

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 COMMITTEE SUBSTITUTE  
4 FOR

5 SENATE BILL NO. 945

By: David

6 COMMITTEE SUBSTITUTE

7 An Act relating to beer industry requirements;  
8 amending Section 77, Chapter 366, O.S.L. 2016, as  
9 amended by Section 13, Chapter 322, O.S.L. 2019 (37A  
10 O.S. Supp. 2020, Section 3-107), which relates to  
11 regulation of beer distribution agreements;  
12 prohibiting certain requirement on non-manufactured  
13 products; excepting certain brewers and  
14 manufacturers; prohibiting controlling hiring  
15 decisions; prohibiting mandating advertising  
16 payments; prohibiting mandating certain point of sale  
17 advertising and payments; prohibiting initiation of  
18 electronic funds for products exceeding the order;  
19 prohibiting certain penalty for noncompliance;  
20 prohibiting loss for product not in possession;  
21 prohibiting certain payments or mandates for  
22 software; providing a certain exception; and  
23 providing an effective date.

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

SECTION 1. AMENDATORY Section 77, Chapter 366, O.S.L.  
2016, as amended by Section 13, Chapter 322, O.S.L. 2019 (37A O.S.  
Supp. 2020, Section 3-107), is amended to read as follows:

Section 3-107. A. In order to provide for regulation of the  
sales and distribution of beer in this state by the ABLE Commission,  
this Legislature hereby declares it is necessary to implement the  
section.

1 B. Statutory regulation of the sales and distribution of  
2 designated brands in designated territories by distributors shall  
3 include but not be limited to:

4 1. A requirement for written distributor agreements between a  
5 brewer and distributor designating a specific territory within which  
6 the distributor may sell the designated brands of the brewer;

7 2. Provisions for prohibited acts applicable to the distributor  
8 and brewer; and

9 3. Provisions for penalties for violations.

10 C. Except for a brewer or manufacturer that has met the  
11 provisions of subsection E of Section 3-108 of this title, for  
12 contracts entered or renewed on and after the effective date of this  
13 act, a beer distribution agreement with a manufacturer, brewer or  
14 importer of beer shall not have any provision to:

15 1. Coerce or require a wholesaler to gather or submit sales  
16 records, retail placement, price, discount, rebate or other details for  
17 beer brands not manufactured, brewed or imported by the manufacturer,  
18 brewer or importer;

19 2. Mandate wholesaler employee hiring decisions or payment rates  
20 including incentives;

21 3. Require a wholesaler to pay or contribute marketing,  
22 advertising or other funds for control or expenditure by the  
23 manufacturer, brewer or importer, except a wholesaler may agree, in  
24

1 writing and advance, to spend or contribute wholesaler funds for a  
2 specified marketing or advertising plan or opportunity;

3 4. Ship, invoice or initiate electronic funds transfer payment for  
4 any quantity of beer exceeding an order, forecast or inventory level  
5 specified by a wholesaler or include in a beer sales invoice charges for  
6 any items other than beer, freight, fuel, cooperage, dunnage, pallets  
7 and related deposits;

8 5. Invoice or initiate electronic funds transfer payment for point  
9 of sale advertising specialties or other items, except a manufacturer,  
10 brewer or importer may itself place an order and invoice or initiate  
11 electronic funds transfer payment for point of sale advertising  
12 specialties or other items pursuant to a specific and advance written  
13 agreement to do so between the wholesaler and the manufacturer, brewer  
14 or importer;

15 6. Attribute risk of loss, ownership or other financial interest  
16 to a wholesaler for beer not in the wholesaler's possession; or

17 7. Require a wholesaler to use or pay for development, installation  
18 or use of any software owned or mandated by the manufacturer, brewer or  
19 importer, except a wholesaler may be required to maintain data in a  
20 format compatible with data format standards adopted or with electronic  
21 information systems utilized by a manufacturer, brewer or importer.

22 SECTION 2. This act shall become effective November 1, 2021.  
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24 58-1-1858 NP 2/24/2021 9:13:53 AM