

OKLAHOMA STATE SENATE  
CONFERENCE  
COMMITTEE REPORT

May 16, 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.

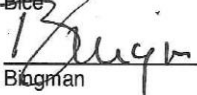
together with Engrossed House Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

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

Respectfully submitted,

SENATE CONFEREES:

  
Bice

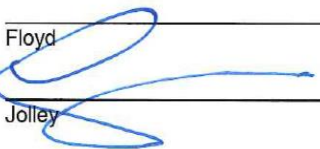
  
Blighman

\_\_\_\_\_  
Bass

\_\_\_\_\_  
Newberry

  
Treat

\_\_\_\_\_  
Floyd

  
Jolley

HOUSE CONFEREES:

Conference Committee on Alcohol, Tobacco, and Controlled Substances

Senate Action \_\_\_\_\_ Date \_\_\_\_\_ House Action \_\_\_\_\_ Date \_\_\_\_\_

*epc*

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  
(Dustin) of the House

8  
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;  
25       authorizing ABLE Commission to promulgate certain  
26       rules; specifying grounds for license actions;  
27       providing procedures for labeling of alcoholic  
28       beverages; specifying fees; prohibiting refilling of  
29       certain containers; requiring certain license holders  
30       to furnish surety bond and providing procedures;  
31       requiring certain tax permit holders to file monthly  
32       reports and providing procedures; providing for  
33       calculation and payment of gross receipts tax;  
34       authorizing certain audits; allowing retention of  
35       percentage by tax permit holder or taxpayer;  
36       prohibiting possession of unlisted containers;  
37       prohibiting certain acts and providing penalties;  
38       authorizing removal of certain persons from licensed  
39       premises and adjacent areas; providing for seizure  
40       and forfeiture of certain property; prohibiting  
41       admittance of persons under twenty-one years of age  
42       to certain premises and providing exceptions;  
43       providing procedures; prohibiting filing of false tax  
44       return or willful tax evasion; prohibiting  
45       misrepresentation of age; allowing court to order  
46       cancellation or denial of driving privileges;  
47       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

Section 3, Chapter 275, O.S.L. 2015, 523.1, as amended by Section 4, Chapter 275, O.S.L. 2015, 523.2, as amended by Section 5, Chapter 275, O.S.L. 2015, 524, as last amended by Section 2, Chapter 160, O.S.L. 2015, 525, Section 1, Chapter 160, O.S.L. 2015, 526.1, 527, 527.1, as last amended by Section 6, Chapter 275, O.S.L. 2015, 528, 528.1, as amended by Section 7, Chapter 298, O.S.L. 2014, 528.2, 529, 530, 530.1, 531, 532, 532.1, as amended by Section 8, Chapter 298, O.S.L. 2014, 532.2, 533, 534, 534.1, 535, as last amended by Section 7, Chapter 275, O.S.L. 2015, 535.1, as amended by Section 10, Chapter 298, O.S.L. 2014, 535.2, Section 11, Chapter 298, O.S.L. 2014, 535.3, 536, 536.1, 537, as amended by Section 12, Chapter 298, O.S.L. 2014, 537.1, as last amended by Section 8, Chapter 275, O.S.L. 2015, 537.2, 537.3, 538, as amended by Section 14, Chapter 298, O.S.L. 2014, 538.1, 538.2, 538.3, 539, 540, 541, 542, 543, 543.1, 543.2, 545, 546, 547, 548, 549, 550, 551, 552, 553, as amended by Section 2, Chapter 357, O.S.L. 2012, 554, as amended by Section 9, Chapter 275, O.S.L. 2015, 554.1, as amended by Section 15, Chapter 298, O.S.L. 2014, 554.2, as amended by 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.

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

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

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

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

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

1           b.     allowing the services of a caterer serving alcoholic  
2                 beverages provided by a private party.

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

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

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

14         46.    "Rectifier" means any person who rectifies, purifies or  
15 refines spirits or wines by any process (other than by original and  
16 continuous distillation, or original and continuous processing, from  
17 mash, wort, wash or other substance, through continuous closed  
18 vessels and pipes, until the production thereof is complete), and  
19 any person who, without rectifying, purifying or refining spirits,  
20 shall by mixing (except for immediate consumption on the premises  
21 where mixed) such spirits, wine or other liquor with any material,  
22 manufactures any spurious, imitation or compound liquors for sale,  
23 under the name of whiskey, brandy, rum, gin, wine, spirits, cordials  
24 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.

24

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

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

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

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

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

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

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

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

7 1. To purchase wine or spirits from a wine and spirits  
8 wholesaler;

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

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

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

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

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

21 3. To sell same on the licensed premises in such containers to  
22 consumers for off-premises consumption only and not for resale;  
23 provided, wine may be sold to charitable organizations that are  
24

1 holders of charitable alcoholic beverage auction or charitable  
2 alcoholic beverage event licenses.

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

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

6            1. To purchase beer from a beer distributor;

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

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

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

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

20        A mixed beverage license shall authorize the holder thereof:

21            1. To purchase alcohol, spirits, beer and/or wine in retail  
22 containers from the holder of a wine and spirits wholesaler and beer  
23 distributor license as specifically provided by law; and  
24

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

7        Sales and service of mixed beverages by holders of mixed  
8 beverage licenses shall be limited to the licensed premises of the  
9 licensee unless the holder of the mixed beverage license also  
10 obtains a caterer license or a mixed beverage/caterer combination  
11 license. A mixed beverage license shall only be issued in counties  
12 of this state where the sale of alcoholic beverages by the  
13 individual drink for on-premises consumption has been authorized. A  
14 separate license shall be required for each place of business.

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

18        A bottle club license shall authorize the holder thereof to  
19 store, possess and mix alcoholic beverages belonging to members of  
20 the club and to serve such alcoholic beverages for on-premises  
21 consumption to club members. A bottle club license shall only be  
22 issued in counties of this state where the sale of alcoholic  
23 beverages by the individual drink for on-premises consumption has  
24

1 not been authorized. A separate license shall be required for each  
2 place of business.

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

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

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

18 A. 1. A caterer license may be issued to any person for the  
19 purpose of sale, delivery or distribution of alcoholic beverages  
20 incidental to the sale or distribution of food on a premises not  
21 licensed by the ABLE Commission. For purposes of this section,  
22 "incidental to the sale or distribution of food" means food sales  
23 constituting at least thirty-five percent (35%) of the caterer's  
24

1 total combined annual sales. A caterer license shall not be issued  
2 to a person whose main purpose is the sale of alcoholic beverages.

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

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

18 4. Each caterer shall submit a monthly event report containing  
19 information on all events scheduled for the subsequent month. If an  
20 event is scheduled after the first day of the month for an event to  
21 occur in the same month, then the caterer shall report that event  
22 within twenty-four (24) hours of scheduling the event or within  
23 twenty-four (24) hours prior to the event, whichever occurs first.

1 The monthly event report shall be submitted on the first day of each  
2 month.

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

9 6. Any caterer who fails to submit a monthly report shall have  
10 the caterer license automatically suspended until such time that the  
11 caterer has fully complied with all reporting requirements. Any  
12 caterer whose annual food sales do not exceed thirty-five percent  
13 (35%) of his or her total annual combined sales shall not have the  
14 caterer's license renewed.

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

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

23 D. If the premises where the event being catered is held are  
24 already operating pursuant to another type of license issued by the

1 ABLE Commission, the caterer and the other licensee shall both be  
2 responsible for the actions of the caterer and shall both be subject  
3 to penalties for violations by the caterer of the Oklahoma Alcoholic  
4 Beverage Control Act and any rules promulgated thereto.

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

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

10 1. The caterer shall take reasonable steps to ensure that the  
11 mixed beverage applicant uses only licensed employees to perform  
12 licensable activities while using the caterer's license. The  
13 caterer shall use his or her best efforts to attempt to have a  
14 licensed employee on-site supervising the sale of such caterer's  
15 alcoholic beverages at all times, but the caterer shall not be  
16 disciplined for failing to have a licensed employee on-site. The  
17 caterer expressly acknowledges that he or she is liable for all  
18 violations of the Oklahoma Alcoholic Beverage Control Act and rules  
19 of the ABLE Commission that are committed by the mixed beverage  
20 applicant and its employees during this period;

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

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

5        G. A caterer may provide alcoholic beverage services for  
6 temporary public events which have been licensed and approved by the  
7 ABLE Commission.

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

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

15        A. An annual special event license shall authorize the holder  
16 thereof to sell and distribute mixed beverages for consumption on  
17 the premises for which the license has been issued for up to four  
18 events to be held over a period not to exceed one (1) year, not to  
19 exceed two such events in any three-month period. For purposes of  
20 this subsection, an event shall not exceed a period of ten (10)  
21 consecutive days. An annual special event license shall only be  
22 issued in counties of this state where the sale of alcoholic  
23 beverages by the individual drink for on-premises consumption has  
24 been authorized. The holder of an annual special event license

1 shall provide written notice to the ABLE Commission of each special  
2 event not less than ten (10) days before the event is held.

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

14 C. An annual public event license shall authorize the holder  
15 thereof to sell and distribute mixed beverages for consumption on  
16 the premises for which the license has been issued for up to six  
17 events to be held over a period not to exceed one (1) calendar year.  
18 The applicant for an annual public event license, who does not  
19 already hold a license issued by the ABLE Commission, shall make  
20 application not less than sixty (60) days before its first event.  
21 The ABLE Commission shall have the authority to waive the sixty-day  
22 requirement at its discretion. For purposes of this subsection, an  
23 event shall not exceed a period of three (3) consecutive days. An  
24 annual public event license shall only be issued in counties of this

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

7 D. A one-time public event license shall authorize the holder  
8 thereof to sell and distribute mixed beverages for consumption on  
9 the premises for which the license has been issued. The applicant  
10 for a one-time public event license, who does not already hold a  
11 license issued by the ABLE Commission, shall make application not  
12 less than sixty (60) days before the event. The ABLE Commission  
13 shall have the authority to waive the sixty-day requirement at its  
14 discretion. For purposes of this paragraph, an event shall not  
15 exceed a period of three (3) consecutive days. A public event  
16 license shall only be issued in counties of this state where the  
17 sale of alcoholic beverages by the individual drink for on-premises  
18 consumption has been authorized. The holder of a public event  
19 license shall provide written notice to the ABLE Commission of each  
20 public event not less than ten (10) days before the event is held.  
21 A public event license shall not be used in lieu of a mixed beverage  
22 license.

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

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

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

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

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

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

23       A hotel beverage license shall authorize the holder thereof to  
24 sell or serve alcoholic beverages in fifty (50) milliliter spirits,

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

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

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

17 B. The ABLE Commission shall promulgate rules governing the  
18 application for and the issuance of hotel beverage licenses.

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

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

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

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

8        4. All employees handling the alcoholic beverages to be placed  
9 in the mini-bar possess an employee license issued by the ABLE  
10 Commission.

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

14        A. An airline/railroad beverage license shall authorize the  
15 holder thereof:

16        1. To sell or serve alcoholic beverages in or from any size  
17 container on a commercial passenger airplane or railroad operated in  
18 compliance with a valid license, permit or certificate issued under  
19 the authority of the United States or this state, even though the  
20 airplane or train, in the course of its travel, may cross an area in  
21 which the sale of alcoholic beverages by the individual drink is not  
22 authorized; and  
23  
24

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

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

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

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

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

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

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

23        2. To solicit and to take orders for the purchase of alcoholic  
24 beverages from retailers including licensees authorized to sell

1 alcoholic beverages by the individual drink for on-premises  
2 consumption.

3 Such license shall be issued only to agents and employees of the  
4 holder of a license under the Oklahoma Alcoholic Beverage Control  
5 Act, but no such license shall be required of an employee making  
6 sales of alcoholic beverages on licensed premises of the employee's  
7 principal.

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

11 An employee license shall authorize the holder thereof to work  
12 in a licensed package store, retail spirits, retail wine or retail  
13 beer establishment, brewpub, mixed beverage establishment, beer and  
14 wine establishment, bottle club, public event or any establishment  
15 where alcohol or alcoholic beverages are sold, mixed or served.  
16 Persons employed by a mixed beverage, on-premises beer and wine,  
17 retail wine, retail beer, public event or a bottle club licensee who  
18 do not participate in the service, mixing or sale of mixed beverages  
19 shall not be required to have an employee license. Provided,  
20 however, that a manager employed by a mixed beverage licensee,  
21 public event licensee or a bottle club shall be required to have an  
22 employee license whether or not the manager participates in the  
23 service, mixing or sale of mixed beverages. Applicants for an  
24 employee license must be at least eighteen (18) years of age and

1 have a health card issued by the county in which they are employed,  
2 if the county issues such a card. Employees of a special event,  
3 caterer, unless catering a mixed beverage-licensed premise or  
4 airline/railroad beverage licensees shall not be required to obtain  
5 an employee license. Persons employed by a hotel licensee who  
6 participate in the stocking of hotel room mini-bars or in the  
7 handling of alcoholic beverages to be placed in such devices shall  
8 be required to have an employee license. As a prerequisite to the  
9 issuance of an employee license, the applicant shall be required to  
10 have successfully completed a training program conducted by the ABLE  
11 Commission, or by another entity approved by the ABLE Commission,  
12 including an in-house training program conducted by the employer.

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

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

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

20 2. Manufacture of extracts, syrups, condiments and food  
21 products; and

22 3. For use in scientific, chemical, mechanical, industrial and  
23 medicinal products and purposes.

24

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

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

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

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

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

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

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

19       B. No carrier license or private carrier license shall be  
20 required of the holder of a retail spirits, retail wine, retail  
21 beer, mixed beverage, caterer, special event, hotel beverage, public  
22 event or airline/railroad license to pick up alcoholic beverage  
23 orders from the licensee's wholesaler, beer distributor or holder of  
24 a small brewer self-distribution license or brewpub self-

1 distribution license from whom they are purchased and to transport  
2 such alcoholic beverages from the place of purchase or acquisition  
3 to the licensed premise of such licensees in vehicles owned or under  
4 the control of such licensee or a licensed employee of such licensee  
5 under such terms, conditions, limitations and restrictions as the  
6 ABLE Commission may prescribe.

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

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

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

23       A storage license may be issued to a holder of a brewer,  
24 distiller, winemaker, rectifier, wine or spirits wholesaler, beer

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

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

14 2. Any licensee who is the holder of a mixed beverage/caterer  
15 combination license or the holder of a mixed beverage license and a  
16 hotel beverage license who is issued a storage license shall store  
17 all inventories of alcoholic beverages either on the premises of the  
18 mixed beverage establishment or in the warehouse;

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

21 4. A storage license shall be required for a public event  
22 licensee storing alcoholic beverages for use at a subsequent event;  
23 and  
24

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

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

16        A sacramental wine supplier license shall authorize the holder  
17 thereof to sell, ship or deliver sacramental wine to any religious  
18 corporation or society of this state holding a valid exemption from  
19 taxation issued pursuant to Section 501(a) of the Internal Revenue  
20 Code, 1986, and listed as an exempt organization in Section  
21 501(c) (3) of the Internal Revenue Code, 1986, of the United States,  
22 as amended.

23

24

SECTION 40. NEW LAW

A new section of law to be codified in the Oklahoma Statutes as Section 2-128 of Title 37A, unless there is created a duplication in numbering, reads as follows:

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

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

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

B. Sales and service of beer and wine by holders of on-premises beer and wine licenses shall be limited to the licensed premises of the licensee unless the holder of the on-premises beer and wine license also obtains a caterer license. An on-premises beer and wine license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. A separate license shall be required for each place of business. No spirits shall be stored,

1 possessed or consumed on the licensed premises of an on-premises  
2 beer and wine license.

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

6 A. 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), (6), (7), (8), (9), (10)  
9 or (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 B. A charitable alcoholic beverage event shall be conducted  
23 solely to raise funds for charitable purposes. A charitable  
24 alcoholic beverage license shall allow the event attendees access to

1 tastings, samples, dinners and alcoholic beverages as parts of their  
2 entrance fee or ticket price. Wine, spirits and/or beer used in,  
3 served or consumed at a charitable alcoholic beverage event may be  
4 purchased by the charitable organization or donated by any person or  
5 entity.

6 C. The charitable alcoholic beverage event license shall be  
7 issued for a period not exceeding four (4) days. Only eight such  
8 licenses may be issued to an organization in any twelve-month  
9 period. The charitable organization holding a charitable alcoholic  
10 beverage event license shall not be required to obtain a special  
11 event license.

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

15 E. The charitable auction license shall authorize the holder  
16 thereof to auction wine, spirits and/or beer purchased from a retail  
17 package store or received as a gift from an individual if the  
18 auction is conducted to raise funds for charitable purposes. The  
19 charitable auction license shall be issued for a period not to  
20 exceed two (2) days. Only four such licenses shall be issued to an  
21 organization in any twelve-month period. The maximum amount of  
22 wine, spirits and/or beer auctioned pursuant to the charitable  
23 auction license shall not exceed fifty (50) gallons. All wines,  
24 beer and spirits auctioned pursuant to the charitable auction

1 license shall be registered and all fees and taxes shall be paid in  
2 accordance with the Oklahoma Alcoholic Beverage Control Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

19        5. Hold a brewpub self-distribution license.

20        B. A brewpub self-distribution license shall authorize holders  
21 of a brewpub license to distribute beer produced only by such  
22 licensee and operated by an entity which has common owners with such  
23 brewpub licensee, regardless of which place of business brews the  
24 beverage. "Common owners" means that the owners at each place or

1 entity together own more than fifty percent (50%) of the interest in  
2 each place or entity that holds a type of license listed in this  
3 subsection.

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

7 Each bottle club or mixed beverage, beer and wine, caterer,  
8 public event, charitable event or special event licensee shall be  
9 held responsible for violation of any alcoholic beverage law or  
10 administrative rule of the ABLE Commission affecting his or her  
11 license privileges and for any act or omission of his or her  
12 servant, agent, employee or representative in violation of any law,  
13 municipal ordinance or administrative rule affecting his or her  
14 license privileges.

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

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

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

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

8       A manufacturer's license or nonresident seller license shall  
9 authorize the holder thereof to solicit and take orders for  
10 alcoholic beverages from the holders of licenses authorized to  
11 import the same into this state, and to ship or deliver, or cause to  
12 be shipped or delivered, alcoholic beverages into Oklahoma pursuant  
13 to such sales.

14       B. A brewer not licensed in this state selling beer to a  
15 nonresident seller shall have a written distribution sales agreement  
16 with the nonresident seller. Such agreement shall be subject to  
17 inspection by the ABLE Commission.

18       C. The ABLE Commission may, subject to the provisions of the  
19 Oklahoma Alcoholic Beverage Control Act requiring notice and hearing  
20 in the case of sanctions against holders of licenses, suspend or  
21 revoke a manufacturer's license or nonresident seller license for  
22 any violation of the Oklahoma Alcoholic Beverage Control Act by the  
23 holder thereof.

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

12       E. The holder of a manufacturer's license or nonresident seller  
13 license shall, promptly upon consignment of any alcoholic beverages  
14 to an importer in Oklahoma, forward to the ABLE Commission a true  
15 copy of the invoice, bill of lading or other document as the ABLE  
16 Commission may by rule prescribe, showing the details of such  
17 shipment.

18       F. Any person, not otherwise a dealer in alcoholic beverages,  
19 coming into possession of any alcoholic beverages as security for or  
20 in payment of a debt, or as an insurer or its transferee or assignee  
21 for the salvage or liquidation of an insured casualty or damage or  
22 loss, or as an executor, administrator, trustee or other fiduciary,  
23 may sell the beverages in one lot or parcel to a duly licensed  
24 wholesaler or beer distributor at an agreed-upon price without

1 regard to current posted prices. However, immediately after taking  
2 possession of the alcoholic beverages, the person shall register  
3 with the Director and furnish a detailed list of the alcoholic  
4 beverages and post with the Director a bond in such amount as the  
5 Director deems sufficient to protect the state from any taxes due on  
6 the alcoholic beverages. The person shall pay to the Director a  
7 registration fee of Fifty Dollars (\$50.00), which fee shall permit  
8 the sale of only the alcoholic beverages detailed in the  
9 registration request. A wholesaler or beer distributor receiving a  
10 lot or parcel of alcoholic beverages pursuant to this subsection may  
11 sell it in one lot or parcel or more than one lot or parcel to a  
12 licensed package store or mixed beverage licensee or more than one  
13 licensed package store or mixed beverage licensee at an agreed-upon  
14 price without regard to current posted prices; provided, the total  
15 of the lots sold by the wholesaler or beer distributor shall not  
16 exceed four (4) lots.

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

20 A manufacturer's agent license shall authorize the holder  
21 thereof to represent only the holders of a manufacturer's license or  
22 nonresident seller license and to solicit and take orders for the  
23 sale of wine and spirits for the purpose of resale. No such license  
24 shall be issued to any person until it shall have been shown to the

1 satisfaction of the ABLE Commission that the applicant has been duly  
2 authorized to act as the agent of the principal he or she proposes  
3 to represent, and that the principal or principals he or she  
4 proposes to represent has been duly authorized to do business in the  
5 State of Oklahoma, and has appointed a service agent in this state.  
6 No applicant for a manufacturer's agent license shall also hold an  
7 agent license. It shall be unlawful for any person other than the  
8 holder of a manufacturer's agent license or an agent license to  
9 solicit or take orders in the state from a wine and spirits  
10 wholesaler or beer distributor.

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

14 Except as provided in Sections 101 and 102 of this act with  
15 respect to cities, towns and counties, and except as may be provided  
16 under Title 68 of the Oklahoma Statutes with respect to the Oklahoma  
17 Tax Commission, no license or permit other than licenses as provided  
18 under the Oklahoma Alcoholic Beverage Control Act shall be required  
19 of any licensee by any agency, instrumentality or political  
20 subdivision of this state to engage in any activity covered by the  
21 Oklahoma Alcoholic Beverage Control Act anywhere within the State of  
22 Oklahoma and no agency, instrumentality or political subdivision of  
23 this state shall interfere with the regulation of the ABLE  
24 Commission, or the performance of a wholesaler with respect to the

1 sale, distribution, possession, handling or marketing of alcoholic  
2 beverages on any premises of any licensee as defined in Section 3 of  
3 this act.

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

7 The holder of a mixed beverage, beer and wine, caterer, special  
8 event, public event or airline/railroad beverage license shall  
9 purchase alcoholic beverages only from a licensed wine and spirits  
10 wholesaler or beer distributor, or as otherwise specifically  
11 provided by law; provided, the holder of a mixed beverage, beer and  
12 wine, caterer or special event license issued for an establishment  
13 which is also a restaurant may purchase wine produced at small farm  
14 wineries or beer produced at small breweries in this state directly  
15 from a winemaker or craft brewer as provided in Article XXVIII A of  
16 the Oklahoma Constitution.

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

23

24

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

4       A. It shall be unlawful for any mixed beverage establishment,  
5 beer and wine establishment or bottle club which has been licensed  
6 by the ABLE Commission and which has as its main purpose the selling  
7 or serving of alcoholic beverages for consumption on the premises,  
8 or package store, to be located within three hundred (300) feet of  
9 any public or private school or church property primarily and  
10 regularly used for worship services and religious activities;  
11 however, a college or university located within an improvement  
12 district created pursuant to Section 39-103.1 of Title 11 of the  
13 Oklahoma Statutes may waive the three-hundred-foot requirement by  
14 providing written notice to the establishment seeking the license  
15 and to the ABLE Commission. Provided, a college or university prior  
16 to waiving the three-hundred-foot requirement found in this  
17 subsection shall publish a notice of its intention to waive such  
18 requirement in a legal newspaper of general circulation within the  
19 state at least thirty (30) days but no more than forty (40) days  
20 prior to providing any written notice, waiving the three-hundred-  
21 foot requirement, to the establishment seeking the license or to the  
22 ABLE Commission. As used in this subsection "legal newspaper of  
23 general circulation within this state" means a newspaper meeting the  
24 requisites of a newspaper for publication of legal notices as

1 prescribed in Section 106 of Title 25 of the Oklahoma Statutes in a  
2 majority of the counties in this state.

3 B. The distance indicated in this section shall be measured  
4 from the nearest property line of such public or private school or  
5 church to the nearest perimeter wall of the premises of any such  
6 mixed beverage establishment, beer and wine establishment, bottle  
7 club or package store which has been licensed to sell alcoholic  
8 beverages.

9 C. The provisions of this section shall not apply to mixed  
10 beverage establishments, beer and wine establishments, or bottle  
11 clubs, which have been licensed to sell alcoholic beverages for on-  
12 premises consumption or retail package stores prior to November 1,  
13 2000; provided, if at the time of application for license renewal  
14 the licensed location has not been in actual operation for a  
15 continuous period of more than sixty (60) days, the license shall  
16 not be renewed.

17 D. If any school or church shall be established within three  
18 hundred (300) feet of any package store, mixed beverage  
19 establishment, beer and wine establishment or bottle club subject to  
20 the provisions of this section after such package store, mixed  
21 beverage establishment, beer and wine establishment or bottle club  
22 has been licensed, the provisions of this section shall not be a  
23 deterrent to the renewal of such license if there has not been a  
24 lapse of more than sixty (60) days. When any mixed beverage

1 establishment, beer and wine establishment or bottle club subject to  
2 the provisions of this section which has a license to sell alcoholic  
3 beverages for on-premises consumption, or package store, changes  
4 ownership or the operator thereof is changed and such change of  
5 ownership results in the same type of business being conducted on  
6 the premises, the provisions of this section shall not be a  
7 deterrent to the issuance of a license to the new owner or operator  
8 if he or she is otherwise qualified.

9 E. 1. Any interested party may protest the application for or  
10 granting of a license for a package store, or for a mixed beverage  
11 establishment, beer and wine establishment or bottle club which has  
12 as its main purpose the selling or serving of alcoholic beverages  
13 for consumption on the premises, based on an alleged violation of  
14 this section. To be considered by the ABLE Commission, the protest  
15 must:

- 16 a. be submitted in writing,
- 17 b. be signed by the person protesting,
- 18 c. contain the mailing address and address of residence,  
19 if different from the mailing address of the  
20 protester,
- 21 d. contain the title of the person signing the protest,  
22 if the person is acting in an official capacity as a  
23 church or school official, and  
24

1           e.     contain a concise statement explaining why the  
2                   application is being protested.

3           2.    Within thirty (30) days of the date of receipt of a written  
4 protest, the ABLE Commission shall conduct a hearing on the protest  
5 if the protest meets the requirements of paragraph 1 of this  
6 subsection.

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

8           a.    a parent or legal guardian whose child or children  
9                   attend the church or school which is alleged to be  
10                  closer to the mixed beverage establishment or bottle  
11                  club which has as its main purpose the selling or  
12                  serving of alcoholic beverages for consumption on the  
13                  premises, or package store, than is allowed by this  
14                  section,

15          b.    an official of a church which is alleged to be closer  
16                  to the mixed beverage establishment or bottle club  
17                  which has as its main purpose the selling or serving  
18                  of alcoholic beverages for consumption on the  
19                  premises, or package store, than is allowed by this  
20                  section, or

21          c.    an official of a school which is alleged to be closer  
22                  to the mixed beverage establishment or bottle club  
23                  which has as its main purpose the selling or serving  
24                  of alcoholic beverages for consumption on the

1 premises, or package store, than is allowed by this  
2 section.

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

6 The ABLE Commission is authorized to issue, upon application of  
7 a person who is twenty-one (21) years of age or older, an annual  
8 personal use permit which when granted authorizes the holder thereof  
9 to make, store, possess and transport for personal use, beer,  
10 fermented non-distilled ciders and wine, as defined by Section 3 of  
11 this act. The total volume of each authorized beverage made and  
12 possessed for personal use in a given calendar year shall be limited  
13 to a volume less than two hundred (200) gallons. The term "personal  
14 use", as used in this act, means the individual making beverages  
15 pursuant to a valid personal use permit issued by the ABLE  
16 Commission produces such beverages solely for his or her use and  
17 consumption, for consumption by his or her family and guests, and  
18 for transport to and use at organized affairs, exhibitions or  
19 competitions, including but not limited to homemaker contests,  
20 tastings or judgments. No beverage made pursuant to a personal use  
21 permit shall be sold or offered for sale.

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

Applicants for original brewer, distiller, winemaker, rectifier, wine and spirits wholesaler, beer distributor, mixed beverage, beer and wine, bottle club, caterer, retail spirits, retail wine or retail beer licenses shall, prior to applying for such license, twice publish, in such form and containing such information as the ABLE Commission shall by rule prescribe, a notice of its intention to apply for any such license, once a week for two (2) successive weeks in a legal newspaper of general circulation within the county where the proposed premises is to be located, and file proof of such publication with the ABLE Commission. Unless otherwise provided, the ABLE Commission shall give notice of approval or disapproval of an application for a license within thirty (30) days after the filing of the application. The ABLE Commission shall give notice of approval or disapproval of an application for a mixed beverage, beer and wine, bottle club or caterer license within sixty (60) days after the filing of the application. Provided, the ABLE Commission may extend the period for making a determination of whether to approve or disapprove an application an additional thirty (30) days for good cause. The ABLE Commission may conditionally approve any application which is subject to Section 54 of this act if:

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

2. The applicant furnishes a conditional certification issued by the municipality or county that the applicant's plans and

1 specifications indicate that the proposed premises will comply with  
2 the municipality's or county's zoning, fire, safety and health  
3 codes.

4 The ABLE Commission shall issue its final notice of approval  
5 when the applicant furnishes final certificates required by Section  
6 54 of this act.

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

10 A. No license provided for in the Oklahoma Alcoholic Beverage  
11 Control Act shall be issued except pursuant to an application filed  
12 with the ABLE Commission. The ABLE Commission may, however, provide  
13 for a form of simplified application for renewal of a license.  
14 Payment of the prescribed fee shall accompany each application for a  
15 license.

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

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

22 2. A certificate of zoning issued by the municipality in which  
23 the applicant proposes to locate the applicant's principal place of  
24 business under the license, or by the county if the principal place

1 of business is located outside the incorporated limits of a  
2 municipality, certifying that the applicant's proposed location and  
3 use thereof comply with all municipal zoning ordinances or county  
4 zoning regulations if applicable;

5 3. A certificate issued by the municipality in which the  
6 applicant proposes to locate the applicant's principal place of  
7 business under the license, or by the county if the principal place  
8 of business is located outside the incorporated limits of a  
9 municipality, certifying that the applicant's existing or proposed  
10 operations under the license comply with all municipal or county  
11 fire codes, safety codes, or health codes, if applicable;

12 4. Authorization, on forms furnished by the ABLE Commission,  
13 for complete investigation of the applicant's current financial  
14 status as it relates to the application for a license, including but  
15 not limited to access to bank accounts, loan agreements and  
16 financial statements;

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

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

21 C. The certificates required by paragraphs 2 and 3 of  
22 subsection B of this section shall be signed by the mayor of the  
23 municipality or the chair of the board of county commissioners  
24 issuing same, unless the municipality, by ordinance, or the county

1 designates some other officer or entity to issue the certificates.  
2 Applications for such certificates shall be in writing and shall  
3 contain information in such detail as the municipality or county may  
4 reasonably require describing the location and nature of operations  
5 to be conducted under the license. Municipalities and counties  
6 shall be required to act on all applications for such certificates  
7 within twenty (20) days of receipt of the written application.

8       D. Municipalities and counties may grant conditional  
9 certificates for premises proposed for licensed operations for which  
10 construction, modification or alteration is not completed.  
11 Conditional certificates shall indicate that the proposed premises  
12 will comply with the municipal or county zoning, fire, safety and  
13 health codes. The granting of conditional certificates shall not  
14 relieve the applicant of the duty of obtaining the certificates  
15 required by paragraphs 2 and 3 of subsection B of this section after  
16 completion of the construction, modification, or alteration.

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

20       Thereafter if a licensee fails to maintain compliance with  
21 municipal or county zoning ordinances and codes, the mayor or chair  
22 of the board of county commissioners or their designee, shall  
23 forthwith notify the ABLE Commission in writing setting forth  
24 details of the noncompliance.

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

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

7 H. Any licensee, except an employee licensee, who fails to  
8 renew the license prior to the expiration date of the license, shall  
9 be subject to a late renewal penalty as provided by rules of the  
10 ABLE Commission. Further, any licensee, except an employee  
11 licensee, who fails to renew the license within sixty (60) days of  
12 the expiration of the license shall be required to submit a new  
13 license application. An employee licensee who fails to renew prior  
14 to the expiration of the license shall be required to submit a new  
15 license application; provided, however, that under no circumstances  
16 shall any licensee, including an employee licensee, whose license to  
17 serve or sell alcoholic beverages has expired, continue to serve or  
18 sell alcoholic beverages.

19 I. The requirements in this section shall be required for a  
20 public event license applicant, except for those certificates  
21 required by paragraphs 2 and 3 of subsection B of this section as  
22 the events are temporary in nature and the locations are not  
23 permanently licensed.

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

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

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

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

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

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

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

2. A list of all corporate officers and directors, except for a charitable organization exempt from taxation under Section 501(c)(3), (4), (5), (6), (7), (8), (9), (10), or (19) of the United States

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

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

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

12 D. A corporate licensee shall notify the ABLE Commission any  
13 time a person, any type of partnership, limited liability company or  
14 other entity acquires the percentages specified in paragraph 3 of  
15 subsection A or B of this section, or more, of the stock of the  
16 corporation. Such notification shall be within thirty (30) days of  
17 acquisition, and the corporation shall pay a fee of One Hundred  
18 Dollars (\$100.00) for each notification of change.

19 E. The ABLE Commission may disapprove a change of officers,  
20 directors or principal managers or the acquisition of more than the  
21 percentages specified in paragraph 3 of subsection A or B of this  
22 section of the stock in a licensed corporation if the ABLE  
23 Commission feels that such change would materially affect the  
24 conditions under which the license was issued, such that the license

1 would not have been issued had such change been in existence at the  
2 time of the original application. If such disapproval occurs, the  
3 ABLE Commission shall notify the licensee in writing and in the case  
4 of a publicly traded corporation, allow a reasonable time for the  
5 licensee to remove such officer, director or manager or for the  
6 stockholder to divest himself or herself of any stock held in excess  
7 of the percentages specified in paragraph 3 of subsection A or B of  
8 this section; provided, a reasonable time may not exceed a ninety-  
9 day period following notification of denial by the ABLE Commission.  
10 Failure to comply with the provisions of this subsection may result  
11 in revocation or suspension of such license.

12 F. Any person who was an officer or director or who has owned  
13 the percentages specified in paragraph 3 of subsection A or B of  
14 this section or more of the stock in a corporation which has been  
15 denied a license or had a license revoked or suspended pursuant to  
16 the provisions of the Oklahoma Alcoholic Beverage Control Act shall  
17 not own stock in any other corporation seeking a license pursuant to  
18 the provisions of the Oklahoma Alcoholic Beverage Control Act for a  
19 period of twelve (12) months from the date the license was revoked  
20 or suspended.

21 G. Any person who was a manager or a member of a limited  
22 liability company which has been denied a license or had a license  
23 revoked or suspended pursuant to the provisions of the Oklahoma  
24 Alcoholic Beverage Control Act shall not own stock in any

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

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

7 A. Any limited liability company, formed as provided for in the  
8 Limited Liability Company Act, may apply for a mixed beverage, beer  
9 and wine, bottle club, caterer, public event, beer distributor,  
10 retail wine or retail beer license issued pursuant to the Oklahoma  
11 Alcoholic Beverage Control Act. Any limited liability company  
12 applying for a license shall submit to the ABLE Commission, the  
13 following:

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

16 2. The Articles of Organization with all amendments and  
17 corrections filed with the Office of the Secretary of State with  
18 proof that same has been filed in accordance with the Limited  
19 Liability Company Act;

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

21 4. The name and address of the manager;

22 5. The operating agreement;

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

1        7. A copy of the issued Certificate of Membership Interest for  
2 each member.

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

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

12        D. The ABLE Commission may disapprove a change of manager or  
13 new membership in a licensed liability company if the ABLE  
14 Commission feels that such change would materially affect any  
15 conditions under which the license was issued, such that the license  
16 would not have been issued had such change been in existence at the  
17 time of the original application. If such disapproval occurs, the  
18 ABLE Commission shall notify the licensee in writing and allow a  
19 reasonable time for the licensee to remove such manager or for a  
20 member to be disassociated from the company; provided, a reasonable  
21 time not exceed a ninety-day period following notification of denial  
22 by the ABLE Commission. Failure to comply with the provisions of  
23 this subsection may result in revocation or suspension of such  
24 license.

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

9 F. Any person who has been a manager, member or participant in  
10 any business entity which was a manager or member of a limited  
11 liability company which has been denied a license or has a license  
12 revoked or suspended, pursuant to the provisions of the Oklahoma  
13 Alcoholic Beverage Control Act shall not serve as a manager or  
14 member in a limited liability company seeking a license pursuant to  
15 the provisions of the Oklahoma Alcoholic Beverage Control Act for a  
16 period of twelve (12) months from date the license was revoked or  
17 suspended.

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

21 SECTION 57. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 2-145 of Title 37A, unless there  
23 is created a duplication in numbering, reads as follows:  
24

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

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

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

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

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

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

20 1. Except in the case of a beer distributor, that the applicant  
21 is not a citizen of the United States or is not a qualified elector  
22 in this state, or has not been a continuous resident of this state  
23 for the five (5) years next preceding the application for the  
24 license;

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

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

4        4. That the applicant or any partner, or spouse of the  
5 applicant or any partner, has been convicted of a violation of any  
6 state or federal law relating to alcoholic beverages, has forfeited  
7 a bond while any charge of such violation was pending, nor may any  
8 license be granted for any purpose under the Oklahoma Alcoholic  
9 Beverage Control Act to an Oklahoma resident, who has held or whose  
10 spouse has held a Federal Liquor Stamp in Oklahoma before the  
11 adoption of Article XXVIII A of the Oklahoma Constitution unless the  
12 Liquor Stamp was granted for supplying alcoholic beverages to a  
13 federal military installation, or was granted under the Oklahoma  
14 Alcoholic Beverage Control Act;

15       5. That the applicant or any partner has, within twelve (12)  
16 months next preceding the date of the application, violated any  
17 provision of the Oklahoma Alcoholic Beverage Control Act or rule of  
18 the ABLE Commission promulgated pursuant hereto. Provided, however,  
19 that if the ABLE Commission has, during such twelve-month period,  
20 suspended any license sought to be renewed, such renewal application  
21 may be approved if the term of the suspension has been completed and  
22 the applicant has complied with any special conditions imposed in  
23 connection with the suspension;

1       6. That the applicant is not of good moral character, or that  
2 the applicant is in the habit of using alcoholic beverages to  
3 excess, or is mentally incapacitated. Provided, that the record in  
4 any municipal court showing a conviction of violation of any  
5 municipal ordinances or state statutes involving moral character or  
6 public nuisance obtained after passage and approval of the Oklahoma  
7 Alcoholic Beverage Control Act shall be received in evidence by the  
8 ABLE Commission;

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

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

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

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

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

22       12. That the proposed location of the licensed premises would  
23 violate a valid municipal nondiscriminatory zoning ordinance;  
24

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

6        14. That the issuance of the license applied for would result  
7 in a violation of any provision of the Oklahoma Alcoholic Beverage  
8 Control Act;

9        15. That, in the case of an application for a wine and spirits  
10 wholesaler or beer distributor license, the applicant or any  
11 partner, or spouse of the applicant or any partner, is the holder or  
12 partner of the holder of any other class of license issued under the  
13 provisions of the Oklahoma Alcoholic Beverage Control Act, other  
14 than an agent or employee license for employment by the applicant,  
15 or a storage license, bonded warehouse license, carrier license or  
16 private carrier license; provided, nothing shall prohibit a wine and  
17 spirits wholesaler, who is otherwise qualified, from maintaining  
18 beer distributor licenses in the state, nor a beer distributor, who  
19 is otherwise qualified, from maintaining a wine and spirits  
20 wholesaler license in the state;

21        16. That, in the case of an application for a retail spirits,  
22 retail wine or retail beer license, the applicant or any partner is  
23 the holder or partner of the holder, or employee of such holder of  
24 any other class of license issued under the provisions of the

1 Oklahoma Alcoholic Beverage Control Act, other than a storage  
2 license or an employee license for the proposed licensed premises of  
3 the applicant; or

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

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

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

13 A. The ABLE Commission shall refuse to issue a mixed beverage,  
14 beer and wine, bottle club, public event, caterer, retail wine or  
15 retail beer license, either on an original application or a renewal  
16 application, if it has reasonable grounds to believe and finds any  
17 of the following to be true:

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

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

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

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

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

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

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

15       8. That the applicant has made false statements to the ABLE  
16 Commission;

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

20       10. That the applicant or any partner, within twelve (12)  
21 months after being issued a license, either on an original  
22 application or a renewal application, has violated any provision of  
23 the Oklahoma Alcoholic Beverage Control Act or rule of the ABLE  
24 Commission promulgated pursuant hereto. Provided, however, that if

1 the ABLE Commission, during the twelve-month period, has suspended  
2 any license sought to be renewed, such renewal application may be  
3 approved if the term of the suspension has been completed and the  
4 applicant has complied with any special conditions imposed in  
5 connection with the suspension;

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

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

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

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

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

22 a. that the applicant or any type of partner has been  
23 convicted of a felony described in paragraph 2 of this  
24 subsection,

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

6           c.    that the applicant, in the case of a limited liability  
7               company, has a manager or a member who has been  
8               convicted of a felony within twenty-five (25) years  
9               prior to the application date, who has been convicted  
10              of a felony described in paragraph 2 of this  
11              subsection.

12           2.    The provisions of this section shall apply to the following  
13    felony offenses:

- 14           a.    an alcohol-related offense,  
15           b.    a violent crime as defined in Section 142A-1 of Title  
16               21 of the Oklahoma Statutes, or  
17           c.    a crime which would subject a person to registration  
18               pursuant to the Sex Offenders Registration Act.

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

22           A.    Any license issued pursuant to the provisions of the  
23    Oklahoma Alcoholic Beverage Control Act by the ABLE Commission,  
24    after due notice and hearing, may be revoked or suspended if the

1 ABLE Commission finds or has grounds to believe that the licensee  
2 has:

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

4 2. Procured a license through fraud, or misrepresentation, or  
5 concealment of a material fact;

6 3. Made any false representation or statement to the ABLE  
7 Commission or the Oklahoma Tax Commission in order to prevent or  
8 induce action by the ABLE Commission or the Tax Commission;

9 4. Maintained an unsanitary establishment or has supplied  
10 impure or otherwise deleterious beverages or food;

11 5. Stored, possessed, mixed or served on the premises of a  
12 bottle club any alcoholic beverage upon which the tax levied by  
13 Section 104 of this act has not been paid as provided for in the  
14 Oklahoma Alcoholic Beverage Control Act, in a county of this state  
15 where the sale of alcoholic beverages by the individual drink for  
16 on-premises consumption has not been authorized;

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

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

22 8. Is not in compliance with the tax laws of this state as  
23 required in Article XXVIII A of the Oklahoma Constitution.  
24

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

4 1. Has acted as an agent of a manufacturer or wholesaler of  
5 alcoholic beverages;

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

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

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

11 5. Has violated any of the provisions of the Oklahoma Alcoholic  
12 Beverage Control Act for which mandatory revocation or suspension is  
13 not required;

14 6. Has been convicted within the past twenty-five (25) years,  
15 of a violation of any state or federal law relating to alcoholic  
16 beverage for which mandatory revocation or suspension is not  
17 required; or

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

20 C. The ABLE Commission may revoke or suspend the license of any  
21 retail, mixed beverage, caterer or bottle club licensee if the ABLE  
22 Commission finds or has grounds to believe that such licensee has  
23 borrowed money or property or accepted gratuities, discounts,  
24

1 rebates, free goods, allowances or other inducements from a wine and  
2 spirits wholesaler or beer distributor.

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

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

9 2. That the licensee, any general or limited partner of the  
10 licensee, or in the case of a corporation, an officer or director of  
11 the corporation, has been convicted of a felony or is not in  
12 compliance with the tax laws of this state as required in Article  
13 XXVIII A of the Oklahoma Constitution;

14 3. That, in the case of a wine and spirits wholesaler, beer  
15 distributor, retail spirits, retail wine or retail beer licensee,  
16 the holder of the license or any member of a general or limited  
17 partnership which is the holder of such a license, has been  
18 convicted of a prohibitory law relating to the sale, manufacture or  
19 transportation of alcoholic beverages which constitutes a felony.

20 E. If the ABLE Commission shall find by a preponderance of the  
21 evidence as in civil cases that a licensee has knowingly sold any  
22 alcoholic beverage to any person under the age of twenty-one (21)  
23 years, after a public hearing, the ABLE Commission shall revoke such  
24

1 license and no discretion as to the revocation shall be exercised by  
2 the ABLE Commission.

3 F. The ABLE Commission shall have the authority to promulgate  
4 rules to establish a penalty schedule for violations of any  
5 provision of the Oklahoma Alcoholic Beverage Control Act or any rule  
6 of the ABLE Commission. The schedule shall provide for suspension  
7 or revocation of any license for major and minor violations as  
8 determined by the ABLE Commission. Penalties shall be increasingly  
9 severe with each violation by a licensee.

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

15 G. The ABLE Commission or the Tax Commission may impose a  
16 monetary penalty in lieu of or in addition to suspension of a  
17 license. The amount of the fine for a major violation shall be  
18 computed by multiplying the proposed number of days of the  
19 suspension period by One Hundred Dollars (\$100.00). The amount of  
20 the fine for a minor violation shall be computed by multiplying the  
21 number of days of the proposed suspension period by Fifty Dollars  
22 (\$50.00).

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

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

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

13       In the case of denial of an application for an original license,  
14 the ABLE Commission shall give written notice to the applicant  
15 either by registered mail directed to the applicant's last-known  
16 address or by delivery, stating the reason for such denial. If the  
17 ABLE Commission proposes to deny renewal of any license or to  
18 suspend or revoke a license, it shall give written notice to the  
19 licensee addressed to the licensed premises by registered mail, by  
20 personal delivery or by posting of the notice on the outside  
21 entrance to the licensed premises, notifying the licensee of such  
22 contemplated denial, suspension or revocation, and of the time and  
23 place at which the licensee may be accorded a hearing before the  
24 ABLE Commission on the matter, which time shall not be less than

1 fifteen (15) days from the date of mailing, delivery or posting of  
2 such notice. Such notice shall set forth the grounds for the  
3 proposed denial, suspension or revocation. The ABLE Commission may  
4 delegate any part of this function to the Director, but any person  
5 aggrieved by any order shall have the right to be heard by the ABLE  
6 Commission and the ABLE Commission shall provide adequate procedure  
7 to protect the right of persons desiring to do so.

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

11 Any person aggrieved by the action of the ABLE Commission in  
12 denying an application for an original license may, within fifteen  
13 (15) days after receipt of notice thereof, file with the ABLE  
14 Commission written request for a hearing, and the ABLE Commission  
15 shall, pursuant to such request, set a time and place for a hearing  
16 on a denial of an application for an original license. At the time  
17 and place set in a notice by the ABLE Commission of contemplated  
18 denial of the renewal of a license or of a proposed suspension or  
19 revocation of a license, the ABLE Commission shall afford the  
20 applicant or the licensee an opportunity to be heard and to present  
21 evidence in the applicant's or licensee's behalf. The hearing shall  
22 be conducted within fifteen (15) days after receipt of the request  
23 by the ABLE Commission. In the conduct of any such hearing, the  
24 ABLE Commission shall have power to administer oaths, examine

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

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

20 The ABLE Commission shall have the authority to conduct an  
21 initial hearing when a hearing is required by law. The Director of  
22 the ABLE Commission may employ such hearing officers and assistants  
23 as are necessary to conduct the hearings. If a hearing is conducted  
24 by a hearing officer, the hearing officer shall issue a report to

1 the ABLE Commission. The report of the hearing officer shall  
2 include findings of fact and conclusions of law. Notice of the  
3 recommendation of the hearing officer shall be sent to the last-  
4 known address of the licensee. If the licensee disagrees with the  
5 recommendation of the hearing officer, the licensee may request a  
6 hearing before the ABLE Commission for a review of the record. If  
7 the licensee fails to request a review of the record within fifteen  
8 (15) days after the date of the notice of the hearing officer's  
9 decision, the recommendation of the hearing officer shall become a  
10 final order of the ABLE Commission. A failure to request a review  
11 of the record by the ABLE Commission in a timely manner shall  
12 constitute a failure to exhaust administrative remedies.

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

16 Within thirty (30) days after a final order of the ABLE  
17 Commission, pursuant to a hearing as provided in Section 62 of this  
18 act, an applicant or licensee may appeal from the order of the ABLE  
19 Commission to the district court of the county in which the premises  
20 licensed or sought to be licensed are located. At the time of  
21 filing such an appeal, the party appealing shall give bond for costs  
22 assessed against such party. The appeal shall be taken by filing  
23 with the clerk of the district court of the proper county a written  
24 notice stating that the party appeals from the action of the ABLE

1 Commission and stating the pertinent grounds on which the appeal is  
2 founded. Such appeal shall consist of a hearing and review of the  
3 record only as set forth in the Administrative Procedures Act. The  
4 district court may affirm, reverse or modify the order of the ABLE  
5 Commission and shall issue its order within sixty (60) days after  
6 the appeal is heard. Appeals may be taken from a final order of the  
7 district court to the Supreme Court by the applicant, licensee or by  
8 the ABLE Commission. The ABLE Commission shall not be required to  
9 give bond on appeal. The licensee may file a supersedeas bond in an  
10 amount to be fixed by the ABLE Commission staying the order until  
11 the final determination of all issues on an appeal but the order of  
12 the ABLE Commission may not be stayed unless ordered by the judge of  
13 the district court. Permission to stay the order of the ABLE  
14 Commission shall not be granted by any court unless an application  
15 therefor be made in the written notice of the applicant's or  
16 licensee's intention to appeal from the order of the ABLE  
17 Commission, and then only after a hearing before the court upon  
18 notice to both parties wherein the court determines by a  
19 preponderance of the evidence that in denying a license or in  
20 ordering the suspension or a revocation of a license, the ABLE  
21 Commission acted without legal cause or upon insufficient evidence.  
22 Provided, that in all cases where the order of the ABLE Commission  
23 is stayed by a supersedeas bond and the licensee is unsuccessful in  
24 the appeal, and the action of the ABLE Commission becomes final,

1 such bond shall be forfeited to the State of Oklahoma by the court  
2 considering such appeal if the court finds that the appeal was  
3 frivolous or was filed for the purpose of delaying the effect of the  
4 order. In such event, the Attorney General shall commence legal  
5 proceedings in the name of the State of Oklahoma to recover the  
6 amount of the bond, which money shall be placed to the credit of the  
7 General Revenue Fund of the state.

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

11 Any license issued pursuant to the provisions of the Oklahoma  
12 Alcoholic Beverage Control Act shall be a purely personal privilege.  
13 It shall not constitute property nor be subject to attachment,  
14 garnishment or execution, or be alienable or transferable, either  
15 voluntarily or involuntarily; nor shall it descend by the laws of  
16 descent and distribution, but shall cease upon the death of the  
17 licensee. Provided, the ABLE Commission, under such regulations and  
18 subject to such restrictions as it may prescribe, may permit the  
19 executors or administrators of the estate of any deceased licensee,  
20 or the trustees of an insolvent or bankrupt licensee, or the legal  
21 guardian of a licensee who has been adjudged to be incompetent or  
22 insane, to exercise the privileges under any license held by such  
23 person for such period as the ABLE Commission may deem equitable  
24 during the administration of the deceased or bankrupt licensee's

1 estate, but not to exceed two (2) years. A license may not be  
2 transferred to a new location, except upon application to the ABLE  
3 Commission and endorsement on the license by the ABLE Commission  
4 showing the new location. An application for transfer of license  
5 shall be accompanied by a certificate reflecting, as to the proposed  
6 new location, compliance with municipal zoning ordinances or county  
7 zoning regulations and municipal or county fire, safety and health  
8 codes as required by Section 54 of this act. A mixed beverage or  
9 bottle club licensee who transfers the license to a new location  
10 shall pay a transfer fee of One Hundred Dollars (\$100.00) to the  
11 ABLE Commission.

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

15 All licenses issued pursuant to the provisions of the Oklahoma  
16 Alcoholic Beverage Control Act shall be displayed in a conspicuous  
17 place at all times on the licensed premises. No licensee may  
18 consent to or allow the use or display of the license by a person  
19 other than the person to whom the license was issued. No person may  
20 use a license or exercise any privileges granted by the license  
21 except at the place, address, premises or location for which the  
22 license is issued, except as otherwise provided by the Oklahoma  
23 Alcoholic Beverage Control Act.

24

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

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

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

21        B. If an on-premises beer and wine licensee sells or otherwise  
22 transfers the licensee's financial interest in a licensed premises  
23 to another party who obtains an on-premises beer and wine license  
24 for the premises, any beer and wine on the premises may be

1 transferred to the new licensee. Provided, if the premises are not  
2 in continuous operation as a beer and wine establishment prior to  
3 and during the transfer of financial interest in the premises, the  
4 transfer of beer and wine shall be limited to beer and wine in the  
5 original containers which have not been opened and which have not  
6 had the seal broken and the original cap or cork removed.

7 C. There shall be no liability on the part of, and no cause of  
8 action of any nature shall arise against the ABLE Commission for the  
9 contents of any alcoholic beverages transferred pursuant to the  
10 provisions of this section.

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

14 A. No retail spirits license shall be issued to a corporation,  
15 limited liability company or similar business entity. No person may  
16 own any interest in more than two package stores. For the purpose  
17 only of establishing whether or not a person owns an interest in  
18 more than one package store, any person having a beneficial interest  
19 in any package store shall be deemed to be a partner in the package  
20 store except that the spouse of any retail spirits license holder or  
21 partner shall not be deemed to be a partner or have a beneficial  
22 interest in a package store unless his or her name appears on the  
23 license. A beneficial interest shall be any interest that benefits  
24 from any sales or profits of the package store.

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

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

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

20       A. Every winemaker or small farm winery electing to directly  
21 sell its wines to retailers and restaurants must obtain a winery  
22 self-distribution license and pay the applicable license fee and  
23 shall register its products and post its prices with the state in  
24

1 the same manner required of the holder of a nonresident seller  
2 license.

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

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

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

23 E. Any licensed winemaker or winery that sells or distributes  
24 its wine directly to a retailer or restaurant in this state after

1 having exceeded the production volume limit provided for in  
2 subsection B of Section 17 of this act in any calendar year shall be  
3 subject to a fine of Ten Thousand Dollars (\$10,000.00). In  
4 addition, if the violation is a second or subsequent violation, the  
5 winemaker or winery shall not be allowed to transport wine to a  
6 retail package store or restaurant for three (3) years from the date  
7 of the second or subsequent violation.

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

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

17 In case of natural disaster or civil disturbance the Governor  
18 may, for the duration of such natural disaster or civil disturbance  
19 thereof, immediately suspend without notice any license granted  
20 under the provisions of the Oklahoma Alcoholic Beverage Control Act.

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

24

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

16       B. 1. Any duly licensed physician or dentist may possess and  
17 use alcoholic beverages in the strict practice of the profession and  
18 any hospital or other institution caring for sick or diseased  
19 persons may possess and use alcoholic beverages for the treatment of  
20 bona fide patients of such hospital or institution. Any drugstore  
21 employing a licensed pharmacist may possess and use alcoholic  
22 beverages in the preparation of prescriptions of duly licensed  
23 physicians.

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

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

19        C. 1. Except as otherwise authorized by law, it is unlawful  
20 for any manufacturer, wine and spirits wholesaler, beer distributor  
21 or retailer of alcoholic beverages, located and doing business from  
22 outside this state, to make retail sales of alcoholic beverages to  
23 purchasers located in this state or to ship alcoholic beverages sold  
24 at retail to persons located in this state. Any person who engages

1 in the sale or shipping of alcoholic beverages in violation of the  
2 provisions of this subsection, upon conviction, shall be guilty of a  
3 felony punishable by imprisonment for not more than five (5) years,  
4 if the sale or delivery is made to a person under twenty-one (21)  
5 years of age, or a misdemeanor, if the sale or delivery is made to a  
6 person twenty-one (21) years of age or older.

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

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

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

15 The ABLE Commission is authorized to promulgate such rules with  
16 respect to packaging, marking, branding and labeling of alcoholic  
17 beverages sold or possessed for sale within this state, including  
18 such rules:

19 1. As will prohibit deception of the consumer with respect to  
20 such products or the quantity thereof and as will prohibit,  
21 irrespective of falsity, such statement relating to age,  
22 manufacturing processes, analyses, guarantees, and scientific or  
23 irrelevant matter as the ABLE Commission finds likely to mislead or  
24 confuse the consumer;

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

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

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

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

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

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

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

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

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

1       A. For purposes of this section:

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

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

5       3. "Identification seal" means any device approved by the ABLE  
6 Commission which is designed to be affixed to beer kegs and which  
7 displays an identification number and any other information as may  
8 be prescribed by the ABLE Commission.

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

1 entire identification seal and any adhesive or attachment devices of  
2 the seal. The seal beer keg identification number must be kept on  
3 file with the retailer for not less than one (1) year from the date  
4 of return.

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

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

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

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

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

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

8 2. No person other than a licensed retailer, a licensed beer  
9 distributor, a law enforcement officer or an employee of the ABLE  
10 Commission may intentionally remove a seal placed on a beer keg in  
11 compliance with subsection C of this section. No person may  
12 intentionally deface or damage the seal on a beer keg to make it  
13 unreadable.

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

17 4. Any licensed retailer who fails to report an individual  
18 provided for in paragraph 3 of this subsection to law enforcement  
19 shall be guilty of a misdemeanor and shall be subject to fines of  
20 not less than Five Hundred Dollars (\$500.00) for first and second  
21 offenses. A third violation by a licensed retailer of the  
22 provisions of this paragraph shall result in the revocation of the  
23 retailer's license for up to one (1) year.  
24

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

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

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

11       A. Oklahoma wineries may ship products manufactured in the  
12 state to consumers in other states, so long as the recipient is of  
13 legal age and the laws of the recipient's state allow such  
14 shipments.

15       B. Oklahoma wineries that ship products to consumers in other  
16 states shall submit a monthly report of all shipments to the ABLE  
17 Commission. The report shall contain the name, address and age of  
18 the recipient and shall list the common carrier used to ship the  
19 product. The contents of the reports shall be a matter of public  
20 record and shall be made available to the public as well as any law  
21 enforcement or regulatory official in Oklahoma or another state.  
22 The manufacturer shall also keep a copy of all such reports on its  
23 premises for a period of not less than five (5) years and shall make  
24

1 those reports available for inspection by any law enforcement  
2 officer of any state or federal agency upon request.

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

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

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

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

22 1. Proof of current licensure in this or any other state as a  
23 wine producer;  
24

1        2.    Payment of a registration fee of Three Hundred Dollars  
2    (\$300.00) for original permits and One Hundred Fifty Dollars  
3    (\$150.00) for renewal permits; and

4        3.    Any other documentation that the ABLE Commission believes is  
5    reasonably necessary to verify the identity and physical location of  
6    the winery.

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

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

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

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

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

20       2.    Shall not ship wine intended for resale;

21       3.    Shall ensure that all containers of wine shipped directly to  
22    a resident in this state include the Direct Wine Consumer's Permit  
23    Number issued by the ABLE Commission and are conspicuously labeled  
24

1 with the words "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 OR  
2 OLDER REQUIRED FOR DELIVERY.";

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

13 5. Shall not ship wine otherwise available in Oklahoma;

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

17 7. Shall annually pay to the Oklahoma Tax Commission all  
18 applicable taxes due on sales authorized by this section to Oklahoma  
19 residents in the preceding calendar year. The amount of such taxes  
20 shall be calculated as if the sale were in Oklahoma at the location  
21 where delivery is made. Upon request, permit holders shall permit  
22 the Tax Commission to perform an audit of the permit holder's  
23 records in order to assure compliance; and  
24

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

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

1 actions of its representatives, agents and employees for actions in  
2 violation of this section.

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

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

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

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

17 2. Provisions for prohibited acts applicable to the distributor  
18 and manufacturer; and

19 3. Provisions for penalties for violations.

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

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

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

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

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

22       3. Authorize only one licensed distributor for each designated  
23 sales territory. Such licensed distributor shall be the only  
24

1 licensed distributor for the designated brands of the authorizing  
2 brewer within that designated sales territory; and

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

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

12 D. 1. No later than sixty (60) days after the effective date  
13 of this act, a brewer shall assign the exclusive right to distribute  
14 a beer brand, including brand extensions thereof, to the low-point  
15 beer distributor who was, prior to the effective date of this act,  
16 assigned the exclusive distribution rights to the low-point beer  
17 from which the brand extension arose without charge or payment of  
18 compensation, unless the low-point beer distributor is, on the  
19 effective date of this act, a brewer of beer or low-point beer and  
20 has therefore been distributing low-point beer pursuant to a license  
21 to so distribute, subject to the provisions of subsection D of this  
22 section. This subsection shall not apply to a small brewer as  
23 defined in Section 3 of this act.

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

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

19        4. Compensation for the purposes of this provision shall be the  
20 fair market value of the party losing its distribution rights with  
21 respect to the beer within that specific territory. Fair market  
22 value shall be determined as set forth in Section 81 of this act and  
23 shall take into account all aspects of brand valuation, including  
24 but not limited to:

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

E. If a brewer, whether directly or through an affiliate, maintained one or more licenses to distribute low-point beer in this state prior to the effective date of this act, then up to two (2) of the brewer's low-point beer distribution licenses shall automatically convert to beer distribution licenses upon the effective date of this act, and such brewer shall be permitted to continue to distribute beer in two (2) territories within which it currently distributes without the appointment of an independent distributor for such period of time as determined by the Legislature and consistent with the Constitution of the State of Oklahoma; provided however, it shall not be permitted to distribute beer outside of the territory unless it enters into a distributor agreement with an independent licensed distributor as provided in paragraph 1 of subsection B of this section. This section shall not apply to small brewers that have elected to self-distribute.

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

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

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

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

1 quantity of the beer brand to any retail location outside of the  
2 designated sales territory of the designated distributor.

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

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

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

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

24

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 manufacturer shall terminate a distributor agreement  
8 with any distributor unless all of the following occur:

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

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

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

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

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

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

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

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

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

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

22 4. The distributor has been convicted of a felony that, in the  
23 manufacturer's sole judgment, adversely affects the goodwill of the  
24 distributor or manufacturer;

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

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

13       7. Fraudulent conduct in the distributor's dealings with the  
14 manufacturer of beer, including the intentional sale of beer outside  
15 the manufacturer's established quality standards;

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

22       9. Any sale of beer, directly or indirectly, to customers  
23 located outside the territory assigned to the distributor by the  
24 manufacturer unless expressly authorized by the manufacturer.

1        Provided, the distributor shall have the opportunity to sell the  
2 manufacturer's brands for one hundred twenty (120) days after  
3 termination in accordance with the distributor agreement.

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

10       E. If a particular brand of beer is transferred by purchase or  
11 otherwise from a manufacturer to a successor manufacturer, the  
12 following shall occur:

13       1. The successor manufacturer shall become obligated to all of  
14 the terms and conditions of the agreement in effect on the date of  
15 succession. This subsection applies regardless of the character or  
16 form of the succession. A successor manufacturer has the right to  
17 contractually require its distributor to comply with operational  
18 standards of performance, if the standards are uniformly established  
19 for all of the successor manufacturer's distributors. A successor  
20 manufacturer may, upon written notice, terminate its agreement, in  
21 whole or in part, with a distributor of the manufacturer it  
22 succeeded, for the purpose of transferring the distribution rights  
23 in the distributor's territory to a new distributor, provided that  
24 the successor distributor first pays to the existing distributor the

1 fair market value of the existing distributor's business with  
2 respect to the terminated brand or brands;

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

13 3. a. the successor distributor shall negotiate with the  
14 existing distributor to determine the fair market  
15 value of the existing distributor's right to  
16 distribute in the existing distributor's territory.  
17 The successor distributor and the existing distributor  
18 shall negotiate the fair market value in good faith,  
19 and

20 b. the existing distributor shall continue to distribute  
21 in good faith until payment of the compensation agreed  
22 to under subparagraph a of this paragraph, or awarded  
23 under paragraph 4 of this subsection, is received; and  
24

- 1       4.   a.     if the successor distributor and the existing  
2             distributor fail to reach a written agreement on the  
3             fair market value within thirty (30) days after the  
4             existing distributor receives the notice required  
5             pursuant to paragraph 2 of this subsection, the  
6             successor distributor or the existing distributor  
7             shall send a written notice to the other party  
8             requesting arbitration pursuant to the Uniform  
9             Arbitration Act, Part 2 of Article 22 of Title 13,  
10            C.R.S. Arbitration shall be held for the purpose of  
11            determining the fair market value of the existing  
12            distributor's right to distribute in the existing  
13            distributor territory,
- 14        b.     notice of intent to arbitrate shall be sent, as  
15             provided in subparagraph a of this paragraph, not  
16             later than forty (40) days after the existing  
17             distributor receives the notice required pursuant to  
18             paragraph 2 of this subsection. The arbitration  
19             proceeding shall conclude not later than sixty (60)  
20             days after the date the notice of intent to arbitrate  
21             is mailed to a party, unless this time is extended by  
22             mutual agreement of the parties and the arbitrator,
- 23        c.     any arbitration held pursuant to this subsection shall  
24             be conducted in a city within this state that:

(1) is closest to the existing distributor, and  
(2) has a population of more than twenty thousand  
(20,000) people,

d. any arbitration held pursuant to this paragraph shall  
be conducted before one impartial arbitrator to be  
selected by the American Arbitration Association or  
its successor. The arbitration shall be conducted in  
accordance with the rules and procedures of the  
Uniform Arbitration Act, Part 2 of Article 22 of Title  
13, C.R.S.,

e. an arbitrator's award in any arbitration held pursuant  
to this paragraph shall be monetary only and shall not  
enjoin or compel conduct. Any arbitration held  
pursuant to this paragraph shall be in lieu of all  
other remedies and procedures,

f. the cost of the arbitrator and any other direct costs  
of an arbitration held pursuant to this paragraph  
shall be equally divided by the parties engaged in the  
arbitration. All other costs shall be paid by the  
party incurring them,

g. the arbitrator in any arbitration held pursuant to  
this paragraph shall render a written decision not  
later than thirty (30) days after the conclusion of  
the arbitration, unless this time is extended by

1 mutual agreement of the parties and the arbitrator.

2 The decision of the arbitrator is final and binding on  
3 the parties. The arbitrator's award may be enforced by  
4 commencing a civil action in any court of competent  
5 jurisdiction. Under no circumstances may the parties  
6 appeal the decision of the arbitrator,

7 h. an existing distributor or successor distributor who  
8 fails to participate in the arbitration hearings in  
9 any arbitration held pursuant to this paragraph waives  
10 all rights the existing distributor or successor  
11 distributor would have had in the arbitration and is  
12 considered to have consented to the determination of  
13 the arbitrator, and

14 i. if the existing distributor does not receive payment  
15 from the successor distributor of the settlement or  
16 arbitration award required under paragraph 2 or 3 of  
17 this subsection within thirty (30) days after the date  
18 of the settlement or arbitration award:

19 (1) the existing distributor shall remain the  
20 distributor in the existing distributor's  
21 territory to at least the same extent that the  
22 existing distributor distributed the beer  
23 immediately before the successor manufacturer  
24 acquired rights to the brand, and

1                   (2) the existing distributor is not entitled to the  
2                   settlement or arbitration award.

3           F. 1. In addition to termination rights that may be set forth  
4 in a distributor agreement, a small brewer who manufactures less  
5 than twenty-five thousand (25,000) barrels of beer annually may  
6 terminate a distributor agreement with any beer distributor provided  
7 that, prior to the effective date of the termination, the small  
8 brewer pays the beer distributor the fair market value of the  
9 distribution rights which will be lost or diminished by reason of  
10 the termination.

11           2. If such small brewer and beer distributor cannot mutually  
12 agree to the fair market value of the applicable distribution rights  
13 lost or diminished by reason of the termination, then the brewer  
14 shall pay the beer distributor a good faith estimate of the fair  
15 market value of the applicable distribution rights.

16           3. If the beer distributor being terminated under subparagraph  
17 2 of this subsection disputes that the payment made by the small  
18 brewer was less than the fair market value of the distribution  
19 rights, then the beer distributor may within forty-five (45) days of  
20 termination submit the question of fair market value of the  
21 applicable distribution rights lost or diminished by reason of the  
22 termination to binding arbitration before a panel of three neutral  
23 arbitrators appointed in accordance with the commercial arbitration  
24 rules of the American Arbitration Association, which panel shall

determine by majority decision whether the small brewer's payment meets the requirements of subparagraph 2 of this subsection.

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

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

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

G. 1. Any distributor or manufacturer who is aggrieved by a violation of any provision of subsections B and D of this section shall be entitled to recovery of damages caused by the violation. Except for a dispute arising under subsection E of this section,

1 damages shall be sought in a civil action in any court of competent  
2 jurisdiction.

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

6 H. Nothing in this section shall be construed to limit or  
7 prohibit good-faith settlements voluntarily entered into by the  
8 parties.

9 I. Nothing in this section shall be construed to give a  
10 distributor any right to compensation if an agreement with the  
11 distributor is terminated by a manufacturer pursuant to subsections  
12 B, C and D of this section.

13 J. No manufacturer shall require any distributor to waive  
14 compliance with any provision of the Oklahoma Alcoholic Beverage  
15 Control Act.

16 K. No brewer shall charge or accept, and no distributor shall  
17 pay or provide, any money, property, gratuity, rebate, free goods,  
18 shipping charges different than those charged for all distributors,  
19 allowances, thing of value or inducement from a distributor in  
20 exchange for the brewer entering into a distributor agreement with  
21 the distributor. However, a brewer who also holds a beer  
22 distributor license and desires to sell all or a portion of its beer  
23 distribution rights and business, or a holder of small brewer  
24 license who desires to change its election from self-distribution to

1 the use of a distributor agreement may accept a payment for the fair  
2 market value of its existing and established distribution business  
3 in the subject territory.

4 L. This section shall apply to any agreement entered into and  
5 any renewals, extensions, amendments or conduct constituting a  
6 modification of a distributor agreement by a manufacturer existing  
7 on or after the effective date of this act.

8 SECTION 82. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 3-112 of Title 37A, unless there  
10 is created a duplication in numbering, reads as follows:

11 The operation and maintenance of a brewpub is subject to the  
12 following conditions:

13 1. No person shall be permitted to own or operate a brewpub  
14 without first paying the required fees set forth in Section 13 of  
15 this act and obtaining a proper brewpub license from the ABLE  
16 Commission in the manner provided in the Oklahoma Alcoholic Beverage  
17 Control Act;

18 2. Each brewpub licensee shall comply with all other applicable  
19 state and local license and permit requirements; and

20 3. In order to qualify for a brewpub license, a manufacturer  
21 must meet the definition of a small brewer.

22 SECTION 83. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 3-113 of Title 37A, unless there  
24 is created a duplication in numbering, reads as follows:

1       A. A small brewer is authorized to sell to either licensed  
2 distributors or retailers. A small brewer shall elect whether it  
3 will distribute through a distributor or self-distribute to  
4 retailers; however, a small brewer may not elect to do both  
5 simultaneously. The election shall be made through notice to the  
6 ABLE Commission. Any changes to the election require immediate  
7 notification to the ABLE Commission before the change in election  
8 will take effect. A small brewer that elects to use a distributor  
9 shall be subject to the terms and conditions of the Oklahoma  
10 Alcoholic Beverage Control Act.

11       B. As a condition to the issuance of a Small Brewer License,  
12 such small brewer shall pay the annual fees as set forth in Section  
13 13 of this act and shall qualify with the Secretary of State of the  
14 State of Oklahoma for a permit to do business within the State of  
15 Oklahoma.

16       C. A small brewer may sell directly to consumers in this state  
17 if it is the holder of a brewpub license. A licensed small brewer  
18 may serve free samples of beer produced by the small brewer in this  
19 state to visitors twenty-one (21) years of age or older. Samples  
20 may only be distributed or consumed between 10:00 a.m. and 2:00 a.m.  
21 Samples of beer served by a small brewer under this section shall  
22 not be considered a "sale" of beer within the meaning of Article  
23 XXVIII A of the Oklahoma Constitution or the Oklahoma Alcoholic  
24 Beverage Control Act. However, such samples of beer shall be

1 considered beer removed or withdrawn from the small brewer for "use  
2 or consumption" within the meaning of this title for excise tax  
3 determination and reporting requirements.

4 SECTION 84. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 3-114 of Title 37A, unless there  
6 is created a duplication in numbering, reads as follows:

7 A. This section applies to all retailers authorized to sell  
8 beer for consumption off the premises.

9 B. The holder of a retail beer or retail spirits license may  
10 resell beer only in the packaging in which the holder received the  
11 beer or may resell the contents of the packages as individual  
12 containers.

13 C. Except for purposes of resale as individual containers, the  
14 licensee shall not:

15 1. Mutilate, tear apart or cut apart original packaging in  
16 which beer was received; or

17 2. Repackage beer in a manner misleading to the consumer or  
18 that results in required labeling being omitted or obscured.

19 D. The ABLE Commission shall impose the following penalties for  
20 a violation of subsection B or C of this section:

21 1. After notice and hearing, immediately revoke the license of  
22 the licensee committing the violation; and

23 2. Impose a fine of not more than One Thousand Dollars  
24 (\$1,000.00) for each violation.

1 Any licensee whose license is revoked pursuant to this  
2 subsection shall not be eligible to reapply for a license for at  
3 least three (3) months from the date of the revocation. Any stock  
4 of beer in undamaged original packaging in the possession of such  
5 licensee shall be repurchased by the distributor as long as the  
6 repurchased inventory falls within the date considered by the brewer  
7 of the product to be appropriate for sale to a consumer.

8 E. Administrative fines collected pursuant to this section  
9 shall be enforceable in the district courts of this state. All  
10 administrative fines collected by the ABLE Commission pursuant to  
11 this section shall be forwarded to the State Treasurer for deposit  
12 in the General Revenue Fund.

13 SECTION 85. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 3-115 of Title 37A, unless there  
15 is created a duplication in numbering, reads as follows:

16 To assure and control quality, a beer distributor or a holder of  
17 a small brewer self-distribution license or brewpub self-  
18 distribution license, at the time of a regular delivery, may  
19 withdraw with the permission of the retailer, a quantity of beer in  
20 undamaged original packaging from the retailer's stock if:

21 1. The beer distributor or holder of a small brewer self-  
22 distribution license or brewpub self-distribution license replaces  
23 the stock with beer of identical, equivalent value as the beer  
24 withdrawn; or

1        2. The stock is withdrawn before the date, or immediately after  
2 the date, considered by the brewer of the product to be the date the  
3 product becomes inappropriate for sale to a consumer.

4        A consignment sale of beer is not authorized under this section.

5        SECTION 86.        NEW LAW        A new section of law to be codified  
6 in the Oklahoma Statutes as Section 3-116 of Title 37A, unless there  
7 is created a duplication in numbering, reads as follows:

8        A. Any manufacturer or subsidiary of a manufacturer who markets  
9 its products solely through a subsidiary or subsidiaries, a  
10 distiller, rectifier, bottler, winemaker or importer of alcoholic  
11 beverages, bottled or made in a foreign country, either within or  
12 without this state, may sell such brands or kinds of alcoholic  
13 beverages to every licensed wine and spirits wholesaler who desires  
14 to purchase the same, on the same price basis and without  
15 discrimination or inducements, and shall further be required to sell  
16 such beverages only to those persons licensed as wine and spirits  
17 wholesalers.

18        B. The provisions of subsection A of this section shall not  
19 apply to a brewer.

20        C. No manufacturer shall require a wine and spirits wholesaler  
21 or beer distributor to purchase any alcoholic beverages or any  
22 goods, wares or merchandise as a condition to the wine and spirits  
23 wholesaler or beer distributor obtaining or being entitled to  
24 purchase any alcoholic beverages.

1 Violation of this section shall be a misdemeanor. Conviction  
2 hereunder shall automatically revoke the violator's license.

3 SECTION 87. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 3-117 of Title 37A, unless there  
5 is created a duplication in numbering, reads as follows:

6 A. A retailer may offer for sale and sell alcoholic beverages  
7 which are packaged or are to be packaged with nonalcoholic  
8 promotional items, if such packaging and all nonalcoholic  
9 promotional items are provided by the manufacturer or agent of the  
10 manufacturer at the expense of the manufacturer or agent of the  
11 manufacturer, regardless of where such packages are assembled.

12 B. The manufacturer or agent of the manufacturer may provide  
13 such packaging and any nonalcoholic promotional items to the  
14 retailer at the retailer's premises, or otherwise, and may deliver  
15 such packaging and all nonalcoholic promotional items provided by  
16 the manufacturer or agent to the retailer by means of common  
17 carrier, or otherwise, at no expense to the retailer, for the  
18 retailer to incorporate the alcoholic beverage product of the  
19 manufacturer into the manufacturer's packaging or with such  
20 promotional items.

21 C. The manufacturers of alcoholic beverages, through their  
22 agents, must make access to the packaging for such alcoholic  
23 beverages with nonalcoholic promotional items available equally to  
24 retailers in this state. Such access to the promotional packaging

1 is subject to the reasonable supplies of such packaging and subject  
2 to the terms of the manufacturer's promotion. Such access to the  
3 manufacturer's packaging by the retailers shall be commensurate to  
4 the needs of the retailers based on the stock of the manufacturer's  
5 product carried by the retailer. The manufacturers shall only be  
6 required to carry reasonable supplies of such promotional packages  
7 and shall make a good faith effort to ratably distribute such  
8 packaging or items to those retailers who desire such packaging or  
9 items.

10 SECTION 88. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 3-118 of Title 37A, unless there  
12 is created a duplication in numbering, reads as follows:

13 No alcoholic beverages intended for off-premise or on-premise  
14 consumption shall be sold at retail for less than a six percent (6%)  
15 markup, unless the sale meets one or more of the following  
16 conditions:

17 1. Where seasonable merchandise is sold in bona fide clearance  
18 sales, if advertised, marked and sold as such;

19 2. Where merchandise is imperfect or damaged or is being  
20 discontinued and is advertised, marked and sold as such;

21 3. Where merchandise is sold upon the final liquidation of any  
22 business;

23 4. Where merchandise is sold for charitable purposes or to  
24 relief agencies;

1        5. Where merchandise is sold on contract to departments of the  
2 government or governmental institutions;

3        6. Where merchandise is sold by any officer acting under the  
4 order or direction of any court; or

5        7. Where merchandise is sold at any bona fide auction sale.

6        SECTION 89.        NEW LAW        A new section of law to be codified  
7 in the Oklahoma Statutes as Section 3-119 of Title 37A, unless there  
8 is created a duplication in numbering, reads as follows:

9        It shall be unlawful for any manufacturer, wine and spirits  
10 wholesaler, beer distributor or person authorized to sell alcoholic  
11 beverages to a wholesaler, or any employee, officer, director,  
12 stockholder owning fifteen percent (15%) or more of the stock, any  
13 type of partner, manager, member or agent thereof, to directly or  
14 indirectly:

15        1. Have any financial interest in any premises upon which any  
16 alcoholic beverage is sold at retail or in any business connected  
17 with the retailing of alcoholic beverages; provided, nothing in this  
18 act shall prohibit the operation of a mixed beverage licensee, beer  
19 and wine licensee or caterer licensee by an entity which has common  
20 owners with the holder of a small brewer license or a brewpub  
21 license;

22        2. Lend any money or other thing of value, or to make any gift  
23 or offer any gratuity, to any package store, retail wine, retail  
24

1 beer, mixed beverage, beer and wine, public event or bottle club  
2 licensee or caterer;

3 3. Guarantee any loan or the repayment of any financial  
4 obligation of any retailer, mixed beverage, beer and wine, public  
5 event or bottle club licensee or caterer;

6 4. Require any wine and spirits wholesaler, beer distributor,  
7 retailer, mixed beverage, on premises beer and wine licensee, public  
8 event or caterer to purchase and dispose of any quota of alcoholic  
9 beverages, or to require any retailer to purchase any kind, type,  
10 size, container or brand of alcoholic beverages in order to obtain  
11 any other kind, type, size, container or brand of alcoholic  
12 beverages;

13 5. Sell to any retailer, mixed beverage, on-premises beer and  
14 wine licensee, public event or caterer any alcoholic beverage on  
15 consignment, or upon condition, or with the privilege of return, or  
16 on any condition other than a bona fide sale; provided, the delivery  
17 in good faith, through mistake, inadvertence or oversight, of an  
18 alcoholic beverage that was not ordered by a retailer, mixed  
19 beverage licensee, on-premises beer and wine licensee, caterer,  
20 public event or special event licensee to such licensee shall not be  
21 considered a violation of this paragraph, nor shall replacement of  
22 breakage that occurred while the alcoholic beverages were in transit  
23 from the wholesaler to the licensee, or replacement of product with  
24 torn or defective labels, short-filled cases or other defects that

1 make the product unsaleable, as long as the licensee notifies the  
2 wine and spirits wholesaler or the beer distributor of the error,  
3 breakage or defect in writing within five (5) business days after  
4 delivery of the product; or

5 6. Extend credit to any retailer, other than holders of Federal  
6 Liquor Stamps on United States government reservations and  
7 installations, mixed beverage, public event or on-premises beer and  
8 wine licensee or caterer, other than a state lodge located in a  
9 county which has approved the retail sale of alcoholic beverages by  
10 the individual drink for on-premises consumption. The acceptance of  
11 a postdated check or draft or the failure to deposit for collection  
12 a current check or draft by the second banking day after receipt  
13 shall be deemed an extension of credit. Violation of this section  
14 shall be grounds for suspension of the license.

15 SECTION 90. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 3-120 of Title 37A, unless there  
17 is created a duplication in numbering, reads as follows:

18 No mixed beverage, beer and wine, caterer, public event or  
19 bottle club licensee, partner in any type of partnership, manager or  
20 member of a limited liability company, officer, director or  
21 stockholder of any corporate licensee owning more than fifteen  
22 percent (15%) of the stock shall have any right, title, lien, claim  
23 or interest, financial or otherwise in, upon or to the premises,  
24 equipment, business or merchandise of any package store, beer

1 distributor, manufacturer or wholesaler. The provisions of this  
2 section shall not prohibit a person who is an officer or director of  
3 a fraternal or veteran's organization which is a tax exempt  
4 organization under Section 501(c)(8), (10) or (19) of the Internal  
5 Revenue Code and which holds a license issued by the ABLE Commission  
6 from having a right, title, lien, claim or interest in the premises,  
7 equipment, business or merchandise of a package store.

8 SECTION 91. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 3-121 of Title 37A, unless there  
10 is created a duplication in numbering, reads as follows:

11 No manufacturer, wine and spirits wholesaler, beer distributor,  
12 partner in any type of partnership, manager or member of a limited  
13 liability company, or officer, director or stockholder of any  
14 nonresident seller or manufacturer licensee, owning more than  
15 fifteen percent (15%) of the stock shall have any right, title,  
16 claim or interest, financial or otherwise in, upon or to the  
17 premises, equipment, business or merchandise of any mixed beverage,  
18 beer and wine, caterer, public event or bottle club licensee.

19 SECTION 92. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 3-122 of Title 37A, unless there  
21 is created a duplication in numbering, reads as follows:

22 A. As used in this section:  
23  
24

1        1. "Interactive entertainment facility" means premises that  
2 feature interactive computer and video entertainment attractions,  
3 themed merchandise, food and alcoholic beverages; and

4        2. "Main purpose of the business" means that the total gross  
5 income derived from interactive entertainment exceeds the total  
6 gross income derived from the sale, mixing, or serving of alcoholic  
7 beverages.

8        B. Nothing in Sections 89 or 90 of this act shall be construed  
9 as prohibiting the issuance, transfer or renewal of any mixed  
10 beverage license to any person or corporation with respect to  
11 premises that are an integral part of an interactive entertainment  
12 facility in which a manufacturer, nonresident seller, distiller or  
13 rectifier has an interest, directly or indirectly, of less than  
14 thirty percent (30%) if all the following conditions are met:

15        1. The main purpose of the business conducted within the  
16 facility is providing interactive entertainment, not the sale of  
17 alcoholic beverages;

18        2. The mixed beverage licensee shall serve other brands of  
19 wine, beer and alcoholic beverages in addition to the brands  
20 manufactured, produced or distributed by any distiller, rectifier,  
21 nonresident seller or manufacturer that has a direct or indirect  
22 interest in the mixed beverage license;

23        3. No more than twenty percent (20%) of the mixed beverage  
24 licensee's purchases of alcoholic beverages for sale on its licensed

premises shall be products manufactured, produced or distributed by the manufacturer, distiller, rectifier or nonresident seller that has a direct or indirect interest in the licensed premises;

4. The licensee purchases all alcoholic beverages and beer sold on the premises from wholesalers that are licensed in Oklahoma;

5. The distiller, rectifier, nonresident seller or manufacturer does not control, directly or indirectly, the day-to-day operation of the licensed premises; and

6. Officers, directors and employees of the distiller, rectifier, nonresident seller or manufacturer do not serve as officers or directors of the entity operating the licensed premises.

SECTION 93. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-123 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. It shall be unlawful for any person privileged to sell alcoholic beverages to wholesalers or retailers:

1. To discriminate, directly or indirectly, in price between one wine and spirits wholesaler and another wine and spirits wholesaler, when that manufacturer has not designated a single wine and spirits wholesaler, or between one retailer and another retailer purchasing alcoholic beverages bearing the same brand or trade name and of like age and quality; or

2. To grant, directly or indirectly, any discount, rebate, free goods, allowance or other inducement.

1       B. The ABLE Commission is hereby authorized to promulgate rules  
2 which are necessary to carry out the purpose of this section and to  
3 prevent its circumvention by offering or giving of any rebate,  
4 allowance, free goods, discount or any other thing or service of  
5 value; provided, the posting or invoicing of charges per order for  
6 processing minimum orders or per case for the handling or repacking  
7 of goods by wine and spirits wholesalers and beer distributors for  
8 sales in less than full case lots shall not constitute a violation  
9 of this section.

10       C. For the violation of any provision of this section or of any  
11 rule duly promulgated under this section, the ABLE Commission may  
12 suspend or revoke a license as follows:

13       1. For a first offense, not exceeding ten (10) days' suspension  
14 of license;

15       2. For a second offense, not exceeding thirty (30) days'  
16 suspension of license; and

17       3. For a third offense, the ABLE Commission shall revoke the  
18 license.

19       SECTION 94.       NEW LAW       A new section of law to be codified  
20 in the Oklahoma Statutes as Section 3-124 of Title 37A, unless there  
21 is created a duplication in numbering, reads as follows:

22       Sale of alcoholic beverages by the individual drink for on-  
23 premises consumption shall be unlawful in any county of this state  
24 unless the sale has been approved by a majority of the registered

1 voters of the county voting thereon at a special election called by  
2 the board of county commissioners. Such election shall be called by  
3 the board of county commissioners upon receipt of a petition signed  
4 by registered voters constituting not less than fifteen percent  
5 (15%) of the total votes cast in the county in the last General  
6 Election for the Office of Governor, or such election may be called  
7 by the board of county commissioners upon its own motion. At the  
8 time such election is called, the proposition shall include those  
9 days or portions of days, if any, on which sales of alcoholic  
10 beverages by the individual drink are not authorized. If the  
11 proposition is the result of a motion of the board of county  
12 commissioners, then the ABLE Commission shall designate the days or  
13 portions of days, if any, on which the sales of alcoholic beverages  
14 are not authorized. If the proposition is the result of a petition,  
15 such petition shall specify days or portions of days, if any, on  
16 which the sales of alcoholic beverages are not authorized.

17 If, at the Special Election, the proposition to authorize the  
18 sale of alcoholic beverages by the individual drink for on-premises  
19 consumption fails to be approved by the registered voters of the  
20 county, the county shall not hold another election on whether or not  
21 to approve such sales, for at least two (2) years from the date the  
22 proposition failed to be approved.

SECTION 95. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-125 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. No alcoholic beverages may be sold, dispensed, served or consumed on the premises of a mixed beverage, caterer, public event, charitable event, special event, on-premises beer and wine, small brewer or brewpub licensee between the hours of 2:00 a.m. and 10:00 a.m.

B. Counties that elect to authorize sales of alcoholic beverages by the individual drink may designate any or all of the following days as days or portions thereof on which the sales of alcoholic beverages are not authorized:

1. On the first day of the week, commonly called Sunday; and

2. On Decoration or Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

C. Counties that elect to authorize sales of alcoholic beverages by the individual drink shall not prohibit such sales on the day of any national, state, county or city election, including primary elections, provided that the election day does not occur on any day on which such sales may otherwise be prohibited by any other law.

SECTION 96. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-126 of Title 37A, unless there is created a duplication in numbering, reads as follows:

1 No alcoholic beverages may be dispensed, served or consumed on  
2 the premise of a bottle club licensee between the hours of 2:00 a.m.  
3 and 10:00 a.m.

4 SECTION 97. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 3-127 of Title 37A, unless there  
6 is created a duplication in numbering, reads as follows:

7 A. No person shall be allowed to enter or remain in the  
8 designated bar or lounge area of a bottle club unless that person  
9 possesses a valid membership card for that club issued by the club.  
10 Membership cards issued by a bottle club shall be purchased by the  
11 club from the ABLE Commission at a cost of Three Dollars (\$3.00) per  
12 temporary membership card and Twenty-five Dollars (\$25.00) per  
13 annual membership card. A temporary membership card shall be valid  
14 for a period of seventy-two (72) consecutive hours from issuance to  
15 the member. The date of issuance of a temporary membership shall be  
16 clearly and prominently marked upon the card. When the card is  
17 issued to a member by the club, the club may require the member to  
18 reimburse the club for the cost of the card. No membership card  
19 shall be issued to any person under twenty-one (21) years of age.  
20 The ABLE Commission shall have the authority to promulgate rules  
21 concerning bottle club membership cards.

22 B. A bottle club license authorizes alcoholic beverages  
23 belonging to members of the club to be:

24 1. Stored, possessed and mixed on club premises; and

1        2. Served for on-premises consumption to members. Each member  
2 shall be served only from the member's individually owned bottle of  
3 alcoholic beverage which shall be marked with the owner's full name  
4 or code number. Such numbers shall be maintained on the club  
5 premises, available for inspection by employees of the ABLE  
6 Commission or by any peace officer.

7        Pool systems of storage and purchase of alcoholic beverages in a  
8 bottle club are specifically prohibited.

9        C. The sale, preparation or service of ice or nonalcoholic  
10 beverages that are sold, prepared or served for the purpose of being  
11 mixed with alcoholic beverages for consumption on the premises where  
12 such sale, preparation or service occurs shall be subject to the  
13 sales tax levied by the Oklahoma Sales Tax Code and to any municipal  
14 or county sales taxes.

15        D. Any bottle club licensee, or employee or agent of such a  
16 licensee who sells to a member any alcoholic beverage shall be  
17 deemed guilty of a misdemeanor and upon conviction thereof shall be  
18 punished by a fine of One Thousand Dollars (\$1,000.00) and the club  
19 license shall be revoked for a period of thirty (30) days. Any  
20 bottle club licensee, or employee or agent of such a licensee who  
21 delivers or furnishes to a member any alcoholic beverage that does  
22 not belong to the member shall be deemed guilty of a misdemeanor and  
23 upon conviction thereof shall be punished by a fine of not less than  
24 Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars

1 (\$1,000.00) and the club license shall be revoked for a period of  
2 thirty (30) days. Any bottle club licensee, or employee or agent of  
3 such a licensee who permits any person who is not a member to enter  
4 and remain in the designated bar or lounge area of the club premises  
5 shall be deemed guilty of a misdemeanor and upon conviction thereof  
6 shall be punished by a fine of One Thousand Dollars (\$1,000.00) and  
7 the bottle club license shall be suspended for a period of thirty  
8 (30) days. No bottle club licensee, or employee or agent of such a  
9 licensee shall serve alcoholic beverages to any person that does not  
10 possess a valid membership card for that club issued by the club.

11 E. Any bottle club licensed under the provisions of the  
12 Oklahoma Alcoholic Beverage Control Act shall pay the license fee  
13 provided by law and obtain a separate license for each separate  
14 place of business.

15 F. In counties of this state where retail sale of alcoholic  
16 beverages by the individual drink has not been authorized, no person  
17 shall serve alcoholic beverages by the individual drink for on-  
18 premises consumption or permit the consumption of alcoholic  
19 beverages except in a bottle club licensed pursuant to this section  
20 or in a private residence; provided, this shall not prohibit a  
21 winery from serving visitors on the licensed premises free samples  
22 of wine produced on the premises. No member of a bottle club shall  
23 serve alcoholic beverages lawfully prepared for the member in the  
24

1 designated bar or lounge area of a bottle club to any person who  
2 does not possess a valid membership card for the bottle club.

3 SECTION 98. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 4-101 of Title 37A, unless there  
5 is created a duplication in numbering, reads as follows:

6 A. Municipalities are authorized to enact ordinances consistent  
7 with the provisions of the Oklahoma Alcoholic Beverage Control Act.  
8 In municipalities with populations of thirty-five thousand (35,000)  
9 or more according to the most recent federal decennial census, these  
10 ordinances may provide for maximum penalties of fines not to exceed  
11 One Thousand Dollars (\$1,000.00) plus court costs, an imprisonment  
12 not to exceed ninety (90) days, or both such fine and imprisonment.

13 B. All municipalities of this state may enact ordinances  
14 prohibiting or regulating nudity or drink solicitation in  
15 establishments licensed pursuant to the provisions of the Oklahoma  
16 Alcoholic Beverage Control Act.

17 C. The provisions of this section shall not authorize any  
18 municipality to regulate by ordinance or issue any licenses for  
19 activities for which a license is required to be issued pursuant to  
20 the provisions of the Oklahoma Alcoholic Beverage Control Act.

21 SECTION 99. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 4-102 of Title 37A, unless there  
23 is created a duplication in numbering, reads as follows:

1       The governing body of any municipality, as to any mixed  
2       beverage, beer and wine, caterer, public event or bottle club  
3       licensee having its principal place of business in such  
4       municipality, and the board of county commissioners of any county,  
5       as to any mixed beverage, beer and wine, caterer, public event or  
6       bottle club licensee having its principal place of business in such  
7       county but outside the incorporated limits of a municipality, may  
8       initiate a license suspension or revocation proceeding as to such  
9       licensee by filing a written complaint with the ABLE Commission.  
10      The complaint shall set forth the grounds for the proposed  
11      suspension or revocation. Such complaint may be based on any ground  
12      that the ABLE Commission might have asserted. Upon receipt of such  
13      complaint, the ABLE Commission shall forward a copy of the complaint  
14      to the licensee together with written notice of the time and place  
15      of hearing thereon. If the complaint is filed by a municipality,  
16      the hearing shall be conducted within the corporate limits of the  
17      municipality. If the complaint is filed by a county, the hearing  
18      shall be conducted in the county. The hearing shall be held within  
19      the time limits and in the manner prescribed for suspension or  
20      revocation proceedings initiated by the ABLE Commission. In any  
21      proceeding initiated pursuant to this section, the municipality or  
22      county shall be deemed an interested party, shall have the right to  
23      be heard and to present evidence at the hearing on the complaint and  
24      shall be entitled to appeal from any final order entered by the ABLE

1 Commission in the manner otherwise provided in the Oklahoma  
2 Alcoholic Beverage Control Act. Such municipality or county shall  
3 not be required to give bond on appeal.

4 SECTION 100. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 4-103 of Title 37A, unless there  
6 is created a duplication in numbering, reads as follows:

7 Municipalities and counties are hereby authorized to create a  
8 new zoning classification to regulate the location of establishments  
9 that sell, serve, mix, dispense or allow consumption of alcoholic  
10 beverages on the premises. Such zoning classification may include  
11 but shall not be limited to reasonable parking, access regulations  
12 and other such zoning regulations as the local authorities may deem  
13 necessary for local control. This authority shall be in addition to  
14 the authority to enact ordinances established in Section 98 of this  
15 act.

16 Municipal courts are hereby authorized jurisdiction to hear  
17 violations of any ordinances enacted pursuant to the provisions of  
18 this section and Section 98 of this act.

19 SECTION 101. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 4-104 of Title 37A, unless there  
21 is created a duplication in numbering, reads as follows:

22 Municipalities are hereby authorized to levy an annual  
23 occupational tax for the privilege of operating as a retailer, mixed  
24 beverage, beer and wine, caterer, public event or special event

1 licensee, bottle club, manufacturer, wine and spirits wholesaler or  
2 beer distributor, within their respective jurisdictions, not to  
3 exceed the state license fee for such licensees; provided, the tax  
4 shall be levied only by the municipality in which such licensee has  
5 its principal place of business. This section shall not give any  
6 municipality any right to determine or regulate the issuance of any  
7 license, except as specifically provided for in this section, as the  
8 ABLE Commission shall have exclusive authority as to issuance and  
9 regulations of licenses. No municipality may prescribe rules or  
10 regulations in conflict with or in addition to the statutes of this  
11 state or the rules of the ABLE Commission.

12 Municipalities which levy an occupational tax under this section  
13 shall make an annual report to the ABLE Commission, covering the  
14 fiscal year, showing the number and class of licensees subject to  
15 the tax authorized by this section, and the amount of money received  
16 therefrom, which information is to be included in the annual report  
17 of the ABLE Commission submitted to the Governor, and transmitted to  
18 the Legislature.

19 SECTION 102. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 4-105 of Title 37A, unless there  
21 is created a duplication in numbering, reads as follows:

22 Counties are hereby authorized to levy an annual occupational  
23 tax for the privilege of operating as a mixed beverage, beer and  
24 wine, caterer, public event or special event licensee or as a bottle

1 club, within their respective jurisdictions and not located in a  
2 municipality levying an occupation tax as provided by Section 101 of  
3 this act, not to exceed the state license fee for such licensees;  
4 provided, the tax shall be levied only by the county in which such  
5 licensee has its principal place of business. All revenues derived  
6 from any such annual occupational tax shall be deposited in the  
7 general revenue fund of the county. This section shall not give any  
8 county any right to determine or regulate the issuance of any  
9 license, except as specifically provided for in this section, as the  
10 ABLE Commission shall have exclusive authority as to issuance and  
11 regulations of licenses. No county may prescribe rules or  
12 regulations in conflict with or in addition to the statutes of this  
13 state or the rules of the ABLE Commission.

14 Counties which levy an occupational tax under this section shall  
15 make an annual report to the ABLE Commission, covering the fiscal  
16 year, showing the number and class of licensees subject to the tax,  
17 and the amount of money received therefrom, which information is to  
18 be included in the annual report of the ABLE Commission submitted to  
19 the Governor, and transmitted to the Legislature.

20 SECTION 103. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 4-106 of Title 37A, unless there  
22 is created a duplication in numbering, reads as follows:

23 All sheriffs, marshals and police officers, all district and  
24 city or town attorneys and all employees of the ABLE Commission,

1 shall diligently enforce all provisions of the Oklahoma Alcoholic  
2 Beverage Control Act. If any such person shall fail or refuse to do  
3 or perform any duty required by the provisions of such statutes, he  
4 or she shall be removed from office as hereinafter provided. In all  
5 cases where any sheriff, marshal, police officer, district or city  
6 or town attorney shall fail or refuse to perform any such duty, a  
7 petition shall be filed in the district court of the county wherein  
8 such person resides, in the name of the state, upon the  
9 recommendation of a grand jury or on the relation of the board of  
10 county commissioners or of any attorney appointed by the Governor  
11 under the provisions of applicable statutes. In all cases where an  
12 employee of the ABLE Commission fails to perform any duty imposed  
13 upon him or her, such failure shall constitute cause for the  
14 termination of any such employee as provided by law. The Oklahoma  
15 State Bureau of Investigation and the Oklahoma State Bureau of  
16 Narcotics and Dangerous Drugs Control shall also have enforcement  
17 authority for the provisions of the Oklahoma Alcoholic Beverage  
18 Control Act with the power to initiate complaints with the ABLE  
19 Commission and by filing charges, if appropriate, with the district  
20 attorney in the county where the violation occurred.

21 SECTION 104. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 5-101 of Title 37A, unless there  
23 is created a duplication in numbering, reads as follows:

1       A. Except as provided in this subsection, an excise tax is  
2 hereby levied and imposed upon all alcoholic beverages imported or  
3 manufactured, for sale, use or distribution, or used or possessed in  
4 this state at the following rates:

5       1. One Dollar and forty-seven cents (\$1.47) per liter, and a  
6 proportionate rate on fractions thereof, on each liter of spirits;

7       2. Nineteen cents (\$0.19) per liter, and a proportionate rate  
8 on fractions thereof, on each liter of wine;

9       3. Fifty-five cents (\$0.55) per liter, and a proportionate rate  
10 on fractions thereof, on each liter of sparkling wine; and

11       4. Twelve Dollars and fifty cents (\$12.50) per barrel (thirty-  
12 one (31) wine gallons) and a proportionate rate on portions thereof,  
13 on each barrel of beer; provided, beer manufactured in this state  
14 for export shall not be taxed.

15       B. The excise tax levied on alcoholic beverages except beer  
16 under subsection A of this section shall be paid as follows:

17       1. Payment of the excise tax levied by this section with  
18 respect to all alcoholic beverages, other than beer, shall be made  
19 by the person shipping the same into Oklahoma, or in the case of  
20 direct imports from foreign countries by the importer, or in the  
21 case of alcoholic beverages manufactured in Oklahoma by the first  
22 seller thereof;

23       2. The due and payable excise tax levied by this section shall  
24 be remitted electronically with tax returns electronically filed

1 with the Oklahoma Tax Commission using procedures prescribed by the  
2 Tax Commission. The tax returns shall be made under oath by the  
3 person liable for the tax on forms prescribed and provided by the  
4 Tax Commission and shall be accompanied by payment of the taxes due  
5 and any additional sums due as provided by this section. Invoices  
6 describing all alcoholic beverages as described in this section  
7 which are shipped into this state or which are first sold in this  
8 state shall be delivered to the Tax Commission immediately following  
9 shipment of liquors into the state or delivery to the first  
10 purchaser. Tax returns and payment of excise tax and other sums due  
11 shall be electronically filed with the Tax Commission no later than  
12 the twentieth day of the month immediately succeeding the month of  
13 shipment, importation or first sale of the alcoholic beverages as  
14 provided in paragraph 1 of this subsection; and

15 3. Each person required to file a tax return pursuant to this  
16 section shall remit the excise tax due. Up to ten percent (10%) of  
17 each tax payment made under this subsection may be made in the form  
18 of revenue stamps previously purchased pursuant to Section 111 of  
19 this act.

20 C. For the purpose of collecting and remitting the excise tax  
21 imposed under this section, the person liable for such tax is hereby  
22 declared to be the agent of the state for such purposes.

23 D. Nothing herein shall be construed to impose an additional  
24 excise tax on alcoholic beverages held in inventory by wholesalers

1 and retailers upon which the excise tax was paid prior to the  
2 effective date of any excise tax increase.

3 E. The retail sale of alcoholic beverages shall be subject to  
4 the sales tax statutes enacted by the Legislature.

5 SECTION 105. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 5-102 of Title 37A, unless there  
7 is created a duplication in numbering, reads as follows:

8 The excise tax levied by the Alcoholic Beverages Governance Act  
9 is hereby declared and intended to be a direct tax upon the ultimate  
10 retail consumer of alcoholic beverages in this state, and when such  
11 tax is paid by, or collected from, any other person, as herein  
12 provided for, such payment shall be considered as an advance payment  
13 for convenience and facility only, and such tax shall thereafter be  
14 added to the price of such alcoholic beverages and recovered from  
15 the ultimate retail consumer thereof.

16 SECTION 106. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 5-103 of Title 37A, unless there  
18 is created a duplication in numbering, reads as follows:

19 A. The excise tax levied by Section 104 of this act shall not  
20 apply to:

21 1. Alcohol used exclusively for industrial purposes by the  
22 holder of an industrial license;

23 2. Alcohol lawfully withdrawn and used free of tax under a tax-  
24 free permit issued by the United States government;

1        3. Alcoholic beverages used exclusively by licensed physicians  
2 and dentists in the bona fide practice of their professions or by  
3 licensed pharmacists in compounding prescriptions;

4        4. Beer, cider and wine made for personal use pursuant to a  
5 personal use permit issued as provided in Section 70 of this act;

6        5. Wine used exclusively for sacramental purposes in bona fide  
7 religious ceremonies;

8        6. Alcoholic beverages, not exceeding one (1) liter, imported  
9 into this state by the possessor for his or her own personal use;

10       7. Alcoholic beverages provided to attendees, free of charge,  
11 at charitable events licensed and approved by the ABLE Commission;  
12 and

13       8. Mixed beverage and public event licensees which utilize the  
14 services of a licensed caterer.

15       B. As a condition precedent to the allowance of any exemption  
16 authorized by subsection A of this section:

17       1. If a license or permit is required by the Oklahoma Alcoholic  
18 Beverage Control Act, for such use, the person claiming any such  
19 exemption must have obtained from the ABLE Commission the license or  
20 permit authorizing such exempt use; and

21       2. There must be furnished such proof of the exclusive use for  
22 such exempt purposes as the Oklahoma Tax Commission may require.  
23  
24

1       SECTION 107.       NEW LAW       A new section of law to be codified  
2 in the Oklahoma Statutes as Section 5-104 of Title 37A, unless there  
3 is created a duplication in numbering, reads as follows:

4       All revenue accruing from the excise tax levied by Section 104  
5 of this act shall be collected by the Oklahoma Tax Commission and  
6 distributed as follows:

7       1. Two-thirds of ninety-seven percent ( $2/3$  of 97%) of such tax  
8 revenue shall be paid to the State Treasurer and placed to the  
9 credit of the General Revenue Fund of the state; provided, any  
10 amounts derived from the tax levied pursuant to paragraphs 2 and 3  
11 of subsection A of Section 104 of this act that exceed an amount  
12 equal to the total amount collected from such tax levy for the  
13 fiscal year ending on June 30, 2010, shall be distributed to the  
14 Oklahoma Viticulture and Enology Center Development Revolving Fund  
15 created pursuant to Section 132 of this act, but in no event shall  
16 the distribution to the Oklahoma Viticulture and Enology Center  
17 Development Revolving Fund in any fiscal year exceed Three Hundred  
18 Fifty Thousand Dollars (\$350,000.00);

19       2. One-third of ninety-seven percent ( $1/3$  of 97%) of such  
20 revenue is hereby allocated to the counties of this state and shall  
21 be paid to the county treasurers on the basis of area and population  
22 (giving equal weight to area and population) wherein the sale of  
23 alcoholic beverages is lawful, and all of such funds shall be  
24 appropriated by the county commissioners of each county and

1 apportioned by the county treasurer to all incorporated cities and  
2 towns in the county on the basis of population within each city and  
3 town on a per capita basis based on the last preceding Federal  
4 Decennial Census. For the purpose of appropriating and paying the  
5 excise taxes collected under the Oklahoma Alcoholic Beverage Control  
6 Act, or any act which is amendatory thereof or supplemental thereto,  
7 to the incorporated cities and towns in any county, city or town,  
8 the corporate limits of which include territory within more than one  
9 county, shall be considered and treated as being a city or town in  
10 only the county within which more than fifty percent (50%) of the  
11 entire population of such city or town, as shown by the last  
12 preceding Federal Decennial Census, reside, and, for such purpose,  
13 shall not be considered or treated as being a city or town in any  
14 other county. In the event that the last preceding Federal  
15 Decennial Census fails to disclose information from which such fact  
16 may be determined by the board of county commissioners which is  
17 appropriating the tax money then involved to the cities and towns in  
18 its county, the board of county commissioners shall make an  
19 estimate, from the best information then available to it, as to the  
20 percentage of the entire population of such city or town then  
21 residing in the county. If such board of county commissioners  
22 determines, either from information disclosed by the last preceding  
23 Federal Decennial Census, or from the best information then  
24 available to the ABLE Commission (when such information is not

disclosed by the last preceding Federal Decennial Census), that more than fifty percent (50%) of the population of such a city or town resides in that county, such city or town shall receive its pro rata share of such tax money on the basis of its entire population according to the last preceding Federal Decennial Census; but if such board of county commissioners so determines that more than fifty percent (50%) of the population of such city or town does not reside in that county, no part of such tax money shall be appropriated or paid to such city or town; and

3. The remaining three percent (3%) of such excise tax revenue shall be paid to the State Treasurer and placed to the credit of the Oklahoma Tax Commission Fund to be paid out of the fund pursuant to appropriations made by the State Legislature.

SECTION 108. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-105 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. A tax at the rate of ten percent (10%) is hereby levied and imposed on the total gross receipts of a holder of an on-premises beer and wine, mixed beverage, caterer, public event or special event license issued by the ABLE Commission, from:

1. The sale, preparation or service of mixed beverages;
2. The total retail value of complimentary or discounted mixed beverages;

1        3. Ice or nonalcoholic beverages that are sold, prepared or  
2 served for the purpose of being mixed with alcoholic beverages and  
3 consumed on the premises where the sale, preparation or service  
4 occurs; and

5        4. Any charges for the privilege of admission to a mixed  
6 beverage establishment which entitle a person to complimentary mixed  
7 beverages or discounted prices for mixed beverages.

8        B. For purposes of this section:

9        1. "Mixed beverages" means mixed beverages as defined by  
10 Section 3 of this act;

11        2. "Total gross receipts" means the total amount of  
12 consideration received as charges for admission to a mixed beverage  
13 establishment, as provided in paragraph 4 of subsection A of this  
14 section, and the total retail sale price received for the sale,  
15 preparation or service of mixed beverages, ice and nonalcoholic  
16 beverages to be mixed with alcoholic beverages. The advertised  
17 price of a mixed beverage may be the sum of the total retail sale  
18 price and the gross receipts tax levied thereon; and

19        3. "Total retail value" means the total amount of consideration  
20 that would be required for the sale, preparation or service of mixed  
21 beverages.

22        C. The gross receipts tax levied by this section shall be in  
23 addition to the excise tax levied in Section 104 of this act, the  
24

1 sales tax levied in the Oklahoma Sales Tax Code and to any municipal  
2 or county sales taxes.

3 D. The gross receipts tax levied by this section is hereby  
4 declared to be a direct tax upon the receipt of consideration for  
5 any charges for admission to a mixed beverage establishment, as  
6 provided in paragraph 4 of subsection A of this section, for the  
7 sale, preparation or service of mixed beverages, ice and  
8 nonalcoholic beverages to be mixed with alcoholic beverages, and the  
9 total retail value of complimentary or discounted mixed beverages.

10 E. The total of the retail sale price received for the sale,  
11 preparation or service of mixed beverages, ice and nonalcoholic  
12 beverages to be mixed with alcoholic beverages shall be the total  
13 gross receipts for purposes of calculating the sales tax levied in  
14 the Oklahoma Sales Tax Code.

15 SECTION 109. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 5-106 of Title 37A, unless there  
17 is created a duplication in numbering, reads as follows:

18 All revenues generated from the gross receipts tax levied  
19 pursuant to Section 108 of this act shall be paid to the State  
20 Treasurer and placed to the credit of the General Revenue Fund of  
21 the State of Oklahoma.

22 SECTION 110. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 5-107 of Title 37A, unless there  
24 is created a duplication in numbering, reads as follows:

1       A. Every holder of a mixed beverage, if not catered, beer and  
2 wine, caterer, hotel beverage, public event, if not catered, or  
3 special event license, issued by the ABLE Commission, shall obtain a  
4 mixed beverage tax permit from the Oklahoma Tax Commission prior to  
5 engaging within this state in the sale, preparation or service of  
6 mixed beverages, ice or nonalcoholic beverages that are sold,  
7 prepared or served to be mixed with alcoholic beverages. Each  
8 licensee shall file a verified application for a mixed beverage tax  
9 permit with the Tax Commission, setting forth information as may be  
10 required by the Tax Commission.

11       The Tax Commission, or its designated agent, shall issue,  
12 without any fees or charges therefor, a mixed beverage tax permit in  
13 the name of the licensee for the place of business set forth in the  
14 application upon verification that:

15       1. The applicant is a holder of a mixed beverage, if not  
16 catered, beer and wine, caterer, hotel beverage, public event, if  
17 not catered, or special event license issued by the ABLE Commission;

18       2. The applicant has posted a surety bond or other negotiable  
19 collateral to protect the proper payment of the gross receipts  
20 taxes;

21       3. The applicant is a holder of a sales tax permit for the  
22 place of business set forth in the application; and

23       4. The applicant is not delinquent in the payment of any gross  
24 receipts taxes or sales taxes.

1 A mixed beverage tax permit shall expire three (3) years after  
2 issuance; provided, if the holder thereof is also the holder of a  
3 sales tax permit, a mixed beverage tax permit shall be valid for  
4 three (3) years or until expiration of the sales tax permit,  
5 whichever is earlier, after which a renewal permit shall be valid  
6 for three (3) years.

7 B. A separate mixed beverage tax permit for each place of  
8 business to be operated must be obtained and no charge therefor  
9 shall be made by the Tax Commission. The Tax Commission shall grant  
10 and issue to each applicant a separate permit for each place of  
11 business in this state, upon proper application therefor and  
12 verification thereof by the Tax Commission.

13 C. A mixed beverage tax permit is not assignable and shall be  
14 valid only for the person in whose name it is issued and for the  
15 transaction of business at the place designated in the permit.

16 D. It shall be unlawful for any person to engage in a business  
17 subject to the provisions of this section prior to the issuance of a  
18 mixed beverage tax permit. Any person who engages in a business  
19 subject to the provisions of this section without a mixed beverage  
20 tax permit or permits, or after a permit has been suspended, shall  
21 be guilty of a misdemeanor, and upon conviction thereof, shall be  
22 fined not more than One Thousand Dollars (\$1,000.00) or incarcerated  
23 for not more than sixty (60) days, or by both such fine and  
24 imprisonment.

1       E. Any person operating under a mixed beverage tax permit as  
2 provided in this section shall, upon discontinuance of business by  
3 sale or otherwise, return such permit to the Tax Commission for  
4 cancellation, together with payment of any unpaid or accrued taxes.  
5 Failure to surrender a mixed beverage tax permit and pay any and all  
6 accrued taxes will be sufficient cause for the Tax Commission to  
7 refuse to issue a mixed beverage tax permit subsequently to such  
8 person to engage in or transact any business in this state subject  
9 to the provisions of this section. Notwithstanding the provisions  
10 of subsection H of Section 1364 of Title 68 of the Oklahoma  
11 Statutes, the Tax Commission shall not deny a purchaser of a  
12 business subject to the provisions of this section a mixed beverage  
13 or sales tax permit because of outstanding tax liabilities of the  
14 seller, provided the seller pays to the Tax Commission the estimated  
15 sales tax owed by the seller. Provided, further, upon completion of  
16 an audit by the Tax Commission and determination of actual sales tax  
17 owed, the difference between the estimated sales tax paid and the  
18 actual sales tax owed shall be paid by the seller to the Tax  
19 Commission if taxes were underpaid or returned to the seller by the  
20 Tax Commission if taxes were overpaid.

21       F. Whenever a holder of a mixed beverage tax permit fails to  
22 comply with any provisions of any state alcoholic beverage laws or  
23 tax laws, the Tax Commission, after giving ten-days' notice in  
24 writing of the time and place of hearing to show cause why this

1 permit should not be revoked, may revoke or suspend the permit. A  
2 mixed beverage tax permit shall be renewed upon removal of cause or  
3 causes of revocation or suspension. Mixed beverage tax permits are  
4 conditioned upon the proper and timely payment of all taxes due and  
5 in the event a holder of a mixed beverage tax permit becomes  
6 delinquent in reporting or paying any tax due under the provisions  
7 of state tax law, any duly authorized agent of the Tax Commission  
8 may cancel the permit and it shall be renewed only upon the filing  
9 of proper reports and payment of all taxes due and application for  
10 renewal in accordance with subsection A of this section.

11 G. Upon revocation or suspension of the mixed beverage, beer  
12 and wine, caterer, hotel beverage, public event or special event  
13 license by the ABLE Commission, the Tax Commission, or its duly  
14 authorized agent, shall temporarily suspend the mixed beverage tax  
15 permit issued to the licensee in accordance with Section 212 of  
16 Title 68 of the Oklahoma Statutes.

17 SECTION 111. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 5-108 of Title 37A, unless there  
19 is created a duplication in numbering, reads as follows:

20 A. The Oklahoma Tax Commission shall promulgate rules to  
21 implement a reporting method of taxing all alcoholic beverages sold  
22 or delivered in this state to eliminate the use of any type of  
23 stamps.

24

1       B. Every manufacturer or brewer manufacturing or brewing any  
2 beer in this state, for sale in this state, and every manufacturer  
3 or brewer outside of the state, shipping any beer into this state,  
4 shall cause to be printed, upon an affixed label around and upon the  
5 body of each bottle or upon the top or the lid of each can of such  
6 beer, a symbol or other designation, approved by the Tax Commission,  
7 including such information as the Tax Commission may require.  
8 Brewers shall be required to submit samples of crowns, tops and  
9 labels to the Tax Commission for approval.

10       C. Payment of the excise tax levied by the Oklahoma Alcoholic  
11 Beverage Control Act, with respect to beer shall be made by the  
12 manufacturer or brewer as to all beer produced by such brewer within  
13 the state for sale within this state, and shall be made by the  
14 importing manufacturer or beer distributor who is the original  
15 consignee of beer manufactured or produced outside of this state as  
16 to all beer imported into this state by such importing licensee. It  
17 is the duty of each Oklahoma licensed brewer with respect to beer  
18 produced by such brewer within this state, and of each Oklahoma  
19 licensed beer distributor as to beer produced outside of this state  
20 and imported into this state by such beer distributor, to pay the  
21 excise tax on such beer to the Oklahoma Tax Commission as  
22 hereinafter provided.

23       D. Notwithstanding any other provision of law, the tax levied  
24 by the Oklahoma Alcoholic Beverage Control Act shall be part of the

1 gross proceeds or gross receipts from the sale of alcoholic  
2 beverages, as those terms are defined in paragraph 12 of Section  
3 1352 of Title 68 of the Oklahoma Statutes.

4 SECTION 112. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 5-109 of Title 37A, unless there  
6 is created a duplication in numbering, reads as follows:

7 The Oklahoma Tax Commission shall have authority to allow credit  
8 for or make refunds of any money paid for stamps issued by the Tax  
9 Commission in payment of state excise tax by the manufacturer  
10 pursuant to authority granted by the Tax Commission. All  
11 applications to the Tax Commission for credit or replacement under  
12 the provisions of this section shall be verified by affidavit and  
13 all proof and evidence supporting such application shall be made in  
14 strict conformity with the rules of the Tax Commission setting forth  
15 the requirements in connection with such evidence and application.

16 SECTION 113. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 5-110 of Title 37A, unless there  
18 is created a duplication in numbering, reads as follows:

19 A. Payment of the excise tax levied by Section 104 of this act  
20 with respect to beer shall be made by the brewer or the beer  
21 distributor as herein provided. The tax shall be due and payable on  
22 the first day of each month for the preceding calendar month and if  
23 not paid on or before the tenth day of each month shall thereafter  
24 be delinquent.

1       B. Every brewer and beer distributor shall make and transmit to  
2 the Oklahoma Tax Commission on or before the tenth day of each  
3 calendar month, upon a form prescribed and furnished by the Tax  
4 Commission, an itemized and verified report, for the preceding  
5 calendar month, showing the following information:

6       1. Total quantity and description of opening inventory of beer  
7 as of the first day of the month;

8       2. Total receipts and acquisitions during month from every  
9 source. This shall be itemized showing:

10       a. imports and purchases within and without this state  
11       separately,

12       b. the kind and quantity of each type of beer as shown by  
13       the shipper's or seller's invoices thereof,

14       c. the date of each purchase,

15       d. the quantities purchased,

16       e. the date received,

17       f. the person from whom purchased,

18       g. the manifest, bill of lading or delivery invoice  
19       number of each shipment, which number shall be the

20       number used by the original seller as shown on the  
21       basic shipping records which accompany the shipment,

22       h. the point of origin and point of destination of each  
23       shipment, and  
24

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 reference to each such nontaxable sale, disposition and export shall be shown in detail as is required for sales in the State of Oklahoma and shall be supported by evidence satisfactory to the Tax Commission;

5. Closing inventory of beer as of the last day of the calendar month; and

6. Such other information pertaining to the brewer's and beer distributor's beginning inventory of beer, receipts or acquisitions thereof, sales and dispositions thereof, and the closing inventory, as the Tax Commission may by form or rule require.

1 C. Every brewer and beer distributor, at the time of making the  
2 monthly report required by this section, shall remit to the Tax  
3 Commission the total amount of the excise tax due as shown by the  
4 report. It shall be unlawful for any brewer or beer distributor to  
5 sell or offer for sale any beer while delinquent in the payment of  
6 any excise tax due the state.

7 D. Reports and remittances, as required herein, which are  
8 mailed on the tenth day of the month and received by the Tax  
9 Commission subsequent to the tenth of the month in which the excise  
10 tax is payable, shall be deemed to have been received by the Tax  
11 Commission before becoming delinquent. Postmark or registry receipt  
12 showing deposit in the United States mails shall be conclusive  
13 evidence of the date of mailing. The time for filing returns and  
14 paying the excise tax levied by the Oklahoma Alcoholic Beverage  
15 Control Act shall not be extended.

16 E. If upon investigation it is determined by the Tax Commission  
17 that any nontaxable disposition or sale claimed by any brewer or  
18 beer distributor is not supported by a valid invoice, or is  
19 fraudulently or falsely claimed in any manner by such brewer or beer  
20 distributor or any agent of such licensee, the Tax Commission shall  
21 disallow any such deduction and shall assess and collect the tax,  
22 together with the penalty and interest thereon, on the total amount  
23 of the disallowed deduction taken by the licensee.

1 F. The taking and claiming of any deduction not authorized by  
2 law, upon a report by any brewer or beer distributor, or the failure  
3 to file monthly reports or to pay any excise tax due, shall  
4 constitute grounds for the revocation of such person's license by  
5 the ABLE Commission and the Tax Commission shall promptly notify the  
6 ABLE Commission of all such cases.

7 SECTION 114. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 5-111 of Title 37A, unless there  
9 is created a duplication in numbering, reads as follows:

10 A. Every wine and spirits wholesaler and/or other person  
11 authorized under the Oklahoma Alcoholic Beverage Control Act to  
12 import alcoholic beverages into this state, shall make and transmit  
13 to the Oklahoma Tax Commission on or before the tenth day of each  
14 month, upon a form prescribed and furnished by the Tax Commission,  
15 an itemized and verified report for the preceding calendar month,  
16 showing the following information:

17 1. Opening inventory of alcoholic beverages other than beer;

18 2. Total receipts and acquisitions during month from every  
19 source. This shall be itemized showing:

20 a. imports and purchases from within and without this  
21 state separately,

22 b. the kind, proof and quantity of each type of alcoholic  
23 beverage as shown by the shipper's or seller's  
24 invoices thereof,

- c. the date of each purchase,
- d. the amount 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, and
- h. the point of origin and point of destination of each shipment;

3. The kind and quantity of all alcoholic beverages sold or withdrawn from inventory for sale, use or consumption during the calendar month; the date of each sale; and the kind, proof and quantity of alcoholic beverages in each sale; the name, address and ABLE Commission license number of each purchaser; and 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;

4. All nontaxable sales and dispositions made during the month, supported by evidence satisfactory to the Tax Commission;

5. Closing inventory of alcoholic beverages as of the last day of the calendar month; and

1        6. Such other information pertaining to the wholesaler's  
2 beginning inventory of alcoholic beverages, receipts or acquisitions  
3 thereof, sales and dispositions thereof, and closing inventory, as  
4 the Tax Commission may by form or rule require.

5        B. If upon investigation it is determined by the Tax Commission  
6 that any nontaxable disposition or sale claimed by any licensee is  
7 not supported by a valid invoice, or is fraudulently or falsely  
8 claimed in any manner by such licensee or any agent of such  
9 licensee, the Tax Commission shall disallow any such deduction and  
10 shall assess and collect the excise tax, together with the penalty  
11 and interest thereon, on the total amount of the disallowed  
12 deduction taken by the licensee.

13        C. The taking and claiming of any deduction not authorized by  
14 law, upon a report by any wholesaler or the failure to file monthly  
15 reports or pay any excise tax due, shall constitute grounds for the  
16 revocation of such person's license, distributor permit or  
17 wholesaler permit by the ABLE Commission and the Tax Commission  
18 shall promptly notify the ABLE Commission of all such cases.

19        SECTION 115.        NEW LAW        A new section of law to be codified  
20 in the Oklahoma Statutes as Section 5-112 of Title 37A, unless there  
21 is created a duplication in numbering, reads as follows:

22        A. All manufacturers, importers, brokers and others who sell  
23 alcoholic beverages to a wholesaler in Oklahoma, regardless of  
24 whether the sale is consummated within or without the State of

1 Oklahoma, shall obtain a distributor permit from the Oklahoma Tax  
2 Commission.

3 B. Any person having a wholesaler's license shall obtain a  
4 wholesaler permit from the Tax Commission.

5 C. A distributor permit or wholesaler permit may be obtained by  
6 filing a verified permit application with the Tax Commission on a  
7 form furnished by the Tax Commission.

8 SECTION 116. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 5-113 of Title 37A, unless there  
10 is created a duplication in numbering, reads as follows:

11 A. The Oklahoma Tax Commission, as provided by the Uniform Tax  
12 Procedure Code, may issue a distributor permit or wholesaler permit  
13 to any person who sells alcoholic beverages to a wine and spirits  
14 wholesaler or beer distributor or to any person having a wholesaler  
15 license.

16 B. Each wholesaler shall furnish a copy of the wholesaler  
17 permit to manufacturers, importers, brokers and others who sell  
18 alcoholic beverages prior to purchasing alcoholic beverages from a  
19 holder of a distributor permit. Each manufacturer, importer, broker  
20 and other who sells alcoholic beverages shall furnish a copy of the  
21 distributor permit to the wine and spirits wholesaler or beer  
22 distributor prior to selling alcoholic beverages to a wholesaler.

23 C. Holders of distributor permits or wholesaler permits shall  
24 maintain an itemized and verified record for the preceding calendar

1 month of all sales or purchases of alcoholic beverages and shall  
2 transmit the verified record to the Tax Commission on or before the  
3 tenth day of each month, upon a form prescribed and furnished by the  
4 Tax Commission. Permit holders shall maintain records of sales and  
5 purchases of alcoholic beverages for three (3) years.

6 SECTION 117. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 5-114 of Title 37A, unless there  
8 is created a duplication in numbering, reads as follows:

9 A. All bottles or other original containers of alcoholic  
10 beverages in the possession of any person upon which the taxes have  
11 not been paid as required by the Oklahoma Alcoholic Beverage Control  
12 Act and the rules thereunder are declared to be contraband. Any  
13 duly authorized employee of the ABLE Commission or the Oklahoma Tax  
14 Commission is authorized to seize the same, and such containers of  
15 alcoholic beverages so seized shall be subject to confiscation and  
16 forfeiture by the Tax Commission as hereinafter provided.

17 B. If, upon examination of invoices or from other  
18 investigation, the Tax Commission finds that any alcoholic beverages  
19 have been sold without tax payment as required by the Oklahoma  
20 Alcoholic Beverage Control Act, the Tax Commission shall have the  
21 power to require such person to pay to the Tax Commission as such  
22 tax a sum equal to twice the amount of the tax due. If any person  
23 is unable to furnish evidence to the Tax Commission of excise tax  
24 payment to cover purchases of alcoholic beverages made by such

1 person, the prima facie presumption shall arise that such alcoholic  
2 beverages were sold without excise tax payment.

3 It is expressly provided, except where specific provisions of  
4 the Oklahoma Alcoholic Beverage Control Act require otherwise, that  
5 the procedures and remedies contained in the Uniform Tax Procedure  
6 Code of the Oklahoma Statutes in connection with the making of  
7 assessments, and the enforcement and collection thereof, the  
8 penalties and interest to be applied, all lien and tax warrant  
9 provisions, all incidental remedies, including procedure for an  
10 injunction, and all other provisions of the Uniform Tax Procedure  
11 Code which may be applied or used to enforce the provisions of the  
12 Oklahoma Alcoholic Beverage Control Act, shall be applicable and  
13 available to the Tax Commission in administering the provisions  
14 hereof and collecting the taxes herein levied on alcoholic  
15 beverages.

16 SECTION 118. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 5-115 of Title 37A, unless there  
18 is created a duplication in numbering, reads as follows:

19 Any employee of the ABLE Commission or the Oklahoma Tax  
20 Commission shall have power and authority, without a warrant, to  
21 enter and examine the licensed premises of all licensees to  
22 determine whether any licensee possesses any container of alcoholic  
23 beverage upon which the taxes have not been paid as required by the  
24 Oklahoma Alcoholic Beverage Control Act and the rules thereunder,

1 and if such employee shall find any such container of alcoholic  
2 beverages, he or she shall immediately seize the same. Such  
3 employees of the ABLE Commission or the Tax Commission shall be  
4 given free access to and shall not be hindered or interfered with in  
5 their examination of the licensed premises of any licensees, and, in  
6 case any such employee is denied free access or is hindered or  
7 interfered with in making such examination, any license held by the  
8 person preventing such free access or interfering with or hindering  
9 such employee shall be subject to suspension or revocation.

10 SECTION 119. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 5-116 of Title 37A, unless there  
12 is created a duplication in numbering, reads as follows:

13 A. After the seizure of such container of alcoholic beverage  
14 upon which the taxes have not been paid, any officer or employee of  
15 the ABLE Commission, designated in writing by the Director, shall  
16 hold a hearing to determine whether the container of alcoholic  
17 beverage seized did not have the necessary taxes paid as required by  
18 the Oklahoma Alcoholic Beverage Control Act and the rules  
19 thereunder. The ABLE Commission shall give not less than seven-  
20 days' notice of the time and place of such hearing to the owner of  
21 such container of alcoholic beverage, if known, and also to the  
22 person in whose possession such container was found, if such person  
23 is known, and if such person in possession is not the owner of the  
24 property. The Director, or any employee of the ABLE Commission,

1 designated to conduct such hearing, shall have power to administer  
2 oaths and the power to issue subpoenas requiring the attendance of  
3 and the giving of testimony by witnesses and subpoenas duces tecum  
4 requiring the production of books, papers, records and memoranda.

5 B. Pursuant to such hearing, the ABLE Commission shall  
6 determine whether the container of alcoholic beverage seized did not  
7 have the taxes paid as required by the Oklahoma Alcoholic Beverage  
8 Control Act and the rules thereunder, and upon a decision to that  
9 effect, an order shall be entered that such container of alcoholic  
10 beverage is confiscated and forfeited to the State of Oklahoma. The  
11 ABLE Commission shall give notice of such order to the owner of such  
12 container of alcoholic beverage, if known, and also to the person in  
13 whose possession the property so taken was found, if such person is  
14 known, and if such person in possession is not the owner of the  
15 property.

16 SECTION 120. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 5-117 of Title 37A, unless there  
18 is created a duplication in numbering, reads as follows:

19 After an order of forfeiture, and when a proceeding for judicial  
20 review of the order has been concluded or the time for judicial  
21 review has expired, the ABLE Commission, to the extent that its  
22 order is sustained on review, shall sell such forfeited alcoholic  
23 beverage at such time and place and in such manner as it deems  
24 advisable. Proceeds of such sales shall be deposited with the State

1 Treasurer for the credit of the General Revenue Fund of the State of  
2 Oklahoma.

3 SECTION 121. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 5-118 of Title 37A, unless there  
5 is created a duplication in numbering, reads as follows:

6 Every person who shall possess more than one (1) liter of  
7 alcoholic beverage, the bottle or other original container upon  
8 which the excise tax levied by Section 104 of this act has not been  
9 paid as provided for by the Oklahoma Alcoholic Beverage Control Act,  
10 shall be guilty of a misdemeanor, and if such person is the holder  
11 of a license under the Oklahoma Alcoholic Beverage Control Act, such  
12 license shall be subject to revocation or suspension by the ABLE  
13 Commission. The Oklahoma Tax Commission may promulgate rules for  
14 hearings on a revocation of a license for violation of the  
15 provisions of this section. Provided, the ABLE Commission may  
16 suspend any license for a violation of this section for a period of  
17 thirty (30) days with notice of hearing as the ABLE Commission may  
18 determine.

19 SECTION 122. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 5-119 of Title 37A, unless there  
21 is created a duplication in numbering, reads as follows:

22 Every manufacturer of alcoholic beverages other than beer shall  
23 package, ship, store and deliver same in cases, and no alcoholic  
24 beverage other than beer shall be sold, shipped, stored or delivered

1 by any such manufacturer except in sealed cases. Every manufacturer  
2 of alcoholic beverages other than beer shall serially number such  
3 cases on the end of the case where the brand and product are  
4 identified. All such cases shall be sealed by tape or such other  
5 method as the ABLE Commission by rule may provide so that the  
6 contents of such cases cannot be removed without breaking or  
7 destroying such seal. It shall be unlawful for any person to remove  
8 the alcoholic beverage contents of a case so sealed without breaking  
9 or destroying such seal. No wholesaler or beer distributor shall  
10 receive or accept any alcoholic beverages other than beer in this  
11 state except in sealed cases so numbered. Any holder of a license  
12 or permit violating the provisions of this section shall be subject  
13 to revocation or suspension of the license.

14 SECTION 123. NEW LAW A new section of law to be codified  
15 in the Oklahoma Statutes as Section 5-120 of Title 37A, unless there  
16 is created a duplication in numbering, reads as follows:

17 All licensees under the Oklahoma Alcoholic Beverage Control Act  
18 shall keep books and records with regard to alcoholic beverages  
19 which shall contain such information and itemization thereof as the  
20 ABLE Commission may prescribe by rule. All books, records,  
21 inventories, invoices and other accounting documents required by the  
22 Oklahoma Alcoholic Beverage Control Act shall be kept for three (3)  
23 years and shall at all times be available for inspection by duly  
24

1 authorized representatives of the ABLE Commission or the Oklahoma  
2 Tax Commission.

3 SECTION 124. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 5-121 of Title 37A, unless there  
5 is created a duplication in numbering, reads as follows:

6 Every holder of a nonresident seller license, when applicable,  
7 shall make and transmit to the Oklahoma Tax Commission, on or before  
8 the tenth day of each month upon a form prescribed and furnished by  
9 the Tax Commission, an itemized and verified report for the  
10 preceding calendar month, showing each shipment or sale of alcoholic  
11 beverages into Oklahoma. Such report shall show:

- 12 1. The date of the shipment;
- 13 2. The total quantity of the shipment;
- 14 3. The name and ABLE Commission license number of the Oklahoma  
15 purchaser; and
- 16 4. The manifest, bill of lading or invoice number of each  
17 shipment.

18 Such report shall be accompanied by duplicate original copies of  
19 each manifest, invoice, bill of lading or other document showing the  
20 details, including the proof of all spirits, of all shipments during  
21 such calendar month.

22 SECTION 125. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 5-122 of Title 37A, unless there  
24 is created a duplication in numbering, reads as follows:

1 Every manufacturer, subject to licensing hereunder, shall make  
2 and transmit to the Oklahoma Tax Commission, on or before the tenth  
3 day of each calendar month, upon a form prescribed and furnished by  
4 the Tax Commission, an itemized and verified report, for the  
5 preceding calendar month, showing:

6 1. The kind and quantity of all alcoholic beverages  
7 manufactured within this state during the month, including:

- 8 a. the proof of all spirits,
- 9 b. the kind and quantity of all alcoholic beverages  
10 purchased within this state, including the proof of  
11 all spirits,
- 12 c. the kind and quantity of all alcoholic beverages  
13 imported into this state during the month, including  
14 the proof of all spirits,
- 15 d. the name and ABLE Commission license number of the  
16 person from whom purchased or received,
- 17 e. the manifest, bill of lading or invoice number of each  
18 shipment, which number shall be the number used by the  
19 original seller as shown by the basic shipping records  
20 which accompanied the shipment,
- 21 f. the date of receipt of each shipment,
- 22 g. the name and ABLE Commission license number of the  
23 carrier, if transported by carrier; and  
24

1        2. All sales of alcoholic beverages made by such manufacturer  
2 during such calendar month, both within and without Oklahoma,  
3 including in detail the kind and quantity of all alcoholic beverages  
4 sold, including:

- 5            a. the proof of all spirits, as shown by the invoice
- 6                    covering each such sale,
- 7            b. the invoice number,
- 8            c. the date of each sale,
- 9            d. the name, address and the ABLE Commission license
- 10                    number of the purchaser,
- 11            e. the name and ABLE Commission license number of the
- 12                    carrier, if shipped by carrier, and
- 13            f. such other information as the Tax Commission may
- 14                    require.

15        SECTION 126.        NEW LAW        A new section of law to be codified  
16 in the Oklahoma Statutes as Section 5-123 of Title 37A, unless there  
17 is created a duplication in numbering, reads as follows:

18        A. It shall be the duty of every railroad company, express  
19 company, common or contract carrier, and of every firm or  
20 corporation that shall bring, carry or transport wine, beer or  
21 distilled spirits for delivery to any person in the state, except  
22 wine or spirit wholesalers or beer distributors, to prepare and file  
23 monthly with the Oklahoma Tax Commission, a report containing:

- 1        1. The name of the company, carrier, person, firm or
- 2 corporation making the report;
- 3        2. The period of time covered by the report;
- 4        3. The name and business address of each shipper of such
- 5 alcoholic beverages;
- 6        4. The name and address of each recipient of such alcoholic
- 7 beverages;
- 8        5. The quantity of alcoholic beverages delivered to each
- 9 consignee; and
- 10       6. The date of delivery.

11       Reports received by the Tax Commission shall be made available  
12 to the public by the Oklahoma Open Records Act.

13       B. Upon the Tax Commission's request, the records supporting  
14 the report shall be made available to the Tax Commission within  
15 thirty (30) calendar days. The books, records, supporting papers  
16 and documents containing information and data relating to such  
17 reports shall be kept and preserved for a period of three (3) years,  
18 unless their destruction sooner is authorized, in writing, by the  
19 Tax Commission, and shall be open and available to inspection by the  
20 Tax Commission at all times during business hours of the day.  
21 Reports shall also be made available to any law enforcement or  
22 regulatory body in the state in which a carrier included in a report  
23 resides or does business.

1 C. Any person who knowingly violates any of the provisions of  
2 this section or any of the rules of the Tax Commission for the  
3 administration and enforcement of the provisions of this section is  
4 subject to a written reprimand for the first offense. In the case  
5 of a subsequent violation within the same calendar year, the carrier  
6 shall be subject to a monetary fine of Two Thousand Five Hundred  
7 Dollars (\$2,500.00) for a second offense, Five Thousand Dollars  
8 (\$5,000.00) for a third offense and Ten Thousand Dollars  
9 (\$10,000.00) for all subsequent offenses.

10 SECTION 127. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 5-124 of Title 37A, unless there  
12 is created a duplication in numbering, reads as follows:

13 Every manufacturer, importer, broker or other who sells  
14 alcoholic beverages to a wine and spirits wholesaler, or beer  
15 distributor in Oklahoma, after having been issued a license by the  
16 ABLE Commission, shall, before manufacturing, purchasing or selling  
17 any alcoholic beverage within this state, file with the Oklahoma Tax  
18 Commission a bond issued by a surety company authorized to transact  
19 business in this state, in such amount as the Tax Commission may  
20 fix, but which shall be at least equal to the estimated amount of  
21 the tax liability of such licensee for a three-month period, to  
22 secure the payment of all excise taxes due from sales of alcoholic  
23 beverages to a wholesaler, or beer distributor, under the provisions  
24 of the Oklahoma Alcoholic Beverage Control Act. Provided, the

1 amount of the bond for every wholesaler or beer distributor shall be  
2 not less than One Thousand Dollars (\$1,000.00). Such bonds shall be  
3 payable to the State of Oklahoma and conditioned upon compliance  
4 with the excise tax provisions of the Oklahoma Alcoholic Beverage  
5 Control Act and the rules of the Tax Commission relating thereto.  
6 In lieu of such surety bond, any such manufacturer, wine and spirits  
7 wholesaler, or beer distributor, may deposit cash or negotiable  
8 securities, approved by the Tax Commission, in such amount as it may  
9 prescribe.

10 SECTION 128. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 5-125 of Title 37A, unless there  
12 is created a duplication in numbering, reads as follows:

13 A. Every manufacturer, wine and spirits wholesaler, beer  
14 distributor or nonresident seller, selling alcoholic beverages in  
15 this state, or selling alcoholic beverages for shipment into this  
16 state shall, at the time such sale is made, make and deliver to the  
17 purchaser or transporter an invoice, bill of lading, manifest or  
18 other document describing such alcoholic beverages, showing:

- 19 1. The date of such sale or delivery;
- 20 2. The name and ABLE Commission license number of the seller;
- 21 3. The point of origin of the movement of such alcoholic  
22 beverages and the destination of same;
- 23 4. The kind and quantity and a description of such alcoholic  
24 beverages, including the proof of all spirits;

1        5. The name and ABLE Commission license number of the  
2 purchaser;

3        6. The sale price; and

4        7. Such other information as the Oklahoma Tax Commission may,  
5 by form or rule, require.

6        Every such invoice, bill of lading, manifest or other document  
7 describing such alcoholic beverages, except beer, must be identified  
8 by consecutive numbers printed upon the invoice or document, and  
9 each such seller and purchaser must account for each copy of his or  
10 her invoice and each number thereof.

11       B. Every common carrier and private carrier, and every person  
12 who transports any alcoholic beverages from any point within this  
13 state to any other point within or without this state, or who  
14 transports alcoholic beverages into this state, shall at all times  
15 while such alcoholic beverages are in transit have in the possession  
16 of the driver or operator of the transporting carrier or vehicle the  
17 invoice, bill of lading, manifest or other document describing such  
18 alcoholic beverages being transported.

19       C. Every manufacturer, wine and spirits wholesaler or beer  
20 distributor importing into or purchasing in this state any alcoholic  
21 beverage, and any retailer purchasing any alcoholic beverage in this  
22 state, shall at the time of delivery or acceptance of such alcoholic  
23 beverage, demand and receive a proper bill of lading, invoice,  
24

1 manifest or other document, particularly describing such alcoholic  
2 beverage and showing the proof of all spirits.

3 D. Every manufacturer, wine and spirits wholesaler, beer  
4 distributor, nonresident seller and retailer shall retain one copy  
5 of each invoice, bill of lading, manifest or similar document  
6 covering all such sales and purchases by such licensee, as a part of  
7 the permanent records of such licensee for a period of at least  
8 three (3) years.

9 E. Any person violating any of the provisions of this section,  
10 whether acting for himself or herself or as the agent or employee of  
11 any licensee hereunder, shall be guilty of a misdemeanor and, upon  
12 conviction, shall be punished as provided by law. Any violation of  
13 the provisions of this section shall also constitute grounds for the  
14 revocation by the ABLE Commission of any license issued under the  
15 Oklahoma Alcoholic Beverage Control Act.

16 SECTION 129. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 5-126 of Title 37A, unless there  
18 is created a duplication in numbering, reads as follows:

19 Every manufacturer, wine and spirits wholesaler, beer  
20 distributor, nonresident seller, retailer, mixed beverage, caterer,  
21 public event and special event licensee shall keep a record of all  
22 alcoholic beverages imported, purchased, received, manufactured,  
23 produced, sold, delivered or otherwise disposed of, and the amount  
24 of all alcoholic beverages on hand, as herein provided. Such

1 records must be kept for a period of at least three (3) years and  
2 shall include:

- 3 1. The date;
- 4 2. The number of the invoice, manifest, bill of lading or  
5 similar type document; and
- 6 3. The total amount of alcoholic beverages purchased, imported,  
7 received, manufactured, produced, sold, delivered or otherwise  
8 disposed of, by such licensee in each transaction.

9 Each such licensee shall keep and maintain such other records in  
10 details as the Oklahoma Tax Commission may require.

11 SECTION 130. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 5-127 of Title 37A, unless there  
13 is created a duplication in numbering, reads as follows:

14 The county excise board of each county in the state, in  
15 approving the estimates of needs for cities and towns for each  
16 fiscal year, shall make reasonable estimates of the revenue to be  
17 derived under the provisions of the Oklahoma Alcoholic Beverage  
18 Control Act.

19 SECTION 131. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 5-128 of Title 37A, unless there  
21 is created a duplication in numbering, reads as follows:

22 A. There is hereby created in the State Treasury a fund to be  
23 known as the "Alcoholic Beverage Control Fund" which shall consist  
24 of revenues collected by the state from license and registration

1 fees, with any interest, fines or penalties levied and collected by  
2 the ABLE Commission pursuant to the provisions of the Oklahoma  
3 Alcoholic Beverage Control Act. Any unappropriated balance in the  
4 Oklahoma Alcoholic Beverage Control Fund at the close of each fiscal  
5 year shall revert to the General Revenue Fund of the State of  
6 Oklahoma, except for the amount necessary to satisfy any  
7 appropriations made or to be made from the fund by the Oklahoma  
8 State Legislature for the ensuing fiscal year.

9 All such monies collected by the ABLE Commission pursuant to the  
10 provisions of the Oklahoma Alcoholic Beverage Control Act shall be  
11 deposited in the State Treasury for credit to the General Revenue  
12 Fund of the state, except as provided in subsection B of this  
13 section.

14 B. There is hereby created in the State Treasury a revolving  
15 fund for the ABLE Commission to be designated the "Alcoholic  
16 Beverage Governance Revolving Fund". The fund shall be a continuing  
17 fund, not subject to fiscal year limitations, and shall consist of  
18 any monies received from the surcharge collected by the Tax  
19 Commission pursuant to subsection F of Section 13 of this act and  
20 any other sources of funds provided by law. All monies accruing to  
21 the credit of the fund shall be budgeted and expended by the ABLE  
22 Commission for general operations. Expenditures from the fund shall  
23 be made upon warrants issued by the State Treasurer against claims  
24

1 filed as prescribed by law with the Director of the Office of  
2 Management and Enterprise Services for approval and payment.

3 SECTION 132. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 5-129 of Title 37A, unless there  
5 is created a duplication in numbering, reads as follows:

6 A. There is hereby created in the State Treasury a revolving  
7 fund for the Oklahoma Department of Agriculture, Food, and Forestry  
8 to be designated the "Oklahoma Viticulture and Enology Center  
9 Development Revolving Fund".

10 B. The fund shall be a continuing fund, not subject to fiscal  
11 year limitations, and shall consist of all monies distributed to the  
12 fund:

13 1. From the apportionment provided in paragraph 1 of Section  
14 107 of this act; and

15 2. From any other source in accordance with state and federal  
16 law.

17 C. All monies accruing to the credit of the fund are hereby  
18 appropriated and may be budgeted and expended by the Department for  
19 the purpose of:

20 1. Establishing a Viticulture and Enology Center on the campus  
21 of Redlands Community College;

22 2. Developing viticulture-related and enology-related education  
23 programs;

1        3.    Developing technologies, strategies or practices that aid in  
2 the production of grapes and wine in Oklahoma; and

3        4.    Increasing the positive economic impact of the Oklahoma wine  
4 industry on this state.

5        D.    Expenditures from the fund shall be made upon warrants  
6 issued by the State Treasurer against claims filed as prescribed by  
7 law with the Director of the Office of Management and Enterprise  
8 Services for approval and payment.

9        SECTION 133.        NEW LAW        A new section of law to be codified  
10 in the Oklahoma Statutes as Section 5-130 of Title 37A, unless there  
11 is created a duplication in numbering, reads as follows:

12        The ABLE Commission is hereby authorized to promulgate rules  
13 governing the labeling of alcoholic beverages bottled, packaged,  
14 sold or possessed for sale within this state, not inconsistent with  
15 the provisions of the Oklahoma Alcoholic Beverage Control Act.

16        SECTION 134.        NEW LAW        A new section of law to be codified  
17 in the Oklahoma Statutes as Section 5-131 of Title 37A, unless there  
18 is created a duplication in numbering, reads as follows:

19        The bottling, packaging, sale or possession by any licensee of  
20 any alcoholic beverage not labeled in conformity with such rules and  
21 the provisions of the Oklahoma Alcoholic Beverage Control Act shall  
22 be grounds for suspension, revocation or cancellation of the  
23 license.  
24

1       SECTION 135.       NEW LAW       A new section of law to be codified  
2 in the Oklahoma Statutes as Section 5-132 of Title 37A, unless there  
3 is created a duplication in numbering, reads as follows:

4       A. Except as provided in subsection D of this section, no  
5 alcoholic beverage shall be labeled, offered or advertised for sale  
6 in this state unless in accordance with rules promulgated pursuant  
7 to the provisions of Section 133 of this act and unless the brand  
8 label shall have been registered with and approved by the ABLE  
9 Commission and the appropriate fee paid as provided for in this  
10 section.

11       B. An application for registration of a brand label shall be  
12 filed by and fees paid by the manufacturer or brewer of the brand if  
13 the manufacturer or brewer is licensed by the ABLE Commission;  
14 however, if the manufacturer is represented by a manufacturer's  
15 agent or licensed nonresident seller, then the manufacturer's agent  
16 or nonresident seller shall submit each label for each product the  
17 manufacturer offers for sale in this state. Cordials and wines  
18 which differ only as to age or vintage year, as defined by such  
19 rules, shall be considered the same brand, and those that differ as  
20 to type or class may be considered the same brand by the ABLE  
21 Commission where consistent with the purposes of this section.

22       C. The application for registration of a brand label shall be  
23 filed on a form prescribed by the ABLE Commission, and shall contain  
24 such information as the ABLE Commission shall require. Such

1 application shall be accompanied by a certified check, bank  
2 officers' check or draft or money order in the amount of the annual  
3 registration fee, or the properly prorated portion thereof  
4 prescribed by this section.

5 D. 1. The annual fee for registration of any brand label for  
6 spirits shall be Three Hundred Seventy-five Dollars (\$375.00). The  
7 annual fee for registration of any brand label for beer shall be Two  
8 Hundred Dollars (\$200.00). The annual fee for registration of any  
9 brand label for wine made in the United States, or for registration  
10 of any category of imported wine as defined by the Tax Commission,  
11 shall be Two Hundred Dollars (\$200.00). Beer manufactured in this  
12 state shall be exempt from brand label registration fees.

13 2. Each brand label registered and approved pursuant to this  
14 section shall be valid for a term of up to one (1) year, expiring on  
15 the June 30 next following registration, and may be renewed for  
16 subsequent terms of one (1) year beginning on the July 1 following  
17 the initial registration. Brand registration fees for labels  
18 registered after July 1 may be prorated through the following June  
19 30 on a quarterly basis. The brand registration fee shall not be  
20 transferable.

21 E. If the ABLE Commission shall deny the application for  
22 registration of a brand label, it shall return the registration fee  
23 to the applicant, less twenty-five percent (25%) of such fee.  
24

1 F. The ABLE Commission may at any time exempt any discontinued  
2 brand from fee provisions of this section where a manufacturer or  
3 wholesaler has an inventory of one hundred cases or less of liquor  
4 or wine and five hundred cases or less of beer, and certifies to the  
5 ABLE Commission in writing that such brand is being discontinued.

6 G. No private labels or control labels shall be approved for  
7 sale in this state.

8 SECTION 136. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 5-133 of Title 37A, unless there  
10 is created a duplication in numbering, reads as follows:

11 A. No holder of a mixed beverage, beer and wine, caterer,  
12 special event, public event or airline/railroad beverage license  
13 shall refill with any substance a container which contained any  
14 alcoholic beverage on which the tax levied by Section 104 of this  
15 act has been paid.

16 B. A mixed beverage licensee shall not be prohibited from  
17 preparing and selling infused drinks on the licensed premises,  
18 provided the licensee complies with this section. "Infusion" is the  
19 process in which a distilled spirit has one or more ingredients  
20 including but not limited to fruits, vegetables, spices or nuts  
21 added to the distilled spirit. Provided, it shall not be lawful for  
22 a distilled spirit to be infused with any hallucinogenic substances  
23 or to have pure or supplemental caffeine or other stimulants added,  
24 including but not limited to guarana, ginseng or taurine. A mixed

1 beverage licensee who prepares and sells infused drinks shall comply  
2 with the following requirements:

3 1. The infusion shall be mixed and stored on the licensed  
4 premises;

5 2. The container that the infusion is stored in cannot exceed  
6 five (5) gallons, must have a lid, and be maintained in sanitary  
7 condition;

8 3. The infusion shall not be aged more than fourteen (14) days;

9 4. The infusion must be used or destroyed within twenty-one  
10 (21) days after the end of the aging process;

11 5. Cleaning reports for the container must be available for  
12 inspection by the ABLE Commission; and

13 6. The container in which the infusion is stored must have a  
14 label affixed to the container that provides the production date of  
15 the infusion, the base spirit of the infusion, the date the infusion  
16 will finish the aging process and the date in which the infusion  
17 must be destroyed.

18 SECTION 137. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 5-134 of Title 37A, unless there  
20 is created a duplication in numbering, reads as follows:

21 A. Every holder of a mixed beverage, beer and wine, caterer,  
22 public event or special event license issued by the ABLE Commission,  
23 as a condition precedent to the issuance of a mixed beverage tax  
24 permit, shall furnish to the Oklahoma Tax Commission a bond from a

1 surety company chartered or authorized to do business in this state,  
2 cash bond, certificates of deposits, certificates of savings or U.S.  
3 Treasury bond, or an assignment of negotiable stocks or bonds, as  
4 the Tax Commission may deem necessary to secure payment of the gross  
5 receipts tax levied upon gross receipts of the licensees.

6 B. Any surety bond furnished under this section shall be a  
7 continuing instrument and shall constitute a new and separate  
8 obligation in the sum stated therein for each calendar year or a  
9 portion thereof while such bond is in force. Such bond shall remain  
10 in effect until the surety or sureties are released and discharged  
11 by the Tax Commission.

12 C. The Tax Commission, or its duly authorized agent, shall fix  
13 the amount of such bond or other security for each licensee for each  
14 place of business after considering the estimated gross receipts tax  
15 liability of such licensee. Such bond shall be no less than an  
16 amount equal to the average estimated quarterly gross receipts tax  
17 liability and no greater than an amount equal to three times the  
18 amount of the average estimated quarterly gross receipts tax  
19 liability. The minimum bond required for a new permit holder shall  
20 be not less than One Thousand Five Hundred Dollars (\$1,500.00).

21 D. Notwithstanding the provisions of subsection C of this  
22 section, if the permit holder has held the permit for at least four  
23 (4) years and is not delinquent in the payment of mixed beverage  
24 taxes, the Tax Commission shall not require any increase in the bond

1 so long as the permit holder remains current in the payment of such  
2 taxes.

3 E. Any bond or other security shall be such as will protect  
4 this state against failure of the taxpayer or licensee to pay the  
5 tax levied by Section 108 of this act. The forfeiture or  
6 cancellation of such bond or security, for any reason whatsoever,  
7 shall automatically revoke the mixed beverage tax permit issued  
8 pursuant to the provisions of the Oklahoma Alcoholic Beverage  
9 Control Act.

10 SECTION 138. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 5-135 of Title 37A, unless there  
12 is created a duplication in numbering, reads as follows:

13 A. Every mixed beverage tax permit holder, or any person  
14 transacting business subject to the gross receipts tax levied by  
15 Section 108 of this act, shall file with the Oklahoma Tax Commission  
16 a monthly report for each place or location of business, on or  
17 before the twentieth day of the month immediately following the  
18 month of receipt. The reports shall be made under oath, on forms  
19 prescribed by the Tax Commission, which shall include the following  
20 information:

- 21 1. Name of mixed beverage tax permit holder;
- 22 2. Mixed beverage tax permit number;
- 23 3. Sales tax permit number;

24

1       4. Mixed beverage, caterer, public event or special event  
2 license number;

3       5. Gross receipts for the month for the sale, preparation or  
4 service of mixed beverages, ice and nonalcoholic beverages mixed  
5 with alcoholic beverages;

6       6. Gross receipts for the month from charges for the privilege  
7 of admission to a mixed beverage establishment which entitles a  
8 person to complimentary mixed beverages or discounted prices for  
9 mixed beverages;

10       7. Total retail value of complimentary or discounted alcoholic  
11 beverages served for the month; and

12       8. Such other information as may be required by the Tax  
13 Commission to enable it to collect taxes imposed as provided by law.

14       B. The gross receipts tax levied by Section 108 of this act  
15 shall be calculated by multiplying the tax rate, ten percent (10%),  
16 and the total gross receipts for each month from the sale,  
17 preparation or service of mixed beverages, ice and nonalcoholic  
18 beverages mixed with alcoholic beverages, the total gross receipts  
19 of charges received for admission to mixed beverage establishments,  
20 as provided in paragraph 6 of subsection A of this section, and the  
21 total retail value of complimentary or discounted mixed beverages.  
22 Gross receipts from the sale of food prepared with alcoholic  
23 beverages shall not be included in the calculation of the monthly  
24 tax liability. The tax due for the preceding month shall accompany

1 the report required in subsection A of this section. All taxes,  
2 penalties and interest imposed by the Oklahoma Alcoholic Beverage  
3 Control Act may be paid in the form of electronic funds transfer or  
4 by a personal or company check, cashier's check, certified check or  
5 postal money order payable to the Tax Commission.

6 C. If the gross receipts tax levied pursuant to the provisions  
7 of Section 108 of this act is not paid on or before the twentieth  
8 day of each month, the tax shall be delinquent, and interest and  
9 penalty shall accrue on and from the twenty-first day of each month,  
10 pursuant to the provisions of the Uniform Tax Procedure Code.

11 D. Every licensed wholesaler of alcoholic beverages in this  
12 state shall file with the Tax Commission a monthly report, under  
13 oath, on forms prescribed by the Tax Commission, which shall include  
14 the name, location and mixed beverage tax permit number of each  
15 mixed beverage, caterer, public event or special event licensee to  
16 whom the licensed wholesaler sold alcoholic beverages during the  
17 report month.

18 E. If the report required by subsection A of this section is  
19 not filed with the Tax Commission on or before the twentieth day of  
20 the month, the Tax Commission may assess an additional penalty of  
21 Five Dollars (\$5.00) for each day thereafter that the report is not  
22 filed pursuant to the provisions of this section. The Tax  
23 Commission may waive the penalty assessed pursuant to the provisions  
24 of the Uniform Tax Procedure Code; provided, however, the additional

1 penalty, if assessed, shall not exceed an amount equal to twice the  
2 amount of tax due for the period for which such report was required  
3 to be filed, or the sum of Three Hundred Dollars (\$300.00),  
4 whichever is greater.

5 F. Taxes paid as provided by law represented by accounts  
6 receivable which are found to be worthless or uncollectible may be  
7 credited upon subsequent reports and remittances of such tax, in  
8 accordance with rules promulgated by the Tax Commission. If such  
9 accounts are thereafter collected, the same shall be reported and  
10 the tax shall be paid upon the amount so collected.

11 G. In addition to any other authority granted by law, the Tax  
12 Commission is hereby authorized to audit any mixed beverage, beer  
13 and wine, caterer, public event or special event licensee to  
14 determine if the correct amount of tax payable under Section 108 of  
15 this act has been collected; provided, if such an audit reveals that  
16 the amount collected is within the following percentages of the  
17 amount of tax payable, the taxpayer shall be deemed to be in  
18 compliance:

19 1. For spirits, eighty-four percent (84%) to one hundred  
20 sixteen percent (116%);

21 2. For wine, ninety percent (90%) to one hundred ten percent  
22 (110%);

23 3. For beer sold at draft and not in original packages, eighty-  
24 six percent (86%) to one hundred fourteen percent (114%); and

1        4. For beer sold in original packages, ninety-five percent  
2 (95%) to one hundred five percent (105%).

3        SECTION 139.        NEW LAW        A new section of law to be codified  
4 in the Oklahoma Statutes as Section 5-136 of Title 37A, unless there  
5 is created a duplication in numbering, reads as follows:

6        The mixed beverage tax permit holder or taxpayer may retain one  
7 percent (1%) of the tax due and timely reported and paid, in  
8 accordance with the provisions of Section 138 of this act, as  
9 remuneration for establishing and maintaining the records required  
10 by the Oklahoma Alcoholic Beverage Control Act. If such tax becomes  
11 delinquent, such taxpayer forfeits his or her claim to the one  
12 percent (1%) discount.

13        SECTION 140.        NEW LAW        A new section of law to be codified  
14 in the Oklahoma Statutes as Section 5-137 of Title 37A, unless there  
15 is created a duplication in numbering, reads as follows:

16        A. No mixed beverage, beer and wine, caterer, public event or  
17 special event licensee nor any officer, agent or employee of such  
18 licensee may possess or permit to be possessed on the premises, for  
19 which such license was issued, any container of an alcoholic  
20 beverage which is not listed on an invoice from the wholesaler from  
21 whom the alcoholic beverage was purchased, unless otherwise  
22 permitted by statute.

23        B. All containers of alcoholic beverages which are on the  
24 premises of a mixed beverage, beer and wine, caterer, public event

1 or special event licensee and which are not listed on an invoice  
2 from the wholesaler pursuant to the provisions of this section are  
3 declared contraband. Any duly authorized employee of the ABLE  
4 Commission or the Oklahoma Tax Commission is authorized to seize  
5 such containers or cases, and such seized containers or cases shall  
6 be subject to confiscation and forfeiture pursuant to the provisions  
7 of the Oklahoma Alcoholic Beverage Control Act.

8 C. Any holder of a wholesaler, mixed beverage, beer and wine,  
9 caterer, public event or special event license who violates the  
10 provisions of this section shall, upon conviction, be guilty of a  
11 misdemeanor and shall be subject to revocation or suspension of such  
12 license issued by the ABLE Commission pursuant to the provisions of  
13 the Oklahoma Alcoholic Beverage Control Act.

14 SECTION 141. NEW LAW A new section of law to be codified  
15 in the Oklahoma Statutes as Section 6-101 of Title 37A, unless there  
16 is created a duplication in numbering, reads as follows:

17 No person shall:

18 1. Knowingly sell, deliver or furnish alcoholic beverages to  
19 any person under twenty-one (21) years of age;

20 2. Sell, deliver or knowingly furnish alcoholic beverages to an  
21 intoxicated person or to any person who has been adjudged insane or  
22 mentally deficient;

1        3. Open a retail container or consume alcoholic beverages on  
2 the premises of a package store, grocery store, convenience store or  
3 drug store, unless otherwise permitted by law;

4        4. Import into this state, except as provided for in the  
5 Oklahoma Alcoholic Beverage Control Act, any alcoholic beverages;  
6 provided, that nothing herein shall prohibit the importation or  
7 possession for personal use of not more than one (1) liter of  
8 alcoholic beverages upon which the Oklahoma excise tax is  
9 delinquent;

10       5. Receive, possess or use any alcoholic beverage in violation  
11 of the provisions of the Oklahoma Alcoholic Beverage Control Act;

12       6. Transport into, within or through this state more than one  
13 (1) liter of alcoholic beverages upon which the Oklahoma excise tax  
14 has not been paid unless the person accompanying or in charge of the  
15 vehicle transporting same shall possess a true copy of a bill of  
16 lading, invoice, manifest or other document particularly identifying  
17 the alcoholic beverages being transported and showing the name and  
18 address of the consignor and consignee; provided, this prohibition  
19 shall not apply to the first one hundred eighty (180) liters of  
20 alcoholic beverages classified as household goods by military  
21 personnel, age twenty-one (21) or older, when entering Oklahoma from  
22 temporary active assignment outside the contiguous United States;

23       7. Knowingly transport in any vehicle upon a public highway,  
24 street or alley any alcoholic beverage except in the original

1 container which shall not have been opened and the seal upon which  
2 shall not have been broken and from which the original cap or cork  
3 shall not have been removed, unless the opened container be in the  
4 rear trunk or rear compartment, which shall include the spare tire  
5 compartment in a vehicle commonly known as a station wagon and panel  
6 truck, or any outside compartment which is not accessible to the  
7 driver or any other person in the vehicle while it is in motion;

8 8. Consume spirits in public except on the premises of a  
9 licensee of the ABLE Commission who is authorized to sell or serve  
10 spirits by the individual drink, or be intoxicated in a public  
11 place. This provision shall be cumulative and in addition to  
12 existing law;

13 9. Forcibly resist lawful arrest, or by physical contact  
14 interfere with an investigation of any infringement of the Oklahoma  
15 Alcoholic Beverage Control Act or with any lawful search or seizure  
16 being made by a law enforcement officer or an employee of the ABLE  
17 Commission, when such person knows or should know that such acts are  
18 being performed by a state, county or municipal officer or employee  
19 of the ABLE Commission;

20 10. Manufacture, duplicate, counterfeit or in any way imitate  
21 any bottle club membership card required to be issued by the ABLE  
22 Commission without the permission of the ABLE Commission;  
23  
24

1        11. Consume or possess alcoholic beverages on the licensed  
2 premises of a bottle club unless such person possesses a valid  
3 membership card for that club issued by the club; or

4        12. Knowingly possess any bottle club membership card required  
5 to be issued by the ABLE Commission which has been manufactured,  
6 counterfeited, imitated or in any way duplicated without the  
7 permission of the ABLE Commission.

8        SECTION 142.        NEW LAW        A new section of law to be codified  
9 in the Oklahoma Statutes as Section 6-102 of Title 37A, unless there  
10 is created a duplication in numbering, reads as follows:

11        No licensee of the ABLE Commission shall:

12        1. Receive, possess or sell any alcoholic beverage except as  
13 authorized by the Oklahoma Alcoholic Beverage Control Act and by the  
14 license or permit which the licensee holds;

15        2. Employ any person under eighteen (18) years of age in the  
16 selling of alcoholic beverages. Provided:

- 17            a. a mixed beverage, beer and wine, caterer, public  
18 event, special event, bottle club, retail wine or  
19 retail beer licensee may employ servers or sales  
20 clerks who are at least eighteen (18) years of age,  
21 except persons under twenty-one (21) years of age may  
22 not serve in designated bar or lounge areas, and  
23            b. a mixed beverage, beer and wine, caterer, public  
24 event, special event or bottle club licensee may

1           employ or hire musical bands who have musicians who  
2           are under eighteen (18) years of age if each such  
3           musician is either accompanied by a parent or legal  
4           guardian or has on their person, to be made available  
5           for inspection upon demand by any employee of the ABLE  
6           Commission or law enforcement officer, a written,  
7           notarized affidavit from the parent or legal guardian  
8           giving the underage musician permission to perform in  
9           designated bar or lounge areas;

10          3. Give any alcoholic beverage as a prize, premium or  
11       consideration for any lottery, game of chance or skill or any type  
12       of competition;

13          4. Use any of the following means or inducements to stimulate  
14       the consumption of alcoholic beverages, including but not limited  
15       to:

- 16           a. deliver more than two drinks to one person at one  
17           time,
- 18           b. sell or offer to sell to any person or group of  
19           persons any drinks at a price that is less than six  
20           percent (6%) below the markup of the cost to the mixed  
21           beverage licensee; provided, a mixed beverage licensee  
22           shall be permitted to offer these drink specials on  
23           any particular hour of any particular day and shall  
24

- 1           not be required to offer these drink specials for an  
2           entire calendar week or from open to close,  
3       c.    sell or offer to sell to any person an unlimited  
4           number of drinks during any set period of time for a  
5           fixed price, except at private functions not open to  
6           the public,  
7       d.    sell or offer to sell drinks to any person or group of  
8           persons on any one day or portion thereof at prices  
9           less than those charged the general public on that  
10          day, except at private functions not open to the  
11          public,  
12       e.    increase the volume of alcoholic beverages contained  
13           in a drink without increasing proportionately the  
14           price regularly charged for such drink during the same  
15           calendar week, or  
16       f.    encourage or permit, on the licensed premises, any  
17           game or contest which involves drinking or the  
18           awarding of drinks as prizes.

19       Provided, that the provisions of this paragraph shall not  
20       prohibit the advertising or offering of food or entertainment in  
21       licensed establishments;

22       5.    Permit or allow any patron or person to exit the licensed  
23       premises with an open container of any alcoholic beverage.

24       Provided, this prohibition shall not be applicable to closed

1 original containers of alcoholic beverages which are carried from  
2 the licensed premises of a bottle club by a patron, closed original  
3 wine containers removed from the premises of restaurants, hotels and  
4 motels, or to closed original containers of alcoholic beverages  
5 transported to and from the place of business of a licensed caterer  
6 by the caterer or an employee of the caterer;

7 6. Serve or sell alcoholic beverages with an expired license  
8 issued by the ABLE Commission; or

9 7. Permit any person to be drunk or intoxicated on the  
10 licensee's licensed premises.

11 SECTION 143. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 6-103 of Title 37A, unless there  
13 is created a duplication in numbering, reads as follows:

14 A. No retail spirits licensee shall:

15 1. Purchase or receive any alcoholic beverage other than from a  
16 wine and spirits wholesaler, beer distributor, winery or small  
17 brewer self-distribution licensee who elects to self-distribute;

18 2. Suffer or permit any retail container to be opened, or any  
19 alcoholic beverage to be consumed on the licensed premises, unless  
20 otherwise permitted by law;

21 3. Sell any alcoholic beverages at any hour other than between  
22 the hours of 10:00 a.m. and midnight Monday through Saturday, and  
23 shall not be permitted to be open on Thanksgiving Day or Christmas  
24 Day. Retail spirits licensees shall be permitted to sell alcoholic

1 beverages on the day of any General, Primary, Runoff Primary or  
2 Special Election whether on a national, state, county or city  
3 election, provided that the election day does not occur on any day  
4 on which such sales are otherwise prohibited by law;

5 4. Sell spirits in a city or town, unless such city or town has  
6 a population in excess of two hundred (200) according to the latest  
7 Federal Decennial Census;

8 5. Sell any alcoholic beverage on credit; provided, that  
9 acceptance by a licensee of a cash or debit card or a nationally  
10 recognized credit card in lieu of actual cash payment does not  
11 constitute the extension of credit; provided, further, as used in  
12 this section:

13 a. "cash or debit card" means any instrument or device  
14 whether known as a debit card or by any other name,  
15 issued with or without fee by an issuer for the use of  
16 the cardholder in depositing, obtaining or  
17 transferring funds from a consumer banking electronic  
18 facility, and

19 b. "nationally recognized credit card" means any  
20 instrument or device, whether known as a credit card,  
21 credit plate, charge plate or by any other name,  
22 issued with or without fee by an issuer for the use of  
23 the cardholder in obtaining money, goods, services or  
24

1 anything else of value on credit which is accepted  
2 over one hundred retail locations;

3 6. Offer or furnish any prize, premium, gift or similar  
4 inducement to a consumer in connection with the sale of alcoholic  
5 beverages, except that goods or merchandise included by the  
6 manufacturer in packaging with alcoholic beverages or for packaging  
7 with alcoholic beverages shall not be included in this prohibition,  
8 but no wholesaler or retailer shall sell any alcoholic beverage  
9 prepackaged with other goods or merchandise at a price which is  
10 greater than the price at which the alcoholic beverage alone is  
11 sold; or

12 7. Pay for alcoholic beverages by a check or draft which is  
13 dishonored by the drawee when presented to such drawee for payment;  
14 and the ABLE Commission may cancel or suspend the license of any  
15 retailer who has given a check or draft, as maker or endorser, which  
16 is so dishonored upon presentation.

17 B. No retail spirits licensee shall permit any person under  
18 twenty-one (21) years of age to enter into or remain within or about  
19 the licensed premises.

20 SECTION 144. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 6-104 of Title 37A, unless there  
22 is created a duplication in numbering, reads as follows:

23 No wholesaler licensee shall:  
24

1        1. Sell or deliver any amount of spirits or wines to any  
2 licensee on Saturday or Sunday; or

3        2. Sell or deliver any amount of spirits or wines to any  
4 licensee on New Year's Day, Memorial Day, the Fourth of July, Labor  
5 Day, Thanksgiving Day or Christmas Day.

6        SECTION 145.        NEW LAW        A new section of law to be codified  
7 in the Oklahoma Statutes as Section 6-105 of Title 37A, unless there  
8 is created a duplication in numbering, reads as follows:

9        No mixed beverage, public event, special event or on-premises  
10 beer and wine licensee shall:

11        1. Purchase or receive any alcoholic beverage other than from a  
12 person holding a wine and spirit wholesaler or beer distributor  
13 license issued pursuant to the Oklahoma Alcoholic Beverage Control  
14 Act; provided, a mixed beverage or on-premises beer and wine  
15 licensee whose premises are a restaurant may purchase wine produced  
16 at wineries in this state directly from a winemaker as provided in  
17 Section 2 of Article XXVIII A of the Oklahoma Constitution;

18        2. Transport alcoholic beverages from the place of purchase to  
19 the licensed premises unless the licensee also holds a private  
20 carrier license issued by the ABLE Commission;

21        3. Use or allow the use of any mark or label on a container of  
22 alcoholic beverage which is kept for sale which does not clearly and  
23 precisely indicate the nature of the contents or which might deceive  
24

1 or conceal the nature, composition, quantity, age or quality of such  
2 beverage;

3 4. Keep or knowingly permit any alcoholic beverage to be kept,  
4 brought or consumed on the licensed premises which is not allowed to  
5 be sold or served upon such premises; or

6 5. Allow any person under twenty-one (21) years of age to enter  
7 into, remain within or loiter about the designated bar area of the  
8 licensed premises, except for persons who incidentally pass through  
9 the designated area.

10 The prohibition in this subsection against persons under twenty-  
11 one (21) years of age entering or remaining within the designated  
12 bar area of the licensed premises shall not apply if the licensed  
13 premises are closed to the public during a time the premises are  
14 legally permitted to be open for business and the premises are used  
15 for a private party at which alcoholic beverages may be served to  
16 persons twenty-one (21) years of age or older. Any alcoholic  
17 beverages served at a private party on the licensed premises may be  
18 purchased from the licensee at a negotiated price or purchased  
19 privately and served at the private party on the licensed premises.  
20 Any licensee who desires to conduct such a private party shall  
21 notify the ABLE Commission, in writing, at least ten (10) calendar  
22 days prior to the private party. The notification shall include the  
23 date, time and purpose of the private party and any other  
24 information the ABLE Commission may deem necessary.

1       SECTION 146.       NEW LAW       A new section of law to be codified  
2 in the Oklahoma Statutes as Section 6-106 of Title 37A, unless there  
3 is created a duplication in numbering, reads as follows:

4       No bottle club licensee shall:

5       1. Use or allow the use of any mark or label on a container of  
6 alcoholic beverage which does not clearly and precisely indicate the  
7 nature of the contents or which might deceive or conceal the nature,  
8 composition, quantity, age or quality of any such beverage;

9       2. Act as an agent for any bottle club member and purchase any  
10 alcoholic beverage for the member;

11       3. Use or allow the use of any pool system of storage or  
12 purchase of alcoholic beverages;

13       4. Allow any person to enter or remain in the designated bar or  
14 lounge area of the club unless that person possesses a valid  
15 membership card for that club issued by the club;

16       5. Sell any alcoholic beverage;

17       6. Deliver or furnish to any club member any alcoholic beverage  
18 that does not belong to the member;

19       7. Serve alcoholic beverages to any person who does not possess  
20 a valid membership card for that club issued by the club;

21       8. Issue a membership card for the club to a person under  
22 twenty-one (21) years of age; or

23       9. Allow any person under twenty-one (21) years of age to enter  
24 into, remain within or loiter about the designated bar area of the

1 licensed premises, except for members of a musical band employed or  
2 hired as provided in paragraph 2 of Section 142 of this act when the  
3 band is to perform within such area.

4 The prohibition in this subsection against persons under twenty-  
5 one (21) years of age entering or remaining within the designated  
6 bar area of the licensed premises shall not apply if the licensed  
7 premises are closed to the public during a time the premises are  
8 legally permitted to be open for business and the premises are used  
9 for a private party at which alcoholic beverages may be served to  
10 persons twenty-one (21) years of age or older. Any alcoholic  
11 beverages served at a private party on the licensed premises may be  
12 purchased from the licensee at a negotiated price or purchased  
13 privately and served at the private party on the licensed premises.  
14 Any licensee who desires to conduct such a private party shall  
15 notify the ABLE Commission, in writing, at least ten (10) calendar  
16 days prior to the private party. The notification shall include the  
17 date, time and purpose of the private party and any other  
18 information the ABLE Commission may deem necessary.

19 SECTION 147. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 6-107 of Title 37A, unless there  
21 is created a duplication in numbering, reads as follows:

22 No special event or caterer licensee shall:

23 1. Purchase or receive any alcoholic beverage other than from a  
24 person holding a wine and spirits wholesaler or beer distributor

1 license issued pursuant to the provisions of the Oklahoma Alcoholic  
2 Beverage Control Act; provided, a special event or caterer licensee  
3 may purchase wine produced at small farm wineries or beer produced  
4 by a small brewer in this state directly from a winemaker or small  
5 brewer as provided in Section 2 of Article XXVIII A of the Oklahoma  
6 Constitution or in this act; or

7 2. Transport alcoholic beverages from the place of purchase to  
8 the licensed premises unless the licensee also holds a private  
9 carrier license issued by the ABLE Commission.

10 SECTION 148. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 6-108 of Title 37A, unless there  
12 is created a duplication in numbering, reads as follows:

13 No holder of a Retail Wine License or a Retail Beer License  
14 shall:

15 1. Purchase or receive any alcoholic beverage other than from a  
16 wine and spirits wholesaler, beer distributor, winery or small  
17 brewer self-distribution licensee;

18 2. Suffer or permit any retail container to be opened, or any  
19 alcoholic beverage to be consumed on the licensed premises, unless  
20 otherwise permitted by law;

21 3. Sell any beer or wine at any hour other than between the  
22 hours of 7:00 a.m. and 2:00 a.m. the following day, Monday through  
23 Sunday. Retail wine and retail beer licensees shall be permitted to  
24 sell beer and wine on the day of any General, Primary, Runoff

1 Primary or Special Election whether on a national, state, county or  
2 city election;

3 4. Sell any beer and wine on credit; provided, that acceptance  
4 by a grocery store, convenience store or drug store of a cash or  
5 debit card, or a nationally recognized credit card, in lieu of  
6 actual cash payment does not constitute the extension of credit;  
7 provided, further, as used in this section:

8 a. "cash or debit card" means any instrument or device  
9 whether known as a debit card or by any other name,  
10 issued with or without fee by an issuer for the use of  
11 the cardholder in depositing, obtaining or  
12 transferring funds from a consumer banking electronic  
13 facility, and

14 b. "nationally recognized credit card" means any  
15 instrument or device, whether known as a credit card,  
16 credit plate, charge plate or by any other name,  
17 issued with or without fee by an issuer for the use of  
18 the cardholder in obtaining money, goods, services or  
19 anything else of value on credit which is accepted by  
20 over one hundred retail locations;

21 5. Offer or furnish any prize, premium, gift or similar  
22 inducement to a consumer in connection with the sale of beer or  
23 wine, except that goods or merchandise included by the manufacturer  
24 in packaging with beer or wine or for packaging with beer or wine

1 shall not be included in this prohibition; but no retail wine or  
2 retail beer licensee shall sell any beer or wine prepackaged with  
3 other goods or merchandise at a price which is greater than the  
4 price at which the alcoholic beverage alone is sold; or

5 6. Pay for beer or wine by a check or draft which is dishonored  
6 by the drawee when presented to such drawee for payment; and the  
7 ABLE Commission may cancel or suspend the license of any retailer  
8 who has given a check or draft, as maker or endorser, which is so  
9 dishonored upon presentation.

10 SECTION 149. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 6-109 of Title 37A, unless there  
12 is created a duplication in numbering, reads as follows:

13 No mixed beverage, beer and wine, bottle club, caterer,  
14 charitable event, public event or special event licensee or any  
15 employee, manager, operator or agent thereof shall:

16 1. Consume or be under the influence of alcoholic beverages  
17 during the hours he or she is on duty. For the purposes of this  
18 section, licensees will be deemed to be on duty from the time the  
19 licensee first comes on duty until the time the licensee goes off  
20 duty at the end of the shift, including any break periods permitted  
21 by management. This paragraph shall not apply to any person who  
22 works on the premises as an entertainer only;

23 2. Permit or tolerate any conduct or language which is intended  
24 to threaten another with physical harm or any fighting or offensive

1 physical contact, in or upon the licensed premises or areas just  
2 outside the licensed premises which are controlled by the licensee;

3 3. Permit empty or discarded alcoholic beverage containers to  
4 be in public view outside the licensed premises. All empty or  
5 discarded containers shall be disposed of in accordance with ABLE  
6 Commission rules and regulations;

7 4. Permit any illegal gambling activity, violations of the  
8 state narcotic and dangerous drug laws, prostitution activity or any  
9 other criminal conduct to occur on the licensed premises;

10 5. Refuse or fail to promptly open a door to the licensed  
11 premises upon request of an employee of the ABLE Commission or any  
12 other peace officer to enter the premises when the licensee or  
13 employee knows or should know that such request is made by an  
14 employee of the ABLE Commission or a peace officer. This provision  
15 shall not be construed to deny employees of the ABLE Commission or  
16 peace officers access at any time to any licensed premises;

17 6. Permit a sealed or unsealed container of alcoholic beverage  
18 to be removed from the licensed premises. Provided, that  
19 restaurants, hotels and motels may permit the removal of closed  
20 original wine containers the contents of which have been partially  
21 consumed and bottle clubs may permit the removal by a club member of  
22 closed original containers of alcoholic beverages belonging to  
23 members. The provisions of this paragraph shall not be construed to  
24 prohibit or restrict:

- 1           a.   hotels or motels who are holders of mixed beverage or  
2               on-premises beer and wine licenses from allowing  
3               alcoholic beverages to be served away from the bar  
4               area anywhere on the licensed premises, or  
5           b.   licensees, who are lawfully operating at an event held  
6               in a facility owned or operated by any agency,  
7               political subdivision or public trust of this state,  
8               from allowing persons to transport alcoholic beverages  
9               from one licensed premises to another within the same  
10              building, provided that the building or a part thereof  
11              is defined as a common drinking area for consumption  
12              of alcohol by resolution of the governing body of the  
13              agency, political subdivision or public trust of this  
14              state; or

15        7.   Destroy, damage, alter, remove or conceal potential  
16   evidence, or attempt to do so, or refuse to surrender evidence when  
17   lawfully requested to do so by an inspector, agent or any other  
18   peace officer or incite another person to do any of the above.

19       SECTION 150.       NEW LAW       A new section of law to be codified  
20   in the Oklahoma Statutes as Section 6-110 of Title 37A, unless there  
21   is created a duplication in numbering, reads as follows:

22       No owner, operator, partner, manager or person having  
23   supervisory control of any establishment licensed to sell or serve  
24   intoxicating beverages shall permit any of the following on or about

1 any commercial premises where intoxicating beverages are dispensed  
2 or consumed:

3 1. The performance by any person of acts, or simulated acts, of  
4 sexual intercourse, masturbation, sodomy, bestiality, oral  
5 copulation, flagellation or any sexual acts which are otherwise  
6 prohibited by law;

7 2. The actual intentional touching or caressing or fondling by  
8 any person of the breasts, anus or genitals;

9 3. Any person on the licensed premises while such person is  
10 unclothed or in such attire, costume or clothing as to expose to  
11 view any portion of the areola of the female breast or any portion  
12 of the pubic hair, buttocks or genitals; or

13 4. Any person to perform acts of, or acts which simulate,  
14 sexual acts which are prohibited by law, or permit any person to use  
15 artificial devices or inanimate objects to depict any prohibited  
16 activities or permit the showing of films, still pictures,  
17 electronic reproductions or other visual reproductions depicting any  
18 of the prohibited activities described in this paragraph.

19 SECTION 151. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 6-111 of Title 37A, unless there  
21 is created a duplication in numbering, reads as follows:

22 An agent, inspector or any peace officer while making arrests  
23 incidental to investigating violations of state law may remove from  
24 licensed premises and adjacent areas customers, employees and those

1 individuals who may pose a threat to public safety or a threat to  
2 the safety of agents, inspectors or peace officers for the period of  
3 time necessary to effect the arrests and complete the pending  
4 investigation.

5 SECTION 152. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 6-112 of Title 37A, unless there  
7 is created a duplication in numbering, reads as follows:

8 Any person who erases, removes, obliterates, destroys or renders  
9 illegible in any manner any serial numbers, marks, brands, legends,  
10 license numbers, case numbers or other information required by the  
11 Oklahoma Alcoholic Beverage Control Act or by Acts of Congress to be  
12 attached or placed upon any original containers or cases containing  
13 alcoholic beverages before the contents of such packages or cases  
14 have been entirely removed is guilty of a misdemeanor.

15 SECTION 153. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 6-113 of Title 37A, unless there  
17 is created a duplication in numbering, reads as follows:

18 It shall be unlawful for any person, firm or corporation to  
19 possess any alcoholic beverages with the intent to sell the same  
20 without having first procured a license therefor from the ABLE  
21 Commission as now provided for by law. All alcoholic beverages  
22 found in the possession or under the control of any person or  
23 persons, firm or corporation who, on the same date, or within  
24 fifteen (15) days prior thereto, has violated Section 153 of this

1 act, shall be seized by the arresting officer and shall be forfeited  
2 to the State of Oklahoma, as provided for in Section 167 of this  
3 act; provided, property seized by a county or municipal law  
4 enforcement officer shall be forfeited to the county or municipality  
5 in which the seizure of the property took place, whichever is  
6 appropriate, as provided for in Section 167 of this act.

7 SECTION 154. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 6-114 of Title 37A, unless there  
9 is created a duplication in numbering, reads as follows:

10 A. 1. If the premises of a licensee of the ABLE Commission  
11 contains a separate or enclosed lounge or bar area, which has as its  
12 main purpose the sale or distribution of alcoholic beverages for on-  
13 premises consumption, notwithstanding that as an incidental service,  
14 meals or short order foods are made available therein, no person  
15 under twenty-one (21) years of age shall be admitted to such area,  
16 except for members of a musical band employed or hired as provided  
17 in paragraph 2 of Section 142 of this act when the band is to  
18 perform within such area, or persons under twenty-one (21) years of  
19 age who are on the licensed premises for the limited purpose of  
20 performing maintenance, construction, remodeling, painting or other  
21 similar services relating to the building or equipment installation,  
22 repair or maintenance on the premises during those hours when the  
23 licensed establishment is closed for business. The provisions of  
24 this section shall not prohibit persons under twenty-one (21) years

1 of age from being admitted to an area which has as its main purpose  
2 some objective other than the sale or mixing or serving of alcoholic  
3 beverages, in which sales or serving of alcoholic beverages are  
4 incidental to the main purpose, as long as the persons under twenty-  
5 one (21) years of age are not sold or served alcoholic beverages.  
6 The incidental service of food in the bar area shall not exempt a  
7 licensee from the provisions of this section. The ABLE Commission  
8 shall have the authority to designate the portions of the premises  
9 of a licensee where persons under twenty-one (21) years of age shall  
10 not be admitted pursuant to this section. When determining a  
11 licensee's main purpose, a licensee that operates a full kitchen,  
12 sells food items from a full menu, and has thirty-five percent (35%)  
13 or more of its monthly gross sales attributable to food items, shall  
14 have as its main purpose other than the sale of alcoholic beverages.  
15 The main purpose of those mixed beverage establishments whose main  
16 purpose was other than the sale of alcoholic beverages prior to  
17 October 1, 2018, shall not automatically lose that designation upon  
18 the elimination of low-point beer in the state. If the ABLE  
19 Commission wishes to change said mixed beverage establishments' main  
20 purpose designation, it shall be the burden of the ABLE Commission  
21 to prove by clear and convincing evidence that said mixed beverage  
22 establishments no longer qualify for that designation.

23 2. A new licensee that claims as its main purpose some  
24 objective other than the sale of alcoholic beverages may be granted

1 a separate or enclosed lounge or bar area for a period of ninety  
2 (90) days. At the end of that ninety-day period, the licensee shall  
3 have the burden of showing that the business continues to qualify  
4 for a separate or enclosed bar area. If the licensee fails to  
5 satisfy this burden, then that licensee's main purpose shall  
6 automatically convert to the sale of alcoholic beverages.

7 B. Except as otherwise provided, an admission charge shall not  
8 be considered in any calculation designed to determine the main  
9 purpose of an establishment pursuant to subsection A of this  
10 section. As used in this section, "admission charge" means any form  
11 of consideration received by an establishment from a person in order  
12 for that person to gain entrance into the establishment.

13 C. The provisions of subsection B of this section shall not  
14 apply:

15 1. If only persons eighteen (18) years of age or older are  
16 permitted to enter the licensed premises; provided, if the licensee  
17 is claiming an exception from the requirements of subsection B of  
18 this section pursuant to this paragraph and fails to restrict the  
19 entry by persons under age eighteen (18) into the licensed premises,  
20 the ABLE Commission shall designate that only persons twenty-one  
21 (21) years of age or older are allowed on the licensed premises;

22 2. If the licensed premises are owned or operated by a service  
23 organization or fraternal establishment which is exempt under  
24 Section 501(c)(19), (8), or (10) of the Internal Revenue Code; or

1        3. To a public event held in a facility owned or operated by  
2 any agency, political subdivision or public trust of this state.

3        D. The ABLE Commission shall promulgate rules necessary to  
4 implement the provisions of this section.

5        SECTION 155.        NEW LAW        A new section of law to be codified  
6 in the Oklahoma Statutes as Section 6-115 of Title 37A, unless there  
7 is created a duplication in numbering, reads as follows:

8        Any person who shall operate a whiskey still with intent to  
9 produce alcoholic beverages or any person who shall carry on the  
10 business of a distiller without possessing a valid and existing  
11 distiller's license issued pursuant to the provisions of the  
12 Oklahoma Alcoholic Beverage Control Act shall be guilty of a felony  
13 and upon conviction, be fined not less than Two Thousand Five  
14 Hundred Dollars (\$2,500.00) nor more than Five Thousand Dollars  
15 (\$5,000.00), or imprisoned in the State Penitentiary for not more  
16 than three (3) years, or by both such fine and imprisonment.

17        SECTION 156.        NEW LAW        A new section of law to be codified  
18 in the Oklahoma Statutes as Section 6-116 of Title 37A, unless there  
19 is created a duplication in numbering, reads as follows:

20        Any person who shall file a false or fraudulent return in  
21 connection with any tax imposed by the Oklahoma Alcoholic Beverage  
22 Control Act, or willfully evade, or attempt to evade, any tax herein  
23 levied shall be guilty of a felony and upon conviction, be fined not  
24 less than Two Thousand Five Hundred Dollars (\$2,500.00) nor more

1 than Five Thousand Dollars (\$5,000.00), or imprisoned in the State  
2 Penitentiary for not more than three (3) years, or by both such fine  
3 and imprisonment.

4 SECTION 157. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 6-117 of Title 37A, unless there  
6 is created a duplication in numbering, reads as follows:

7 Any person who shall knowingly engage in any activity or perform  
8 any transaction or act for which a license is required under the  
9 Oklahoma Alcoholic Beverage Control Act, not having such license,  
10 shall be guilty of a misdemeanor and for the first offense, upon  
11 conviction, be fined not more than Two Thousand Five Hundred Dollars  
12 (\$2,500.00) and imprisoned for not less than thirty (30) days nor  
13 more than six (6) months, and for a second or subsequent offense  
14 shall be guilty of a felony and be fined not more than Two Thousand  
15 Five Hundred Dollars (\$2,500.00), or imprisoned in the State  
16 Penitentiary for not more than one (1) year, or by both such fine  
17 and imprisonment.

18 SECTION 158. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 6-118 of Title 37A, unless there  
20 is created a duplication in numbering, reads as follows:

21 Any person holding a license issued pursuant to the Oklahoma  
22 Alcoholic Beverage Control Act who shall sell or deliver alcoholic  
23 beverage to any person not entitled to purchase or receive same,  
24 except as provided in Section 160 of this act, or who shall possess

1 for sale any alcoholic beverage which he or she is not entitled to  
2 sell under the license, or any person who buys any alcoholic  
3 beverage, either retail or wholesale, from any person other than a  
4 licensed dealer under the terms of the Oklahoma Alcoholic Beverage  
5 Control Act, shall be guilty of a misdemeanor and upon conviction,  
6 be fined not more than One Thousand Five Hundred Dollars  
7 (\$1,500.00), or imprisoned in the county jail for not more than six  
8 (6) months, or by both such fine and imprisonment.

9 SECTION 159. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 6-119 of Title 37A, unless there  
11 is created a duplication in numbering, reads as follows:

12 A. Any person under twenty-one (21) years of age who shall  
13 misrepresent his or her age in writing or by presenting false  
14 documentation of age for the purpose of inducing any person to sell  
15 or serve him or her alcoholic beverage or issue him or her a bottle  
16 club membership card, or who enters or attempts to enter a package  
17 store or a separate or enclosed bar area as designated by the ABLE  
18 Commission, shall be guilty of a misdemeanor and fined not more than  
19 Fifty Dollars (\$50.00).

20 B. In addition, if a person is convicted or pleads guilty to a  
21 violation of the provisions of this subsection in any court having  
22 jurisdiction over the offense, the court may order the Department of  
23 Public Safety to cancel or deny the offender's privilege to operate  
24 a motor vehicle and, upon such order, shall require that the

1 operator's or chauffeur's license, if any, be surrendered to the  
2 Department pursuant to Section 6-209 of Title 47 of the Oklahoma  
3 Statutes. The cancellation or denial period shall be for one (1)  
4 year, or until the person reaches twenty-one (21) years of age,  
5 whichever is longer.

6 C. Any person whose driving privileges are ordered cancelled or  
7 denied pursuant to this section may petition the court of original  
8 jurisdiction for review of the order. Upon notice and hearing, the  
9 court may modify or withdraw the order as the court deems  
10 appropriate except:

11 1. A court may not withdraw an order for at least ninety (90)  
12 days following the issuance of the order if it is the first such  
13 order issued regarding the person named; and

14 2. A court may not withdraw an order for at least six (6)  
15 months following the issuance of the order if it is the second or  
16 subsequent such order issued regarding the person named. If the  
17 Department receives written notice from the court of original  
18 jurisdiction that it has withdrawn such an order, the Department  
19 shall immediately reinstate any driving privileges that have been  
20 canceled or denied under this section, without requiring payment of  
21 a reinstatement fee.

22 D. In addition to any other penalty provided by law, a person  
23 convicted of a violation of the provisions of this section shall be  
24 required to complete a substance abuse prevention program conducted

1 by the Department of Mental Health and Substance Abuse Services or a  
2 private entity approved by the Department. Such program shall  
3 include at least two sessions, each of which shall be not less than  
4 two (2) hours in length. The cost of the program shall be paid by  
5 the person required to complete the program.

6 SECTION 160. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 6-120 of Title 37A, unless there  
8 is created a duplication in numbering, reads as follows:

9 Any person who shall sell, furnish or give alcoholic beverage to  
10 a person under twenty-one (21) years of age shall be guilty of a  
11 misdemeanor for a first violation, and upon conviction shall be  
12 fined not more than Five Hundred Dollars (\$500.00), or imprisoned in  
13 the county jail for not more than one (1) year, or by both such fine  
14 and imprisonment. Any person convicted of a second or subsequent  
15 violation shall be guilty of a felony, and shall be fined not less  
16 than Two Thousand Five Hundred Dollars (\$2,500.00) nor more than  
17 Five Thousand Dollars (\$5,000.00), or imprisoned in the State  
18 Penitentiary for not more than five (5) years, or by both such fine  
19 and imprisonment. The ABLE Commission shall revoke the license of  
20 any person convicted of a violation of this section.

21 SECTION 161. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 6-121 of Title 37A, unless there  
23 is created a duplication in numbering, reads as follows:

1 Any person who shall knowingly sell, furnish or give alcoholic  
2 beverage to an insane, mentally deficient or intoxicated person  
3 shall be guilty of a misdemeanor for a first violation, and upon  
4 conviction shall be fined not more than Five Hundred Dollars  
5 (\$500.00), or imprisoned in the county jail for not more than one  
6 (1) year, or by both such fine and imprisonment. Any person  
7 convicted of a second or subsequent violation shall be guilty of a  
8 felony, and shall be fined not less than Two Thousand Five Hundred  
9 Dollars (\$2,500.00) nor more than Five Thousand Dollars (\$5,000.00),  
10 or imprisoned in the State Penitentiary for not more than five (5)  
11 years, or by both such fine and imprisonment. The ABLE Commission  
12 shall revoke the license of any person convicted of a violation of  
13 this section.

14 SECTION 162. NEW LAW A new section of law to be codified  
15 in the Oklahoma Statutes as Section 6-122 of Title 37A, unless there  
16 is created a duplication in numbering, reads as follows:

17 The payment of the special tax required of liquor dealers by the  
18 United States by any person within this state without a  
19 corresponding state license shall constitute prima facie evidence of  
20 an intention to violate the provisions of the Oklahoma Alcoholic  
21 Beverage Control Act.

22 SECTION 163. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 6-123 of Title 37A, unless there  
24 is created a duplication in numbering, reads as follows:

1 Any person selling or keeping a package store open to sell any  
2 alcoholic beverage during any day or hours not authorized by the  
3 Oklahoma Alcoholic Beverage Control Act, and any person selling or  
4 permitting the sale of alcoholic beverages at a grocery store,  
5 convenience store or drug store during any day or hours not  
6 authorized by the Oklahoma Alcoholic Beverage Control Act shall be  
7 guilty of a misdemeanor for a first violation, and upon conviction  
8 shall be fined not more than Five Hundred Dollars (\$500.00), or  
9 imprisoned in the county jail for not more than one (1) year, or by  
10 both such fine and imprisonment. Any person convicted of a second  
11 or subsequent violation shall be guilty of a felony, and shall be  
12 fined not less than Two Thousand Five Hundred Dollars (\$2,500.00)  
13 nor more than Five Thousand Dollars (\$5,000.00), or imprisoned in  
14 the State Penitentiary for not more than five (5) years, or by both  
15 such fine and imprisonment. The ABLE Commission shall revoke the  
16 license of any person convicted of a violation of this section.

17 SECTION 164. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 6-124 of Title 37A, unless there  
19 is created a duplication in numbering, reads as follows:

20 Any licensee permitting a person to be drunk or intoxicated on  
21 the licensee's licensed premises shall be guilty of a misdemeanor,  
22 and upon conviction punishable by a fine in an amount not exceeding  
23 One Hundred Dollars (\$100.00), by imprisonment in the county jail  
24

1 for a term not more than thirty (30) days, or by both such fine and  
2 imprisonment.

3 SECTION 165. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 6-125 of Title 37A, unless there  
5 is created a duplication in numbering, reads as follows:

6 A. Any person who shall violate any provision of the Oklahoma  
7 Alcoholic Beverage Control Act for which no specific penalty is  
8 prescribed shall be guilty of a misdemeanor and be fined not more  
9 than Five Hundred Dollars (\$500.00), or imprisoned in the county  
10 jail for not more than six (6) months, or by both such fine and  
11 imprisonment.

12 B. Provided, however, notwithstanding any provision of law to  
13 the contrary, any offense, including traffic offenses, in violation  
14 of any of the provisions of the Oklahoma Alcoholic Beverage Control  
15 Act which is not otherwise punishable by a term of imprisonment or  
16 confinement shall be punishable by a term of imprisonment not to  
17 exceed one day in the discretion of the court, in addition to any  
18 fine prescribed by law.

19 SECTION 166. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 6-126 of Title 37A, unless there  
21 is created a duplication in numbering, reads as follows:

22 All law enforcement officers, upon the arrest of any holder of a  
23 license issued by the ABLE Commission for a violation of any state  
24 law or municipal ordinance in which the violation of any alcoholic

1 beverage law had any part, shall immediately notify the ABLE  
2 Commission thereof. Such officers shall notify the ABLE Commission  
3 of any acts, practices or other conduct of any such licensee which  
4 may be subversive to the general welfare or contrary to the spirit  
5 of the Oklahoma Alcoholic Beverage Control Act and shall recommend  
6 appropriate action to be taken by the ABLE Commission or the  
7 Oklahoma Tax Commission.

8 SECTION 167. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 6-127 of Title 37A, unless there  
10 is created a duplication in numbering, reads as follows:

11 A. A search warrant may be issued pursuant to the provisions of  
12 Sections 1221 through 1264 of Title 22 of the Oklahoma Statutes, as  
13 amended, for the purpose of:

14 1. Searching for, seizing, destroying or holding any alcoholic  
15 beverages possessed, sold, transported, manufactured, kept or stored  
16 in violation of the Oklahoma Alcoholic Beverage Control Act; or

17 2. Searching for and seizing any apparatus, vehicle, equipment  
18 or instrumentality used for, or intended for use in, manufacturing  
19 or transporting any alcoholic beverage in violation of the Oklahoma  
20 Alcoholic Beverage Control Act.

21 All such property shall be forfeited to the State of Oklahoma.  
22 This section shall not be construed to require a search warrant for  
23 duly authorized employees of the ABLE Commission to enter upon and  
24 inspect any licensed premises, but such right of entry and

1 inspection shall be a condition on which every license shall be  
2 issued and the application for, and acceptance of, any license  
3 hereunder shall conclusively be deemed to be consent of the  
4 applicant and licensee to such entry and inspection.

5       B. Any alcoholic beverages upon which the appropriate federal  
6 excise tax has not been paid at the time of seizure under this  
7 section shall be destroyed by the sheriff who seized the same or to  
8 whom the same has been delivered in accordance with the provisions  
9 of Section 1261 of Title 22 of the Oklahoma Statutes, as amended,  
10 after the same is no longer needed as evidence in any criminal  
11 prosecution. All other property, including alcoholic beverages upon  
12 which the appropriate federal excise tax has been paid, seized under  
13 this section, shall be forfeited to the State of Oklahoma by order  
14 of the court issuing the process by virtue of which such property  
15 was seized, or before which the persons violating the law, or to  
16 which such property was taken by the officer or officers making the  
17 seizure. The court shall, without a jury, order an immediate  
18 hearing as to whether the property so seized was subject to seizure  
19 under this section, and take such legal evidence as is offered, and  
20 determine the same as in civil cases. If the court finds from a  
21 preponderance of the evidence that the property so seized was  
22 subject to seizure under this section, it shall render judgment  
23 accordingly and order the property forfeited to the State of  
24 Oklahoma unless seized by county or municipal law enforcement

1 officers, in which case the property shall be forfeited to the  
2 county or municipality, whichever is appropriate, in which the  
3 seizure of the property took place. Such seized property shall be  
4 sold by the officer having the same in charge, after giving ten-  
5 days' notice by one publication in a legal newspaper of the county  
6 or, if no legal newspaper is published in the county, after five  
7 notices of such sale have been posted in conspicuous places in the  
8 city or town wherein such sale is to be made, at least ten (10) days  
9 before such sale. Appeal from such an order may be taken as in  
10 civil cases. When such property is sold under the provisions of  
11 this section, the proceeds thereof shall be distributed as follows:  
12 first, to the payment of the costs of the case in which the order of  
13 forfeiture was made and the actual expenses of preserving the  
14 property; and second, the remainder to be deposited with the county  
15 or municipal treasurer of the county or municipality in which the  
16 seizure took place if the property was seized by county or municipal  
17 law enforcement officials or with the State Treasurer to the credit  
18 of the General Revenue Fund of the State of Oklahoma in all other  
19 cases.

20 SECTION 168. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 6-128 of Title 37A, unless there  
22 is created a duplication in numbering, reads as follows:

23 A. If a witness in attendance before the Director of the ABLE  
24 Commission refuses without reasonable cause to be examined or to

1 answer a legal or pertinent question, or to produce a book, record  
2 or paper when ordered to do so by the Director, the Director may  
3 apply to the judge of the district court of any county where such  
4 witness is in attendance, upon proof by affidavit of the fact, for a  
5 rule or order returnable in not less than two (2) nor more than five  
6 (5) days, directing such witness to show cause before the judge who  
7 made the order, or any other district judge of the county, why he or  
8 she should not be punished for contempt. Upon the return of such  
9 order, the judge before whom the matter shall come for hearing shall  
10 examine under oath such witness or person, and such person shall be  
11 given an opportunity to be heard. If the judge shall determine that  
12 such person has refused, without reasonable cause or legal excuse,  
13 to be examined or answer a legal or pertinent question, or to  
14 produce a book, record or paper which he or she was ordered to bring  
15 or produce, the judge may punish the offender as for contempt of  
16 court and shall fix the penalty in any sum not less than Two Hundred  
17 Fifty Dollars (\$250.00) but not to exceed Five Hundred Dollars  
18 (\$500.00) or require him or her to serve a maximum of thirty (30)  
19 days in jail, or by both such fine and imprisonment.

20 B. Subpoenas shall be served and witness fees and mileage paid  
21 as in civil cases in the district court in the county to which such  
22 witness shall be called. Witnesses subpoenaed at the instance of  
23 the Director shall be paid their fees and mileage by the Director  
24

1 out of funds appropriated by the Legislature. Court costs in the  
2 contempt proceedings shall be paid as taxed by the court.

3 SECTION 169. REPEALER 37 O.S. 2011, Section 8, as amended  
4 by Section 1, Chapter 210, O.S.L. 2013, Section 2, Chapter 210,  
5 O.S.L. 2013, 8.2, 163.1, 163.2, 163.3, 163.4, 163.5, as amended by  
6 Section 1, Chapter 357, O.S.L. 2012, 163.6, 163.7, as amended by  
7 Section 1, Chapter 120, O.S.L. 2012, 163.8, 163.9, 163.10, as  
8 amended by Section 2, Chapter 120, O.S.L. 2012, 163.11, as last  
9 amended by Section 1, Chapter 205, O.S.L. 2013, 163.11a, as amended  
10 by Section 2, Chapter 86, O.S.L. 2012, 163.12, 163.13, 163.14,  
11 163.15, 163.16, 163.17, 163.18, 163.18A, 163.18B, 163.18C, 163.18D,  
12 163.18E, 163.18F, 163.18G, 163.18H, 163.19, Section 1, Chapter 382,  
13 O.S.L. 2013, 163.20, 163.22, 163.23, 163.25, 163.26, 163.27, as  
14 amended by Section 1, Chapter 214, O.S.L. 2012, 163.28, 163.29, 213,  
15 213.1, 213.2, 215, 216, 217, 219, 219.1, 220, 231, 232, 233, 241,  
16 243, 244, 246, as amended by Section 1, Chapter 213, O.S.L. 2015,  
17 247, 501, 502, 503, 504, 505, 506, as last amended by Section 1,  
18 Chapter 48, O.S.L. 2015, 506, as last amended by Section 1, Chapter  
19 275, O.S.L. 2015, 506.1, as amended by Section 125, Chapter 304,  
20 O.S.L. 2012, 507.1, 507.2, 508, 509, 510, 510A, as amended by  
21 Section 126, Chapter 304, O.S.L. 2012, 511, 511A, 512, 513a, 514, as  
22 amended by Section 3, Chapter 120, O.S.L. 2012, 515, 516, 517, 518,  
23 as last amended by Section 2, Chapter 48, O.S.L. 2015, 518.1, as  
24 amended by Section 3, Chapter 298, O.S.L. 2014, 518.3, as amended by

1 Section 2, Chapter 214, O.S.L. 2012, 520A, 521, as last amended by  
2 Section 3, Chapter 48, O.S.L. 2015, 521, as last amended by Section  
3 2, Chapter 275, O.S.L. 2015, 521.1, 521.2, 521.3, 522, 523, as last  
4 amended by Section 3, Chapter 275, O.S.L. 2015, 523.1, as amended by  
5 Section 4, Chapter 275, O.S.L. 2015, 523.2, as amended by Section 5,  
6 Chapter 275, O.S.L. 2015, 524, as last amended by Section 2, Chapter  
7 160, O.S.L. 2015, 525, Section 1, Chapter 160, O.S.L. 2015, 526.1,  
8 527, 527.1, as last amended by Section 6, Chapter 275, O.S.L. 2015,  
9 528, 528.1, as amended by Section 7, Chapter 298, O.S.L. 2014,  
10 528.2, 529, 530, 530.1, 531, 532, 532.1, as amended by Section 8,  
11 Chapter 298, O.S.L. 2014, 532.2, 533, 534, 534.1, 535, as last  
12 amended by Section 7, Chapter 275, O.S.L. 2015, 535.1, as amended by  
13 Section 10, Chapter 298, O.S.L. 2014, 535.2, Section 11, Chapter  
14 298, O.S.L. 2014, 535.3, 536, 536.1, 537, as amended by Section 12,  
15 Chapter 298, O.S.L. 2014, 537.1, as last amended by Section 8,  
16 Chapter 275, O.S.L. 2015, 537.2, 537.3, 538, as amended by Section  
17 14, Chapter 298, O.S.L. 2014, 538.1, 538.2, 538.3, 539, 540, 541,  
18 542, 543, 543.1, 543.2, 545, 546, 547, 548, 549, 550, 551, 552, 553,  
19 as amended by Section 2, Chapter 357, O.S.L. 2012, 554, as amended  
20 by Section 9, Chapter 275, O.S.L. 2015, 554.1, as amended by Section  
21 15, Chapter 298, O.S.L. 2014, 554.2, as amended by Section 16,  
22 Chapter 298, O.S.L. 2014, 555, 556, 557, 559, 560, 561, as amended  
23 by Section 17, Chapter 298, O.S.L. 2014, 562, 563, 563.1, as last  
24 amended by Section 1, Chapter 283, O.S.L. 2015, 564, 565, 566, 567,

1 as amended by Section 128, Chapter 304, O.S.L. 2012, 568, 569, 570,  
2 571, 572, 573, 576, as last amended by Section 18, Chapter 298,  
3 O.S.L. 2014, 576.1, 577, as last amended by Section 10, Chapter 275,  
4 O.S.L. 2015, 578, as amended by Section 20, Chapter 298, O.S.L.  
5 2014, 579, as amended by Section 21, Chapter 298, O.S.L. 2014, 580,  
6 582, as amended by Section 22, Chapter 298, O.S.L. 2014, 584, as  
7 amended by Section 23, Chapter 298, O.S.L. 2014, 586, 588, 590, 591,  
8 as last amended by Section 11, Chapter 275, O.S.L. 2015, 592, 593,  
9 594, as amended by Section 12, Chapter 275, O.S.L. 2015, 594.1, 595,  
10 596, as last amended by Section 13, Chapter 275, O.S.L. 2015, 597,  
11 598, and 599, as amended by Section 26, Chapter 298, O.S.L. 2014 (37  
12 O.S. Supp. 2015, Sections 8, 8a, 163.5, 163.7, 163.10, 163.11,  
13 163.11a, 163.19A, 163.27, 246, 506, 506, 506.1, 510A, 514, 518,  
14 518.1, 518.3, 521, 521, 523, 523.1, 523.2, 524, 525A, 527.1, 528.1,  
15 532.1, 535, 535.1, 535.2, 537, 537.1, 538, 553, 554, 554.1, 554.2,  
16 561, 563.1, 567, 576, 577, 578, 579, 582, 584, 591, 594, 596 and  
17 599), are hereby repealed.

18 SECTION 170. RECODIFICATION 37 O.S. 2011, Section 600.1,  
19 shall be recodified as Section 1-229.11 of Title 63 of the Oklahoma  
20 Statutes, unless there is created a duplication in numbering.

21 SECTION 171. RECODIFICATION 37 O.S. 2011, Section 600.2,  
22 as amended by Section 3, Chapter 162, O.S.L. 2014 (37 O.S. Supp.  
23 2015, Section 600.2), shall be recodified as Section 1-229.12 of  
24

1 Title 63 of the Oklahoma Statutes, unless there is created a  
2 duplication in numbering.

3 SECTION 172. RECODIFICATION 37 O.S. 2011, Section 600.3,  
4 as amended by Section 4, Chapter 162, O.S.L. 2014 (37 O.S. Supp.  
5 2015, Section 600.3), shall be recodified as Section 1-229.13 of  
6 Title 63 of the Oklahoma Statutes, unless there is created a  
7 duplication in numbering.

8 SECTION 173. RECODIFICATION 37 O.S. 2011, Section 600.5,  
9 as amended by Section 6, Chapter 162, O.S.L. 2014 (37 O.S. Supp.  
10 2015, Section 600.5), shall be recodified as Section 1-229.15 of  
11 Title 63 of the Oklahoma Statutes, unless there is created a  
12 duplication in numbering.

13 SECTION 174. RECODIFICATION 37 O.S. 2011, Section 600.6,  
14 as amended by Section 7, Chapter 162, O.S.L. 2014 (37 O.S. Supp.  
15 2015, Section 600.6), shall be recodified as Section 1-229.16 of  
16 Title 63 of the Oklahoma Statutes, unless there is created a  
17 duplication in numbering.

18 SECTION 175. RECODIFICATION 37 O.S. 2011, Section 600.7,  
19 as amended by Section 8, Chapter 162, O.S.L. 2014 (37 O.S. Supp.  
20 2015, Section 600.7), shall be recodified as Section 1-229.17 of  
21 Title 63 of the Oklahoma Statutes, unless there is created a  
22 duplication in numbering.

23 SECTION 176. RECODIFICATION 37 O.S. 2011, Section 600.8,  
24 as amended by Section 9, Chapter 162, O.S.L. 2014 (37 O.S. Supp.

1 2015, Section 600.8), shall be recodified as Section 1-229.18 of  
2 Title 63 of the Oklahoma Statutes, unless there is created a  
3 duplication in numbering.

4 SECTION 177. RECODIFICATION 37 O.S. 2011, Section 600.9,  
5 shall be recodified as Section 1-229.19 of Title 63 of the Oklahoma  
6 Statutes, unless there is created a duplication in numbering.

7 SECTION 178. RECODIFICATION 37 O.S. 2011, Section 600.10,  
8 as amended by Section 10, Chapter 162, O.S.L. 2014 (37 O.S. Supp.  
9 2015, Section 600.10), shall be recodified as Section 1-229.20 of  
10 Title 63 of the Oklahoma Statutes, unless there is created a  
11 duplication in numbering.

12 SECTION 179. RECODIFICATION 37 O.S. 2011, Section  
13 600.10A, as amended by Section 11, Chapter 162, O.S.L. 2014 (37 O.S.  
14 Supp. 2015, Section 600.10A), shall be recodified as Section 1-  
15 229.21 of Title 63 of the Oklahoma Statutes, unless there is created  
16 a duplication in numbering.

17 SECTION 180. RECODIFICATION 37 O.S. 2011, Section 600.11,  
18 as amended by Section 12, Chapter 162, O.S.L. 2014 (37 O.S. Supp.  
19 2015, Section 600.11), shall be recodified as Section 1-229.22 of  
20 Title 63 of the Oklahoma Statutes, unless there is created a  
21 duplication in numbering.

22 SECTION 181. RECODIFICATION 37 O.S. 2011, Section  
23 600.11a, shall be recodified as Section 1-229.23 of Title 63 of the  
24

1 Oklahoma Statutes, unless there is created a duplication in  
2 numbering.

3 SECTION 182. RECODIFICATION 37 O.S. 2011, Section  
4 600.11b, shall be recodified as Section 1-229.24 of Title 63 of the  
5 Oklahoma Statutes, unless there is created a duplication in  
6 numbering.

7 SECTION 183. RECODIFICATION 37 O.S. 2011, Section 600.12,  
8 shall be recodified as Section 1-229.25 of Title 63 of the Oklahoma  
9 Statutes, unless there is created a duplication in numbering.

10 SECTION 184. RECODIFICATION 37 O.S. 2011, Section 600.13,  
11 as amended by Section 13, Chapter 162, O.S.L. 2014 (37 O.S. Supp.  
12 2015, Section 600.13), shall be recodified as Section 1-229.26 of  
13 Title 63 of the Oklahoma Statutes, unless there is created a  
14 duplication in numbering.

15 SECTION 185. RECODIFICATION 37 O.S. 2011, Section 600.21,  
16 shall be recodified as Section 2315 of Title 62 of the Oklahoma  
17 Statutes, unless there is created a duplication in numbering.

18 SECTION 186. RECODIFICATION 37 O.S. 2011, Section 600.22,  
19 shall be recodified as Section 2316 of Title 62 of the Oklahoma  
20 Statutes, unless there is created a duplication in numbering.

21 SECTION 187. RECODIFICATION 37 O.S. 2011, Section 600.23,  
22 shall be recodified as Section 2317 of Title 62 of the Oklahoma  
23 Statutes, unless there is created a duplication in numbering.

24

1       SECTION 188.       RECODIFICATION     37 O.S. 2011, Section 601,  
2 shall be recodified as Section 1-229.27 of Title 63 of the Oklahoma  
3 Statutes, unless there is created a duplication in numbering.

4       SECTION 189.       RECODIFICATION     37 O.S. 2011, Section 602,  
5 shall be recodified as Section 1-229.28 of Title 63 of the Oklahoma  
6 Statutes, unless there is created a duplication in numbering.

7       SECTION 190.       RECODIFICATION     37 O.S. 2011, Section 603,  
8 shall be recodified as Section 1-229.29 of Title 63 of the Oklahoma  
9 Statutes, unless there is created a duplication in numbering.

10       SECTION 191.       RECODIFICATION     37 O.S. 2011, Section 604,  
11 shall be recodified as Section 1-229.30 of Title 63 of the Oklahoma  
12 Statutes, unless there is created a duplication in numbering.

13       SECTION 192.       RECODIFICATION     37 O.S. 2011, Section 605,  
14 shall be recodified as Section 1-229.31 of Title 63 of the Oklahoma  
15 Statutes, unless there is created a duplication in numbering.

16       SECTION 193.       RECODIFICATION     37 O.S. 2011, Section 606,  
17 shall be recodified as Section 1-229.32 of Title 63 of the Oklahoma  
18 Statutes, unless there is created a duplication in numbering.

19       SECTION 194.       RECODIFICATION     37 O.S. 2011, Section 608, as  
20 amended by Section 129, Chapter 304, O.S.L. 2012 (37 O.S. Supp.  
21 2015, Section 608), shall be recodified as Section 1-229.33 of Title  
22 63 of the Oklahoma Statutes, unless there is created a duplication  
23 in numbering.

24

1       SECTION 195.       RECODIFICATION    37 O.S. 2011, Section 609,  
2 shall be recodified as Section 1-229.34 of Title 63 of the Oklahoma  
3 Statutes, unless there is created a duplication in numbering.

4       SECTION 196.   The provisions of this act are severable and if  
5 any part or provision shall be held void the decision of the court  
6 so holding shall not affect or impair any of the remaining parts or  
7 provisions of this act.

8       SECTION 197.   This act shall only become effective upon  
9 certification of election returns favoring passage of the  
10 Constitutional Amendment proposed in Senate Joint Resolution No. 68  
11 of the 2nd Session of the 55th Oklahoma Legislature.

12       SECTION 198.   Section 4 of this act shall become effective  
13 October 1, 2017.   Sections 1 through 3 and 5 through 195 of this act  
14 shall become effective October 1, 2018.

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