

1 **SENATE FLOOR VERSION**

2 February 23, 2017

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 486

By: Bice

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

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

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

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

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

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

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

20 SECTION 3. REPEALER Section 1 of this act, is hereby
21 repealed.

22 SECTION 4. Section 3 of this act shall become effective October
23 1, 2018.

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

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

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

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

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

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

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

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

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

21 b. licensees, who are lawfully operating in a facility or
22 on property owned or operated by any agency, political
23 subdivision or public trust of this state, from
24 allowing persons to transport alcoholic beverages from

1 one licensed premises to another within the same
2 building or property, provided that the building or
3 property or a part thereof is defined as a common
4 drinking area for consumption of alcohol by resolution
5 of the governing body of the agency, political
6 subdivision or public trust of this state, or
7 c. licensees, who are licensed to operate in a facility
8 or on property owned or operated by any agency,
9 political subdivision or public trust of this state,
10 from allowing other licensees to operate on their
11 licensed premises for events that are temporary in
12 nature. In the event that multiple licensees are
13 operating in a facility or on property owned or
14 operated by any agency, political subdivision or
15 public trust of this state, each licensee shall be
16 responsible for violations occurring in their area
17 designated to be their temporary licensed premises; or

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

22 SECTION 6. REPEALER 37 O.S. 2011, Section 537.1, as last
23 amended by Section 1, Chapter 136, O.S.L. 2016 and 37 O.S. 2011,
24

1 Section 537.1, as last amended by Section 8, Chapter 275, O.S.L.
2 2016 (37 O.S. Supp. 2016, Section 537.1), are hereby repealed.

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

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

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

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

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

22 3. Permit empty or discarded alcoholic beverage containers to
23 be in public view outside the licensed premises. All empty or
24

1 discarded containers shall be disposed of in accordance with ABLE
2 Commission rules and regulations;

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

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

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

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

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

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

23 7. Destroy, damage, alter, remove or conceal potential
24 evidence, or attempt to do so, or refuse to surrender evidence when

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

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

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

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

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

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

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

21 5. Beer manufactured in this state for export shall not be
22 taxed.

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

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

7 2. On and after July 1, 2016, the due and payable excise tax
8 levied by this section shall be remitted electronically
9 simultaneously with tax returns electronically filed with the
10 Oklahoma Tax Commission using procedures prescribed by the Tax
11 Commission. The tax returns shall be made under oath by the person
12 liable for the tax on forms prescribed and provided by the Oklahoma
13 Tax Commission and shall be accompanied by payment of the taxes due
14 and any additional sums due as provided by this section. Invoices
15 describing all alcoholic beverages as described in this section
16 which are shipped into this state or which are first sold in this
17 state shall be delivered to the Oklahoma Tax Commission and to the
18 Alcoholic Beverage Laws Enforcement Commission immediately following
19 shipment of liquors into the state or delivery to the first
20 purchaser. Tax returns and payment of excise tax and other sums due
21 shall be electronically filed with the Oklahoma Tax Commission no
22 later than the twentieth day of the month immediately succeeding the
23 month of shipment, importation or first sale of the alcoholic
24 beverages as provided in paragraph 1 of this subsection.

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

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

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

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

13 SECTION 13. AMENDATORY Section 104, Chapter 366, O.S.L.
14 2016 (37A O.S. Supp. 2016, Section 5-101), is amended to read as
15 follows:

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

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

22 2. Nineteen cents (\$0.19) per liter, and a proportionate rate
23 on fractions thereof, on each liter of wine;
24

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

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

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

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

15 2. The due and payable excise tax levied by this section shall
16 be remitted electronically simultaneously with tax returns
17 electronically filed with the Oklahoma Tax Commission using
18 procedures prescribed by the Tax Commission. The tax returns shall
19 be made under oath by the person liable for the tax on forms
20 prescribed and provided by the Tax Commission and shall be
21 accompanied by payment of the taxes due and any additional sums due
22 as provided by this section. Invoices describing all alcoholic
23 beverages as described in this section which are shipped into this
24 state or which are first sold in this state shall be delivered to

1 the Tax Commission immediately following shipment of liquors into
2 the state or delivery to the first purchaser. Tax returns and
3 payment of excise tax and other sums due shall be electronically
4 filed with the Tax Commission no later than the twentieth day of the
5 month immediately succeeding the month of shipment, importation or
6 first sale of the alcoholic beverages as provided in paragraph 1 of
7 this subsection;~~and~~

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

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

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

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

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

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

COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM
February 23, 2017 - DO PASS AS AMENDED