

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 56th Legislature (2017)

4 ENGROSSED SENATE
5 BILL NO. 486

By: Bice of the Senate

and

Mulready of the House

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8
9 An Act relating to alcoholic beverages; merging, re-
10 enacting and repealing duplicate sections; repealing
11 37 O.S. 2011, Section 163.5, as amended by Section 1,
12 Chapter 261, O.S.L. 2016 (37 O.S. Supp. 2016, Section
13 163.5), which is a duplicate section and which
14 relates to excise taxes on low-point beer; repealing
15 37 O.S. 2011, Section 537.1, as last amended by
16 Section 1, Chapter 136, O.S.L. 2016 and 37 O.S. 2011,
17 Section 537.1, as last amended by Section 8, Chapter
18 275, O.S.L. 2016 (37 O.S. Supp. 2016, Section 537.1),
19 which are duplicate sections and which relate to
20 prohibited acts; amending Section 149, Chapter 366,
21 O.S.L. 2016 (37A O.S. Supp. 2016, Section 6-109),
22 which relates to prohibited acts; repealing 37 O.S.
23 2011, Section 553, as last amended by Section 2,
24 Chapter 261, O.S.L. 2016 (37 O.S. Supp. 2016, Section
25 553), which is a duplicate section and which relates
26 to excise taxes on alcoholic beverages; amending
27 Section 104, Chapter 366, O.S.L. 2016 (37A O.S. Supp.
28 2016, Section 5-101), which relates to excise taxes
29 on alcoholic beverages; repealing Sections 1, 5, 10
30 and 15 of act on future effective date; providing for
31 codification; providing effective dates; and
32 declaring an emergency.

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

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 163.5A of Title 37, unless there
3 is created a duplication in numbering, reads as follows:

4 A. The excise tax levied by Section 163.3 of Title 37 of the
5 Oklahoma Statutes on low-point beer shall be due and payable on or
6 before the twentieth day of each month for the preceding calendar
7 month and such tax shall be remitted electronically at the time the
8 return is electronically filed as prescribed by subsection B of this
9 section.

10 B. At the time of paying the tax as required by subsection A of
11 this section each taxpayer shall file electronically with the Tax
12 Commission a return, under oath, using procedures prescribed by the
13 Tax Commission, showing the total sales of such beverages during the
14 preceding calendar month, the amount of taxes due, and such further
15 information as the Tax Commission may require to enable it to
16 compute correctly and collect the taxes levied under Section 163.1
17 et seq. of this title.

18 C. Any tax not paid within ten (10) days after the close of the
19 preceding calendar month shall be delinquent.

20 SECTION 2. REPEALER 37 O.S. 2011, Section 163.5, as
21 amended by Section 1, Chapter 261, O.S.L. 2016 (37 O.S. Supp. 2016,
22 Section 163.5), is hereby repealed.

23 SECTION 3. REPEALER Section 1 of this act, is hereby
24 repealed.

1 SECTION 4. Section 3 of this act shall become effective October
2 1, 2018.

3 SECTION 5. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 537.1A of Title 37, unless there
5 is created a duplication in numbering, reads as follows:

6 No mixed beverage, beer and wine, bottle club, caterer,
7 charitable event, public event or special event licensee or any
8 employee, manager, operator or agent thereof shall:

9 1. Consume or be under the influence of alcoholic beverages
10 during the hours he or she is on duty. For the purposes of this
11 section, licensees will be deemed to be on duty from the time the
12 licensee first comes on duty until the time the licensee goes off
13 duty at the end of the shift, including any break periods permitted
14 by management. This paragraph shall not apply to any person who
15 works on the premises as an entertainer only;

16 2. Permit or tolerate any conduct or language which is intended
17 to threaten another with physical harm or any fighting or offensive
18 physical contact, in or upon the licensed premises or areas just
19 outside the licensed premises which are controlled by the licensee;

20 3. Permit empty or discarded alcoholic beverage containers to
21 be in public view outside the licensed premises. All empty or
22 discarded containers shall be disposed of in accordance with ABLE
23 Commission rules and regulations;

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1 4. Permit any illegal gambling activity, violations of the
2 state narcotic and dangerous drug laws, or prostitution activity or
3 any other criminal conduct to occur on the licensed premises;

4 5. Refuse or fail to promptly open a door to the licensed
5 premises upon request of an agent or inspector of the Alcoholic
6 Beverage Laws Enforcement Commission or any other peace officer to
7 enter the premises, when the licensee or employee knows or should
8 know that such request is made by an agent or inspector of the ABLE
9 Commission or any other peace officer. This provision shall not be
10 construed to deny agents of the ABLE Commission or any other peace
11 officer access at any time to any licensed premises;

12 6. Permit a sealed or unsealed container of alcoholic beverage
13 to be removed from the licensed premises. Provided that
14 restaurants, hotels, and motels may permit the removal of closed
15 original wine containers the contents of which have been partially
16 consumed and bottle clubs may permit the removal by a club member of
17 closed original containers of alcoholic beverages belonging to the
18 members. The provisions of this paragraph shall not be construed to
19 prohibit or restrict:

- 20 a. hotels or motels who are holders of mixed beverage or
21 beer and wine licenses from allowing alcoholic
22 beverages to be served away from the bar area anywhere
23 on the licensed premises,
24

1 b. licensees, who are lawfully operating in a facility or
2 on property owned or operated by any agency, political
3 subdivision or public trust of this state, from
4 allowing persons to transport alcoholic beverages from
5 one licensed premises to another within the same
6 building or property, provided that the building or
7 property or a part thereof is defined as a common
8 drinking area for consumption of alcohol by resolution
9 of the governing body of the agency, political
10 subdivision or public trust of this state, or

11 c. licensees, who are licensed to operate in a facility
12 or on property owned or operated by any agency,
13 political subdivision or public trust of this state,
14 from allowing other licensees to operate on their
15 licensed premises for events that are temporary in
16 nature. In the event that multiple licensees are
17 operating in a facility or on property owned or
18 operated by any agency, political subdivision or
19 public trust of this state, each licensee shall be
20 responsible for violations occurring in their area
21 designated to be their temporary licensed premises; or

22 7. Destroy, damage, alter, remove or conceal potential
23 evidence, or attempt to do so, or refuse to surrender evidence when
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1 lawfully requested to do so by an inspector, agent or any other
2 peace officer or incite another person to do any of the above.

3 SECTION 6. REPEALER 37 O.S. 2011, Section 537.1, as last
4 amended by Section 1, Chapter 136, O.S.L. 2016 and 37 O.S. 2011,
5 Section 537.1, as last amended by Section 8, Chapter 275, O.S.L.
6 2016 (37 O.S. Supp. 2016, Section 537.1), are hereby repealed.

7 SECTION 7. REPEALER Section 5 of this act, is hereby
8 repealed.

9 SECTION 8. AMENDATORY Section 149, Chapter 366, O.S.L.
10 2016 (37A O.S. Supp. 2016, Section 6-109), is amended to read as
11 follows:

12 Section 6-109. No mixed beverage, beer and wine, bottle club,
13 caterer, charitable event, public event or special event licensee or
14 any employee, manager, operator or agent thereof shall:

15 1. Consume or be under the influence of alcoholic beverages
16 during the hours he or she is on duty. For the purposes of this
17 section, licensees will be deemed to be on duty from the time the
18 licensee first comes on duty until the time the licensee goes off
19 duty at the end of the shift, including any break periods permitted
20 by management. This paragraph shall not apply to any person who
21 works on the premises as an entertainer only;

22 2. Permit or tolerate any conduct or language which is intended
23 to threaten another with physical harm or any fighting or offensive
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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 or on property owned or operated by any
7 agency, political subdivision or public trust of this
8 state, from allowing persons to transport alcoholic
9 beverages from one licensed premises to another within
10 the same building or property, provided that the
11 building or property or a part thereof is defined as a
12 common drinking area for consumption of alcohol by
13 resolution of the governing body of the agency,
14 political subdivision or public trust of this state,
15 or
- 16 c. licensees, who are licensed to operate in a facility
17 or on property owned or operated by any agency,
18 political subdivision or public trust of this state,
19 from allowing other licensees to operate on their
20 licensed premises for events that are temporary in
21 nature. In the event that multiple licensees are
22 operating in a facility or on property owned or
23 operated by any agency, political subdivision or
24 public trust of this state, each licensee shall be

1 responsible for violations occurring in their area
2 designated to be their temporary licensed premises; or

3 7. Destroy, damage, alter, remove or conceal potential
4 evidence, or attempt to do so, or refuse to surrender evidence when
5 lawfully requested to do so by an inspector, agent or any other
6 peace officer or incite another person to do any of the above.

7 SECTION 9. Sections 7 and 8 of this act shall become effective
8 October 1, 2018.

9 SECTION 10. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 553A of Title 37, unless there
11 is created a duplication in numbering, reads as follows:

12 A. Except as provided in paragraph 5 of this subsection, an
13 excise tax is hereby levied and imposed upon all alcoholic beverages
14 imported or manufactured, for sale, use or distribution, or used or
15 possessed in this state at the following rates:

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

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

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

22 4. Twelve Dollars and fifty cents (\$12.50) per barrel (thirty-
23 one (31) wine gallons) and a proportionate rate on portions thereof,
24 on each barrel of beer; and

1 5. Beer manufactured in this state for export shall not be
2 taxed.

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

5 1. Payment of the excise tax levied by this section with
6 respect to all alcoholic beverages, other than beer, shall be made
7 by the person shipping the same into Oklahoma, or in the case of
8 direct imports from foreign countries by the importer, or in the
9 case of alcoholic beverages manufactured in Oklahoma by the first
10 seller thereof; and

11 2. On and after July 1, 2016, the due and payable excise tax
12 levied by this section shall be remitted electronically
13 simultaneously with tax returns electronically filed with the
14 Oklahoma Tax Commission using procedures prescribed by the Tax
15 Commission. The tax returns shall be made under oath by the person
16 liable for the tax on forms prescribed and provided by the Oklahoma
17 Tax Commission and shall be accompanied by payment of the taxes due
18 and any additional sums due as provided by this section. Invoices
19 describing all alcoholic beverages as described in this section
20 which are shipped into this state or which are first sold in this
21 state shall be delivered to the Oklahoma Tax Commission and to the
22 Alcoholic Beverage Laws Enforcement Commission immediately following
23 shipment of liquors into the state or delivery to the first
24 purchaser. Tax returns and payment of excise tax and other sums due

1 shall be electronically filed with the Oklahoma Tax Commission no
2 later than the twentieth day of the month immediately succeeding the
3 month of shipment, importation or first sale of the alcoholic
4 beverages as provided in paragraph 1 of this subsection.

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

8 D. Nothing herein shall be construed to impose an additional
9 excise tax on intoxicating beverages held in inventory by
10 wholesalers and retailers upon which the excise tax was paid prior
11 to the effective date of any excise tax increase.

12 SECTION 11. REPEALER 37 O.S. 2011, Section 553, as last
13 amended by Section 2, Chapter 261, O.S.L. 2016 (37 O.S. Supp. 2016,
14 Section 553), is hereby repealed.

15 SECTION 12. REPEALER Section 10 of this act, is hereby
16 repealed.

17 SECTION 13. AMENDATORY Section 104, Chapter 366, O.S.L.
18 2016 (37A O.S. Supp. 2016, Section 5-101), is amended to read as
19 follows:

20 Section 5-101. A. Except as provided in this subsection, an
21 excise tax is hereby levied and imposed upon all alcoholic beverages
22 imported or manufactured, for sale, use or distribution, or used or
23 possessed in this state at the following rates:

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

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

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

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

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

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

19 2. The due and payable excise tax levied by this section shall
20 be remitted electronically simultaneously with tax returns
21 electronically filed with the Oklahoma Tax Commission using
22 procedures prescribed by the Tax Commission. The tax returns shall
23 be made under oath by the person liable for the tax on forms
24 prescribed and provided by the Tax Commission and shall be

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

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

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

20 D. Nothing herein shall be construed to impose an additional
21 excise tax on alcoholic beverages held in inventory by wholesalers
22 and retailers upon which the excise tax was paid prior to the
23 effective date of any excise tax increase.

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

3 SECTION 14. Sections 12 and 13 of this act shall become
4 effective October 1, 2018.

5 SECTION 15. It being immediately necessary for the preservation
6 of the public peace, health or safety, an emergency is hereby
7 declared to exist, by reason whereof this act shall take effect and
8 be in full force from and after its passage and approval.

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10 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM,
11 dated 04/12/2017 - DO PASS.
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