HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

HOUSE BILL 3905 By: Fetgatter of the House

and

Bice of the Senate

AS INTRODUCED

An Act relating to alcoholic beverages; amending Section 104, Chapter 366, O.S.L. 2016, as amended by Section 13, Chapter 205, O.S.L. 2017 (37A O.S. Supp. 2019, Section 5-101), which relates to excise taxation upon alcoholic beverages; modifying provisions related to incident of tax; requiring remittance of tax by designated license holders; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 104, Chapter 366, O.S.L. 2016, as amended by Section 13, Chapter 205, O.S.L. 2017 (37A O.S. Supp. 2019, Section 5-101), is amended to read as follows:

Section 5-101. A. Except as provided in 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; and

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; provided, 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 case of alcoholic beverages manufactured in Oklahoma by the first seller thereof~~ as follows:

a. the excise tax on all wine and spirits shall be collected and remitted by the Oklahoma wine and spirits wholesaler who purchases the alcoholic beverages for sale within the state, unless otherwise provided by subparagraph b of this paragraph,

b. the excise tax on all wine shipped directly to a consumer by a winery maintaining a Winemaker Self-Distribution License pursuant Section 2-105 of this title or a winery maintaining a Direct Wine Shipper's Permit pursuant to Section 3-106 of this title shall be collected and remitted by the winery maintaining this license or permit; and

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

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

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

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

SECTION 2. This act shall become effective July 1, 2020.

SECTION 3. 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 APPROPRIATIONS AND BUDGET, dated 02/20/2020 - DO PASS, As Coauthored.