

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 58th Legislature (2021)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1920

By: Martinez

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9 COMMITTEE SUBSTITUTE

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

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:

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

5 B. Statutory regulation of the sales and distribution of
6 designated brands in designated territories by distributors shall
7 include but not be limited to:

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

11 2. Provisions for prohibited acts applicable to the distributor
12 and brewer; and

13 3. Provisions for penalties for violations.

14 C. Except for a brewer that has met the provisions of
15 subsection E of Section 3-108 of Title 37A of the Oklahoma Statutes
16 and notwithstanding any existing beer distribution agreement to the
17 contrary, a brewer or importer of beer shall not:

18 1. Coerce or require a distributor to gather or submit sales
19 records, retail placement, price, discount, rebate or other details
20 for beer brands not brewed or imported by the brewer or importer;

21 2. Mandate distributor employee hiring decisions or payment
22 rates including incentives;

23 3. Require a distributor to pay or contribute marketing,
24 advertising or other funds for control or expenditure by the brewer

1 or importer, except a distributor may agree, in writing and advance,
2 to spend or contribute distributor funds for a specified marketing
3 or advertising plan or opportunity;

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

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

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

19 7. Require a distributor to use or pay for development,
20 installation, or use of any software owned or mandated by the brewer
21 or importer, except a distributor may be required to maintain data
22 in a format compatible with data format standards adopted or with
23 electronic information systems utilized by a brewer or importer.
24

SECTION 2. This act shall become effective November 1, 2021.

COMMITTEE REPORT BY: COMMITTEE ON ALCOHOL, TOBACCO AND CONTROLLED
SUBSTANCES, dated 03/01/2021 - DO PASS, As Amended.