

STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

SENATE BILL 420

By: Fields

AS INTRODUCED

An Act relating to the Oklahoma Alcoholic Beverage Control Act; amending 37 O.S. 2011, Sections 506, as amended by Section 1, Chapter 298, O.S.L. 2014, 518, as amended by Section 2, Chapter 298, O.S.L. 2014, and 521, as last amended by Section 4, Chapter 298, O.S.L. 2014 (37 O.S. Supp. 2014, Sections 506, 518 and 521), which relate to The Alcoholic Beverage Control Act; adding definition; creating the Small Farm Winery License; providing for fee; authorizing a small farm winery licensee to manufacture and bottle wines it produces; authorizing a small farm winery licensee to bottle and sell wines produced by other small wineries; updating language; and providing an effective date.

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

SECTION 1. AMENDATORY 37 O.S. 2011, Section 506, as amended by Section 1, Chapter 298, O.S.L. 2014 (37 O.S. Supp. 2014, Section 506), is amended to read as follows:

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

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

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

7 3. "Alcoholic beverage" means alcohol, spirits, beer, and wine
8 as those terms are defined herein and also includes every liquid or
9 solid, patented or not, containing alcohol, spirits, wine or beer
10 and capable of being consumed as a beverage by human beings, but
11 does not include low-point beer as that term is defined in Section
12 163.2 of this title;

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

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

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

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

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

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

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

18 11. "Distiller" means any person who produces spirits from any
19 source or substance, or any person who brews or makes mash, wort, or
20 wash, fit for distillation or for the production of spirits (except
21 a person making or using such material in the authorized production
22 of wine or beer, or the production of vinegar by fermentation), or
23 any person who by any process separates alcoholic spirits from any
24

1 fermented substance, or any person who, making or keeping mash,
2 wort, or wash, has also in his or her possession or use a still;

3 12. "Hotel" or "motel" shall mean an establishment which is
4 licensed to sell alcoholic beverages by the individual drink and
5 which 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 13. "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 14. "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 15. "Light beer" means a low-point beer controlled under this
20 title;

21 16. "Light wine" means any wine containing not more than
22 fourteen percent (14%) alcohol measured by volume at sixty (60)
23 degrees Fahrenheit;
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1 17. "Manufacturer's agent" means a salaried or commissioned
2 salesman who sells to a wholesaler or Class B wholesaler only;

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

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

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

15 21. "Mixed beverage cooler" means any beverage, by whatever
16 name designated, consisting of an alcoholic beverage and fruit or
17 vegetable juice, fruit or vegetable flavorings, dairy products or
18 carbonated water containing more than one-half of one percent (1/2
19 of 1%) of alcohol measured by volume but not more than seven percent
20 (7%) alcohol by volume at sixty (60) degrees Fahrenheit and which is
21 packaged in a container not larger than three hundred seventy-five
22 (375) milliliters. Such term shall include, but not be limited to,
23 the beverage popularly known as a "wine cooler";
24

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

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

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

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

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

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

23 28. "Person" means an individual, any type of partnership,
24 corporation, association, limited liability company or any

1 individual involved in the legal structure of any such business
2 entity;

3 29. "Premises" means the grounds and all buildings and
4 appurtenances pertaining to the grounds including any adjacent
5 premises if under the direct or indirect control of the licensee and
6 the rooms and equipment under the control of the licensee and used
7 in connection with or in furtherance of the business covered by a
8 license. Provided that the ABLE Commission shall have the authority
9 to designate areas to be excluded from the licensed premises solely
10 for the purpose of:

- 11 a. allowing the presence and consumption of alcoholic
12 beverages by private parties which are closed to the
13 general public, or
- 14 b. allowing the services of a caterer serving alcoholic
15 beverages provided by a private party.

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

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

21 31. "Rectifier" means any person who rectifies, purifies, or
22 refines spirits or wines by any process (other than by original and
23 continuous distillation, or original and continuous processing, from
24 mash, wort, wash, or other substance, through continuous closed

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

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

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

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

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

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

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

7 38. "Small Farm Winery" means a wine-making establishment that
8 does not produce for sale more than two-hundred fifty thousand
9 (250,000) gallons of wine as reported on the United States
10 Department of the Treasury, Alcohol and Tobacco Tax and Trade
11 Bureau, Report of Wine Premises Operations (TTB Form 5120.17);

12 39. "Sparkling wine" means champagne or any artificially
13 carbonated wine;

14 ~~39.~~ 40. "Spirits" means any beverage other than wine, beer or
15 light beer, which contains more than one-half of one percent (1/2 of
16 1%) alcohol measured by volume and obtained by distillation, whether
17 or not mixed with other substances in solution and includes those
18 products known as whiskey, brandy, rum, gin, vodka, liqueurs,
19 cordials and fortified wines and similar compounds; but shall not
20 include any alcohol liquid completely denatured in accordance with
21 the Acts of Congress and regulations pursuant thereto;

22 ~~40.~~ 41. "Wholesaler" means and includes any person doing any
23 such acts or carrying on any such business or businesses that would
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1 require such person to obtain a wholesaler's license or licenses
2 hereunder;

3 ~~41.~~ 42. "Wine" means and includes any beverage containing more
4 than one-half of one percent (1/2 of 1%) alcohol by volume and not
5 more than twenty-four percent (24%) alcohol by volume at sixty (60)
6 degrees Fahrenheit obtained by the fermentation of the natural
7 contents of fruits, vegetables, honey, milk or other products
8 containing sugar, whether or not other ingredients are added, and
9 includes vermouth and sake, known as Japanese rice wine;

10 ~~42.~~ 43. "Winemaker" means any person who produces wine; and

11 ~~43.~~ 44. "Oklahoma winemaker" means a business premises in
12 Oklahoma licensed pursuant to the Oklahoma Alcoholic Beverage
13 Control Act wherein wine is produced by the licensee who must be a
14 resident of the state. The wine product fermented in ~~said~~ the
15 licensed premises shall be of grapes, berries and other fruits and
16 vegetables imported into this state and processed herein or shall be
17 of grapes, berries and other fruits and vegetables grown in
18 Oklahoma.

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

22 SECTION 2. AMENDATORY 37 O.S. 2011, Section 518, as
23 amended by Section 2, Chapter 298, O.S.L. 2014 (37 O.S. Supp. 2014,
24 Section 518), is amended to read as follows:

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

4 1. Brewer License..... \$1,250.00

5 2. Oklahoma Brewer License..... \$125.00

6 3. Distiller License

7 a. For each fiscal year ending
8 after June 30, 2010..... \$3,125.00

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

11 4. Winemaker License..... \$625.00

12 5. Oklahoma Winemaker License..... \$75.00

13 6. Rectifier License

14 a. For each fiscal year ending
15 after June 30, 2010..... \$3,125.00

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

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

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

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

22 a. Package Store License for cities and towns from 200 to
23 2,500 population \$305.00

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

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

10. Mixed Beverage License..... \$1,005.00

(initial license)

\$905.00

(renewal)

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

12. Beer and Wine License..... \$500.00

(initial license)

\$450.00

(renewal)

13. Bottle Club License..... \$1,000.00

(initial license)

\$900.00

(renewal)

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

(initial license)

\$905.00

(renewal)

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

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

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

		(initial license)
		\$905.00
		(renewal)
18.	Airline/Railroad Beverage License.....	\$1,005.00
		(initial license)
		\$905.00
		(renewal)
19.	Agent License.....	\$55.00
20.	Employee License.....	\$30.00
21.	Industrial License.....	\$23.00
22.	Carrier License.....	\$23.00
23.	Private Carrier License.....	\$23.00
24.	Bonded Warehouse License.....	\$190.00
25.	Storage License.....	\$23.00
26.	Nonresident Seller License.....	\$750.00
27.	Manufacturers Agent License.....	\$55.00
28.	Sacramental Wine Supplier License.....	\$100.00
29.	Charitable Auction License.....	\$1.00
30.	Charitable Alcoholic Beverage License.....	\$55.00
31.	Winemaker Self-distribution License.....	\$750.00
32.	<u>Small Farm Winery License.....</u>	<u>\$1.00</u>
<u>33.</u>	Annual Public Event License.....	\$1005.00
33. <u>34.</u>	One-time Public Event License.....	\$255.00

1 There shall be added to the initial or renewal fees for a Mixed
2 Beverage License an administrative fee, which shall not be deemed to
3 be a license fee, in the amount of Five Hundred Dollars (\$500.00),
4 which shall be paid at the same time and in the same manner as the
5 license fees prescribed by paragraph 10 of this subsection;
6 provided, this fee shall not be assessed against service
7 organizations or fraternal beneficiary societies which are exempt
8 under Section 501(c)(19), (8) or (10) of the Internal Revenue Code.
9 There shall be added to the fee for a Mixed Beverage/Caterer
10 Combination License an administrative fee, which shall not be deemed
11 to be a license fee, in the amount of Two Hundred Fifty Dollars
12 (\$250.00), which shall be paid at the same time and in the same
13 manner as the license fee prescribed by paragraph 11 of this
14 subsection.

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

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

22 2. The fees provided for in subsection A of this section for a
23 brewer license and for a Class B wholesaler license shall be reduced
24 by seventy-five percent (75%) if the applicant therefor is also the

holder of a license to manufacture or wholesale any low-point beer as provided for in this title; and

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

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

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

E. The holder of a license, issued by the ABLE Commission, for a bottle club located in a county of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized, may exchange the bottle club license for a mixed beverage license or a beer and wine license and operate the licensed premises as a mixed beverage establishment or a beer and wine establishment subject to the provisions of the Oklahoma Alcoholic Beverage Control Act. There shall be no additional fee for such exchange and the mixed beverage license or beer and wine license issued shall expire one (1) year from the date of issuance of the original bottle club license.

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

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

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

SECTION 3. AMENDATORY 37 O.S. 2011, Section 521, as last amended by Section 4, Chapter 298, O.S.L. 2014 (37 O.S. Supp. 2014, Section 521), is amended to read as follows:

1 Section 521. A. A brewer license shall authorize the holder
2 thereof: To manufacture, bottle, package, and store beer on
3 licensed premises; to sell beer in this state to holders of Class B
4 wholesaler licenses and retail licenses and to sell beer out of this
5 state to qualified persons; and to serve free samples of beer
6 produced by the licensee to visitors twenty-one (21) years of age or
7 older. For purposes of this section, no visitor may sample more
8 than a total of twelve (12) fluid ounces of beer per day. The
9 brewer must restrict the distribution and consumption of beer
10 samples to an area within the licensed premises designated by the
11 brewer. A current floor plan that includes the designated sampling
12 area must be on file with the Oklahoma Alcoholic Beverage Laws
13 Enforcement (ABLE) Commission. No visitor under twenty-one (21)
14 years of age shall be permitted to enter this designated sampling
15 area when samples are being distributed or consumed. Samples may
16 only be distributed or consumed between ~~ten~~ 10:00 a.m. and ~~nine~~ 9:00
17 p.m. Samples of beer served by a brewery under this section shall
18 not be considered a "sale" of beer within the meaning of Article
19 XXVIII of the Oklahoma Constitution or Section 506 of this title;
20 however, such samples of beer shall be considered beer removed or
21 withdrawn from the brewery for "use or consumption" within the
22 meaning of Section 542 of this title for excise tax determination
23 and reporting requirements.

1 B. A distiller license shall authorize the holder thereof: To
2 manufacture, bottle, package, and store spirits on licensed
3 premises; to sell spirits in this state to licensed wholesalers and
4 manufacturers only; to sell spirits out of this state to qualified
5 persons; to purchase from licensed distillers and rectifiers in this
6 state, and import spirits from without this state for manufacturing
7 purposes in accordance with federal laws and regulations.

8 C. A winemaker license shall authorize the holder thereof: To
9 manufacture (including such mixing, blending and cellar treatment as
10 authorized by federal law), bottle, package, and store on licensed
11 premises wine containing not more than twenty-four percent (24%)
12 alcohol by volume, provided the bottle or package sizes authorized
13 shall be limited to the capacities approved by the United States
14 Alcohol and Tobacco Tax and Trade Bureau; to sell wine in this state
15 to licensed wholesalers and manufacturers; to sell bottles of wine
16 produced at the winery from grapes and other fruits and berries
17 grown in this state, if available, to consumers on the premises of
18 the winery; to serve visitors on the licensed premises samples of
19 wine produced on the premises; to serve samples of wine produced at
20 the winery at festivals and trade shows; to sell wine produced at
21 the winery, in original sealed containers, at festivals and trade
22 shows; to sell wine out of this state to qualified persons; to
23 purchase from licensed winemakers, distillers and rectifiers in this
24 state, and to import into this state wine, brandy and fruit spirits

1 for use in manufacturing in accordance with federal laws and
2 regulations; provided, a winemaker either within or without this
3 state that annually produces no more than ten thousand (10,000)
4 gallons of wine may elect to sell and self-distribute the wine
5 produced by such winemaker directly to licensed retail package
6 stores and restaurants in this state; and provided further that:

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

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

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

23 D. A winemaker self-distribution license shall authorize a
24 licensed winemaker within or without this state which is permitted

1 by Section 3 of Article XXVIII of the Oklahoma Constitution and
2 subsection C of this section, to distribute its wine directly to
3 retail package stores and restaurants in this state and that elects
4 to do so, to sell and deliver its wines directly to licensed retail
5 package stores and restaurants in this state in full case lots only,
6 and in accordance with the provisions of the Oklahoma Alcoholic
7 Beverage Control Act and such rules as the ABLE Commission shall
8 adopt.

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

17 F. 1. A wholesaler license shall authorize the holder thereof:
18 To purchase and import into this state spirits and wines from
19 persons authorized to sell same who are the holders of a nonresident
20 seller license, and their agents who are the holders of
21 manufacturers agent licenses; to purchase spirits and wines from
22 licensed distillers, rectifiers and winemakers in this state; to
23 purchase spirits and wines from licensed wholesalers, to the extent
24 set forth in paragraphs 2 and 3 of this subsection; to sell in

1 retail containers in this state to retailers, mixed beverage,
2 caterer, special event, public event, hotel beverage or
3 airline/railroad beverage licensees, spirits and wines which have
4 been received and unloaded at the bonded warehouse facilities of the
5 wholesaler before such sale; to sell to licensed wholesalers, to the
6 extent set forth in paragraphs 2 and 3 of this subsection, spirits
7 and wines which have been received and unloaded at the bonded
8 warehouse facilities of the wholesaler before such sale; and to sell
9 spirits and wines out of this state to qualified persons. Provided,
10 however, sales of spirits and wine in containers with a capacity of
11 less than one-twentieth (1/20) gallon by a holder of a wholesaler
12 license shall be in full case lots and in the original unbroken
13 case. Wholesalers shall be authorized to place such signs outside
14 their place of business as are required by Acts of Congress and by
15 such laws and regulations promulgated under such Acts.

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

- 3 a. the total volume of spirits sales of the wholesaler,
4 by liter, from the previous calendar year, and
- 5 b. the total volume of wine sales of the wholesaler, by
6 liter, from the previous calendar year, and
- 7 c. the volume of sales of each brand of spirits or wine
8 of the wholesaler, by liter, from the previous
9 calendar year.

10 A wholesaler who did not post any sales of spirits, wine or of a
11 particular brand in the previous calendar year shall be deemed to
12 have sold the same volume of spirits, wine or of a particular brand
13 as the wholesaler posting the smallest volumes of sales in spirits,
14 wine or of a particular brand for that year for the purposes of this
15 paragraph. Notwithstanding the foregoing, wholesalers shall not
16 purchase any inventory in spirits or wine from any other wholesaler
17 until such time that the purchasing wholesaler possesses an
18 inventory valued at no less than Two Hundred Fifty Thousand Dollars
19 (\$250,000.00). Inventory valuation shall be based on the original
20 actual price paid by the purchasing wholesaler to the nonresident
21 seller for the inventory.

22 3. A wholesaler may sell spirits and wine to other wholesalers
23 or purchase spirits and wines from other wholesalers without
24 complying with paragraph 2 of this subsection in the case of the

1 sale, purchase, or other transfer or acquisition of the entire
2 business of a wholesaler, including the inventory of spirits and
3 wine.

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

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

21 In order to allow the ABLE Commission to determine the top
22 eighteen brands, wholesalers must submit to the ABLE Commission
23 every sixty (60) days a sworn affidavit listing their top twenty-
24 five brands in sales for the previous sixty (60) days, excluding

1 sales to wholesalers. Such affidavits shall be submitted in
2 conjunction with the original price postings of wholesalers.

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

18 G. A Class B wholesaler license shall authorize the holder
19 thereof: To purchase and import into this state beer from persons
20 authorized to sell same who are the holders of nonresident seller
21 licenses, and their agents who are the holders of manufacturers
22 agent licenses; to purchase beer from licensed brewers and Class B
23 wholesalers in this state; to sell in retail containers to
24 retailers, mixed beverage, caterer, special event, public event,

1 hotel beverage and airline/railroad beverage licensees in this
2 state, beer which has been unloaded and stored at the holder's self-
3 owned or leased and self-operated warehouse facilities for a period
4 of at least twenty-four (24) hours before such sale; and to sell
5 beer in this state to Class B wholesalers and out of this state to
6 qualified persons, including federal instrumentalities and voluntary
7 associations of military personnel on federal enclaves in this state
8 over which this state has ceded jurisdiction.

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

20 I. A mixed beverage license shall authorize the holder thereof:
21 To purchase alcohol, spirits, beer or wine in retail containers from
22 the holder of a wholesaler or Class B wholesaler license or as
23 specifically provided by law and to sell, offer for sale and possess
24 mixed beverages for on-premises consumption only; provided, the

1 holder of a mixed beverage license issued for an establishment which
2 is also a restaurant may purchase wine directly from a winemaker who
3 is permitted and has elected to self-distribute as provided in
4 Section 3 of Article XXVIII of the Oklahoma Constitution.

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

16 J. A bottle club license shall authorize the holder thereof:
17 To store, possess and mix alcoholic beverages belonging to members
18 of the club and to serve such alcoholic beverages for on-premises
19 consumption to club members. A bottle club license shall only be
20 issued in counties of this state where the sale of alcoholic
21 beverages by the individual drink for on-premises consumption has
22 not been authorized. A separate license shall be required for each
23 place of business.
24

1 K. A caterer license shall authorize the holder thereof: To
2 sell mixed beverages for on-premises consumption incidental to the
3 sale or distribution of food at particular functions, occasions, or
4 events which are temporary in nature. A caterer license shall not
5 be issued in lieu of a mixed beverage license. A caterer license
6 shall only be issued in counties of this state where the sale of
7 alcoholic beverages by the individual drink for on-premises
8 consumption has been authorized. A separate license shall be
9 required for each place of business.

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

22 2. A quarterly special event license shall authorize the holder
23 thereof: To sell and distribute mixed beverages for consumption on
24 the premises for which the license has been issued for up to three

1 events to be held over a period not to exceed three (3) months. For
2 purposes of this paragraph, an event shall not exceed a period of
3 ten (10) consecutive days. A quarterly special event license shall
4 only be 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 a quarterly 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 3. An annual public 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 six
12 events to be held over a period not to exceed one (1) calendar year.
13 For purposes of this paragraph, an event shall not exceed a period
14 of three (3) consecutive days. An annual public 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 an annual public event license shall
18 provide written notice to the ABLE Commission of each promoted
19 public event not less than ten (10) days before the event is held.
20 A public event license shall not be used in lieu of a mixed beverage
21 license.

22 4. A one-time public event license shall authorize the holder
23 thereof: to sell and distribute mixed beverages for consumption on
24 the premises for which the license has been issued. For purposes of

1 this paragraph, an event shall not exceed a period of three (3)
2 consecutive days. A public event license shall only be issued in
3 counties of this state where the sale of alcoholic beverages by the
4 individual drink for on-premises consumption has been authorized.
5 The holder of a public event license shall provide written notice to
6 the ABLE Commission of each public event not less than ten (10) days
7 before the event is held. A public event license shall not be used
8 in lieu of a mixed beverage license.

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

21 N. An airline/railroad beverage license shall authorize the
22 holder thereof: To sell or serve alcoholic beverages in or from any
23 size container on a commercial passenger airplane or railroad
24 operated in compliance with a valid license, permit or certificate

1 issued under the authority of the United States or this state, even
2 though the airplane or train, in the course of its travel, may cross
3 an area in which the sale of alcoholic beverages by the individual
4 drink is not authorized and to store alcoholic beverages in sealed
5 containers of any size at any airport or station regularly served by
6 the licensee, in accordance with rules promulgated by the Alcoholic
7 Beverage Laws Enforcement Commission. Alcoholic beverages purchased
8 by the holder of an airline/railroad license from the holder of a
9 wholesaler license shall be presumed to be purchased for consumption
10 outside the State of Oklahoma or in interstate commerce, and shall
11 be exempt from the excise tax provided for in Section 553 of this
12 title.

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

1 P. An employee license shall authorize the holder thereof: To
2 work in a package store, mixed beverage establishment, bottle club,
3 public event or any establishment where alcohol or alcoholic
4 beverages are sold, mixed, or served. Persons employed by a mixed
5 beverage licensee, public event licensee or a bottle club who do not
6 participate in the service, mixing, or sale of mixed beverages shall
7 not be required to have an employee license. Provided, however,
8 that a manager employed by a mixed beverage licensee, public event
9 licensee or a bottle club shall be required to have an employee
10 license whether or not the manager participates in the service,
11 mixing or sale of mixed beverages. Applicants for an employee
12 license must have a health card issued by the county in which they
13 are employed, if the county issues such a card. Employees of
14 special event, caterer or airline/railroad beverage licensees shall
15 not be required to obtain an employee license. Persons employed by
16 a hotel licensee who participate in the stocking of hotel room mini-
17 bars or in the handling of alcoholic beverages to be placed in such
18 devices shall be required to have an employee license.

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

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

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

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

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

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

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

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

1 S. A private carrier license may be issued to any carrier other
2 than a common carrier described in subsection Q of this section.
3 Such license shall authorize the holder thereof to transport
4 alcoholic beverages other than wine sold directly by a winemaker or
5 winery to a retail package store or restaurant into, within, or out
6 of this state under such terms, conditions, limitations, and
7 restrictions as the ABLE Commission may prescribe by order issuing
8 such license and by regulations. No carrier license or private
9 carrier license shall be required of licensed brewers, distillers,
10 winemakers, rectifiers, wholesalers, or Class B wholesalers, to
11 transport alcoholic beverages from the place of purchase or
12 acquisition to the licensed premises of such licensees and from such
13 licensed premises to the licensed premises of the purchaser in
14 vehicles owned or leased by such licensee when such transportation
15 is for a lawful purpose and not for hire.

16 No carrier license or private carrier license shall be required
17 of the holder of a package store, mixed beverage, caterer, special
18 event, hotel beverage, public event or airline/railroad license to
19 pick up alcoholic beverage orders from the licensees' wholesaler or
20 Class B wholesaler from whom they are purchased, and to transport
21 such alcoholic beverages from the place of purchase or acquisition
22 to the licensed premise of such licensees in vehicles owned or under
23 the control of such licensee or a licensed employee of such licensee
24

1 under such terms, conditions, limitations and restrictions as the
2 ABLE Commission may prescribe.

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

14 U. A storage license may be issued to a holder of a brewer,
15 distiller, winemaker, rectifier, wholesaler, Class B wholesaler,
16 nonresident seller, package store, mixed beverage, caterer, public
17 event or hotel beverage license, and shall authorize the holder
18 thereof: To store alcoholic beverages in a public warehouse holding
19 a bonded warehouse license, and no goods, wares or merchandise other
20 than alcoholic beverages may be stored in the same warehouse with
21 alcoholic beverages in private warehouses owned or leased and
22 operated by such licensees elsewhere than on their licensed
23 premises. Provided:
24

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

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

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

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

14 5. Notwithstanding the provisions of subsection I of this
15 section or any other provision of this title, a licensee who wholly
16 owns more than one licensed mixed beverage establishment may store
17 alcoholic beverages for each of the licensed establishments in one
18 location under one storage license. Alcoholic beverages purchased
19 and stored pursuant to the provisions of a storage license, for one
20 licensed mixed beverage establishment may be transferred by a
21 licensee to another licensed mixed beverage establishment which is
22 wholly owned by the same licensee. Notice of such a transfer shall
23 be given in writing to the Oklahoma Tax Commission and the ABLE
24 Commission within three (3) business days of the transfer. The

1 notice shall clearly show the quantity, brand and size of every
2 transferred bottle or case.

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

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

19 Sales and service of beer and wine by holders of beer and wine
20 licenses shall be limited to the licensed premises of the licensee
21 unless the holder of the beer and wine license also obtains a
22 caterer license. A beer and wine license shall only be issued in
23 counties of this state where the sale of alcoholic beverages by the
24 individual drink for on-premises consumption has been authorized. A

1 separate license shall be required for each place of business. No
2 beer and wine license shall be issued for any place of business
3 functioning as a motion picture theater, as defined by Section 506
4 of this title. No spirits shall be stored, possessed or consumed on
5 the licensed premises of a beer and wine licensee.

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

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

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

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

22 A charitable alcoholic beverage event shall be conducted solely
23 to raise funds for charitable purposes. A charitable alcoholic
24 beverage license will allow the event attendees access to tastings,

1 samples, dinners and alcoholic beverages as parts of their entrance
2 fee or ticket price. Wine, spirits and/or beer used in, served, or
3 consumed at a charitable alcoholic beverage event may be purchased
4 by the charitable organization or donated by any person or entity.
5 The charitable alcoholic beverage event license shall be issued for
6 a period not exceeding four (4) days. Only eight such licenses may
7 be issued to an organization in any twelve-month period. The
8 charitable organization holding a charitable alcoholic beverage
9 event license shall not be required to obtain a special event
10 license. Charitable auction and charitable alcoholic beverage event
11 license holders may also utilize a licensed caterer to provide
12 additional alcohol services at the event and on the premises. The
13 charitable auction license shall authorize the holder thereof to
14 auction wine, spirits and/or beer purchased from a retail package
15 store or received as a gift from an individual if the auction is
16 conducted to raise funds for charitable purposes. The charitable
17 auction license shall be issued for a period not to exceed two (2)
18 days. Only four such licenses shall be issued to an organization in
19 any twelve-month period. The maximum amount of wine, spirits and/or
20 beer auctioned pursuant to the charitable auction license shall not
21 exceed fifty (50) gallons. All wines auctioned pursuant to the
22 charitable auction license shall be registered and all fees and
23 taxes shall be paid in accordance with the Oklahoma Alcoholic
24 Beverage Control Act.

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

13 Z. A small farm winery license shall authorize the holder
14 thereof: To manufacture and bottle wines produced by that small
15 farm winery. In addition, a small farm winery license authorizes
16 the holder of that permit to bottle and sell wines produced by
17 another small farm winery. In order for a small farm winery to
18 bottle and sell another small farm winery's products, both the
19 selling winery and the buying winery shall be small farm winery
20 permit holders.

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

1 ~~AA.~~ BB. Except as provided in Sections 554.1 and 554.2 of this
2 title with respect to cities, towns and counties, and except as may
3 be provided under Title 68 of the Oklahoma Statutes with respect to
4 the Oklahoma Tax Commission, no license or permit other than
5 licenses as provided under the Oklahoma Alcoholic Beverage Control
6 Act shall be required of any licensee by any agency, instrumentality
7 or political subdivision of this state to engage in any activity
8 covered by the Oklahoma Alcoholic Beverage Control Act anywhere
9 within the State of Oklahoma and no agency, instrumentality or
10 political subdivision of this state shall interfere with the ABLE
11 Commission's regulation of, or a wholesaler's performance of, the
12 sale, distribution, possession, handling or marketing of alcoholic
13 beverages on any premises of any licensee as defined in Section 506
14 of this title.

15 SECTION 4. This act shall become effective November 1, 2015.

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