

SENATE CHAMBER
STATE OF OKLAHOMA

DISPOSITION

☐ FLOOR AMENDMENT

No. _____

☐ COMMITTEE AMENDMENT

(Date)

Mr./Madame President:

I move to amend House Bill No. 1540, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

Senator Bice

Bice-CD-FS-Req#1777
4/25/2017 2:51 PM

(Floor Amendments Only) Date and Time Filed: _____

☐ Untimely

☐ Amendment Cycle Extended

☐ Secondary Amendment

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

FLOOR SUBSTITUTE
FOR ENGROSSED

HOUSE BILL NO. 1540

By: Virgin of the House

and

Bice of the Senate

FLOOR SUBSTITUTE

[alcoholic beverages - winemaker licenses - certain
sales of wine by licensee - direct wine shipping
permits - Direct Wine Consumer's Permit - effective
dates]

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

SECTION 1. AMENDATORY 37 O.S. 2011, Section 521, as last
amended by Section 1, Chapter 367, O.S.L. 2016 (37 O.S. Supp. 2016,
Section 521), is amended to read as follows:

Section 521. A. A brewer license shall authorize the holder
thereof: To manufacture, bottle, package, and store beer on
licensed premises; to sell beer in this state to holders of Class B
wholesaler licenses and retail licenses and to sell beer out of this
state to qualified persons; to sell beer produced by the licensee to
consumers twenty-one (21) years of age or older on the premises of
the brewery; and to serve free samples of beer produced by the

1 licensee to visitors twenty-one (21) years of age or older. For
2 purposes of this section, no visitor may sample more than a total of
3 twelve (12) fluid ounces of beer per day. The brewer must restrict
4 the distribution and consumption of beer samples to an area within
5 the licensed premises designated by the brewer. A current floor
6 plan that includes the designated sampling area must be on file with
7 the Oklahoma Alcoholic Beverage Laws Enforcement (ABLE) Commission.
8 No visitor under twenty-one (21) years of age shall be permitted to
9 enter this designated sampling area when samples are being
10 distributed or consumed. Samples and sales may only be distributed
11 or consumed between 10:00 a.m. and 9:00 p.m. Samples and sales of
12 beer made or served by a brewery under this section shall not be
13 considered a "sale" of beer within the meaning of Article XXVIII of
14 the Oklahoma Constitution or Section 506 of this title; however,
15 such samples and sales of beer shall be considered beer removed or
16 withdrawn from the brewery for "use or consumption" within the
17 meaning of Section 542 of this title for excise tax determination
18 and reporting requirements.

19 B. A distiller license shall authorize the holder thereof: To
20 manufacture, bottle, package, and store spirits on licensed
21 premises; to sell spirits in this state to licensed wholesalers and
22 manufacturers only; to sell spirits out of this state to qualified
23 persons; to purchase from licensed distillers and rectifiers in this
24

1 state, and import spirits from without this state for manufacturing
2 purposes in accordance with federal laws and regulations.

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

1 sugar, fruits and vegetables, at any temperature for either on-
2 premises or off-premises consumption; provided, a winemaker either
3 within or without this state that annually produces no more than ten
4 thousand (10,000) gallons of wine may elect to sell and self-
5 distribute the wine produced by such winemaker directly to licensed
6 retail package stores and restaurants in this state; and provided
7 further that:

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

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

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

1 D. A winemaker self-distribution license shall authorize a
2 licensed winemaker within or without this state which is permitted
3 by Section 3 of Article XXVIII of the Oklahoma Constitution and
4 subsection C of this section, to distribute its wine directly to
5 retail package stores and restaurants in this state and that elects
6 to do so, to sell and deliver its wines directly to licensed retail
7 package stores and restaurants in this state in full case lots only,
8 and in accordance with the provisions of the Oklahoma Alcoholic
9 Beverage Control Act and such rules as the ABLE Commission shall
10 adopt.

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

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

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

18 2. Wholesalers are prohibited from purchasing annually in
19 excess of fifteen percent (15%) of their total spirits inventory and
20 fifteen percent (15%) of their total wine inventory from one or more
21 wholesalers. Wholesalers are also prohibited from purchasing
22 annually in excess of fifteen percent (15%) of their inventory of
23 any individual brand of spirits or wine from one or more
24 wholesalers. The volume of spirits and wine and of each brand that

1 each wholesaler is permitted to purchase annually from other
2 wholesalers shall be calculated by the ABLE Commission by
3 multiplying fifteen percent (15%) by:

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

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

23 3. A wholesaler may sell spirits and wine to other wholesalers
24 or purchase spirits and wines from other wholesalers without

1 complying with paragraph 2 of this subsection in the case of the
2 sale, purchase, or other transfer or acquisition of the entire
3 business of a wholesaler, including the inventory of spirits and
4 wine.

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

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

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

1 five brands in sales for the previous sixty (60) days, excluding
2 sales to wholesalers. Such affidavits shall be submitted in
3 conjunction with the original price postings of wholesalers.

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

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

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

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

22 I. A mixed beverage license shall authorize the holder thereof:
23 To purchase alcohol, spirits, beer or wine in retail containers from
24 the holder of a wholesaler or Class B wholesaler license or as

1 specifically provided by law and to sell, offer for sale and possess
2 mixed beverages for on-premises consumption only; provided, the
3 holder of a mixed beverage license issued for an establishment which
4 is also a restaurant may purchase wine directly from a winemaker who
5 is permitted and has elected to self-distribute as provided in
6 Section 3 of Article XXVIII 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. No
15 mixed beverage license shall be issued for any place of business
16 functioning as a motion picture theater, as defined by Section 506
17 of this title. A mixed beverage licensee whose main purpose is
18 hosting live performance art presentations may utilize the services
19 of a licensed caterer for its alcoholic beverage service as long as
20 it is not open to the public more than one hundred twenty (120) days
21 per year.

22 J. A bottle club license shall authorize the holder thereof: To
23 store, possess and mix alcoholic beverages belonging to members of
24 the club and to serve such alcoholic beverages for on-premises

1 consumption to club members. A bottle club license shall only be
2 issued in counties of this state where the sale of alcoholic
3 beverages by the individual drink for on-premises consumption has
4 not been authorized. A separate license shall be required for each
5 place of business.

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

15 A licensed caterer shall be authorized to sell mixed beverages
16 for on-premises consumption incidental to the distribution of food
17 at temporary private functions, at temporary public events that are
18 licensed and approved by the ABLE Commission, and on the premises of
19 a mixed beverage licensee whose main purpose is the hosting of live
20 performing art presentations and is not open to the public more than
21 one hundred twenty (120) days per year.

22 L. 1. An annual special event license shall authorize the
23 holder thereof: To sell and distribute mixed beverages for
24 consumption on the premises for which the license has been issued

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

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

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

1 applicant for an annual public event license, who does not already
2 hold a license issued by the ABLE Commission, shall make application
3 not less than sixty (60) days before its first event. The ABLE
4 Commission shall have the authority to waive the sixty-day
5 requirement at its discretion. For purposes of this paragraph, an
6 event shall not exceed a period of three (3) consecutive days. An
7 annual public event license shall only be issued in counties of this
8 state where the sale of alcoholic beverages by the individual drink
9 for on-premises consumption has been authorized. The holder of an
10 annual public event license shall provide written notice to the ABLE
11 Commission of each subsequent public event not less than ten (10)
12 days before the event is held. A public event license shall not be
13 used in lieu of a mixed beverage license. The holder of an annual
14 public event license may choose to utilize the services of a
15 licensed caterer to provide and distribute the alcoholic beverages
16 at their events. When the applicant chooses to utilize the services
17 of a licensed caterer, the applicant shall declare upon application
18 which licensed caterer will be used. The licensed caterer shall be
19 responsible for payment of all applicable mixed beverage taxes
20 through the existing Mixed Beverage Tax Permit issued to his or her
21 business by the Oklahoma Tax Commission.

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

1 for a one-time public event license, who does not already hold a
2 license issued by the ABLE Commission, shall make application not
3 less than sixty (60) days before the event. The ABLE Commission
4 shall have the authority to waive the sixty-day requirement at its
5 discretion. For purposes of this paragraph, an event shall not
6 exceed a period of three (3) consecutive days. A public event
7 license shall only be issued in counties of this state where the
8 sale of alcoholic beverages by the individual drink for on-premises
9 consumption has been authorized. A public event license shall not
10 be used in lieu of a mixed beverage license. The holder of a one-
11 time public event license may choose to utilize the services of a
12 licensed caterer to provide and distribute the alcoholic beverages
13 at his or her event. When the applicant chooses to utilize the
14 services of a licensed caterer, the applicant shall declare upon
15 application which licensed caterer will be used. The licensed
16 caterer shall be responsible for payment of all applicable mixed
17 beverage taxes through the existing Mixed Beverage Tax Permit issued
18 to his or her business by the Oklahoma Tax Commission.

19 M. A hotel beverage license shall authorize the holder thereof:
20 To sell or serve alcoholic beverages in 50 milliliter spirits, 187
21 milliliter wine, and 12-ounce malt beverage containers which are
22 distributed from a hotel room mini-bar. A hotel beverage license
23 shall only be issued in counties of this state where the sale of
24 alcoholic beverages by the individual drink for on-premises

1 consumption has been authorized. A hotel beverage license shall
2 only be issued to a hotel or motel as defined by Section 506 of this
3 title which is also the holder of a mixed beverage license.
4 Provided, that application may be made simultaneously for both such
5 licenses. A separate license shall be required for each place of
6 business.

7 N. An airline/railroad beverage license shall authorize the
8 holder thereof: To sell or serve alcoholic beverages in or from any
9 size container on a commercial passenger airplane or railroad
10 operated in compliance with a valid license, permit or certificate
11 issued under the authority of the United States or this state, even
12 though the airplane or train, in the course of its travel, may cross
13 an area in which the sale of alcoholic beverages by the individual
14 drink is not authorized and to store alcoholic beverages in sealed
15 containers of any size at any airport or station regularly served by
16 the licensee, in accordance with rules promulgated by the Alcoholic
17 Beverage Laws Enforcement Commission. Alcoholic beverages purchased
18 by the holder of an airline/railroad license from the holder of a
19 wholesaler license shall be presumed to be purchased for consumption
20 outside the State of Oklahoma or in interstate commerce, and shall
21 be exempt from the excise tax provided for in Section 553 of this
22 title.

23 O. An agent license shall authorize the holder thereof: To
24 represent only the holders of licenses within this state, other than

1 retailers, authorized to sell alcoholic beverages to retail dealers
2 in Oklahoma, and to solicit and to take orders for the purchase of
3 alcoholic beverages from retailers including licensees authorized to
4 sell alcoholic beverages by the individual drink for on-premises
5 consumption. Such license shall be issued only to agents and
6 employees of the holder of a license under the Oklahoma Alcoholic
7 Beverage Control Act, but no such license shall be required of an
8 employee making sales of alcoholic beverages on licensed premises of
9 the employee's principal. No person holding an agent license shall
10 be entitled to a manufacturers agent license.

11 P. An employee license shall authorize the holder thereof: To
12 work in a package store, mixed beverage establishment, beer and wine
13 establishment, bottle club, public event or any establishment where
14 alcohol or alcoholic beverages are sold, mixed, or served. Persons
15 employed by a mixed beverage licensee, beer and wine licensee,
16 public event licensee or a bottle club who do not participate in the
17 service, mixing, or sale of mixed beverages shall not be required to
18 have an employee license. Provided, however, that a manager
19 employed by a mixed beverage licensee, public event licensee or a
20 bottle club shall be required to have an employee license whether or
21 not the manager participates in the service, mixing or sale of mixed
22 beverages. Applicants for an employee license must have a health
23 card issued by the county in which they are employed, if the county
24 issues such a card. Employees of special event, caterer, unless

1 catering a mixed beverage licensed premises, or airline/railroad
2 beverage licensees shall not be required to obtain an employee
3 license. Persons employed by a hotel licensee who participate in
4 the stocking of hotel room mini-bars or in the handling of alcoholic
5 beverages to be placed in such devices shall be required to have an
6 employee license.

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

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

11 2. Manufacture of extracts, syrups, condiments, and food
12 products; and

13 3. For use in scientific, chemical, mechanical, industrial, and
14 medicinal products and purposes.

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

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

23 No provisions of the Oklahoma Alcoholic Beverage Control Act
24 shall apply to alcohol withdrawn by any person free of federal tax

1 under a tax-free permit issued by the United States government, if
2 such alcohol is received, stored, and used as authorized by federal
3 laws.

4 R. A carrier license may be issued to any common carrier
5 operating under a certificate of convenience and necessity issued by
6 any duly authorized federal or state regulatory agency. Such
7 license shall authorize the holder thereof to transport alcoholic
8 beverages other than wine sold directly by a winemaker or winery to
9 a retail package store or restaurant into, within, and out of this
10 state under such terms, conditions, limitations, and restrictions as
11 the ABLE Commission may prescribe by order issuing such license and
12 by regulations.

13 S. A private carrier license may be issued to any carrier other
14 than a common carrier described in subsection Q of this section.
15 Such license shall authorize the holder thereof to transport
16 alcoholic beverages other than wine sold directly by a winemaker or
17 winery to a retail package store or restaurant into, within, or out
18 of this state under such terms, conditions, limitations, and
19 restrictions as the ABLE Commission may prescribe by order issuing
20 such license and by regulations. No carrier license or private
21 carrier license shall be required of licensed brewers, distillers,
22 winemakers, rectifiers, wholesalers, or Class B wholesalers, to
23 transport alcoholic beverages from the place of purchase or
24 acquisition to the licensed premises of such licensees and from such

1 licensed premises to the licensed premises of the purchaser in
2 vehicles owned or leased by such licensee when such transportation
3 is for a lawful purpose and not for hire.

4 No carrier license or private carrier license shall be required
5 of the holder of a package store, mixed beverage, caterer, special
6 event, hotel beverage, public event or airline/railroad license to
7 pick up alcoholic beverage orders from the licensees' wholesaler or
8 Class B wholesaler from whom they are purchased, and to transport
9 such alcoholic beverages from the place of purchase or acquisition
10 to the licensed premise of such licensees in vehicles owned or under
11 the control of such licensee or a licensed employee of such licensee
12 under such terms, conditions, limitations and restrictions as the
13 ABLE Commission may prescribe.

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

1 U. A storage license may be issued to a holder of a brewer,
2 distiller, winemaker, rectifier, wholesaler, Class B wholesaler,
3 nonresident seller, package store, mixed beverage, caterer, public
4 event or hotel beverage license, and shall authorize the holder
5 thereof: To store alcoholic beverages in a public warehouse holding
6 a bonded warehouse license, and no goods, wares or merchandise other
7 than alcoholic beverages may be stored in the same warehouse with
8 alcoholic beverages in private warehouses owned or leased and
9 operated by such licensees elsewhere than on their licensed
10 premises. Provided:

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

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

21 W. A beer and wine license shall authorize the holder thereof:
22 To purchase beer and wine in retail containers from the holder of a
23 wholesaler or Class B wholesaler license or as specifically provided
24 by law and to sell, offer for sale and possess beer and wine for on-

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

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

17 X. A charitable auction or charitable alcoholic beverage event
18 license may be issued to a charitable organization exempt from
19 taxation under Section 501(c)(3), (4), (5), (6), (7), (8), (9),
20 (10), or (19) of the United States Internal Revenue Code. The
21 charitable alcoholic beverage event license shall authorize the
22 holder thereof to conduct a wine, spirit and/or beer event which may
23 consist of one or more of a wine, spirit and/or beer tasting event,
24 a wine, spirit and/or beer dinner event or a wine, spirit and/or

1 beer auction, which may be either a live auction conducted by an
2 auctioneer or a silent auction for which:

3 1. Bid sheets are accepted from interested bidders at the
4 event;

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

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

9 A charitable alcoholic beverage event shall be conducted solely
10 to raise funds for charitable purposes. A charitable alcoholic
11 beverage license will allow the event attendees access to tastings,
12 samples, dinners, and alcoholic beverages as parts of their entrance
13 fee or ticket price. Wine, spirits and/or beer used in, served, or
14 consumed at a charitable alcoholic beverage event may be purchased
15 by the charitable organization or donated by any person or entity.
16 The charitable alcoholic beverage event license shall be issued for
17 a period not exceeding four (4) days. Only eight such licenses may
18 be issued to an organization in any twelve-month period. The
19 charitable organization holding a charitable alcoholic beverage
20 event license shall not be required to obtain a special event
21 license. Charitable auction and charitable alcoholic beverage event
22 license holders may also utilize a licensed caterer to provide
23 additional alcohol services at the event and on the premises. The
24 charitable auction license shall authorize the holder thereof to

1 auction wine, spirits, and/or beer purchased from a retail package
2 store or received as a gift from an individual if the auction is
3 conducted to raise funds for charitable purposes. The charitable
4 auction license shall be issued for a period not to exceed two (2)
5 days. Only four such licenses shall be issued to an organization in
6 any twelve-month period. The maximum amount of wine, spirits,
7 and/or beer auctioned pursuant to the charitable auction license
8 shall not exceed fifty (50) gallons. All wine, beer, and spirits
9 auctioned pursuant to the charitable auction license shall be
10 registered and all fees and taxes shall be paid in accordance with
11 the Oklahoma Alcoholic Beverage Control Act.

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

24

1 A licensed mixed beverage/caterer licensee shall be authorized
2 to sell mixed beverages for on-premises consumption incidental to
3 the distribution of food at temporary private functions, at
4 temporary public events that are licensed and approved by the ABLE
5 Commission, and on the premises of a mixed beverage licensee whose
6 main purpose is the hosting of live art presentations and is not
7 open to the public more than one hundred twenty (120) days per year.

8 Z. A small farm winery license shall authorize the holder
9 thereof: To manufacture and bottle wines produced by that small
10 farm winery. In addition, a small farm winery license authorizes
11 the holder of that permit to bottle and sell wines produced by
12 another small farm winery. In order for a small farm winery to
13 bottle and sell another small farm winery's products, both the
14 selling winery and the buying winery shall be small farm winery
15 permit holders. A small farm wine may display the trademarked
16 "Oklahoma Grown" sticker available from the Oklahoma Grape Industry
17 Council.

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

22 BB. Except as provided in Sections 554.1 and 554.2 of this
23 title with respect to cities, towns and counties, and except as may
24 be provided under Title 68 of the Oklahoma Statutes with respect to

1 the Oklahoma Tax Commission, no license or permit other than
2 licenses as provided under the Oklahoma Alcoholic Beverage Control
3 Act shall be required of any licensee by any agency, instrumentality
4 or political subdivision of this state to engage in any activity
5 covered by the Oklahoma Alcoholic Beverage Control Act anywhere
6 within the State of Oklahoma and no agency, instrumentality or
7 political subdivision of this state shall interfere with the ABLE
8 Commission's regulation of, or a wholesaler's performance of, the
9 sale, distribution, possession, handling or marketing of alcoholic
10 beverages on any premises of any licensee as defined in Section 506
11 of this title.

12 SECTION 2. AMENDATORY Section 16, Chapter 366, O.S.L.
13 2016 (37A O.S. Supp. 2016, Section 2-104), is amended to read as
14 follows:

15 Section 2-104. A winemaker license shall authorize the holder
16 thereof:

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

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

1 3. To sell ~~bottles of~~ wine produced at the winery from grapes
2 and other fruits and berries grown in this state, if available, for
3 either on-premises or off-premises consumption to consumers on the
4 premises of the winery;

5 4. To serve free samples of wine produced at the winery to
6 visitors twenty-one (21) years of age and older. For purposes of
7 this section, no visitor may sample more than a total of six (6)
8 fluid ounces of wine per day. The winery shall restrict the
9 distribution and consumption of wine samples to an area within the
10 licensed premises designated by the winery. A current floor plan
11 that includes the designated sampling area shall be on file with the
12 ABLE Commission. No visitor under twenty-one (21) years of age
13 shall be permitted to enter the designated sampling area when
14 samples are being distributed and consumed. Samples of wine served
15 by a winery under this section shall not be considered a sale of
16 wine within the meaning of Article XXVIII of the Oklahoma
17 Constitution or Section ~~3~~ 1-103 of this ~~act~~ title; provided, such
18 samples of wine shall be considered removed or withdrawn from the
19 winery for use or consumption within the meaning of Section ~~413~~ 5-
20 110 of this ~~act~~ title for excise tax determination and reporting
21 requirements;

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

1 6. To sell wine produced at the winery, ~~in original sealed~~
2 ~~containers,~~ for either on-premises or off-premises consumption at
3 public events such as festivals and trade shows;

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

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

9 9. To sell and serve Oklahoma-manufactured wine, mulled wine,
10 or spiced wine, mixed with nonalcoholic beverages or food items such
11 as water, sugar, fruits and vegetables, at any temperature for
12 either on-premises or off-premises consumption.

13 SECTION 3. AMENDATORY Section 76, Chapter 366, O.S.L.
14 2016 (37A O.S. Supp. 2016, Section 3-106), is amended to read as
15 follows:

16 Section 3-106. A. A Direct Wine Shipper's Permit may be issued
17 by the Oklahoma ABLE Commission to a winery licensed in this or any
18 other state within the United States as a wine producer. A Direct
19 Wine Shipper's Permit allows a winery to ship up to six nine-liter
20 cases of wine annually directly to an Oklahoma resident who is
21 twenty-one (21) years of age or older for such resident's personal
22 use and not for resale. No resident shall be permitted to purchase
23 more than thirty nine-liter cases of wine per year under the
24 provisions of this section.

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

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

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

10 2. Payment of a registration fee of Three Hundred Dollars
11 (\$300.00) for original permits and One Hundred Fifty Dollars
12 (\$150.00) for renewal permits; and

13 3. Any other documentation that the ABLE Commission believes is
14 reasonably necessary to verify the identity and physical location of
15 the winery.

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

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

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

1 ~~E.~~ C. With regard to direct wine shipments permitted by this
2 section, Direct Wine Shipper permit holders:

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

5 2. Shall not ship wine intended for resale;

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

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

21 5. Shall not ship into the state, wine otherwise available in
22 Oklahoma;

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

4 7. Shall annually pay to the Oklahoma Tax Commission all
5 applicable taxes due on sales authorized by this section to Oklahoma
6 residents in the preceding calendar year. The amount of such taxes
7 shall be calculated as if the sale were in Oklahoma at the location
8 where delivery is made. Upon request, permit holders shall permit
9 the Tax Commission to perform an audit of the permit holder's
10 records in order to assure compliance; ~~and~~

11 8. Shall be deemed to have consented to the jurisdiction of any
12 agency or court of the State of Oklahoma tasked with the enforcement
13 of or adjudication of controversies related to this section and any
14 related laws or rules; and

15 9. Shall require the consumer to verify, by electronic means or
16 otherwise, that the consumer is at least twenty-one (21) years of
17 age.

18 ~~F.~~ D. No express company, common carrier or contract carrier
19 nor any representative, agent or employee on behalf of the same
20 shall knowingly deliver any shipping container that contains an
21 alcoholic beverage into this state, unless it complies with the
22 provisions of this section. No express company, common carrier or
23 contract carrier nor any representative, agent or employee on behalf
24 of the same shall knowingly deliver any shipping container that is

1 clearly labeled as containing an alcoholic beverage, including but
2 not limited to the lawful shipment of wine under this section, to
3 any person in this state who is under the age of twenty-one (21) at
4 the time of delivery. Any express company, common carrier or
5 contract carrier that carries or transports alcoholic beverages for
6 delivery within this state in violation of this section shall be
7 guilty of a misdemeanor and for the first offense be fined not more
8 than Two Thousand Five Hundred Dollars (\$2,500.00), for a second
9 offense shall be fined not more than Five Thousand Dollars
10 (\$5,000.00) and for a third and subsequent offense be fined not more
11 than Ten Thousand Dollars (\$10,000.00). An express company, common
12 carrier and contract carrier shall be held vicariously liable for
13 the actions of its representatives, agents and employees for actions
14 in violation of this section.

15 SECTION 4. Section 1 of this act shall become effective
16 November 1, 2017.

17 SECTION 5. Sections 2 and 3 of this act shall become effective
18 October 1, 2018.

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