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Updated: November 1, 2017

ARTICLE XXVIII

XXVIII-1. Creation of Commission—Appointment—Membership—Powers—Tenure

There is hereby created the Alcoholic Beverage Laws Enforcement Commission. The purpose of the Commission shall be to enforce the alcoholic beverage laws of the State, and the Commission shall have such power and authority to enforce such laws, rules and regulations as shall be prescribed by the Legislature.

The Commission shall consist of seven (7) members, to be appointed by the Governor with the advice and consent of the State Senate. Five (5) of the members shall be at-large members representing the lay citizenry. The remaining two (2) members shall be persons with law enforcement experience in the State. Any time there is a vacancy on the Commission the Governor shall appoint a replacement, with the advice and consent of the State, within ninety (90) days. Members of the Commission shall be appointed for a term of five (5) years. The Commission shall appoint a Director, whose duties shall be defined by the Legislature. No more than four (4) members of the Commission shall be appointed from the same political party. No more than two (2) members of the Commission shall be appointed from the same federal congressional district.

No member of the Commission shall hold any license authorized by this Article, or have any interest in any capacity, in the manufacture, sale, distribution or transportation of alcoholic beverages.

The members of the Commission shall be removable from office for cause as other officers not subject to impeachment.

Added by State Question No. 563, Initiative Petition No. 319, adopted at election held on Sept. 18, 1984.

XXVIII-1.A. Transition from the Alcoholic Beverage Control Board to the Alcoholic Beverage Laws Enforcement Commission

The Alcoholic Beverage Control Board shall continue to exist and operate after passage of this Article, until such time as the Commission is fully constituted, at which time the Alcoholic Beverage Control Board shall be abolished. The present five (5) members of the Alcoholic Beverage Control Board shall automatically become the five (5) at-large members on the initial transition Commission. For purposes of the initial transition Commission the five (5) year term of appointment shall not apply to these at-large members. These members shall serve from the date of the Commission's constitution until the time that their terms on the Alcoholic Beverage Control Board would have expired, at which time a replacement at-large member shall be appointed by the Governor, with the advice and consent of the Senate, within ninety (90) days. The other two (2) members with law enforcement experience in the state shall be appointed by the Governor, with the advice and consent of the State Senate, within ninety (90) days after passage of this Article. For purposes of the initial transition Commission the prohibitions against appointing more than two (2) members from any federal congressional district and more than four (4) members from the same political party shall not apply.

Added by State Question No. 563, Initiative Petition No. 319, adopted at election held

Sept. 18, 1984.

XXVIII-2. Exclusion of beer or cereal malt beverages containing not more than 3.2% of alcohol by weight

The terms and provisions of this Amendment, and laws enacted by the Legislature pursuant hereto, shall not include nor apply to any beer or cereal malt beverage containing not more than three and two-tenths percent (3.2%) of alcohol by weight; providing, however, nothing shall prohibit a person authorized to sell alcoholic beverages by the individual drink for on-premises consumption from also becoming qualified to sell any beer or cereal malt beverage containing not more than three and two-tenths percent (3.2%) of alcohol by weight in the same location.

Added by State Question No. 563, Initiative Petition No. 319, adopted at election held Sept. 18, 1984.

XXVIII-3. Enactment of laws by Legislature—Indiscriminate sales to licensed wholesale distributors—Winemakers

A. The Legislature shall enact laws providing for the strict regulation, control, licensing, and taxation of the manufacture, sale, distribution, possession, and transportation of alcoholic beverages, consistent with the provisions of this Amendment. Provided, that any manufacturer, or subsidiary of any manufacturer, who markets his or her product solely through a subsidiary or subsidiaries, a distiller, rectifier, bottler, winemaker, brewer, or importer of alcoholic beverages, bottled or made in a foreign country, either within or without this state, shall be required to sell such brands or kinds of alcoholic beverages to every licensed wholesale distributor who desires to purchase the same, on the same price basis and without discrimination, and shall further be required to sell such beverages only to those distributors licensed as wholesale distributors. Winemakers either within or without this state shall be required to sell wine they produce to every licensed wholesaler distributor who desires to purchase the wine, but winemakers shall not be required to sell the wine they produce only to licensed wholesale distributors. Winemakers either within or without this state may sell wine produced at the winery to adult consumers who are at least twenty-one (21) years of age and are physically present on the premises of the winery or at a festival or trade show. Winemakers either within or without this state that annually produce no more than ten thousand (10,000) gallons of wine may sell and ship only the wine they produce directly to licensed retail package stores and restaurants in this state; provided, however, that any such winemaker which elects to directly sell its wine to package stores and restaurants shall not also use a licensed wholesale distributor as a means of distribution, and shall be required to sell its wines to every package store and restaurant licensee who desires to purchase the same, as supplies allow, on the same price basis and without discrimination. As used in this section, "restaurant" means an establishment that is licensed to sell alcoholic beverages by the individual drink for on-premises consumption and where food is prepared and sold by immediate consumption on the premises. All laws passed by the Legislature under the authority of the Article shall be consistent with this provision.

B. Any winemaker either within or without this state that annually produces not more than ten thousand (10,000) gallons of wine and elects to directly sell its wine to retail

package stores and restaurants in this state must self-distribute the wine using only vehicle(s) owned or leased by the winemaker, and without the use of a common or private contract carrier.

C. All laws passed by the Legislature under the authority of the Article shall be consistent with this provision. All provisions of this amendment are declared to be interdependent. If any provision of this amendment applicable to winemakers is ruled to be unconstitutional by a court of competent jurisdiction, then no winemaker shall be permitted to directly sell its wine to retail package stores or restaurants in this state.

Added by State Question No. 563, Initiative Petition No. 319, adopted at election held Sept. 18, 1984. Amended by State Question No. 591, Legislative Referendum No. 255, adopted at election held on Nov. 4, 1986; State Question No. 663, Legislative Referendum No. 297, adopted at election held on Nov. 8, 1994. Amended by State Question No. 743, Legislative Referendum No. 346, adopted at election held on Nov. 4, 2008.

XXVIII-4. Retail sales by package stores and by the individual drink

Except as hereinafter provided, retail sales of alcoholic beverages shall be limited to the original sealed package, by privately owned and operated package stores, in cities and towns having a population in excess of two hundred (200) persons or by wineries; provided that wineries shall be able to sell only wine which has been produced on the winery premises.

No goods, wares, or merchandise shall be sold and no services shall be rendered on the same premises on which retail package alcoholic beverages are sold. Said premises are herein defined to be the entire space in which retail package alcoholic beverages are sold or displayed and said premises must be separated from any premises on which any other goods, wares, or merchandise are sold or services rendered by walls which may only be broken by a passageway to which the public is not admitted. Not more than one retail package license shall be issued to any person or general or limited partnership.

Retail sale of alcoholic beverages by the individual drink for on-premises consumption is hereby authorized within a county if the voters of such county have previously approved such retail sale at an election.

Added by State Question No. 563, Initiative Petition No. 319, adopted at election held Sept. 18, 1984. Amended by State Question No. 591, Legislative Referendum No. 255, adopted at election held on Nov. 4, 1986.

XXVIII-5. Prohibition of sales to certain persons—Limitation on advertising—Penalties

It shall be unlawful for any licensee to sell or furnish any alcoholic beverage to:

A person under twenty-one (21) years of age; or

A person who has been adjudged insane or mentally deficient; or

A person who is intoxicated.

Sales, gifts, or deliveries to persons under twenty-one (21) years of age shall be deemed a felony; and any license issued pursuant to any law, in compliance with this Amendment, shall be revoked, upon conviction for such sale, gift, or delivery.

It shall be unlawful for any person, firm, or corporation to advertise the sale of alcoholic beverages within the State of Oklahoma, except by a sign at retail package stores

bearing the words "Retail Alcoholic Liquor Store."

Sales to insane, mentally deficient, or intoxicated persons shall be deemed a felony.

Any person under the age of twenty-one (21) years who misrepresents his age, for the purpose of obtaining the purchase of any alcoholic beverage, shall be guilty of a misdemeanor.

Added by State Question No. 563, Initiative Petition No. 319, adopted at election held Sept. 18, 1984.

XXVIII-6. Prohibition of sales on certain days—Penalties

(a) It shall be unlawful for any retail package store to sell, at retail, any alcoholic beverage:

On the first day of the week, commonly called Sunday;

On Decoration or Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

(b) The voters of any county electing to authorize sales of alcoholic beverages by the individual drink for on-premises consumption under Section 4 hereof may designate as days on which such sales are not authorized, any or all of those days listed in subsection (a) of this section. It shall be unlawful for any licensee or person to make any such sale within any such county on days so designated.

(c) Any licensee or person violating the provisions of this section shall be deemed guilty of a misdemeanor and any license issued pursuant to provisions of this act shall be revoked upon conviction for such sale in violation of this section.

Added by State Question No. 563, Initiative Petition No. 319, adopted at election held Sept. 18, 1984. Amended by Laws 2006, State Question No. 733, adopted at election held November 7, 2006.

XXVIII-7. Taxation and licensing—Distribution of funds

The retail sale of alcoholic beverages shall be subject to the sales tax statutes enacted by the Legislature and in addition thereto the Legislature may levy taxes upon the manufacturer, possession and/or all sales of alcoholic beverages, including sales by retail package stores and sales by the individual drink for on-premises consumption, the proceeds of which, except sales tax, shall be distributed as follows:

(a) The Oklahoma Tax Commission shall collect and distribute the taxes collected under the terms of this Article and shall distribute ninety-seven percent (97%) of such taxes as are levied and as are attributable to retail sales by package stores as follows:

(1) One-third (1/3) of taxes attributable to sales by retail package stores shall be allocated to the counties of the State of Oklahoma on the basis of area and population (giving equal weight to area and population) and all of said funds shall be appropriated by the Board of County Commissioners in each county to all incorporated cities and towns in said county on the basis of population within each city and town on a per capita basis based on the last preceding Federal Decennial Census.

(2) Two-thirds (2/3) of taxes attributable to sales by retail package stores shall be credited to the General Revenue Fund of the State of Oklahoma.

(b) The remaining three percent (3%) of taxes attributable to sales of alcoholic beverages by retail package stores; and up to (3%) of taxes attributable to sales of alcoholic

beverages by the individual drink for on-premises consumption, as shall be determined by the State Legislature; shall be paid to the State Treasurer and placed to the credit of the Oklahoma Tax Commission Fund, to be paid out of said fund pursuant to appropriations made by the State Legislature.

(c) The remaining taxes attributable to sales of alcoholic beverages by the individual drink for on-premises consumption, shall be credited to the General Revenue Fund of the State of Oklahoma. The State Legislature shall appropriate to the Oklahoma Alcoholic Beverage Laws Enforcement Commission from all available taxes collected under this Article, whatever funds are necessary to provide for full enforcement of the alcoholic beverage laws of the State.

(d) All State license fees shall be collected by the Oklahoma Alcoholic Beverage Laws Enforcement Commission and deposited in the State Treasury and after the expenses of the Commission, as approved by the Legislature, have been deducted, the balance shall be credited to the General Fund.

Added by State Question No. 563, Initiative Petition No. 319, adopted at election held Sept. 18, 1984.

XXVIII-8. State and political subdivision prohibited from engaging in business

The State of Oklahoma, or any political subdivision thereof, or any board, commission or agent thereof, is hereby prohibited from engaging in any phase of the alcoholic beverage business, including the manufacture, sale, transportation, or distribution thereof, at wholesale or retail, and the maintenance, ownership, or operation of warehouses or alcoholic beverage stores; except that if the voters of a county in which a state lodge is located approve retail sale of alcoholic beverages by the individual drink for on-premises consumption, and if the State Legislature enacts legislation approving such sales in any such lodges located in any such counties, then such sales are authorized. The Legislature may enact laws restricting the involvement of officers and employees of the state and political subdivisions thereof in the alcoholic beverage business.

Provided, that nothing herein shall prohibit the sale of alcoholic beverages legally confiscated as provided by law.

Added by State Question No. 563, Initiative Petition No. 319, adopted at election held on Sept. 18, 1984. Amended by State Question No. 638, Legislative Referendum No. 286, adopted at election held on September 18, 1990.

XXVIII-9. Occupation tax

Incorporated cities and towns wherein the sale of alcoholic beverages is lawful, may levy an occupation tax, not exceeding the amount of the State license fees, for the manufacture, distribution, or sale of alcoholic beverages.

Added by State Question No. 563, Initiative Petition No. 319, adopted at election held Sept. 18, 1984.

XXVIII-10. Restrictions on issuance of licenses

No retail package store or wholesale distributor's license shall be issued to:

- (a) A corporation, business trust or secret partnership.
- (b) A person or partnership unless such person or all of the copartners including

limited partners shall have been residents of the State of Oklahoma for at least ten (10) years immediately preceding the date of application for such license.

(c) A person or a general or limited partnership containing a partner who has been convicted of a violation of a prohibitory law relating to the sale, manufacture, or the transportation of alcoholic beverages which constituted a felony or misdemeanor.

(d) A person or a general or limited partnership containing a partner who has been convicted of a felony.

No license to sell alcoholic beverages by the individual drink for on-premises consumption shall be issued to:

(a) A person or a general or limited partnership containing a partner who has been convicted of a violation of a prohibitory law relating to the sale, manufacturer, or the transportation of alcoholic beverages which constituted a felony.

(b) A person or a general or limited partnership containing a partner who has been convicted of a felony.

(c) A corporation which has a officer or director who has been convicted of a violation of a prohibitory law relating to the sale, manufacture, or the transportation of alcoholic beverages which constituted a felony.

(d) A corporation which has an officer or director who has been convicted of a felony.

Added by State Question No. 563, Initiative Petition No. 319, adopted at election held Sept. 18, 1984.

XXVIII–11. Repealer.

Article XXVII of the Constitution of the State of Oklahoma is hereby repealed. The Prohibition Ordinance and Section 7, Article I of the Constitution of the State of Oklahoma, previously repealed by Article XXVII of the Constitution of the State of Oklahoma, are not revived by this repealer.

Added by State Question No. 563, Initiative Petition No. 319, adopted at election held on Sept. 18, 1984.

INTOXICATING BEVERAGES

TITLE 37

Intoxicating Beverages 37 O.S., § 8

Oklahoma Alcoholic Beverage
Control Act 37 O.S. § 501 Thru § 599

37-8. Consuming or inhaling intoxicants in public places—Penalties

Except as provided in Section 2 of this act, any person who shall, in any public place, or in or upon any passenger coach, streetcar, or in or upon any other vehicle commonly used for the transportation of passengers, or in or about any depot, platform, waiting station or room, drink or otherwise consume any intoxicating liquor unless authorized by the Oklahoma Alcoholic Beverage Control Act, intoxicating substance, or intoxicating compound of any kind, or inhale glue, paint or other intoxicating substance, or if any person shall be drunk or intoxicated in any public or private road, or in any passenger coach, streetcar, or any public place or building, or at any public gathering, from drinking or consuming such intoxicating liquor, intoxicating substance or intoxicating compound or from inhalation of glue, paint or other intoxicating substance, or if any person shall be drunk or intoxicated from any cause and shall disturb the peace of any person, he shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than Ten Dollars (\$10.00), nor more than One Hundred Dollars (\$100.00), or by imprisonment for not less than five (5) days nor more than thirty (30) days, or by both such fine and imprisonment.

37-8a.

A. A peace officer may not take a person into custody based solely on the commission of an offense involving alcohol described in subsection B of this section if the law enforcement officer, after making a reasonable determination and considering the facts and surrounding circumstances, reasonable believes that all of the following apply:

1. The law enforcement officer has contact with the person because the person requested emergency medical assistance for an individual who reasonable appeared to be in need of medical assistance due to alcohol consumption; and

2. The person:

- a. provided the person's full name and any other relevant information requested by the law enforcement officer,
- b. remained at the scene with the individual who reasonably appeared to be in need of medical assistance due to alcohol consumption until emergency medical assistance arrived, and
- c. cooperated with emergency medical assistance personnel and law enforcement officers at the scene.

B. A person who meets the criteria of subsection A of this section is immune from criminal prosecution for an offense under Section 8 of Title 37 of the Oklahoma Statutes if the offense involved a state of intoxication caused by the person's use of alcohol or if the offense involved the person being, or becoming, intoxicated as a result of the person's use of alcohol.

C. A person may not initiate or maintain an action against a peace office or the employing political subdivision based on the officer's compliance or failure to comply with this section.

37-8.2.

A. No person shall knowingly and willfully permit any individual under twenty-one (21) years of age who is an invitee to the person's resident, any building, structure, or room

owned, occupied, leased or otherwise procured by the person or on any land owned, occupied, leased or otherwise procured by the person, to possess or consume any alcoholic beverages as defined by Section 506 of Title 37 of the Oklahoma Statutes, any controlled dangerous substance as defined in the Uniform Controlled Dangerous Substances Act, or any combination thereof, in such place.

B. Any person who violates this section, and such actions cause great bodily injury or the death of a person, shall, in addition to any other penalty provided by law, be guilty of a felony, punishable by imprisonment in the custody of the Department of Corrections for not more than five (5) years, a fine of not less than Two Thousand Five Hundred Dollars (\$2,500.00) nor more than Five Thousand Dollars (\$5,000.00), or both such fine and imprisonment.

37-501. Repealer

37 O.S.1951, Sections 1 through 7 and 9 through 131, as amended, and all laws or parts of laws in conflict with this act are hereby repealed.

37-502. Citation

Sections 2 through 105 of this act and Sections 504, 516, 533, 543.1, 562 and 566 of this title shall be known and may be cited as the "Oklahoma Alcoholic Beverage Control Act".

37-503. Exercise of police power—Ordinances

A. The Oklahoma Alcoholic Beverage Control act shall be deemed an exercise of the police power of the State of Oklahoma for the protection of the welfare, health, peace, temperance and safety of the people of the state, and all the provisions hereof shall be construed for the accomplishment of that purpose.

B. Municipalities are authorized to enact ordinances consistent with the provisions of the Oklahoma Alcoholic Beverage Control Act. In municipalities with populations of thirty-five thousand (35,000) or more these ordinances may provide for maximum penalties of fines not to exceed One Thousand Dollars (\$1,000.00) plus court costs, and imprisonment not to exceed ninety (90) days, or both such fine and imprisonment.

C. All municipalities of this state may enact ordinances prohibiting or regulating nudity or drink solicitation in establishments licensed pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act.

D. The provisions of this section shall not authorize any city or town to regulate by ordinance or issue any licenses for activities for which a license is required to be issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act.

37-504. Beverages subject to act—Exemptions

All alcoholic beverages as herein defined except alcohol produced for use as a motor fuel under a permit issued by the State Department of Agriculture shall be subject to the provisions of the Oklahoma Alcoholic Beverage Control Act.

37-505. Manufacture, sale, possession, shipment, etc. prohibited except as provided in act—Exceptions

A. No person shall manufacture, rectify, sell, possess, store, import into or export from this state, transport, or deliver any alcoholic beverage except as specifically provided in the Oklahoma Alcoholic Beverage Control Act. Provided, that nothing herein shall prevent the possession and transportation of alcoholic beverages for the personal use of the possessor- and his or her family and guests, so long as the Oklahoma excise tax has been paid thereon, except for beer. Provided, further that nothing herein shall prevent a person from making beer, as defined by Section 506 of this title, cider or wine as defined by Section 506 of this title, by simple fermentation and without distillation for personal use if the maker of such beverages has first applied for and possesses a valid personal use permit issued by the Alcoholic Beverage Laws Enforcement Commission as provided in Section 4 of this act and the total volume of beer, cider or wine produced in any given calendar year is less than two hundred (200) gallons. No beverages made pursuant to a personal use permit shall be sold or offered for sale.

B. 1. Any duly licensed physician or dentist may possess and use alcoholic beverages in the strict practice of the profession and any hospital or other institution caring for sick or diseased persons may possess and use alcoholic beverages for the treatment of bona fide patients of such hospital or institution. Any drugstore employing a licensed pharmacist may possess and use alcoholic beverages in the preparation of prescriptions of duly licensed physicians.

2. The possession, transportation and dispensation of wine by any authorized representative of any church for the conducting of a bona fide rite or religious ceremony conducted by such church shall not be prohibited by the Oklahoma Alcoholic Beverage Control Act; nor shall such act prevent the sale, shipping or delivery of sacramental wine by any person holding a sacramental wine supplier license issued pursuant to the Oklahoma Alcoholic Beverage Control Act to any religious corporation or society of this state holding a valid exemption from taxation issued pursuant to Section 501(a) of the Internal Revenue Code, 1954, and listed as an exempt organization in Section 501(c)(3) of the Internal Revenue Code, 1954, of the United States, as amended.

3. Provided further, that nothing in the Oklahoma Alcoholic Beverage Control Act shall prevent the possession, transportation and sale of alcoholic beverages, including beer as defined by Section 506 of this title and beer containing not more than three and two-tenths percent (3.2%) of alcohol by weight, within military reservations and in accordance with the laws, rules and regulations governing such military reservations, provided that the Oklahoma excise tax has been paid on spirits and wines.

C. 1. Except as otherwise authorized by law, it is unlawful for any manufacturer, wholesaler or retailer of alcoholic beverages, located and doing business from outside this state, to make retail sales of alcoholic beverages to purchasers located in this state or to ship alcoholic beverages sold at retail to persons located in this state. Any person who engages in the sale or shipping of alcoholic beverages in violation of the provisions of this subsection, upon conviction, shall be guilty of a felony punishable by imprisonment for not more than five (5) years, if the sale or delivery is made to a person under twenty-one (21) years of age, or a misdemeanor, if the sale or delivery is made to a person twenty-one (21) years of age or older.

2. The fine for a violation of this subsection shall be not more than Five Thousand Dollars (\$5,000.00).

3. In addition, if the person holds a license issued by the Oklahoma Alcoholic Beverage Laws Enforcement Commission, the license shall be revoked pursuant to Section 528 of this title.

37-506. Definitions

When used in the Oklahoma Alcoholic Beverage Control Act, the following words and phrases shall have the following meaning:

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

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

3. "Alcoholic beverage" means alcohol, spirits, beer, and wine as those terms are defined herein and also includes every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed as a beverage by human beings, but does not include low-point beer as that term is defined in Section 163.2 of this title;

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

5. "Beer" means any beverage containing more than three and two-tenths percent (3.2%) of alcohol by weight and obtained by the alcoholic fermentation of an infusion or decoction of barley, or other grain, malt or similar products. "Beer" may or may not contain hops or other vegetable products. "Beer" includes, among other things, beer, ale, stout, lager beer, porter and other malt or brewed liquors, but does not include sake, known as Japanese rice wine;

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

7. "Brewer" means any person who produces beer in this state;

8. "Class B wholesaler" means and includes any person doing any such acts or carrying on any such business that would require such person to obtain a Class B wholesaler license hereunder;

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

10. "Director" means the Director of the Alcoholic Beverage Laws Enforcement Commission under the supervision of ~~said~~ the Commission;

11. "Distiller" means any person who produces spirits from any source or substance, or any person who brews or makes mash, wort, or wash, fit for distillation or for the production of spirits (except a person making or using such material in the authorized production of wine or beer, or the production of vinegar by fermentation), or any person who by any process separates alcoholic spirits from any fermented substance, or any person

who, making or keeping mash, wort, or wash, has also in his or her possession or use a still;

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

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

14. "Licensee" means any person holding a license under the Oklahoma Alcoholic Beverage Control Act, and any agent, servant, or employee of such licensee while in the performance of any act or duty in connection with the licensed business or on the licensed premises;

15. "Light beer" means a low-point beer controlled under this title;

16. "Light wine" means any wine containing not more than fourteen percent (14%) alcohol measured by volume at sixty (60) degrees Fahrenheit;

17. "Manufacturer's agent" means a salaried or commissioned salesman who sells to a wholesaler or Class B wholesaler only;

18. "Manufacturer" means a brewer, distiller, winemaker, rectifier, or bottler of any alcoholic beverage;

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

20. "Mini-bar" means a closed container, either refrigerated, in whole or in part, or nonrefrigerated, and access to the interior of which is (1) restricted by means of a locking device which requires the use of a key, magnetic card, or similar device, or (2) controlled at all times by the licensee;

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

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

23. "Motion picture theater" means a place where motion pictures are exhibited and to which the general public is admitted, but does not include a place where meals, as defined by this section, are served, if only persons over twenty-one (21) years of age are admitted;

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

25. "Occupation" as used in connection with "occupation tax" means the sites occupied as the places of business of the manufacturers, wholesalers, Class B wholesalers, retailers, mixed beverage licensees, beer and wine licensees, bottle clubs, caterers, public event, and special event licensees;

26. "Original package" means any container of alcoholic beverage filled and stamped or sealed by the manufacturer;

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

28. "Person" means an individual, any type of partnership, corporation, association, limited liability company or any individual involved in the legal structure of any such business entity;

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

a. allowing the presence and consumption of alcoholic beverages, by private parties which are closed to the general public, or

b. allowing the services of a caterer serving alcoholic beverages provided by a private party.

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

30. "Public event" means any event that can be attended by the general public;

31. "Private event" means a social gathering or event attended by invited guests who share a common cause, membership, business or task and have a prior established relationship. For purposes of this definition, advertisement for general public attendance or sales of tickets to the general public shall no constitute a private event;

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

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

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

35. "Retail container for spirits and wines" means an original package of any capacity

approved by the United States Bureau of Alcohol, Tobacco and Firearms;

36. "Retailer" means the holder of a Package Store License;

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

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

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

40. "Small Farm Winery" means a wine-making establishment that does not annually produce for sale more than ten thousand (10,000) gallons of wine as reported on the United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau, Report of Wine Premises Operations (TTB Form 5120.17);

41. "Sparkling wine" means champagne or any artificially carbonated wine;

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

43. "Wholesaler" means and includes any person doing any such acts or carrying on any such business or businesses that would require such person to obtain a wholesaler's license or licenses hereunder;

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

45. "Winemaker" means any person who produces wine; and

45. "Oklahoma winemaker" means a business premises in Oklahoma licensed pursuant to the Oklahoma Alcoholic Beverage Control Act wherein wine is produced by the licensee who must be a resident of the state. The wine product fermented in ~~said~~ the licensed premises shall be of grapes, berries, and other fruits and vegetables imported into this state and processed herein or shall be of grapes, berries and other fruits and vegetables grown in Oklahoma.

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

37-506.1. Alcoholic Beverage Laws Enforcement Commission

A. The Alcoholic Beverage Laws Enforcement Commission, also referred to in the Oklahoma Alcoholic Beverage Control Act as the ABLE Commission, created pursuant to the provisions of Section 1 of Article XXVIII of the Oklahoma Constitution, as the successor to the Oklahoma Alcoholic Beverage Control Board, shall be organized as follows:

1. The five (5) members serving on the Oklahoma Alcoholic Beverage Control Board on September 18, 1984, shall serve as the five (5) at-large members of the ABLE Commission until the dates on which their terms of office on the Oklahoma Alcoholic Beverage Control Board would have expired. Thereafter, the term of office of a member appointed at-large to the ABLE Commission shall be five (5) years.

2. Within ninety (90) days after September 18, 1984, the two members required by the provisions of Article XXVIII of the Oklahoma Constitution to have law enforcement experience in this state shall be appointed. The terms of office of these members and of successors to these positions shall be five (5) years. Members with law enforcement experience shall meet the qualifications for permanent appointment of police or peace officers provided for in Section 3311 of Title 70 of the Oklahoma Statutes.

B. Members of the ABLE Commission shall be citizens of the United States, shall be qualified electors in this state, shall have been residents of this state for at least ten (10) consecutive years immediately preceding the date of their appointment and qualification, and shall be persons of outstanding character, experienced, efficient, and successful in business affairs, and of good reputation in their communities. Said members shall execute the loyalty oath required by law for elected state officials before assuming the duties of their office. No person shall be appointed who has been convicted of or shall have pleaded guilty to a felony, or of any violation of any federal or state law concerning the manufacture or sale of alcoholic beverage or cereal malt beverages prior or subsequent to the passage of the Oklahoma Alcoholic Beverage Control Act, or who has paid a fine or penalty in settlement in any prosecution against him in any violation of such laws, or who shall have forfeited his bond to appear in court to answer charges for any such violation. No appointee shall serve if he or any person related to him in the third degree by consanguinity or affinity is an officer, director, employee, or stockholder in any corporation or partnership which has as its business the manufacture, sale, or distribution of an alcoholic beverage. ABLE Commission members shall not own, mortgage, or lease any retail or wholesale store or warehouse, any establishment selling alcoholic beverages by the individual drink for on-premises consumption, any establishment operated by a caterer who provides alcoholic beverages by the individual drink pursuant to a caterer's license, or any bottle club as provided in the alcoholic beverage control laws of this state. The provisions of the Oklahoma Alcoholic Beverage Control Act shall not prevent any member of the ABLE Commission from purchasing and keeping in his possession, for his own use or use by the members of his family or any guests, any alcoholic beverage which may be purchased or kept by any person by virtue of the provisions of the Oklahoma Alcoholic Beverage Control Act. In order to establish the qualifications of members of the ABLE Commission, a national criminal history record check as defined in Section 150.9 of Title 74 of the Oklahoma Statutes shall be required for each member.

C. A majority of the members of the ABLE Commission shall constitute a quorum to

transact business, but no vacancy shall impair the right of the remaining members to exercise all of the powers of said Commission, and every act of a majority of the members shall be deemed to be the act of the ABLE Commission. The ABLE Commission shall appoint the Director as secretary who shall keep a record of all proceedings and official acts of the Commission and who shall be the custodian of all records and perform such other duties as the ABLE Commission shall prescribe.

D. Each member of the ABLE Commission shall receive reimbursement for travel expenses incurred in attending meetings as provided for in the State Travel Reimbursement Act.

E. The office of the ABLE Commission shall be in Oklahoma City in office space provided by the Office of Public Affairs. All meetings of the ABLE Commission shall be open to the public and all records of the ABLE Commission shall be public records and open for public inspection. The ABLE Commission shall hold regular meetings at least once a month at its office, and may hold such special meetings as it deems necessary at any time and at any place within the state. The ABLE Commission, for authentication of its records, process, and proceedings, may adopt, keep, and use a common seal, of which seal judicial notice shall be taken in all the courts of the state. Any process, notice, or other paper which the ABLE Commission may be authorized by law to issue shall be deemed sufficient if signed by the secretary of the ABLE Commission and authenticated by such seal. All acts, orders, proceedings, rules, regulations, entries, minutes, and other records of the ABLE Commission, and all reports and documents filed with the ABLE Commission may be proved in any court of this state by copy thereof certified by the secretary of the ABLE Commission with the seal of the ABLE Commission attached. The ABLE Commission shall not adopt or promulgate any rule or regulation inconsistent with the provisions of the Oklahoma Alcoholic Beverage Control Act or any law of this state.

F. All unexpended funds, property, records, personnel, and outstanding financial obligations and encumbrances of the Oklahoma Alcoholic Beverage Control Board shall be transferred to the Alcoholic Beverage Laws Enforcement Commission.

37-507.1. Motor vehicle insurance

The Alcoholic Beverage Laws Enforcement Commission is hereby authorized to utilize funds appropriated by the Legislature to purchase insurance on the motor vehicles owned and operated by said ABLE Commission in accordance with statutory provisions, subject to the approval of the Risk Management Administrator as provided for in Section 85.34 of Title 74 of the Oklahoma Statutes.

37-507.2. Automobiles—Purchase

The Alcoholic Beverage Laws Enforcement Commission is hereby authorized to utilize funds appropriated by the Legislature to purchase automobiles necessary for use in its operations. Said automobiles shall not be required to have any type of identifying marking thereon.

37-508. Director—Powers and duties

The Alcoholic Beverage Laws Enforcement Commission shall appoint a Director to serve at the pleasure of the ABLE Commission and who shall devote his entire time to the

duties of his office. The Director shall be the principal administrative officer of the ABLE Commission. The ABLE Commission may delegate to the Director such of its powers, functions and duties relating to the administration and enforcement of the Oklahoma Alcoholic Beverage Control Act as it may in its discretion deem desirable, except that it shall not deny any applicant for a license or any licensee the right to a hearing before the ABLE Commission as herein provided.

37-509. Powers and duties of Director

The Director shall employ an Assistant Director and inspectors, agents, clerks, stenographers, accountants, chemists and such other personnel as are necessary to properly enforce and administer this law. He or she shall require bonds in such instances and amounts as the Alcoholic Beverage Laws Enforcement Commission may direct. He or she shall be in direct charge of all records and if authorized by the ABLE Commission shall have the following duties and responsibilities:

A. Immediately upon the appointment and qualification of the Director he or she shall become vested with the duties and powers of the management and control of the office of Director, and shall become vested with all duties and powers imposed upon him or her by any orders, rules and regulations as may be prescribed by the ABLE Commission, and in addition thereto shall have the following specific powers and duties:

1. To issue licenses provided for in the Oklahoma Alcoholic Beverage Control Act, Section 502 et seq. of this title, and to approve or reject any official bond required to be filed with the Director or the ABLE Commission;

2. To appoint and employ, supervise and discharge such personnel, clerical, skilled and semiskilled help, labor and other employees as may be determined necessary for the proper discharge of the duties of the office of Director, upon salary fixed and determined by the ABLE Commission and subject to all the rules and regulations that may be promulgated by the ABLE Commission. The Director and the ABLE Commission, in appointing and employing personnel, shall give preference to honorably discharged members of the Armed Forces of the United States;

3. To conduct such investigations and make such reports as may be necessary to keep the ABLE Commission and members thereof advised concerning any violations of the provisions of the Oklahoma Alcoholic Beverage Control Act and make orders for its enforcement;

4. To make recommendations to the ABLE Commission concerning the suspension or revocation or any licenses, the levying of fines against licensees for violations of the provisions of the Oklahoma Alcoholic Beverage Control Act or regulations or rules of the ABLE Commission, or any action that should be filed or commenced against any official bond theretofore approved by the Director or the ABLE Commission;

5. To regularly inspect all places of business of licensees, brewers, distributors, winemakers, rectifiers, wholesalers, Class B wholesalers, industrial licensees, private carriers, bonded warehouses, and package stores, and all other persons, firms or corporations dealing in the manufacture, distribution, transportation, sale or service of alcoholic beverages under the provisions of the Oklahoma Alcoholic Beverage Control Act, and report to the ABLE Commission concerning any and all violations with his

recommendation to the ABLE Commission for its determination;

6. To aid the enforcement authorities of this state or any county or municipality of the state, or federal government, in prosecutions of violations of the Oklahoma Alcoholic Beverage Control Act;

7. To approve and pay claims for services of professional and clerical, skilled, semiskilled help, labor and other employees in the absence of the ABLE Commission, when the salaries and wages of such persons shall have been previously approved by the ABLE Commission; and

8. To enforce the provisions of the Prevention of Youth Access to Tobacco Act, Sections 2 through 13 of this act, including, but not limited to, the levying of administrative fines against persons violating the provisions of the Prevention of Youth Access to Tobacco Act, and to at least annually conduct random unannounced inspections at locations where tobacco products are sold or distributed and conduct targeted inspections at those locations which have been in violation of the provisions of the Prevention of Youth Access to Tobacco Act.

B. If a witness in attendance before the Director refuses without reasonable cause to be examined or to answer a legal or pertinent question, or to produce a book, record or paper when ordered to do so by the Director, the Director may apply to the judge of the district court of any county where such witness is in attendance, upon proof by affidavit of the fact, for a rule or order returnable in not less than two (2) nor more than five (5) days, directing such witness to show cause before the judge who made the order, or any other district judge of said county, why he or she should not be punished for contempt; upon the return of such order, the judge before whom the matter shall come for hearing shall examine under oath such witness or person, and such person shall be given an opportunity to be heard; and if the judge shall determine that such person has refused, without reasonable cause or legal excuse, to be examined or answer a legal or pertinent question, or to produce a book, record or paper which he or she was ordered to bring or produce, he or she may punish the offender as for contempt of court and shall fix the penalty in any sum not less than Two Hundred Fifty Dollars (\$250.00) but not to exceed Five Hundred Dollars (\$500.00) or require him or her to serve a maximum of thirty (30) days in jail, or both.

C. Subpoenas shall be served and witness fees and mileage paid as in civil cases in the district court in the county to which such witness shall be called. Witnesses subpoenaed at the instance of the Director shall be paid their fees and mileage by the Director out of funds appropriated to the ABLE Commission. Court cost in this contempt proceedings shall be paid as taxed by the court.

37-510. Fixing of salaries and prescribing of duties

The Director shall, subject to the approval by the Alcoholic Beverage Laws Enforcement Commission and subject to any laws of this state of general application relating to salaries and classification, fix the salaries and prescribe the duties of the Assistant Director, inspectors, agents, clerks, stenographers, accountants, chemists and such other personnel as are necessary to properly enforce and administer the provisions of the Oklahoma Alcoholic Beverage Control Act.

37-510A. Public Information Officer—Classification to Merit System of Personnel

Administration

Effective July 1, 1987, any employee occupying the position of Public Information Officer within the Alcoholic Beverage Laws Enforcement Commission shall become classified and subject to the provisions of the Merit System of Personnel Administration prescribed by the Oklahoma Personnel Act, Section 840.1 et seq. of Title 74 of the Oklahoma Statutes, and the rules promulgated thereunder. Such employee shall be granted permanent status in the class to which the position is allocated by the Office of Personnel Management.

37-511. Convicted felons ineligible to serve as officer or employee—Interests and acts prohibited—Penalty

A. No member of the Alcoholic Beverage Laws Enforcement Commission, Director, Assistant Director, or employee of the ABLÉ Commission shall be appointed or serve who has been convicted of a felony or of any violation of any federal or state law relating to alcoholic beverages. No member of the ABLÉ Commission, Director, Assistant Director, or employee of the ABLÉ Commission shall directly or indirectly, individually or as a member of a partnership, or as a shareholder of a corporation, have any interest whatsoever in the manufacture, sale or distribution of alcoholic beverages, nor receive any compensation or profit therefrom, nor have any interest, directly or indirectly, in any business authorized by a license issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act, Section 501 et seq. of this title. The holding of membership or elective or appointed office in fraternal organizations which obtain mixed beverage or bottle club licenses shall not be considered to be engagement in the alcoholic beverage business. No member of the ABLÉ Commission, Director, Assistant Director, or employee of the ABLÉ Commission shall solicit or accept any gift, gratuity, emolument, or employment from any person subject to the provisions of the Oklahoma Alcoholic Beverage Control Act, or from any officer, agent or employee thereof, nor solicit, request from or recommend, directly or indirectly, to any such person or to any officer, agent or employee thereof, the appointment of any person to any place or position, and every such person, and every officer, agent or employee thereof, is hereby forbidden to offer to any member of the ABLÉ Commission, the Director, Assistant Director, or to any employee of the ABLÉ Commission, any gift, gratuity, emolument or employment. No member of the ABLÉ Commission, Director, Assistant Director, or employee of the ABLÉ Commission shall accept employment within the liquor industry for any holder of a license issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act, or represent, directly or indirectly, any such licensee in any proceedings before the Director or the ABLÉ Commission within two (2) years following his separation from the ABLÉ Commission. Violation of any provision of this subsection shall constitute a misdemeanor. In addition to the penal provisions, any person convicted shall be immediately removed from the office or position he holds.

B. No license of any kind shall be granted to or retained by any person or any partnership containing any partner who is related to any member of the ABLÉ Commission or to the Director or Assistant Director by affinity or consanguinity within the third degree. No member of the ABLÉ Commission nor the Director or Assistant Director shall be entitled to receive any compensation or other monies from the State of Oklahoma while a

license is held in violation of the provisions of this subsection.

C. It shall be unlawful for any member of the ABLE Commission, the Director, Assistant Director, any inspector, attorney or other agent or employee of the ABLE Commission, to actively participate, as a candidate or otherwise, in any political campaign held in this state. Nor shall any such member of the ABLE Commission, Director, Assistant Director, or other agent or employee of the ABLE Commission lend, expend or contribute any money, funds, property or other thing of value, or use his official position, for the purpose of securing the nomination or election or the defeat of any candidate for public office in the State of Oklahoma. Any person who shall violate the provisions of this subsection shall, upon conviction, be fined not less than Two Thousand Five Hundred Dollars (\$2,500.00) nor more than Five Thousand Dollars (\$5,000.00), or imprisoned in the county jail for not more than one (1) year, or both such fine and imprisonment. Any person found guilty of violating the provisions of this subsection shall, in addition to the criminal penalty imposed herein, be discharged from the office or position he holds upon conviction and shall not be rehired to any state position.

D. If the voters of a county in which a state lodge is located approve sale of alcoholic beverages by the individual drink for on-premises consumption, then such sale of alcoholic beverages on the premises of such lodge shall be authorized if a license for such sale, issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act, is obtained. Provided, further, that a bottle club may be licensed on the premises of a state lodge located in a county where sale of alcoholic beverages by the individual drink for on-premises consumption is not authorized.

E. The provisions of subsection D of this section shall not prohibit the state or a political subdivision of the state from leasing a public building or facility to a person who obtains a mixed beverage license, bottle club license, special event license, contracts for the services of a licensed caterer, or subleases the building or facility to a person who obtains a mixed beverage license, bottle club license, special event license or contracts for the services of a licensed caterer.

F. Provided, that nothing in this section shall prohibit the sale of alcoholic beverage legally confiscated as provided by law.

37-511A. State officers and employees—Engaging in alcoholic beverage business

A. All employees of the State of Oklahoma and its political subdivisions are hereby permitted to obtain licenses from the Alcoholic Beverage Laws Enforcement Commission and to be involved in the alcoholic beverage business unless such involvement and licensing is prohibited by this section or otherwise prohibited by law.

B. The following officers and employees of the State of Oklahoma and its political subdivisions are hereby prohibited from engaging in the alcoholic beverage business:

1. All judges, district attorneys, assistant district attorneys and any public official who sits in a judicial capacity with jurisdiction over the Oklahoma Alcoholic Beverage Control Act, Section 501 et seq. of this title;

2. All employees certified as peace officers engaging in law enforcement activities; and

3. All employees of the Oklahoma Tax Commission who engage in the auditing, enforcement and collection of alcoholic beverage taxes.

C. The holding of membership or elective or appointed office in fraternal organizations which obtain mixed beverage or bottle club licenses by employees of the state or a political subdivision shall not be considered to be engagement in the alcoholic beverage business.

37-512. Peace officer power and authority

A. The members of the Commission, Director, and such agents and inspectors as the ABLE Commission appoints in writing shall have all the powers and authority of peace officers of this state for the purpose of enforcing the provisions of the Oklahoma Alcoholic Beverage Control Act.

B. The Director or any agent or inspector duly appointed, as provided in subsection A of this section, shall be authorized to arrest violators for offenses against laws of this state committed in the presence of the Director or said agents or inspectors, and further upon the request of a sheriff or another peace officer of this state or any political subdivision thereof assist in apprehension and arrest of a violator or suspected violator of any of the laws of this state.

C. Effective July 1, 1988:

1. A commissioned employee of the ABLE Commission shall be entitled to receive, upon retirement by reason of length of service, the continued custody and possession of the sidearm and badge carried by such employee immediately prior to retirement;

2. A commissioned employee of the ABLE Commission may be entitled to receive, upon retirement by reason of disability, the continued custody and possession of the sidearm and badge carried by such employee immediately prior to retirement, upon approval of the Director;

3. Custody and possession of the sidearm and badge of a commissioned employee of the ABLE Commission, killed in the line of duty may be awarded by the Director to the spouse or next of kin of the deceased employee.

37-513a. Employment of attorneys

The Director may employ attorneys, who shall be unclassified employees of the state, or contract with attorneys, as needed. These attorneys may advise the Director, the Alcoholic Beverage Laws Enforcement Commission and Commission personnel on all legal matters and shall appear for and represent the Director, the Commission and Commission personnel in all administrative hearings and all litigation or other proceedings which may arise in the discharge of their duties. At the request of the Alcoholic Beverage Laws Enforcement Commission, such attorney shall assist the district attorney in prosecuting charges of violators of the Oklahoma Alcoholic Beverage Control Act. Provided, if a conflict of interest would be created by such attorney representing the Director, the Commission or Commission personnel, additional counsel may be hired upon approval of the Alcoholic Beverage Laws Enforcement Commission.

37-514. Powers and duties of ABLE Commission

The Alcoholic Beverage Laws Enforcement Commission shall have the following powers and duties:

1. To supervise, inspect, and regulate every phase of the business of manufacturing, importing, exporting, transporting, storing, selling, distributing, and possessing for the purpose of sale, all alcoholic beverages which shall be necessary and proper to carry out the purposes of the Oklahoma Alcoholic Beverage Control Act;
2. To promulgate rules and regulations, in the manner herein provided, to carry out the purposes of the Oklahoma Alcoholic Beverage Control Act;
3. To have the sole authority to issue any license provided for in the Oklahoma Alcoholic Beverage Control Act and except as provided in Section 554.1 and 554.2 of this title with respect to cities, towns and counties, except as may be provided under Title 68 of the Oklahoma Statutes with respect to the Oklahoma Tax Commission, no other agency, instrumentality or political subdivision of this state shall be authorized to issue any license or permit allowing any licensee to engage in any activity covered by the Oklahoma Alcoholic Beverage Control Act anywhere within the State of Oklahoma;
4. To refuse to issue any license provided for in the Oklahoma Alcoholic Beverage Control Act for cause provided for in the Oklahoma Alcoholic Beverage Control Act;
5. To revoke or suspend, for cause after hearing, any license issued under the authority of the Oklahoma Alcoholic Beverage Control Act;
6. To prescribe the forms of applications for licenses and the information to be shown thereon, and of all reports which it deems necessary in administering the Oklahoma Alcoholic Beverage Control Act;
7. To fix standards, not in conflict with those prescribed by any law of this state or of the United States, to secure the use of proper ingredients and methods of manufacture and dispensing of alcoholic beverages;
8. To make seizures of alcoholic beverages manufactured, sold, possessed, imported, or transported in violation of the Oklahoma Alcoholic Beverage Control Act, and apply for the confiscation thereof whenever required by the Oklahoma Alcoholic Beverage Control Act, and cooperate in the prosecution of offenders before any court of competent jurisdiction;
9. To submit to the Governor and members of the State Legislature annual or semiannual reports upon request of the Governor;
10. To inspect or cause to be inspected any premises where alcoholic beverages are manufactured, stored, distributed, sold, dispensed or served;
11. In the conduct of any hearing authorized to be held by the ABLE Commission, to examine or cause to be examined, under oath, any person, and to examine or cause to be examined books and records of any licensee; to hear testimony and take proof material for the ABLE Commission's information and the discharge of its duties hereunder; to administer or cause to be administered oaths; and for any such purposes to issue subpoenas for the attendance of witnesses and the production of books or records which shall be effective in any part of the state; and any district court or any judge thereof, either in term or vacation, may by order duly entered require the attendance of witnesses and the production of relevant books or records subpoenaed by the ABLE Commission, and the court or judge may compel obedience to the order by proceedings for contempt;
12. To prescribe the kind and size of retail containers of alcoholic beverages other than beer which may be purchased, possessed and sold by a licensee;
13. To prescribe by regulations, in addition to those herein required, the kinds of

records to be kept and reports to be rendered by licensees, and the information to be shown therein; provided, that the period for which all such records and reports be retained shall not be less than five (5) years;

14. To gather, compile and print such statistical data as may in the opinion of the ABLE Commission be needed or useful, and prescribe charges or fees to be collected from any person or company to whom such data shall be provided. No reports shall contain sales information of either wholesalers, retailers, mixed beverage licensees, caterers or special event licensees by name or license number; and

15. To educate persons employed by licensees to serve alcoholic beverages as to the provisions of Article XXVIII of the Oklahoma Constitution and the Oklahoma Alcoholic Beverage Control Act, with emphasis on recognizing and preventing intoxication and particular emphasis on those provisions prohibiting the serving of alcoholic beverages to minors. The ABLE Commission may contract with one or more persons to perform the duties specified in this paragraph; and

16. To exercise all other powers and duties conferred by the Oklahoma Alcoholic Beverage Control Act, and all powers incidental, convenient or necessary to enable it to administer or carry out any of the provisions of the Oklahoma Alcoholic Beverage Control Act.

37-515. Packaging, marking, branding and labeling of alcoholic beverages

The Alcoholic Beverage Laws Enforcement Commission is authorized to prescribe such rules and regulations with respect to packaging, marking, branding and labeling of alcoholic beverages sold or possessed for sale within this state, including such rules and regulations:

1. As will prohibit deception of the consumer with respect to such products or the quantity thereof and as will prohibit, irrespective of falsity, such statement relating to age, manufacturing processes, analyses, guarantees, and scientific or irrelevant matter as the ABLE Commission finds likely to mislead or confuse the consumer;

2. As will provide the consumer with adequate information as to the identity and quality of the products, the net contents of the package, and the manufacturer or importer of the product; and

3. As will prohibit statements on the label that are false, misleading, obscene, or indecent.

The ABLE Commission may adopt, in whole or in part, or with such modification as it deems desirable, regulations of the federal government relating to labeling of distilled spirits promulgated under the Federal Alcohol Administration Act (27 U.S.C. 205).

37-516. Advertising

It shall be unlawful for any person, firm or corporation to advertise any alcoholic beverages or the sale of same within the state of Oklahoma, except one sign at the retail outlet bearing the words "Retail Alcoholic Liquor Store," or any combination of such words or any of them and no letter in any such sign shall be more than four (4) inches in height or more than three (3) inches in width, and if more than one (1) line is used the lines shall not be more than one (1) inch apart.

37-517. Filing of Regulations—Applications

All regulations and rules of the Alcoholic Beverage Laws Enforcement Commission shall be promulgated and filed pursuant to the provisions of the Administrative Procedures Act, Sections 301 through 323 of Title 75 of the Oklahoma Statutes and also shall be filed with the Secretary of State and the State Librarian pursuant to the provisions of Sections 251 through 253 of Title 75 of the Oklahoma Statutes. Copies of all regulations and rules shall be made available to each county clerk, district attorney, sheriff and chief of police in the state upon request. The ABLE Commission shall send a notice of application for a license to sell alcohol, alcoholic beverage, wine, or beer under the Oklahoma Alcoholic Beverage Control Act to the district attorney of the county wherein the premises is located at least fifteen (15) days prior to the approval or disapproval of said application.

For any applicant for a license issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act whose place of business for which the license is being sought is located in a city or town, the ABLE Commission shall mail a notice of application to the city or town, the sheriff of the county in which the city or town is located, and the district attorney of the county in which the city or town is located. The city or town may make recommendations on whether or not the applicant should be issued a license by the ABLE Commission within twenty (20) days after the date the copies of the application were mailed.

For any applicant for a license issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act whose place of business for which the license is being sought is located outside of the incorporated boundaries of a city or town, the ABLE Commission shall mail a notice of application to the board of county commissioners of the county in which the place of business is located, the sheriff of said county, and the district attorney of said county. The board of county commissioners shall make recommendations on whether or not the applicant should be issued a license by the ABLE Commission within twenty (20) days after the date the copies of the application were mailed.

37-518. Kinds of licenses—Fees—Term

A. Except as otherwise provided in this section, the licenses issued by the Alcoholic Beverage Laws Enforcement Commission, and the annual fees therefore, shall be as follows:

- 1. Brewer License \$1,250.00
- 2. Oklahoma Brewer License \$ 125.00
- 3. Distiller License
 - a. For each fiscal year ending after June 30, 2010 \$3,125.00
 - b. For each fiscal years ending June 30, 2008, 2009 and 2010. \$1,250.00
- 4. Winemaker License \$ 625.00
- 5. Oklahoma Winemaker License. \$ 75.00
- 6. Rectifier License
 - a. For each fiscal year ending after June 30, 2010 \$3,125.00
 - b. For each fiscal years ending June 30, 2008, 2009 and 2010. \$1,250.00
- 7. Wholesaler License. \$3,500.00
- 8. Class B Wholesaler License \$ 625.00

26. Nonresident Seller License	\$	750.00
27. Manufacturers Agent License.	\$	55.00
28. Sacramental Wine Supplier License.	\$	100.00
29. Charitable Auction License.	\$	1.00
30. Charitable Alcoholic Beverage License.	\$	55.00
31. Winemaker Self-distribution License	\$	750.00
32. Small Farm Winery License.	\$	1.00
33. Annual Public Event License.	\$	1,005.00
34. One-time Public Event License.	\$	255.00

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 10 of this subsection; provided, this fee shall not be assessed against service organizations or fraternal beneficiary societies which are exempt under Section 501(c)(19), (8) or (10) of the Internal Revenue Code. There shall be added to the fee for a Mixed/Beverage/Caterer Combination License an administrative fee, which shall not be deemed to be a license fee, in the amount of Two Hundred Fifty Dollars (\$250.00), which shall be paid at the same time and in the same manner as the license fee prescribed by paragraph 11 of this subsection.

B. Notwithstanding the provisions of subsection A of this section:

1. The license fee for a mixed beverage or bottle club license for those service organizations or fraternal beneficiary societies which are exempt under Section 501(c)(19), (8) or (10) of the Internal Revenue Code shall be Five Hundred Dollars (\$500.00) per year;
2. The fees provided for in subsection A of this section for a brewer license and for a Class B wholesaler license shall be reduced by seventy-five percent (75%) if the applicant therefor is also the holder of a license to manufacture or wholesale any low-point beer as provided for in this title; and
3. The renewal fee for an airline/railroad beverage license held by a railroad described in 49 U.S.C., Section 24301, shall be One Hundred Dollars (\$100.00).

C. An applicant may apply for and receive both a beer and wine license and a caterer license.

D. All licenses, except as otherwise provided, shall be valid for one (1) year from date of issuance unless revoked or surrendered. Provided, all employee licenses issued on or after September 1, 1993, shall be valid for two (2) years.

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

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

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

1. Nonresident Seller	\$
2,500.00	
2. Wholesaler	\$
2,500.00	
3. Class B Wholesaler without an active low-point beer license.	\$
1,000.00	
4. Class B Wholesaler with an active low-point beer license.	\$
1,500.00	
5. Package Store for cities and towns over 5,000 population	\$
250.00	
6. Package Store for cities and towns from 2,501 to 5,000 population	\$
200.00	
7. Package Store for cities and towns from 200 to 2,500 population	\$
150.00	
8. Mixed Beverage	\$
25.00	
9. Mixed Beverage/Caterer Combination.	\$
25.00	
10. Caterer.	\$
25.00	
11. Beer and Wine	\$
25.00	
12. Annual Public Event License	\$
25.00	

The surcharge shall be paid concurrent with the licensee’s annual licensing fee and shall be deposited in the ABLE Commission Revolving Fund established pursuant to Section 567 of this title.

**37-518.1. Purchase of alcoholic beverages from certain wholesalers required—
Delivery of product to licensee**

The holder of a mixed beverage, beer and wine, caterer, special event, public event or airline/railroad beverage license shall purchase alcoholic beverages only from a licensed wholesaler or Class B wholesaler or as specifically provided by law; provided, the holder of a mixed beverage, beer and wine, caterer or special event license issued for an establishment which is also a restaurant may purchase wine produced at wineries in this state directly from an Oklahoma winemaker as provided in Section 3 of Article XXVIII of the Oklahoma Constitution.

A wholesaler or Class B wholesaler may deliver such products to licensees authorized to sell alcoholic beverages for on-premises consumption; provided, such licensees may pick up alcoholic beverage orders if they hold a private carrier license issued by the Alcoholic Beverage Laws Enforcement Commission.

37-518.2. Repealed by Laws 1999

37-518.3 Location of mixed beverage establishment or bottle club

A. It shall be unlawful for any mixed beverage establishment, beer and wine establishment, or bottle club which has been licensed by the Alcoholic Beverage Laws Enforcement Commission and which has as its main purpose the selling or serving of alcoholic beverages for consumption on the premises, or retail package store, to be located within three hundred (300) feet of any public or private school or church property primarily and regularly used for worship services and religion activities, however, a college or university located within an improvement district created pursuant to Section 39-103.1 of Title 11 of the Oklahoma Statutes may waive the three-hundred-foot requirement by providing written notice to the establishment seeking the license and to the Alcoholic Beverage Laws Enforcement Commission. Provided, a college or university prior to waiving the three-hundred-foot requirement found in this subsection shall publish a notice of its intention to waive such requirement in a legal newspaper of general circulation within the state at least thirty (30) days but no more than forty (40) days prior to providing any written notice, waiving the three-hundred-foot requirement, to the establishment seeking the license or to the Alcoholic Beverage Laws Enforcement Commission. As used in this subsection “legal newspaper of general circulation within this state” means a newspaper meeting the requisites of a newspaper for publication of legal notices as prescribed in Section 106 of Title 25 of the Oklahoma Statutes in a majority of the counties in this state. The distance indicated in this section shall be measured from the nearest property line of such public or private school or church to the nearest perimeter wall of the premises of any such mixed beverage establishment, beer and wine establishment, bottle club, or retail package store which has been licensed to sell alcoholic beverages. The provisions of this section shall not apply to mixed beverage establishments, beer and wine establishment, or bottle clubs which have been licensed to sell alcoholic beverages for on-premises consumption or retail package stores prior to November 1, 2000; provided, if any the time of application for license renewal the license location has not been in actual operation for a continuous period of more than sixty (60) days, the license shall not be renewed. If any school or church shall be established within three hundred (300) feet of any retail package store, mixed beverage establishment, beer and wine establishment, or bottle club subject to the provisions of this section after such retail package store, mixed beverage establishment, beer and wine establishment, or bottle club has been licensed, the provisions of this section shall not be a deterrent to the renewal of such license if there has not been a lapse of more than sixty (60) days. When any mixed beverage establishment, beer and wine establishment, or bottle club subject to the provisions of this section which has a license to sell alcoholic beverages for on-premises consumption or retail package store changes ownership or the operator thereof is changed and such change of ownership results in the same type of business being conducted on the premises, the provisions of this section shall not be a deterrent to the issuance of a license to the new owner or operator if he or she is otherwise qualified.

B. 1. Any interested party may protest the application for or granting of a license for retail package store, or for a mixed beverage establishment, beer and wine establishment,

or bottle club which has as its main purpose the selling of alcoholic beverages for consumption on the premises, based on an alleged violation of this section. To be considered by the ABLE Commission, the protest must:

- a. be submitted in writing,
- b. be signed by the person protesting,
- c. contain the mailing address and address of resident, if different from the mailing address of the protester,
- d. contain the title of the person signing the protest, if the person is acting in an official capacity as a church or school official, and
- e. contain a concise statement explaining why the application is being protested.

2. Within thirty (30) days of the date of receipt of a written protest, the ABLE Commission shall conduct a hearing on the protest if the protest meets the requirements of paragraph 1 of this subsection.

3. As used in this subsection, "interested party" means:

- a. a parent or legal guardian whose child or children attend the church or school which is alleged to be closer to the mixed beverage establishment or bottle club which has as its main purpose the selling or serving of alcoholic beverages for consumption on the premises, or retail package store, than is allowed by this section.
- b. an official of a church which is alleged to be closer to the mixed beverage establishment or bottle club which has as its main purpose the selling or serving of alcoholic beverages for consumption on the premises, or retail package store, than is allowed by this section, or,
- c. an official of a school which is alleged to be closer to the mixed beverage establishment or bottle club which has as its main purpose the selling or serving of alcoholic beverages for consumption on the premises, or retail package store, than is allowed by this section.

37-520A

The Alcoholic Beverage Laws Enforcement Commission is authorized to issue, upon application of a person who is twenty-one (21) years of age or older, an annual personal use permit which when granted authorizes the holder thereof to make, store, possess and transport for personal use, low-point beer as defined by Section 163.2 of this title, beer as defined by Section 506 of this title, fermented non-distilled ciders, and wine as defined by Section 506 of this title. The total volume of each authorized beverage made and possessed for personal use in a given calendar year shall be limited to a volume less than two hundred (200) gallons. The term "personal use" as used in this section and Sections 163.1 and 505 of Title 37 of the Oklahoma Statutes means the individual making beverages pursuant to a valid personal use permit issued by the Alcoholic Beverage Laws Enforcement Commission produces such beverages solely for his or her use and consumption, for consumption by his or her family and guests, and for transport to and use at organized

affairs, exhibitions or competitions, included, but not limited to, homemaker contests, tastings or judging's. No beverage made pursuant to a personal use permit shall be sold or offered for sale.

37-521. Acts authorized by the various licenses

A. A brewer license shall authorize the holder thereof: To manufacture, bottle, package, and store beer on licensed premises; to sell beer in this state to holders of Class B wholesaler licenses and retail licenses and to sell beer out of this state to qualified persons; to sell beer produced by the licensee to consumers twenty-one (21) years of age or older on the premises of the brewery and to serve free samples of beer produced by the licensee to visitors twenty-one (21) years of age or older. For purposes of this section, no visitor may sample more than a total of twelve (12) fluid ounces of beer per day. The brewer must restrict the distribution and consumption of beer samples to an area within the licensed premises designated by the brewer. A current floor plan that includes the designated sampling area must be on file with the Oklahoma Alcoholic Beverage Laws Enforcement (ABLE) Commission. No visitor under twenty-one (21) years of age shall be permitted to enter this designated sampling area when samples are being distributed or consumed. Samples and sales may only be distributed or consumed between 10:00 a.m. and 9:00 p.m. Samples and sales of beer made or served by a brewery under this section shall not be considered a "sale" of beer within the meaning of Article XXVIII of the Oklahoma Constitution or Section 506 of this title; however, such samples and sales of beer shall be considered beer removed or withdrawn from the brewery for "use or consumption" within the meaning of Section 542 of this title for excise tax determination and reporting requirements.

B. A distiller license shall authorize the holder thereof: To manufacture, bottle, package, and store spirits on licensed premises; to sell spirits in this state to licensed wholesalers and manufacturers only; to sell spirits out of this state to qualified persons; to purchase from licensed distillers and rectifiers in this state, and import spirits from without this state for manufacturing purposes in accordance with federal laws and regulations.

C. A winemaker license shall authorize the holder thereof: To manufacture (including such mixing, blending and cellar treatment as authorized by federal law), bottle, package, and store on licensed premises wine containing not more than twenty-four percent (24%) alcohol by volume, provided the bottle or package sizes authorized shall be limited to the capacities approved by the United States Alcohol and Tobacco Tax and Trade Bureau; to sell wine in this state to licensed wholesalers and manufacturers, to sell bottles of wine produced at the winery from grapes and other fruits and berries grown in this state, if available, for either on-premises or off-premises consumption to consumers on the premises of the winery; to serve visitors on the licensed premises samples of wine produced on the premises; to serve free samples of wine produced at the winery at festivals and trade shows; to sell wine produced at the winery, for either on-premises or off-premises consumption at festivals and trade shows; to sell wine out of this state to qualified persons; to purchase from licensed winemakers, distillers and rectifiers in this state, and to import into this state wine, brandy and fruit spirits for use in manufacturing in accordance with federal laws and regulations; to sell and serve Oklahoma-manufactured wine, mulled wine

or spiced wine, mixed with nonalcoholic beverages or food items such as water, sugar, fruits and vegetables, at room temperature for either on-premises or off-premises consumption; provided, a winemaker either within or without this state that annually produces no more than ten thousand (10,000) gallons of wine may elect to sell and self-distribute the wine produced by such winemaker directly to licensed retail package stores and restaurants in this state; and provided further that:

1. Any such winemaker which elects to directly sell its wine to package stores and restaurants shall not also use a licensed wholesale distributor as a means of distribution, and shall be required to sell its wines to every package store and restaurant licensee who desires to purchase the same, on the same price basis without discrimination;
2. If a winemaker or winery sells directly to a retail package store or restaurant, the winemaker shall transport the wine from the winemaker's winery to the premises where the wine is to be delivered only in vehicles owned or leased by the winemaker and not by common or private contract carrier and shall obtain all necessary permits as required by the Oklahoma Alcoholic Beverage Control Act, and
3. If the production volume limit applicable to winemakers is ruled to be constitutional by a court of competent jurisdiction, then no winemaker shall be permitted to directly sell its wine to retail package stores or restaurants in this state.

D. A winemaker self-distribution license shall authorize a licensed winemaker within or without of this state which is permitted by Section 3 of Article XXVIII of the Oklahoma Constitution and subsection C of this section, to distribute its wine directly to retail package stores and restaurants in this state and that elects to do so, to sell and deliver its wines directly to licensed retail package stores and restaurants in this state in full case lots only, and in accordance with the provisions of the Oklahoma Alcoholic Beverage Control Act and such rules as the ABLE Commission shall adopt.

E. A rectifier license shall authorize the holder thereof: To rectify spirits and wines, bottle, package, and store same on the licensed premises; to sell spirits and wines in this state to licensed wholesalers and manufacturers only; to sell spirits and wines out of this state to qualified persons; to purchase from licensed manufacturers in this state; and to import into this state for manufacturing purposes spirits and wines in accordance with federal laws and regulations.

F. 1. A wholesaler license shall authorize the holder thereof: To purchase and import into this state spirits and wines from persons authorized to sell same who are the holders of a nonresident seller license, and their agents who are the holders of manufacturers agent licenses; to purchase spirits and wines from licensed distillers, rectifiers and winemakers in this state; to purchase spirits and wines from licensed wholesalers, to the extent set forth in paragraphs 2 and 3 of this subsection; to sell in retail containers in this state to retailers, mixed beverage, caterer, special event, public event, hotel beverage or airline/railroad beverage licensees, spirits and wines which have been received and unloaded at the bonded warehouse facilities of the wholesaler before such sale; to sell to licensed wholesalers, to the extent set forth in paragraphs 2 and 3 of this subsection, spirits and wines which have been received and unloaded at the bonded warehouse facilities of the wholesaler before

such sale; and to sell spirits and wines out of this state to qualified persons. Provided, however, sales of spirits and wine in containers with a capacity of less than one-twentieth (1/20) gallon by a holder of a wholesaler license shall be in full case lots and in the original unbroken case. Wholesalers shall be authorized to place such signs outside their place of business as are required by Acts of Congress and by such laws and regulations promulgated under such Acts.

2. Wholesalers are prohibited from purchasing annually in excess of fifteen percent (15%) of their total spirits inventory and fifteen percent (15%) of their total wine inventory from one or more wholesalers. Wholesalers are also prohibited from purchasing annually in excess of fifteen percent (15%) of their inventory of any individual brand of spirits or wine from one or more wholesalers. The volume of spirits and wine and of each brand that each wholesaler is permitted to purchase annually from other wholesalers shall be calculated by the ABLE Commission by multiplying fifteen percent (15%) by:

- a. the total volume of spirits sales of the wholesaler, by liter, from the previous calendar year, and
- b. the total volume of wine sales of the wholesaler, by liter, from the previous calendar year, and
- c. the volume of sales of each brand of spirits or wine of the wholesaler, by liter, from the previous calendar year.

A wholesaler who did not post any sales of spirits, wine or of a particular brand in the previous calendar year shall be deemed to have sold the same volume of spirits, wine or of a particular brand as the wholesaler posting the smallest volumes of sales in spirits, wine or of a particular brand for that year for the purposes of this paragraph. Notwithstanding the foregoing, wholesalers shall not purchase any inventory in spirits or wine from any other wholesaler until such time that the purchasing wholesaler possesses an inventory valued at no less than Two Hundred Fifty Thousand Dollars (\$250,000.00). Inventory valuation shall be based on the original actual price paid by the purchasing wholesaler to the nonresident seller for the inventory.

3. A wholesaler may sell spirits and wine to other wholesalers or purchase spirits and wines from other wholesalers without complying with paragraph 2 of this subsection in the case of the sale, purchase, or other transfer or acquisition of the entire business of a wholesaler, including the inventory of spirits and wine.

4. A wholesaler license shall authorize the holder thereof to operate a single bonded warehouse with a single central office together with delivery facilities at a location in this state only at the principal place of business for which the wholesaler license was granted.

5. All licensed wholesalers shall register prices, purchase and keep on hand or have on order a fifteen-day supply of all brands constituting the top eighteen brands in total sales by all Oklahoma wholesalers during the past twelve-month period, according to the records of the ABLE Commission as revised by the ABLE Commission quarterly; provided, however, that not more than three brands of any particular nonresident seller shall be included in the top-brands classification. All purchase orders for these top eighteen brands must show an expected due delivery date. These purchase orders may only be canceled with prior approval of the Director of the ABLE Commission, unless a wholesaler shall have in its warehouse a fifteen-day supply of merchandise on such purchase order.

In order to allow the ABLE Commission to determine the top eighteen brands,

wholesalers must submit to the ABLE Commission every sixty (60) days a sworn affidavit listing their top twenty-five brands in sales for the previous sixty (60) days, excluding sales to wholesalers. Such affidavits shall be submitted in conjunction with the original price postings of wholesalers.

A fifteen-day supply of a particular brand for a particular wholesaler shall be based upon the market share of the wholesaler, determined by first multiplying the total number of liters of such brand sold by all wholesalers to all retailers during the previous calendar year by the percentage that the total sales of wine and spirits of the particular wholesaler, in liters, for such calendar year bears to the total sales of wine and spirits, in liters, reported by all wholesalers for such calendar year; and then dividing by twenty-four (24); provided, that a fifteen-day supply for a wholesaler who has not been in business for the entirety of the previous calendar year shall be deemed to be equal to that of the wholesaler who was in business for the entirety of the previous calendar year and who reported the lowest volume of sales of wine and spirits, in liters, of any wholesaler having been in business for such period.

G. A class B wholesaler license shall authorize the holder thereof: To purchase and import into this state beer from persons authorized to sell same who are the holders of nonresident seller licenses, and their agents who are the holders of manufacturers agent licenses to purchase beer from licensed brewers and Class B wholesalers in this state; to sell in retail containers to retailers, mixed beverage, caterer, special event, public event, hotel beverage and airline/railroad beverage licensees in this state, beer which has been unloaded and stored at the holder's self-owned or leased and self-operated warehouse facilities for a period of at least twenty-four (24) hours before such sale; and to sell beer in this state to Class B wholesalers and out of this state to qualified persons, including federal instrumentalities and voluntary associations of military personnel on federal enclaves in this state over which this state has ceded jurisdiction.

H. A package store license shall authorize the holder thereof: To purchase alcohol, spirits, beer from the holder of a brewer, wholesaler or Class B wholesaler license and to purchase wine from a winemaker who is permitted and has elected to self-distribute as provided in Section 3 of Article XXVIII of the Oklahoma Constitution and to sell same on the licensed premises in such containers to consumers for off-premises consumption only and not for resale; provided, wine, beer, and spirits may be sold to charitable organizations that are holders of charitable alcoholic beverage auction or charitable alcoholic beverage event licenses. All alcoholic beverages that are sold by a package store are to be sold at ordinary room temperature.

I. A mixed beverage license shall authorize the holder thereof: To purchase alcohol, spirits, beer from the holder of a wholesaler or Class B wholesaler license or as specifically provided by law and to sell, offer for sale and possess mixed beverages for on-premises consumption only; provided, the holder of a mixed beverage license issued for an establishment which is also a restaurant may purchase wine directly from a winemaker who is permitted and has elected to self-distribute, as provided in Section 3 of Article XXVIII of the Oklahoma Constitution. Sales and service of mixed beverages by holders of mixed beverage licenses shall be limited to the licensed premises of the licensee unless the holder of the mixed beverage license also obtains a caterer license or a mixed beverage/caterer combination license. A mixed beverage license shall only be issued in counties of this state

where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. A separate license shall be required for each place of business. No mixed beverage license shall be issued for any place of business functioning as a motion picture theater, as defined by Section 506 of this title. A mixed beverage licensee whose main purpose is hosting live performance art presentations may utilize the services of a licensed caterer for its alcoholic beverage service as long as it is not open to the public more than one hundred twenty (120) days per year.

J. A bottle club license shall authorize the holder thereof: To store, possess and mix alcoholic beverages belonging to members of the club and to serve such alcoholic beverages for on-premises consumption to club members. A bottle club license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has not been authorized. A separate license shall be required for each place of business.

K. A caterer license shall authorize the holder thereof: To sell mixed beverages for on-premises consumption incidental to the sale or distribution of food at particular functions, occasions, or events which are private and temporary in nature. A caterer license shall not be issued in lieu of a mixed beverage license. A caterer license shall only be issued or utilized in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. A separate license shall be required for each place of business.

A licensed caterer shall be authorized to sell mixed beverages for on-premises consumption incidental to the distribution of food at temporary private functions, at temporary public events that are licensed and approved by the ABLE Commission, and on the premises of a mixed beverage licensee whose main purpose is the hosting of live performing art presentations and is not open to the public more than one hundred twenty (120) days per year.

L. 1. An annual special event license shall authorize the holder thereof: To sell and distribute mixed beverages for consumption on the premises for which the license has been issued for up to four events to be held over a period not to exceed one (1) year, not to exceed two such events in any three-month period. For purposes of this paragraph, an event shall not exceed a period of ten (10) consecutive days. An annual special event license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. The holder of an annual special event license shall provide written notice to the ABLE Commission of each special event not less than ten (10) days before the event is held.

2. A quarterly special event license shall authorize the holder thereof: To sell and distribute mixed beverages for consumption on the premises for which the license has been issued for up to three events to be held over a period not to exceed three (3) months. For purposes of this paragraph, an event shall not exceed a period of ten (10) consecutive days. A quarterly special event license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. The holder of a quarterly special event license shall provide written notice to the ABLE Commission of each special event not less than ten (10) days before the event is held.

3. An annual public event license shall authorize the holder thereof: To sell and

distribute mixed beverages for consumption on the premises for which the license has been issued for up to six events to be held over a period not to exceed one (1) ~~calendar~~ year. The application for an annual public event license, who does not already hold a license issued by the ABLE Commission, shall make application not less than sixty (60) days before its first event. The ABLE Commission shall be the authority to waive the sixty-day requirement at its discretion. For purposes of this paragraph, an event shall not exceed a period of three (3) consecutive days. An annual public event license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. The holder of an annual public event license shall provide written notice to the ABLE Commission of each subsequent public event not less than ten (10) days before the event is held. A public event license shall not be used in lieu of a mixed beverage license. The holder of an annual public event license may choose to utilize the services of a licensed caterer to provide and distribute the alcoholic beverages at their events. When the applicant chooses to utilize the services of a licensed caterer, the applicant shall declare upon application which licensed caterer will be used. The licensed caterer shall be responsible for payment of all applicable mixed beverage taxes through the existing Mixed Beverage Tax Permit issued to his or her business by the Oklahoma Tax Commission.

4. An one-time public event license shall authorize the holder thereof: to sell and distribute mixed beverages for consumption on the premises for which the license has been issued. The applicant for a one-time public event license, who does not already hold a license issued by the ABLE Commission, shall make application not less than sixty (60) days before the event. The ABLE Commission shall have the authority to waive the sixty-day requirement at its discretion. For purposes of this paragraph, an event shall not exceed a period of three (3) consecutive days. An public event license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. A public event license shall not be used in lieu of a mixed beverage license. The holder of a one-time public event license may choose to utilize the services of a licensed caterer to provide and distribute the alcoholic beverages at his or her event. When the applicant chooses to utilize the services of a licensed caterer, the applicant shall declare upon application which licensed caterer will be used. The licensed caterer shall be responsible for payment of all applicable mixed beverage taxes through the existing Mixed Beverage Tax Permit issued to his or her business by the Oklahoma Tax Commission.

M. A hotel beverage license shall authorize the holder thereof: To sell or serve alcoholic beverages in 50 milliliter spirits, 187 milliliter wine, and 12-ounce malt beverage containers which are distributed from a hotel room mini-bar. A hotel beverage license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. A hotel beverage license shall only be issued to a hotel or motel as defined by Section 506 of this title which is also the holder of a mixed beverage license. Provided, that application may be made simultaneously for both such licenses. A separate license shall be required for each place of business.

N. An airline/railroad beverage license shall authorize the holder thereof: To sell or serve alcoholic beverages in or from any size container on a commercial passenger airplane

or railroad operated in compliance with a valid license, permit or certificate issued under the authority of the United States or this state, even though the airplane or train, in the course of its travel, may cross an area in which the sale of alcoholic beverages by the individual drink is not authorized and to store alcoholic beverages in sealed containers of any size at any airport or station regularly served by the licensee, in accordance with rules promulgated by the Alcoholic Beverage Laws Enforcement Commission. Alcoholic beverages purchased by the holder of an airline/railroad license from the holder of a wholesaler license shall be presumed to be purchased for consumption outside the State of Oklahoma or in interstate commerce, and shall be exempt from the excise tax provided for in Section 553 of this title.

O. An agent license shall authorize the holder thereof: To represent only the holders of licenses within this state, other than retailers, authorized to sell alcoholic beverages to retail dealers in Oklahoma, and to solicit and to take orders for the purchase of alcoholic beverages from retailers including licensees authorized to sell alcoholic beverages by the individual drink for on-premises consumption. Such license shall be issued only to agents and employees of the holder of a license under the Oklahoma Alcoholic Beverage Control Act, but no such license shall be required of an employee making sales of alcoholic beverages on licensed premises of the employee's principal. No person holding an agent license shall be entitled to a manufacturers agent license.

P. An employee license shall authorize the holder thereof: To work in a package store, mixed beverage establishment, beer and wine establishment, bottle club, public event or any establishment where alcohol or alcoholic beverages are sold, mixed or served. Persons employed by a mixed beverage licensee, beer and wine establishment, public event licensee or a bottle club who do not participate in the service, mixing, or sale of mixed beverages shall not be required to have an employee license. Provided, however, that a manager employed by a mixed beverage licensee, public event licensee or a bottle club shall be required to have an employee license whether or not the manager participates in the service, mixing or sale of mixed beverages. Applicants for an employee license must have a health card issued by the county in which they are employed, if the county issues such a card. Employees of special event, caterer, unless catering a mixed beverage licensed premises, or airline/railroad beverage licensees shall not be required to obtain an employee license. Persons employed by a hotel licensee who participate in the stocking of hotel room mini-bars or in the handling of alcoholic beverages to be placed in such devices shall be required to have an employee license.

Q. An industrial license may be issued to persons desiring to import, transport, and use alcohol for the following purposes:

1. Manufacture of patent, proprietary, medicinal, pharmaceutical, antiseptic, and toilet preparations;
2. Manufacture of extracts, syrups, condiments, and food products; and
3. For use in scientific, chemical, mechanical, industrial, and medicinal products and purposes.

No other provisions of the Oklahoma Alcoholic Beverage Control Act shall apply to alcohol intended for industrial, medical, mechanical, or scientific use.

Any person receiving alcohol under authority of an industrial license who shall use, permit, or cause same to be used for purposes other than authorized purposes specified

above, and all such alcohol, shall be liable to all provisions of the Oklahoma Alcoholic Beverage Control Act, including payment of tax thereon.

No provisions of the Oklahoma Alcoholic Beverage Control Act shall apply to alcohol withdrawn by any person free of federal tax under a tax-free permit issued by the United States government, if such alcohol is received, stored, and used as authorized by federal laws.

R. A carrier license may be issued to any common carrier operating under a certificate of convenience and necessity issued by any duly authorized federal or state regulatory agency. Such license shall authorize the holder thereof to transport alcoholic beverages other than wine sold directly by a winemaker or winery to a retail package store or restaurant into, within, and out of this state under such terms, conditions, limitations, and restrictions as the ABLE Commission may prescribe by order issuing such license and by regulations.

S. A private carrier license may be issued to any carrier other than a common carrier described in subsection P of this section. Such license shall authorize the holder thereof to transport alcoholic beverages other than wine sold directly by a winemaker or winery to a retail package store or restaurant into, within, or out of this state under such terms, conditions, limitations, and restrictions as the ABLE Commission may prescribe by order issuing such license and by regulations. No carrier license or private carrier license shall be required of licensed brewers, distillers, winemakers, rectifiers, wholesalers, or Class B wholesalers, to transport alcoholic beverages from the place of purchase or acquisition to the licensed premises of such licensees and from such licensed premises to the licensed premises of the purchaser in vehicles owned or leased by such licensee when such transportation is for a lawful purpose and not for hire.

No carrier license or private carrier license shall be required of the holder of a package store, mixed beverage, caterer, special event, hotel beverage, public event or airline/railroad license to pick up alcoholic beverage orders from the licensee's wholesaler or Class B wholesaler from whom they are purchased, and to transport such alcoholic beverages from the place of purchase or acquisition to the licensed premise of such licensee in vehicles owned or under the control of such licensee or a licensed employee of such licensee under such terms, conditions, limitations and restrictions as the ABLE Commission may prescribe.

T. A bonded warehouse license shall authorize the holder thereof: To receive and store alcoholic beverages for the holders of storage licenses on the licensed premises of the bonded warehouse licensee. No goods, wares or merchandise other than alcoholic beverages may be stored in the same bonded warehouse with alcoholic beverages. The holder of a bonded warehouse license shall furnish and file with the ABLE Commission a bond running to all bailers of alcoholic beverages under proper storage licenses and their assignees (including mortgagees or other bona fide lienholders) conditioned upon faithful performance of the terms and conditions of such bailments.

U. A storage license may be issued to a holder of a brewer, distiller, winemaker, rectifier, wholesaler, Class B wholesaler, nonresident seller, package store, mixed beverage, caterer, public event or hotel beverage license, and shall authorize the holder thereof: To store alcoholic beverages in a public warehouse holding a bonded warehouse license, and no goods, wares or merchandise other than alcoholic beverages may be stored

in the same warehouse with alcoholic beverages in private warehouses owned or leased and operated by such licensees elsewhere than on their licensed premises. Provided:

1. A storage license issued to a Class B wholesaler shall permit the storage of light beer and permit the sale and delivery to retailers from the premises covered by such license.

2. Any licensee who is the holder of a mixed beverage/caterer combination license or the holder of a mixed beverage license and a hotel beverage license who is issued a storage license shall store all inventories of alcoholic beverages either on the premises of the mixed beverage establishment or in the warehouse;

3. A storage license shall not be required for a special event licensee storing alcoholic beverages for use at a subsequent event;

4. A storage license shall be required for a public event licensee storing alcoholic beverages for use at a subsequent event; and

5. Notwithstanding the provisions of subsection H of this section or any other provisions of this title, a licensee who wholly owns more than one licensed mixed beverage establishment may store alcoholic beverages for each of the licensed establishments in one location under one storage license. Alcoholic beverages purchased and stored pursuant to the provisions of a storage license, for one licensed mixed beverage establishment may be transferred by a licensee to another licensed mixed beverage establishment which is wholly owned by the same licensee. Notice of such a transfer shall be given in writing to the Oklahoma Tax Commission and the ABLE Commission within three (3) business days of the transfer. The notice shall clearly show the quantity, brand and size of every transferred bottle or case.

V. A sacramental wine supplier license shall authorize the holder thereof: To sell, ship or deliver sacramental wine to any religious corporation or society of this state holding a valid exemption from taxation issued pursuant to Section 501(a) of the Internal Revenue Code, 1986, and listed as an exempt organization in Section 501(c)(3) of the Internal Revenue Code, 1986, of the United States, as amended.

W. A beer and wine license shall authorize the holder thereof: To purchase beer and wine in retail containers from the holder of a wholesaler or Class B wholesaler license or as specifically provided by law and to sell, offer for sale and possess beer and wine for on-premises consumption only; provided the holder of a beer and wine license issued for an establishment which is also a restaurant may purchase wine from a winemaker who is permitted and has elected to self-distribute as provided in Section 3 of Article XXVIII of the Oklahoma Constitution.

Sales and service of beer and wine by holders of beer and wine licenses shall be limited to the licensed premises of the licensee unless the holder of the beer and wine license also obtains a caterer license. A beer and wine license shall only be issued in counties of this state where the sales of alcoholic beverages by the individual drink for on-premises consumption has been authorized. A separate license shall be required for each place of business. No beer and wine license shall be issued for any place of business functioning as a motion picture theater, as defined by Section 506 of this title. No spirits shall be stored, possessed or consumed on the licensed premises of a beer and wine licensee.

X. A charitable auction or charitable alcoholic beverage event license may be issued to a charitable organization exempt from taxation under Section 501(c)(3), (4), (5), (6), (7), (8), (9), (10), or (19) of the United States Internal Revenue Code. The charitable alcoholic

beverage event license shall authorize the holder thereof to conduct a wine, spirit and/or beer event which may consist of one or more of a wine, spirit and/or beer tasting event, a wine, spirit and/or beer dinner event or a wine, spirit and/or beer auction, which may be either a live auction conducted by an auctioneer or a silent auction for which:

1. Bid sheets are accepted from interested bidders at the event;
2. The holders of tickets are allowed to bid online for a period not exceeding thirty (30) days prior to the event; or
3. Both bid sheets are accepted at the event and online bids are accepted pursuant to paragraph 2 of this subsection.

A charitable alcoholic beverage event shall be conducted solely to raise funds for charitable purposes. A charitable alcoholic beverage license will allow the event attendees access to tastings, samples, dinners and alcoholic beverages as parts of their entrance fee or ticket price. Wine, spirits and/or beer used in, served, or consumed at a charitable alcoholic beverage event may be purchased by the charitable organization or donated by any person or entity. The charitable alcoholic beverage event license shall be issued for a period not exceeding four (4) days. Only eight such licenses may be issued to an organization in any twelve-months period. The charitable organization holding a charitable alcoholic beverage event license shall not be required to obtain a special event license. Charitable auction and charitable alcoholic beverage event license holder may also utilize a licensed caterer to provide additional alcohol services at the event and on the premises. The charitable auction license shall authorize the holder thereof to auction wine, spirits and/or beer purchased from a retail package store or received as a gift from an individual if the auction is conducted to raise funds for charitable purposes. The charitable auction license shall be issued for a period not to exceed two (2) days. Only four such licenses shall be issued to an organization in any twelve-month period. The maximum amount of wine, spirits and/or beer auctioned pursuant to the charitable auction license shall not exceed fifty (50) gallons. All ~~wines~~ wine, beer, and spirits auctioned pursuant to the charitable auction license shall be registered and all fees and taxes shall be paid in accordance with the Oklahoma Alcoholic Beverage Control Act.

No charitable alcoholic event license shall be required for an organization, association or nonprofit corporation which is an economic development chamber or similar entity, provided the event is not conducted primarily for fundraising purposes, and provided the services of a license caterer are used to provide and distribute the alcohol beverages at the event.

Y. A mixed beverage/caterer combination license shall authorize the holder thereof: to purchase or sell mixed beverages as specifically provided by law for the holder of a mixed beverage license or caterer license. All provisions of the Oklahoma Alcoholic Beverage Control Act applicable to mixed beverage licenses or caterer licenses, or the holders thereof, shall also be applicable to mixed beverage/caterer combination licenses or the holders thereof, except where specifically otherwise provided. A mixed beverage/caterer combination license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. A separate license shall be required for each place of business.

A licensed mixed beverage/caterer licensee shall be authorized to sell mixed beverages

for on-premises consumption incidental to the distribution of food at temporary private functions, at temporary public events that are licensed and approved by the ABLE Commission, and on the premises of a mixed beverage licensee whose main purpose is the hosting of live art presentations and is not open to the public more than one hundred twenty (120) days per year.

Z. A small farm winery license shall authorize the holder thereof: To manufacturer and bottle wines produced by that small farm winery. In addition, a small farm winery license authorizes the holder of that permit to bottle and sell wines produced by another small farm winery. In order for a small farm winery to bottle and sell another small farm winery's products, both the selling winery and the buying winery shall be small farm winery permit holders. A small farm wine may display the trademarked "Oklahoma Grown" sticker available from the Oklahoma Grape Industry Council.

AA. In the event any portion of this section is declared invalid for any reason, the invalid portion shall be severed and the rest and remainder of the section shall be saved and given full force and application.

BB. Except as provided in Section 554.1 and 554.2 of this title with respect to cities, towns and counties, and except as may be provided under Title 68 of the Oklahoma Statutes with respect to the Oklahoma Tax Commission, no license or permit other than licenses as provided under the Oklahoma Alcoholic Beverage Control Act shall be required of any licensee by any agency, instrumentality or political subdivision of this state to engage in any activity covered by the Oklahoma Alcoholic Beverage Control Act anywhere within the State of Oklahoma and no agency, instrumentality or political subdivision of this state shall interfere with the ABLE Commission's regulation of, or a wholesaler's performance of, the sale, distribution, possession, handling or marketing of alcoholic beverages on any premises of any licensee as defined in Section 506 of this title. Any license issued by the ABLE Commission under this title may be relied upon by other licensees as a valid license. No other licensee shall have any obligation to independently determine the validity of such license or be held liable solely as a consequence of another licensee's failure to maintain a valid license.

37-521.1 Keg Identification Label

A. For the purpose of this section:

1. "Beer keg" means any brewery-sealed, single container that contains not less than four (4) gallons of beer, as defined by Section 506 of Title 37 of the Oklahoma Statutes;
 2. "Licensed retailer" means a licensed package store;
 3. "Commission" means the Oklahoma Beverage Laws Enforcement Commission;
- and
4. "Identification seal" means any device approved by the Commission which is designed to be affixed to beer kegs and which displays an identification number and any other information as may be prescribed by the Commission.

B. No licensed retailer shall sell beer kegs unless that retailer affixes an identification seal to each beer keg. An identification seal shall consist of durable material as determined by the Commission that is not easily removed or destroyed. Identification seals used may contain a nonpermanent adhesive material in order to apply the seal directly to an outside surface of a beer keg at the time of sale. Identification seals shall be attached to beer kegs

at the time of sale as determined by the Commission. The identification information contained on the seal shall include the licensed retailer's name, address, beer license number, and telephone number; a unique beer keg number assigned by the licensed retailer; and a prominently visible warning that intentional removal or defacement of the seal is a misdemeanor. Upon return of a beer keg to the licensed retailer that sold the beer keg and attached the identification seal, the licensed retailer shall be responsible for the complete and thorough removal of the entire identification seal, and any adhesive or attachment devices of the seal. The seal beer keg identification number must be kept on file with the retailer for not less than one (1) year from the date of return.

C. A licensed retailer shall not sell a beer keg unless the beer keg has attached a seal complying with the standards established by subsection B of this section.

D. 1. A licensed retailer who sells a beer keg must at the time of the sale record:

- a. the purchaser's name and address and the number of the purchaser's driver license, identification card issued by the Department of Public Safety, military identification card, or valid United States or foreign passport,
- b. the date and time of the purchase,
- c. the beer keg identification seal number required by subsection B of this section,

and

- d. the purchaser's signature.

2. The record shall be retained for not less than one (1) year after the date of the sale.

E. A licensed retailer required to retain records under subsection D of this section shall make the records available during regular business hours for inspection by a law enforcement officer or an agent of the Commission.

F. 1. A person required to record information under subsection D of this section shall not knowingly make a materially false entry in the book or register required under subsection D of this section. In a prosecution under this subsection, it is a defense for the defendant to prove by a preponderance of the evidence that the defendant reasonably and in good faith relied upon the identification provided by the purchaser of a beer keg.

2. No person other than a licensed retailer, a licensed Class B wholesaler, a law enforcement officer, or an agent of the Commission may intentionally remove a seal placed on a beer keg in compliance with subsection C of this section. No person may intentionally deface or damage the seal on a beer keg to make it unreadable.

3. Any person who purchases a beer keg and who fails to return the keg or who returns a keg with a damaged or missing seal shall be subject to a fine of Five Hundred Dollars (\$500.00).

4. Any licensed retailer who fails to report an individual provided for in paragraph 3 of this subsection to law enforcement shall be guilty of a misdemeanor and shall be subject to fines of not less than Five Hundred Dollars (\$500.00) for first and second offenses. A third violation by a licensed retailer of the provisions of the paragraph shall result in the revocation of the retailer's license for up to one (1) year.

G. Any person who purchases a beer keg which is subsequently stolen from such person shall not be liable for any penalty imposed pursuant to the provisions of this section if such person properly reported the theft of the beer keg to law enforcement authorities within twenty-four (24) hours of the discovery of the theft.

H. The Commission shall promulgate rules for the implementation and application of

this section.

37-521.2 Legislative findings

The Legislature finds and declares that:

1. The state has substantial interest in exercising its powers and the powers granted to the states by the Twenty-first Amendment to the Constitution of the United States and in regulating the structure of the state's alcoholic beverage industry including the activities of manufacturers, importers, wholesalers and retailers, the methods by which alcoholic beverages are marketed, and influences that affect the consumption levels of alcoholic beverages by the people of the state;

2. The state's system of regulating the manufacture, distribution and sale of alcoholic beverages has served this state and its citizens well and has contributed to the economic growth and stability of the state;

3. Changes in market dynamics and advances in technology may have altered the way the alcoholic beverage industry operates, but have not changed the state's desire for strict regulation of the manufacture, importation, distribution, marketing and sale of alcoholic beverages in accordance with Oklahoma State Constitution and laws and regulations enacted by the Legislature and the Oklahoma Alcoholic Beverage Laws Enforcement Commission. Such regulation advances the interest of the state in ensuring a competitive and orderly market in the distribution and sale of alcoholic beverages, promoting temperance in the use and consumption of alcoholic beverages, and facilitating the collection of excise taxes and fees. The purpose of the state's regulatory system is to promote these interests by requiring economic separation between the tiers that contributes to a fair, open and competitive market resulting in the interbrand and other competition within each tier, and prevents disorderly market conditions, including but not limited to the domination of local markets and the undue influence of one tier over another. This purpose is through any direct or indirect ownership interest, or any other financial or business obligation;

4. The state maintains an interest in the promotion of temperance as a paramount public health, safety and welfare concern. The Legislature further reaffirms that temperance is achieved, consistent with structural regulation that promotes a competitive and orderly market, by controlled access to, and responsible use and consumption of, alcoholic beverages by persons of legal drinking age; and

5. All provisions of this act shall be literally construed for the accomplishment of these purposes, and any exceptions are to be narrowly interpreted and applied.

37-521.3 Shipment of winery products to other states—Report of shipments

A. Oklahoma wineries may ship products manufactured in the state to consumers in other states, so long as the recipient is of legal age and the laws of the recipient's state allow such shipments.

B. Oklahoma wineries that ship products to consumers in other states shall submit a monthly report of all shipments to the Oklahoma Alcoholic Beverage Laws Enforcement Commission. The report shall contain the name, address and age of the recipient and shall list the common carrier used to ship the product. The contents of the reports shall be a

matter of public record and shall be made available to the public as well as any law enforcement or regulatory official in Oklahoma or another state. The manufacturer shall also keep a copy of all such reports on its premises for a period of not less than five (5) years and shall make those reports available for inspection by any law enforcement officer of any state or federal agency upon request.

37-522. Publication of notice of intent to apply for license—Notice of approval or disapproval of application—Conditional approval

Applicants for original brewer, distiller, winemaker, rectifier, wholesaler, Class B wholesaler, mixed beverage, beer and wine, bottle club, caterer or package store licenses shall, prior to applying for such license, twice publish, in such form and containing such information as the Alcoholic Beverage Laws Enforcement Commission shall by regulation prescribe, a notice of its intention to apply for any such license, once a week for two (2) successive weeks in a legal newspaper of general circulation within the county where the proposed premises is to be located, and file proof of such publication with the ABLE Commission. Unless otherwise provided, the ABLE Commission shall give notice of approval or disapproval of an application for a license within thirty (30) days after the filing of said application. The ABLE Commission shall give notice of approval or disapproval of an application for a mixed beverage, beer and wine, bottle club or caterer license within sixty (60) days after the filing of said application. Provided, the ABLE Commission may extend the period for making a determination of whether to approve or disapprove an application an additional thirty (30) days for good cause.

The ABLE Commission may conditionally approve any application which is subject to Section 523 of this title if:

1. Construction, modification or alteration of premises proposed for licensed operations is not completed; and
2. The applicant furnishes a conditional certification issued by the municipality or county that the applicant's plans and specifications indicate that the proposed premises will comply with the municipality's or county's zoning, fire, safety, and health codes.

The ABLE Commission shall issue its final notice of approval when the applicant furnishes final certificates required by Section 523 of this title.

37-523. Issuance and renewal of license—Fees—Information required—Conditional certificate—List of licensees—Denial of license—Late renewal penalty

A. No license provided for in the Oklahoma Alcoholic Beverage Control Act shall be issued except pursuant to an application filed with the Alcoholic Beverage Laws Enforcement Commission. The ABLE Commission may, however, provide for a form of simplified application for renewal of license. Payment of the prescribed fee shall accompany each application for a license.

B. Every applicant for an original license, except applicants for an employee, charitable event, special event or airline/railroad beverage license, shall also furnish the following:

1. A tax receipt proving payment of ad valorem taxes, including real and personal taxes, or furnish to the ABLE Commission satisfactory evidence that no taxes are due or delinquent;

2. A certificate of zoning issued by the municipality in which the applicant proposes to locate the applicant's principal place of business under the license, or by the county if the principal place of business is located outside the incorporated limits of a municipality, certifying that the applicant's proposed location and use thereof comply with all municipal zoning ordinances or county zoning regulations if applicable;

3. A certificate issued by the municipality in which the applicant proposes to locate the applicant's principal place of business under the license, or by the county if the principal place of business is located outside the incorporated limits of a municipality, certifying that the applicant's existing or proposed operations under the license comply with all municipal or county fire codes, safety codes, or health codes, if applicable;

4. Authorization, on forms furnished by the ABLE Commission, for complete investigation of the applicant's current financial status as it relates to the application for a license, including but not limited to access to bank accounts, loan agreements, and financial statements;

5. A deed, management agreement, purchasing agreement, or lease; and

6. Proof of liability insurance covering both bodily injury and property damage,

C. The certificates required by paragraphs 2 and 3 of subsection B of this section shall be signed by the mayor of the municipality or the chair of the board of county commissioners issuing same, unless the municipality, by ordinance, or the county designates some other officer or entity to issue the certificates. Applications for such certificates shall be in writing and shall contain information in such detail as the municipality or county may reasonably require describing the location and nature of operations to be conducted under the ABLE license. Municipalities and counties shall be required to act on all applications for such certificates within twenty (20) days of receipt of the written application.

D. Municipalities and counties may grant conditional certificates for premises proposed for licensed operations for which construction, modification, or alteration is not completed. Conditional certificates shall indicate that the proposed premises will comply with the municipal or county zoning, fire, safety, and health codes. The granting of conditional certificates shall not relieve the applicant of the duty of obtaining the certificates required by paragraphs 2 and 3 of subsection B of this section after completion of the construction, modification, or alteration.

E. A municipality or county shall issue the certificates required by paragraphs 2 and 3 of subsection B of this section within ten (10) days after all final inspections are completed.

Thereafter if a licensee fails to maintain compliance with municipal or county zoning ordinances and codes, the mayor or chair of the board of county commissioners or their designee, shall forthwith notify the ABLE Commission in writing setting forth details of the noncompliance.

F. Upon issuance of any license, the ABLE Commission shall furnish the Oklahoma Tax Commission with a list of such licenses.

G. In the event of denial of an application for a license, the ABLE Commission shall refund to the applicant the amount of the tendered fee, less ten percent (10%), which it shall retain as cost of processing the application.

H. Any licensee, except an employee licensee, who fails to renew the license prior to

the expiration date of the license shall be subject to a late renewal penalty as provided by ABLE Commission rules and regulations. Further, any licensee, except an employee licensee, who fails to renew the license within sixty (60) days of the expiration of the license shall be required to submit a new license application. An employee licensee who fails to renew prior to the expiration of the license shall be required to submit a new license application; provided, however, that under no circumstances shall any licensee, including an employee licensee, whose license to serve or sell alcoholic beverages has expired, continue to serve or sell alcoholic beverages.

I. The requirements of this section shall be required for a public event license applicant, except for those certificates required by paragraphs 2 and 3 of subsection B of this section as the events are temporary in nature and the locations are not permanently licensed.

37-523.1. Corporation—Application for mixed beverage, bottle club or caterer license—Information required—Change in officers or directors—Acquisition of 15% or more of stock

A. Any corporation applying for a mixed beverage, beer and wine, caterer, public event or bottle club license shall submit to the Alcoholic Beverage Laws Enforcement Commission the following:

1. A certificate of good standing from the office of the Secretary of State;
2. A list of all corporate officers, directors, executive committee members or members of a similar governing body and their addresses, except for a charitable organization exempt from taxation under Section 501(c)(3), (4), (5), (6), (7), (8), (9), (10), or (19) of the United States Internal Revenue Code, which shall only be required to furnish its corporate officers; and
3. A list of all stockholders owning fifteen percent (15%) or more of the stock and their addresses.

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

C. A corporate licensee shall notify the ABLE Commission any time a person, any type of partnership, limited liability company, or other entity acquires fifteen percent (15%) or more of the stock of said corporation. Such notification shall be within thirty (30) days of acquisition and the corporation shall pay a fee of One Hundred Dollars (\$100.00) for each notification of change.

D. The ABLE Commission may disapprove a change of officers, directors or principal managers or the acquisition of more than fifteen percent (15%) of the stock in a licensed corporation if the ABLE Commission feels that such change would materially affect the conditions under which the license was issued, such that the license would not have been issued had such change been in existence at the time of the original application. If such disapproval occurs, the ABLE Commission shall notify the licensee in writing and in the case of a publicly traded corporation, allow a reasonable time for the licensee to remove such officer, director or manager or for the stockholder to divest himself or herself of any stock held in excess of fifteen percent (15%) of the stock. Provided that a reasonable time

may not exceed a ninety-day period following notification of denial by the ABLE Commission. Failure to comply with the provisions of this subsection may result in revocation or suspension of such license.

E. Any person who was an officer or director or who has owned fifteen percent (15%) or more of the stock in a corporation which has been denied a license or had a license revoked or suspended pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act shall not own stock in any other corporation seeking a license pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act for a period of twelve (12) months from the date said license was revoked or suspended.

F. Any person who was a manager or a member of a limited liability company which has been denied a license or had a license revoked or suspended pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act shall not own stock in any corporation seeking a license pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act for a period of twelve (12) months from the date said license was revoked or suspended.

37-523.2 Limited liability company—Application for mixed beverage, beer, wine, bottle club or caterer license—Information required—Change in manager or managers—Management and membership limitations

A. Any limited liability company, formed as provided for in the Limited Liability Company Act, may apply for a beer and wine, bottle club, caterer, public event or mixed beverage license issued pursuant to the Oklahoma Alcoholic Beverage Control Act. Any limited liability company applying for a license shall submit to the Alcoholic Beverage Laws Enforcement Commission, the following:

1. A Certificate of Good Standing from the Office of the Secretary of State;
2. The Articles of Organization with all amendments and corrections filed with the Office of the Secretary of State with proof that same has been filed in accordance with the Limited Liability Company Act;
3. The name and address of the resident agent;
4. The name and address of the manager;
5. The operating agreement;
6. A current list of the full name, social security number, and address of each member; and
7. A copy of the issued Certificate of Membership Interest for each member.

B. A limited liability company licensee shall notify the ABLE Commission in writing of any change in the manager of the licensed company with thirty (30) days of said change and shall pay a fee of One Hundred Dollars (\$100.00) for each notification of change.

C. A limited liability company shall notify the ABLE Commission in writing any time a membership is assigned or members are added or disassociated within thirty (30) days of said change. The limited liability company shall pay a fee of One Hundred Dollars (\$100.00) for each notification of change.

D. The ABLE Commission may disapprove a change of manager or new membership in a licensed liability company if the ABLE Commission feels that such change would materially affect any conditions under which the license was issued, such that the license would not have been issued had such change been in existence at the time of the original application. If such disapproval occurs, the ABLE Commission shall notify the licensee in

writing and allow a reasonable time for the licensee to remove such manager or for a member to be disassociated from the company. Provided that a reasonable time not exceed a ninety-day period following notification of denial by the ABLE Commission. Failure to comply with the provisions of this subsection may result in revocation or suspension of such license.

E. Any person who has been a licensee, a partner in a license, an officer, director or fifteen percent (15%) or more stockholder of a corporation holding a license revoked or suspended, pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act, shall not serve as a manager or be a member in a limited liability company seeking a license pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act for a period of twelve (12) months from the date said license was revoked or suspended.

F. Any person who has been a manager, member or participant in any business entity which was a manager or member of a limited liability company which has been denied a license or has a license revoked or suspended, pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act shall not serve as a manager or member in a limited liability company seeking a license pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act for a period of twelve (12) months from the date said license was revoked or suspended.

G. Any person who has been convicted of a felony for which a pardon has not been granted shall not be elected as a manager or be a member of a limited liability company.

37-524. Nonresident seller license—Sale of alcoholic beverages by nondealer in alcoholic beverages

A. A nonresident seller license shall be required of all out-of-state distillers, winemakers, brewers, importers, brokers, and others who sell alcoholic beverages to wholesalers and Class B wholesalers in Oklahoma regardless of whether such sales are consummated within or without the State of Oklahoma.

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

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

C. The Alcoholic Beverage Laws Enforcement Commission may, subject to the provisions of the Oklahoma Alcoholic Beverage Control Act requiring notice and hearing in the case of sanctions against holders of licenses, suspend or revoke a nonresident seller license for any violation of the Oklahoma Alcoholic Beverage Control Act by the holder thereof.

D. No licensee in this state authorized to import alcoholic beverages into this state shall purchase or receive any alcoholic beverages from without this state from any person not holding a valid and existing nonresident seller license. Every nonresident seller license shall expire on the June 30 following its issuance or renewal, and shall be eligible for subsequent renewal terms on one (1) year beginning on July 1 following each expiration. License fees for a new or initial nonresident seller license applied for after July 1 may be

prorated through the following June 30 on a quarterly basis.

E. The holder of a nonresident seller license shall, promptly upon consignment of any alcoholic beverages to an importer in Oklahoma, forward to the ABLE Commission a true copy of the invoice, bill of lading, or other document as the ABLE Commission may by regulations prescribe, showing the details of such shipment.

F. Any person, not otherwise a dealer in alcoholic beverages, coming into possession of any alcoholic beverages as security for or in payment of a debt, or as an insurer or its transferee or assignee for the salvage or liquidation of an insured casualty or damage or loss, or as an executor, administrator, trustee or other fiduciary, may sell the beverages in one lot or parcel to a duly licensed wholesaler at an agreed-upon price without regard to current posted prices. However, immediately after taking possession of the alcoholic beverages, the person shall register with the Director and furnish to him or her a detailed list of the alcoholic beverages and post with the Director a bond in such an amount as the Director deems sufficient to protect the state from any taxes due on the alcoholic beverages. The person shall pay to the Director a registration fee of Ten Dollars (\$10.00), which fee shall permit the sale of only the alcoholic beverages detailed in the registration request. A wholesaler receiving a lot or parcel of alcoholic beverages pursuant to this section may sell it in one lot or parcel out more than one lot or parcel to a licensed package store or mixed beverage licensee or more than one licensed package store or mixed beverage licensee at an agreed-upon price without regard to current posted prices; provided, the total of the lots sold by the wholesaler shall not exceed four (4) lots.

37-525. Manufacturers agent license

A manufacturers agent license shall authorize the holder thereof to represent only the holders of a nonresident seller license, and to solicit and take orders for the sale of alcoholic beverages for the purpose of resale. No such license shall be issued to any person until it shall have been shown to the satisfaction of the Alcoholic Beverage Laws Enforcement Commission that the applicant has been duly authorized to act as the agent of the principal he proposes to represent, and that the principal or principals he proposes to represent has been duly authorized to do business in the State of Oklahoma, and has appointed a service agent in this state. No applicant for a manufacturers agent license shall also hold an agent license. It shall be unlawful for any person other than the holder of a manufacturers agent license or an agent license to solicit or take orders in the state from a wholesaler or Class B wholesaler.

37-525A

A. For purposed of this act:

1. "Brewer" means any person who produces beer inside or out of the state;
2. "Beer" means the definition in paragraph 5 of Section 506 of Title 37 of the Oklahoma Statutes;
3. "Nonresident seller" means any person licensed pursuant to Section 524 of Title 37 of the Oklahoma Statutes;
4. "Existing nonresident seller" means a nonresident seller who distributes a particular brand of beer;
 - a. at the time a successor brewer acquires rights to manufacturer or import the particular brand of beer, or
 - b. at the time a brewer terminates a distribution agreement with the nonresident seller;
5. "Fair market value" means the value that would be determined in a transaction by a willing buyer and a willing seller entered into without duress or threat and includes all elements of value, including goodwill and going-concern value;
6. "Good Cause" means:
 - a. failure by the nonresident seller to comply with the material and reasonable provisions of a written agreement or understanding with the brewer, or
 - b. failure to the nonresident seller to comply with the duty of good faith;
7. "Good faith" means the duty of each party to any franchise and all officers, employees or agents thereof to act with honesty in fact and within reasonable standards of fair dealing in the trade;
8. "Successor brewer" means a supplier, brewer or an importer that acquires rights to a beer brand from a predecessor brewer; and
9. "Successor nonresident seller" means one or more nonresident sellers "Wholesalers", as defined by paragraph 4 of Section 163.2 of Title 37 of the Oklahoma Statutes, appointed or designated by a brewer or successor brewer to replace the existing nonresident seller, for all or part of the existing nonresident seller's territory, in the distribution of the existing beer brand or brands.

B. 1. Except as provided in subsections C & D of this section, no brewer shall terminate a distribution sales agreement with any nonresident seller unless all of the following occur:

- a. the brewer establishes good cause for such termination,
- b. the nonresident seller receives written notification by certified mail, return receipt requested, from the brewer of an alleged noncompliance with the distribution sales agreement and is afforded no less than sixty (60) days in which to cure such noncompliance,
- c. the nonresident seller fails to cure such noncompliance within the allotted cure period, and
- d. the brewer provides written notice by certified mail, return receipt requested, to the nonresident seller of such continued noncompliance. The notification shall contain a statement of the intention of the brewer to terminate or not renew the distribution sales agreement, the reasons for termination or nonrenewal, and the date the termination or nonrenewal shall take effect.

2. If a nonresident seller cures an alleged noncompliance with a distribution sales

agreement within the cure period provided in subparagraph b of paragraph 1 of this subsection, any notice of termination from a brewer to a nonresident seller shall be null and void.

C. A brewer may immediately terminate a distribution sales agreement with a nonresident seller, effective upon furnishing written notification to the nonresident seller by certified mail, return receipt requested, for any of the following reasons:

1. The assignment or attempted assignment by the nonresident seller for the benefit of creditors, the institution of proceedings in bankruptcy by or against the nonresident seller, the dissolution or liquidation of the nonresident seller or the insolvency of the nonresident seller;

2. The revocation or suspension of, or the failure to renew for a period of more than fourteen (14) days, a nonresident seller's state, local or federal license or permit to sell beer in this state;

3. Failure of a nonresident seller to sell his or her ownership interest in the distribution rights to the brewer's beer within one hundred twenty (120) days after such nonresident seller has been convicted of a felony that, in the brewer's sole judgment, adversely affects the goodwill of the nonresident seller or brewer;

4. A nonresident seller has been convicted of, found guilty of or pled guilty or nolo contendere to, a charge of violating a law or regulation of the United States or of this state if it materially and adversely affects the ability of the nonresident seller or brewer to continue to sell its beer in this state;

5. Any attempted to transfer of ownership of the nonresident seller, stock of the nonresident seller or stock of any parent corporation of the nonresident seller, or any change in the beneficial ownership or control of any entity, without obtaining the prior written approval of the brewer, which approval shall not be unreasonably withheld, except as may otherwise be permitted pursuant to a written distribution sales agreement between the parties;

6. Fraudulent conduct in the nonresident seller's dealings with the brewer or its beer, including the intentional sale of beer outside the brewer's established quality standards;

7. The nonresident seller ceases to conduct business for five (5) consecutive business days, unless conducting the business is prevented or rendered impractical due to events beyond the nonresident seller's reasonable control as a result of an act of God, an insured casualty, war or a condition of national, state or local emergency.

D. If a particular brand of beer is transferred by purchase or otherwise from a brewer to a successor brewer, the following shall occur:

1. The successor brewer shall become obligated to all of the terms and conditions of the distribution sales agreement in effect on the date of succession. The provisions of this subsection shall apply regardless of the character or form of the succession. A successor brewer has the right to contractually require its nonresident seller to comply with operational standards of performance if the standards are uniformly established for all of the successor brewer's nonresident sellers. A successor brewer may, upon written notice, terminate its distribution sales agreement, in whole or in part, with a nonresident seller of the brewer it succeeded; provided, the successor nonresident seller first pays to the existing nonresident seller the fair market value of the existing nonresident seller's business with respect to the terminated brand or brands;

2. If the successor brewer decides to terminate its distribution sales agreement with the existing nonresident seller for purposes of transfer, the successor brewer shall notify the existing nonresident seller in writing of the successor brewer's intent not to appoint the existing nonresident seller. The successor brewer shall mail the notice of termination by certified mail, return receipt requested, to the existing nonresident seller. The successor brewer shall include in the notice the names, addresses, and telephone numbers of the successor nonresident seller or nonresident sellers;

3. The successor nonresident seller shall negotiate with the existing nonresident seller to determine the fair market value of the existing nonresident seller's right to distribute the beer. The successor nonresident seller and the existing nonresident seller shall negotiate the fair market value in good faith. The existing nonresident seller shall continue to distribute the beer in good faith until payment of the compensation agreed to under this paragraph, or awarded under paragraph 4 of this subsection, is received; and

4. a. If the successor nonresident seller and the existing nonresident seller fail to reach a written agreement on the fair market value within thirty (30) days after the existing nonresident seller receives the notice required pursuant to paragraph 2 of this subsection, the successor nonresident seller or the existing nonresident seller shall send a written notice to the other party requesting arbitration pursuant to Sections 1851 et seq. of Title 12 of the Oklahoma Statutes. Arbitration shall be held for the purpose of determining the fair market value of the existing nonresident seller's right to distribute the beer.

b. Notice of intent to arbitrate shall be sent, as provided in this paragraph, not later than forty (40) days after the existing nonresident seller receives the notice required pursuant to paragraph 2 of this subsection or paragraph 1 of subsection F of this section. The arbitration proceeding shall conclude not later than sixty (60) days after the date the notice of intent to arbitrate is mailed to a party, unless this time is extended by mutual agreement of the parties and the arbitrator.

c. Any arbitration held pursuant to this subsection shall be conducted in a city within this state that:

- (1) is closest to the existing nonresident seller, and
- (2) has a population of more than twenty thousand (20,000) people.

d. Any arbitration held pursuant to this paragraph shall be conducted before one impartial arbitrator to be selected by the American Arbitration Association or its successor. The arbitration shall be conducted in accordance with the rules and procedures of Sections 1851 et seq. of Title 12 of the Oklahoma Statutes.

e. In determining the fair market value of the existing nonresident seller's right to distribute the beer, the arbitrator shall consider:

- (1) the expected annual sales and earnings of the distribution sales agreement,
- (2) the length of time the existing nonresident seller has held the distribution sales agreement, and
- (3) other relevant elements of value, including goodwill and going concern-value.

f. An arbitrator's award in any arbitration held pursuant to this paragraph shall be monetary only and shall not enjoin or compel conduct. Any arbitration held pursuant to this paragraph shall be in lieu of all other remedies and procedures.

g. The cost of the arbitrator and any other direct costs of an arbitration held

pursuant to this paragraph shall be equally divided by the parties engaged in the arbitration. All other costs shall be paid by the party incurring them.

h. The arbitrator in any arbitration held pursuant to this paragraph shall render a written decision not later than thirty (30) days after the conclusion of the arbitration, unless this time is extended by mutual agreement of the parties and the arbitrator. The decision of the arbitrator is final and binding on the parties. The arbitrator's award may be enforced by commencing a civil action in any court of competent jurisdiction. The decision of the arbitrator may be appealed as authorized in Sections 1851 et seq. of Title 12 of the Oklahoma Statutes.

i. An existing nonresident seller or successor nonresident seller who fails to participate in the arbitration hearings in any arbitration held pursuant to this paragraph waives all rights the existing nonresident seller or successor nonresident seller would have had in the arbitration and is considered to have consented to the determination of the arbitrator.

j. If the existing nonresident seller does not receive payment from the successor nonresident seller of the settlement or arbitration award required under paragraph 2 or 3 of this subsection within thirty (30) days after the date of the settlement or arbitration award:

(1) the existing nonresident seller shall remain the nonresident seller of the beer in the existing nonresident seller's territory to at least the same extent that the existing nonresident seller distributed the beer immediately before the successor brewer acquired rights to the beer, and

(2) the existing nonresident seller is not entitled to the settlement or arbitration award.

E. A change in the laws or constitution of this state shall not constitute "good cause" for purposes of this act, and if the right or authorization of a nonresident seller to distribute or represent a particular brand of beer is terminated as a result of a change in the laws or constitution of this state, the provisions of this act shall be applicable.

F. 1. If a brewer terminates a nonresident seller and appoints or designates a successor nonresident seller for a brand or brands, the brewer shall provide written notice within thirty (30) days of appointing or designating the successor nonresident seller to the existing nonresident seller of the appointment or designation of a successor nonresident seller and shall provide the names, addresses, and telephone numbers of the successor nonresident seller or nonresident sellers. If an existing nonresident seller is aggrieved by a violation of any provisions of subsections B or C of this section, the nonresident seller shall provide notice of intent to arbitrate to the successor nonresident seller. The existing nonresident seller and successor nonresident seller shall proceed with the process as directed in paragraphs 3 and 4 of subsection D of this section, including arbitration if necessary. Disputes arising under paragraphs 3 and 4 of subsection D of this section may be addressed in a court of competent jurisdiction in this state.

2. Any disputes arising under subsection B or C of this section may also be settled by such dispute resolution procedures as may be provided by a written distribution sales agreement between the parties.

G. Nothing in this section shall be construed to limit or prohibit good-faith settlements voluntarily entered into by the parties.

H. Nothing in this section shall be construed to give an existing nonresident seller or a

successor nonresident seller any right to compensation if a distribution sales agreement with the existing nonresident seller or successor nonresident seller is terminated by a successor brewer pursuant to subsections B and C of this section.

I. No brewer shall require any nonresident seller to waive compliance with any provisions of this section.

J. No brewer shall charge or accept, and no nonresident seller shall pay or provide, any money, property, gratuity, discount, rebate, free goods, allowances, thing of value or other inducement from a nonresident seller in exchange for the brewer entering into a distribution sales agreement with a nonresident seller.

37-526.1. Certain pardoned felons eligible for licensing

Conviction of a felony for which a pardon has been granted, shall not constitute grounds for the denial or revocation of any license issued by the Alcoholic Beverage Laws Enforcement Commission.

Unless otherwise provided by law, any person who has received a pardon for a felony conviction shall be eligible to apply for, receive, and renew any license granted by the ABE Commission, which by law is denied to a convicted felon, if:

1. the person meets all other qualifications and requirements for obtaining and maintaining the license; and
2. the person has not been convicted of any other felony or felonies for which a pardon has not been granted.

37-527. Grounds for refusal to issue wholesaler's, Class B wholesaler's or package store license

The Alcoholic Beverage Laws Enforcement Commission shall refuse to issue a wholesaler, Class B wholesaler or package store license either on an original application or a renewal application, if it has reasonable grounds to believe and finds any of the following to be true:

1. That the applicant is not a citizen of the United States or is not a qualified elector in this state, or has not been a continuous resident of this state for the ten (10) years next preceding the application for the license;
2. That the applicant is under twenty-one (21) years of age;
3. That the applicant or any partner, or spouse of the applicant or any partner, has been convicted of a felony;
4. That the applicant or any partner, or spouse of the applicant or any partner, has been convicted of a violation of any state or federal law relating to alcoholic beverages, has forfeited a bond while any charge of such violation was pending, nor may any license be granted for any purpose under the Oklahoma Alcoholic Beverage Control Act, Section 501 et seq. of this title, to an Oklahoma resident, who has held or whose spouse has held a Federal Liquor Stamp in Oklahoma before the adoption of Article XXVII of the Oklahoma Constitution unless said Liquor Stamp was granted for supplying alcoholic beverages to a federal military installation, or was granted this title;

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

6. That the applicant is not of good moral character, or that the applicant is in the habit of using alcoholic beverages to excess, or is mentally incapacitated. Provided, that the record in any municipal court showing a conviction of violation of any municipal ordinances or state statutes involving moral character or public nuisance obtained after passage and approval of the Oklahoma Alcoholic Beverage Control Act shall be received in evidence by the ABLE Commission;

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

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

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

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

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

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

13. That, in the case of an application for a wholesaler license, or Class B wholesaler license, any manufacturer, including an officer, director or principal stockholder thereof, or any partner, has any financial interest in the business to be conducted under the license;

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

15. That, in the case of an application for a wholesaler or Class B wholesaler license, the applicant or any partner, or spouse of the applicant or any partner, is the holder or partner of the holder of any other class of license issued under the provisions of the Oklahoma Alcoholic Beverage Control Act, other than an agent or employee license for employment of the applicant, or a storage license, bonded warehouse license, carrier license or private carrier license; or

16. That, in the case of an application for a package store license, the applicant or any partner is the holder or partner of the holder, or employee of such holder of any other class of license issued under the provisions of the Oklahoma Alcoholic Beverage Control Act, other than a storage license or an employee license for the proposed licensed premises of the applicant or of a retail dealer's permit for the same location issued by the Oklahoma Tax Commission for the sale of low-point beer for consumption on the premises as provided by Section 163.7 of this title.

37-527.1. Denial of mixed beverage, bottle club, beer and wine or caterer license—

Grounds

A. The Alcoholic Beverage Laws Enforcement Commission shall refuse to issue a mixed beverage, beer and wine, bottle club, public event or caterer license, either on an original application or a renewal application, if it has reasonable grounds to believe and finds any of the following to be true:

1. That the applicant, in the case of a natural person, is under twenty-one (21) years of age;
2. That the applicant, in the case of a corporation, has a stockholder who owns fifteen percent (15%) or more of the stock, officer, or director who is under twenty-one (21) years of age;
3. That the applicant, in the case of any type of partnership, has any partner who is under twenty-one (21) years of age;
4. That the applicant, in the case of a limited liability company, has a manager or member who is under twenty-one (21) years of age;
5. That the applicant or any type of partner has been convicted of a felony within fifteen (15) years prior to the application date;
6. That the applicant, in the case of a corporation, has a stockholder owning fifteen percent (15%) of the stock, an officer or director who has been convicted of a felony within fifteen (15) years prior to the application date;
7. That the applicant, in the case of a limited liability company, has a manager or a member who has been convicted of a felony within fifteen (15) years prior to the application date, and such manager or member has an ownership interest greater than fifty percent (50%);
8. That the applicant has made false statements to the ABLE Commission;
9. That the applicant is not the legitimate owner of the business for which a license is sought or that other persons have undisclosed ownership interests in the business;
10. That the applicant or any partner, within twelve (12) months after being issued a license, either on an original application or a renewal application, has violated any provision of the Oklahoma Alcoholic Beverage Control Act or regulation of the ABLE Commission issued pursuant hereto. Provided, however, that if the ABLE Commission, during said twelve-month period, has suspended any license sought to be renewed, such renewal application may be approved if the term of the suspension has been completed and the applicant has complied with any special conditions imposed in connection with the suspension;
11. That the applicant is not the real party in interest, or intends to carry on the business authorized by the license as the agent of another;
12. That the applicant is a person who appoints or is a law enforcement official or is an employee of the ABLE Commission or of the Director; or
13. That the applicant does not own or have a written lease for the premises for which a license is sought.

B. The Alcoholic Beverage Laws Enforcement Commission shall refuse to issue a mixed beverage, beer and wine, bottle club, public event or caterer license, either on an original application or a renewal application, if it has reasonable grounds to believe and finds any of the following to be true:

- a. That the applicant or any type of partner has been convicted of a felony described

in paragraph 2 of this subsection,

b. That the applicant, in the case of a corporation, has a stockholder owning fifteen percent (15%) of the stock, an officer or director who has been convicted of a felony described in paragraph 2 of this subsection, and

c. That the applicant, in the case of a limited liability company, has a manager or a member who has been convicted of a felony within twenty-five (25) years prior to the application date, who has been convicted of a felony described in paragraph 2 of this subsection.

2. a. an alcohol-related offense,

b. a violent crime as defined in Section 142A-1 of Title 21 of the Oklahoma Statutes, or

c. a crime which would be subject a person to registration pursuant to the Sex Offenders Registration Act.

37-528. Revocation or suspension of license—Grounds—Penalties—Summary suspension

A. Any license issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act, Section 501 et seq. of this title, by order of the Alcoholic Beverage Laws Enforcement Commission, after due notice and hearing, may be revoked or suspended if the ABLE Commission finds or has grounds to believe that the licensee has:

1. Violated any rule adopted by the ABLE Commission;

2. Procured a license through fraud, or misrepresentation, or concealment of a material fact;

3. Made any false representation or statement to the ABLE Commission in order to prevent or induce action by the ABLE Commission;

4. Maintained an unsanitary establishment or has supplied impure or otherwise deleterious beverages or food;

5. Stored, possessed, mixed or served on the premises of a bottle club any alcoholic beverage upon which the tax levied by Section 553 of this title has not been paid as provided for in the Oklahoma Alcoholic Beverage Control Act, in a county of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has not been authorized;

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

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

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

1. Has acted as an agent of a manufacturer or wholesaler of alcoholic beverages;

2. Is a manufacturer or wholesaler of alcoholic beverages;

3. Has borrowed money or property or accepted gratuities or rebates from a manufacturer or wholesaler of alcoholic beverages;

4. Has obtained the use of equipment from any manufacturer or wholesaler of

alcoholic beverages or any agent thereof;

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

6. Has been convicted on or after July 1, 1985, of a violation of any state or federal law relating to alcoholic beverage for which mandatory revocation or suspension is not required.

C. The ABLE Commission may revoke or suspend the license of any retail, mixed beverage, caterer, or bottle club license if the ABLE Commission finds or has grounds to believe that such licensee has borrowed money or property or accepted gratuities, discounts, rebates, free goods, allowances, or other type of inducements from a wholesaler of alcoholic beverages.

D. The ABLE Commission shall revoke the license of any licensee if said Commission finds:

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

2. That the licensee, any general or limited partner of the licensee, or in the case of a corporation, an officer or director of the corporation, has been convicted of a felony;

3. That, in the case of a wholesaler, Class B wholesaler, or retail package store licensee, the holder of the license or any member of a general or limited partnership which is the holder of such a license, has been convicted of a prohibitory law relating to the sale, manufacture, or transportation of alcoholic beverages which constitutes a felony or a misdemeanor.

E. If the ABLE Commission shall find by a preponderance of the evidence as in civil cases that the holder of a package store license has knowingly sold any alcoholic beverage to any person under the age of twenty-one (21) years, after a public hearing it shall revoke said license and no discretion as to said revocation shall be exercised by the ABLE Commission.

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

Provided, that for a fourth major violation by a licensee within a twenty-four-month period the penalty shall be mandatory revocation of license. The twenty-four-month period shall be calculated from the date of the most recent violation as set forth in an order signed by the Director or the designee of the Director.

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

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

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

37-528.1. Municipalities and counties—Suspension or revocation of license—Procedure

The governing board of any municipality, as to any mixed beverage, beer and wine, caterer, public event or bottle club licensee having its principal place of business in such municipality, and the board of county commissioners of any county, as to any mixed beverage, beer and wine, caterer, public event or bottle club licensee having its principal place of business in such county but outside the incorporated limits of a municipality, may initiate a license suspension or revocation proceeding as to such licensee by filing a written complaint with the ABLE Commission, setting forth the grounds for the proposed suspension or revocation. Such complaint may be based on any ground that the ABLE Commission might have asserted. Upon receipt of such complaint, the ABLE Commission shall forward a copy of the complaint to the licensee together with written notice of the time and place of hearing thereon. If the complaint is filed by a municipality the hearing shall be conducted within the corporate limits of said municipality. If the complaint is filed by a county, the hearing shall be conducted in said county. The hearing shall be held within the time limits, and in the manner, prescribed for suspension or revocation proceedings initiated by the ABLE Commission. In any proceeding initiated pursuant to this section, the municipality or county shall be deemed an interested party, shall have the right to be heard and to present evidence at the hearing on the complaint, and shall be entitled to appeal from any final order entered by the ABLE Commission in the manner otherwise provided in the Oklahoma Alcoholic Beverage Control Act. Such municipality or county shall not be required to give bond on appeal.

37-528.2. Municipalities and counties—Zoning of establishments—Municipal court jurisdiction

Municipalities and counties are hereby authorized to create a new zoning classification to regulate the location of establishments that sell, serve, mix, dispense, or allow consumption of alcoholic beverages on the premises. Such zoning classification may include but shall not be limited to reasonable parking, access regulations, and other such zoning regulations as the local authorities may deem necessary for local control. This authority shall be in addition to the authority to enact ordinances established in Section 503 of Title 37 of the Oklahoma Statutes.

Municipal courts are hereby authorized jurisdiction to hear violations of any ordinances enacted pursuant to the provisions of this section and Section 503 of Title 37 of the Oklahoma Statutes.

37-529. Notice of denial, suspension or revocation of license

In the case of denial of an application for an original license, the Alcoholic Beverage Laws Enforcement Commission shall give written notice to the applicant either by registered mail directed to his last-known address or by delivery, stating the reason for such

denial. If the ABLE Commission proposes to deny renewal of any license or to suspend or revoke a license, it shall give written notice to the licensee addressed to his licensed premises by registered mail, by personal delivery, or by posting of said notice on the outside entrance to the licensed premises, notifying said licensee of such contemplated denial, suspension or revocation, and of the time and place at which the licensee may be accorded a hearing before the ABLE Commission on the matter, which time shall not be less than fifteen (15) days from the date of mailing, delivery or posting of such notice. Such notice shall set forth the grounds for the proposed denial, suspension or revocation. The ABLE Commission may delegate any part of this function to the Director or his assistants in his department, but any person aggrieved by any order shall have the right to be heard by the ABLE Commission and the ABLE Commission shall provide adequate procedure to protect the right of persons desiring to do so.

37-530. Hearing for aggrieved persons

Any person aggrieved by the action of the Alcoholic Beverage Laws Enforcement Commission in denying an application for an original license may, within fifteen (15) days after receipt of notice thereof, file with the ABLE Commission written request for a hearing, and the ABLE Commission shall, pursuant to such request, set a time and place for a hearing on a denial of an application for an original license. At the time and place set in a notice by the ABLE Commission of contemplated denial of the renewal of a license or of a proposed suspension or revocation of a license, the ABLE Commission shall afford the applicant or the licensee an opportunity to be heard and to present evidence in his behalf. Said hearing shall be conducted within fifteen (15) days after receipt of the request by the ABLE Commission. In the conduct of any such hearing, the ABLE Commission shall have power to administer oaths, examine witnesses, and subpoena records and documents pertaining to the issues involved. Upon request of and at the expense of the aggrieved party, the ABLE Commission shall make or cause to be made a complete record of all testimony and other evidence taken or introduced at such hearing. Within fifteen (15) days after conclusion of any such hearing, unless the time shall be extended by the parties thereto in writing, the ABLE Commission shall enter an order affirming or modifying its denial of an original application, an order dismissing its notice of contemplated denial of renewal of license or affirming same, or an order dismissing its notice of contemplated suspension or revocation of a license or an order suspending or revoking same. The ABLE Commission shall, by written notice mailed to the applicant or licensee by certified mail or by delivery in person to the applicant or licensee, or their attorney of record, advise of its action pursuant to the hearing.

37-530.1. Director or hearing officer to conduct hearing—Report—Recommendation—Notice—Review

The Director shall have the authority to conduct an initial hearing when a hearing before the Commission is required by law. The Director may employ such hearing officers and assistants as are necessary to conduct the hearings. If a hearing is conducted by a hearing officer, the hearing officer shall issue a report to the Director. The report of the hearing officer shall include findings of fact and conclusions of law. After conducting a hearing or after receiving the report of the hearing officer, the Director shall issue a

recommendation to the Commission. Notice of the recommendation of the Director shall be sent to the last-known address of the licensee. If the licensee disagrees with the recommendation of the Director, he may request a hearing before the Commission for a review of the record. If the licensee fails to request a review of the record within fifteen (15) days after the date of the notice of the Director's decision, the recommendation of the Director shall become a final order of the Commission. A failure to request a review of the record by the Commission in a timely manner shall constitute a failure to exhaust administrative remedies.

37-531. Appeal to district court

Within thirty (30) days after a final order of the Alcoholic Beverage Laws Enforcement Commission, pursuant to a hearing as provided in Section 530 of this title, an applicant or licensee may appeal from the order of the ABLE Commission to the district court of the county in which the premises licensed or sought to be licensed are located. At the time of filing such an appeal, the party appealing shall give bond for costs assessed against him. The appeal shall be taken by filing with the clerk of the district court of the proper county a written notice stating that the party appeals from the action of the ABLE Commission and stating the pertinent grounds on which the appeal is founded. Such appeal shall consist of a hearing and review of the record only as set forth in the Administrative Procedures Act, Sections 301 through 326 of Title 75 of the Oklahoma Statutes. The district court may affirm, reverse or modify the order of the ABLE Commission and shall issue its order within sixty (60) days after the appeal is heard. Appeals may be taken from a final order of the district court to the Supreme Court by the applicant, licensee or by the ABLE Commission. The ABLE Commission shall not be required to give bond on appeal. The licensee may file a supersedeas bond in an amount to be fixed by the ABLE Commission staying the order until the final determination of all issues on an appeal but the order of the ABLE Commission may not be stayed unless ordered by the judge of the district court. Permission to stay the order of the ABLE Commission shall not be granted by any court unless an application therefor be made in the written notice of the applicant's or licensee's intention to appeal from the order of the ABLE Commission, and then only after a hearing before the court upon notice to both parties wherein the court determines by a preponderance of the evidence that in denying a license or in ordering the suspension or a revocation of a license the ABLE Commission acted without legal cause or upon insufficient evidence. Provided, that in all cases where the order of the ABLE Commission is stayed by a supersedeas bond and the licensee is unsuccessful in his appeal, and the action of the ABLE Commission becomes final, such bond shall be forfeited to the State of Oklahoma by the court considering such appeal if the court finds said appeal was frivolous or was filed for the purpose of delaying the effect of said order, and the Attorney General shall thereupon commence legal proceedings in the name of the State of Oklahoma to recover the amount of said bond, which money shall be placed to the credit of the General Revenue Fund of the state.

37-532. Nature of license—Transfer to new location

Any license issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act shall be a purely personal privilege. It shall not constitute property nor be subject to

attachment, garnishment, or execution, or be alienable or transferable, either voluntarily or involuntarily; nor shall it descend by the laws of descent and distribution, but shall cease upon the death of the licensee; provided, however, that the Alcoholic Beverage Laws Enforcement Commission, under such regulations and subject to such restrictions as it may prescribe, may permit the executors or administrators of the estate of any deceased licensee, or the trustees of an insolvent or bankrupt licensee, or the legal guardian of a licensee who has been adjudged to be incompetent or insane, to exercise the privileges under any license held by him for such period as the ABLE Commission may deem equitable during the administration of the deceased or bankrupt licensee's estate, but not to exceed two (2) years. A license may not be transferred to a new location, except upon application to the ABLE Commission and endorsement on the license by the ABLE Commission showing the new location. An application for transfer of license shall be accompanied by a certificate reflecting, as to the proposed new location, compliance with municipal zoning ordinances or county zoning regulations and municipal or county fire, safety and health codes as required by Section 523 of this title. A mixed beverage or bottle club licensee who transfer his license to a new location shall pay a transfer fee of One Hundred Dollars (\$100.00) to the ABLE Commission.

37-532.1. Display of license—Authorized use—Effect of suspension of license on other licenses

All licenses issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act shall be displayed in a conspicuous place at all times on the licensed premises. No licensee may consent to or allow the use or display of his license by a person other than the person to whom the license was issued. No person may use a license or exercise any privileges granted by the license except at the place, address, premises or location for which the license is issued, except as otherwise provided by the Oklahoma Alcoholic Beverage Control Act.

If the mixed beverage, caterer, public event or bottle club license for a licensed premises is suspended or revoked by the ABLE Commission, all other licenses issued by the ABLE Commission for such premises shall cease to be valid. If a mixed beverage, caterer or bottle club license is suspended or revoked for any licensed premises, this shall not invalidate licenses held by the licensee for other licensed premises.

37-532.2. Mixed beverage licensee or beer and wine licensee—Transfer of financial interest in licensed premises

A. If a mixed beverage licensee sells or otherwise transfers his financial interest in a licensed premises to another party who obtains a mixed beverage license for the premises, any alcoholic beverages on said premises may be transferred to the new licensee. Provided, if the premises are not in continuous operation as a mixed beverage establishment prior to and during the transfer of financial interest in the premises, said transfer of alcoholic beverages shall be limited to alcoholic beverages in the original container which have not been opened and which have not had the seal broken and the original cap or cork removed.

B. If a beer and wine licensee sells or otherwise transfers his financial interest in a licensed premises to another party who obtains a beer and wine license for the premises, any beer and wine on said premises may be transferred to the new licensee. Provided, if

the premises are not in continuous operation as a beer and wine establishment prior to and during the transfer of financial interest in the premises, said transfer of beer and wine shall be limited to beer and wine in the original containers which have not been opened and which have not had the seal broken and the original cap or cork removed.

C. There shall be no liability on the part of, and no cause of action of any nature shall arise against the ABLE Commission, the Director, or the staff of the ABLE Commission for the contents of any alcoholic beverages transferred pursuant to the provisions of this section.

37-533. Sales to wholesaler without discrimination or inducement

Any manufacturer or subsidiary of a manufacturer who markets his or its products solely through a subsidiary or subsidiaries, a distiller, rectifier, bottler, winemaker, brewer, or importer of alcoholic beverages, bottled or made in a foreign country, either within or without this state, shall be required to sell such brands or kinds of alcoholic beverages to every licensed wholesaler or Class B wholesaler who desires to purchase the same, on the same price basis and without discrimination or inducements, and shall further be required to sell such beverages only to those persons licensed as wholesalers or Class B wholesalers.

No manufacturer shall require a wholesaler or Class B wholesaler to purchase any alcoholic beverages or any goods, wares or merchandise as a condition to the wholesaler or Class B wholesaler obtaining or being entitled to purchase any alcoholic beverages.

Violation of this section shall be a misdemeanor. Conviction hereunder shall automatically revoke the violator's license.

37-534. Package store license

A. No package store license shall be issued for premises unless said premises are separated from premises on which any other goods, wares or merchandise are sold or services are rendered by nontransparent walls which may be broken by a passageway to which the public is not admitted. Provided, it shall be unlawful for any person or persons to take any alcoholic beverage from such store through said passageway for the purpose of selling, reselling, or delivering in connection with the sale of said alcoholic beverage. Such licenses shall apply only to the premises described in the application. No person may own any interest in more than one package store. For the purpose only of establishing whether or not a person owns an interest in more than one package store any person having a beneficial interest in any package store shall be deemed to be a partner in said package store. A beneficial interest shall be any interest that benefits from any sales or profits of said package store.

B. For purposes of this section, any spouse of a package store license holder shall not hold another license provided for pursuant to the Oklahoma Alcoholic Beverage Control Act, except a package store license, beer and wine license, or a mixed beverage license.

C. Package stores licensed under the Oklahoma Alcoholic Beverage Control Act may sell only alcoholic beverages in retail containers as defined in Section 506 of this title, in the original package for consumption off the premises. Provided, all alcoholic beverages are to be sold at ordinary room temperature. All retail sales shall be made on the licensed premises and all deliveries off the premises, at retail, of intoxicating liquor or beer are

hereby prohibited.

37-534.1 Sale of alcoholic beverages packaged with nonalcoholic promotional items—Provision of packaging by manufacturer or agent—Equal access by retail package store licensees

A. A retail package store may offer for sale and sell alcoholic beverages which are packaged or are to be packaged with nonalcoholic promotional items, if such packaging and all nonalcoholic promotional items are provided by the manufacturer or agent of the manufacturer at the expense of the manufacturer or agent of the manufacturer, regardless of where such packages are assembled.

B. The manufacturer or agent of the manufacturer may provide such packaging and any nonalcoholic promotional items to the retail package store licensee at the retail package store premises, or otherwise, and may deliver such packaging and all nonalcoholic promotional items provided by the manufacturer or agent to the retail package store licensee by means of common carrier, or otherwise, at no expense to the retailer, for the retail package store licensee to incorporate the alcoholic beverage product of the manufacturer into the manufacturer's packaging or with such promotional items.

C. The manufacturers of alcoholic beverages, through their agents, must make access to the packaging for such alcoholic beverages with nonalcoholic promotional items available equally to retail package store licensees in this state. Such access to the promotional packaging is subject to the reasonable supplies of such packaging and subject to the terms of the manufacturer's promotion. Such access to the manufacturer's packaging by the retail package store licensees shall be commensurate to the needs of the retail package store licensee based on the stock of the manufacturer's product carried by the retailer. The manufacturers shall only be required to carry reasonable supplies of such promotional packages and shall make a good faith effort to ratably distribute such packaging or items to those retail package store licensees who desire such packaging or items.

37-535. Financial interest in premises by manufacturers, wholesalers, etc., prohibited—Loans and credits to retailers unlawful

It shall be unlawful for any manufacturer, wholesaler, Class B wholesaler, or person authorized to sell alcoholic beverages to a wholesaler, or any employee, officer, director, stockholder owning fifteen percent (15%) or more of the stock, any type of partner, manager, member or agent thereof, to directly or indirectly:

1. Have any financial interest in any premises upon which any alcoholic beverage or light beer is sold at retail or in any business connected with the retailing of alcoholic beverages or light beer as defined in Section 506 of this title;

2. Lend any money or other thing of value, or to make any gift or offer any gratuity, to any package store, mixed beverage, beer and wine, public event or bottle club licensee or caterer;

3. Guarantee any loan or the repayment of any financial obligation of any retailer, mixed beverage, beer and wine, public event or bottle club licensee or caterer;

4. Require any wholesaler, Class B wholesaler, retailer, mixed beverage, beer and wine licensee, public event or caterer to purchase and dispose of any quota of alcoholic

beverages, or to require any retailer to purchase any kind, type, size container, or brand of alcoholic beverages in order to obtain any other kind, type, size container, or brand of alcoholic beverages;

5. Sell to any retailer, mixed beverage, beer and wine licensee, public event or caterer any alcoholic beverage on consignment, or upon condition, or with the privilege of return, or on any condition other than a bona fide sale; provided, the delivery in good faith, through mistake, inadvertence, or oversight, of alcoholic beverage that was not ordered by a retailer, mixed beverage licensee, beer and wine licensee, caterer, public event or special event licensee to such licensee shall not be considered a violation of this paragraph, as long as action is taken to correct the error and all invoices and records of the transaction are corrected. There shall be no time period imposed by the ABLE Commission for notification of or correction of the error; or

6. Extend credit to any retailer, other than holders of Federal Liquor Stamps on United States government reservations and installations, mixed beverage, public event or beer and wine licensee or caterer other than a state lodge located in a county which has approved the retail sale of alcoholic beverages by the individual drink for on-premises consumption. The acceptance of a post dated check or draft or the failure to deposit for collection a current check or draft by the second banking day after receipt shall be deemed an extension of credit. Violation of this subsection shall be grounds for suspension of the license.

37-535.1. Limitations on rights and interests in package store, manufacturer or wholesaler

No mixed beverage, beer and wine, caterer, public event or bottle club licensee, partner in any type of partnership, manager or member of a limited liability company, officer, director or stockholder of any corporate licensee owning more than fifteen percent (15%) of the stock shall have any right, title, lien, claim or interest, financial or otherwise in, upon or to the premises, equipment, business or merchandise of any package store, manufacturer or wholesaler. The provisions of this section shall not prohibit a person who is an officer or director of a fraternal or veteran's organization which is a tax exempt organization under Section 501(c)(8), (10) or (19) of the Internal Revenue Code and which holds a license issued by the ABLE Commission from having a right, title, lien, claim, or interest in the premises, equipment, business, or merchandise of a package store.

37-535.2. Limitations on rights and interests in mixed beverage, beer and wine, caterer or bottle club licensees

No manufacturer, wholesaler, partner in any type of partnership, manager or member of a limited liability company, or officer, director or stockholder of any nonresident seller or manufacturer licensee owning more than fifteen percent (15%) of the stock shall have any right, title, claim or interest, financial or otherwise in, upon or to the premises, equipment, business or merchandise of any mixed beverage, beer and wine, caterer, public event or bottle club licensee.

37-535.3. Interactive entertainment facilities—Mixed beverage license

A. As used in this section:

1. "Interactive entertainment facility" means premises that feature interactive

computer and video entertainment attractions, themed merchandise, food, alcoholic beverages, and low-point beer; and

2. “Main purpose of the business” means that the total gross income derived from interactive entertainment exceeds the total gross income derived from the sale, mixing, or serving of alcoholic beverages and low-point beer.

B. Nothing in Section 535, 535.1 or 535.2 of Title 37 of the Oklahoma Statutes shall be construed as prohibiting in the issuance, transfer, or renewal of any mixed beverage license to any person or corporation with respect to premises that are an integral part of an interact entertainment facility in which a manufacturer, nonresident seller, distiller, or rectifier has an interest, directly or indirectly, of less than thirty percent (30%) if all the following conditions are met:

1. The main purpose of the business conducted within the facility is providing interactive entertainment, not the sale of alcoholic beverages;

2. The mixed beverage licensee shall serve other brands of wine, low-point beer, and alcoholic beverages in addition to the brands manufactured, produced, or distributed by any distiller, rectifier, nonresident seller, or manufacturer that has a direct or indirect interest in the mixed beverage license;

3. No more than twenty percent (20%) of the mixed beverage licensee’s purchases of alcoholic beverages for sale on its licensed premises shall be products manufactured, produced, or distributed by the manufacturer, distiller, rectifier, or nonresident seller that has a direct or indirect interest in the licensed premises;

4. The licensee purchases all alcoholic beverages and low-point beer sold on the premises from wholesalers that are licensed in Oklahoma;

5. The distiller, rectifier, nonresident seller, or manufacturer does not control, directly or indirectly, the day-to-day operation of the licensed premises; and

6. Officers, directors, and employees of the distiller, rectifier, nonresident seller, or manufacturer does not serve as officers or directors of the entity operating the licensed premises.

37-536. Price discrimination—Rebates

A. It shall be unlawful for any person privileged to sell alcoholic beverages to wholesalers or retailers:

1. To discriminate, directly or indirectly, in price between one wholesaler and another wholesaler or between one retailer and another retailer purchasing alcoholic beverages bearing the same brand or trade name and of like age and quality; or

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

B. The Alcoholic Beverage Laws Enforcement Commission is hereby authorized to promulgate rules which are necessary to carry out the purpose of this section and to prevent its circumvention by offering or giving of any rebate, allowance, free goods, discount or any other thing or service of value; provided, that the posting of charges per order for processing minimum orders or per case for the handling or repacking of goods by wholesalers for sales in less than full case lots shall not constitute a violation of this section.

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

the first offense, not exceeding ten (10) days' suspension of license; for a second offense, not exceeding thirty (30) days' suspension of license; and for a third offense, the ABLE Commission shall revoke the license.

37-536.1. Limitation on price of distillers' sales

No distiller shall sell alcoholic beverages to a wholesaler licensed under the Oklahoma Alcoholic Beverage Control Act at a rate higher than the lowest rate at which such distiller sells in any other state.

37-537. Enumerated prohibited acts

A. No person shall:

1. Knowingly sell, deliver, or furnish alcoholic beverages to any person under twenty-one (21) years of age;
2. Sell, deliver or knowingly furnish alcoholic beverages to an intoxicated person or to any person who has been adjudged insane or mentally deficient;
3. Open a retail container or consume alcoholic beverages on the premises of a retail package store;
4. Import into this state, except as provided for in the Oklahoma Alcoholic Beverage Control Act, any alcoholic beverages; provided, that nothing herein shall prohibit the importation or possession for personal use of not more than one (1) liter of alcoholic beverages upon which the Oklahoma excise tax is delinquent;
5. Receive, possess, or use any alcoholic beverage in violation of the provisions of the Oklahoma Alcoholic Beverage Control Act;
6. Transport into, within, or through this state more than one (1) liter of alcoholic beverages upon which the Oklahoma excise tax has not been paid unless the person accompanying or in charge of the vehicle transporting same shall possess a true copy of a bill of lading, invoice, manifest or other document particularly identifying the alcoholic beverages being transported and showing the name and address of the consignor and consignee; provided, this prohibition shall not apply to the first one hundred eight (180) liters of alcoholic beverages classified as household goods by military personnel, age twenty (21) or older when entering Oklahoma from temporary active assignment outside the contiguous United States;
7. Knowingly transport in any vehicle upon a public highway, street or alley any alcoholic beverage except in the original container which shall not have been opened and the seal upon which shall not have been broken and from which the original cap or cork shall not have been removed, unless the opened container be in the rear trunk or rear compartment, which shall include the spare tire compartment in a vehicle commonly known as a station wagon and panel truck, or any outside compartment which is not accessible to the driver or any other person in the vehicle while it is in motion;
8. Drink intoxicating liquor in public except on the premises of a licensee of the Alcoholic Beverage Laws Enforcement Commission who is authorized to sell or serve alcoholic beverages by the individual drink or be intoxicated in a public place. This provision shall be cumulative and in addition to existing law;
9. Forcibly resist lawful arrest, or by physical contact interfere with an investigation of any infringement of the Oklahoma Alcoholic Beverage Control Act or with

any lawful search or seizure being made by an inspector or agent of the ABLE Commission, when such person knows or should know that such acts are being performed by a state, county, or municipal officer, inspector or agent of the ABLE Commission;

10. Manufacture, duplicate, counterfeit or in any way imitate any bottle club membership card required to be issued by the ABLE Commission without the permission of the Commission;

11. Consume or possess alcoholic beverages on the licensed premises of a bottle club unless such person possesses a valid membership card for that club issued by the club; or

12. Knowingly possess any bottle club membership card required to be issued by the ABLE Commission, which has been manufactured, counterfeited, imitated or in any way duplicated without the permission of the Commission.

B. No licensee of the ABLE Commission shall:

1. Receive, possess, or sell any alcoholic beverage except as authorized by the Oklahoma Alcoholic Beverage Control Act and by the license or permit which the licensee holds;

2. Employ any person under the age of twenty-one (21) in the selling or handling of alcoholic beverages. Provided, that a mixed beverage, beer and wine, caterer, public event, special event or bottle club licensee may employ servers who are at least eighteen (18) years of age, except persons under twenty-one (21) years of age may not serve in designated bar or lounge areas, and a mixed beverage, beer and wine, caterer, public event, special event or bottle club licensee may employ or hire musical bands who have musicians who are under twenty-one (21) years of age if each such musician is either accompanied by a parent or legal guardian or has on their person, to be made available for inspection upon demand by any ABLE Commission officer or law enforcement officer, a written, notarized affidavit from the parent or legal guardian giving the underage musician permission to perform in designated bar or lounge areas;

3. Give any alcoholic beverage as a prize, premium or consideration for any lottery, game of chance or skill or any type of competition;

4. Advertise or offer "happy hours" or any other means or inducements to stimulate the consumption of alcoholic beverages including:

a. deliver more than two drinks to one person at one time,

b. sell or offer to sell to any person or group of persons any drinks at a price less than the price regularly charged for such drinks during the same calendar week, except at private functions not open to the public,

c. sell or offer to sell to any person an unlimited number of drinks during any set period of time for a fixed price, except at private functions not open to the public,

d. sell or offer to sell drinks to any person or group of persons on any one day at prices less than those charged the general public on that day, except at private functions not open to the public,

e. increase the volume of alcoholic beverages contained in a drink without increasing proportionately the price regularly charged for such drink during the same calendar week, or

f. encourage or permit, on the licensed premises, any game or contest which involves drinking or the awarding of drinks as prizes.

Provided that the provisions of this paragraph shall not prohibit the advertising or offering of food or entertainment in licensed establishments;

5. Permit or allow any patron or person to exit the licensed premises with an open container of any alcoholic beverage. Provided, that this prohibition shall not be applicable to closed original containers of alcoholic beverages which are carried from the licensed premises of a bottle club by a patron, closed original wine containers removed from the premises of restaurants, hotels, and motels, or to closed original containers of alcoholic beverages transported to and from the place of business of a licensed caterer by the caterer or an employee of the caterer;

6. Serve or sell alcoholic beverages with an expired license issued by the ABLE Commission; or

7. Permit any person to be drunk or intoxicated on the licensee's licensed premises.

C. No package store licensee shall:

1. Purchase or receive any alcoholic beverage other than from a person holding a brewer, wholesaler or Class B wholesaler license issued pursuant to the Oklahoma Alcoholic Beverage Control Act;

2. Suffer or permit any retail container to be opened, or any alcoholic beverage to be consumed, on the licensed premises;

3. Sell, or keep package store premises open for the purpose of selling, any alcoholic beverages at any hour other than between the hours of 10:00 a.m. and 9:00 p.m. Monday through Saturday; provided, that no such sales shall be made, or package store premises be allowed to remain open for the purpose of making such sales, on New Year's Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving Day or Christmas Day. Package store licensees shall be permitted to sell, or keep package store premises open for the purpose of selling, alcoholic beverages on the day of any General, Primary, Runoff Primary or Special Election whether on a national, state, county or city election, provided that the election day does not occur on any day on which such sales are otherwise prohibited by law;

4. Operate a retail package store unless such store shall be located in a city or town having a population in excess of two hundred (200) according to the latest Federal Decennial Census;

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

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

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

6. Offer or furnish any prize, premium, gift or similar inducement to a consumer

in connection with the sale of alcoholic beverage, except that goods or merchandise included by the manufacturer in packaging with alcoholic beverages or for packaging with alcoholic beverages shall not be included in this prohibition, but no wholesaler or package store shall sell any alcoholic beverage prepackaged with other goods or merchandise at a price which is greater than the price at which the alcoholic beverage alone is sold;

7. Permit any person under twenty-one (21) years of age to enter into, remain within or loiter about the licensed premises; or

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

D. No wholesaler licensee shall:

1. Sell or deliver any amount of spirits or wines to any package store licensee on Saturday or Sunday; or

2. Sell or deliver any amount of spirits or wines to any package store licensee on New Year's Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving Day or Christmas Day.

E. No mixed beverage, public event, special event or beer and wine licensee shall:

1. Purchase or receive any alcoholic beverage other than from a person holding a wholesaler or Class B wholesaler license issued pursuant to the Oklahoma Alcoholic Beverage Control Act; provided a mixed beverage or beer and wine licensee whose premises are a restaurant may purchase wine produced at wineries in this state directly from an Oklahoma winemaker as provided in Section 3 of Article XXVIII of the Oklahoma Constitution;

2. Transport alcoholic beverages from the place of purchase to the licensed premises unless the licensee also holds a private carrier license issued by the ABLE Commission;

3. Use or allow the use of any mark or label on a container of alcoholic beverage which is kept for sale which does not clearly and precisely indicate the nature of the contents or which might deceive or conceal the nature, composition, quantity, age or quality of such beverage;

4. Keep or knowingly permit any alcoholic beverage to be kept, brought or consumed on the licensed premises which is not allowed to be sold or served upon such premises; or

5. Allow any person under twenty-one (21) years of age to enter into, remain within or loiter about the designated bar area of the licensed premises, except for persons who incidentally pass through the designated bar area.

The prohibition in this subsection against persons under twenty-one (21) years of age entering or remaining within the designated bar area of the licensed premises shall not apply, if the licensed premises are closed to the public during a time the premises are legally permitted to be open for business and the premises are used for a private party at which alcoholic beverages may be served to persons twenty-one (21) years of age or older. Any alcoholic beverages served at a private party on the licensed premises may be purchased from the licensee at a negotiated price or purchased privately and served at the private party on the licensed premises. Any licensee who desires to conduct such a private party shall

notify the ABL E Commission, in writing, at least ten (10) calendar days prior to the private party. The notification shall include the date, time, and purpose of the private party and any other information the ABL E Commission may deem necessary.

F. No bottle club licensee shall:

1. Use or allow the use of any mark or label on a container of alcoholic beverage which does not clearly and precisely indicate the nature of the contents or which might deceive or conceal the nature, composition, quantity, age or quality of any such beverage;
2. Act as an agent for any bottle club member and purchase any alcoholic beverage for the member;
3. Use or allow the use of any pool system of storage or purchase of alcoholic beverages;
4. Allow any person to enter or remain in the designated bar or lounge area of the club unless that person possesses a valid membership card for that club issued by the club;
5. Sell any alcoholic beverage;
6. Deliver or furnish to any club member any alcoholic beverage that does not belong to the member;
7. Serve alcoholic beverages to any person who does not possess a valid membership card for that club issued by the club;
8. Issue a membership card for the club to a person under twenty-one (21) years of age; or
9. Allow any person under twenty-one (21) years of age to enter into, remain within or loiter about the designated bar area of the licensed premises, except for members of a musical band employed or hired as provided in paragraph 2 of subsection B of this section when the band is to perform within such area.

The prohibition in this subsection against persons under twenty-one (21) years of age entering or remaining within the designated bar area of the licensed premises shall not apply, if the licensed premises are closed to the public during a time the premises are legally permitted to be open for business and the premises are used for a private party at which alcoholic beverages may be served to persons twenty-one (21) years of age or older. Any alcoholic beverages served at a private party on the licensed premises may be purchased from the licensee at a negotiated price or purchased privately and served at the private party on the licensed premises. Any licensee who desires to conduct such a private party shall notify the ABL E Commission, in writing, at least ten (10) calendar days prior to the private party. The notification shall include the date, time, and purpose of the private party and any other information the ABL E Commission may deem necessary.

G. No special event or caterer licensee shall:

1. Purchase or receive any alcoholic beverage other than from a person holding a wholesaler or Class B wholesaler license issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act; provided, a special event or caterer licensee may purchase wine produced at wineries in this state directly from an Oklahoma winemaker as provided in Section 3 of Article XXVIII of the Oklahoma Constitution; or
2. Transport alcoholic beverages from the place of purchase to the licensed premises unless the licensee also holds a private carrier license issued by the ABL E Commission.

~~37-537.1. Mixed beverage, beer and wine, bottle club, caterer or special event licensee or their officer or agent—Prohibited acts - Repealed~~

~~No mixed beverage, beer and wine, bottle club, caterer, charitable event, public event or special event licensee or any employee, manager, operator or agent thereof shall:~~

~~1. Consume or be under the influence of alcoholic beverages during the hours he or she is on duty. For the purposes of this section, licensees will be deemed to be on duty from the time he the licensee first comes on duty until the time he the licensee goes off duty at the end of the shift, including any break periods permitted by management. This paragraph shall not apply to any person who works on the premises as an entertainer only;~~

~~2. Permit or tolerate any conduct or language which is intended to threaten another with physical harm or any fighting or offensive physical contact, in or upon the licensed premises or areas just outside the licensed premises which are controlled by the licensee;~~

~~3. Permit empty or discarded alcoholic beverage containers to be in public view outside the licensed premises. All empty or discarded containers shall be disposed of in accordance with ABLE Commission rules and regulations;~~

~~4. Permit any illegal gambling activity, violations of the state narcotic and dangerous drug laws, or prostitution activity or any other criminal conduct to occur on the licensed premises;~~

~~5. Refuse or fail to promptly open a door to the licensed premises upon request of an agent or inspector of the Alcoholic Beverage Laws Enforcement Commission or any other peace officer to enter the premises, when the licensee or employee knows or should know that such request is made by an agent or inspector of the ABLE Commission or any other peace officer. This provision shall not be construed to deny agents of the ABLE Commission or any other peace officer access at any time to any licensed premises;~~

~~6. Permit a sealed or unsealed container of alcoholic beverage to be removed from the licensed premises. Provided that restaurants, hotels and motels may permit the removal of closed original wine containers the contents of which have been partially consumed and bottle clubs may permit the removal by a club member of closed original containers of alcoholic beverages belonging to said members. The provisions of this paragraph shall not be construed to prohibit or restrict:~~

~~—a. hotels or motels who are holders of mixed beverage or beer and wine licenses from allowing alcoholic beverages to be served away from the bar area anywhere on the licensed premises,~~

~~—b. licensees, who are lawfully operating in a facility or on property owned or operated by any agency, political subdivision or public trust of this state, from allowing persons to transport alcoholic beverages from one licensed premises to another with in the same building or property, provided that the building or property or a part thereof is defined as a common drinking area for consumption of alcohol by resolution of the governing body of the agency, political subdivision or public trust of this state; or~~

~~c. licensees, who are licensed to operate a facility or on property owned or operated by an agency, political subdivision or public trust of this state, from allowing other licensees to operate on their licensed premises for events that are temporary in nature. In the event that multiple licensees are operating a facility or on property owned or operated by any agency, political subdivision or public trust of this state, each licensee shall be~~

~~responsible for violations occurring in their area designated to be their temporary licensed premises; or~~

~~7. Destroy, damage, alter, remove or conceal potential evidence, or attempt to do so, or refuse to surrender evidence when lawfully requested to do so by an inspector, agent or any other peace officer or incite another person to do any of the above.~~

37-537.1A. Mixed beverage, beer and wine, bottle club, caterer or special event licensee or their officer or agent—Prohibited acts

No mixed beverage, beer and wine, bottle club, caterer, charitable event, public event or special event licensee or any employee, manager, operator or agent thereof shall:

1. Consume or be under the influence of alcoholic beverages during the hours he or she is on duty. For the purposes of this section, licensees will be deemed to be on duty from the time the licensee first comes on duty until the time the licensee goes off duty at the end of the shift, including any break periods permitted by management. This paragraph shall not apply to any person who works on the premises as an entertainer only;

2. Permit or tolerate any conduct or language which is intended to threaten another with physical harm or any fighting or offensive physical conduct, in or upon the licensed premises or areas just outside the licensed premises which are not controlled by the licensee;

3. Permit empty or discarded alcoholic beverage containers to be in public view outside the licensed premises. All empty or discarded containers shall be disposed of in accordance with ABLE Commission rules and regulations;

4. Permit any illegal gambling activity, violations of the state narcotic and dangerous drug laws, or prostitution activity or any other criminal conduct to occur on the licensed premises;

5. Refuse or fail to promptly open a door to the licensed premises upon request of an agent or inspector of the Alcoholic Beverage Laws Enforcement Commission or any other peace officer to enter the premises, when the licensee or employee knows or should know that such request is made by an agent or inspector of the ABLE Commission or any other peace officer. This provision shall not be construed to deny agents of the ABLE Commission or any other peace officer access at any time to any licensed premises;

6. Permit a sealed or unsealed container of alcoholic beverage to be removed from the licensed premises. Provided that restaurants, hotels and motels may permit the removal of closed original wine containers the contents of which have been partially consumed and bottle clubs may permit the removal by a club member of closed original containers of alcoholic beverages belonging to said members. The provisions of this paragraph shall not be construed to prohibit or restrict:

a. hotels or motels who are holders of mixed beverage or beer and wine licenses from allowing alcoholic beverages to be served away from the bar area anywhere on the licensed premises,

b. licensees, who are lawfully operating in a facility or on property owned or operated by any agency, political subdivision or public trust of this state, from allowing persons to transport alcoholic beverages from one licensed premises to another with in the same building or property, provided that the building or property or a part thereof is defined

as a common drinking area for consumption of alcohol by resolution of the governing body of the agency, political subdivision or public trust of this state; or

c. licensees, who are licensed to operate a facility or on property owned or operated by an agency, political subdivision or public trust of this state, from allowing other licensees to operate on their licensed premises for events that are temporary in nature. In the event that multiple licensees are operating a facility or on property owned or operated by any agency, political subdivision or public trust of this state, each licensee shall be responsible for violations occurring in their area designated to be their temporary licensed premises; or

7. Destroy, damage, alter, remove or conceal potential evidence, or attempt to do so, or refuse to surrender evidence when lawfully requested to do so by an inspector, agent or any other peace officer or incite another person to do any of the above.

37-537.2. Establishments licensed to sell or serve intoxicating beverages—Prohibited performances, displays or acts

No owner, operator, partner, manager, or person having supervisory control of any establishment licensed to sell or serve intoxicating beverages shall permit any of the following on or about any commercial premises where intoxicating beverages are dispensed or consumed:

1. The performance by any person of acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are otherwise prohibited by law;

2. The actual intentional touching or caressing or fondling by any person of the breasts, anus or genitals;

3. Any person on the licensed premises while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the areola of the female breast or any portion of the pubic hair, buttocks or genitals; or

4. Any person to perform acts of, or acts which simulate, sexual acts which are prohibited by law, or permit any person to use artificial devices or inanimate objects to depict any prohibited activities or permit the showing of films, still pictures, electronic reproductions or other visual reproductions depicting any of the prohibited activities described in this paragraph.

37-537.3. Winery self-distribution license—Report of sale and payment of taxes—Excess production volume—Prohibited transportation or distribution arrangements—Penalties

A. Every winemaker or winery electing to directly sell its wines to retail package stores and restaurants must obtain a winery self-distribution license and pay the applicable license fee and shall register its product and post its prices with the state in the same manner required of the holder of a nonresident seller license.

B. Every winemaker or winery electing to directly sell its wines to retail package stores and restaurants shall report all sales to retail package stores and restaurants in this state to the Oklahoma Alcoholic Beverage Laws Enforcement Commission and to the Oklahoma Tax Commission at least monthly, or in accordance with such regulations as such agencies

shall adopt and shall pay to the Tax Commission all excise and other taxes imposed by this state upon such wine in the manner required of the holder of a nonresident seller license.

C. Any self-distributing winemaker within or without this state who shall, in any calendar year, exceed the production volume limit provided for in subsection C of Section 521 of this title, shall immediately notify the Oklahoma Alcoholic Beverage Laws Enforcement Commission of such fact and shall thereafter have the option to sell the wines they produce to every licensed wholesale distributor who desires to purchase the same, on the same price basis and without discrimination, and shall thereafter be allowed to sell such beverages only to such licensed wholesale distributors, or cease to sell its products in this state.

D. All winemakers who conduct business in this state shall be prohibited from creating, forming or participating in any kind of a cooperative or pooled transportation or distribution arrangement.

E. Any licensed winemaker or winery that sells or distributes its wines directly to a retail package store or restaurant in this state after having exceeded the production volume limit provided for in subsection C of Section 521 of Title 37 of the Oklahoma Statutes in any calendar year shall be subject to a fine of Ten Thousand Dollars (\$10,000.00). In addition, if the violation is a second or subsequent violation, the winemaker or winery shall not be allowed to transport wine to a retail package store or restaurant for three (3) years from the date of the second or subsequent violation.

F. If Section 3, Article XXVIII of the Oklahoma Constitution is ruled to be unconstitutional by a court of competent jurisdiction, then any licensed winemaker or winery that then continues to sell or distribute its wine directly to a retail package store or restaurant in this state shall be subject to a fine of Ten Thousand Dollars (\$10,000.00) per violation.

37-538. Penalties

A. Any person who shall operate a whiskey still with intent to produce alcoholic beverages or any person who shall carry on the business of a distiller without having in his possession a valid and existing distiller's license issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act shall be guilty of a felony and upon conviction shall be fined not be less than Two Thousand Five Hundred Dollars (\$2,500.00) nor more than Five Thousand Dollars (\$5,000.00), or imprisoned in the State Penitentiary for not more than three (3) years, or both such fine and imprisonment.

B. Any person who shall file a false or fraudulent return in connection with any tax imposed by the Oklahoma Alcoholic Beverage Control Act, or willfully evade, or attempt to evade, any tax herein levied shall be guilty of a felony and upon conviction shall be fined not be less than Two Thousand Five Hundred Dollars (\$2,500.00) nor more than Five Thousand Dollars (\$5,000.00), or imprisoned in the State Penitentiary for not more than three (3) years, or both such fine and imprisonment.

C. Any person who shall knowingly engage in any activity or perform any transaction or act for which a license is required under the Oklahoma Alcoholic Beverage Control Act, not having such license, shall be guilty of a misdemeanor and for the first offense be fined not more than Two Thousand Five Hundred Dollars (\$2,500.00) and imprisoned for not less than thirty (30) days nor more than six (6) months, and for a second or subsequent

offense shall be guilty of a felony and be fined not more than Two Thousand Five Hundred Dollars (\$2,500.00), or imprisoned in the State Penitentiary for not more than one (1) year, or both such fine and imprisonment.

D. Any person holding a license issued pursuant to the Oklahoma Alcoholic Beverage Control Act who shall sell or deliver alcoholic beverage to any person not entitled to purchase or receive same, except as provided in subsection F of this section, or who shall possess for sale any alcoholic beverage which he is not entitled to sell under his license, or any person who buys any alcoholic beverage, either retail or wholesale, from any person other than a licensed dealer under the terms of the Oklahoma Alcoholic Beverage Control Act, shall be guilty of a misdemeanor and upon conviction be fined not more than One Thousand Five Hundred Dollars (\$1,500.00), or imprisoned in the county jail for not more than six (6) months, or both such fine and imprisonment.

E. Any person under twenty-one (21) years of age who shall misrepresent his age in writing or by presenting false documentation of age for the purpose of inducing any person to sell or serve him alcoholic beverage or issue him a bottle club membership card, or who enters or attempts to enter a package store or a separate or enclosed bar area as designated by the ABLE Commission, shall be guilty of a misdemeanor and fined not more than Fifty Dollars (\$50.00). In addition, if a person is convicted or pleads guilty to a violation of the provisions of this subsection in any court having jurisdiction over said offense, the court may order the Department of Public Safety to cancel or deny the offender's privilege to operate a motor vehicle and, upon such order, shall require that the operator's or chauffeur's license, if any, be surrendered to the Department pursuant to Section 6-209 of Title 47 of the Oklahoma Statutes. The cancellation or denial period shall be for one (1) year, or until the person reaches twenty-one (21) years of age, whichever is longer.

Any person whose driving privileges are ordered cancelled or denied pursuant to this section may petition the court of original jurisdiction for review of the order. Upon notice and hearing, the court may modify or withdraw the order as the court deems appropriate except:

1. A court may not withdraw an order for at least ninety (90) days following the issuance of the order if it is the first such order issued regarding the person named; and
2. A court may not withdraw an order for at least six (6) months following the issuance of the order if it is the second or subsequent such order issued regarding the person named.

If the Department receives written notice from the court of original jurisdiction that it has withdrawn such an order, the Department shall immediately reinstate any driving privileges that have been canceled or denied under this section, without requiring payment of a reinstatement fee.

F. Any person who shall knowingly sell, furnish or give alcoholic beverage to a person under twenty-one (21) years of age shall be guilty of a felony and shall be fined not be less than Two Thousand Five Hundred Dollars (\$2,500.00) nor more than Five Thousand Dollars (\$5,000.00), or imprisoned in the State Penitentiary for not more than five (5) years, or both such fine and imprisonment. The ABLE Commission shall revoke the license of any person convicted of a violation of this subsection.

G. Any person who shall knowingly sell, furnish or give alcoholic beverage to an insane, mentally deficient, or intoxicated person shall be guilty of a felony, and shall be fined not be less than Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars

(\$1,000.00), or imprisoned in the State Penitentiary for not more than one (1) year, or both such fine and imprisonment.

H. The payment of the special tax required of liquor dealers by the United States by any person within this state without a corresponding state license shall constitute prima facie evidence of an intention to violate the provisions of the Oklahoma Alcoholic Beverage Control Act.

I. Any person selling or keeping a package store open to sell any alcoholic beverage during any day or hours not authorized by the Oklahoma Alcoholic Beverage Control Act shall be guilty of a misdemeanor.

J. Any licensee permitting a person to be drunk or intoxicated on the licensee's licensed premises shall be guilty of a misdemeanor, and upon conviction punishable by a fine in an amount not exceeding One Hundred Dollars (\$100.00), by imprisonment in the county jail for a term not more than thirty (30) days, or by both such fine and imprisonment.

37-537.4. ???

A. As used in this section, "powered alcohol" means alcohol prepared or sold in a powder form for either direct use or reconstitution.

B. It is unlawful for any person or licensee to use, offer for use, purchase, offer to purchase, sell, offer to sell or possess powdered alcohol.

C. It is unlawful for a holder of a license pursuant to the provisions of Title 37 of the Oklahoma Statutes for on-premises or off-premises consumption of intoxicating beverages or low-point beer to use powdered alcohol as an alcoholic beverage.

D. Any person or license holder that violates this section is guilty of a misdemeanor and shall be punished as follows:

1. For a first offense, by a fine of not more than Three Hundred Dollars (\$300.00) or by imprisonment for not more than thirty (30) days or by both;

2. For a second offense, by a fine of not more than Seven Hundred Fifty Dollars (\$750.00) or by imprisonment for not more than six (6) months or by both; or

3. For a third or subsequent offense, by a fine of not more than Three Thousand Dollars (\$3,000.00) or by imprisonment for not more than two (2) years or by both.

37-538.1. Removal of certain persons from premises while making arrests

An agent, inspector or any peace officer while making arrests incidental to investigating violations of state law may remove from licensed premises and adjacent areas, customers, employees and those individuals who may pose a threat to public safety or a threat to the safety of agents, inspectors or peace officers for the period of time necessary to effect the arrests and complete the pending investigation.

37-538.2. Suspension of license during natural disaster or civil disturbance

In case of natural disaster or civil disturbance the Governor may, for the duration of such natural disaster or civil disturbance thereof, immediately suspend without notice any license granted under the provisions of the Oklahoma Alcoholic Beverage Control Act.

37-538.3. Law enforcement officers to notify ABLE Commission of violations of act

All law enforcement officers, upon arrest of any holder of a license issued by the Alcoholic Beverages Laws Enforcement Commission for a violation of any state law or municipal ordinance in which the violation of any alcoholic beverage law had any part, shall immediately notify the ABLE Commission thereof. Such officers shall notify the ABLE Commission of any acts, practices or other conduct of any such licensee which may be subversive to the general welfare or contrary to the spirit of the Oklahoma Alcoholic Beverage Control Act and shall recommend appropriate action to be taken by the ABLE Commission.

37-539. Search warrant—Seizure and destruction—Forfeiture and sale

A. A search warrant may be issued pursuant to the provisions of Sections 1221 through 1264 of Title 22 of the Oklahoma Statutes, as amended, for the purpose of searching for, seizing, destroying or holding any alcoholic beverages possessed, sold, transported, manufactured, kept, or stored in violation of the Oklahoma Alcoholic Beverage Control Act; for the purpose of searching for and seizing any apparatus, vehicle, equipment, or instrumentality used for, or intended for use in, manufacturing or transporting any alcoholic beverage in violation of the Oklahoma Alcoholic Beverage Control Act; and all such property shall be forfeited to the State of Oklahoma. This section shall not be construed to require a search warrant for duly authorized agents of the Alcoholic Beverage Laws Enforcement Commission to enter upon and inspect any licensed premises, but such right of entry and inspection shall be a condition on which every license shall be issued and the application for, and acceptance of, any license hereunder shall conclusively be deemed to be consent of the applicant and licensee to such entry and inspection.

B. Any alcoholic beverages upon which the appropriate federal excise tax has not been paid at the time of seizure under this section shall be destroyed by the sheriff who seized the same or to whom the same has been delivered in accordance with the provisions of Section 1261 of Title 22 of the Oklahoma Statutes, as amended, after the same is no longer needed as evidence in any criminal prosecution. All other property, including alcoholic beverages upon which the appropriate federal excise tax has been paid, seized under this section shall be forfeited to the State of Oklahoma by order of the court issuing the process by virtue of which such property was seized, or before which the persons violating the law, or to which such property was taken by the officer or officers making the seizure. Said court shall, without a jury, order an immediate hearing as to whether the property so seized was subject to seizure under this section, and take such legal evidence as is offered, and determine the same as in civil cases. If the court finds from a preponderance of the evidence that the property so seized was subject to seizure under this section, it shall render judgment accordingly and order said property forfeited to the State of Oklahoma unless seized by county or municipal law enforcement officers in which case said property shall be forfeited to the county or municipality, whichever is appropriate, in which the seizure of the property took place. Such seized property shall be sold by the officer having the same in charge, after giving ten (10) days' notice by one publication in a legal newspaper of the county or, if no legal newspaper is published in said county, after five notices of such sale have been posted in conspicuous places in the city or town wherein

such sale is to be made, at least ten (10) days before such sale. Appeal from such an order may be taken as in civil cases. When such property is sold under the provisions of this section, the proceeds thereof shall be distributed as follows: First, to the payment of the costs of the case in which the order of forfeiture was made and the actual expenses of preserving the property; and second, the remainder shall be deposited with the county or municipal treasurer of the county or municipality in which the seizure took place if the property was seized by county or municipal law enforcement officials or with the State Treasurer to the credit of the General Revenue Fund of the State of Oklahoma in all other cases.

37–540. Reporting method of taxing alcoholic beverages—Labeling of 3.2 beer—Payment of tax

A. The Oklahoma Tax Commission shall promulgate rules to implement a reporting method of taxing all alcoholic beverages sold or delivered in this state to eliminate the use of any type of stamps.

B. Every manufacturer or brewer manufacturing or brewing any beer in this state, for sale in this state, and every manufacturer or brewer outside of the state, shipping any beer into this state, shall cause to be printed, upon an affixed label around and upon the body of each bottle or upon the top or the lid of each can of such beer, a symbol or other designation, approved by the Oklahoma Tax Commission, that will serve to indicate that the beer has an alcoholic content in excess of three and two-tenths percent (3.2%) by weight, and such other information as the Oklahoma Tax Commission may require. Brewers shall be required to submit samples of crowns, tops and labels to the Oklahoma Tax Commission for approval.

C. Payment of the excise tax levied by the Oklahoma Alcoholic Beverage Control Act, Section 501 et seq. of this title, with respect to beer shall be made by the manufacturer or brewer as to all beer produced by such brewer within the state for sale within this state, and shall be made by the importing manufacturer or Class B wholesaler who is the original consignee of beer manufactured or produced outside of this state as to all beer imported into this state by such importing licensee. It is the duty of each Oklahoma licensed brewer with respect to beer produced by such brewer within this state, and of each Oklahoma licensed Class B wholesaler as to beer produced outside of this state and imported into this state by such Class B wholesaler, to pay the excise tax on such beer to the Oklahoma Tax Commission as hereinafter provided.

D. Notwithstanding any other provisions of law, the tax levied by the Oklahoma Alcoholic Beverage Control Act shall be part of the gross proceeds or gross receipts from the sale of alcoholic beverages, as those terms are defined in paragraph 7 of Section 1352 of Title 68 of the Oklahoma Statutes.

37–541. Credits and refunds

The Tax Commission shall have authority to allow credit for or make refunds of any money paid for stamps issued by the Oklahoma Tax Commission in payment of state excise tax by the manufacturer pursuant to authority granted by the Tax Commission. All applications to the Tax Commission for credit or replacement under the provisions of this section shall be verified by affidavit and all proof and evidence supporting such application

shall be made in strict conformity with the rules and regulations of the Tax Commission setting forth the requirements in connection with such evidence and application.

37-542. Payment of beer tax—Verified monthly report

A. Payment of the excise tax levied by Section 553 of the Oklahoma Alcoholic Beverage Control Act with respect to beer shall be made by the brewer or the Class B wholesaler as herein provided. The tax shall be due and payable on the first day of each month for the preceding calendar month and if not paid on or before the tenth day of each month shall thereafter be delinquent.

B. Every brewer, and Class B wholesaler, shall make and transmit to the Oklahoma Tax Commission on or before the tenth day of each calendar month, upon a form prescribed and furnished by the Tax Commission, an itemized and verified report, for the preceding calendar month, showing the following information:

1. Total quantity and description of opening inventory of beer as of the first day of said month;

2. Total receipts and acquisitions during month from every source. This shall be itemized showing imports and purchases within and without this state separately; the kind and quantity of each type of beer as shown by the shipper's or seller's invoices thereof; the date of each purchase; the amounts purchased; the date received; the person from whom purchased; the manifest, bill of lading or delivery invoice number of each shipment, which number shall be the number used by the original seller as shown on the basic shipping records which accompany the shipment; the point of origin and point of destination of each shipment; and the name and Alcoholic Beverage Laws Enforcement Commission license number of the carrier if shipped by carrier;

3. The kind and quantity of all beer sold or withdrawn from stock for sale, use or consumption in the State of Oklahoma during the preceding calendar month; the date of each sale; the kind and quantity of beer in each sale; the name, address and ABLE Commission license number of each purchaser, the manifest, bill of lading or delivery invoice number, which number shall be the number as shown on the basic shipping records which accompany the delivery; and the name and ABLE Commission license number of the carrier if shipped by carrier;

4. All nontaxable sales and dispositions made during said month, including exports and sales and deliveries to military installations located within this state, shall be reported and information in reference to each such nontaxable sale, disposition, and export shall be shown in detail as is required for sales in the State of Oklahoma and shall be supported by evidence satisfactory to the Oklahoma Tax Commission;

5. Closing inventory of beer as of the last day of the calendar month; and

6. Such other information pertaining to the brewer's, and Class B wholesaler's, beginning inventory of beer, receipts or acquisitions thereof, sales and dispositions thereof, and the closing inventory, as the Oklahoma Tax Commission may, by form and regulation, require.

C. Every brewer, and Class B wholesaler, at the time of making the monthly report required by this section, shall remit to the Oklahoma Tax Commission the total amount of the excise tax due as shown by said report.

It shall be unlawful for any brewer, or Class B wholesaler, to sell or offer for sale any

beer while delinquent in the payment of any excise tax due the state.

D. Reports and remittances, as required herein, which are mailed on the tenth day of the month and received by the Oklahoma Tax Commission subsequent to the tenth of the month in which the excise tax is payable, shall be deemed to have been received by the Tax Commission before becoming delinquent. Postmark or registry receipt showing deposit in the United States mails shall be conclusive evidence of the date of mailing. The time for filing returns and paying the excise tax levied by the Oklahoma Alcoholic Beverage Control Act shall not be extended.

E. If upon investigation it is determined by the Oklahoma Tax Commission that any nontaxable disposition or sale claimed by any brewer or Class B wholesaler is not supported by a valid invoice, or is fraudulently or falsely claimed in any manner by such brewer or Class B wholesaler or any agent of such licensee, the Tax Commission shall disallow any such deduction and shall assess and collect the tax, together with the penalty and interest thereon, on the total amount of the disallowed deduction taken by said licensee.

F. The taking and claiming of any deduction not authorized by law, upon a report by any brewer or Class B wholesaler, or the failure to file monthly reports or to pay any excise tax due, shall constitute grounds for the revocation of such person's license by the ABLE Commission and the Tax Commission shall promptly notify such ABLE Commission of all such cases.

37-543. Monthly report by importers of alcoholic beverages

A. Every wholesaler, or other person authorized under the Oklahoma Alcoholic Beverage Control Act to import alcoholic beverages into this state, shall make and transmit to the Oklahoma Tax Commission on or before the tenth day of each month, upon a form prescribed and furnished by the Oklahoma Tax Commission, an itemized and verified report for the preceding calendar month, showing the following information:

1. Opening inventory of alcoholic beverages other than beer;
2. Total receipts and acquisitions during month from every source. This shall be itemized showing imports and purchases from within and without this state separately; the kind, proof and quantity of each type of alcoholic beverages as shown by the shipper's or seller's invoices thereof; the date of each purchase; the amount purchased; the date received; the person from whom purchased; the manifest, bill of lading or delivery invoice number of each shipment, which number shall be the number used by the original seller as shown on the basic shipping records which accompany the shipment; and the point of origin and point of destination of each shipment;
3. The kind and quantity of all alcoholic beverages sold or withdrawn from inventory for sale, use, or consumption during the calendar month; the date of each sale; and the kind, proof and quantity of alcoholic beverages in each sale; the name, address and Alcoholic Beverage Laws Enforcement Commission license number of each purchaser, and the manifest, bill of lading or delivery invoice number, which number shall be the number as shown on the basic shipping records which accompany the delivery;
4. All nontaxable sales and dispositions made during said month, supported by evidence satisfactory to the Oklahoma Tax Commission;
5. Closing inventory of alcoholic beverages as of the last day of the calendar month; and

6. Such other information pertaining to the wholesaler's beginning inventory of alcoholic beverages, receipts or acquisitions thereof, sales and dispositions thereof, and closing inventory, as the Oklahoma Tax Commission may by form or regulation require.

B. If upon investigation it is determined by the Oklahoma Tax Commission that any nontaxable disposition or sale claimed by any licensee is not supported by a valid invoice, or is fraudulently or falsely claimed in any manner by such licensee or any agent of such licensee, the Oklahoma Tax Commission shall disallow any such deduction and shall assess and collect the excise tax, together with the penalty and interest thereon, on the total amount of the disallowed deduction taken by said licensee.

C. The taking and claiming of any deduction not authorized by law, upon a report by any wholesaler or the failure to file monthly reports or pay any excise tax due, shall constitute grounds for the revocation of such person's license, distributor permit or wholesaler permit by the ABLE Commission and the Oklahoma Tax Commission shall promptly notify the ABLE Commission of all such cases.

37-543.1. Distributor permits—Wholesaler permits—Applications

A. All manufacturers, importers, brokers and others who sell alcoholic beverages to a wholesaler in Oklahoma, regardless of whether the sale is consummated within or without the State of Oklahoma, shall obtain a distributor permit from the Oklahoma Tax Commission.

B. Any person having a Wholesaler's License shall obtain a wholesaler permit from the Tax Commission.

C. A distributor permit or wholesaler permit may be obtained by filing a verified permit application with the Tax Commission on a form furnished by the Tax Commission.

37-543.2. Issuance of distributor or wholesaler permit—Duties of permit holders

A. The Oklahoma Tax Commission, as provided by the Uniform Tax Procedure Code, may issue a distributor permit or wholesaler permit to any person who sells alcoholic beverages to a wholesaler or to any person having a wholesaler license.

B. Each wholesaler shall furnish a copy of the wholesaler permit to manufacturers, importers, brokers and others who sell alcoholic beverages prior to purchasing alcoholic beverages from a holder of a distributor permit. Each manufacturer, importer, broker and other who sells alcoholic beverages shall furnish a copy of the distributor permit to the wholesaler prior to selling alcoholic beverages to a wholesaler.

C. Holders of distributor permits or wholesaler permits shall maintain an itemized and verified record for the preceding calendar month of all sales or purchases of alcoholic beverages and shall transmit the verified record to the Oklahoma Tax Commission on or before the tenth day of each month, upon a form prescribed and furnished by the Tax Commission. Permit holders shall maintain records of sales and purchases of alcoholic beverages for three (3) years.

37-545. Unstamped beverages as contraband

A. All bottles or other original containers of alcoholic beverages in the possession of any person upon which the taxes have not been paid as required by the Oklahoma Alcoholic Beverage Control Act and the rules and regulations thereunder are declared to be

contraband. Any duly authorized officer or employee of the Alcoholic Beverage Laws Enforcement Commission or Oklahoma Tax Commission is authorized to seize the same, and such containers of alcoholic beverages so seized shall be subject to confiscation and forfeiture by the ABLE Commission as herein after provided.

B. If, upon examination of invoices or from other investigation, the Tax Commission or the ABLE Commission finds that any alcoholic beverages, except beer, have been sold without tax payment as required by the Oklahoma Alcoholic Beverage Control Act, the Tax Commission shall have the power to require such person to pay to the Tax Commission as such tax a sum equal to twice the amount of the tax due. If any person is unable to furnish evidence to the Tax Commission of excise tax payment to cover purchases of alcoholic beverages, except beer, made by such person, the prima facie presumption shall arise that such alcoholic beverages were sold without excise tax payment.

It is expressly provided, except where specific provisions of the Oklahoma Alcoholic Beverage Control Act require otherwise, that the procedures and remedies contained in the Uniform Tax Procedure Code, of the Oklahoma Statutes in connection with the making of assessments, and the enforcement and collection thereof, the penalties and interest to be applied, all lien and tax warrant provisions, all incidental remedies, including procedure for an injunction, and all other provisions of the Uniform Tax Procedure Code which may be applied or used to enforce the provisions of the Oklahoma Alcoholic Beverage Control Act, shall be applicable and available to the Oklahoma Tax Commission in administering the provisions hereof and collecting the taxes herein levied on alcoholic beverages.

37-546. Examination of licensed premises for contraband

Any officer or enforcement employee of the Alcoholic Beverage Laws Enforcement Commission or Oklahoma Tax Commission shall have power and authority, without a warrant, to enter and examine the licensed premises of all licensees to determine whether any licensee has in his possession any container of alcoholic beverage upon which the taxes have not been paid as required by the Oklahoma Alcoholic Beverage Control Act and the rules and regulations thereunder, and if such officer or employee shall find any such container of alcoholic beverages he shall immediately seize the same. Such officers and employees of the ABLE Commission or Oklahoma Tax Commission shall be given free access to and shall not be hindered or interfered with in their examination of the licensed premises of any licensees, and, in case any such officer or employee is denied free access or is hindered or interfered with in making such examination, any license held by the person preventing such free access or interfering with or hindering such officer or employee shall be subject to suspension or revocation.

37-547. Hearing concerning seized beverages

A. After the seizure of such container of alcoholic beverage upon which the taxes have not been paid, any officer or employee of the Alcoholic Beverage Laws Enforcement Commission, designated in writing by the Director, shall hold a hearing to determine whether the container of alcoholic beverage seized did not have the necessary taxes paid as required by the Oklahoma Alcoholic Beverage Control Act and the rules and regulations thereunder. The ABLE Commission shall give not less than seven (7) days' notice of the time and place of such hearing to the owner of such container of alcoholic beverage if he

is known, and also to the person in whose possession such container was found if such person is known and if such person in possession is not the owner of said property. The Director, or any officer or employee of the ABLE Commission, designated to conduct such hearing, shall have power to administer oaths, and the power to issue subpoenas requiring the attendance of and the giving of testimony by witnesses, and subpoenas duces tecum requiring the production of books, papers, records and memoranda.

B. Pursuant to such hearing, the ABLE Commission shall determine whether the container of alcoholic beverage seized did not have the taxes paid as required by the Oklahoma Alcoholic Beverage Control Act and the rules and regulations thereunder, and upon a decision to that effect an order shall be entered that such container of alcoholic beverage is confiscated and forfeited to the State of Oklahoma. The ABLE Commission shall give notice of such order to the owner of such container of alcoholic beverage if he is known and also to the person in whose possession said property so taken was found if such person is known and if such person in possession is not the owner of said property.

37-548. Sale of forfeited alcoholic beverages

After an order of forfeiture, and when a proceedings for judicial review of the order has been concluded or the time for judicial review has expired, the Alcoholic Beverage Laws Enforcement Commission, to the extent that its order is sustained on review, shall sell such forfeited alcoholic beverage at such time and place and in such manner as it deems advisable. Proceeds of such sales shall be deposited with the State Treasurer for the credit of the General Revenue Fund of the State of Oklahoma.

37-549. Possession of more than one liter of alcoholic beverages on which excise tax unpaid

Every person who shall have in his possession more than one (1) liter of alcoholic beverages, the bottle or other original container upon which the excise tax levied by Section 553 of this title has not been paid as provided for by the Oklahoma Alcoholic Beverage Control Act, shall be guilty of a misdemeanor, and if such person is the holder of a license under this act such license shall be subject to revocation or suspension by the Alcoholic Beverage Laws Enforcement Commission. The ABLE Commission may adopt rules and regulations for hearings on a revocation of a license for violation of the provisions of this section. Provided the ABLE Commission may suspend any license for a violation of this section for a period of thirty (30) days with notice of hearing as the ABLE Commission may determine.

37-550. Erasure, removal, etc. of certain information from containers or cases—Misdemeanor

Any person who erases, removes, obliterates, destroys, or renders illegible in any manner any serial numbers, marks, brands, legends, license numbers, case numbers or other information required by the Oklahoma Alcoholic Beverage Control Act or by Acts of Congress to be attached or placed upon any original containers or cases containing alcoholic beverages, before the contents of such packages or cases have been entirely removed, is guilty of a misdemeanor.

37-551. Sealing and numbering of cases

Every manufacturer of alcoholic beverages other than beer shall package, ship, store and deliver same in cases, and no alcoholic beverage other than beer shall be sold, shipped, stored or delivered by any such manufacturer except in sealed cases. Every manufacturer of alcoholic beverages other than beer shall serially number such cases on the end of the case where the brand and product are identified. All such cases shall be sealed by tape or such other method as the Alcoholic Beverage Laws Enforcement Commission by rules and regulations may provide so that the contents of such cases cannot be removed without breaking or destroying such seal. It shall be unlawful for any person to remove the alcoholic beverage contents of a case so sealed without breaking or destroying such seal. No wholesaler or Class B wholesaler shall receive or accept any alcoholic beverages other than beer in this state except in sealed cases so numbered. Any holder of a license or permit violating the provisions of this section shall be subject to revocation or suspension of his license.

37-552. Keeping of books and records by licensees

All licensees under the Oklahoma Alcoholic Beverage Control Act shall keep books and records with regard to alcoholic beverages which shall contain such information and itemization thereof as the Alcoholic Beverage Laws Enforcement Commission may prescribe by rules and regulations. All books, records, inventories, invoices and other accounting documents required by this act shall be kept for three (3) years and shall at all times be available for inspection by duly authorized representatives of the ABLE Commission and Oklahoma Tax Commission.

37-553. Excise tax—Rates—Filing of returns

A. Except as provided in paragraph 6 of this subsection, an excise tax is hereby levied and imposed upon all alcoholic beverages imported or manufactured, for sale, use or distribution, or used or possessed in this state at the following rates:

1. One Dollar and forty-seven cents (\$1.47) per liter, and a proportionate rate on fractions thereof, on each liter of spirits;
2. Nineteen cents (\$0.19) per liter, and a proportionate rate on fractions thereof, on each liter of light wine;
3. Fifty-five cents (\$0.55) per liter, and a proportionate rate on fractions thereof, on each liter of sparkling wine; and
4. Twelve Dollars and fifty cents (\$12.50) per barrel (thirty-one (31) wine gallons) and a proportionate rate on portions thereof, on each barrel of beer; and
5. Beer manufactured in this state for export shall not be taxed.

B. The excise tax levied on alcoholic beverages except beer under subsection A of this section shall be paid as follows:

1. Payment of the excise tax levied by this section with respect to all alcoholic beverages, other than beer, shall be made by the person shipping the same into Oklahoma, or in the case of direct imports from foreign countries by the importer, or in the case of alcoholic beverages manufactured in Oklahoma by the first seller thereof;
2. On and after January 1, 1981, the due and payable excise tax levied by this section shall be made by tax returns filed with the Oklahoma Tax Commission. The tax

returns shall be made under oath by the person liable for the tax on forms prescribed and provided by the Oklahoma Tax Commission and shall be accompanied by payment of the taxes due and any additional sums due as provided by this section. Invoices describing all alcoholic beverages as described in this section which are shipped into this state or which are first sold in this state shall be delivered to the Oklahoma Tax Commission and to the Alcoholic Beverage Laws Enforcement Commission immediately following shipment of liquors into the state or delivery to the first purchaser. Tax returns and payment of excise tax and other sums due shall be delivered to the Oklahoma Tax Commission no later than the twentieth day of the month immediately succeeding the month of shipment, importation or first sale of the alcoholic beverages as provided in paragraph 1 of this subsection;

3. All tax returns required to be filed during the twelve-month period beginning January 1, 1981, shall be accompanied by payment of the excise tax due plus an additional payment in the amount of twenty percent (20%) of said tax. Up to ten percent (10%) of the total payments made during said period may be made in the form of revenue stamps previously purchased pursuant to Section 540 of this title; and

4. On and after February 1, 1982, each person required to file a tax return pursuant to this section shall remit the excise tax due, less an amount not to exceed two percent (2%) of the total of the additional payments made by said taxpayer pursuant to paragraph 3 of this subsection. The total of said deductions shall not exceed the total of the additional payments made pursuant to paragraph 3 of this subsection. Up to ten percent (10%) of each tax payment made under this subsection may be made in the form of revenue stamps previously purchased pursuant to Section 540 of this title.

C. For the purpose of collecting and remitting the excise tax imposed under this section, the person liable for such tax is hereby declared to be the agent of the state for such purposes.

D. Nothing herein shall be construed to impose an additional excise tax on intoxicating beverages held in inventory by wholesalers and retailers upon which the excise tax was paid prior to the effective date of any excise tax increase.

37-554. Exemptions from excise tax

A. The excise tax levied by Section 553 of this title shall not apply to:

1. Alcohol used exclusively for industrial purposes by the holder of an industrial license;

2. Alcohol lawfully withdrawn and used free of tax under a tax-free permit issued by the United States government;

3. Alcoholic beverages used exclusively by licensed physicians and dentists in the bona fide practice of their professions or by licensed pharmacists in compounding prescriptions;

4. Beer, cider and wine made for personal use pursuant to a personal use permit issued as provided in section 505 of this title;

5. Wine used exclusively for sacramental purposes in bona fide religious ceremonies; and

6. Alcoholic beverages, not exceeding one (1) liter, imported into this state by the possessor for his or her own personal use;

7. Alcoholic beverages provided to attendees, free of charge, at charitable events

licensed and approved by the ABLE Commission; and

8. Mixed beverage and public event licensees which utilize the services of a licensed caterer.

B. As a condition precedent to the allowance of any exemption authorized by subsection A of this section:

1. Where a license or permit is required by the Oklahoma Alcoholic Beverage Control Act, for such use, the person claiming any such exemption must have obtained from the Alcoholic Beverage Laws Enforcement Commission the license or permit authorizing such exempt use; and

2. There must be furnished such proof of the exclusive use for such exempt purposes as the Oklahoma Tax Commission may require.

37-554.1. Cities and towns—Occupation tax

Cities and towns are hereby authorized to levy an annual occupational tax for the privilege of operating as a retailer, mixed beverage, beer and wine, caterer, public event or special event licensee, bottle club, manufacturer, wholesaler or Class B wholesaler, within their respective jurisdictions, not to exceed the state license fee for such licensees; provided that the aforementioned tax shall be levied only by the city or town in which such licensee has his principal place of business. This section shall not give any city or town any right to determine or regulate the issuance of any license, except as specifically provided for in this section, as the Alcoholic Beverage Laws Enforcement Commission shall have exclusive authority as to issuance and regulations of said licenses and no city or town may prescribe rules or regulations in conflict with or in addition to the statutes of this state or the rules of the ABLE Commission. No licensee shall be held liable for engaging in business otherwise authorized under this title with any other retailer, mixed beverage, beer and wine, caterer, public event or special event licensee, bottle club, manufacturer, wholesaler or class B wholesaler solely because such other part has failed to pay any occupational tax due under this section.

Cities or towns which levy an occupational tax under this section shall make an annual report to the ABLE Commission, covering the fiscal year, showing the number and class of licensees subject to said tax, and the amount of money received therefrom, which information is to be included in the annual report of the ABLE Commission submitted to the Governor, and transmitted to the Legislature.

37-554.2. Counties—Occupation tax

Counties are hereby authorized to levy an annual occupational tax for the privilege of operating as a mixed beverage, beer and wine, caterer, public event or special event licensee or as a bottle club, within their respective jurisdictions and not located in a city or town levying an occupation tax as provided by Section 554.1 of this title, not to exceed the state license fee for such licensees; provided that the aforementioned tax shall be levied only by the county in which such licensee has his or her principal place of business. All revenues derived from any such annual occupational tax shall be deposited in the general revenue fund of the county. This section shall not give any county any right to determine or regulate the issuance of any license, except as specifically provided for in this section, as the Alcoholic Beverage Laws Enforcement Commission shall have exclusive authority

as to issuance and regulations of said licenses and no county may prescribe rules or regulations in conflict with or in addition to the statutes of this state or the rules of the ABLE Commission. No licensee shall be held liable for engaging in business otherwise authorized under this title with any other retailer, mixed beverage, beer and wine, caterer, public event or special event licensee, bottle club, manufacturer, wholesaler or class B wholesaler solely because such other part has failed to pay any occupational tax due under this section.

Counties which levy an occupational tax under this section shall make an annual report to the ABLE Commission, covering the fiscal year, showing the number and class of licensees subject to said tax, and the amount of money received therefrom, which information is to be included in the annual report of the ABLE Commission submitted to the Governor, and transmitted to the Legislature.

37-555. Monthly report by holders of nonresident seller license

Every holder of a nonresident seller license shall make and transmit to the Oklahoma Tax Commission, on or before the tenth day of each month upon a form prescribed and furnished by the Oklahoma Tax Commission, an itemized and verified report for the preceding calendar month, showing each shipment or sale of alcoholic beverages into Oklahoma. Such report shall show the date of the shipment; the total quantity of the shipment; the name and Alcoholic Beverage Laws Enforcement Commission license number of the Oklahoma purchaser; and the manifest, bill of lading or invoice number of each shipment. Such report shall be accompanied by duplicate original copies of each manifest, invoice, bill of lading or other document showing the details, including the proof of all spirits, of all shipments during such calendar month.

37-556. Monthly report by manufacturers

Every manufacturer, subject to licensing hereunder, shall make and transmit to the Oklahoma Tax Commission, on or before the tenth day of each calendar month, upon a form prescribed and furnished by the Oklahoma Tax Commission, an itemized and verified report, for the preceding calendar month, showing:

A. The kind and quantity of all alcoholic beverages manufactured within this state during said month, including the proof of all spirits; the kind and quantity of all alcoholic beverages purchased within this state, including the proof of all spirits; and the kind and quantity of all alcoholic beverages imported into this state during said month, including the proof of all spirits; the name and Alcoholic Beverage Laws Enforcement Commission license number of the person from whom purchased or received; the manifest, bill of lading, or invoice number of each shipment, which number shall be the number used by the original seller as shown by the basic shipping records which accompanied the shipment; the date of receipt of each shipment; the name and ABLE Commission license number of the carrier, if transported by carrier; and

B. All sales of alcoholic beverages made by such manufacturer during such calendar month, both within and without Oklahoma, including in detail the kind and quantity of all alcoholic beverages sold, including the proof of all spirits, as shown by the invoice covering each such sale; the invoice number; the date of each sale; the name, address, the ABLE Commission license number of the purchaser; the name and ABLE Commission license number of the carrier, if shipped by carrier, and such other information as the Oklahoma Tax Commission may require.

37-557. Monthly report by carriers and warehousemen

A. Every common carrier and public carrier transporting alcoholic beverages into, within, or out of, this state, and every bonded warehouseman licensed hereunder, having possession of alcoholic beverages, on or before the tenth day of each month shall make and transmit to the Oklahoma Tax Commission an itemized and verified report for the preceding calendar month on a form prescribed and furnished by the Oklahoma Tax Commission, showing:

1. By carriers: Each shipment of alcoholic beverages, the date, point of origin, point of delivery, to whom delivered, and such other information as the Oklahoma Tax Commission shall, by form or regulation, require.

2. By bonded warehousemen: The opening inventory of alcoholic beverages, total receipts, date of each receipt, for whom warehoused, warehouse receipt number, date of each withdrawal, by whom each withdrawal is made, withdrawal order number, the closing inventory, and such other information as the Oklahoma Tax Commission may, by regulation or form, require.

B. All such carriers and warehousemen shall permit an examination by the Oklahoma Tax Commission, its authorized agents or representatives, of their books and records of alcoholic beverages transported or warehoused. The failure or refusal of any carrier or warehouseman to make and transmit to the Oklahoma Tax Commission any report herein required, or to permit an examination of the records of the carrier or warehouseman, shall constitute grounds for the revocation of such person's license by the Alcoholic Beverage Laws Enforcement Commission.

37-559. Posting of bond or other security to insure payment of excise taxes

Every manufacturer, importer, broker or other who sells alcoholic beverages to a wholesaler, or Class B wholesaler in Oklahoma, after having been issued a license by the Alcoholic Beverage Laws Enforcement Commission, shall, before manufacturing, purchasing, or selling any alcoholic beverage within this state, file with the Oklahoma Tax Commission a bond issued by a surety company authorized to transact business in this state, in such amount as the Oklahoma Tax Commission may fix, but which shall be at least equal to the estimated amount of the tax liability of such licensee for a three-month period, to secure the payment of all excise taxes due from sales of alcoholic beverages to a wholesaler, or Class B wholesaler, under the provisions of the Oklahoma Alcoholic Beverage Control Act. Provided, that the amount of the bond for every wholesaler or Class B wholesaler shall be not less than One Thousand Dollars (\$1,000.00). Such bonds shall be payable to the State of Oklahoma and conditioned upon the compliance with the excise tax provisions of the Oklahoma Alcoholic Beverage Control Act and the rules and regulations of the Oklahoma Tax Commission relating thereto. In lieu of such surety bond, any such manufacturer, wholesaler, or Class B wholesaler, may deposit cash or negotiable securities, approved by the Oklahoma Tax Commission, in such amount as it may prescribe.

37-560. Issuance and handling of invoices, bills of lading, etc.

A. Every manufacturer, wholesaler, Class B wholesaler and nonresident seller, selling alcoholic beverages in this state, or selling alcoholic beverages for shipment into this state shall, at the time such sale is made, make and deliver to the purchaser or transporter an invoice, bill of lading, manifest, or other document describing such alcoholic beverages, showing the date of such sale or delivery, the name and Alcoholic Beverage Laws Enforcement Commission license number of the seller, the point of origin of the movement of such alcoholic beverages and the destination of same, the kind and quantity and a description of such alcoholic beverages, including the proof of all spirits, the name and ABE Commission license number of the purchaser, the sale price and such other information as the Oklahoma Tax Commission may, by form or regulation, require. Every such invoice, bill of lading, manifest, or other document describing such alcoholic beverages, except beer, must be identified by consecutive numbers printed upon the invoice or document, and each such seller and purchaser must account for each copy of his invoice and each number thereof.

B. Every common carrier and private carrier, and every person who transports any alcoholic beverages from any point within this state to any other point within or without this state, or who transports alcoholic beverages into this state, shall at all times while such alcoholic beverages are in transit have in the possession of the driver or operator of the transporting carrier or vehicle the invoice, bill of lading, manifest, or other document describing such alcoholic beverages being transported.

C. Every manufacturer, wholesaler, or Class B wholesaler, importing into or purchasing in this state any alcoholic beverage, and any retailer purchasing any alcoholic beverage in this state, shall at the time of delivery or acceptance of such alcoholic beverage demand and receive a proper bill of lading, invoice, manifest, or other document,

particularly describing such alcoholic beverage and showing the proof of all spirits.

D. Every manufacturer, wholesaler, Class B wholesaler, nonresident seller, and retailer shall retain one copy of each invoice, bill of lading, manifest, or similar document covering all such sales and purchases by such licensee, as a part of the permanent records of such licensee for a period of at least three (3) years.

E. Any person violating any of the provisions of this section, whether acting for himself or as the agent or employee of any licensee hereunder, shall be guilty of a misdemeanor and, upon conviction, shall be punished as provided by law. Any violation of the provisions of this section shall also constitute grounds for the revocation by the ABE Commission of any license issued under the Oklahoma Alcoholic Beverage Control Act.

37-561. Record of imports, purchases, receipts

Every manufacturer, wholesaler, Class B wholesaler, nonresident seller, retailer, mixed beverage, caterer, public event and special event licensee shall keep a record of all alcoholic beverages imported, purchased, received, manufactured, produced, sold, delivered, or otherwise disposed of, and the amount of all alcoholic beverages on hand, as herein provided. Such records must be kept for a period of at least three (3) years and shall include the date, the number of the invoice, manifest, bill of lading, or similar type document, and the total amount of alcoholic beverages purchased, imported, received, manufactured, produced, sold, delivered, or otherwise disposed of, by such licensee in each transaction. Each such licensee shall keep and maintain such other records in details as the Oklahoma Tax Commission may require.

37-562. Excise tax as direct tax

The excise tax levied by this act is hereby declared and intended to be a direct tax upon the ultimate retail consumer of alcoholic beverages in this state, and when such tax is paid by, or collected from, any other person, as herein provided for, such payment shall be considered as an advance payment for convenience and facility only, and such tax shall thereafter be added to the price of such alcoholic beverages and recovered from the ultimate retail consumer thereof.

37-563. Distribution of revenues

All revenue accruing from the excise tax levied by Section 553 of this title shall be collected by the Oklahoma Tax Commission and distributed as follows:

1. Two-thirds of ninety-seven percent ($\frac{2}{3}$ of 97%) of such tax revenue shall be paid to the State Treasurer and placed to the credit of the General Revenue Fund of the state;

2. One-third of ninety-seven percent ($\frac{1}{3}$ of 97%) of such revenue is hereby allocated to the counties of this state and shall be paid to the county treasurers on the basis of area and population (giving equal weight to area and population) wherein the sale of alcoholic beverages is lawful, and all of said funds shall be appropriated by the county commissioners of each county and apportioned by the county treasurer to all incorporated cities and towns in said county on the basis of population within each city and town on a per capita basis based on the last preceding Federal Decennial Census. For the purpose of appropriating and paying the excise taxes collected under the Oklahoma Alcoholic

Beverage Control Act, or any act which is amendatory thereof or supplemental thereto, to the incorporated cities and towns in any county, city or town, the corporate limits of which include territory within more than one county, shall be considered and treated as being a city or town in only the county within which more than fifty percent (50%) of the entire population of such city or town, as shown by the last preceding Federal Decennial Census, reside, and, for such purpose, shall not be considered or treated as being a city or town in any other county; and, in the event that the last preceding Federal Decennial Census fails to disclose information from which such fact may be determined by the board of county commissioners which is appropriating the tax money then involved to the cities and towns in its county, said board of county commissioners shall make an estimate, from the best information then available to it, as to the percentage of the entire population of such city or town then residing in said county. If such board of county commissioners determines, either from information disclosed by the last preceding Federal Decennial Census, or from the best information then available to said board (when such information is not disclosed by the last preceding Federal Decennial Census), that more than fifty percent (50%) of the population of such a city or town resides in that county, such city or town shall receive its pro rata share of such tax money, on the basis of its entire population according to the last preceding Federal Decennial Census; but if such board of county commissioners so determines that more than fifty percent (50%) of the population of such city or town does not reside in that county, no part of such tax money shall be appropriated or paid to such city or town; and

3. The remaining three percent (3%) of such excise tax revenue shall be paid to the State Treasurer and placed to the credit of the Oklahoma Tax Commission Fund to be paid out of said fund pursuant to appropriations made by the State Legislature.

37-564. Estimates of revenues to be derived

The county excise board of each county in the state, in approving the estimates of needs for cities and towns for the fiscal year ending June 30, 1960, and each fiscal year thereafter, shall make reasonable estimates of the revenue to be derived under the provisions of the Oklahoma Alcoholic Beverage Control Act.

37-565. Rules and regulations for issuance of licenses and permits

Within sixty (60) days after the passage and approval of this act, the Alcoholic Beverage Laws Enforcement Commission shall adopt such rules and regulations as may be necessary to facilitate the uniform and orderly application for, and issuance of, all licenses or permits provided for on the effective date of this act.

37-566. General penalty provision

A. Any person who shall violate any provision of this title for which no specific penalty is prescribed shall be guilty of a misdemeanor and be fined not more than Five Hundred Dollars (\$500.00), or imprisoned in the county jail for not more than six (6) months, or both such fine and imprisonment.

B. Provided, however, notwithstanding any provision of law to the contrary, any offense, including traffic offenses, in violation of any of the provisions of this title which is not otherwise punishable by a term of imprisonment or confinement shall be punishable

by a term of imprisonment not to exceed one day in the discretion of the court, in addition to any fine prescribed by law.

37-563.1 Oklahoma Viticulture and Enology Center Development Revolving Fund

A. There is hereby created in the State Treasury a revolving fund for the Oklahoma Department of Agriculture, Food, and Forestry to be designed the “Oklahoma Viticulture and Enology Center Development Revolving Fund”.

B. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies distributed to the fund:

1. From the apportionment provided in paragraph 1 of Section 563 of this title; and
2. From any other source in accordance with state and federal law.

C. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Department for the purpose of:

1. Establishing a Viticulture and Enology Center on the campus of Redland Community College;
2. Developing viticulture-related and enology-related education programs;
3. Developing technologies, strategies, or practices that aid in the production of grapes and wine in Oklahoma; and
4. Increasing the positive economic impact of the Oklahoma wine industry on this state.

D. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

37-563.2

All funds currently held in the Oklahoma Viticulture and Enology Center Development Revolving Fund shall remain in the fund and be available for use by the Oklahoma Department of Agriculture, Food, and Forestry for the purposes identified in Section 563.1 of Title 37 of the Oklahoma Statutes.

37-567. Oklahoma Alcoholic Beverage Control Fund—Unobligated balances

A. There is hereby created in the State Treasury a fund to be known as the Alcoholic Beverage Control Fund which shall consist of revenues collected by the state from license and registration fees, with any interest, fines or penalties levied and collected by the Alcoholic Beverage Laws Enforcement Commission pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act. Any unappropriated balance in the Oklahoma Alcoholic Beverage Control Fund at the close of each fiscal year shall revert to the General Revenue Fund of the State of Oklahoma, except for the amount necessary to satisfy any appropriations made or to be made from said fund by the Oklahoma State Legislature for the ensuing fiscal year.

Beginning July 1, 1984, all such monies collected by the Alcoholic Beverage Laws Enforcement Commission pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act shall be deposited in the State Treasury for credit to the General Revenue Fund of the state, except has proved in subsection B of this section.

B. There is hereby created in the State Treasury a revolving fund for the Oklahoma

Alcoholic Beverage Laws Enforcement Commission to be designated the “ABLE Commission Revolving Fund”. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of any monies received from the surcharge collected by the Alcoholic Beverage Laws Enforcement Commission pursuant to subsection F of Section 518 of this title and any other sources of funds provided by law. All monies accruing to the credit of said fund shall be budgeted and expended by the Oklahoma Alcoholic Beverage Laws Enforcement Commission for general operations of the agency. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of State Finance for approval and payment.

37-568. Possession of alcoholic beverages with intent to sell without license—Seizure—Forfeiture

It shall be unlawful for any person, firm, or corporation to have in their possession any alcoholic beverages with the intent to sell the same without having first procured a license therefor from the Alcoholic Beverage Laws Enforcement Commission as now provided for by law; and all alcoholic beverages found in the possession or under the control of any person or persons, firm, or corporation who, on the same date, or within fifteen (15) days prior thereto, has violated subsection C of Section 538 of this title, shall be seized by the arresting officer and shall be forfeited to the State of Oklahoma, as provided for in Section 539 of this title. Except that property seized by a county or municipal law enforcement officer shall be forfeited to the county or municipality in which the seizure of the property took place, whichever is appropriate, as provided for in Section 539 of this title.

37-569. Enforcement of liquor laws by all law enforcement officers

All sheriffs, marshals, and police officers, all district and city or town attorneys, and all members of the Alcoholic Beverage Laws Enforcement Commission, the Director, and all enforcement employees of the ABLE Commission, shall diligently enforce all provisions of the Oklahoma Alcoholic Beverage Control Act. If any such officer, ABLE Commission member, Director, or employee shall fail or refuse to do or perform any duty required by the provisions of such statutes he shall be removed from office as hereinafter provided. In all cases where any sheriff, marshal, police officer, district or city or town attorney shall fail or refuse to perform any such duty a petition shall be filed in the district court of the county wherein such person resides, in the name of the state, upon the recommendation of a grand jury or on the relation of the board of county commissioners or of any attorney appointed by the Governor under the provisions of applicable statutes. In all cases where a member of the Alcoholic Beverage Laws Enforcement Commission fails to perform any duty imposed upon him, said member shall be subject to removal from office in the manner provided for state officers not subject to impeachment, and, in all cases where an enforcement employee of the ABLE Commission is involved in the failure to perform any duties required by law, such failure shall constitute cause for the removal of any such employee pursuant to the provisions of Section 833 of Title 74 of the Oklahoma Statutes. The Oklahoma State Bureau of Investigation and the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control Commission shall also have enforcement authority for the provisions of the Oklahoma Alcoholic Beverage Control Act, with the

power to initiate complaints with the ABLE Commission and by filing charges, if appropriate, with the district attorney in the county where the violation occurred.

37–570. Qualifications of chief enforcement officer, agents, and inspectors

Persons employed as chief enforcement officer, agents, and inspectors of the Alcoholic Beverage Laws Enforcement Commission shall meet the qualifications for permanent appointment as police or peace officers as provided for in Section 3311 of Title 70 of the Oklahoma Statutes.

37–571. Labeling of alcoholic beverages

The Alcoholic Beverage Laws Enforcement Commission is hereby authorized to promulgate rules and regulations governing the labeling of alcoholic beverages bottled, packaged, sold, or possessed for sale within this state, not inconsistent with the provisions of the Oklahoma Alcoholic Beverage Control Act.

37–572. Failure to label

The bottling, packaging, sale, or possession by any licensee of any alcoholic beverage not labeled in conformity with such rules and regulations and the provisions of the Oklahoma Alcoholic Beverage Control Act shall be grounds for suspension, revocation, or cancellation of the license.

37–573. Registration of labels—Fees

A. Except as provided in subsection D of this section, no liquor, wine, or beer shall be labeled, offered or advertised for sale unless in accordance with such regulations and unless the brand label shall have been registered with and approved by the Alcoholic Beverage Laws Enforcement Commission and the appropriate fee paid as provided for in this section.

B. An application for registration of a brand label shall be filed by the owner of the brand if such owner is licensed by the ABLE Commission, however, if the owner is not licensed but is represented by a licensed nonresident seller, the nonresident seller licensee shall submit each label for each product he offers for sale in this state. Cordials and wines which differ only as to age or vintage year, as defined by such regulations, shall be considered the same brand; and those that differ as to type or class may be considered the same brand by the ABLE Commission where consistent with the purposes of this section.

C. The application for registration of a brand label shall be filed on a form prescribed by the ABLE Commission, and shall contain such information as the ABLE Commission shall require. Such application shall be accompanied by a certified check, bank officers' check or draft, or money order in the amount of the annual registration fee, or the properly prorated portion thereof prescribed by this section.

D. 1. The annual fee for registration of any brand label for liquor shall be Three Hundred Seventy-five Dollars (\$375.00); the annual fee for registration of any brand label for beer shall be Two Hundred Dollars (\$200.00); the annual fee for registration of any brand label for wine made in the United States, or for registration of any category of imported wine as defined by the ABLE Commission, shall be Two Hundred Dollars (\$200.00). Beer manufactured in this state shall be exempt from brand label registration

fees.

2. Each brand label registered and approved pursuant to this section shall be valid for a term which shall run concurrently with the term of the license of the brand owner, or nonresident seller representing the brand owner, registering such label and shall be valid for such licensee and of up to one (1) year, expiring on the June 30 next following registration, and may be renewed for subsequent terms of one (1) year beginning on July 1 following the initial registration. Brand registration fees for labels registered after July 1 may be prorated through the following June 30 on a quarterly basis. The brand registration fee shall not be transferable.

E. If the ABLE Commission shall deny the application for registration of a brand label it shall return the registration fee to the applicant, less twenty-five percent (25%) of such fee.

F. The ABLE Commission may at any time exempt any discontinued brand from fee provisions of this section where a manufacturer or wholesaler has an inventory of one hundred cases or less of liquor or wine and five hundred cases or less of beer, and certifies to the ABLE Commission in writing that such brand is being discontinued.

37-576. Gross receipt tax levied on certain license holders

A. A tax at the rate of thirteen and one-half percent (13.5%) is hereby levied and imposed on the total gross receipts of a holder of a mixed beverage, caterer, public event or special event license, issued by the ABLE Commission, from:

1. The sale, preparation or service of mixed beverages;
2. The total retail value of complimentary or discounted mixed beverages;
3. Ice or nonalcoholic beverages that are sold, prepared or served for the purpose of being mixed with alcoholic beverages and consumed on the premises where the sale, preparation or service occurs; and
4. Any charges for the privilege of admission to a mixed beverage establishment which entitle a person to complimentary mixed beverages or discounted prices for mixed beverages.

B. For purposes of this section:

1. "Mixed beverages" means mixed beverages as defined by Section 506 of this title;
2. "Total gross receipts" means the total amount of consideration received as charges for admission to a mixed beverage establishment as provided in paragraph 4 of subsection A of this section and the total retail sale price received for the sale, preparation or service of mixed beverages, ice, and nonalcoholic beverages to be mixed with alcoholic beverages. The advertised price of a mixed beverage may be the sum of the total retail sale price and the gross receipts tax levied thereon; and
3. "Total retail value" means the total amount of consideration that would be required for the sale, preparation or service of mixed beverages.

C. The gross receipts tax levied by this section shall be in addition to the excise tax levied in Section 553 of this title, the sales tax levied in the Oklahoma Sales Tax Code and to any municipal or county sales taxes.

D. The gross receipts tax levied by this section is hereby declared to be a direct tax upon the receipt of consideration for any charges for admission to a mixed beverage

establishment as provided in paragraph 4 of subsection A of this section, for the sale, preparation or service of mixed beverages, ice, and nonalcoholic beverages to be mixed with alcoholic beverages, and the total retail value of complimentary or discounted mixed beverages.

E. The total of the retail sale price received for the sale, preparation or service of mixed beverages, ice, and nonalcoholic beverages to be mixed with alcoholic beverages shall be the total gross receipts for purposes of calculating the sales tax levied in the Oklahoma Sales Tax Code.

37-577. Mixed beverage tax permit

A. Every holder of a mixed beverage, if not catered, beer and wine, caterer, hotel beverage, public event, if not catered, or special event license, issued by the Alcoholic Beverage Laws Enforcement Commission, shall obtain a mixed beverage tax permit from the Oklahoma Tax Commission prior to engaging, within this state, in the sale, preparation or service of mixed beverages, ice, or nonalcoholic beverages that are sold, prepared or served to be mixed with alcoholic beverages. Each licensee shall file a verified application for a mixed beverage tax permit with the Tax Commission, setting forth information as may be required by the Tax Commission.

The Tax Commission, or its designated agent, shall issue, without any fees or charges therefor, a mixed beverage tax permit in the name of the licensee for the place of business set forth in the application upon verification that:

1. The applicant is a holder of a mixed beverage, if not catered, beer and wine, caterer, hotel beverage, public event if not catered, or special event license issued by the Alcoholic Beverage Laws Enforcement Commission;
2. The applicant has posted a surety bond or other negotiable collateral to protect the proper payment of the gross receipts taxes;
3. The applicant is a holder of a sales tax permit for the place of business set forth in the application; and
4. The applicant is not delinquent in the payment of any gross receipts taxes or sales taxes.

A mixed beverage tax permit shall expire three (3) years after issuance; provided, if the holder thereof is also the holder of a sales tax permit, a mixed beverage tax permit shall be valid for three (3) years or until expiration of the sale tax permit, whichever is earlier, after which a renewal permit shall be valid for three (3) years.

B. A separate mixed beverage tax permit for each place of business to be operated must be obtained and no charge therefor shall be made by the Tax Commission. The Tax Commission shall grant and issue to each applicant a separate permit for each place of business in this state, upon proper application therefor and verification thereof by the Tax Commission.

C. A mixed beverage tax permit is not assignable and shall be valid only for the person in whose name it is issued and for the transaction of business at the place designated in the permit.

D. It shall be unlawful for any person to engage in a business subject to the provisions of this section prior to the issuance of a mixed beverage tax permit. Any person who engages in a business subject to the provisions of this section without a mixed beverage

tax permit or permits, or after a permit has been suspended, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than One Thousand Dollars (\$1,000.00) or incarcerated for not more than sixty (60) days, or by both such fine and imprisonment.

E. Any person operating under a mixed beverage tax permit as provided in this section shall, upon discontinuance of business by sale or otherwise, return such permit to the Tax Commission for cancellation, together with payment of any unpaid or accrued taxes. Failure to surrender a mixed beverage tax permit and pay any and all accrued taxes will be sufficient cause for the Tax Commission to refuse to issue a mixed beverage tax permit subsequently to such person to engage in or transact any business in this state subject to the provisions of this section. Notwithstanding the provisions of subsection H of Section 1364 of Title 68 of the Oklahoma Statutes, the Tax Commission shall not deny a purchaser of a business subject to the provisions of this section a mixed beverage or sales tax permit because of outstanding tax liabilities of the sellers, provided the seller pays to the Tax Commission the estimated sales tax owned by the seller. Provided further, upon completion of an audit by the Tax Commission and determination of actual sales tax owed, the difference between the estimated sales tax paid and the actual sales tax owned shall be paid by the seller to the Tax Commission if taxes were underpaid or returned to the seller by the Tax Commission if taxes were overpaid.

F. Whenever a holder of a mixed beverage tax permit fails to comply with any provisions of any state alcoholic beverage laws or tax laws, the Tax Commission, after giving ten (10) days' notice in writing of the time and place of hearing to show cause why this permit should not be revoked, may revoke or suspend the permit. A mixed beverage tax permit shall be renewed upon removal of cause or causes of revocation or suspension. Mixed beverage tax permits are conditioned upon the proper and timely payment of all taxes due and in the event a holder of a mixed beverage tax permit becomes delinquent in reporting or paying any tax due under the provisions of state tax law, any duly authorized agent of the Tax Commission may cancel the permit and it shall be renewed only upon the filing of proper reports and payment of all taxes due and application for renewal in accordance with subsection A of this section.

G. Upon revocation or suspension of the mixed beverage, beer and wine, caterer, hotel beverage, public event or special event license by the ABLE Commission, the Tax Commission, or its duly authorized agent, shall temporarily suspend the mixed beverage tax permit issued to the licensee in accordance with Section 212 of Title 68 of the Oklahoma Statutes.

37-578. Bond or other security as condition precedent to issuance of mixed beverage tax permit

A. Every holder of a mixed beverage, beer and wine, caterer, public event or special event license issued by the Alcoholic Beverage Laws Enforcement Commission, as a condition precedent to the issuance of a mixed beverage tax permit, shall furnish to the Oklahoma Tax Commission a bond from a surety company chartered or authorized to do business in this state, cash bond, certificates of deposits, certificates of savings or U.S. Treasury bond, or an assignment of negotiable stocks or bonds, as the Tax Commission may deem necessary to secure payment of the gross receipts tax levied upon gross receipts

of the licensees.

B. Any surety bond furnished under this section shall be a continuing instrument and shall constitute a new and separate obligation in the sum stated therein for each calendar year or a portion thereof while such bond is in force. Such bond shall remain in effect until the surety or sureties are released and discharged by the Tax Commission.

C. The Tax Commission, or its duly authorized agent, shall fix the amount of such bond or other security for each licensee for each place of business after considering the estimated gross receipts tax liability of such licensee. Such bond shall be no less than an amount equal to the average estimated quarterly gross receipts tax liability and no greater than an amount equal to three times the amount of the average estimated quarterly gross receipts tax liability. Effective July 1, 2001, the minimum bond required for a new permit holder shall be not less than One Thousand Five Hundred Dollars (\$1,500.00).

D. Notwithstanding the provisions of subsection C of this section, if the permit holder has held the permit for at least four (4) years and is not delinquent in the payment of mixed beverage taxes, the Tax Commission shall not require any increase in the bond so long as the permit holder remains current in the payment of such taxes.

E. Any bond or other security shall be such as will protect this state against failure of the taxpayer or licensee to pay the tax levied by Section 576 of this title. The forfeiture or cancellation of such bond or security, for any reason whatsoever, shall automatically revoke the mixed beverage tax permit issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act.

37-579. Monthly reports of receipts—Calculation of gross receipts tax—Delinquent taxes—Other reports—Failure to file report

A. Every mixed beverage tax permit holder, or any person transacting business subject to the gross receipts tax levied by Section 576 of this title, shall file with the Oklahoma Tax Commission a monthly report for each place or location of business, on or before the twentieth day of the month immediately following the month of receipt. The reports shall be made under oath, on forms prescribed by the Tax Commission, which shall include the following information:

1. Name of mixed beverage tax permit holder;
2. Mixed beverage tax permit number;
3. Sales tax permit number;
4. Mixed beverage, caterer, public event or special event license number;
5. Gross receipts for the month for the sale, preparation or service of mixed beverages, ice and nonalcoholic beverages mixed with alcoholic beverages;
6. Gross receipts for the month from charges for the privilege of admission to a mixed beverage establishment which entitle a person to complimentary mixed beverages or discounted prices for mixed beverages;
7. Total retail value of complimentary or discounted alcoholic beverages served for the month; and
8. Such other information as may be required by the Tax Commission to enable it to collect taxes imposed as provided by law.

B. The gross receipts tax levied by Section 576 of this title shall be calculated by multiplying the tax rate, thirteen and one-half percent (13.5%), and the total gross receipts

for each month from the sale, preparation or service of mixed beverages, ice and nonalcoholic beverages mixed with alcoholic beverages, the total gross receipts of charges received for admission to mixed beverage establishments as provided in paragraph 6 of subsection A of this section, and the total retail value of complimentary or discounted mixed beverages. Gross receipts from the sale of food prepared with alcoholic beverages shall not be included in the calculation of the monthly tax liability. The tax due for the preceding month shall accompany the report required in subsection A of this section. All taxes, penalties and interest imposed by Section 501 et seq. of this title may be paid in the form of electronic funds transfer or by a personal or company check, cashier's check, certified check or postal money order payable to the Tax Commission.

C. If the gross receipts tax levied pursuant to the provisions of Section 576 of this title is not paid on or before the twentieth day of each month, the tax shall be delinquent and interest and penalty shall accrue on and from the twenty-first day of each month, pursuant to the provisions of the Uniform Tax Procedure Code.

D. Every licensed wholesaler of alcoholic beverages in this state shall file with the Tax Commission a monthly report, under oath, on forms prescribed by the Tax Commission, which shall include the name, location and mixed beverage tax permit number of each mixed beverage, caterer, public event or special event licensee to whom the licensed wholesaler sold alcoholic beverages during the report month.

E. If the report required by subsection A of this section is not filed with the Tax Commission on or before the twentieth day of the month, the Tax Commission may assess an additional penalty of Five Dollars (\$5.00) for each day thereafter that the report is not filed pursuant to the provisions of this section. The Tax Commission may waive the penalty assessed pursuant to the provisions of the Uniform Tax Procedure Code; provided, however, the additional penalty, if assessed, shall not exceed an amount equal to twice the amount of tax due for the period for which such report was required to be filed, or the sum of Three Hundred Dollars (\$300.00), whichever is greater.

F. Taxes paid as provided by law represented by accounts receivable which are found to be worthless or uncollectable may be credited upon subsequent reports and remittances of such tax, in accordance with rules promulgated by the Tax Commission. If such accounts are thereafter collected, the same shall be reported and the tax shall be paid upon the amount so collected.

G. In addition to any other authority granted by law, the Tax Commission is hereby authorized to audit any mixed beverage, beer and wine, caterer, public event or special event licensee to determine if the correct amount of tax payable under Section 576 of this title has been collected; provided, if such an audit reveals that the amount collected is within the following percentages of the amount of tax payable, the taxpayer shall be deemed to be in compliance:

1. For spirits, eighty-four percent (84%) to one hundred sixteen percent (116%);
2. For wine, ninety percent (90%) to one hundred ten percent (110%);
3. For beer sold at draft and not in original packages, eighty-six percent (86%) to one hundred fourteen percent (114%); and
4. For beer sold in original packages, ninety-five percent (95%) to one hundred five percent (105%).

37-580. Remuneration for establishing and maintaining records

The mixed beverage tax permit holder or taxpayer may retain one percent (1%) of the tax due and timely reported and paid, in accordance with the provisions of Section 92 of this act, as remuneration for establishing and maintaining the records required by the Oklahoma Alcoholic Beverage Control Act. If such tax becomes delinquent, such taxpayer forfeits his claim to the one percent (1%) discount.

37-581. Repealed by Laws 2001, c. 78, § 12, eff. Nov. 1, 2001

37 581.1. Repealed by Laws 2001, c. 78, § 12, eff. Nov. 1, 2001

37-582. Containers of alcoholic beverages required to bear serially numbered identification stamp—Exemptions—Violations—Penalties

A. No mixed beverage, beer and wine, caterer, public event or special event licensee nor any officer, agent or employee of such licensee may possess or permit to be possessed on the premises, for which such license was issued, any container of an alcoholic beverage which is not listed on an invoice from the wholesaler from whom the alcoholic beverage was purchased, unless otherwise permitted by statute.

B. All containers of alcoholic beverages which are on the premises of a mixed beverage, beer and wine, caterer, public event or special event licensee and which are not listed on an invoice from the wholesaler pursuant to the provisions of this section are declared contraband. Any duly authorized officer or employee of the ABLE Commission or the Oklahoma Tax Commission is authorized to seize such containers or cases and such seized containers or cases shall be subject to confiscation and forfeiture pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act.

C. Any holder of a wholesaler, mixed beverage, beer and wine, caterer, public event or special event license who violates the provisions of this section shall, upon conviction, be guilty of a misdemeanor and shall be subject to revocation or suspension of such license issued by the ABLE Commission pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act.

37-583. Repealed by Laws 2001, c. 78, § 12, eff. Nov. 1, 2001

37-584. Refilling container with certain substances prohibited

No holder of a mixed beverage, beer and wine, caterer, special event, public event or airline/railroad beverage license shall refill with any substance a container which contained any alcoholic beverage on which the tax levied by Section 553 of this title has been paid.

37-585. Repealed by Laws 2001, c. 78, § 12, eff. Nov. 1, 2001

37-586. Rules and regulations for collection of gross receipts taxes

The Oklahoma Tax Commission shall promulgate rules as may be necessary to facilitate the uniform and orderly collection of the taxes levied pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act.

37-587. Repealed by Laws 2001, c. 78, § 12, eff. Nov. 1, 2001

37-588. Private clubs currently operating under municipal license—Interim licenses

Any establishment which, upon the effective date of this act, is operating as a private club pursuant to a permit or license issued by a municipality may continue to operate pursuant to such permit or license until July 1, 1985.

Until September 1, 1985, the ABLE Commission shall be authorized to issue interim licenses to applicants for mixed beverage, caterer, bottle club, and airline/railroad beverage licenses, prior to issuance of permanent licenses. The issuance of interim licenses may take place before all the procedures required by the Oklahoma Alcoholic Beverage Control Act for such licensing are completed.

To obtain an interim license an applicant shall file an application for a license authorized by this section with the ABLE Commission and shall furnish all other information required by the Oklahoma Alcoholic Beverage Control Act and rules and regulations promulgated by the ABLE Commission, except that, if certificates of zoning or compliance with fire, safety, or health codes, required pursuant to Section 523 of this title, have not been issued by the applicable municipality or county, proof of application for said certificates shall be sufficient for issuance of the interim license. The certificates shall be furnished to the ABLE Commission prior to issuance of a permanent license. The interim license shall remain valid until final action either issuing a license or denying the application for a license is taken by the ABLE Commission on the application for a license, on which date the interim license shall expire.

37-590. Counties—Sale of alcoholic beverages by individual drink—Elections

Sale of alcoholic beverages by the individual drink for on-premises consumption shall be unlawful in any county of this state unless said sale has been approved by a majority of the registered voters of the county voting thereon at a Special Election called by the board of county commissioners. Such election shall be called by the board of county commissioners upon receipt of a petition signed by registered voters constituting not less than fifteen percent (15%) of the total votes cast in the county in the last General Election for the office of Governor, or such election may be called by the board of county commissioners upon its own motion. At the time such election is called, the proposition shall include those days or portions of days, if any, on which sales of alcoholic beverages by the individual drink are not authorized. If the proposition is the result of a motion of the board of county commissioners then the board shall designate the days or portions of days, if any, on which the sales of alcoholic beverages are not authorized. If the proposition is the result of a petition, such petition shall specify days or portions of days, if any, on which the sales of alcoholic beverages are not authorized.

If, at the Special Election, the proposition to authorize the sale of alcoholic beverages by the individual drink for on-premises consumption fails to be approved by the registered voters of the county, the county shall not hold another election on whether or not to approve such sales, for at least two (2) years from the date the proposition failed to be approved.

37-591. Mixed beverage or beer and wine licensee—Limitation on hours to sell,

dispense, serve or consume alcoholic beverages—Counties may prohibit sales of individual drinks on certain days

A. No alcoholic beverages may be sold, dispensed, served or consumed on the premises of a mixed beverage, caterer, public event, charitable event, special event or beer and wine licensee between the hours of 2:00 a.m. and 10:00 a.m.

B. Counties that elect to authorize sales of alcoholic beverages by the individual drink may designate any or all of the following days as days or portions thereof on which the sales of alcoholic beverages are not authorized:

1. On the first day of the week, commonly called Sunday;
2. On the day of any national, state, county or city election, including primary elections, during the hours the polls are open; and
3. On Decoration or Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

C. Counties that elect to authorize sales of alcoholic beverages by the individual drink shall not prohibit such sales on the day of any national, state, county or city election, including primary elections, provided that the election day does not occur on any day on which such sales may otherwise be prohibited by any other law.

37-592. Bottle Clubs—Hours during which alcoholic beverages may not be dispensed, served or consumed on premises

No alcoholic beverages may be dispensed, served or consumed on the premise of a bottle club licensee between the hours of 2:00 a.m. and 10:00 a.m.

37-593. Bottle club membership cards—Privileges of bottle club license—Nonalcoholic beverages—Violations and penalties—License fees—Counties where retail sale of individual drink not authorized

A. No person shall be allowed to enter or remain in the designated bar or lounge area of a bottle club unless that person possesses a valid membership card for that club issued by the club.

Membership cards issued by a bottle club shall be purchased by the club from the Alcoholic Beverage Laws Enforcement Commission at a cost of Three Dollars (\$3.00) per temporary membership card and Twenty-five Dollars (\$25.00) per annual membership card. A temporary membership card shall be valid for a period of seventy-two (72) consecutive hours from issuance to the member. The date of issuance of a temporary membership shall be clearly and prominently marked upon the card. When the card is issued to a member by the club, the club may require said members to reimburse the club for the cost of the card. No membership card shall be issued to any person under twenty-one (21) years of age.

The ABLE Commission shall have the authority to promulgate rules and regulations concerning bottle club membership cards.

B. A bottle club license authorizes alcoholic beverages belonging to members of the club to be:

1. Stored, possessed and mixed on club premises; and
2. Served for on-premises consumption to members. Each member shall be served only from the member's individually owned bottle of alcoholic beverage which

shall be marked with the owner's full name or code number. Such numbers shall be maintained on the club premises, available for inspection by agents of the ABLE Commission or by any other peace officer.

Pool systems of storage and purchase of alcoholic beverages in a bottle club are specifically prohibited.

C. The sale, preparation or service of ice or nonalcoholic beverages that are sold, prepared or served for the purpose of being mixed with alcoholic beverages for consumption on the premises where such sale, preparation or service occurs shall be subject to the sales tax levied by the Oklahoma Sales Tax Code and to any municipal or county sales taxes.

D. Any bottle club licensee, or employee or agent of said licensee who sells to a member any alcoholic beverage shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of One Thousand Dollars (\$1,000.00) and the club license shall be revoked for a period of thirty (30) days. Any bottle club licensee, or employee or agent of said licensee who delivers or furnishes to a member any alcoholic beverage that does not belong to said member shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00) and the club license shall be revoked for a period of thirty (30) days. Any bottle club licensee, or employee or agent of said licensee who permits any person who is not a member to enter and remain in the designated bar or lounge area of the club premises shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of One Thousand Dollars (\$1,000.00) and the bottle club license shall be suspended for a period of thirty (30) days. No bottle club licensee, or employee or agent of said licensee shall serve alcoholic beverages to any person that does not possess a valid membership card for that club issued by the club.

E. Any bottle club licensed under the provisions of the Oklahoma Alcoholic Beverage Control Act shall pay the license fee provided by law and obtain a separate license for each separate place of business.

F. In counties of this state where retail sale of alcoholic beverages by the individual drink has not been authorized no person shall serve alcoholic beverages by the individual drink for on-premises consumption or permit the consumption of alcoholic beverages except in a bottle club licensed pursuant to this section or in a private residence, provided, that this shall not prohibit a winery from serving visitors on the licensed premises free samples of wine produced on the premises. No member of a bottle club shall serve alcoholic beverages lawfully prepared for said member in the designated bar or lounge area of a bottle club to any person who does not possess a valid membership card for the bottle club.

37-594. Caterer license

A. 1. A caterer license may be issued to any person for the purpose of sale, delivery or distribution of alcoholic beverages incidental to the sale or distribution of food on a premises not licensed by the ABLE Commission. For purposes of this section, "incidental to the sale or distribution of food" means food sales constituting at least thirty-five percent (35%) of the caterer's total combined annual sales. A caterer license shall not be issued to

a person whose main purpose is the sale of alcoholic beverages or low-point beer.

2. A caterer license may only be issued to those persons that prepare, sell and distribute food for consumption either on a licensed or unlicensed premises. In order to renew a caterer license, annual food sales must constitute at least thirty-five percent (35%) of the caterer's total combined sales based on the most recent calendar year. A caterer shall not be required to prepare, sell and distribute food at every catered event as long as the caterer satisfies the requirement set forth in this section.

3. Each caterer shall submit an annual sales report containing revenue attributable to alcoholic beverages, food, low-point beer, and all other revenues attributable to the catering service. For purposes of this section, low-point beer shall be counted separately, and it shall not be counted either as food or an alcoholic beverage. The annual sales report must be submitted thirty (30) days prior to expiration of the caterer license on forms prescribed by the ABLE Commission. The caterer license may not be renewed if the caterer fails to provide complete or sufficient financial data.

4. Each caterer shall submit a monthly event report containing information on all events scheduled for the subsequent month. If an event is scheduled after the first day of the month for an event to occur in the same month, then the caterer shall report that event within twenty-four (24) hours of scheduling the event or within twenty-four (24) hours prior to the event, whichever occurs first. The monthly event report shall be submitted on the first day of each month.

5. All reports shall be submitted electronically on forms prescribed by the ABLE Commission. Provided, if the caterer does not have access to the Internet, then monthly reports must be submitted by facsimile to the ABLE Commission's office in Oklahoma City, in which case the caterer must retain a copy of the facsimile confirmation sheet for at least twelve (12) months.

6. Any caterer who fails to submit a monthly report shall have the caterer license automatically suspended until such time that the caterer has fully complied with all reporting requirements. Any caterer whose annual food sales do not exceed thirty-five percent (35%) of his or her total annual combined sales shall not have the caterer's license renewed.

B. The ABLE Commission shall adopt rules governing the application for and the issuance of caterer licenses.

C. The restrictions and regulations which apply to the sale of mixed beverages on the premises of a mixed beverage licensee also apply to the sale under the authority of a caterer license. Any act which if done on the premises of a mixed beverage licensee would be a ground for revocation or suspension of the mixed beverage license is a ground for revocation or suspension of a caterer license.

D. If the premises, where the event being catered is held, are already operating pursuant to another type of license issued by the ABLE Commission, the caterer and other said licensee shall both be responsible for the actions of the caterer and shall both be subject to penalties for violations, by the caterer, of the Oklahoma Alcoholic Beverage Control Act and any rules promulgated thereto.

E. A caterer licensee may not store alcoholic beverages unless said licensee has a storage license issued by the ABLE Commission.

F. A caterer may provide alcoholic beverage sales on the premises of a person currently

applying for a mixed beverage license, provided the following terms have been satisfied:

1. The caterer shall take reasonable steps to ensure that the mixed beverage applicant uses only licensed employees to perform licensable activities while using the caterer's license. The caterer shall use his or her best efforts to attempt to have a licensed employee on-site supervising the sale of such caterer's alcoholic beverages at all times, but the caterer shall not be disciplined for failing to have a licensed employee on-site. The caterer expressly acknowledges that he or she is liable for all violations of ABLE Commission statutes and rules that are committed by the mixed beverage applicant and its employees during this period;

2. The caterer and mixed beverage applicant must submit to the ABLE Commission a written agreement setting forth all the terms of the catering agreement at least twenty-four (24) hours prior to the commencement of the catered event; and

3. The caterer may not provide alcoholic beverage sales on the unlicensed premises of the mixed beverage applicant for more than sixty (60) days, or after the applicant's license has been denied, whichever occurs first.

G. A caterer may provide alcoholic beverage services for temporary public events which have been licensed and approved by the ABLE Commission.

H. A caterer may provide alcoholic beverage services for a mixed beverage licensee which holds a live performing arts presentation and is open to the public not more than one hundred twenty (120) days per year.

37-594.1. Hotel beverage license—Mini-bars

A. A hotel beverage license may be issued to a hotel or motel as defined by Section 506 of Title 37 of the Oklahoma Statutes which is also the holder of a mixed beverage license. Provided, that application may be made simultaneously for both such licenses.

B. The Alcoholic Beverage Laws Enforcement Commission shall adopt rules and regulations governing the application for and the issuance of hotel beverage licenses.

C. Notwithstanding any other provision of this act, a hotel may sell alcoholic beverages to its registered guests by means of a mini-bar located in the guestrooms of those registered guests provided that:

1. Access to any mini-bar shall only be by a key, magnetic card or similar device;

2. Access to a mini-bar in a particular guestroom is provided, whether by furnishing a key, magnetic card or similar device only to a registered guest over twenty-one (21) years of age registered to stay in the guestroom;

3. The licensee shall verify that each registered guest to whom a key, magnetic card or similar device to access a mini-bar is to be provided is over twenty-one (21) years of age; and

4. All employees handling the alcoholic beverages to be placed in the mini-bar possess an employee license issued by the ABLE Commission.

37-595. Special event license

A. A special event license may be issued to an organization, association or nonprofit corporation organized for political, fraternal, charitable, religious or social purposes. The holder of a special event license is authorized to sell and distribute alcoholic beverage on

the premises for which the license is issued.

B. The Alcoholic Beverage Laws Enforcement Commission shall adopt rules and regulations governing the application for and the issuance of special event licenses.

C. The restrictions and regulations which apply to the sale of mixed beverages on the premises of a mixed beverage licensee also apply to the sale of such beverages under the authority of a special event license. Any act which if done on the premises of a mixed beverage licensee would be a ground for revocation or suspension of the mixed beverage license is a ground for revocation or suspension of a special event license.

D. No special event license may be issued for any premises already licensed by the ABLE Commission.

E. No special event license shall be required for an organization, association or nonprofit corporation which is an economic development chamber or similar entity, provided the event is not conducted primarily for fundraising purposes, and provided the services of a license caterer are used to provide and distribute the alcohol beverages at the event.

37-596. Mixed beverage, bottle club, beer and wine, caterer or special event licensee—Responsibility for violations

Each bottle club or mixed beverage, beer and wine, caterer, public event, charitable event or special event licensee shall be held responsible for violation of any alcoholic beverage law or administrative rule of the Alcoholic Beverage Laws Enforcement Commission affecting his or her license privileges and for any act or omission of his or her servant, agent, employee or representative in violation of any law, municipal ordinance or administrative rule affecting his or her license privileges.

37-597. Airline/railroad beverage license

An airline/railroad beverage license may be issued to any corporation operating a commercial airline or railroad in or through this state. Application and payment of the license fee shall be made directly to the Alcoholic Beverage Laws Enforcement Commission.

37-598. Persons under 21 years of age not to be admitted to certain lounge or bar areas

A. 1. If the premises of a licensee of the Alcoholic Beverage Laws Enforcement Commission contains a separate or enclosed lounge or bar area, which has as its main purpose the sale or distribution; of alcoholic beverages for on-premises consumption, notwithstanding that as an incidental service, meals or short order foods are made available therein, no person under twenty-one (21) years of age shall be admitted to such area, except for members of a musical band employed or hired as provided in paragraph 2 of subsection B of Section 537 of this title when the band is to perform within such area, or persons under twenty-one (21) years of age who are on the licensed premises for the limited purpose of performing maintenance, construction, remodeling, painting or other similar services relating to the building or equipment installation, repair or maintenance on the premises during those hours when the licensed establishment is closed for business. The provisions of this section shall not prohibit persons under twenty-one (21) years of age from being

admitted to an area which has as its main purpose some objective other than the sale or mixing or serving of said beverages, in which sales or serving of said beverages are incidental to the main purpose, as long as the persons under twenty-one (21) years of age are not sold or served alcoholic beverages. The incidental service of food in the bar area shall not exempt a licensee from the provisions of this section. The ABLE Commission shall have the authority to designate the portions of the premises of a licensee where persons under twenty-one (21) years of age shall not be admitted pursuant to this section. When determining a licensee's main purpose, low-point beer sales shall be counted separately, and it shall not be considered a food or an alcoholic beverage.

2. A new licensee that claims as its main purpose some objective other than the sale of alcoholic beverages may be granted a separate or enclosed lounge or bar area for a period of ninety (90) days. At the end of that ninety-day period, the licensee shall have the burden of showing that the business continues to qualify for a separate or enclosed bar area. If the licensee fails to satisfy this burden, then that licensee's main purpose shall automatically convert to the sale of alcoholic beverages.

B. Except as otherwise provided, an admission charge shall not be considered in any calculation designed to determine the main purpose of an establishment pursuant to subsection A of this section. As used in this section, "admission charge" means any form of consideration received by an establishment from a person in order for that person to gain entrance into the establishment.

C. The provisions of subsection B of this section shall not apply:

1. If only persons eighteen (18) years of age or older are permitted to enter the licensed premises; provided however, if the licensee is claiming an exception from the requirements of subsection B of this section pursuant to this paragraph and fails to restrict the entry by persons under age eighteen (18) into the licensed premises, the ABLE Commission shall designate that only persons twenty-one (21) years of age or older are allowed on the licensed premises;

2. If the licensed premises are owned or operated by a service organization or fraternal establishment which is exempt under Section 501(c)(19), (8), or (10) of the Internal Revenue Code; or

3. To a public event held in a facility owned or operated by any agency, political subdivision or public trust of this state.

D. The ABLE Commission shall promulgate rules necessary to implement the provisions of this section.

37-599. Additional hours license

The Alcoholic Beverage Laws Enforcement Commission may issue an additional hours license to the holder of a caterer, public event or special event license. The additional hours license shall authorize the holder thereof to sell, dispense or serve alcoholic beverages from 6:00 a.m. to 10:00 a.m.

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