

COMMITTEE AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HJR1040 _____
 _____ Of the printed Bill
 Page _____ Section _____ Lines _____
 _____ Of the Engrossed Bill

By striking the Title, the Resolving Clause, the entire measure, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Jon Echols

Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 PROPOSED COMMITTEE SUBSTITUTE
4 FOR
5 HOUSE JOINT
6 RESOLUTION NO. 1040

By: Echols

7 PROPOSED COMMITTEE SUBSTITUTE

8 An Act relating to alcoholic beverages; ordering a
9 legislative referendum pursuant to the Oklahoma
10 Constitution; amending 37A O.S. 2021, Sections 1-103,
11 which relate to alcoholic beverages; modifying the
12 definition of grocery store; modifying definition of
13 retailer to include grocery retail spirits license
14 holders; creating the grocery retail spirits license;
15 providing fees for a grocery retail spirits license;
16 providing annual surcharges for a grocery retail
17 spirits license; providing that a small brewer self-
18 distribution licensee may self-distribute to a holder
19 of a grocery retail spirits license; providing that a
20 charitable collaboration brewer licensee if they also
21 possess a self-distribution license may self-
22 distribute to a holder of a grocery retail spirits
23 license; providing that a winemaker self-distribution
24 licensee may self-distribute directly to a holder of
a grocery retail spirits license; providing that a
grocery retail spirits licensee may purchase wine and
spirits from wholesalers, beer from distributors and
holders of a small brewer self-distribution license,
to sell alcoholic beverages for off premise
consumption, and to host alcoholic beverage tastings;
providing that a holder of an employee license shall
be allowed to work in licensed grocery retail spirits
store; modifying the minimum age to sell spirits;
providing that a grocery retail spirits licensee
shall not be required to have a carrier license or a
private carrier license; requiring applicants seeking
to obtain a grocery retail spirits license to first
publish their intention to apply for such license;
providing required information for an applicant
seeking a grocery retail spirits license to provide

1 to the Alcoholic Beverage Law Enforcement (ABLE)
2 Commission; providing grounds to deny a grocery
3 retail spirits license application or renewal;
4 providing grounds for revocation or suspension of a
5 grocery retail spirits license; providing that a
6 grocery retail spirits licensee may sell curbside and
7 may deliver; providing requirements for curbside and
8 deliveries; providing that grocery retail spirits
9 licensee may resell beer only in its original packing
10 or as individual containers; providing that person
11 privileged to sell alcoholic beverages are prohibited
12 from making inducements to grocery retail spirits
13 license holders; prohibiting certain acts by grocery
14 retail spirits licensees; prohibiting a wholesaler
15 licensee from selling or delivering wine or spirits
16 to a holder of a grocery retail spirits license on
17 certain days; providing an effective date; providing
18 ballot title; and directing filing.

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BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE
1ST SESSION OF THE 59TH OKLAHOMA LEGISLATURE:

SECTION 1. Pursuant to Section 3 of Article V of the Oklahoma
Constitution, there is hereby ordered the following legislative
referendum which shall be filed with the Secretary of State and
addressed to the Governor of the state, who shall submit the same to
the people for their approval or rejection at the General Election,
to be held on General Election.

SECTION 2. AMENDATORY 37A O.S. 2021, Section 1-103, is
amended to read as follows:

Section 1-103. As used in the Oklahoma Alcoholic Beverage
Control Act:

1 1. "ABLE Commission" or "Commission" means the Alcoholic
2 Beverage Laws Enforcement Commission;

3 2. "Alcohol" means and includes hydrated oxide of ethyl, ethyl
4 alcohol, ethanol or spirits of wine, from whatever source or by
5 whatever process produced. It does not include wood alcohol or
6 alcohol which has been denatured or produced as denatured in
7 accordance with Acts of Congress and regulations promulgated
8 thereunder;

9 3. "Alcoholic beverage" means alcohol, spirits, beer and wine
10 as those terms are defined herein and also includes every liquid or
11 solid, patented or not, containing alcohol, spirits, wine or beer
12 and capable of being consumed as a beverage by human beings;

13 4. "Applicant" means any individual, legal or commercial
14 business entity, or any individual involved in any legal or
15 commercial business entity allowed to hold any license issued in
16 accordance with the Oklahoma Alcoholic Beverage Control Act;

17 5. "Beer" means any beverage of alcohol by volume and obtained
18 by the alcoholic fermentation of an infusion or decoction of barley,
19 or other grain, malt or similar products. "Beer" may or may not
20 contain hops or other vegetable products. "Beer" includes, among
21 other things, beer, ale, stout, lager beer, porter and other malt or
22 brewed liquors, but does not include sake, known as Japanese rice
23 wine;

24

1 6. "Beer keg" means any brewer-sealed, single container that
2 contains not less than four (4) gallons of beer;

3 7. "Beer distributor" means and includes any person licensed to
4 distribute beer for retail sale in the state, but does not include a
5 holder of a small brewer self-distribution license or brewpub self-
6 distribution license. The term "distributor", as used in the
7 Oklahoma Alcoholic Beverage Control Act, shall be construed to refer
8 to a beer distributor;

9 8. "Bottle club" means any establishment in a county which has
10 not authorized the retail sale of alcoholic beverages by the
11 individual drink, which is required to be licensed to keep, mix and
12 serve alcoholic beverages belonging to club members on club
13 premises;

14 9. "Bottle service" means the sale and provision of spirits in
15 their original packages by a mixed beverage licensee to be consumed
16 in that mixed beverage licensee's club suite;

17 10. "Brand" means any word, name, group of letters, symbol or
18 combination thereof, that is adopted and used by a licensed brewer
19 to identify a specific beer, wine or spirit and to distinguish that
20 product from another beer, wine or spirit;

21 11. "Brand extension" means:

22 a. after October 1, 2018, any brand of beer or cider
23 introduced by a manufacturer in this state which
24 either:

1 (1) incorporates all or a substantial part of the
2 unique features of a preexisting brand of the
3 same licensed brewer, or

4 (2) relies to a significant extent on the goodwill
5 associated with the preexisting brand, or

6 b. any brand of beer that a brewer, the majority of whose
7 total volume of all brands of beer distributed in this
8 state by such brewer on January 1, 2016, was
9 distributed as low-point beer, desires to sell,
10 introduces, begins selling or theretofore has sold and
11 desires to continue selling a strong beer in this
12 state which either:

13 (1) incorporates or incorporated all or a substantial
14 part of the unique features of a preexisting low-
15 point beer brand of the same licensed brewer, or

16 (2) relies or relied to a significant extent on the
17 goodwill associated with a preexisting low-point
18 beer brand;

19 12. "Brewer" means and includes any person who manufactures for
20 human consumption by the use of raw materials or other ingredients
21 any beer or cider upon which a license fee and a tax are imposed by
22 any law of this state;

23 13. "Brewpub" means a licensed establishment operated on the
24 premises of, or on premises located contiguous to, a small brewer,

1 that prepares and serves food and beverages, including alcoholic
2 beverages, for on-premises consumption;

3 14. "Cider" means any alcoholic beverage obtained by the
4 alcoholic fermentation of fruit juice, including but not limited to
5 flavored, sparkling or carbonated cider. For the purposes of the
6 manufacture of this product, cider may be manufactured by either
7 manufacturers or brewers. For the purposes of the distribution of
8 this product, cider may be distributed by either wine and spirits
9 wholesalers or beer distributors;

10 15. "Club suite" means a designated area within the premises of
11 a mixed beverage licensee designed to provide an exclusive space
12 which is limited to a patron or patrons specifically granted access
13 by a mixed beverage licensee and is not accessible to other patrons
14 of the mixed beverage licensee or the public. A club suite must
15 have a clearly designated point of access for a patron or patrons
16 specifically granted access by the mixed beverage licensee to ensure
17 that persons present in the suite are limited to patrons
18 specifically granted access by the mixed beverage licensee and
19 employees providing services to the club suite;

20 16. "Convenience store" means any person primarily engaged in
21 retailing a limited range of general household items and groceries,
22 with extended hours of operation, whether or not engaged in retail
23 sales of automotive fuels in combination with such sales;

24

1 17. "Convicted" and "conviction" mean and include a finding of
2 guilt resulting from a plea of guilty or nolo contendere, the
3 decision of a court or magistrate or the verdict of a jury,
4 irrespective of the pronouncement of judgment or the suspension
5 thereof;

6 18. "Designated products" means the brands of wine or spirits
7 offered for sale by a manufacturer that the manufacturer has
8 assigned to a designated wholesaler for exclusive distribution;

9 19. "Designated wholesaler" means a wine and spirits wholesaler
10 who has been selected by a manufacturer as a wholesaler appointed to
11 distribute designated products;

12 20. "Director" means the Director of the ABLE Commission;

13 21. "Distiller" means any person who produces spirits from any
14 source or substance, or any person who brews or makes mash, wort or
15 wash, fit for distillation or for the production of spirits (except
16 a person making or using such material in the authorized production
17 of wine or beer, or the production of vinegar by fermentation), or
18 any person who by any process separates alcoholic spirits from any
19 fermented substance, or any person who, making or keeping mash, wort
20 or wash, has also in his or her possession or use a still;

21 22. "Distributor agreement" means the written agreement between
22 the distributor and brewer as set forth in Section 3-108 of this
23 title;

24

1 23. "Drug store" means a person primarily engaged in retailing
2 prescription and nonprescription drugs and medicines;

3 24. "Dual-strength beer" means a brand of beer that,
4 immediately prior to April 15, 2017, was being sold and distributed
5 in this state:

6 a. as a low-point beer pursuant to the Low-Point Beer
7 Distribution Act in effect immediately prior to
8 October 1, 2018, and

9 b. as strong beer pursuant to the Alcoholic Beverage
10 Control Act in effect immediately prior to October 1,
11 2018,

12 and continues to be sold and distributed as such on October 1, 2018.
13 Dual-strength beer does not include a brand of beer that arose as a
14 result of a brand extension as defined in this section;

15 25. "Fair market value" means the value in the subject
16 territory covered by the written agreement with the distributor or
17 wholesaler that would be determined in an arm's length transaction
18 entered into without duress or threat of termination of the
19 distributor's or wholesaler's rights and shall include all elements
20 of value, including goodwill and going-concern value;

21 26. "Good cause" means:

22 a. failure by the distributor to comply with the material
23 and reasonable provisions of a written agreement or
24 understanding with the brewer, or

1 b. failure by the distributor to comply with the duty of
2 good faith;

3 27. "Good faith" means the duty of each party to any
4 distributor agreement and all officers, employees or agents thereof
5 to act with honesty in fact and within reasonable standards of fair
6 dealing in the trade;

7 28. "Grocery store" means a person primarily engaged in
8 retailing a general line of food, such as canned or frozen foods,
9 fresh fruits and vegetables, and fresh and prepared meats, fish and
10 poultry, and no more than twenty percent (20%) of the person's
11 monthly sales are comprised of spirits;

12 29. "Hotel" or "motel" means an establishment which is licensed
13 to sell alcoholic beverages by the individual drink and which
14 contains guestroom accommodations with respect to which the
15 predominant relationship existing between the occupants thereof and
16 the owner or operator of the establishment is that of innkeeper and
17 guest. For purposes of this section, the existence of other legal
18 relationships as between some occupants and the owner or operator
19 thereof shall be immaterial;

20 30. "Legal newspaper" means a newspaper meeting the requisites
21 of a newspaper for publication of legal notices as prescribed in
22 Sections 101 through 114 of Title 25 of the Oklahoma Statutes;

23 31. "Licensee" means any person holding a license under the
24 Oklahoma Alcoholic Beverage Control Act, and any agent, servant or

1 employee of such licensee while in the performance of any act or
2 duty in connection with the licensed business or on the licensed
3 premises;

4 32. "Low-point beer" shall mean any beverages containing more
5 than one-half of one percent (1/2 of 1%) alcohol by volume, and not
6 more than three and two-tenths percent (3.2%) alcohol by weight,
7 including but not limited to, beer or cereal malt beverages obtained
8 by the alcoholic fermentation of an infusion by barley or other
9 grain, malt or similar products;

10 33. "Manufacturer" means a distiller, winemaker, rectifier or
11 bottler of any alcoholic beverage (other than beer) and its
12 subsidiaries, affiliates and parent companies;

13 34. "Manufacturer's agent" means a salaried or commissioned
14 salesperson who is the agent authorized to act on behalf of the
15 manufacturer or nonresident seller in the state;

16 35. "Meals" means foods commonly ordered at lunch or dinner and
17 at least part of which is cooked on the licensed premises and
18 requires the use of dining implements for consumption. Provided,
19 that the service of only food such as appetizers, sandwiches, salads
20 or desserts shall not be considered "meals";

21 36. "Mini-bar" means a closed container, either refrigerated in
22 whole or in part, or nonrefrigerated, and access to the interior of
23 which is:

24

- 1 a. restricted by means of a locking device which requires
2 the use of a key, magnetic card or similar device, or
3 b. controlled at all times by the licensee;

4 37. "Mixed beverage cooler" means any beverage, by whatever
5 name designated, consisting of an alcoholic beverage and fruit or
6 vegetable juice, fruit or vegetable flavorings, dairy products or
7 carbonated water containing more than one-half of one percent (1/2
8 of 1%) of alcohol measured by volume but not more than seven percent
9 (7%) alcohol by volume at sixty (60) degrees Fahrenheit and which is
10 packaged in a container not larger than three hundred seventy-five
11 (375) milliliters. Such term shall include but not be limited to
12 the beverage popularly known as a "wine cooler";

13 38. "Mixed beverages" means one or more servings of a beverage
14 composed in whole or part of an alcoholic beverage in a sealed or
15 unsealed container of any legal size for consumption on the premises
16 where served or sold by the holder of a mixed beverage, beer and
17 wine, caterer, public event, charitable event or special event
18 license;

19 39. "Motion picture theater" means an establishment which is
20 licensed by Section 2-110 of this title to sell alcoholic beverages
21 by the individual drink and where motion pictures are exhibited, and
22 to which the general public is admitted;

1 40. "Nondesignated products" means the brands of wine or
2 spirits offered for sale by a manufacturer that have not been
3 assigned to a designated wholesaler;

4 41. "Nonresident seller" means any person licensed pursuant to
5 Section 2-135 of this title;

6 42. "Retail salesperson" means a salesperson soliciting orders
7 from and calling upon retail alcoholic beverage stores with regard
8 to his or her product;

9 43. "Occupation" as used in connection with "occupation tax"
10 means the sites occupied as the places of business of the
11 manufacturers, brewers, wholesalers, beer distributors, retailers,
12 mixed beverage licensees, on-premises beer and wine licensees,
13 bottle clubs, caterers, public event and special event licensees;

14 44. "Original package" means any container of alcoholic
15 beverage filled and stamped or sealed by the manufacturer or brewer;

16 45. "Package store" means any sole proprietor or partnership
17 that qualifies to sell wine, beer and/or spirits for off-premises
18 consumption and that is not a grocery store, convenience store or
19 drug store, or other retail outlet that is not permitted to sell
20 wine or beer for off-premises consumption;

21 46. "Patron" means any person, customer or visitor who is not
22 employed by a licensee or who is not a licensee;

23 47. "Person" means an individual, any type of partnership,
24 corporation, association, limited liability company or any

1 individual involved in the legal structure of any such business
2 entity;

3 48. "Premises" means the grounds and all buildings and
4 appurtenances pertaining to the grounds including any adjacent
5 premises if under the direct or indirect control of the licensee and
6 the rooms and equipment under the control of the licensee and used
7 in connection with or in furtherance of the business covered by a
8 license. Provided that the ABLE Commission shall have the authority
9 to designate areas to be excluded from the licensed premises solely
10 for the purpose of:

- 11 a. allowing the presence and consumption of alcoholic
12 beverages by private parties which are closed to the
13 general public, or
- 14 b. allowing the services of a caterer serving alcoholic
15 beverages provided by a private party.

16 This exception shall in no way limit the licensee's concurrent
17 responsibility for any violations of the Oklahoma Alcoholic Beverage
18 Control Act occurring on the licensed premises;

19 49. "Private event" means a social gathering or event attended
20 by invited guests who share a common cause, membership, business or
21 task and have a prior established relationship. For purposes of
22 this definition, advertisement for general public attendance or
23 sales of tickets to the general public shall not constitute a
24 private event;

1 50. "Public event" means any event that can be attended by the
2 general public;

3 51. "Rectifier" means any person who rectifies, purifies or
4 refines spirits or wines by any process (other than by original and
5 continuous distillation, or original and continuous processing, from
6 mash, wort, wash or other substance, through continuous closed
7 vessels and pipes, until the production thereof is complete), and
8 any person who, without rectifying, purifying or refining spirits,
9 shall by mixing (except for immediate consumption on the premises
10 where mixed) such spirits, wine or other liquor with any material,
11 manufactures any spurious, imitation or compound liquors for sale,
12 under the name of whiskey, brandy, rum, gin, wine, spirits, cordials
13 or any other name;

14 52. "Regulation" or "rule" means a formal rule of general
15 application promulgated by the ABLE Commission as herein required;

16 53. "Restaurant" means an establishment that is licensed to
17 sell alcoholic beverages by the individual drink for on-premises
18 consumption and where food is prepared and sold for immediate
19 consumption on the premises;

20 54. "Retail container for spirits and wines" means an original
21 package of any capacity approved by the United States Bureau of
22 Alcohol, Tobacco and Firearms;

23 55. "Retailer" means a package store, grocery store,
24 convenience store or drug store licensed to sell alcoholic beverages

1 for off-premises consumption pursuant to a Grocery Retail Spirits
2 License, Retail Spirits License, Retail Wine License or Retail Beer
3 License;

4 56. "Sale" means any transfer, exchange or barter in any manner
5 or by any means whatsoever, and includes and means all sales made by
6 any person, whether as principal, proprietor or as an agent, servant
7 or employee. The term "sale" is also declared to be and include the
8 use or consumption in this state of any alcoholic beverage obtained
9 within or imported from without this state, upon which the excise
10 tax levied by the Oklahoma Alcoholic Beverage Control Act has not
11 been paid or exempted;

12 57. "Short-order food" means food other than full meals
13 including but not limited to sandwiches, soups and salads. Provided
14 that popcorn, chips and other similar snack food shall not be
15 considered "short-order food";

16 58. "Small brewer" means a brewer who manufactures less than
17 sixty-five thousand barrels of beer annually pursuant to a validly
18 issued Small Brewer License hereunder;

19 59. "Small farm wine" means a wine that is produced by a small
20 farm winery with seventy-five percent (75%) or more Oklahoma-grown
21 grapes, berries, other fruits, honey or vegetables;

22 60. "Small farm winery" means a wine-making establishment that
23 does not annually produce for sale more than fifteen thousand
24 (15,000) gallons of wine as reported on the United States Department

1 of the Treasury, Alcohol and Tobacco Tax and Trade Bureau, Report of
2 Wine Premises Operations (TTB Form 5120.17);

3 61. "Sparkling wine" means champagne or any artificially
4 carbonated wine;

5 62. "Special event" means an entertainment, recreation or
6 marketing event that occurs at a single location on an irregular
7 basis and at which alcoholic beverages are sold;

8 63. "Spirits" means any beverage other than wine or beer, which
9 contains more than one-half of one percent (1/2 of 1%) alcohol
10 measured by volume, and obtained by distillation, whether or not
11 mixed with other substances in solution and includes those products
12 known as whiskey, brandy, rum, gin, vodka, liqueurs, cordials and
13 fortified wines and similar compounds, but shall not include any
14 alcohol liquid completely denatured in accordance with the Acts of
15 Congress and regulations pursuant thereto;

16 64. "Strong beer" means beer which, prior to October 1, 2018,
17 was distributed pursuant to the Oklahoma Alcoholic Beverage Control
18 Act, Section 501 et seq. of Title 37 of the Oklahoma Statutes;

19 65. "Successor brewer" means a primary source of supply, a
20 brewer, a cider manufacturer or an importer that acquires rights to
21 a beer or cider brand from a predecessor brewer;

22 66. "Tax Commission" means the Oklahoma Tax Commission;

23 67. "Territory" means a geographic region with a specified
24 boundary;

1 68. "Wine and spirits wholesaler" or "wine and spirits
2 distributor" means and includes any sole proprietorship or
3 partnership licensed to distribute wine and spirits in the state.
4 The term "wholesaler", as used in the Oklahoma Alcoholic Beverage
5 Control Act, shall be construed to refer to a wine and spirits
6 wholesaler;

7 69. "Wine" means and includes any beverage containing more than
8 one-half of one percent (1/2 of 1%) alcohol by volume and not more
9 than twenty-four percent (24%) alcohol by volume at sixty (60)
10 degrees Fahrenheit obtained by the fermentation of the natural
11 contents of fruits, vegetables, honey, milk or other products
12 containing sugar, whether or not other ingredients are added, and
13 includes vermouth and sake, known as Japanese rice wine;

14 70. "Winemaker" means and includes any person or establishment
15 who manufactures for human consumption any wine upon which a license
16 fee and a tax are imposed by any law of this state; and

17 71. "Satellite tasting room" means a licensed establishment
18 operated off the licensed premises of the holder of a small farm
19 winery or winemaker license, which serves wine for on-premises or
20 off-premises consumption.

21 Words in the plural include the singular, and vice versa, and
22 words imparting the masculine gender include the feminine, as well
23 as persons and licensees as defined in this section.

24

1 SECTION 3. AMENDATORY 37A O.S. 2021, Section 2-101, is
2 amended to read as follows:

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

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

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

1	20.	Airline/Railroad/Commercial Passenger Vessel Beverage	
2		License.....	\$1,005.00
3			(initial license)
4			\$905.00
5			(renewal)
6	21.	Agent License.....	\$55.00
7	22.	Employee License.....	\$30.00
8	23.	Industrial License.....	\$23.00
9	24.	Carrier License.....	\$23.00
10	25.	Private Carrier License.....	\$23.00
11	26.	Bonded Warehouse License.....	\$190.00
12	27.	Storage License.....	\$23.00
13	28.	Nonresident Seller License	\$750.00
14	29.	Manufacturer License:	
15	a.	50 cases or less sold in Oklahoma in	
16		last calendar year.....	\$50.00
17	b.	51 to 500 cases sold in Oklahoma in	
18		last calendar year.....	\$75.00
19	c.	501 cases or more sold in Oklahoma in	
20		last calendar year.....	\$150.00
21	30.	Manufacturer's Agent License.....	\$55.00
22	31.	Sacramental Wine Supplier License.....	\$100.00
23	32.	Charitable Auction License.....	\$1.00
24	33.	Charitable Alcoholic Beverage License.....	\$55.00

- 34. Winemaker Self-Distribution License..... \$750.00
- 35. Annual Public Event License..... \$1,005.00
- 36. One-Time Public Event License..... \$255.00
- 37. Small Brewer Self-Distribution License..... \$750.00
- 38. Brewpub License..... \$1,005.00
- 39. Brewpub Self-Distribution License..... \$750.00
- 40. Complimentary Beverage License..... \$75.00
- 41. Satellite Tasting Room License..... \$100.00
- 42. The following Grocery Retail Spirits License

fees shall be determined by the latest

Federal Decennial Census:

- a. Grocery Retail Spirits License for cities and towns
from 200 to 2,500 population.....\$305.00
- b. Grocery Retail Spirits License for cities and towns
from 2,501 to 5,000 population.....\$605.00
- c. Grocery Retail Spirits License for cities and towns
over 5,000 population.....\$905.00

B. 1. There shall be added to the initial or renewal fees for a Mixed Beverage License an administrative fee, which shall not be deemed to be a license fee, in the amount of Five Hundred Dollars (\$500.00), which shall be paid at the same time and in the same manner as the license fees prescribed by paragraph 12 of subsection A of this section; provided, this fee shall not be assessed against service organizations or fraternal beneficiary societies which are

1 exempt under Section 501(c)(19), (8) or (10) of the Internal Revenue
2 Code.

3 2. There shall be added to the fee for a Mixed Beverage/Caterer
4 Combination License an administrative fee, which shall not be deemed
5 to be a license fee, in the amount of Two Hundred Fifty Dollars
6 (\$250.00), which shall be paid at the same time and in the same
7 manner as the license fee prescribed by paragraph 13 of subsection A
8 of this section.

9 C. Notwithstanding the provisions of subsection A of this
10 section:

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

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

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

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

1 F. The holder of a license, issued by the ABLE Commission, for
2 a bottle club located in a county of this state where the sale of
3 alcoholic beverages by the individual drink for on-premises
4 consumption has been authorized, may exchange the bottle club
5 license for a mixed beverage license or an on-premises beer and wine
6 license and operate the licensed premises as a mixed beverage
7 establishment or an on-premises beer and wine establishment subject
8 to the provisions of the Oklahoma Alcoholic Beverage Control Act.
9 There shall be no additional fee for such exchange and the mixed
10 beverage license or on-premises beer and wine license issued shall
11 expire one (1) year from the date of issuance of the original bottle
12 club license.

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

- 15 1. Nonresident Seller License..... \$2,500.00
- 16 2. Manufacturer License:
 - 17 a. 50 cases or less sold in Oklahoma in
 - 18 last calendar year..... \$100.00
 - 19 b. 51 to 500 cases sold in Oklahoma in
 - 20 last calendar year..... \$225.00
 - 21 c. 501 cases or more sold in Oklahoma in
 - 22 last calendar year..... \$450.00
- 23 3. Wine and Spirits Wholesaler License..... \$2,500.00
- 24 4. Beer Distributor..... \$1,000.00

- 1 5. Retail Spirits License for cities and towns
- 2 over 5,000 population..... \$250.00
- 3 6. Retail Spirits License for cities and towns
- 4 from 2,501 to 5,000 population..... \$200.00
- 5 7. Retail Spirits License for cities and towns
- 6 from 200 to 2,500 population..... \$150.00
- 7 8. Retail Wine License..... \$250.00
- 8 9. Retail Beer License..... \$250.00
- 9 10. Mixed Beverage License..... \$25.00
- 10 11. Mixed Beverage/Caterer Combination License..... \$25.00
- 11 12. Caterer License..... \$25.00
- 12 13. On-Premises Beer and Wine License..... \$25.00
- 13 14. Annual Public Event License..... \$25.00
- 14 15. Small Farm Winery License..... \$25.00
- 15 16. Small Brewer License..... \$35.00
- 16 17. Complimentary Beverage License..... \$25.00
- 17 18. Grocery Retail Spirits License for cities
- 18 and towns over 5,000 population..... \$250.00
- 19 19. Grocery Retail Spirits License for cities
- 20 and towns from 2,501 to 5,000 population..... \$200.00
- 21 20. Grocery Retail Spirits License for cities
- 22 and towns from 200 to 2,500 population..... \$150.00

23 The surcharge shall be paid concurrent with the licensee's

24 annual licensing fee and, in addition to Five Dollars (\$5.00) of the

1 employee license fee, shall be deposited in the Alcoholic Beverage
2 Governance Revolving Fund established pursuant to Section 5-128 of
3 this title.

4 H. Any license issued by the ABLE Commission under this title
5 may be relied upon by other licensees as a valid license, and no
6 other licensee shall have any obligation to independently determine
7 the validity of such license or be held liable solely as a
8 consequence of another licensee's failure to maintain a valid
9 license.

10 SECTION 4. AMENDATORY 37A O.S. 2021, Section 2-102, is
11 amended to read as follows:

12 Section 2-102. A. A brewer license shall authorize the holder
13 thereof:

14 1. To manufacture, bottle, package and store beer and cider on
15 the licensed premises; and

16 2. To sell beer and cider in this state to holders of beer
17 distributor licenses and to sell beer and cider out of this state to
18 qualified persons.

19 B. A small brewer license shall authorize the holder thereof:

20 1. To manufacture, bottle, package and store beer produced by
21 the licensee on licensed premises;

22 2. To sell beer in this state to holders of beer distributor
23 licenses and retail licenses or to sell beer out of this state to
24 qualified persons;

1 3. To serve free samples of beer produced by the licensee to
2 visitors twenty-one (21) years of age or older;

3 4. To sell beer produced by the licensee for either on-premises
4 or off-premises consumption to consumers on the brewery premises, or
5 on premises located contiguous thereto;

6 5. To sell beer at public events such as trade shows or
7 festivals;

8 6. To purchase wine in retail containers from the holder of a
9 wholesaler license or as specifically provided by law; and

10 7. To sell, offer for sale and possess wine for on-premises
11 consumption.

12 C. The holder of multiple small brewer licenses may sell beer
13 produced at up to three breweries for which the licensee has a
14 license, at any other of such three licensed breweries or on
15 premises located contiguous thereto.

16 D. Nothing in the Alcoholic Beverage Control Act shall prohibit
17 the holder of a small brewer license from also holding or owning an
18 interest in the holder of a brewpub license.

19 E. For purposes of this section, no visitor may sample more
20 than a total of twelve (12) fluid ounces of beer per day. The
21 brewer must restrict the distribution and consumption of beer
22 samples to an area within the licensed premises designated by the
23 brewer. A current floor plan that includes the designated sampling
24 area must be on file with the ABLE Commission. No visitor under

1 twenty-one (21) years of age shall be permitted to enter this
2 designated sampling area when samples are being distributed or
3 consumed. Samples of beer served by a brewery under this section
4 shall not be considered a sale of beer within the meaning of Article
5 XXVIII-A of the Oklahoma Constitution or Section 1-103 of this
6 title; however, such samples of beer shall be considered beer
7 removed or withdrawn from the brewery for use or consumption within
8 the meaning of Section 5-110 of this title for excise tax
9 determination and reporting requirements. Sales and sampling may
10 only occur between the hours of 10:00 a.m. and 2:00 a.m.

11 F. A small brewer self-distribution license shall authorize
12 holders of a small brewer license to distribute beer produced only
13 by such licensee to a holder of a retail beer license, grocery
14 retail spirits license, retail spirits license, mixed beverage
15 license, beer and wine license, caterer's license, special event
16 license, public event license, charitable auction license or brewpub
17 license. A small brewer shall elect whether it will distribute
18 through a distributor or self-distribute in a subject territory;
19 however, a small brewer may not elect to do both simultaneously in a
20 subject territory. The election shall be made through notice to the
21 ABLE Commission. Any changes to the election shall require
22 immediate notification to the ABLE Commission before the change in
23 election will take effect. A small brewer that elects to self-

24

1 distribute in multiple territories shall only be required to have
2 one small brewer self-distribution license.

3 G. All manufacturer's licenses held by brewers during the first
4 calendar year beginning October 1, 2018, shall automatically convert
5 to brewer licenses and be deemed effective as of the date of the
6 first issuance of the manufacturer's license. Upon the first
7 renewal of the license, the brewer will need to obtain the
8 appropriate brewer's license. If a brewer elects to market wine and
9 spirits, the brewer will also be required to obtain a manufacturer's
10 license and comply with the rules and regulations for both licenses.

11 SECTION 5. AMENDATORY 37A O.S. 2021, Section 2-102.1, is
12 amended to read as follows:

13 Section 2-102.1. A. A charitable collaboration brewer license
14 shall authorize the collaborating licensed brewers and holders
15 thereof:

16 1. To formulate, manufacture, bottle, package and store the
17 charitable collaboration beer, or any part thereof, on the licensed
18 premises;

19 2. To sell the charitable collaboration beer in this state to
20 holders of beer distributor licenses;

21 3. To sell the charitable collaboration beer out of this state
22 to qualified persons for the sole purpose of fundraising for the
23 stated charitable purposes;

24

1 4. To sell the charitable collaboration beer in this state to
2 holders of retail licenses;

3 5. To serve free samples of the charitable collaboration beer
4 produced by the collaborating licensed brewers to visitors twenty-
5 one (21) years of age or older on the collaborating brewery licensed
6 premises;

7 6. To sell the charitable collaboration beer produced by the
8 collaborating licensee brewers for either on-premises or off-
9 premises consumption to consumers on the brewery premises, or on
10 premises located contiguous thereto;

11 7. To sell the charitable collaboration beer produced by the
12 collaborating licensed brewers at public events such as trade shows
13 or festivals; and

14 8. To purchase the charitable collaboration beer produced by
15 the collaborating licensed brewers in retail containers from the
16 holder of a beer distributor license to sell or serve in accordance
17 with this section.

18 B. Nothing in this section shall prohibit the holder of a
19 charitable collaboration brewer license from also holding or owning
20 an interest in the holder of a brewpub license.

21 C. For purposes of this section, no visitor may sample more
22 than a total of twelve (12) fluid ounces of the charitable
23 collaboration beer per day. The brewer must restrict the
24 distribution and consumption of charitable collaboration beer

1 samples to an area within the licensed premises designated by the
2 brewer. A current floor plan that includes the designated sampling
3 area must be on file with the ABLE Commission. No visitor under
4 twenty-one (21) years of age shall be permitted to enter this
5 designated sampling area when samples are being distributed or
6 consumed. Samples of the charitable collaboration beer served by a
7 collaborating brewery under this section shall not be considered a
8 sale of beer within the meaning of Article XXVIII-A of the Oklahoma
9 Constitution or Section 1-103 of Title 37A of the Oklahoma Statutes;
10 however, such samples of the charitable collaboration beer shall be
11 considered beer removed or withdrawn from the brewery for use or
12 consumption within the meaning of Section 5-110 of Title 37A of the
13 Oklahoma Statutes for excise tax determination and reporting
14 requirements. Sales and sampling may only occur between the hours
15 of 10:00 a.m. and 2:00 a.m.

16 D. If a small brewer is a licensed charitable collaborating
17 brewer and such small brewer holds a self-distribution license, it
18 shall authorize the holder thereof to distribute the charitable
19 collaboration beer produced to a holder of a retail beer license,
20 grocery retail spirits license, retail spirits license, mixed
21 beverage license, beer and wine license, caterer's license, special
22 event license, public event license, charitable auction license or
23 brewpub license. If a small brewer has elected to distribute
24 through a distributor or self-distribute in a subject territory, for

1 purposes of the charitable collaboration brewer license such small
2 brewer and the other collaborating brewer may elect to do both
3 simultaneously in a subject territory upon notice to the ABLE
4 Commission.

5 E. The ABLE Commission shall promulgate rules, forms and fees
6 to implement and enforce the charitable collaboration brewer
7 license.

8 F. When more than one Oklahoma-licensed brewer makes
9 application to the ABLE Commission to develop a charitable
10 collaboration beer offering and seeks to obtain a charitable
11 collaboration brewer license, the ABLE Commission shall evaluate the
12 application based upon any of the following:

13 1. Whether the collaboration has a legitimate charitable
14 purpose in this state, another state or a national charitable
15 effort;

16 2. Whether the formula needs approval by any federal regulatory
17 authority;

18 3. Whether the Oklahoma Tax Commission has been notified of the
19 request for a tax exemption to allow the collaborators to transfer-
20 in-bond products between the licensed premises of the collaborating
21 brewers and whether the Tax Commission approves such transfer-in-
22 bond;

23
24

1 4. The license standing of each licensed collaborating brewer
2 in this state, including, but not limited to, any required storage
3 licenses.

4 Upon consideration of the application facts and detailed plans
5 submitted by the collaborating brewers, the ABLE Commission shall
6 make its determination whether or not to issue the charitable
7 collaboration brewer license. Upon approval of a charitable
8 collaboration brewer license, such license shall be issued to both
9 licensed brewers for the development and manufacture of a charitable
10 collaboration beer offering. Each licensed brewer shall be required
11 to post the charitable collaboration brewer license at their
12 licensed premises and such license number shall be clearly affixed
13 to any alcohol products stored or transferred-in-bond between the
14 collaborating breweries. The charitable collaboration beer offering
15 shall require a private label approved by the ABLE Commission
16 according to the label requirements promulgated by the ABLE
17 Commission rules.

18 SECTION 6. AMENDATORY 37A O.S. 2021, Section 2-105, is
19 amended to read as follows:

20 Section 2-105. A. A winemaker self-distribution license shall
21 authorize a licensed winemaker within or without this state which is
22 permitted by Article XXVIII A of the Oklahoma Constitution and this
23 section:
24

1 1. To distribute its wine directly to grocery retail spirits,
2 retail spirits, retail wine and retail beer licensees, mixed
3 beverage licensees, beer and wine licensees, and restaurants in this
4 state; and

5 2. If such a winemaker elects to do so, to sell and deliver its
6 wines directly to licensed retail package stores, mixed beverage
7 licensees, beer and wine licensees, and restaurants in this state in
8 full case lots only, and in accordance with the provisions of the
9 Oklahoma Alcoholic Beverage Control Act and such rules as the ABLE
10 Commission shall promulgate.

11 B. A winemaker either within or without this state that
12 annually produces no more than fifteen thousand (15,000) gallons of
13 wine may elect to sell and self-distribute the wine produced by such
14 winemaker directly to licensed retail package stores, mixed beverage
15 licensees, beer and wine licensees, and restaurants in this state;
16 provided:

17 1. Any such winemaker which elects to directly sell its wine to
18 package stores, mixed beverage licensees, beer and wine licensees,
19 and restaurants shall not also use a licensed wholesale distributor
20 as a means of distribution, and shall be required to sell its wines
21 to every package store, mixed beverage licensee, beer and wine
22 licensee, and restaurant licensee who desires to purchase the same,
23 on the same price basis and without discrimination;

24

1 2. If a winemaker or winery sells directly to a retail package
2 store, mixed beverage licensee, beer and wine licensee or
3 restaurant, the winemaker shall transport the wine from the
4 winemaker's winery to the premises where the wine is to be delivered
5 only in vehicles owned or leased by the winemaker and not by common
6 or private contract carrier and shall obtain all necessary permits
7 as required by the Oklahoma Alcoholic Beverage Control Act; and

8 3. If the production volume limit applicable to winemakers is
9 ruled to be unconstitutional by a court of competent jurisdiction,
10 then no winemaker shall be permitted to directly sell its wine to
11 retail package stores, non-package-store retailers, mixed beverage
12 licensees, beer and wine licensees or restaurants in this state.

13 SECTION 7. AMENDATORY 37A O.S. 2021, Section 2-109, is
14 amended to read as follows:

15 Section 2-109. A. A grocery retail spirits license shall
16 authorize the holder thereof:

17 1. To purchase wine or spirits from a wine and spirits
18 wholesaler;

19 2. To purchase beer from a beer distributor or from the holder
20 of a small brewer self-distribution license;

21 3. To sell same on the license premise in such containers to
22 consumer for off-premises consumption only and not for resale;
23 provided, spirits, wine and beer may be sold to charitable
24

1 organizations that are holders of charitable alcoholic beverage
2 auction or charitable alcoholic beverage event licenses; and
3 4. To host alcoholic beverage tastings consistent with
4 subsections E and F of this section.

5 B. A retail spirits license shall authorize the holder thereof:

6 1. To purchase wine or spirits from a wine and spirits
7 wholesaler;

8 2. To purchase beer from a beer distributor or from the holder
9 of a small brewer self-distribution license;

10 3. To sell same on the licensed premises in such containers to
11 consumers for off-premises consumption only and not for resale;
12 provided, spirits, wine and beer may be sold to charitable

13 organizations that are holders of charitable alcoholic beverage
14 auction or charitable alcoholic beverage event licenses; and

15 4. To host alcoholic beverage tastings consistent with
16 subsections ~~D~~ E and ~~E~~ F of this section.

17 ~~B.~~ C. A retail wine license shall authorize the holder thereof:

18 1. To purchase wine from a wine and spirits wholesaler;

19 2. To purchase wine from a small farm winemaker who is
20 permitted and has elected to self-distribute as provided in Article
21 XXVIII-A of the Oklahoma Constitution;

22 3. To sell same on the licensed premises in such containers to
23 consumers for off-premises consumption only and not for resale;
24 provided, wine may be sold to charitable organizations that are

1 holders of charitable alcoholic beverage auction or charitable
2 alcoholic beverage event licenses; and

3 4. To host an alcoholic beverage tasting, consistent with
4 subsections ~~D~~ E and ~~E~~ F of this section.

5 Provided, no holder of a retail wine license may sell wine with
6 alcohol beverage volume in excess of fifteen percent (15%).

7 ~~C~~ D. A retail beer license shall authorize the holder thereof:

8 1. To purchase beer from a beer distributor;

9 2. To purchase beer from the holder of a small brewer self-
10 distribution license;

11 3. To sell same on the licensed premises in such containers to
12 consumers for off-premises consumption only and not for resale;
13 provided, beer may be sold to charitable organizations that are
14 holders of charitable alcoholic beverage auction or charitable
15 alcoholic beverage event licenses; and

16 4. To host alcoholic beverage tastings consistent with
17 subsections ~~D~~ E and ~~E~~ F of this section.

18 Provided, no holder of a retail beer license may sell a malt
19 beverage with alcohol beverage volume in excess of fifteen percent
20 (15%).

21 ~~D~~ E. All tastings conducted under this section shall:

22 1. Be conducted under the direct supervision of the licensee
23 authorized to host the tasting;

24

1 2. Be poured by any ABLE Commission licensee lawfully permitted
2 to serve alcoholic beverages, provided no wine or spirits
3 wholesaler, beer distributor or employee of a wine or spirits
4 wholesaler or beer distributor shall be allowed to pour samples for
5 tastings;

6 3. Use alcoholic beverages purchased by the licensee authorized
7 to host the tastings from a licensed wine and spirits wholesaler,
8 beer distributor, self-distributor, small brewer or self-
9 distributing winery authorized to sell the same, and the licensee
10 shall pay the applicable taxes on the alcoholic beverages purchased;
11 provided, the licensee may only provide samples of alcoholic
12 beverages that its license is authorized to sell;

13 4. Be restricted to persons twenty-one (21) years of age or
14 older;

15 5. Be limited to no more than one (1) fluid ounce of spirits,
16 two (2) fluid ounces of wine or three (3) fluid ounces of beer per
17 consumer per day; and

18 6. Be consumed on the licensed premises of the licensee
19 authorized to host the tastings or at a location other than the
20 licensed premises, provided no samples served on the licensed
21 premises shall be permitted to be removed from the licensed
22 premises.

23 ~~E.~~ F. All licensees authorized to serve samples pursuant to
24 subsection ~~D~~ E of this section shall ensure that:

1 1. All samples are poured only from original sealed packaging;

2 2. Any alcoholic beverages remaining in unsealed packaging used
3 to provide samples, excluding spirits, are poured out by the end of
4 the day;

5 3. No more than six (6) bottles of alcoholic beverages are
6 unsealed at any given time; and

7 4. No person shall remove any samples from the licensed
8 premises or location where the tasting has occurred.

9 SECTION 8. AMENDATORY 37A O.S. 2021, Section 2-121, as
10 amended by Section 1, Chapter 81, O.S.L. 2022 (37A O.S. Supp. 2022,
11 Section 2-121), is amended to read as follows:

12 Section 2-121. A. An employee license shall authorize the
13 holder thereof to work in a licensed package store, grocery retail
14 spirits, retail spirits, retail wine or retail beer establishment,
15 brewpub, mixed beverage establishment, beer and wine establishment,
16 bottle club, public event or any establishment where alcohol or
17 alcoholic beverages are sold, mixed or served. Persons employed by
18 a mixed beverage, on-premises beer and wine, retail wine, retail
19 beer, public event or a bottle club licensee who do not participate
20 in the service, mixing or sale of mixed beverages shall not be
21 required to have an employee license. Provided, however, that a
22 manager employed by a mixed beverage licensee, public event licensee
23 or a bottle club shall be required to have an employee license
24 whether or not the manager participates in the service, mixing or

1 sale of mixed beverages. Applicants for an employee license shall
2 be at least eighteen (18) years of age, except for applicants
3 employed by a grocery store or convenience store who shall be at
4 least sixteen (16) years of age, and have a health card issued by
5 the county in which they are employed, if the county issues such a
6 card; provided, the provisions of this section shall not be
7 construed to permit any person under eighteen (18) ~~twenty-one (21)~~
8 years of age to be employed to sell spirits. Employees of a special
9 event, caterer, unless catering a mixed beverage-licensed premises,
10 or airline/railroad beverage licensees shall not be required to
11 obtain an employee license; further, employees of beer distributors
12 and other licensees holding licenses issued by the ABLE Commission
13 shall not be required to obtain an employee license if such employee
14 only sells alcohol or alcoholic beverages to establishments holding
15 licenses issued by the ABLE Commission and not to the public.
16 Persons employed by a hotel licensee who participate in the stocking
17 of hotel room mini-bars or in the handling of alcoholic beverages to
18 be placed in such devices shall be required to have an employee
19 license. As a prerequisite to the issuance of an employee license,
20 not later than fourteen (14) days after initial licensure, the
21 first-time applicant shall be required to have successfully
22 completed a training program conducted by the ABLE Commission, or by
23 another entity approved by the ABLE Commission including an in-house
24 training program conducted by the employer. Proof of training

1 completion shall be made available for inspection by the ABLE
2 Commission at the business location employing the licensee. The
3 failure of an employee licensee to comply with this section may
4 constitute a revocable offense.

5 B. In the event the ABLE Commission denies an application for
6 an employee license, the Commission shall provide written notice to
7 the applicant's employer, if any. The notice shall be given at the
8 time notice is provided to the applicant.

9 SECTION 9. AMENDATORY 37A O.S. 2021, Section 2-124, is
10 amended to read as follows:

11 Section 2-124. A. A private carrier license may be issued to
12 any carrier other than a common carrier described in Section ~~35~~ 2-
13 123 of this ~~act~~ title. Such license shall authorize the holder
14 thereof to transport alcoholic beverages other than wine sold
15 directly by a winemaker or winery to a retail package store or
16 restaurant into, within, or out of this state under such terms,
17 conditions, limitations and restrictions as the ABLE Commission may
18 prescribe by order issuing such license and by rule. No carrier
19 license or private carrier license shall be required of licensed
20 brewers, distillers, winemakers, rectifiers, wholesalers or beer
21 distributors, to transport alcoholic beverages from the place of
22 purchase or acquisition to the licensed premises of such licensees
23 and from such licensed premises to the licensed premises of the

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1 purchaser in vehicles owned or leased by such licensee when such
2 transportation is for a lawful purpose and not for hire.

3 B. No carrier license or private carrier license shall be
4 required of the holder of a grocery retail spirits, retail spirits,
5 retail wine, retail beer, mixed beverage, caterer, special event,
6 hotel beverage, public event or airline/railroad license to pick up
7 alcoholic beverage orders from the licensee's wholesaler, beer
8 distributor or holder of a small brewer self-distribution license or
9 brewpub self-distribution license from whom they are purchased and
10 to transport such alcoholic beverages from the place of purchase or
11 acquisition to the licensed premise of such licensees in vehicles
12 owned or under the control of such licensee or a licensed employee
13 of such licensee under such terms, conditions, limitations and
14 restrictions as the ABLE Commission may prescribe.

15 SECTION 10. AMENDATORY 37A O.S. 2021, Section 2-141, is
16 amended to read as follows:

17 Section 2-141. Applicants for original brewer, distiller,
18 winemaker, rectifier, wine and spirits wholesaler, beer distributor,
19 mixed beverage, beer and wine, bottle club, caterer, grocery retail
20 spirits, retail spirits, retail wine or retail beer licenses shall,
21 prior to applying for such license, twice publish, in such form and
22 containing such information as the ABLE Commission shall by rule
23 prescribe, a notice of its intention to apply for any such license,
24 once a week for two (2) successive weeks in a legal newspaper of

1 general circulation within the county where the proposed premises is
2 to be located, and file proof of such publication with the ABLE
3 Commission. Unless otherwise provided, the ABLE Commission shall
4 give notice of approval or disapproval of an application for a
5 license within thirty (30) days after the filing of the application.
6 The ABLE Commission shall give notice of approval or disapproval of
7 an application for a mixed beverage, beer and wine, bottle club or
8 caterer license within sixty (60) days after the filing of the
9 application. Provided, the ABLE Commission may extend the period
10 for making a determination of whether to approve or disapprove an
11 application an additional thirty (30) days for good cause. The ABLE
12 Commission may conditionally approve any application which is
13 subject to Section ~~54~~ 2-142 of this ~~act~~ title if:

14 1. Construction, modification or alteration of premises
15 proposed for licensed operations is not completed; and

16 2. The applicant furnishes a conditional certification issued
17 by the municipality or county that the applicant's plans and
18 specifications indicate that the proposed premises will comply with
19 the municipality's or county's zoning, fire, safety and health
20 codes.

21 The ABLE Commission shall issue its final notice of approval
22 when the applicant furnishes final certificates required by Section
23 ~~54~~ 2-142 of this ~~act~~ title.

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1 SECTION 11. AMENDATORY 37A O.S. 2021, Section 2-143, is
2 amended to read as follows:

3 Section 2-143. A. Any corporation applying for a mixed
4 beverage, beer and wine, caterer, public event, beer distributor or
5 bottle club, or as an equity partner in a wine and spirits
6 wholesaler, shall submit to the ABLE Commission the following:

7 1. A certificate of good standing from the office of the
8 Secretary of State;

9 2. A list of all corporate officers, directors, executive
10 committee members or members of a similar governing body and their
11 addresses, except for a charitable organization exempt from taxation
12 under Section 501(c)(3), (4), (5), (6), (7), (8), (9), (10), or (19) of the
13 United States Internal Revenue Code, which shall only be required to
14 furnish its corporate officers; and

15 3. A list of all stockholders owning fifteen percent (15%) or
16 more of the stock and their addresses.

17 B. Any corporation applying for a grocery retail spirits,
18 retail wine or retail beer license shall submit to the ABLE
19 Commission the following:

20 1. A certificate of good standing from the office of the
21 Secretary of State;

22 2. A list of all corporate officers and directors, except for a
23 charitable organization exempt from taxation under Section
24 501(c)(3), (4), (5), (6), (7), (8), (9), (10), or (19) of the United States

1 Internal Revenue Code, which shall only be required to furnish its
2 corporate officers; and

3 3. A list of all stockholders owning fifty-one percent (51%) or
4 more of the stock.

5 C. A corporate licensee shall notify the ABLE Commission in
6 writing of any change in the officers or directors of the
7 corporation or in the principal managers of premises licensed to the
8 corporation and shall pay a fee of One Hundred Dollars (\$100.00) for
9 each notification of change. Provided, service organizations which
10 are exempt under Section 501(c)(8), (10), or (14) of the Internal
11 Revenue Code shall be exempt from such fee.

12 D. A corporate licensee shall notify the ABLE Commission any
13 time a person, any type of partnership, limited liability company or
14 other entity acquires the percentages specified in paragraph 3 of
15 subsection A or B of this section, or more, of the stock of the
16 corporation. Such notification shall be within thirty (30) days of
17 acquisition, and the corporation shall pay a fee of One Hundred
18 Dollars (\$100.00) for each notification of change.

19 E. The ABLE Commission may disapprove a change of officers,
20 directors or principal managers or the acquisition of more than the
21 percentages specified in paragraph 3 of subsection A or B of this
22 section of the stock in a licensed corporation if the ABLE
23 Commission feels that such change would materially affect the
24 conditions under which the license was issued, such that the license

1 would not have been issued had such change been in existence at the
2 time of the original application. If such disapproval occurs, the
3 ABLE Commission shall notify the licensee in writing and in the case
4 of a publicly traded corporation, allow a reasonable time for the
5 licensee to remove such officer, director or manager or for the
6 stockholder to divest himself or herself of any stock held in excess
7 of the percentages specified in paragraph 3 of subsection A or B of
8 this section; provided, a reasonable time may not exceed a ninety-
9 day period following notification of denial by the ABLE Commission.
10 Failure to comply with the provisions of this subsection may result
11 in revocation or suspension of such license.

12 F. Any person who was an officer or director or who has owned
13 the percentages specified in paragraph 3 of subsection A or B of
14 this section or more of the stock in a corporation which has been
15 denied a license or had a license revoked or suspended pursuant to
16 the provisions of the Oklahoma Alcoholic Beverage Control Act shall
17 not own stock in any other corporation seeking a license pursuant to
18 the provisions of the Oklahoma Alcoholic Beverage Control Act for a
19 period of twelve (12) months from the date the license was revoked
20 or suspended.

21 G. Any person who was a manager or a member of a limited
22 liability company which has been denied a license or had a license
23 revoked or suspended pursuant to the provisions of the Oklahoma
24 Alcoholic Beverage Control Act shall not own stock in any

1 corporation seeking a license pursuant to the provisions of the
2 Oklahoma Alcoholic Beverage Control Act for a period of twelve (12)
3 months from the date the license was revoked or suspended.

4 SECTION 12. AMENDATORY 37A O.S. 2021, Section 2-146, as
5 amended by Section 2, Chapter 192, O.S.L. 2022 (37A O.S. Supp. 2022,
6 Section 2-146), is amended to read as follows:

7 Section 2-146. A. The ABLE Commission shall refuse to issue a
8 wine and spirits wholesaler, beer distributor, grocery retail
9 spirits, retail spirits, retail wine or retail beer license, either
10 on an original application or a renewal application, if it has
11 reasonable grounds to believe and finds any of the following to be
12 true:

13 1. Except in the case of a beer distributor, that the applicant
14 is not a citizen of the United States or is not a qualified elector
15 in this state, or has not been a continuous resident of this state
16 for the five (5) years next preceding the application for the
17 license;

18 2. That the applicant is under twenty-one (21) years of age;

19 3. That the applicant or any partner, or spouse of the
20 applicant or any partner, has been convicted of a felony;

21 4. That the applicant or any partner, or spouse of the
22 applicant or any partner, has been convicted of a violation of any
23 state or federal law relating to alcoholic beverages, has forfeited
24 a bond while any charge of such violation was pending, nor may any

1 license be granted for any purpose under the Oklahoma Alcoholic
2 Beverage Control Act to an Oklahoma resident, who has held or whose
3 spouse has held a Federal Liquor Stamp in Oklahoma before the
4 adoption of Article XXVIII-A of the Oklahoma Constitution unless the
5 Liquor Stamp was granted for supplying alcoholic beverages to a
6 federal military installation, or was granted under the Oklahoma
7 Alcoholic Beverage Control Act;

8 5. That the applicant or any partner has, within twelve (12)
9 months next preceding the date of the application, violated any
10 provision of the Oklahoma Alcoholic Beverage Control Act or rule of
11 the ABLE Commission promulgated pursuant hereto. Provided, however,
12 that if the ABLE Commission has, during such twelve-month period,
13 suspended any license sought to be renewed, such renewal application
14 may be approved if the term of the suspension has been completed and
15 the applicant has complied with any special conditions imposed in
16 connection with the suspension;

17 6. That the applicant is in the habit of using alcoholic
18 beverages to excess or is mentally incapacitated;

19 7. That the applicant does not own or have a written lease for
20 the premises for which a license is sought;

21 8. That the applicant, within twelve (12) months next preceding
22 the date of application, has been the holder of a license revoked
23 for cause;

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1 9. That the applicant is not the real party in interest, or
2 intends to carry on the business authorized by the license as the
3 agent of another;

4 10. That the applicant, in the case of an application for
5 renewal of any license, would not be eligible for such license on a
6 first application;

7 11. That the applicant is a person who appoints or is a law
8 enforcement official or is an employee of the ABLE Commission;

9 12. That the proposed location of the licensed premises would
10 violate a valid municipal nondiscriminatory zoning ordinance;

11 13. That, in the case of an application for a wine and spirits
12 wholesaler license or beer distributor license, any brewer or
13 manufacturer, including an officer, director or principal
14 stockholder thereof or any partner, has any financial interest in
15 the business to be conducted under the license, unless otherwise
16 permitted by law;

17 14. That the issuance of the license applied for would result
18 in a violation of any provision of the Oklahoma Alcoholic Beverage
19 Control Act;

20 15. That, in the case of an application for a wine and spirits
21 wholesaler or beer distributor license, the applicant or any
22 partner, or spouse of the applicant or any partner, is the holder or
23 partner of the holder of any other class of license issued under the
24 provisions of the Oklahoma Alcoholic Beverage Control Act, other

1 than an agent or employee license for employment by the applicant,
2 or a storage license, bonded warehouse license, carrier license or
3 private carrier license; provided, nothing shall prohibit a wine and
4 spirits wholesaler, who is otherwise qualified, from maintaining
5 beer distributor licenses in the state, nor a beer distributor, who
6 is otherwise qualified, from maintaining a wine and spirits
7 wholesaler license in the state;

8 16. That, in the case of an application for a grocery retail
9 spirits, retail spirits, retail wine or retail beer license, the
10 applicant or any partner is the holder or partner of the holder, or
11 employee of such holder of any other class of license issued under
12 the provisions of the Oklahoma Alcoholic Beverage Control Act, other
13 than a storage license or an employee license for the proposed
14 licensed premises of the applicant, provided, nothing in this title
15 shall prohibit an applicant for a grocery retail spirits, retail
16 wine and/or retail beer license from maintaining a separate mixed
17 beverage, caterer, mixed beverage/caterer combination license,
18 and/or an on-premises beer and wine license; or

19 17. That the applicant or any partner, spouse, employee or
20 other person affiliated with the applicant is not in compliance with
21 the tax laws of this state as required in Article XXVIII-A of the
22 Oklahoma Constitution.

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1 B. The provisions of this section shall not operate to prohibit
2 the issuance of a beer distributor license to a corporation or
3 partnership or limited liability company.

4 SECTION 13. AMENDATORY 37A O.S. 2021, Section 2-148, is
5 amended to read as follows:

6 Section 2-148. A. Any license issued pursuant to the
7 provisions of the Oklahoma Alcoholic Beverage Control Act by the
8 ABLE Commission, after due notice and hearing, may be revoked or
9 suspended if the ABLE Commission finds or has grounds to believe
10 that the licensee has:

- 11 1. Violated any rule promulgated by the ABLE Commission;
- 12 2. Procured a license through fraud, or misrepresentation, or
13 concealment of a material fact;
- 14 3. Made any false representation or statement to the ABLE
15 Commission or the Oklahoma Tax Commission in order to prevent or
16 induce action by the ABLE Commission or the Tax Commission;
- 17 4. Maintained an unsanitary establishment or has supplied
18 impure or otherwise deleterious beverages or food;
- 19 5. Stored, possessed, mixed or served on the premises of a
20 bottle club any alcoholic beverage upon which the tax levied by
21 Section 5-101 of this title has not been paid as provided for in the
22 Oklahoma Alcoholic Beverage Control Act, in a county of this state
23 where the sale of alcoholic beverages by the individual drink for
24 on-premises consumption has not been authorized;

1 6. Misrepresented to a customer or the public any alcoholic
2 beverage sold by the licensee;

3 7. Had any permit or license issued by the Tax Commission and
4 required by the Oklahoma Alcoholic Beverage Control Act, suspended
5 or revoked by the Tax Commission; or

6 8. Is not in compliance with the tax laws of this state as
7 required in Article XXVIII-A of the Oklahoma Constitution.

8 B. The ABLE Commission may revoke or suspend the license of any
9 mixed beverage, caterer or bottle club licensee if the ABLE
10 Commission finds or has grounds to believe that such licensee:

11 1. Has acted as an agent of a manufacturer, brewer or
12 wholesaler of alcoholic beverages;

13 2. Is a manufacturer, brewer or wholesaler of alcoholic
14 beverages;

15 3. Has borrowed money or property or accepted gratuities or
16 rebates from a manufacturer, brewer or wholesaler of alcoholic
17 beverages;

18 4. Has obtained the use of equipment from any manufacturer,
19 brewer or wholesaler of alcoholic beverages or any agent thereof;

20 5. Has violated any of the provisions of the Oklahoma Alcoholic
21 Beverage Control Act for which mandatory revocation or suspension is
22 not required;

23 6. Has been convicted within the past twenty-five (25) years,
24 of a violation of any state or federal law relating to alcoholic

1 beverage for which mandatory revocation or suspension is not
2 required; or

3 7. Is not in compliance with the tax laws of this state as
4 required in Article XXVIII-A of the Oklahoma Constitution.

5 C. The ABLE Commission may revoke or suspend the license of any
6 retail, mixed beverage, caterer or bottle club licensee if the ABLE
7 Commission finds or has grounds to believe that such licensee has
8 borrowed money or property or accepted gratuities, discounts,
9 rebates, free goods, allowances or other inducements from a wine and
10 spirits wholesaler or beer distributor.

11 D. The ABLE Commission shall have the authority to revoke the
12 license of any licensee if the ABLE Commission finds:

13 1. That the licensee knowingly sold alcoholic beverages or
14 allowed such beverages to be sold, delivered or furnished to any
15 person under the age of twenty-one (21) years or to any person
16 visibly intoxicated or adjudged insane or mentally deficient;

17 2. That the licensee, any general or limited partner of the
18 licensee, or in the case of a corporation, an officer or director of
19 the corporation, has been convicted of a felony or is not in
20 compliance with the tax laws of this state as required in Article
21 XXVIII-A of the Oklahoma Constitution. Provided, an employee
22 license may be issued and held by a person who has been convicted of
23 a felony if such conviction was not for a violent offense specified
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1 in paragraph 2 of Section 571 of Title 57 of the Oklahoma Statutes
2 or an offense under the provisions of this title;

3 3. That, in the case of a wine and spirits wholesaler, beer
4 distributor, grocery retail spirits, retail spirits, retail wine or
5 retail beer licensee, the holder of the license or any member of a
6 general or limited partnership which is the holder of such a
7 license, has been convicted of a prohibitory law relating to the
8 sale, manufacture or transportation of alcoholic beverages which
9 constitutes a felony.

10 E. If the ABLE Commission shall find by a preponderance of the
11 evidence as in civil cases that a licensee has knowingly sold any
12 alcoholic beverage to any person under the age of twenty-one (21)
13 years, after a public hearing, the ABLE Commission shall revoke such
14 license and no discretion as to the revocation shall be exercised by
15 the ABLE Commission.

16 F. The ABLE Commission shall have the authority to promulgate
17 rules to establish a penalty schedule for violations of any
18 provision of the Oklahoma Alcoholic Beverage Control Act or any rule
19 of the ABLE Commission. The schedule shall provide for suspension
20 or revocation of any license for major and minor violations as
21 determined by the ABLE Commission. Penalties shall be increasingly
22 severe with each violation by a licensee.

23 Provided, that for a fourth major violation by a licensee within
24 a twenty-four-month period, the penalty shall be mandatory

1 revocation of license. The twenty-four-month period shall be
2 calculated from the date of the most recent violation as set forth
3 in an order signed by the Director or the designee of the Director.

4 G. The ABLE Commission or the Tax Commission may impose a
5 monetary penalty in lieu of or in addition to suspension of a
6 license. The amount of the fine for a major violation shall be
7 computed by multiplying the proposed number of days of the
8 suspension period by One Hundred Dollars (\$100.00). The amount of
9 the fine for a minor violation shall be computed by multiplying the
10 number of days of the proposed suspension period by Fifty Dollars
11 (\$50.00).

12 H. The failure of any licensee to pay a fine or serve a
13 suspension imposed by the ABLE Commission or the Tax Commission
14 shall result in the revocation of the license of the licensee.

15 I. If the ABLE Commission or the Tax Commission finds that
16 public health, safety or welfare require emergency action, and
17 incorporates a finding to that effect in its order, summary
18 suspension of a license may be ordered pending proceeding for
19 revocation or other action, pursuant to the provisions of Section
20 314 of Title 75 of the Oklahoma Statutes.

21 SECTION 14. AMENDATORY 37A O.S. 2021, Section 2-161, is
22 amended to read as follows:

23 Section 2-161. A. ~~Retail spirit~~ Grocery retail spirits and
24 retail spirits licensees may sell curbside and deliver alcoholic

1 beverages including beer, wine, and spirits in sealed original
2 containers to consumers aged twenty-one (21) years and older as
3 follows:

4 1. Grocery retail spirits licensees are permitted to make
5 alcoholic beverage product deliveries to consumers using an
6 employee, third party delivery service, or independent contractor
7 delivering on behalf of the licensee;

8 2. Only employees of the retail spirits licensee shall be
9 permitted to make alcoholic beverage product deliveries to
10 consumers;

11 ~~2.~~ 3. Payment for alcoholic beverage product delivery by the
12 grocery retail spirits licensee or retail spirits licensee may be
13 made by cash, check, transportable credit/debit card processors or
14 advance on-line payment methods; and

15 ~~3.~~ 4. The grocery retail spirits licensee and retail spirits
16 licensee shall be responsible for his or her delivery employees as
17 provided in Section 2-133 of Title 37A of the Oklahoma Statutes.

18 B. Small brewers and small farm wineries licensed by the
19 Oklahoma ABLE Commission may sell curbside only alcoholic beverages
20 produced by such licensee in sealed original containers to consumers
21 aged twenty-one (21) years and older as follows:

22 1. Only employees of the licensed small brewer or small farm
23 winery shall be permitted to make alcoholic beverage product
24 deliveries to consumers;

1 2. Payment for alcoholic beverage product delivery by licensed
2 small brewers or small farm wineries may be made by cash, check,
3 transportable credit/debit card processors, or advance on-line
4 payment methods; and

5 3. Small brewers and small farm wineries shall be responsible
6 for their delivery employees as provided in Section 2-133 of Title
7 37A of the Oklahoma Statutes.

8 C. Restaurants, bars and clubs holding mixed beverage, beer and
9 wine, or caterer/mixed beverage licenses issued by the Oklahoma ABLE
10 Commission may sell curbside and deliver only closed packages of
11 beer and wine to consumers aged twenty-one (21) years and older as
12 follows:

13 1. Only employees of such restaurant, bar or club licensee
14 shall be permitted to make alcoholic beverage package deliveries to
15 consumers;

16 2. Payment for alcoholic beverage package delivery by licensed
17 restaurants, bars and clubs may be made by cash, check,
18 transportable credit/debit card processors, or advance on-line
19 payment methods; and

20 3. Restaurants, bars and clubs licensed by the Oklahoma ABLE
21 Commission shall be responsible for their delivery employees as
22 provided in Section 2-133 of Title 37A of the Oklahoma Statutes.

23 D. Grocery and convenience stores holding a grocery retail
24 spirits, retail beer and/or retail wine license issued by the

1 Oklahoma ABLE Commission may sell curbside and deliver original
2 sealed containers of spirits, beer and/or wine only according to the
3 license held to consumers aged twenty-one (21) years and older as
4 follows:

5 1. ~~Only employees of such licensed grocery or convenience store~~
6 ~~shall be permitted to make alcoholic beverage product deliveries to~~
7 ~~consumers~~ Grocery and convenience store licensees are permitted to
8 make alcoholic beverage deliveries to consumers using an employee,
9 third party delivery service, or independent contractor delivering
10 on behalf of the licensee;

11 2. Payment for alcoholic beverage product delivery by a
12 licensed grocery or convenience store may be made by cash, check,
13 transportable credit/debit card processors or advance on-line
14 payment methods; and

15 3. Grocery and convenience store licensees shall be responsible
16 for their delivery employees as provided in Section 2-133 of Title
17 37A of the Oklahoma Statutes.

18 E. Licensees authorized by this section to make alcoholic
19 beverage product deliveries to consumers are prohibited from
20 utilizing third-party vendors or delivery services for purposes of
21 completing such product deliveries to consumers.

22 F. Licensees authorized by this section to make alcoholic
23 beverage product deliveries to consumers shall comply with the laws,
24 rules, procedures and executive orders incumbent on such licensee.

1 G. The Oklahoma ABLE Commission is authorized to promulgate
2 rules, regulations, forms and procedures necessary to implement and
3 enforce the provisions of this section.

4 H. For purposes of this section each delivery authorized by a
5 licensee to be made by his or her employee, third party delivery
6 service or independent contractor shall be deemed a direct hand-to-
7 hand sale as though the consumer was physically present on the
8 licensed premises and authorized by law by such licensee.

9 SECTION 15. AMENDATORY 37A O.S. 2021, Section 3-114, is
10 amended to read as follows:

11 Section 3-114. A. This section applies to all retailers
12 authorized to sell beer for consumption off the premises.

13 B. The holder of a retail beer, grocery retail spirits or
14 retail spirits license may resell beer only in the packaging in
15 which the holder received the beer or may resell the contents of the
16 packages as individual containers.

17 C. Except for purposes of resale as individual containers, the
18 licensee shall not:

19 1. Mutilate, tear apart or cut apart original packaging in
20 which beer was received; or

21 2. Repackage beer in a manner misleading to the consumer or
22 that results in required labeling being omitted or obscured.

23 D. The ABLE Commission shall impose the following penalties for
24 a violation of subsection B or C of this section:

1 1. After notice and hearing, immediately revoke the license of
2 the licensee committing the violation; and

3 2. Impose a fine of not more than One Thousand Dollars
4 (\$1,000.00) for each violation.

5 Any licensee whose license is revoked pursuant to this
6 subsection shall not be eligible to reapply for a license for at
7 least three (3) months from the date of the revocation. Any stock
8 of beer in undamaged original packaging in the possession of such
9 licensee shall be repurchased by the distributor as long as the
10 repurchased inventory falls within the date considered by the brewer
11 of the product to be appropriate for sale to a consumer.

12 E. Administrative fines collected pursuant to this section
13 shall be enforceable in the district courts of this state. All
14 administrative fines collected by the ABLE Commission pursuant to
15 this section shall be forwarded to the State Treasurer for deposit
16 in the General Revenue Fund.

17 SECTION 16. AMENDATORY 37A O.S. 2021, Section 3-123, is
18 amended to read as follows:

19 Section 3-123. A. It shall be unlawful for any person
20 privileged to sell alcoholic beverages to wholesalers, beer
21 distributors or retailers:

22 1. To discriminate, directly or indirectly, in price between
23 one wine and spirits wholesaler and another wine and spirits
24 wholesaler, when that manufacturer has not designated a single wine

1 and spirits wholesaler, or between one retailer and another retailer
2 purchasing alcoholic beverages bearing the same brand or trade name
3 and of like age and quality, unless otherwise provided by law; or

4 2. To grant, directly or indirectly, any discount, rebate, free
5 goods, allowance or other inducement.

6 B. The ABLE Commission is hereby authorized to promulgate rules
7 which are necessary to carry out the purpose of this section and to
8 prevent its circumvention by offering or giving of any rebate,
9 allowance, free goods, discount or any other thing or service of
10 value; provided, the posting or invoicing of charges per order for
11 processing minimum orders or per case for the handling or repacking
12 of goods by wine and spirits wholesalers and beer distributors for
13 sales in less than full case lots shall not constitute a violation
14 of this section.

15 C. For the violation of any provision of this section or of any
16 rule duly promulgated under this section, the ABLE Commission may
17 suspend or revoke a license as follows:

18 1. For a first offense, not exceeding ten (10) days' suspension
19 of license;

20 2. For a second offense, not exceeding thirty (30) days'
21 suspension of license; and

22 3. For a third offense, the ABLE Commission shall revoke the
23 license.

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1 D. For purposes of this section, and except as otherwise
2 provided in subsection E of this section, "inducement" means
3 directly or indirectly offering, selling, trading, giving or
4 furnishing any discount, free goods, electronic or nonelectronic
5 refrigerated equipment, barrels, tubs, fixtures, dispensing
6 equipment, outdoor electric or nonelectric advertising structure
7 displaying the retailer's name, permanent shelving, supplies, gifts,
8 prizes, instantly redeemable coupons, premiums, retailer rebates,
9 services of any employee including but not limited to affixing price
10 labels or tags, routinely stocking product on shelves other than the
11 stocking of cold boxes, paying a third party for entering product
12 and price information into a retailer's computer system, portal,
13 website, spreadsheet or third-party system, handling product that
14 was not sold to the retailer by the licensee, paying a slotting fee,
15 selling on consignment, operating a retailer's cash register,
16 conducting janitorial services, decoration, samples of alcoholic
17 beverages, personal property or other inducement or thing of value
18 to any grocery retail spirits, retail spirits, retail beer, retail
19 wine, beer and wine, mixed beverage, caterer, bottle club or special
20 event licensee, wine and spirits wholesaler or beer distributor,
21 their agents or employees.

22 E. It shall not be deemed an inducement for a brewer, beer
23 distributor, small brewer self-distributor or brewpub self-

24

1 distributor to voluntarily take the following merchandising actions
2 with the permission of the retail licensee:

3 1. Furnish point-of-sale advertising materials and consumer
4 advertising specialties, as those terms are defined in 27 C.F.R.,
5 Section 6.84 and in compliance with the other limits and
6 restrictions provided in 27 C.F.R., Section 6.84;

7 2. Give or sell product displays, including but not limited to
8 barrels and tubs, provided that the value of such displays does not
9 exceed the limits and restrictions provided in 27 C.F.R., Section
10 6.83;

11 3. Build product displays, accessible to the customer and
12 without disturbing competitors' products, for the product being
13 delivered by the beer distributor;

14 4. Affix pricing to the shelf strip or product display for the
15 product being delivered by the beer distributor, small brewer self-
16 distributor or brewpub self-distributor, or brewed by the brewer;

17 5. Routinely stock and restock shelves and cold boxes and
18 rotate product that has been sold to the retail licensee by the beer
19 distributor, small brewer self-distributor or brewpub self-
20 distributor, or brewed by the brewer;

21 6. Furnish things of value to a temporary retailer, as defined
22 in 27 C.F.R., Section 6.85;

23 7. Sell equipment or supplies to a retail licensee, provided
24 the equipment or supplies are sold at a price not less than the cost

1 to the industry member and payment is collected within thirty (30)
2 days of the sale;

3 8. Install dispensing accessories at the retail location, as
4 long as the retailer bears the cost of installation including
5 equipment; or furnish, give or sell coil cleaning services to a
6 retailer;

7 9. Withdraw quantities of beer or cider in undamaged, original
8 packaging from the retail licensee's stock, provided the beer
9 distributor, small brewer self-distributor, brewpub self-distributor
10 or brewer sold such beer, directly or indirectly, to the retail
11 licensee and such removal is otherwise permitted under Section 3-115
12 of this title; provided, however, replacing with beer or cider of
13 equivalent value shall not be considered a consignment sale;

14 10. Provide mail-in rebates for beer, cider and nonalcoholic
15 beverage merchandise items, funded by the brewer and redeemed by the
16 brewer, either by itself or through a third-party fulfillment
17 company, for a discount or rebate on the beer, cider or nonalcoholic
18 item;

19 11. Provide a recommended shelf plan or shelf schematic to a
20 retail licensee for all or any portion of the inventory sold by the
21 retail licensee;

22 12. Furnish or give a sample of beer or cider to a retailer who
23 has not purchased the brand from that brewer, beer distributor,
24 small brewer self-distributor or brewpub self-distributor within the

1 last twelve (12) months, provided that the brewer, beer distributor,
2 small brewer self-distributor or brewpub self-distributor may not
3 give more than thirty-six (36) ounces of any brand of beer or cider
4 to a specific retailer;

5 13. Furnish or give newspaper cuts, mats or engraved blocks for
6 use in retailers' advertisements;

7 14. Package and distribute beer or cider in combination with
8 other nonalcoholic items for sale to consumers;

9 15. Give or sponsor educational seminars for employees of
10 retailers either at the brewer, beer distributor, small brewer self-
11 distributor or brewpub self-distributor's premises or at the
12 retailer's establishment, including seminars dealing with use of a
13 retailer's equipment, training seminars for employees of retailers
14 or tours of the brewer, beer distributor, small brewer self-
15 distributor, or brewpub self-distributor's plant premises, provided
16 that the brewer, beer distributor, small brewer self-distributor or
17 brewpub self-distributor shall not pay the retailer for the
18 employees' travel, lodging or other expenses in conjunction with an
19 educational seminar but may provide nominal hospitality during the
20 event;

21 16. Conduct tasting or sampling activities at a retail
22 establishment and purchase the products to be used from the retailer
23 so long as the purchase price paid does not exceed the ordinary
24

1 retail price; provided, a beer distributor shall not be required to
2 provide labor for such sampling activities;

3 17. Offer contest prizes, premium offers, refunds and like
4 items directly to consumers so long as officers, employees and
5 representatives of brewers, beer distributors, small brewer self-
6 distributors, brewpub self-distributors and licensed retailers are
7 excluded from participation;

8 18. List the names and addresses of two or more unaffiliated
9 retailers selling the products of a brewer, beer distributor, small
10 brewer, small brewer self-distributor or brewpub self-distributor in
11 an advertisement of such brewer, beer distributor, small brewer,
12 small brewer self-distributor or brewpub self-distributor so long as
13 the requirements of 27 C.F.R., Section 6.98 are satisfied,
14 considering applicable guidance issued by the United States
15 Department of the Treasury Alcohol and Tobacco Tax and Trade Bureau;
16 provided, nothing in the Oklahoma Alcoholic Beverage Control Act
17 shall prohibit a retail, mixed beverage, on-premises beer and wine,
18 public event, special event, charitable auction, charitable
19 alcoholic beverage event, or complimentary beverage licensee from
20 communicating with a brewer, beer distributor, small brewer, small
21 brewer self-distributor or brewpub self-distributor on social media
22 or sharing media on the social media page or site of a brewer, beer
23 distributor, small brewer, small brewer self-distributor or brewpub
24 self-distributor. A retail, mixed beverage, on-premises beer and

1 wine, public event, special event, charitable auction, charitable
2 alcoholic beverage event, or complimentary beverage licensee may
3 request free social media advertising from a brewer, beer
4 distributor, small brewer, small brewer self-distributor or brewpub
5 self-distributor; provided, nothing in this section shall prohibit a
6 brewer, beer distributor, small brewer, small brewer self-
7 distributor or brewpub self-distributor from sharing, reposting or
8 forwarding a social media post by a retail, mixed beverage, on-
9 premises beer and wine, public event, special event, charitable
10 auction, charitable alcoholic beverage event, or complimentary
11 beverage licensee, as long as the sharing, reposting or forwarding
12 of the social media post does not contain the retail price of any
13 alcoholic beverage. No brewer, beer distributor, small brewer,
14 small brewer self-distributor or brewpub self-distributor shall pay
15 or reimburse a retail, mixed beverage, on-premises beer and wine,
16 public event, special event, charitable auction, charitable
17 alcoholic beverage event, or complimentary beverage licensee,
18 directly or indirectly, for any social media advertising services.
19 No retail, mixed beverage, on-premises beer and wine, public event,
20 special event, charitable auction, charitable alcoholic beverage
21 event, or complimentary beverage licensee shall accept any payment
22 or reimbursement, directly or indirectly, for any social media
23 advertising service offered by a brewer, beer distributor, small
24 brewer, small brewer self-distributor or brewpub self-distributor.

1 For purposes of this paragraph, "social media" means a service,
2 platform or site where users communicate with one another and share
3 media, such as pictures, videos, music and blogs, with other users
4 free of charge; or

5 19. Entering product and price information into a retailer's
6 portal, website, spreadsheet or third-party system. A brewer may
7 pay for a third-party system that provides data and pricing services
8 to the brewer or a beer distributor.

9 F. It shall not be deemed an inducement for a brewer, beer
10 distributor, small brewer self-distributor or brewpub self-
11 distributor to engage in the following marketing activities,
12 provided that the brewer, beer distributor, small brewer self-
13 distributor or brewpub self-distributor shall not pay the retailer's
14 travel costs other than those for local transportation or lodging:

15 1. Provide tickets to a retailer for a sporting or
16 entertainment event so long as a representative of the brewer, beer
17 distributor, small brewer self-distributor or brewpub self-
18 distributor attends the event with the retailer;

19 2. Provide food and beverage to a retailer for immediate
20 consumption:

21 a. at a meeting at which the primary purpose is the
22 discussion of business,
23 b. at a convention when the food and beverages are
24 offered to all participants, or

1 c. at a sports or entertainment event that the
2 representatives of a brewer, beer distributor, small
3 brewer self-distributor or brewpub self-distributor
4 attend with the retailer;

5 3. Participate in retailer association activities by engaging
6 in the following actions:

- 7 a. displaying products at a convention or trade show,
8 b. renting display booth space if the rental fee is the
9 same as paid by all exhibitors at the event,
10 c. providing its own hospitality which is independent
11 from association-sponsored activities,
12 d. purchasing tickets to functions and paying
13 registration fees if the payments or fees are the same
14 as paid by all attendees, participants or exhibitors
15 at the event, or
16 e. making payments for advertisements in programs or
17 brochures issued by retailer associations at a
18 convention or trade show; or

19 4. Giving or selling outdoor signs to a retailer so long as the
20 following requirements of 27 C.F.R., Section 6.102 are satisfied:

- 21 a. the sign bears conspicuous and substantial advertising
22 matter about the product or the brewer, beer
23 distributor, small brewer self-distributor or brewpub
24

1 self-distributor which is permanently inscribed or
2 securely affixed,

3 b. the retailer is not compensated, directly or
4 indirectly, such as through a sign company, for
5 displaying the signs, and

6 c. a permanent outdoor sign does not contain the
7 retailer's name.

8 SECTION 17. AMENDATORY 37A O.S. 2021, Section 6-103, as
9 amended by Section 1, Chapter 82, O.S.L. 2022 (37A O.S. Supp. 2022,
10 Section 6-103), is amended to read as follows:

11 Section 6-103. A. No grocery retail spirits licensee shall:

12 1. Purchase or receive any alcoholic beverage other than from a
13 wine and spirits wholesaler, beer distributor, winery or small
14 brewer self-distribution licensee who elects to self-distribute;

15 2. Suffer or permit any retail container to be opened, or any
16 alcoholic beverage to be consumed on the licensed premises, except
17 when serving samples as authorized by Section 2-109 of this title or
18 otherwise permitted by law; provided, the licensee shall not permit
19 any alcoholic beverage content or retail container unsealed in
20 connection with sampling authorized by Section 2-109 of this title
21 to remain on the licensed premises at the close of business on that
22 day, excluding spirits;

23 3. Sell any alcoholic beverages at any hour other than between
24 the hours of 6:00 a.m. and 2:00 a.m.;

1 4. Sell any alcoholic beverage on credit; provided, that
2 acceptance by a licensee of a cash or debit card or a nationally
3 recognized credit card in lieu of actual cash payment does not
4 constitute the extension of credit; provided, further, as used in
5 this section:

6 a. "cash or debit card" means any instrument or device
7 whether known as a debit card or by any other name,
8 issued with or without fee by an issuer for the use of
9 the cardholder in depositing, obtaining or
10 transferring funds from a consumer banking electronic
11 facility, and

12 b. "nationally recognized credit card" means any
13 instrument or device, whether known as a credit card,
14 credit plate, charge plate or by any other name,
15 issued with or without fee by an issuer for the use of
16 the cardholder in obtaining money, goods, services or
17 anything else of value on credit which is accepted by
18 over one hundred retail locations;

19 5. Offer or furnish any prize, premium, gift or similar
20 inducement to a consumer in connection with the sale of alcoholic
21 beverages, except that goods or merchandise included by the
22 manufacturer in packaging with alcoholic beverages or for packaging
23 with alcoholic beverages shall not be included in this prohibition,
24 but no wholesaler or retailer shall sell any alcoholic beverage

1 prepackaged with other goods or merchandise at a price which is
2 greater than the price at which the alcoholic beverage alone is
3 sold; or

4 6. Pay for alcoholic beverages by a check or draft which is
5 dishonored by the drawee when presented to such drawee for payment;
6 and the ABLE Commission may cancel or suspend the license of any
7 retailer who has given a check or draft, as maker or endorser, which
8 is so dishonored upon presentation.

9 B. No retail spirits licensee shall:

10 1. Purchase or receive any alcoholic beverage other than from a
11 wine and spirits wholesaler, beer distributor, winery or small
12 brewer self-distribution licensee who elects to self-distribute;

13 2. Suffer or permit any retail container to be opened, or any
14 alcoholic beverage to be consumed on the licensed premises, except
15 when serving samples as authorized by Section 2-109 of this title or
16 otherwise permitted by law; provided, the licensee shall not permit
17 any alcoholic beverage content or retail container unsealed in
18 connection with sampling authorized by Section 2-109 of this title
19 to remain on the licensed premises at the close of business on that
20 day, excluding spirits;

21 3. Sell any alcoholic beverages at any hour other than between
22 the hours of 8:00 a.m. and midnight Monday through Saturday, and
23 shall not be permitted to be open on Thanksgiving Day or Christmas
24 Day; provided, a county may, pursuant to the provisions of

1 subsections B and C of Section 3-124 of this title, elect to allow
2 such sales between the hours of noon and midnight on Sunday. Retail
3 spirits licensees shall be permitted to sell alcoholic beverages on
4 the day of any General, Primary, Runoff Primary or Special Election
5 whether on a national, state, county or city election, provided that
6 the election day does not occur on any day on which such sales are
7 otherwise prohibited by law;

8 4. Sell spirits in a city or town, unless such city or town has
9 a population in excess of two hundred (200) according to the latest
10 Federal Decennial Census;

11 5. Sell any alcoholic beverage on credit; provided, that
12 acceptance by a licensee of a cash or debit card or a nationally
13 recognized credit card in lieu of actual cash payment does not
14 constitute the extension of credit; provided, further, as used in
15 this section:

16 a. "cash or debit card" means any instrument or device
17 whether known as a debit card or by any other name,
18 issued with or without fee by an issuer for the use of
19 the cardholder in depositing, obtaining or
20 transferring funds from a consumer banking electronic
21 facility, and

22 b. "nationally recognized credit card" means any
23 instrument or device, whether known as a credit card,
24 credit plate, charge plate or by any other name,

1 issued with or without fee by an issuer for the use of
2 the cardholder in obtaining money, goods, services or
3 anything else of value on credit which is accepted by
4 over one hundred retail locations;

5 6. Offer or furnish any prize, premium, gift or similar
6 inducement to a consumer in connection with the sale of alcoholic
7 beverages, except that goods or merchandise included by the
8 manufacturer in packaging with alcoholic beverages or for packaging
9 with alcoholic beverages shall not be included in this prohibition,
10 but no wholesaler or retailer shall sell any alcoholic beverage
11 prepackaged with other goods or merchandise at a price which is
12 greater than the price at which the alcoholic beverage alone is
13 sold; or

14 7. Pay for alcoholic beverages by a check or draft which is
15 dishonored by the drawee when presented to such drawee for payment;
16 and the ABLE Commission may cancel or suspend the license of any
17 retailer who has given a check or draft, as maker or endorser, which
18 is so dishonored upon presentation.

19 B. No retail spirits licensee shall permit any person under
20 twenty-one (21) years of age to enter into or remain within or about
21 the licensed premises unless accompanied by the person's parent or
22 legal guardian; provided, however, this restriction shall not apply
23 to an employee of a licensed beer distributor or wine and spirits
24 wholesaler who:

- 1 1. Is at least eighteen (18) years of age;
- 2 2. Is accompanied by a coworker at least twenty-one (21) years
3 of age; and
- 4 3. Enters for the sole purpose of merchandising or delivering
5 product to the licensee in the normal course of business.

6 SECTION 18. AMENDATORY 37A O.S. 2021, Section 6-104, is
7 amended to read as follows:

8 Section 6-104. No wine or spirits wholesaler licensee shall
9 sell or deliver, and no wine, grocery retail spirits or retail
10 spirits ~~retail~~ licensee shall receive:

- 11 1. Any amount of spirits or wines to any licensee on Sunday; or
- 12 2. Any amount of spirits or wines to any licensee on New Year's
13 Day, the Fourth of July, Thanksgiving Day or Christmas Day.

14 SECTION 19. Sections 2 through 18 of this act shall become
15 effective November 1, 2024.

16 SECTION 20. The Ballot Title for the proposed act shall be in
17 the following form:

18
19 BALLOT TITLE
20 Legislative Referendum No. _____ State Question No. _____

21 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

22 The measure creates a grocery retail spirits license allowing
23 grocery stores to sell spirits. The measure provides the cost of
24 a grocery retail spirits license. The measure allows certain

1 alcoholic beverage licensee's to self-distribute to grocery
2 retail spirits licensee's. The measure provides where a grocery
3 retail spirits licensee may purchase alcoholic beverages and
4 authorizes them to sell alcoholic beverages for off-premise
5 consumption and host alcoholic beverage tasting events. The
6 measure lowers the minimum age of an employee to sell spirits.
7 The measure provides that a carriers license is not required for
8 a grocery retail spirits licensee. The measure requires grocery
9 retail spirits license applicants to publish a notice of
10 intention to apply. The measure provides required information to
11 be provided by certain grocery retail spirits license
12 applicants. The measure provides grounds to deny, suspend or
13 revoke a grocery retail spirits license or application. The
14 measure provides the requirements for a grocery retail spirits
15 licensee to make deliveries of alcoholic beverages; The measure
16 prohibits sellers of alcoholic beverages to seek inducements
17 from a grocery retail spirits licensee. The measure prohibits
18 certain acts by a grocery retail spirits licensee. If the
19 measure is approved the amendments will become effective
20 November 1, 2024.

21
22 SHALL THE PROPOSAL BE APPROVED?

23 FOR THE PROPOSAL — YES _____

24 AGAINST THE PROPOSAL — NO _____

1 SECTION 21. The Chief Clerk of the House of Representatives,
2 immediately after the passage of this act, shall prepare and file
3 one copy thereof, including the Ballot Title set forth in SECTION 20
4 hereof, with the Secretary of State and one copy with the Attorney
5 General.

6
7 59-1-7330 JL 02/14/23

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