

1 **SENATE FLOOR VERSION**

2 April 11, 2019

3 ENGROSSED HOUSE
4 BILL NO. 1641

By: Echols of the House

and

Bice of the Senate

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7
8 An Act relating to alcoholic beverages; amending
9 Section 13, Chapter 366, O.S.L. 2016, as last amended
10 by Section 2, Chapter 312, O.S.L. 2018 (37A O.S.
11 Supp. 2018, Section 2-101), which relates to fees;
12 modifying name of certain license; adding certain
13 license information; amending Section 19, Chapter
14 366, O.S.L. 2016, as amended by Section 11, Chapter
15 364, O.S.L. 2017 (37A O.S. Supp. 2018, Section 2-
16 107), which relates to the wine and spirits
17 wholesaler license; authorizing wine or spirits
18 wholesaler licensee to purchase or import from
19 certain additional sources; restricting certain
20 purchases of alcoholic beverages by wholesalers;
21 requiring certain licensees to collect and remit
22 excise taxes on certain imports; expanding exception
23 to the certain restrictions on the sales of spirits
24 and wine between wholesalers; amending Section 47,
Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018,
Section 2-135), which relates to the manufacturer's
license; authorizing the election of designating or
nondesignating manufacturer status; and providing an
effective date.

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

SECTION 1. AMENDATORY Section 13, Chapter 366, O.S.L.
2016, as last amended by Section 2, Chapter 312, O.S.L. 2018 (37A
O.S. Supp. 2018, Section 2-101), is amended to read as follows:

Section 2-101. A. Except as otherwise provided in this section, the licenses issued by the ABLE Commission, and the annual fees therefor, shall be as follows:

1. Brewer License.....	\$1,250.00
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2. Small Brewer License..... \$125.00

3. Distiller License.....	\$3,125.00
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4. Winemaker License.....	\$625.00
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5. Small Farm Winery License.....	\$75.00
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6. Rectifier License.....	\$3,125.00
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7. Wine and Spirits Wholesaler License.....	\$3,000.00
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8. Beer Distributor License.....	\$750.00
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9. The following retail spirits license fees shall be determined by the latest Federal Decennial Census:

a. Retail Spirits License for cities and towns from 200 to 2,500 population.....\$305.00

b. Retail Spirits License for cities and towns from 2,501 to 5,000 population.....\$605.00

c.	Retail Spirits License for cities and towns over 5,000 population.....	\$905.00
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10.	Retail Wine License.....	\$1,000.00
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11.	Retail Beer License.....	\$500.00
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12. Mixed Beverage License.....	\$1,005.00
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(initial license)
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\$905.00

1		(renewal)
2	13. Mixed Beverage/Caterer Combination License.....	\$1,250.00
3	14. On-Premises Beer and Wine License.....	\$500.00
4		(initial license)
5		\$450.00
6		(renewal)
7	15. Bottle Club License.....	\$1,000.00
8		(initial license)
9		\$900.00
10		(renewal)
11	16. Caterer License.....	\$1,005.00
12		(initial license)
13		\$905.00
14		(renewal)
15	17. Annual Special Event License.....	\$55.00
16	18. Quarterly Special Event License.....	\$55.00
17	19. Hotel Beverage License.....	\$1,005.00
18		(initial license)
19		\$905.00
20		(renewal)
21	20. Airline/Railroad Beverage License.....	\$1,005.00
22		(initial license)
23		\$905.00
24		(renewal)

1	21.	Agent License.....	\$55.00
2	22.	Employee License.....	\$30.00
3	23.	Industrial License.....	\$23.00
4	24.	Carrier License.....	\$23.00
5	25.	Private Carrier License.....	\$23.00
6	26.	Bonded Warehouse License.....	\$190.00
7	27.	Storage License.....	\$23.00
8	28.	Nonresident Seller License or Manufacturer's	
9		License	\$750.00
10	28A.	<u>Designating or Nondesignating Manufacturer</u>	
11		<u>License:</u>	
12	a.	<u>50 cases or less sold in Oklahoma in</u>	
13		<u>last calendar year.....</u>	<u>\$75.00</u>
14	b.	<u>51 to 500 cases sold in Oklahoma in</u>	
15		<u>last calendar year.....</u>	<u>\$100.00</u>
16	c.	<u>501 cases or more sold in Oklahoma in</u>	
17		<u>last calendar year.....</u>	<u>\$125.00</u>
18	29.	Manufacturer's Agent License.....	\$55.00
19	30.	Sacramental Wine Supplier License.....	\$100.00
20	31.	Charitable Auction License.....	\$1.00
21	32.	Charitable Alcoholic Beverage License.....	\$55.00
22	33.	Winemaker Self-Distribution License.....	\$750.00
23	34.	Annual Public Event License.....	\$1,005.00
24	35.	One-Time Public Event License.....	\$255.00

1 36. Small Brewer Self-Distribution License..... \$750.00

2 37. Brewpub License..... \$1,005.00

3 38. Brewpub Self-Distribution License..... \$750.00

4 B. 1. There shall be added to the initial or renewal fees for
5 a Mixed Beverage License an administrative fee, which shall not be
6 deemed to be a license fee, in the amount of Five Hundred Dollars
7 (\$500.00), which shall be paid at the same time and in the same
8 manner as the license fees prescribed by paragraph ~~10~~ 12 of
9 subsection A of this section; provided, this fee shall not be
10 assessed against service organizations or fraternal beneficiary
11 societies which are exempt under Section 501(c)(19), (8) or (10) of
12 the Internal Revenue Code.

13 2. There shall be added to the fee for a Mixed Beverage/Caterer
14 Combination License an administrative fee, which shall not be deemed
15 to be a license fee, in the amount of Two Hundred Fifty Dollars
16 (\$250.00), which shall be paid at the same time and in the same
17 manner as the license fee prescribed by paragraph ~~11~~ 13 of
18 subsection A of this section.

19 C. Notwithstanding the provisions of subsection A of this
20 section:

21 1. The license fee for a mixed beverage or bottle club license
22 for those service organizations or fraternal beneficiary societies
23 which are exempt under Section 501(c)(19), (8) or (10) of the
24

1 Internal Revenue Code shall be Five Hundred Dollars (\$500.00) per
2 year; and

3 2. The renewal fee for an airline/railroad beverage license
4 held by a railroad described in 49 U.S.C., Section 24301, shall be
5 One Hundred Dollars (\$100.00).

6 D. An applicant may apply for and receive both an on-premises
7 beer and wine license and a caterer license.

8 E. All licenses, except as otherwise provided, shall be valid
9 for one (1) year from date of issuance unless revoked or
10 surrendered. Provided, all employee licenses shall be valid for two
11 (2) years.

12 F. The holder of a license, issued by the ABLE Commission, for
13 a bottle club located in a county of this state where the sale of
14 alcoholic beverages by the individual drink for on-premises
15 consumption has been authorized, may exchange the bottle club
16 license for a mixed beverage license or an on-premises beer and wine
17 license and operate the licensed premises as a mixed beverage
18 establishment or an on-premises beer and wine establishment subject
19 to the provisions of the Oklahoma Alcoholic Beverage Control Act.
20 There shall be no additional fee for such exchange and the mixed
21 beverage license or on-premises beer and wine license issued shall
22 expire one (1) year from the date of issuance of the original bottle
23 club license.

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1 G. In addition to the applicable licensing fee, the following
2 surcharge shall be assessed annually on the following licenses:

3 1. Nonresident Seller ~~or Manufacturer~~ License..... \$2,500.00

4 1A. Designating or Nondesignating Manufacturer
5 License:

6 a. 50 cases or less sold in Oklahoma in
7 last calendar year..... \$125.00

8 b. 51 to 500 cases sold in Oklahoma in
9 last calendar year..... \$250.00

10 c. 501 cases or more sold in Oklahoma in
11 last calendar year..... \$375.00

12 2. Wine and Spirits Wholesaler License..... \$2,500.00

13 3. Beer Distributor..... \$1,000.00

14 4. Retail Spirits License for cities and towns
15 over 5,000 population..... \$250.00

16 5. Retail Spirits License for cities and towns
17 from 2,501 to 5,000 population..... \$200.00

18 6. Retail Spirits License for cities and towns
19 from 200 to 2,500 population..... \$150.00

20 7. Retail Wine License..... \$250.00

21 8. Retail Beer License..... \$250.00

22 9. Mixed Beverage License..... \$25.00

23 10. Mixed Beverage/Caterer Combination License..... \$25.00

24 11. Caterer License..... \$25.00

- 1 12. On-Premises Beer and Wine License..... \$25.00
2 13. Annual Public Event License..... \$25.00
3 14. Small Farm Winery License..... \$25.00
4 15. Small Brewer License..... \$35.00

5 The surcharge shall be paid concurrent with the licensee's
6 annual licensing fee and, in addition to Five Dollars (\$5.00) of the
7 employee license fee, shall be deposited in the Alcoholic Beverage
8 Governance Revolving Fund established pursuant to Section 5-128 of
9 this title.

10 H. Any license issued by the ABLE Commission under this title
11 may be relied upon by other licensees as a valid license, and no
12 other licensee shall have any obligation to independently determine
13 the validity of such license or be held liable solely as a
14 consequence of another licensee's failure to maintain a valid
15 license.

16 SECTION 2. AMENDATORY Section 19, Chapter 366, O.S.L.
17 2016, as amended by Section 11, Chapter 364, O.S.L. 2017 (37A O.S.
18 Supp. 2018, Section 2-107), is amended to read as follows:

19 Section 2-107. A. A wine and spirits wholesaler license shall
20 authorize the holder thereof:

21 1. To purchase and import into this state spirits and wines
22 from persons authorized to sell same who are the holders of a
23 designating manufacturer license, nondesignating manufacturer
24 license or nonresident seller license, and their agents who are the

1 holders of manufacturer's agent licenses; provided, it shall be
2 unlawful for any wholesaler to purchase any alcoholic beverage for
3 resale unless those alcoholic beverages are purchased from the
4 primary American source of supply for the brand of alcoholic
5 beverages sought to be resold;

6 2. To purchase spirits and wines from licensed distillers,
7 rectifiers and winemakers in this state;

8 3. To purchase spirits and wines from licensed wholesalers, to
9 the extent set forth in subsections B and C of this section;

10 4. To sell in retail containers in this state to retailers,
11 mixed beverage, caterer, special event, public event, hotel beverage
12 or airline/railroad beverage licensees, spirits and wines which have
13 been received and unloaded at the bonded warehouse facilities of the
14 wholesaler before such sale; provided, it shall be unlawful for any
15 wholesaler to sell any alcoholic beverages if the alcoholic
16 beverages have not been purchased by the wholesaler from the primary
17 American source of supply;

18 5. To sell to licensed wholesalers, to the extent set forth in
19 subsections B and C of this section, spirits and wines which have
20 been received and unloaded at the bonded warehouse facilities of the
21 wholesaler before such sale; ~~and~~

22 6. To sell spirits and wines out of this state to qualified
23 persons; and
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1 7. To collect and remit excise taxes on all alcoholic beverages
2 it has transported into the state.

3 Provided, however, sales of spirits and wine in containers with
4 a capacity of less than one-twentieth (1/20) gallon by a holder of a
5 wholesaler license shall be in full case lots and in the original
6 unbroken case. Wholesalers shall be authorized to place such signs
7 outside their place of business as are required by Acts of Congress
8 and by such laws and regulations promulgated under such Acts.

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

15 C. A wholesaler license shall authorize the holder thereof to:

16 1. Maintain not more than three (3) self-owned or leased and
17 self-operated bonded warehouses within this state. All invoices
18 shall be stored at the principal place of business for which the
19 wholesaler license was granted; and

20 2. Accept as payment cash, personal check, cashier's check,
21 money order or electronic fund transfer from persons licensed to
22 purchase alcoholic beverages; provided, a wholesaler shall not be
23 permitted to accept payment by credit card.

1 SECTION 3. AMENDATORY Section 47, Chapter 366, O.S.L.

2 2016 (37A O.S. Supp. 2018, Section 2-135), is amended to read as
3 follows:

4 Section 2-135. A. All out-of-state distillers, winemakers,
5 brewers, importers, brokers and others who sell alcoholic beverages
6 to wine and spirits wholesalers and beer distributors in Oklahoma,
7 regardless of whether such sales are consummated within or without
8 the state, must either obtain a manufacturer's license or contract
9 with a person that maintains a nonresident seller license in order
10 to sell alcoholic beverages intended for consumption within the
11 State of Oklahoma.

12 A manufacturer's license or nonresident seller license shall
13 authorize the holder thereof to solicit and take orders for
14 alcoholic beverages from the holders of licenses authorized to
15 import the same into this state, and to ship or deliver, or cause to
16 be shipped or delivered, alcoholic beverages into Oklahoma pursuant
17 to such sales.

18 B. A brewer not licensed in this state selling beer to a
19 nonresident seller shall have a written distribution sales agreement
20 with the nonresident seller. Such agreement shall be subject to
21 inspection by the ABLE Commission.

22 C. The ABLE Commission may, subject to the provisions of the
23 Oklahoma Alcoholic Beverage Control Act requiring notice and hearing
24 in the case of sanctions against holders of licenses, suspend or

1 revoke a manufacturer's license or nonresident seller license for
2 any violation of the Oklahoma Alcoholic Beverage Control Act by the
3 holder thereof.

4 D. No licensee in this state authorized to import alcoholic
5 beverages into this state shall purchase or receive any alcoholic
6 beverages from without this state from any person not holding a
7 valid and existing manufacturer's license or nonresident seller
8 license. Every manufacturer's license or nonresident seller license
9 shall expire on the June 30 following its issuance or renewal, and
10 shall be eligible for subsequent renewal terms of one (1) year
11 beginning on the July 1 following each expiration. License fees for
12 a new or initial manufacturer's license or nonresident seller
13 license applied for after July 1 may be prorated through the
14 following June 30 on a quarterly basis.

15 E. The holder of a manufacturer's license or nonresident seller
16 license shall, promptly upon consignment of any alcoholic beverages
17 to an importer in Oklahoma, forward to the ABLE Commission a true
18 copy of the invoice, bill of lading or other document as the ABLE
19 Commission may by rule prescribe, showing the details of such
20 shipment.

21 F. Any person, not otherwise a dealer in alcoholic beverages,
22 coming into possession of any alcoholic beverages as security for or
23 in payment of a debt, or as an insurer or its transferee or assignee
24 for the salvage or liquidation of an insured casualty or damage or

1 loss, or as an executor, administrator, trustee or other fiduciary,
2 may sell the beverages in one lot or parcel to a duly licensed
3 wholesaler or beer distributor at an agreed-upon price without
4 regard to current posted prices. However, immediately after taking
5 possession of the alcoholic beverages, the person shall register
6 with the Director and furnish a detailed list of the alcoholic
7 beverages and post with the Director a bond in such amount as the
8 Director deems sufficient to protect the state from any taxes due on
9 the alcoholic beverages. The person shall pay to the Director a
10 registration fee of Fifty Dollars (\$50.00), which fee shall permit
11 the sale of only the alcoholic beverages detailed in the
12 registration request. A wholesaler or beer distributor receiving a
13 lot or parcel of alcoholic beverages pursuant to this subsection may
14 sell it in one lot or parcel or more than one lot or parcel to a
15 licensed package store or mixed beverage licensee or more than one
16 licensed package store or mixed beverage licensee at an agreed-upon
17 price without regard to current posted prices; provided, the total
18 of the lots sold by the wholesaler or beer distributor shall not
19 exceed four (4) lots.

20 G. In the event a winery, distiller, importer or broker obtains
21 a manufacturer's license, the manufacturer shall elect to be either
22 a designating manufacturer or nondesignating manufacturer. For
23 purposes of this title:
24

1 1. "Designating manufacturer" shall be any manufacturer,
2 importer, broker or agent that has designated a wine and spirits
3 wholesaler to distribute one or more stock keeping units (SKUs)
4 within the state; and

5 2. "Nondesignating manufacturer" shall be any manufacturer,
6 importer, broker or agent that has elected to allow all wine and
7 spirits wholesalers to distribute one or more SKUs within the state.

8 SECTION 4. This act shall become effective November 1, 2019.

9 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM
10 April 11, 2019 - DO PASS
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