 a. of paragraph 13 of subsection A of this section,

4 b. of the provisions of any law of another state
5 prohibiting the offense provided for in paragraph 13
6 of subsection A of this section, or

7 c. in a municipal criminal court of record for the
8 violation of a municipal ordinance prohibiting the
9 offense provided for in paragraph 13 of subsection A
10 of this section, or

11 d. or any combination of two or more thereof,

12 shall be guilty of a felony and shall be punished by a fine of not
13 more than Two Thousand Five Hundred Dollars (\$2,500.00), or by
14 imprisonment in the custody of the Department of Corrections for not
15 more than five (5) years, or by both such fine and imprisonment.

16 C. Any person who violates paragraph 13 of subsection A of
17 this section, and such actions cause great bodily injury or the
18 death of a person, shall, in addition to any other penalty provided
19 by law, be guilty of a felony, punishable by imprisonment in the
20 custody of the Department of Corrections for not more than five (5)
21 years, a fine of not less than Two Thousand Five Hundred Dollars
22 (\$2,500.00) nor more than Five Thousand Dollars (\$5,000.00), or both
23 such fine and imprisonment.

1 D. Except as provided in subsection C of Section 166 of this
2 act, any person who shall engage in any of the following and disturb
3 the peace of any person:

4 1. In any public place, or in or upon any passenger coach,
5 streetcar, or in or upon any other vehicle commonly used for the
6 transportation of passengers, or in or about any depot, platform,
7 waiting station or room, drink or otherwise consume any intoxicating
8 liquor unless authorized by this act, intoxicating substance or
9 intoxicating compound of any kind, or inhale glue, paint or other
10 intoxicating substance;

11 2. Be drunk or intoxicated in any public or private road, or in
12 any passenger coach, streetcar or any public place or building, or
13 at any public gathering, from drinking or consuming such
14 intoxicating liquor, intoxicating substance or intoxicating compound
15 or from inhalation of glue, paint or other intoxicating substance;
16 or

17 3. Be drunk or intoxicated from any cause,
18 shall be guilty of a misdemeanor, and upon conviction thereof
19 shall be punished by a fine of not less than Ten Dollars (\$10.00),
20 nor more than One Hundred Dollars (\$100.00) or by imprisonment for
21 not less than five (5) days nor more than thirty (30) days or by
22 both such fine and imprisonment.

1 SECTION 142. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 6-102 of Title 37A, unless there
3 is created a duplication in numbering, reads as follows:

4 No licensee of the ABLE Commission shall:

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

8 2. Employ any person under eighteen (18) years of age in the
9 selling of beer or wine or employ any person under twenty-one (21)
10 years of age in the selling of spirits. Provided:

11 a. a mixed beverage, beer and wine, caterer, public
12 event, special event, bottle club, retail wine or
13 retail beer licensee may employ servers or sales
14 clerks who are at least eighteen (18) years of age,
15 except persons under twenty-one (21) years of age may
16 not serve in designated bar or lounge areas, and

17 b. a mixed beverage, beer and wine, caterer, public
18 event, special event or bottle club licensee may
19 employ or hire musical bands who have musicians who
20 are under eighteen (18) years of age if each such
21 musician is either accompanied by a parent or legal
22 guardian or has on their person, to be made available
23 for inspection upon demand by any employee of the ABLE
24 Commission or law enforcement officer, a written,

1 notarized affidavit from the parent or legal guardian
2 giving the underage musician permission to perform in
3 designated bar or lounge areas;

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

7 4. Use any of the following means or inducements to stimulate
8 the consumption of alcoholic beverages, including but not limited
9 to:

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

12 b. sell or offer to sell to any person or group of
13 persons any drinks at a price that is less than six
14 percent (6%) below the markup of the cost to the mixed
15 beverage licensee; provided, a mixed beverage licensee
16 shall be permitted to offer these drink specials on
17 any particular hour of any particular day and shall
18 not be required to offer these drink specials for an
19 entire calendar week or from open to close,

20 c. sell or offer to sell to any person an unlimited
21 number of drinks during any set period of time for a
22 fixed price, except at private functions not open to
23 the public,
24

- 1 d. sell or offer to sell drinks to any person or group of
2 persons on any one day or portion thereof at prices
3 less than those charged the general public on that
4 day, except at private functions not open to the
5 public,
- 6 e. increase the volume of alcoholic beverages contained
7 in a drink without increasing proportionately the
8 price regularly charged for such drink during the same
9 calendar week, or
- 10 f. encourage or permit, on the licensed premises, any
11 game or contest which involves drinking or the
12 awarding of drinks as prizes.

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

16 5. Permit or allow any patron or person to exit the licensed
17 premises with an open container of any alcoholic beverage.

18 Provided, this prohibition shall not be applicable to closed
19 original containers of alcoholic beverages which are carried from
20 the licensed premises of a bottle club by a patron, closed original
21 wine containers removed from the premises of restaurants, hotels and
22 motels, or to closed original containers of alcoholic beverages
23 transported to and from the place of business of a licensed caterer
24 by the caterer or an employee of the caterer;

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

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

5 SECTION 143. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 6-103 of Title 37A, unless there
7 is created a duplication in numbering, reads as follows:

8 A. No retail spirits licensee shall:

9 1. Purchase or receive any alcoholic beverage other than from a
10 wine and spirits wholesaler, beer distributor, winery or small
11 brewer self-distribution licensee who elects to self-distribute;

12 2. Suffer or permit any retail container to be opened, or any
13 alcoholic beverage to be consumed on the licensed premises, unless
14 otherwise permitted by law;

15 3. Sell any alcoholic beverages at any hour other than between
16 the hours of 10:00 a.m. and midnight Monday through Saturday, and
17 shall not be permitted to be open on Thanksgiving Day or Christmas
18 Day. Retail spirits licensees shall be permitted to sell alcoholic
19 beverages on the day of any General, Primary, Runoff Primary or
20 Special Election whether on a national, state, county or city
21 election, provided that the election day does not occur on any day
22 on which such sales are otherwise prohibited by law;

1 4. Sell spirits in a city or town, unless such city or town has
2 a population in excess of two hundred (200) according to the latest
3 Federal Decennial Census;

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

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

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

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

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

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

12 B. No retail spirits licensee shall permit any person under
13 twenty-one (21) years of age to enter into or remain within or about
14 the licensed premises.

15 SECTION 144. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 6-104 of Title 37A, unless there
17 is created a duplication in numbering, reads as follows:

18 No wholesaler licensee shall:

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

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

24

1 SECTION 145. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 6-105 of Title 37A, unless there
3 is created a duplication in numbering, reads as follows:

4 No mixed beverage, public event, special event or on-premises
5 beer and wine licensee shall:

6 1. Purchase or receive any alcoholic beverage other than from a
7 person holding a wine and spirit wholesaler or beer distributor
8 license issued pursuant to the Oklahoma Alcoholic Beverage Control
9 Act; provided, a mixed beverage or on-premises beer and wine
10 licensee whose premises are a restaurant may purchase wine produced
11 at wineries in this state directly from a winemaker as provided in
12 Section 2 of Article XXVIII A of the Oklahoma Constitution;

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

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

21 4. Keep or knowingly permit any alcoholic beverage to be kept,
22 brought or consumed on the licensed premises which is not allowed to
23 be sold or served upon such premises; or
24

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

5 The prohibition in this subsection against persons under twenty-
6 one (21) years of age entering or remaining within the designated
7 bar area of the licensed premises shall not apply if the licensed
8 premises are closed to the public during a time the premises are
9 legally permitted to be open for business and the premises are used
10 for a private party at which alcoholic beverages may be served to
11 persons twenty-one (21) years of age or older. Any alcoholic
12 beverages served at a private party on the licensed premises may be
13 purchased from the licensee at a negotiated price or purchased
14 privately and served at the private party on the licensed premises.
15 Any licensee who desires to conduct such a private party shall
16 notify the ABLE Commission, in writing, at least ten (10) calendar
17 days prior to the private party. The notification shall include the
18 date, time and purpose of the private party and any other
19 information the ABLE Commission may deem necessary.

20 SECTION 146. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 6-106 of Title 37A, unless there
22 is created a duplication in numbering, reads as follows:

23 No bottle club licensee shall:
24

- 1 1. Use or allow the use of any mark or label on a container of
2 alcoholic beverage which does not clearly and precisely indicate the
3 nature of the contents or which might deceive or conceal the nature,
4 composition, quantity, age or quality of any such beverage;
- 5 2. Act as an agent for any bottle club member and purchase any
6 alcoholic beverage for the member;
- 7 3. Use or allow the use of any pool system of storage or
8 purchase of alcoholic beverages;
- 9 4. Allow any person to enter or remain in the designated bar or
10 lounge area of the club unless that person possesses a valid
11 membership card for that club issued by the club;
- 12 5. Sell any alcoholic beverage;
- 13 6. Deliver or furnish to any club member any alcoholic beverage
14 that does not belong to the member;
- 15 7. Serve alcoholic beverages to any person who does not possess
16 a valid membership card for that club issued by the club;
- 17 8. Issue a membership card for the club to a person under
18 twenty-one (21) years of age; or
- 19 9. Allow any person under twenty-one (21) years of age to enter
20 into, remain within or loiter about the designated bar area of the
21 licensed premises, except for members of a musical band employed or
22 hired as provided in paragraph 2 of Section 142 of this act when the
23 band is to perform within such area.

1 The prohibition in this subsection against persons under twenty-
2 one (21) years of age entering or remaining within the designated
3 bar area of the licensed premises shall not apply if the licensed
4 premises are closed to the public during a time the premises are
5 legally permitted to be open for business and the premises are used
6 for a private party at which alcoholic beverages may be served to
7 persons twenty-one (21) years of age or older. Any alcoholic
8 beverages served at a private party on the licensed premises may be
9 purchased from the licensee at a negotiated price or purchased
10 privately and served at the private party on the licensed premises.
11 Any licensee who desires to conduct such a private party shall
12 notify the ABLE Commission, in writing, at least ten (10) calendar
13 days prior to the private party. The notification shall include the
14 date, time and purpose of the private party and any other
15 information the ABLE Commission may deem necessary.

16 SECTION 147. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 6-107 of Title 37A, unless there
18 is created a duplication in numbering, reads as follows:

19 No special event or caterer licensee shall:

20 1. Purchase or receive any alcoholic beverage other than from a
21 person holding a wine and spirits wholesaler or beer distributor
22 license issued pursuant to the provisions of the Oklahoma Alcoholic
23 Beverage Control Act; provided, a special event or caterer licensee
24 may purchase wine produced at small farm wineries or beer produced

1 by a small brewer in this state directly from a winemaker or small
2 brewer as provided in Section 2 of Article XXVIII A of the Oklahoma
3 Constitution or in this act; or

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

7 SECTION 148. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 6-108 of Title 37A, unless there
9 is created a duplication in numbering, reads as follows:

10 No holder of a Retail Wine License or a Retail Beer License
11 shall:

12 1. Purchase or receive any alcoholic beverage other than from a
13 wine and spirits wholesaler, beer distributor, winery or small
14 brewer self-distribution licensee;

15 2. Suffer or permit any retail container to be opened, or any
16 alcoholic beverage to be consumed on the licensed premises, unless
17 otherwise permitted by law;

18 3. Sell any beer or wine at any hour other than between the
19 hours of 7:00 a.m. and 2:00 a.m. the following day, Monday through
20 Sunday. Retail wine and retail beer licensees shall be permitted to
21 sell beer and wine on the day of any General, Primary, Runoff
22 Primary or Special Election whether on a national, state, county or
23 city election;

1 4. Sell any beer and wine on credit; provided, that acceptance
2 by a grocery store, convenience store or drug store of a cash or
3 debit card, or a nationally recognized credit card, in lieu of
4 actual cash payment does not constitute the extension of credit;
5 provided, further, as used in this section:

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

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

19 5. Offer or furnish any prize, premium, gift or similar
20 inducement to a consumer in connection with the sale of beer or
21 wine, except that goods or merchandise included by the manufacturer
22 in packaging with beer or wine or for packaging with beer or wine
23 shall not be included in this prohibition; but no retail wine or
24 retail beer licensee shall sell any beer or wine prepackaged with

1 other goods or merchandise at a price which is greater than the
2 price at which the alcoholic beverage alone is sold; or

3 6. Pay for beer or wine by a check or draft which is dishonored
4 by the drawee when presented to such drawee for payment; and the
5 ABLE Commission may cancel or suspend the license of any retailer
6 who has given a check or draft, as maker or endorser, which is so
7 dishonored upon presentation.

8 SECTION 149. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 6-109 of Title 37A, unless there
10 is created a duplication in numbering, reads as follows:

11 No mixed beverage, beer and wine, bottle club, caterer,
12 charitable event, public event or special event licensee or any
13 employee, manager, operator or agent thereof shall:

14 1. Consume or be under the influence of alcoholic beverages
15 during the hours he or she is on duty. For the purposes of this
16 section, licensees will be deemed to be on duty from the time the
17 licensee first comes on duty until the time the licensee goes off
18 duty at the end of the shift, including any break periods permitted
19 by management. This paragraph shall not apply to any person who
20 works on the premises as an entertainer only;

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

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

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

8 5. Refuse or fail to promptly open a door to the licensed
9 premises upon request of an employee of the ABLE Commission or any
10 other peace officer to enter the premises when the licensee or
11 employee knows or should know that such request is made by an
12 employee of the ABLE Commission or a peace officer. This provision
13 shall not be construed to deny employees of the ABLE Commission or
14 peace officers access at any time to any licensed premises;

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

23 a. hotels or motels who are holders of mixed beverage or
24 on-premises beer and wine licenses from allowing

1 alcoholic beverages to be served away from the bar
2 area anywhere on the licensed premises, or
3 b. licensees, who are lawfully operating at an event held
4 in a facility owned or operated by any agency,
5 political subdivision or public trust of this state,
6 from allowing persons to transport alcoholic beverages
7 from one licensed premises to another within the same
8 building, provided that the building or a part thereof
9 is defined as a common drinking area for consumption
10 of alcohol by resolution of the governing body of the
11 agency, political subdivision or public trust of this
12 state; or

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

17 SECTION 150. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 6-110 of Title 37A, unless there
19 is created a duplication in numbering, reads as follows:

20 No owner, operator, partner, manager or person having
21 supervisory control of any establishment licensed to sell or serve
22 intoxicating beverages shall permit any of the following on or about
23 any commercial premises where intoxicating beverages are dispensed
24 or consumed:

1 1. The performance by any person of acts, or simulated acts, of
2 sexual intercourse, masturbation, sodomy, bestiality, oral
3 copulation, flagellation or any sexual acts which are otherwise
4 prohibited by law;

5 2. The actual intentional touching or caressing or fondling by
6 any person of the breasts, anus or genitals;

7 3. Any person on the licensed premises while such person is
8 unclothed or in such attire, costume or clothing as to expose to
9 view any portion of the areola of the female breast or any portion
10 of the pubic hair, buttocks or genitals; or

11 4. Any person to perform acts of, or acts which simulate,
12 sexual acts which are prohibited by law, or permit any person to use
13 artificial devices or inanimate objects to depict any prohibited
14 activities or permit the showing of films, still pictures,
15 electronic reproductions or other visual reproductions depicting any
16 of the prohibited activities described in this paragraph.

17 SECTION 151. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 6-111 of Title 37A, unless there
19 is created a duplication in numbering, reads as follows:

20 An agent, inspector or any peace officer while making arrests
21 incidental to investigating violations of state law may remove from
22 licensed premises and adjacent areas customers, employees and those
23 individuals who may pose a threat to public safety or a threat to
24 the safety of agents, inspectors or peace officers for the period of

1 time necessary to effect the arrests and complete the pending
2 investigation.

3 SECTION 152. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 6-112 of Title 37A, unless there
5 is created a duplication in numbering, reads as follows:

6 Any person who erases, removes, obliterates, destroys or renders
7 illegible in any manner any serial numbers, marks, brands, legends,
8 license numbers, case numbers or other information required by the
9 Oklahoma Alcoholic Beverage Control Act or by Acts of Congress to be
10 attached or placed upon any original containers or cases containing
11 alcoholic beverages before the contents of such packages or cases
12 have been entirely removed is guilty of a misdemeanor.

13 SECTION 153. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 6-113 of Title 37A, unless there
15 is created a duplication in numbering, reads as follows:

16 It shall be unlawful for any person, firm or corporation to
17 possess any alcoholic beverages with the intent to sell the same
18 without having first procured a license therefor from the ABLE
19 Commission as now provided for by law. All alcoholic beverages
20 found in the possession or under the control of any person or
21 persons, firm or corporation who, on the same date, or within
22 fifteen (15) days prior thereto, has violated Section 153 of this
23 act, shall be seized by the arresting officer and shall be forfeited
24 to the State of Oklahoma, as provided for in Section 167 of this

1 act; provided, property seized by a county or municipal law
2 enforcement officer shall be forfeited to the county or municipality
3 in which the seizure of the property took place, whichever is
4 appropriate, as provided for in Section 167 of this act.

5 SECTION 154. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 6-114 of Title 37A, unless there
7 is created a duplication in numbering, reads as follows:

8 A. 1. If the premises of a licensee of the ABLE Commission
9 contains a separate or enclosed lounge or bar area, which has as its
10 main purpose the sale or distribution of alcoholic beverages for on-
11 premises consumption, notwithstanding that as an incidental service,
12 meals or short order foods are made available therein, no person
13 under twenty-one (21) years of age shall be admitted to such area,
14 except for members of a musical band employed or hired as provided
15 in paragraph 2 of Section 142 of this act when the band is to
16 perform within such area, or persons under twenty-one (21) years of
17 age who are on the licensed premises for the limited purpose of
18 performing maintenance, construction, remodeling, painting or other
19 similar services relating to the building or equipment installation,
20 repair or maintenance on the premises during those hours when the
21 licensed establishment is closed for business. The provisions of
22 this section shall not prohibit persons under twenty-one (21) years
23 of age from being admitted to an area which has as its main purpose
24 some objective other than the sale or mixing or serving of alcoholic

1 beverages, in which sales or serving of alcoholic beverages are
2 incidental to the main purpose, as long as the persons under twenty-
3 one (21) years of age are not sold or served alcoholic beverages.
4 The incidental service of food in the bar area shall not exempt a
5 licensee from the provisions of this section. The ABLE Commission
6 shall have the authority to designate the portions of the premises
7 of a licensee where persons under twenty-one (21) years of age shall
8 not be admitted pursuant to this section. When determining a
9 licensee's main purpose, a licensee that operates a full kitchen,
10 sells food items from a full menu, and has thirty-five percent (35%)
11 or more of its monthly gross sales attributable to food items, shall
12 have as its main purpose other than the sale of alcoholic beverages.
13 The main purpose of those mixed beverage establishments whose main
14 purpose was other than the sale of alcoholic beverages prior to
15 October 1, 2018, shall not automatically lose that designation upon
16 the elimination of low-point beer in the state. If the ABLE
17 Commission wishes to change said mixed beverage establishments' main
18 purpose designation, it shall be the burden of the ABLE Commission
19 to prove by clear and convincing evidence that said mixed beverage
20 establishments no longer qualify for that designation.

21 2. A new licensee that claims as its main purpose some
22 objective other than the sale of alcoholic beverages may be granted
23 a separate or enclosed lounge or bar area for a period of ninety
24 (90) days. At the end of that ninety-day period, the licensee shall

1 have the burden of showing that the business continues to qualify
2 for a separate or enclosed bar area. If the licensee fails to
3 satisfy this burden, then that licensee's main purpose shall
4 automatically convert to the sale of alcoholic beverages.

5 B. Except as otherwise provided, an admission charge shall not
6 be considered in any calculation designed to determine the main
7 purpose of an establishment pursuant to subsection A of this
8 section. As used in this section, "admission charge" means any form
9 of consideration received by an establishment from a person in order
10 for that person to gain entrance into the establishment.

11 C. The provisions of subsection B of this section shall not
12 apply:

13 1. If only persons eighteen (18) years of age or older are
14 permitted to enter the licensed premises; provided, if the licensee
15 is claiming an exception from the requirements of subsection B of
16 this section pursuant to this paragraph and fails to restrict the
17 entry by persons under age eighteen (18) into the licensed premises,
18 the ABLE Commission shall designate that only persons twenty-one
19 (21) years of age or older are allowed on the licensed premises;

20 2. If the licensed premises are owned or operated by a service
21 organization or fraternal establishment which is exempt under
22 Section 501(c)(19), (8), or (10) of the Internal Revenue Code; or

23 3. To a public event held in a facility owned or operated by
24 any agency, political subdivision or public trust of this state.

1 D. The ABLE Commission shall promulgate rules necessary to
2 implement the provisions of this section.

3 SECTION 155. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 6-115 of Title 37A, unless there
5 is created a duplication in numbering, reads as follows:

6 Any person who shall operate a whiskey still with intent to
7 produce alcoholic beverages or any person who shall carry on the
8 business of a distiller without possessing a valid and existing
9 distiller's license issued pursuant to the provisions of the
10 Oklahoma Alcoholic Beverage Control Act shall be guilty of a felony
11 and upon conviction, be fined not less than Two Thousand Five
12 Hundred Dollars (\$2,500.00) nor more than Five Thousand Dollars
13 (\$5,000.00), or imprisoned in the State Penitentiary for not more
14 than three (3) years, or by both such fine and imprisonment.

15 SECTION 156. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 6-116 of Title 37A, unless there
17 is created a duplication in numbering, reads as follows:

18 Any person who shall file a false or fraudulent return in
19 connection with any tax imposed by the Oklahoma Alcoholic Beverage
20 Control Act, or willfully evade, or attempt to evade, any tax herein
21 levied shall be guilty of a felony and upon conviction, be fined not
22 less than Two Thousand Five Hundred Dollars (\$2,500.00) nor more
23 than Five Thousand Dollars (\$5,000.00), or imprisoned in the State
24

1 Penitentiary for not more than three (3) years, or by both such fine
2 and imprisonment.

3 SECTION 157. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 6-117 of Title 37A, unless there
5 is created a duplication in numbering, reads as follows:

6 Any person who shall knowingly engage in any activity or perform
7 any transaction or act for which a license is required under the
8 Oklahoma Alcoholic Beverage Control Act, not having such license,
9 shall be guilty of a misdemeanor and for the first offense, upon
10 conviction, be fined not more than Two Thousand Five Hundred Dollars
11 (\$2,500.00) and imprisoned for not less than thirty (30) days nor
12 more than six (6) months, and for a second or subsequent offense
13 shall be guilty of a felony and be fined not more than Two Thousand
14 Five Hundred Dollars (\$2,500.00), or imprisoned in the State
15 Penitentiary for not more than one (1) year, or by both such fine
16 and imprisonment.

17 SECTION 158. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 6-118 of Title 37A, unless there
19 is created a duplication in numbering, reads as follows:

20 Any person holding a license issued pursuant to the Oklahoma
21 Alcoholic Beverage Control Act who shall sell or deliver alcoholic
22 beverage to any person not entitled to purchase or receive same,
23 except as provided in Section 160 of this act, or who shall possess
24 for sale any alcoholic beverage which he or she is not entitled to

1 sell under the license, or any person who buys any alcoholic
2 beverage, either retail or wholesale, from any person other than a
3 licensed dealer under the terms of the Oklahoma Alcoholic Beverage
4 Control Act, shall be guilty of a misdemeanor and upon conviction,
5 be fined not more than One Thousand Five Hundred Dollars
6 (\$1,500.00), or imprisoned in the county jail for not more than six
7 (6) months, or by both such fine and imprisonment.

8 SECTION 159. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 6-119 of Title 37A, unless there
10 is created a duplication in numbering, reads as follows:

11 A. Any person under twenty-one (21) years of age who shall
12 misrepresent his or her age in writing or by presenting false
13 documentation of age for the purpose of inducing any person to sell
14 or serve him or her alcoholic beverage or issue him or her a bottle
15 club membership card, or who enters or attempts to enter a package
16 store or a separate or enclosed bar area as designated by the ABLE
17 Commission, shall be guilty of a misdemeanor and fined not more than
18 Fifty Dollars (\$50.00).

19 B. In addition, if a person is convicted or pleads guilty to a
20 violation of the provisions of this subsection in any court having
21 jurisdiction over the offense, the court may order the Department of
22 Public Safety to cancel or deny the offender's privilege to operate
23 a motor vehicle and, upon such order, shall require that the
24 operator's or chauffeur's license, if any, be surrendered to the

1 Department pursuant to Section 6-209 of Title 47 of the Oklahoma
2 Statutes. The cancellation or denial period shall be for one (1)
3 year, or until the person reaches twenty-one (21) years of age,
4 whichever is longer.

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

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

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

21 D. In addition to any other penalty provided by law, a person
22 convicted of a violation of the provisions of this section shall be
23 required to complete a substance abuse prevention program conducted
24 by the Department of Mental Health and Substance Abuse Services or a

1 private entity approved by the Department. Such program shall
2 include at least two sessions, each of which shall be not less than
3 two (2) hours in length. The cost of the program shall be paid by
4 the person required to complete the program.

5 SECTION 160. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 6-120 of Title 37A, unless there
7 is created a duplication in numbering, reads as follows:

8 Any person who shall sell, furnish or give alcoholic beverage to
9 a person under twenty-one (21) years of age shall be guilty of a
10 misdemeanor for a first violation, and upon conviction shall be
11 fined not more than Five Hundred Dollars (\$500.00), or imprisoned in
12 the county jail for not more than one (1) year, or by both such fine
13 and imprisonment. Any person convicted of a second or subsequent
14 violation shall be guilty of a felony, and shall be fined not less
15 than Two Thousand Five Hundred Dollars (\$2,500.00) nor more than
16 Five Thousand Dollars (\$5,000.00), or imprisoned in the State
17 Penitentiary for not more than five (5) years, or by both such fine
18 and imprisonment. The ABLE Commission shall revoke the license of
19 any person convicted of a violation of this section.

20 SECTION 161. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 6-121 of Title 37A, unless there
22 is created a duplication in numbering, reads as follows:

23 Any person who shall knowingly sell, furnish or give alcoholic
24 beverage to an insane, mentally deficient or intoxicated person

1 shall be guilty of a misdemeanor for a first violation, and upon
2 conviction shall be fined not more than Five Hundred Dollars
3 (\$500.00), or imprisoned in the county jail for not more than one
4 (1) year, or by both such fine and imprisonment. Any person
5 convicted of a second or subsequent violation shall be guilty of a
6 felony, and shall be fined not less than Two Thousand Five Hundred
7 Dollars (\$2,500.00) nor more than Five Thousand Dollars (\$5,000.00),
8 or imprisoned in the State Penitentiary for not more than five (5)
9 years, or by both such fine and imprisonment. The ABLE Commission
10 shall revoke the license of any person convicted of a violation of
11 this section.

12 SECTION 162. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 6-122 of Title 37A, unless there
14 is created a duplication in numbering, reads as follows:

15 The payment of the special tax required of liquor dealers by the
16 United States by any person within this state without a
17 corresponding state license shall constitute prima facie evidence of
18 an intention to violate the provisions of the Oklahoma Alcoholic
19 Beverage Control Act.

20 SECTION 163. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 6-123 of Title 37A, unless there
22 is created a duplication in numbering, reads as follows:

23 Any person selling or keeping a package store open to sell any
24 alcoholic beverage during any day or hours not authorized by the

1 Oklahoma Alcoholic Beverage Control Act, and any person selling or
2 permitting the sale of alcoholic beverages at a grocery store,
3 convenience store or drug store during any day or hours not
4 authorized by the Oklahoma Alcoholic Beverage Control Act shall be
5 guilty of a misdemeanor for a first violation, and upon conviction
6 shall be fined not more than Five Hundred Dollars (\$500.00), or
7 imprisoned in the county jail for not more than one (1) year, or by
8 both such fine and imprisonment. Any person convicted of a second
9 or subsequent violation shall be guilty of a felony, and shall be
10 fined not less than Two Thousand Five Hundred Dollars (\$2,500.00)
11 nor more than Five Thousand Dollars (\$5,000.00), or imprisoned in
12 the State Penitentiary for not more than five (5) years, or by both
13 such fine and imprisonment. The ABLE Commission shall revoke the
14 license of any person convicted of a violation of this section.

15 SECTION 164. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 6-124 of Title 37A, unless there
17 is created a duplication in numbering, reads as follows:

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

24

1 SECTION 165. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 6-125 of Title 37A, unless there
3 is created a duplication in numbering, reads as follows:

4 A. Any person who shall violate any provision of the Oklahoma
5 Alcoholic Beverage Control Act for which no specific penalty is
6 prescribed shall be guilty of a misdemeanor and be fined not more
7 than Five Hundred Dollars (\$500.00), or imprisoned in the county
8 jail for not more than six (6) months, or by both such fine and
9 imprisonment.

10 B. Provided, however, notwithstanding any provision of law to
11 the contrary, any offense, including traffic offenses, in violation
12 of any of the provisions of the Oklahoma Alcoholic Beverage Control
13 Act which is not otherwise punishable by a term of imprisonment or
14 confinement shall be punishable by a term of imprisonment not to
15 exceed one day in the discretion of the court, in addition to any
16 fine prescribed by law.

17 SECTION 166. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 6-126 of Title 37A, unless there
19 is created a duplication in numbering, reads as follows:

20 A. All law enforcement officers, upon the arrest of any holder
21 of a license issued by the ABLE Commission for a violation of any
22 state law or municipal ordinance in which the violation of any
23 alcoholic beverage law had any part, shall immediately notify the
24 ABLE Commission thereof. Such officers shall notify the ABLE

1 Commission of any acts, practices or other conduct of any such
2 licensee which may be subversive to the general welfare or contrary
3 to the spirit of the Oklahoma Alcoholic Beverage Control Act and
4 shall recommend appropriate action to be taken by the ABLE
5 Commission or the Oklahoma Tax Commission.

6 B. A peace officer may not take a person into custody based
7 solely on the commission of an offense involving alcohol described
8 in subsection C of this section if the law enforcement officer,
9 after making a reasonable determination and considering the facts
10 and surrounding circumstances, reasonably believes that all of the
11 following apply:

12 1. The law enforcement officer has contact with the person
13 because the person requested emergency medical assistance for an
14 individual who reasonably appeared to be in need of medical
15 assistance due to alcohol consumption; and

16 2. The person:

- 17 a. provided the person's full name and any other relevant
18 information requested by the law enforcement officer,
19 b. remained at the scene with the individual who
20 reasonably appeared to be in need of medical
21 assistance due to alcohol consumption until emergency
22 medical assistance arrived, and
23 c. cooperated with emergency medical assistance personnel
24 and law enforcement officers at the scene.

1 C. A person who meets the criteria of subsection B of this
2 section is immune from criminal prosecution for an offense under
3 subsection D of Section 141 of this act if the offense involved a
4 state of intoxication caused by the person's use of alcohol or if
5 the offense involved the person being, or becoming, intoxicated as a
6 result of the person's use of alcohol.

7 D. A person may not initiate or maintain an action against a
8 peace officer or the employing political subdivision based on the
9 officer's compliance or failure to comply with this section.

10 E. For the purposes of this section, "peace officer" shall have
11 the same meaning as defined in Section 99 of Title 21 of the
12 Oklahoma Statutes.

13 SECTION 167. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 6-127 of Title 37A, unless there
15 is created a duplication in numbering, reads as follows:

16 A. A search warrant may be issued pursuant to the provisions of
17 Sections 1221 through 1264 of Title 22 of the Oklahoma Statutes, as
18 amended, for the purpose of:

19 1. Searching for, seizing, destroying or holding any alcoholic
20 beverages possessed, sold, transported, manufactured, kept or stored
21 in violation of the Oklahoma Alcoholic Beverage Control Act; or

22 2. Searching for and seizing any apparatus, vehicle, equipment
23 or instrumentality used for, or intended for use in, manufacturing
24

1 or transporting any alcoholic beverage in violation of the Oklahoma
2 Alcoholic Beverage Control Act.

3 All such property shall be forfeited to the State of Oklahoma.
4 This section shall not be construed to require a search warrant for
5 duly authorized employees of the ABLE Commission to enter upon and
6 inspect any licensed premises, but such right of entry and
7 inspection shall be a condition on which every license shall be
8 issued and the application for, and acceptance of, any license
9 hereunder shall conclusively be deemed to be consent of the
10 applicant and licensee to such entry and inspection.

11 B. Any alcoholic beverages upon which the appropriate federal
12 excise tax has not been paid at the time of seizure under this
13 section shall be destroyed by the sheriff who seized the same or to
14 whom the same has been delivered in accordance with the provisions
15 of Section 1261 of Title 22 of the Oklahoma Statutes, as amended,
16 after the same is no longer needed as evidence in any criminal
17 prosecution. All other property, including alcoholic beverages upon
18 which the appropriate federal excise tax has been paid, seized under
19 this section, shall be forfeited to the State of Oklahoma by order
20 of the court issuing the process by virtue of which such property
21 was seized, or before which the persons violating the law, or to
22 which such property was taken by the officer or officers making the
23 seizure. The court shall, without a jury, order an immediate
24 hearing as to whether the property so seized was subject to seizure

1 under this section, and take such legal evidence as is offered, and
2 determine the same as in civil cases. If the court finds from a
3 preponderance of the evidence that the property so seized was
4 subject to seizure under this section, it shall render judgment
5 accordingly and order the property forfeited to the State of
6 Oklahoma unless seized by county or municipal law enforcement
7 officers, in which case the property shall be forfeited to the
8 county or municipality, whichever is appropriate, in which the
9 seizure of the property took place. Such seized property shall be
10 sold by the officer having the same in charge, after giving ten-
11 days' notice by one publication in a legal newspaper of the county
12 or, if no legal newspaper is published in the county, after five
13 notices of such sale have been posted in conspicuous places in the
14 city or town wherein such sale is to be made, at least ten (10) days
15 before such sale. Appeal from such an order may be taken as in
16 civil cases. When such property is sold under the provisions of
17 this section, the proceeds thereof shall be distributed as follows:
18 first, to the payment of the costs of the case in which the order of
19 forfeiture was made and the actual expenses of preserving the
20 property; and second, the remainder to be deposited with the county
21 or municipal treasurer of the county or municipality in which the
22 seizure took place if the property was seized by county or municipal
23 law enforcement officials or with the State Treasurer to the credit
24

1 of the General Revenue Fund of the State of Oklahoma in all other
2 cases.

3 SECTION 168. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 6-128 of Title 37A, unless there
5 is created a duplication in numbering, reads as follows:

6 A. If a witness in attendance before the Director of the ABLE
7 Commission refuses without reasonable cause to be examined or to
8 answer a legal or pertinent question, or to produce a book, record
9 or paper when ordered to do so by the Director, the Director may
10 apply to the judge of the district court of any county where such
11 witness is in attendance, upon proof by affidavit of the fact, for a
12 rule or order returnable in not less than two (2) nor more than five
13 (5) days, directing such witness to show cause before the judge who
14 made the order, or any other district judge of the county, why he or
15 she should not be punished for contempt. Upon the return of such
16 order, the judge before whom the matter shall come for hearing shall
17 examine under oath such witness or person, and such person shall be
18 given an opportunity to be heard. If the judge shall determine that
19 such person has refused, without reasonable cause or legal excuse,
20 to be examined or answer a legal or pertinent question, or to
21 produce a book, record or paper which he or she was ordered to bring
22 or produce, the judge may punish the offender as for contempt of
23 court and shall fix the penalty in any sum not less than Two Hundred
24 Fifty Dollars (\$250.00) but not to exceed Five Hundred Dollars

1 (\$500.00) or require him or her to serve a maximum of thirty (30)
2 days in jail, or by both such fine and imprisonment.

3 B. Subpoenas shall be served and witness fees and mileage paid
4 as in civil cases in the district court in the county to which such
5 witness shall be called. Witnesses subpoenaed at the instance of
6 the Director shall be paid their fees and mileage by the Director
7 out of funds appropriated by the Legislature. Court costs in the
8 contempt proceedings shall be paid as taxed by the court.

9 SECTION 169. REPEALER 37 O.S. 2011, Section 8, as amended
10 by Section 1, Chapter 210, O.S.L. 2013, Section 2, Chapter 210,
11 O.S.L. 2013, 8.2, 163.1, 163.2, 163.3, 163.4, 163.5, as amended by
12 Section 1, Chapter 357, O.S.L. 2012, 163.6, 163.7, as amended by
13 Section 1, Chapter 120, O.S.L. 2012, 163.8, 163.9, 163.10, as
14 amended by Section 2, Chapter 120, O.S.L. 2012, 163.11, as last
15 amended by Section 1, Chapter 205, O.S.L. 2013, 163.11a, as amended
16 by Section 2, Chapter 86, O.S.L. 2012, 163.12, 163.13, 163.14,
17 163.15, 163.16, 163.17, 163.18, 163.18A, 163.18B, 163.18C, 163.18D,
18 163.18E, 163.18F, 163.18G, 163.18H, 163.19, Section 1, Chapter 382,
19 O.S.L. 2013, 163.20, 163.22, 163.23, 163.25, 163.26, 163.27, as
20 amended by Section 1, Chapter 214, O.S.L. 2012, 163.28, 163.29, 213,
21 213.1, 213.2, 215, 216, 217, 219, 219.1, 220, 231, 232, 233, 241,
22 243, 244, 246, as amended by Section 1, Chapter 213, O.S.L. 2015,
23 247, 501, 502, 503, 504, 505, 506, as last amended by Section 1,
24 Chapter 48, O.S.L. 2015, 506, as last amended by Section 1, Chapter

1 275, O.S.L. 2015, 506.1, as amended by Section 125, Chapter 304,
2 O.S.L. 2012, 507.1, 507.2, 508, 509, 510, 510A, as amended by
3 Section 126, Chapter 304, O.S.L. 2012, 511, 511A, 512, 513a, 514, as
4 amended by Section 3, Chapter 120, O.S.L. 2012, 515, 516, 517, 518,
5 as last amended by Section 2, Chapter 48, O.S.L. 2015, 518.1, as
6 amended by Section 3, Chapter 298, O.S.L. 2014, 518.3, as amended by
7 Section 2, Chapter 214, O.S.L. 2012, 520A, 521, as last amended by
8 Section 3, Chapter 48, O.S.L. 2015, 521, as last amended by Section
9 2, Chapter 275, O.S.L. 2015, 521.1, 521.2, 521.3, 522, 523, as last
10 amended by Section 3, Chapter 275, O.S.L. 2015, 523.1, as amended by
11 Section 4, Chapter 275, O.S.L. 2015, 523.2, as amended by Section 5,
12 Chapter 275, O.S.L. 2015, 524, as last amended by Section 2, Chapter
13 160, O.S.L. 2015, 525, Section 1, Chapter 160, O.S.L. 2015, 526.1,
14 527, 527.1, as last amended by Section 6, Chapter 275, O.S.L. 2015,
15 528, 528.1, as amended by Section 7, Chapter 298, O.S.L. 2014,
16 528.2, 529, 530, 530.1, 531, 532, 532.1, as amended by Section 8,
17 Chapter 298, O.S.L. 2014, 532.2, 533, 534, 534.1, 535, as last
18 amended by Section 7, Chapter 275, O.S.L. 2015, 535.1, as amended by
19 Section 10, Chapter 298, O.S.L. 2014, 535.2, Section 11, Chapter
20 298, O.S.L. 2014, 535.3, 536, 536.1, 537, as amended by Section 12,
21 Chapter 298, O.S.L. 2014, 537.1, as last amended by Section 8,
22 Chapter 275, O.S.L. 2015, 537.2, 537.3, 538, as amended by Section
23 14, Chapter 298, O.S.L. 2014, 538.1, 538.2, 538.3, 539, 540, 541,
24 542, 543, 543.1, 543.2, 545, 546, 547, 548, 549, 550, 551, 552, 553,

1 as amended by Section 2, Chapter 357, O.S.L. 2012, 554, as amended
2 by Section 9, Chapter 275, O.S.L. 2015, 554.1, as amended by Section
3 15, Chapter 298, O.S.L. 2014, 554.2, as amended by Section 16,
4 Chapter 298, O.S.L. 2014, 555, 556, 557, 559, 560, 561, as amended
5 by Section 17, Chapter 298, O.S.L. 2014, 562, 563, 563.1, as last
6 amended by Section 1, Chapter 283, O.S.L. 2015, 564, 565, 566, 567,
7 as amended by Section 128, Chapter 304, O.S.L. 2012, 568, 569, 570,
8 571, 572, 573, 576, as last amended by Section 18, Chapter 298,
9 O.S.L. 2014, 576.1, 577, as last amended by Section 10, Chapter 275,
10 O.S.L. 2015, 578, as amended by Section 20, Chapter 298, O.S.L.
11 2014, 579, as amended by Section 21, Chapter 298, O.S.L. 2014, 580,
12 582, as amended by Section 22, Chapter 298, O.S.L. 2014, 584, as
13 amended by Section 23, Chapter 298, O.S.L. 2014, 586, 588, 590, 591,
14 as last amended by Section 11, Chapter 275, O.S.L. 2015, 592, 593,
15 594, as amended by Section 12, Chapter 275, O.S.L. 2015, 594.1, 595,
16 596, as last amended by Section 13, Chapter 275, O.S.L. 2015, 597,
17 598, and 599, as amended by Section 26, Chapter 298, O.S.L. 2014 (37
18 O.S. Supp. 2015, Sections 8, 8a, 163.5, 163.7, 163.10, 163.11,
19 163.11a, 163.19A, 163.27, 246, 506, 506, 506.1, 510A, 514, 518,
20 518.1, 518.3, 521, 521, 523, 523.1, 523.2, 524, 525A, 527.1, 528.1,
21 532.1, 535, 535.1, 535.2, 537, 537.1, 538, 553, 554, 554.1, 554.2,
22 561, 563.1, 567, 576, 577, 578, 579, 582, 584, 591, 594, 596 and
23 599), are hereby repealed.

24

1 SECTION 170. RECODIFICATION 37 O.S. 2011, Section 600.1,
2 shall be recodified as Section 1-229.11 of Title 63 of the Oklahoma
3 Statutes, unless there is created a duplication in numbering.

4 SECTION 171. RECODIFICATION 37 O.S. 2011, Section 600.2,
5 as amended by Section 3, Chapter 162, O.S.L. 2014 (37 O.S. Supp.
6 2015, Section 600.2), shall be recodified as Section 1-229.12 of
7 Title 63 of the Oklahoma Statutes, unless there is created a
8 duplication in numbering.

9 SECTION 172. RECODIFICATION 37 O.S. 2011, Section 600.3,
10 as amended by Section 4, Chapter 162, O.S.L. 2014 (37 O.S. Supp.
11 2015, Section 600.3), shall be recodified as Section 1-229.13 of
12 Title 63 of the Oklahoma Statutes, unless there is created a
13 duplication in numbering.

14 SECTION 173. RECODIFICATION 37 O.S. 2011, Section 600.5,
15 as amended by Section 6, Chapter 162, O.S.L. 2014 (37 O.S. Supp.
16 2015, Section 600.5), shall be recodified as Section 1-229.15 of
17 Title 63 of the Oklahoma Statutes, unless there is created a
18 duplication in numbering.

19 SECTION 174. RECODIFICATION 37 O.S. 2011, Section 600.6,
20 as amended by Section 7, Chapter 162, O.S.L. 2014 (37 O.S. Supp.
21 2015, Section 600.6), shall be recodified as Section 1-229.16 of
22 Title 63 of the Oklahoma Statutes, unless there is created a
23 duplication in numbering.

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1 SECTION 175. RECODIFICATION 37 O.S. 2011, Section 600.7,
2 as amended by Section 8, Chapter 162, O.S.L. 2014 (37 O.S. Supp.
3 2015, Section 600.7), shall be recodified as Section 1-229.17 of
4 Title 63 of the Oklahoma Statutes, unless there is created a
5 duplication in numbering.

6 SECTION 176. RECODIFICATION 37 O.S. 2011, Section 600.8,
7 as amended by Section 9, Chapter 162, O.S.L. 2014 (37 O.S. Supp.
8 2015, Section 600.8), shall be recodified as Section 1-229.18 of
9 Title 63 of the Oklahoma Statutes, unless there is created a
10 duplication in numbering.

11 SECTION 177. RECODIFICATION 37 O.S. 2011, Section 600.9,
12 shall be recodified as Section 1-229.19 of Title 63 of the Oklahoma
13 Statutes, unless there is created a duplication in numbering.

14 SECTION 178. RECODIFICATION 37 O.S. 2011, Section 600.10,
15 as amended by Section 10, Chapter 162, O.S.L. 2014 (37 O.S. Supp.
16 2015, Section 600.10), shall be recodified as Section 1-229.20 of
17 Title 63 of the Oklahoma Statutes, unless there is created a
18 duplication in numbering.

19 SECTION 179. RECODIFICATION 37 O.S. 2011, Section
20 600.10A, as amended by Section 11, Chapter 162, O.S.L. 2014 (37 O.S.
21 Supp. 2015, Section 600.10A), shall be recodified as Section 1-
22 229.21 of Title 63 of the Oklahoma Statutes, unless there is created
23 a duplication in numbering.

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1 SECTION 180. RECODIFICATION 37 O.S. 2011, Section 600.11,
2 as amended by Section 12, Chapter 162, O.S.L. 2014 (37 O.S. Supp.
3 2015, Section 600.11), shall be recodified as Section 1-229.22 of
4 Title 63 of the Oklahoma Statutes, unless there is created a
5 duplication in numbering.

6 SECTION 181. RECODIFICATION 37 O.S. 2011, Section
7 600.11a, shall be recodified as Section 1-229.23 of Title 63 of the
8 Oklahoma Statutes, unless there is created a duplication in
9 numbering.

10 SECTION 182. RECODIFICATION 37 O.S. 2011, Section
11 600.11b, shall be recodified as Section 1-229.24 of Title 63 of the
12 Oklahoma Statutes, unless there is created a duplication in
13 numbering.

14 SECTION 183. RECODIFICATION 37 O.S. 2011, Section 600.12,
15 shall be recodified as Section 1-229.25 of Title 63 of the Oklahoma
16 Statutes, unless there is created a duplication in numbering.

17 SECTION 184. RECODIFICATION 37 O.S. 2011, Section 600.13,
18 as amended by Section 13, Chapter 162, O.S.L. 2014 (37 O.S. Supp.
19 2015, Section 600.13), shall be recodified as Section 1-229.26 of
20 Title 63 of the Oklahoma Statutes, unless there is created a
21 duplication in numbering.

22 SECTION 185. RECODIFICATION 37 O.S. 2011, Section 600.21,
23 shall be recodified as Section 2315 of Title 62 of the Oklahoma
24 Statutes, unless there is created a duplication in numbering.

1 SECTION 186. RECODIFICATION 37 O.S. 2011, Section 600.22,
2 shall be recodified as Section 2316 of Title 62 of the Oklahoma
3 Statutes, unless there is created a duplication in numbering.

4 SECTION 187. RECODIFICATION 37 O.S. 2011, Section 600.23,
5 shall be recodified as Section 2317 of Title 62 of the Oklahoma
6 Statutes, unless there is created a duplication in numbering.

7 SECTION 188. RECODIFICATION 37 O.S. 2011, Section 601,
8 shall be recodified as Section 1-229.27 of Title 63 of the Oklahoma
9 Statutes, unless there is created a duplication in numbering.

10 SECTION 189. RECODIFICATION 37 O.S. 2011, Section 602,
11 shall be recodified as Section 1-229.28 of Title 63 of the Oklahoma
12 Statutes, unless there is created a duplication in numbering.

13 SECTION 190. RECODIFICATION 37 O.S. 2011, Section 603,
14 shall be recodified as Section 1-229.29 of Title 63 of the Oklahoma
15 Statutes, unless there is created a duplication in numbering.

16 SECTION 191. RECODIFICATION 37 O.S. 2011, Section 604,
17 shall be recodified as Section 1-229.30 of Title 63 of the Oklahoma
18 Statutes, unless there is created a duplication in numbering.

19 SECTION 192. RECODIFICATION 37 O.S. 2011, Section 605,
20 shall be recodified as Section 1-229.31 of Title 63 of the Oklahoma
21 Statutes, unless there is created a duplication in numbering.

22 SECTION 193. RECODIFICATION 37 O.S. 2011, Section 606,
23 shall be recodified as Section 1-229.32 of Title 63 of the Oklahoma
24 Statutes, unless there is created a duplication in numbering.

1 SECTION 194. RECODIFICATION 37 O.S. 2011, Section 608, as
2 amended by Section 129, Chapter 304, O.S.L. 2012 (37 O.S. Supp.
3 2015, Section 608), shall be recodified as Section 1-229.33 of Title
4 63 of the Oklahoma Statutes, unless there is created a duplication
5 in numbering.

6 SECTION 195. RECODIFICATION 37 O.S. 2011, Section 609,
7 shall be recodified as Section 1-229.34 of Title 63 of the Oklahoma
8 Statutes, unless there is created a duplication in numbering.

9 SECTION 196. The provisions of this act are severable and if
10 any part or provision shall be held void the decision of the court
11 so holding shall not affect or impair any of the remaining parts or
12 provisions of this act.

13 SECTION 197. This act shall only become effective upon
14 certification of election returns favoring passage of the
15 Constitutional Amendment proposed in Senate Joint Resolution No. 68
16 of the 2nd Session of the 55th Oklahoma Legislature.

17 SECTION 198. Section 4 of this act shall become effective
18 October 1, 2017. Sections 1 through 3 and 5 through 195 of this act
19 shall become effective October 1, 2018.

20

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