

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2665

By: Echols

4
5 AS INTRODUCED

6 An Act relating to alcoholic beverages; amending
7 Section 13, Chapter 366, O.S.L. 2016, as last amended
8 by Section 9, Chapter 161, O.S.L. 2020 (37A O.S.
9 Supp. 2020, Section 2-101), which relates to fees;
10 modifying name of certain license; adding certain
11 license information; amending Section 19, Chapter
12 366, O.S.L. 2016, as amended by Section 11, Chapter
13 364, O.S.L. 2017 (37A O.S. Supp. 2020, Section 2-
14 107), which relates to the wine and spirits
15 wholesaler license; authorizing wine or spirits
16 wholesaler licensee to purchase or import from
17 certain additional sources; restricting certain
18 purchases of alcoholic beverages by wholesalers;
19 requiring certain licensees to collect and remit
20 excise taxes on certain imports; expanding exception
21 to the certain restrictions on the sales of spirits
22 and wine between wholesalers; amending Section 47,
23 Chapter 366, O.S.L. 2016, as amended by Section 7,
24 Chapter 322, O.S.L. 2019 (37A O.S. Supp. 2020,
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 9, Chapter 161, O.S.L. 2020 (37A
O.S. Supp. 2020, Section 2-101), is amended to read as follows:

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

- 4 1. Brewer License..... \$1,250.00
- 5 2. Small Brewer License..... \$125.00
- 6 3. Distiller License..... \$3,125.00
- 7 4. Winemaker License..... \$625.00
- 8 5. Small Farm Winery License..... \$75.00
- 9 6. Rectifier License..... \$3,125.00
- 10 7. Wine and Spirits Wholesaler License..... \$3,000.00
- 11 8. Beer Distributor License..... \$750.00
- 12 9. The following retail spirits license fees
13 shall be determined by the latest Federal
14 Decennial Census:
 - 15 a. Retail Spirits License for cities and
16 towns from 200 to 2,500 population..... \$305.00
 - 17 b. Retail Spirits License for cities and
18 towns from 2,501 to 5,000 population..... \$605.00
 - 19 c. Retail Spirits License for cities and
20 towns over 5,000 population..... \$905.00
- 21 10. Retail Wine License..... \$1,000.00
- 22 11. Retail Beer License..... \$500.00
- 23 12. Mixed Beverage License..... \$1,005.00

24 (initial license)

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

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|----|--|-----------------|
| 1 | | \$905.00 |
| 2 | | (renewal) |
| 3 | 21. Agent License..... | \$55.00 |
| 4 | 22. Employee License..... | \$30.00 |
| 5 | 23. Industrial License..... | \$23.00 |
| 6 | 24. Carrier License..... | \$23.00 |
| 7 | 25. Private Carrier License..... | \$23.00 |
| 8 | 26. Bonded Warehouse License..... | \$190.00 |
| 9 | 27. Storage License..... | \$23.00 |
| 10 | 28. Nonresident Seller License or Manufacturer's | |
| 11 | License | \$750.00 |
| 12 | 29. <u>Designating or Nondesignating Manufacturer</u> | |
| 13 | <u>License:</u> | |
| 14 | <u>a. 50 cases or less sold in Oklahoma in</u> | |
| 15 | <u>last calendar year.....</u> | <u>\$75.00</u> |
| 16 | <u>b. 51 to 500 cases sold in Oklahoma in</u> | |
| 17 | <u>last calendar year.....</u> | <u>\$100.00</u> |
| 18 | <u>c. 501 cases or more sold in Oklahoma in</u> | |
| 19 | <u>last calendar year.....</u> | <u>\$125.00</u> |
| 20 | <u>30.</u> Manufacturer's Agent License..... | \$55.00 |
| 21 | 30. <u>31.</u> Sacramental Wine Supplier License..... | \$100.00 |
| 22 | 31. <u>32.</u> Charitable Auction License..... | \$1.00 |
| 23 | 32. <u>33.</u> Charitable Alcoholic Beverage License..... | \$55.00 |
| 24 | 33. <u>34.</u> Winemaker Self-Distribution License..... | \$750.00 |

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|---|---------------------------|---|------------|
| 1 | 34. <u>35.</u> | Annual Public Event License..... | \$1,005.00 |
| 2 | 35. <u>36.</u> | One-Time Public Event License..... | \$255.00 |
| 3 | 36. <u>37.</u> | Small Brewer Self-Distribution License..... | \$750.00 |
| 4 | 37. <u>38.</u> | Brewpub License..... | \$1,005.00 |
| 5 | 38. <u>39.</u> | Brewpub Self-Distribution License..... | \$750.00 |
| 6 | 39. <u>40.</u> | Complimentary Beverage License..... | \$75.00 |
| 7 | 40. <u>41.</u> | Satellite Tasting Room License..... | \$100.00 |

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

17 2. There shall be added to the fee for a Mixed Beverage/Caterer
18 Combination License an administrative fee, which shall not be deemed
19 to be a license fee, in the amount of Two Hundred Fifty Dollars
20 (\$250.00), which shall be paid at the same time and in the same
21 manner as the license fee prescribed by paragraph 13 of subsection A
22 of this section.

23 C. Notwithstanding the provisions of subsection A of this
24 section:

1 1. The license fee for a mixed beverage or bottle club license
2 for those service organizations or fraternal beneficiary societies
3 which are exempt under Section 501(c)(19), (8) or (10) of the
4 Internal Revenue Code shall be Five Hundred Dollars (\$500.00) per
5 year; and

6 2. The renewal fee for an airline/railroad/commercial passenger
7 vessel beverage license held by a railroad described in 49 U.S.C.,
8 Section 24301, shall be One Hundred Dollars (\$100.00).

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

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

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

1 expire one (1) year from the date of issuance of the original bottle
2 club license.

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

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

6 2. Designating or Nondesignating Manufacturer

7 License:

8 a. 50 cases or less sold in Oklahoma in
9 last calendar year..... \$125.00

10 b. 51 to 500 cases sold in Oklahoma in
11 last calendar year..... \$250.00

12 c. 501 cases or more sold in Oklahoma in
13 last calendar year..... \$375.00

14 3. Wine and Spirits Wholesaler License..... \$2,500.00

15 ~~3.~~ 4. Beer Distributor..... \$1,000.00

16 ~~4.~~ 5. Retail Spirits License for cities and
17 towns over 5,000 population..... \$250.00

18 ~~5.~~ 6. Retail Spirits License for cities and
19 towns from 2,501 to 5,000 population..... \$200.00

20 ~~6.~~ 7. Retail Spirits License for cities and
21 towns from 200 to 2,500 population..... \$150.00

22 ~~7.~~ 8. Retail Wine License..... \$250.00

23 ~~8.~~ 9. Retail Beer License..... \$250.00

24 ~~9.~~ 10. Mixed Beverage License..... \$25.00

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|---|---------------------------|--|---------|
| 1 | 10. <u>11.</u> | Mixed Beverage/Caterer Combination | |
| 2 | | License..... | \$25.00 |
| 3 | 11. <u>12.</u> | Caterer License..... | \$25.00 |
| 4 | 12. <u>13.</u> | On-Premises Beer and Wine License..... | \$25.00 |
| 5 | 13. <u>14.</u> | Annual Public Event License..... | \$25.00 |
| 6 | 14. <u>15.</u> | Small Farm Winery License..... | \$25.00 |
| 7 | 15. <u>16.</u> | Small Brewer License..... | \$35.00 |
| 8 | 16. <u>17.</u> | Complimentary Beverage License..... | \$25.00 |

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

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

20 SECTION 2. AMENDATORY Section 19, Chapter 366, O.S.L.
21 2016, as amended by Section 11, Chapter 364, O.S.L. 2017 (37A O.S.
22 Supp. 2020, Section 2-107), is amended to read as follows:

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

1 1. To purchase and import into this state spirits and wines
2 from persons authorized to sell same who are the holders of a
3 designating manufacturer license, nondesignating manufacturer
4 license or nonresident seller license, and their agents who are the
5 holders of manufacturer's agent licenses; provided, it shall be
6 unlawful for any wholesaler to purchase any alcoholic beverages for
7 resale unless those alcoholic beverages are purchased from a primary
8 American source of supply for the brand of alcoholic beverages
9 sought to be resold;

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

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

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

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

3 | 6. To sell spirits and wines out of this state to qualified
4 | persons; and

5 | 7. To collect and remit excise taxes on all alcoholic beverages
6 | it has transported into the state.

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

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

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

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

24 |

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

5 SECTION 3. AMENDATORY Section 47, Chapter 366, O.S.L.
6 2016, as amended by Section 7, Chapter 322, O.S.L. 2019 (37A O.S.
7 Supp. 2020, Section 2-135), is amended to read as follows:

8 Section 2-135. A. All distillers, winemakers, and spirits
9 manufacturers, importers, brokers and others seeking to sell wine
10 and spirits in Oklahoma, regardless of whether such sales are
11 consummated within or without the state, must either obtain a
12 manufacturer's license or contract with a person that maintains a
13 nonresident seller license in order to sell wine and spirits
14 intended for consumption within the State of Oklahoma.

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

20 B. The ABLE Commission may, subject to the provisions of the
21 Oklahoma Alcoholic Beverage Control Act requiring notice and hearing
22 in the case of sanctions against holders of licenses, suspend or
23 revoke a brewer's license, manufacturer's license or nonresident
24

1 seller license for any violation of the Oklahoma Alcoholic Beverage
2 Control Act by the holder thereof.

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

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

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

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

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

23 1. "Designating manufacturer" shall be any manufacturer,
24 importer, broker or agent that has designated a wine and spirits

1 wholesaler to distribute one or more stock-keeping units (SKUs)
2 within the state; and

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

6 SECTION 4. This act shall become effective November 1, 2021.

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