

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

SENATE BILL 486

By: Bice

AS INTRODUCED

An Act relating to alcoholic beverages; merging, re-enacting and repealing duplicate sections; repealing 37 O.S. 2011, Section 163.5, as amended by Section 1, Chapter 261, O.S.L. 2016 (37 O.S. Supp. 2016, Section 163.5), which is a duplicate section and which relates to excise taxes on low-point beer; repealing 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), which is a duplicate section and which relates to acts authorized by various license holders; amending Section 14, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2016, Section 2-102), which relates to acts authorized for certain license holders; modifying acts authorized for holders of brewer license and small brewer license; modifying hours during which samples may be distributed or consumed and sales made; updating statutory references; repealing 37 O.S. 2011, Section 537.1, as last amended by Section 1, Chapter 136, O.S.L. 2016 (37 O.S. Supp. 2016, Section 537.1), which is a duplicate section and which relates to prohibited acts; amending Section 149, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2016, Section 6-109), which relates to prohibited acts; repealing 37 O.S. 2011, Section 553, as last amended by Section 2, Chapter 261, O.S.L. 2016 (37 O.S. Supp. 2016, Section 553), which is a duplicate section and which relates 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.

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

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

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

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

21 C. Any tax not paid within ten (10) days after the close of the
22 preceding calendar month shall be delinquent.
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1 SECTION 2. REPEALER 37 O.S. 2011, Section 163.5, as
2 amended by Section 1, Chapter 261, O.S.L. 2016 (37 O.S. Supp. 2016,
3 Section 163.5), is hereby repealed.

4 SECTION 3. REPEALER Section 1 of this act is hereby
5 repealed.

6 SECTION 4. Section 3 of this act shall become effective October
7 1, 2018.

8 SECTION 5. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 521A of Title 37, unless there
10 is created a duplication in numbering, reads as follows:

11 A. A brewer license shall authorize the holder thereof: To
12 manufacture, bottle, package, and store beer on licensed premises;
13 to sell beer in this state to holders of Class B wholesaler licenses
14 and retail licenses and to sell beer out of this state to qualified
15 persons; to sell beer produced by the licensee to consumers twenty-
16 one (21) years of age or older on the premises of the brewery and to
17 serve free samples of beer produced by the licensee to visitors
18 twenty-one (21) years of age or older. For purposes of this
19 section, no visitor may sample more than a total of twelve (12)
20 fluid ounces of beer per day. The brewer must restrict the
21 distribution and consumption of beer samples to an area within the
22 licensed premises designated by the brewer. A current floor plan
23 that includes the designated sampling area must be on file with the
24 Oklahoma Alcoholic Beverage Laws Enforcement (ABLE) Commission. No

1 visitor under twenty-one (21) years of age shall be permitted to
2 enter this designated sampling area when samples are being
3 distributed or consumed. Samples and sales may only be distributed
4 or consumed between 10:00 a.m. and 9:00 p.m. Samples and sales of
5 beer made or served by a brewery under this section shall not be
6 considered a "sale" of beer within the meaning of Article XXVIII of
7 the Oklahoma Constitution or Section 506 of Title 37 of the Oklahoma
8 Statutes; however, such samples and sales of beer shall be
9 considered beer removed or withdrawn from the brewery for "use or
10 consumption" within the meaning of Section 542 of Title 37 of the
11 Oklahoma Statutes for excise tax determination and reporting
12 requirements.

13 B. A distiller license shall authorize the holder thereof: To
14 manufacture, bottle, package and store spirits on licensed premises;
15 to sell spirits in this state to licensed wholesalers and
16 manufacturers only; to sell spirits out of this state to qualified
17 persons; to purchase from licensed distillers and rectifiers in this
18 state, and import spirits from without this state for manufacturing
19 purposes in accordance with federal laws and regulations.

20 C. A winemaker license shall authorize the holder thereof: To
21 manufacture (including such mixing, blending and cellar treatment as
22 authorized by federal law), bottle, package, and store on licensed
23 premises wine containing not more than twenty-four percent (24%)
24 alcohol by volume, provided the bottle or package sizes authorized

1 shall be limited to the capacities approved by the United States
2 Alcohol and Tobacco Tax and Trade Bureau; to sell wine in this state
3 to licensed wholesalers and manufacturers; to sell bottles of wine
4 produced at the winery from grapes and other fruits and berries
5 grown in this state, if available, to consumers on the premises of
6 the winery; to serve visitors on the licensed premises samples of
7 wine produced on the premises; to serve samples of wine produced at
8 the winery at festivals and trade shows; to sell wine produced at
9 the winery, in original sealed containers, at festivals and trade
10 shows; to sell wine out of this state to qualified persons; to
11 purchase from licensed winemakers, distillers and rectifiers in this
12 state, and to import into this state wine, brandy and fruit spirits
13 for use in manufacturing in accordance with federal laws and
14 regulations; provided, a winemaker either within or without this
15 state that annually produces no more than ten thousand (10,000)
16 gallons of wine may elect to sell and self-distribute the wine
17 produced by such winemaker directly to licensed retail package
18 stores and restaurants in this state; and provided further that:

19 1. Any such winemaker which elects to directly sell its wine to
20 package stores and restaurants shall not also use a licensed
21 wholesale distributor as a means of distribution, and shall be
22 required to sell its wines to every package store and restaurant
23 licensee who desires to purchase the same, on the same price basis
24 and without discrimination;

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

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

11 D. A winemaker self-distribution license shall authorize a
12 licensed winemaker within or without this state which is permitted
13 by Section 3 of Article XXVIII of the Oklahoma Constitution and
14 subsection C of this section, to distribute its wine directly to
15 retail package stores and restaurants in this state and that elects
16 to do so, to sell and deliver its wines directly to licensed retail
17 package stores and restaurants in this state in full case lots only,
18 and in accordance with the provisions of the Oklahoma Alcoholic
19 Beverage Control Act and such rules as the ABLE Commission shall
20 adopt.

21 E. A rectifier license shall authorize the holder thereof: To
22 rectify spirits and wines, bottle, package, and store same on the
23 licensed premises; to sell spirits and wines in this state to
24 licensed wholesalers and manufacturers only; to sell spirits and

1 wines out of this state to qualified persons; to purchase from
2 licensed manufacturers in this state; and to import into this state
3 for manufacturing purposes spirits and wines in accordance with
4 federal laws and regulations.

5 F. 1. A wholesaler license shall authorize the holder thereof:
6 To purchase and import into this state spirits and wines from
7 persons authorized to sell same who are the holders of a nonresident
8 seller license, and their agents who are the holders of
9 manufacturers agent licenses; to purchase spirits and wines from
10 licensed distillers, rectifiers and winemakers in this state; to
11 purchase spirits and wines from licensed wholesalers, to the extent
12 set forth in paragraphs 2 and 3 of this subsection; to sell in
13 retail containers in this state to retailers, mixed beverage,
14 caterer, special event, public event, hotel beverage or
15 airline/railroad beverage licensees, spirits and wines which have
16 been received and unloaded at the bonded warehouse facilities of the
17 wholesaler before such sale; to sell to licensed wholesalers, to the
18 extent set forth in paragraphs 2 and 3 of this subsection, spirits
19 and wines which have been received and unloaded at the bonded
20 warehouse facilities of the wholesaler before such sale; and to sell
21 spirits and wines out of this state to qualified persons. Provided,
22 however, sales of spirits and wine in containers with a capacity of
23 less than one-twentieth (1/20) gallon by a holder of a wholesaler
24 license shall be in full case lots and in the original unbroken

1 case. Wholesalers shall be authorized to place such signs outside
2 their place of business as are required by Acts of Congress and by
3 such laws and regulations promulgated under such Acts.

4 2. Wholesalers are prohibited from purchasing annually in
5 excess of fifteen percent (15%) of their total spirits inventory and
6 fifteen percent (15%) of their total wine inventory from one or more
7 wholesalers. Wholesalers are also prohibited from purchasing
8 annually in excess of fifteen percent (15%) of their inventory of
9 any individual brand of spirits or wine from one or more
10 wholesalers. The volume of spirits and wine and of each brand that
11 each wholesaler is permitted to purchase annually from other
12 wholesalers shall be calculated by the ABLE Commission by
13 multiplying fifteen percent (15%) by:

- 14 a. the total volume of spirits sales of the wholesaler,
15 by liter, from the previous calendar year, and
- 16 b. the total volume of wine sales of the wholesaler, by
17 liter, from the previous calendar year, and
- 18 c. the volume of sales of each brand of spirits or wine
19 of the wholesaler, by liter, from the previous
20 calendar year.

21 A wholesaler who did not post any sales of spirits, wine or of a
22 particular brand in the previous calendar year shall be deemed to
23 have sold the same volume of spirits, wine or of a particular brand
24 as the wholesaler posting the smallest volumes of sales in spirits,

1 wine or of a particular brand for that year for the purposes of this
2 paragraph. Notwithstanding the foregoing, wholesalers shall not
3 purchase any inventory in spirits or wine from any other wholesaler
4 until such time that the purchasing wholesaler possesses an
5 inventory valued at no less than Two Hundred Fifty Thousand Dollars
6 (\$250,000.00). Inventory valuation shall be based on the original
7 actual price paid by the purchasing wholesaler to the nonresident
8 seller for the inventory.

9 3. A wholesaler may sell spirits and wine to other wholesalers
10 or purchase spirits and wines from other wholesalers without
11 complying with paragraph 2 of this subsection in the case of the
12 sale, purchase, or other transfer or acquisition of the entire
13 business of a wholesaler, including the inventory of spirits and
14 wine.

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

20 5. All licensed wholesalers shall register prices, purchase and
21 keep on hand or have on order a fifteen-day supply of all brands
22 constituting the top eighteen brands in total sales by all Oklahoma
23 wholesalers during the past twelve-month period, according to the
24 records of the ABLE Commission as revised by the ABLE Commission

1 quarterly; provided, however, that not more than three brands of any
2 particular nonresident seller shall be included in the top-brands
3 classification. All purchase orders for these top eighteen brands
4 must show an expected due delivery date. These purchase orders may
5 only be canceled with prior approval of the Director of the ABLE
6 Commission, unless a wholesaler shall have in its warehouse a
7 fifteen-day supply of merchandise on such purchase order.

8 In order to allow the ABLE Commission to determine the top
9 eighteen brands, wholesalers must submit to the ABLE Commission
10 every sixty (60) days a sworn affidavit listing their top twenty-
11 five brands in sales for the previous sixty (60) days, excluding
12 sales to wholesalers. Such affidavits shall be submitted in
13 conjunction with the original price postings of wholesalers.

14 A fifteen-day supply of a particular brand for a particular
15 wholesaler shall be based upon the market share of the wholesaler,
16 determined by first multiplying the total number of liters of such
17 brand sold by all wholesalers to all retailers during the previous
18 calendar year by the percentage that the total sales of wine and
19 spirits of the particular wholesaler, in liters, for such calendar
20 year bears to the total sales of wine and spirits, in liters,
21 reported by all wholesalers for such calendar year; and then
22 dividing by twenty-four (24); provided, that a fifteen-day supply
23 for a wholesaler who has not been in business for the entirety of
24 the previous calendar year shall be deemed to be equal to that of

1 the wholesaler who was in business for the entirety of the previous
2 calendar year and who reported the lowest volume of sales of wine
3 and spirits, in liters, of any wholesaler having been in business
4 for such period.

5 G. A Class B wholesaler license shall authorize the holder
6 thereof: To purchase and import into this state beer from persons
7 authorized to sell same who are the holders of nonresident seller
8 licenses, and their agents who are the holders of manufacturers
9 agent licenses; to purchase beer from licensed brewers and Class B
10 wholesalers in this state; to sell in retail containers to
11 retailers, mixed beverage, caterer, special event, public event,
12 hotel beverage, and airline/railroad beverage licensees in this
13 state, beer which has been unloaded and stored at the holder's self-
14 owned or leased and self-operated warehouse facilities for a period
15 of at least twenty-four (24) hours before such sale; and to sell
16 beer in this state to Class B wholesalers and out of this state to
17 qualified persons, including federal instrumentalities and voluntary
18 associations of military personnel on federal enclaves in this state
19 over which this state has ceded jurisdiction.

20 H. A package store license shall authorize the holder thereof:
21 To purchase alcohol, spirits, beer, and wine in retail containers
22 from the holder of a brewer, wholesaler or Class B wholesaler
23 license and to purchase wine from a winemaker who is permitted and
24 has elected to self-distribute as provided in Section 3 of Article

1 XXVIII of the Oklahoma Constitution and to sell same on the licensed
2 premises in such containers to consumers for off-premises
3 consumption only and not for resale; provided, wine, beer, and
4 spirits may be sold to charitable organizations that are holders of
5 charitable alcoholic beverage auction or charitable alcoholic
6 beverage event licenses. All alcoholic beverages that are sold by a
7 package store are to be sold at ordinary room temperature.

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

17 Sales and service of mixed beverages by holders of mixed
18 beverage licenses shall be limited to the licensed premises of the
19 licensee unless the holder of the mixed beverage license also
20 obtains a caterer license or a mixed beverage/caterer combination
21 license. A mixed beverage license shall only be issued in counties
22 of this state where the sale of alcoholic beverages by the
23 individual drink for on-premises consumption has been authorized. A
24 separate license shall be required for each place of business. No

1 mixed beverage license shall be issued for any place of business
2 functioning as a motion picture theater, as defined by Section 506
3 of this title. A mixed beverage licensee whose main purpose is
4 hosting live performance art presentations may utilize the services
5 of a licensed caterer for its alcoholic beverage service as long as
6 it is not open to the public more than one hundred twenty (120) days
7 per year.

8 J. A bottle club license shall authorize the holder thereof: To
9 store, possess and mix alcoholic beverages belonging to members of
10 the club and to serve such alcoholic beverages for on-premises
11 consumption to club members. A bottle club license shall only be
12 issued in counties of this state where the sale of alcoholic
13 beverages by the individual drink for on-premises consumption has
14 not been authorized. A separate license shall be required for each
15 place of business.

16 K. A caterer license shall authorize the holder thereof: To
17 sell mixed beverages for on-premises consumption incidental to the
18 sale or distribution of food at particular functions, occasions, or
19 events which are private and temporary in nature. A caterer license
20 shall not be issued in lieu of a mixed beverage license. A caterer
21 license shall only be issued or utilized in counties of this state
22 where the sale of alcoholic beverages by the individual drink for
23 on-premises consumption has been authorized. A separate license
24 shall be required for each place of business.

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

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

20 2. A quarterly special event license shall authorize the holder
21 thereof: To sell and distribute mixed beverages for consumption on
22 the premises for which the license has been issued for up to three
23 events to be held over a period not to exceed three (3) months. For
24 purposes of this paragraph, an event shall not exceed a period of

1 ten (10) consecutive days. A quarterly special event license shall
2 only be issued in counties of this state where the sale of alcoholic
3 beverages by the individual drink for on-premises consumption has
4 been authorized. The holder of a quarterly special event license
5 shall provide written notice to the ABLE Commission of each special
6 event not less than ten (10) days before the event is held.

7 3. An annual 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 for up to six
10 events to be held over a period not to exceed one (1) year. The
11 applicant for an annual public event license, who does not already
12 hold a license issued by the ABLE Commission, shall make application
13 not less than sixty (60) days before its first event. The ABLE
14 Commission shall have the authority to waive the sixty-day
15 requirement at its discretion. For purposes of this paragraph, an
16 event shall not exceed a period of three (3) consecutive days. An
17 annual public event license shall only be issued in counties of this
18 state where the sale of alcoholic beverages by the individual drink
19 for on-premises consumption has been authorized. The holder of an
20 annual public event license shall provide written notice to the ABLE
21 Commission of each subsequent public event not less than ten (10)
22 days before the event is held. A public event license shall not be
23 used in lieu of a mixed beverage license. The holder of an annual
24 public event license may choose to utilize the services of a

1 licensed caterer to provide and distribute the alcoholic beverages
2 at their events. When the applicant chooses to utilize the services
3 of a licensed caterer, the applicant shall declare upon application
4 which licensed caterer will be used. The licensed caterer shall be
5 responsible for payment of all applicable mixed beverage taxes
6 through the existing Mixed Beverage Tax Permit issued to his or her
7 business by the Oklahoma Tax Commission.

8 4. A one-time public event license shall authorize the holder
9 thereof: to sell and distribute mixed beverages for consumption on
10 the premises for which the license has been issued. The applicant
11 for a one-time public event license, who does not already hold a
12 license issued by the ABLE Commission, shall make application not
13 less than sixty (60) days before the event. The ABLE Commission
14 shall have the authority to waive the sixty-day requirement at its
15 discretion. For purposes of this paragraph, an event shall not
16 exceed a period of three (3) consecutive days. A public event
17 license shall only be issued in counties of this state where the
18 sale of alcoholic beverages by the individual drink for on-premises
19 consumption has been authorized. A public event license shall not
20 be used in lieu of a mixed beverage license. The holder of a one-
21 time public event license may choose to utilize the services of a
22 licensed caterer to provide and distribute the alcoholic beverages
23 at his or her event. When the applicant chooses to utilize the
24 services of a licensed caterer, the applicant shall declare upon

1 application which licensed caterer will be used. The licensed
2 caterer shall be responsible for payment of all applicable mixed
3 beverage taxes through the existing Mixed Beverage Tax Permit issued
4 to his or her business by the Oklahoma Tax Commission.

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

17 N. An airline/railroad beverage license shall authorize the
18 holder thereof: To sell or serve alcoholic beverages in or from any
19 size container on a commercial passenger airplane or railroad
20 operated in compliance with a valid license, permit or certificate
21 issued under the authority of the United States or this state, even
22 though the airplane or train, in the course of its travel, may cross
23 an area in which the sale of alcoholic beverages by the individual
24 drink is not authorized and to store alcoholic beverages in sealed

1 containers of any size at any airport or station regularly served by
2 the licensee, in accordance with rules promulgated by the Alcoholic
3 Beverage Laws Enforcement Commission. Alcoholic beverages purchased
4 by the holder of an airline/railroad license from the holder of a
5 wholesaler license shall be presumed to be purchased for consumption
6 outside the State of Oklahoma or in interstate commerce, and shall
7 be exempt from the excise tax provided for in Section 553 of this
8 title.

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

21 P. An employee license shall authorize the holder thereof: To
22 work in a package store, mixed beverage establishment, beer and wine
23 establishment, bottle club, public event or any establishment where
24 alcohol or alcoholic beverages are sold, mixed, or served. Persons

1 employed by a mixed beverage licensee, beer and wine licensee,
2 public event licensee or a bottle club who do not participate in the
3 service, mixing, or sale of mixed beverages shall not be required to
4 have an employee license. Provided, however, that a manager
5 employed by a mixed beverage licensee, public event licensee or a
6 bottle club shall be required to have an employee license whether or
7 not the manager participates in the service, mixing or sale of mixed
8 beverages. Applicants for an employee license must have a health
9 card issued by the county in which they are employed, if the county
10 issues such a card. Employees of special event, caterer, unless
11 catering a mixed beverage licensed premises, or airline/railroad
12 beverage licensees, shall not be required to obtain an employee
13 license. Persons employed by a hotel licensee who participate in
14 the stocking of hotel room mini-bars or in the handling of alcoholic
15 beverages to be placed in such devices shall be required to have an
16 employee license.

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

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

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

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

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

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

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

23 S. A private carrier license may be issued to any carrier other
24 than a common carrier described in subsection Q of this section.

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

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

24

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

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

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

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

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

8 4. A storage license shall be required for a public event
9 licensee storing alcoholic beverages for use at a subsequent event;
10 and

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

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

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

17 Sales and service of beer and wine by holders of beer and wine
18 licenses shall be limited to the licensed premises of the licensee
19 unless the holder of the beer and wine license also obtains a
20 caterer license. A beer and wine 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. No
24 beer and wine license shall be issued for any place of business

1 functioning as a motion picture theater, as defined by Section 506
2 of this title. No spirits shall be stored, possessed or consumed on
3 the licensed premises of a beer and wine licensee.

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

14 1. Bid sheets are accepted from interested bidders at the
15 event;

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

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

20 A charitable alcoholic beverage event shall be conducted solely
21 to raise funds for charitable purposes. A charitable alcoholic
22 beverage license will allow the event attendees access to tastings,
23 samples, dinners, and alcoholic beverages as parts of their entrance
24 fee or ticket price. Wine, spirits and/or beer used in, served, or

consumed at a charitable alcoholic beverage event may be purchased by the charitable organization or donated by any person or entity. The charitable alcoholic beverage event license shall be issued for a period not exceeding four (4) days. Only eight such licenses may be issued to an organization in any twelve-month period. The charitable organization holding a charitable alcoholic beverage event license shall not be required to obtain a special event license. Charitable auction and charitable alcoholic beverage event license holders may also utilize a licensed caterer to provide additional alcohol services at the event and on the premises. The charitable auction license shall authorize the holder thereof to auction wine, spirits, and/or beer purchased from a retail package store or received as a gift from an individual if the auction is conducted to raise funds for charitable purposes. The charitable auction license shall be issued for a period not to exceed two (2) days. Only four such licenses shall be issued to an organization in any twelve-month period. The maximum amount of wine, spirits, and/or beer auctioned pursuant to the charitable auction license shall not exceed fifty (50) gallons. All wine, beer, and spirits auctioned pursuant to the charitable auction license shall be registered and all fees and taxes shall be paid in accordance with the Oklahoma Alcoholic Beverage Control Act.

Y. A mixed beverage/caterer combination license shall authorize the holder thereof: To purchase or sell mixed beverages as

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

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

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

1 permit holders. A small farm wine may display the trademarked
2 "Oklahoma Grown" sticker available from the Oklahoma Grape Industry
3 Council.

4 AA. In the event any portion of this section is declared
5 invalid for any reason, the invalid portion shall be severed and the
6 rest and remainder of the section shall be saved and given full
7 force and application.

8 BB. Except as provided in Sections 554.1 and 554.2 of Title 37
9 of the Oklahoma Statutes with respect to cities, towns and counties,
10 and except as may be provided under Title 68 of the Oklahoma
11 Statutes with respect to the Oklahoma Tax Commission, no license or
12 permit other than licenses as provided under the Oklahoma Alcoholic
13 Beverage Control Act shall be required of any licensee by any
14 agency, instrumentality or political subdivision of this state to
15 engage in any activity covered by the Oklahoma Alcoholic Beverage
16 Control Act anywhere within the State of Oklahoma and no agency,
17 instrumentality or political subdivision of this state shall
18 interfere with the ABLE Commission's regulation of, or a
19 wholesaler's performance of, the sale, distribution, possession,
20 handling or marketing of alcoholic beverages on any premises of any
21 licensee as defined in Section 506 of Title 37 of the Oklahoma
22 Statutes.

1 SECTION 6. REPEALER 37 O.S. 2011, Section 521, as last
2 amended by Section 1, Chapter 367, O.S.L. 2016 (37 O.S. Supp. 2016,
3 Section 521), is hereby repealed.

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

6 SECTION 8. AMENDATORY Section 14, Chapter 366, O.S.L.
7 2016 (37A O.S. Supp. 2016, Section 2-102), is amended to read as
8 follows:

9 Section 2-102. A. A brewer license shall authorize the holder
10 thereof:

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

13 2. To sell beer in this state to holders of beer distributor
14 licenses and to sell beer out of this state to qualified persons.

15 B. A small brewer license shall authorize the holder thereof:

16 1. To manufacture, bottle, package and store beer produced by
17 the licensee on licensed premises;

18 2. To sell beer in this state to holders of beer distributor
19 licenses and retail licenses or to sell beer out of this state to
20 qualified persons;

21 3. To sell beer produced by the licensee to consumers twenty-
22 one (21) years of age or older on the premises of the brewery;

23 4. To serve free samples of beer produced by the licensee to
24 visitors twenty-one (21) years of age or older;

1 ~~4.~~ 5. To sell beer produced by the licensee for either on-
2 premises or off-premises consumption to consumers on the brewery
3 premises, or on premises located contiguous thereto; and

4 ~~5.~~ 6. To sell beer at public events such as trade shows or
5 festivals.

6 C. Nothing in ~~this act~~ Section 1-101 et seq. of this title
7 shall prohibit the holder of a small brewer license from also
8 holding or owning an interest in the holder of a brewpub license.

9 D. For purposes of this section, no visitor may sample more
10 than a total of twelve (12) fluid ounces of beer per day. The
11 brewer must restrict the distribution and consumption of beer
12 samples to an area within the licensed premises designated by the
13 brewer. A current floor plan that includes the designated sampling
14 area must be on file with the ABLE Commission. No visitor under
15 twenty-one (21) years of age shall be permitted to enter this
16 designated sampling area when samples are being distributed or
17 consumed. Samples may only be distributed or consumed between 10:00
18 a.m. and 9:00 p.m. Samples and sales of beer made or served by a
19 brewery under this section shall not be considered a sale of beer
20 within the meaning of Article XXVIII A of the Oklahoma Constitution
21 or Section ~~3 of this act~~ 1-103 of this title; however, such samples
22 and sales of beer shall be considered beer removed or withdrawn from
23 the brewery for use or consumption within the meaning of Section ~~113~~

1 ~~of this act~~ 5-110 of this title for excise tax determination and
2 reporting requirements;

3 E. A small brewer self-distribution license shall authorize
4 holders of a small brewer license to distribute beer produced only
5 by such licensee to a holder of a retail beer license, retail
6 spirits license, mixed beverage license, beer and wine license,
7 caterer's license, special event license, public event license,
8 charitable auction license or brewpub license. A small brewer shall
9 elect whether it will distribute through a distributor or self-
10 distribute in a subject territory; however, a small brewer may not
11 elect to do both simultaneously in a subject territory. The
12 election shall be made through notice to the ABLE Commission. Any
13 changes to the election shall require immediate notification to the
14 ABLE Commission before the change in election will take effect. A
15 small brewer that elects to self-distribute in multiple territories
16 shall only be required to have one small brewer self-distribution
17 license.

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

20 SECTION 10. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 537.1A of Title 37, unless there
22 is created a duplication in numbering, reads as follows:
23
24

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

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

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

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

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

22 5. Refuse or fail to promptly open a door to the licensed
23 premises upon request of an agent or inspector of the Alcoholic
24 Beverage Laws Enforcement Commission or any other peace officer to

1 enter the premises, when the licensee or employee knows or should
2 know that such request is made by an agent or inspector of the ABLE
3 Commission or any other peace officer. This provision shall not be
4 construed to deny agents of the ABLE Commission or any other peace
5 officer access at any time to any licensed premises;

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

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

18 b. licensees, who are lawfully operating in a facility or
19 on property owned or operated by any agency, political
20 subdivision or public trust of this state, from
21 allowing persons to transport alcoholic beverages from
22 one licensed premises to another within the same
23 building or property, provided that the building or
24 property or a part thereof is defined as a common

1 drinking area for consumption of alcohol by resolution
2 of the governing body of the agency, political
3 subdivision or public trust of this state, or
4 c. licensees, who are licensed to operate in a facility
5 or on property owned or operated by any agency,
6 political subdivision or public trust of this state,
7 from allowing other licensees to operate on their
8 licensed premises for events that are temporary in
9 nature. In the event that multiple licensees are
10 operating in a facility or on property owned or
11 operated by any agency, political subdivision or
12 public trust of this state, each licensee shall be
13 responsible for violations occurring in their area
14 designated to be their temporary licensed premises; 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 11. REPEALER 37 O.S. 2011, Section 537.1, as
20 last amended by Section 1, Chapter 136, O.S.L. 2016 (37 O.S. Supp.
21 2016, Section 537.1), is hereby repealed.

22 SECTION 12. REPEALER Section 10 of this act is hereby
23 repealed.
24

SECTION 13. AMENDATORY Section 149, Chapter 366, O.S.L.

2016 (37A O.S. Supp. 2016, Section 6-109), is amended to read as follows:

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

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

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

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

4. Permit any illegal gambling activity, violations of the state narcotic and dangerous drug laws, prostitution activity or 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 employee of the ABLE Commission or any
3 other peace officer to enter the premises when the licensee or
4 employee knows or should know that such request is made by an
5 employee of the ABLE Commission or a peace officer. This provision
6 shall not be construed to deny employees of the ABLE Commission or
7 peace officers access at any time to any licensed premises;

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

- 16 a. hotels or motels who are holders of mixed beverage or
17 on-premises beer and wine licenses from allowing
18 alcoholic beverages to be served away from the bar
19 area anywhere on the licensed premises, ~~or~~
20 b. licensees, who are lawfully operating ~~at an event held~~
21 in a facility or on property owned or operated by any
22 agency, political subdivision or public trust of this
23 state, from allowing persons to transport alcoholic
24 beverages from one licensed premises to another within

1 the same building or property, provided that the
2 building or property or a part thereof is defined as a
3 common drinking area for consumption of alcohol by
4 resolution of the governing body of the agency,
5 political subdivision or public trust of this state,
6 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 14. Sections 12 and 13 of this act shall become
23 effective October 1, 2018.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 553A of Title 37, unless there is created a duplication in numbering, reads as follows:

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

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

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

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

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

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

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

1. Payment of the excise tax levied by this section with respect to all alcoholic beverages, other than beer, shall be made by the person shipping the same into Oklahoma, or in the case of direct imports from foreign countries by the importer, or in the

1 case of alcoholic beverages manufactured in Oklahoma by the first
2 seller thereof; and

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

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

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

5 SECTION 16. REPEALER 37 O.S. 2011, Section 553, as last
6 amended by Section 2, Chapter 261, O.S.L. 2016 (37 O.S. Supp. 2016,
7 Section 553), is hereby repealed.

8 SECTION 17. REPEALER Section 15 of this act is hereby
9 repealed.

10 SECTION 18. AMENDATORY Section 104, Chapter 366, O.S.L.
11 2016 (37A O.S. Supp. 2016, Section 5-101), is amended to read as
12 follows:

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

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

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

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

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

1 on each barrel of beer; provided, beer manufactured in this state
2 for export shall not be 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. The due and payable excise tax levied by this section shall
12 be remitted electronically simultaneously with tax returns
13 electronically filed with the Oklahoma Tax Commission using
14 procedures prescribed by the Tax Commission. The tax returns shall
15 be made under oath by the person liable for the tax on forms
16 prescribed and provided by the Tax Commission and shall be
17 accompanied by payment of the taxes due and any additional sums due
18 as provided by this section. Invoices describing all alcoholic
19 beverages as described in this section which are shipped into this
20 state or which are first sold in this state shall be delivered to
21 the Tax Commission immediately following shipment of liquors into
22 the state or delivery to the first purchaser. Tax returns and
23 payment of excise tax and other sums due shall be electronically
24 filed with the Tax Commission no later than the twentieth day of the

1 month immediately succeeding the month of shipment, importation or
2 first sale of the alcoholic beverages as provided in paragraph 1 of
3 this subsection; and

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

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

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

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

18 SECTION 19. Sections 17 and 18 of this act shall become
19 effective October 1, 2018.

20 SECTION 20. It being immediately necessary for the preservation
21 of the public peace, health or safety, an emergency is hereby
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24

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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