

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 59th Legislature (2023)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2354

 By: Echols

7
8 COMMITTEE SUBSTITUTE

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

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

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

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

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

- 24 1. "ABLE Commission" or "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

1 accordance with Acts of Congress and regulations promulgated
2 thereunder;

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

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

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

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

20 7. "Beer distributor" means and includes any person licensed to
21 distribute beer for retail sale in the state, but does not include a
22 holder of a small brewer self-distribution license or brewpub self-
23 distribution license. The term "distributor", as used in the
24

1 Oklahoma Alcoholic Beverage Control Act, shall be construed to refer
2 to a beer distributor;

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

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

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

15 11. "Brand extension" means:

16 a. after October 1, 2018, any brand of beer or cider
17 introduced by a manufacturer in this state which
18 either:

19 (1) incorporates all or a substantial part of the
20 unique features of a preexisting brand of the
21 same licensed brewer, or

22 (2) relies to a significant extent on the goodwill
23 associated with the preexisting brand, or
24

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

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

11 (2) relies or relied to a significant extent on the
12 goodwill associated with a preexisting low-point
13 beer brand;

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

18 13. "Brewpub" means a licensed establishment operated on the
19 premises of, or on premises located contiguous to, a small brewer,
20 that prepares and serves food and beverages, including alcoholic
21 beverages, for on-premises consumption;

22 14. "Cider" means any alcoholic beverage obtained by the
23 alcoholic fermentation of fruit juice, including but not limited to
24 flavored, sparkling or carbonated cider. For the purposes of the

1 manufacture of this product, cider may be manufactured by either
2 manufacturers or brewers. For the purposes of the distribution of
3 this product, cider may be distributed by either wine and spirits
4 wholesalers or beer distributors;

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

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

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

24

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

4 19. "Designated wholesaler" means a wine and spirits wholesaler
5 who has been selected by a manufacturer as a wholesaler appointed to
6 distribute designated products;

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

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

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

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

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

24

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

4 b. as strong beer pursuant to the Alcoholic Beverage
5 Control Act in effect immediately prior to October 1,
6 2018,

7 and continues to be sold and distributed as such on October 1, 2018.

8 Dual-strength beer does not include a brand of beer that arose as a
9 result of a brand extension as defined in this section;

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

16 26. "Good cause" means:

17 a. failure by the distributor to comply with the material
18 and reasonable provisions of a written agreement or
19 understanding with the brewer, or

20 b. failure by the distributor to comply with the duty of
21 good faith;

22 27. "Good faith" means the duty of each party to any
23 distributor agreement and all officers, employees or agents thereof
24

1 to act with honesty in fact and within reasonable standards of fair
2 dealing in the trade;

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

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

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

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

24

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 45. "Package store" means any sole proprietor or partnership
12 that qualifies to sell wine, beer and/or spirits for off-premises
13 consumption and that is not a grocery store, convenience store or
14 drug store, or other retail outlet that is not permitted to sell
15 wine or beer for off-premises consumption;

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

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

22 48. "Premises" means the grounds and all buildings and
23 appurtenances pertaining to the grounds including any adjacent
24 premises if under the direct or indirect control of the licensee and

1 the rooms and equipment under the control of the licensee and used
2 in connection with or in furtherance of the business covered by a
3 license. Provided that the ABLE Commission shall have the authority
4 to designate areas to be excluded from the licensed premises solely
5 for the purpose of:

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

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

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

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

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

22 51. "Rectifier" means any person who rectifies, purifies or
23 refines spirits or wines by any process (other than by original and
24 continuous distillation, or original and continuous processing, from

1 mash, wort, wash or other substance, through continuous closed
2 vessels and pipes, until the production thereof is complete), and
3 any person who, without rectifying, purifying or refining spirits,
4 shall by mixing (except for immediate consumption on the premises
5 where mixed) such spirits, wine or other liquor with any material,
6 manufactures any spurious, imitation or compound liquors for sale,
7 under the name of whiskey, brandy, rum, gin, wine, spirits, cordials
8 or any other name;

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

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

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

18 55. "Retailer" means a package store, grocery store,
19 convenience store or drug store licensed to sell alcoholic beverages
20 for off-premises consumption pursuant to a Grocery Retail Spirits
21 License, Retail Spirits License, Retail Wine License or Retail Beer
22 License;

23 56. "Sale" means any transfer, exchange or barter in any manner
24 or by any means whatsoever, and includes and means all sales made by

1 any person, whether as principal, proprietor or as an agent, servant
2 or employee. The term "sale" is also declared to be and include the
3 use or consumption in this state of any alcoholic beverage obtained
4 within or imported from without this state, upon which the excise
5 tax levied by the Oklahoma Alcoholic Beverage Control Act has not
6 been paid or exempted;

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

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

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

17 60. "Small farm winery" means a wine-making establishment that
18 does not annually produce for sale more than fifteen thousand
19 (15,000) gallons of wine as reported on the United States Department
20 of the Treasury, Alcohol and Tobacco Tax and Trade Bureau, Report of
21 Wine Premises Operations (TTB Form 5120.17);

22 61. "Sparkling wine" means champagne or any artificially
23 carbonated wine;

24

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

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

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

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

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

19 67. "Territory" means a geographic region with a specified
20 boundary;

21 68. "Wine and spirits wholesaler" or "wine and spirits
22 distributor" means and includes any sole proprietorship or
23 partnership licensed to distribute wine and spirits in the state.
24 The term "wholesaler", as used in the Oklahoma Alcoholic Beverage

1 Control Act, shall be construed to refer to a wine and spirits
2 wholesaler;

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

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

13 71. "Satellite tasting room" means a licensed establishment
14 operated off the licensed premises of the holder of a small farm
15 winery or winemaker license, which serves wine for on-premises or
16 off-premises consumption.

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

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

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

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

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

1	22.	Employee License.....	\$30.00
2	23.	Industrial License.....	\$23.00
3	24.	Carrier License.....	\$23.00
4	25.	Private Carrier License.....	\$23.00
5	26.	Bonded Warehouse License.....	\$190.00
6	27.	Storage License.....	\$23.00
7	28.	Nonresident Seller License	\$750.00
8	29.	Manufacturer License:	
9	a.	50 cases or less sold in Oklahoma in	
10		last calendar year.....	\$50.00
11	b.	51 to 500 cases sold in Oklahoma in	
12		last calendar year.....	\$75.00
13	c.	501 cases or more sold in Oklahoma in	
14		last calendar year.....	\$150.00
15	30.	Manufacturer's Agent License.....	\$55.00
16	31.	Sacramental Wine Supplier License.....	\$100.00
17	32.	Charitable Auction License.....	\$1.00
18	33.	Charitable Alcoholic Beverage License.....	\$55.00
19	34.	Winemaker Self-Distribution License.....	\$750.00
20	35.	Annual Public Event License.....	\$1,005.00
21	36.	One-Time Public Event License.....	\$255.00
22	37.	Small Brewer Self-Distribution License.....	\$750.00
23	38.	Brewpub License.....	\$1,005.00
24	39.	Brewpub Self-Distribution License.....	\$750.00

1 40. Complimentary Beverage License..... \$75.00

2 41. Satellite Tasting Room License..... \$100.00

3 42. The following Grocery Retail Spirits License

4 fees shall be determined by the latest

5 Federal Decennial Census:

6 a. Grocery Retail Spirits License for cities and towns
7 from 200 to 2,500 population.....\$305.00

8 b. Grocery Retail Spirits License for cities and towns
9 from 2,501 to 5,000 population.....\$605.00

10 c. Grocery Retail Spirits License for cities and towns
11 over 5,000 population.....\$905.00

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

21 2. There shall be added to the fee for a Mixed Beverage/Caterer
22 Combination License an administrative fee, which shall not be deemed
23 to be a license fee, in the amount of Two Hundred Fifty Dollars
24 (\$250.00), which shall be paid at the same time and in the same

1 manner as the license fee prescribed by paragraph 13 of subsection A
2 of this section.

3 C. Notwithstanding the provisions of subsection A of this
4 section:

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

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

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

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

19 F. The holder of a license, issued by the ABLE Commission, for
20 a bottle club located in a county of this state where the sale of
21 alcoholic beverages by the individual drink for on-premises
22 consumption has been authorized, may exchange the bottle club
23 license for a mixed beverage license or an on-premises beer and wine
24 license and operate the licensed premises as a mixed beverage

1 establishment or an on-premises beer and wine establishment subject
2 to the provisions of the Oklahoma Alcoholic Beverage Control Act.
3 There shall be no additional fee for such exchange and the mixed
4 beverage license or on-premises beer and wine license issued shall
5 expire one (1) year from the date of issuance of the original bottle
6 club license.

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

- 9 1. Nonresident Seller License..... \$2,500.00
- 10 2. Manufacturer License:
 - 11 a. 50 cases or less sold in Oklahoma in
 - 12 last calendar year..... \$100.00
 - 13 b. 51 to 500 cases sold in Oklahoma in
 - 14 last calendar year..... \$225.00
 - 15 c. 501 cases or more sold in Oklahoma in
 - 16 last calendar year..... \$450.00
- 17 3. Wine and Spirits Wholesaler License..... \$2,500.00
- 18 4. Beer Distributor..... \$1,000.00
- 19 5. Retail Spirits License for cities and towns
- 20 over 5,000 population..... \$250.00
- 21 6. Retail Spirits License for cities and towns
- 22 from 2,501 to 5,000 population..... \$200.00
- 23 7. Retail Spirits License for cities and towns
- 24 from 200 to 2,500 population..... \$150.00

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

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

22 H. Any license issued by the ABLE Commission under this title
 23 may be relied upon by other licensees as a valid license, and no
 24 other licensee shall have any obligation to independently determine

1 the validity of such license or be held liable solely as a
2 consequence of another licensee's failure to maintain a valid
3 license.

4 SECTION 3. AMENDATORY 37A O.S. 2021, Section 2-102, is
5 amended to read as follows:

6 Section 2-102. A. A brewer license shall authorize the holder
7 thereof:

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

10 2. To sell beer and cider in this state to holders of beer
11 distributor licenses and to sell beer and cider out of this state to
12 qualified persons.

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

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

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

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

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

24

1 5. To sell beer at public events such as trade shows or
2 festivals;

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

5 7. To sell, offer for sale and possess wine for on-premises
6 consumption.

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

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

14 E. For purposes of this section, no visitor may sample more
15 than a total of twelve (12) fluid ounces of beer per day. The
16 brewer must restrict the distribution and consumption of beer
17 samples to an area within the licensed premises designated by the
18 brewer. A current floor plan that includes the designated sampling
19 area must be on file with the ABLE Commission. No visitor under
20 twenty-one (21) years of age shall be permitted to enter this
21 designated sampling area when samples are being distributed or
22 consumed. Samples of beer served by a brewery under this section
23 shall not be considered a sale of beer within the meaning of Article
24 XXVIII-A of the Oklahoma Constitution or Section 1-103 of this

1 title; however, such samples of beer shall be considered beer
2 removed or withdrawn from the brewery for use or consumption within
3 the meaning of Section 5-110 of this title for excise tax
4 determination and reporting requirements. Sales and sampling may
5 only occur between the hours of 10:00 a.m. and 2:00 a.m.

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

21 G. All manufacturer's licenses held by brewers during the first
22 calendar year beginning October 1, 2018, shall automatically convert
23 to brewer licenses and be deemed effective as of the date of the
24 first issuance of the manufacturer's license. Upon the first

1 renewal of the license, the brewer will need to obtain the
2 appropriate brewer's license. If a brewer elects to market wine and
3 spirits, the brewer will also be required to obtain a manufacturer's
4 license and comply with the rules and regulations for both licenses.

5 SECTION 4. AMENDATORY 37A O.S. 2021, Section 2-102.1, is
6 amended to read as follows:

7 Section 2-102.1 A. A charitable collaboration brewer license
8 shall authorize the collaborating licensed brewers and holders
9 thereof:

10 1. To formulate, manufacture, bottle, package and store the
11 charitable collaboration beer, or any part thereof, on the licensed
12 premises;

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

15 3. To sell the charitable collaboration beer out of this state
16 to qualified persons for the sole purpose of fundraising for the
17 stated charitable purposes;

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

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

24

1 6. To sell the charitable collaboration beer produced by the
2 collaborating licensee brewers for either on-premises or off-
3 premises consumption to consumers on the brewery premises, or on
4 premises located contiguous thereto;

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

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

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

15 C. For purposes of this section, no visitor may sample more
16 than a total of twelve (12) fluid ounces of the charitable
17 collaboration beer per day. The brewer must restrict the
18 distribution and consumption of charitable collaboration beer
19 samples to an area within the licensed premises designated by the
20 brewer. A current floor plan that includes the designated sampling
21 area must be on file with the ABLE Commission. No visitor under
22 twenty-one (21) years of age shall be permitted to enter this
23 designated sampling area when samples are being distributed or
24 consumed. Samples of the charitable collaboration beer served by a

1 collaborating brewery under this section shall not be considered a
2 sale of beer within the meaning of Article XXVIII-A of the Oklahoma
3 Constitution or Section 1-103 of ~~Title 37A of the Oklahoma Statutes~~
4 this title; however, such samples of the charitable collaboration
5 beer shall be considered beer removed or withdrawn from the brewery
6 for use or consumption within the meaning of Section 5-110 of ~~Title~~
7 ~~37A of the Oklahoma Statutes~~ this title for excise tax determination
8 and reporting requirements. Sales and sampling may only occur
9 between the hours of 10:00 a.m. and 2:00 a.m.

10 D. If a small brewer is a licensed charitable collaborating
11 brewer and such small brewer holds a self-distribution license, it
12 shall authorize the holder thereof to distribute the charitable
13 collaboration beer produced to a holder of a retail beer license,
14 grocery retail spirits license, retail spirits license, mixed
15 beverage license, beer and wine license, caterer's license, special
16 event license, public event license, charitable auction license or
17 brewpub license. If a small brewer has elected to distribute
18 through a distributor or self-distribute in a subject territory, for
19 purposes of the charitable collaboration brewer license such small
20 brewer and the other collaborating brewer may elect to do both
21 simultaneously in a subject territory upon notice to the ABLE
22 Commission.

23
24

1 E. The ABLE Commission shall promulgate rules, forms and fees
2 to implement and enforce the charitable collaboration brewer
3 license.

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

9 1. Whether the collaboration has a legitimate charitable
10 purpose in this state, another state or a national charitable
11 effort;

12 2. Whether the formula needs approval by any federal regulatory
13 authority;

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

19 4. The license standing of each licensed collaborating brewer
20 in this state, including, but not limited to, any required storage
21 licenses.

22 Upon consideration of the application facts and detailed plans
23 submitted by the collaborating brewers, the ABLE Commission shall
24 make its determination whether or not to issue the charitable

1 collaboration brewer license. Upon approval of a charitable
2 collaboration brewer license, such license shall be issued to both
3 licensed brewers for the development and manufacture of a charitable
4 collaboration beer offering. Each licensed brewer shall be required
5 to post the charitable collaboration brewer license at their
6 licensed premises and such license number shall be clearly affixed
7 to any alcohol products stored or transferred-in-bond between the
8 collaborating breweries. The charitable collaboration beer offering
9 shall require a private label approved by the ABLE Commission
10 according to the label requirements promulgated by the ABLE
11 Commission rules.

12 SECTION 5. AMENDATORY 37A O.S. 2021, Section 2-105, is
13 amended to read as follows:

14 Section 2-105. A. A winemaker self-distribution license shall
15 authorize a licensed winemaker within or without this state which is
16 permitted by Article XXVIII A of the Oklahoma Constitution and this
17 section:

18 1. To distribute its wine directly to grocery retail spirits,
19 retail spirits, retail wine and retail beer licensees, mixed
20 beverage licensees, beer and wine licensees, and restaurants in this
21 state; and

22 2. If such a winemaker elects to do so, to sell and deliver its
23 wines directly to licensed retail package stores, mixed beverage
24 licensees, beer and wine licensees, and restaurants in this state in

1 full case lots only, and in accordance with the provisions of the
2 Oklahoma Alcoholic Beverage Control Act and such rules as the ABLE
3 Commission shall promulgate.

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

10 1. Any such winemaker which elects to directly sell its wine to
11 package stores, mixed beverage licensees, beer and wine licensees,
12 and restaurants shall not also use a licensed wholesale distributor
13 as a means of distribution, and shall be required to sell its wines
14 to every package store, mixed beverage licensee, beer and wine
15 licensee, and restaurant licensee who desires to purchase the same,
16 on the same price basis and without discrimination;

17 2. If a winemaker or winery sells directly to a retail package
18 store, mixed beverage licensee, beer and wine licensee or
19 restaurant, the winemaker shall transport the wine from the
20 winemaker's winery to the premises where the wine is to be delivered
21 only in vehicles owned or leased by the winemaker and not by common
22 or private contract carrier and shall obtain all necessary permits
23 as required by the Oklahoma Alcoholic Beverage Control Act; and
24

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

6 SECTION 6. AMENDATORY 37A O.S. 2021, Section 2-109, is
7 amended to read as follows:

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

10 1. To purchase wine or spirits from a wine and spirits
11 wholesaler;

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

14 3. To sell same on the license premise in such containers to
15 consumer for off-premises consumption only and not for resale;
16 provided, spirits, wine and beer may be sold to charitable
17 organizations that are holders of charitable alcoholic beverage
18 auction or charitable alcoholic beverage event licenses; and

19 4. To host alcoholic beverage tastings consistent with
20 subsections E and F of this section.

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

22 1. To purchase wine or spirits from a wine and spirits
23 wholesaler;

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

3 3. To sell same on the licensed premises in such containers to
4 consumers for off-premises consumption only and not for resale;
5 provided, spirits, wine and beer may be sold to charitable
6 organizations that are holders of charitable alcoholic beverage
7 auction or charitable alcoholic beverage event licenses; and

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

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

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

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

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

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

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

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

- 1 1. To purchase beer from a beer distributor;
- 2 2. To purchase beer from the holder of a small brewer self-
- 3 distribution license;
- 4 3. To sell same on the licensed premises in such containers to
- 5 consumers for off-premises consumption only and not for resale;
- 6 provided, beer may be sold to charitable organizations that are
- 7 holders of charitable alcoholic beverage auction or charitable
- 8 alcoholic beverage event licenses; and
- 9 4. To host alcoholic beverage tastings consistent with
- 10 subsections ~~D~~ E and ~~E~~ F of this section.

11 Provided, no holder of a retail beer license may sell a malt
12 beverage with alcohol beverage volume in excess of fifteen percent
13 (15%).

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

- 15 1. Be conducted under the direct supervision of the licensee
- 16 authorized to host the tasting;
- 17 2. Be poured by any ABLE Commission licensee lawfully permitted
- 18 to serve alcoholic beverages, provided no wine or spirits
- 19 wholesaler, beer distributor or employee of a wine or spirits
- 20 wholesaler or beer distributor shall be allowed to pour samples for
- 21 tastings;
- 22 3. Use alcoholic beverages purchased by the licensee authorized
- 23 to host the tastings from a licensed wine and spirits wholesaler,
- 24 beer distributor, self-distributor, small brewer or self-

1 distributing winery authorized to sell the same, and the licensee
2 shall pay the applicable taxes on the alcoholic beverages purchased;
3 provided, the licensee may only provide samples of alcoholic
4 beverages that its license is authorized to sell;

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

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

10 6. Be consumed on the licensed premises of the licensee
11 authorized to host the tastings or at a location other than the
12 licensed premises, provided no samples served on the licensed
13 premises shall be permitted to be removed from the licensed
14 premises.

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

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

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

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

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

1 SECTION 7. AMENDATORY 37A O.S. 2021, Section 2-121, as
2 amended by Section 1, Chapter 81, O.S.L. 2022 (37A O.S. Supp. 2022,
3 Section 2-121), is amended to read as follows:

4 Section 2-121. A. An employee license shall authorize the
5 holder thereof to work in a licensed package store, grocery retail
6 spirits, retail spirits, retail wine or retail beer establishment,
7 brewpub, mixed beverage establishment, beer and wine establishment,
8 bottle club, public event or any establishment where alcohol or
9 alcoholic beverages are sold, mixed or served. Persons employed by
10 a mixed beverage, on-premises beer and wine, retail wine, retail
11 beer, public event or a bottle club licensee who do not participate
12 in the service, mixing or sale of mixed beverages shall not be
13 required to have an employee license. Provided, however, that a
14 manager employed by a mixed beverage licensee, public event licensee
15 or a bottle club shall be required to have an employee license
16 whether or not the manager participates in the service, mixing or
17 sale of mixed beverages. Applicants for an employee license shall
18 be at least eighteen (18) years of age, except for applicants
19 employed by a grocery store or convenience store who shall be at
20 least sixteen (16) years of age, and have a health card issued by
21 the county in which they are employed, if the county issues such a
22 card; provided, the provisions of this section shall not be
23 construed to permit any person under ~~twenty-one (21)~~ eighteen (18)
24 years of age to be employed to sell spirits. Employees of a special

1 event, caterer, unless catering a mixed beverage-licensed premises,
2 or airline/railroad beverage licensees shall not be required to
3 obtain an employee license; further, employees of beer distributors
4 and other licensees holding licenses issued by the ABLE Commission
5 shall not be required to obtain an employee license if such employee
6 only sells alcohol or alcoholic beverages to establishments holding
7 licenses issued by the ABLE Commission and not to the public.
8 Persons employed by a hotel licensee who participate in the stocking
9 of hotel room mini-bars or in the handling of alcoholic beverages to
10 be placed in such devices shall be required to have an employee
11 license. As a prerequisite to the issuance of an employee license,
12 not later than fourteen (14) days after initial licensure, the
13 first-time applicant shall be required to have successfully
14 completed a training program conducted by the ABLE Commission, or by
15 another entity approved by the ABLE Commission including an in-house
16 training program conducted by the employer. Proof of training
17 completion shall be made available for inspection by the ABLE
18 Commission at the business location employing the licensee. The
19 failure of an employee licensee to comply with this section may
20 constitute a revocable offense.

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

1 SECTION 8. AMENDATORY 37A O.S. 2021, Section 2-124, is
2 amended to read as follows:

3 Section 2-124. A. A private carrier license may be issued to
4 any carrier other than a common carrier described in Section ~~35~~ 2-
5 123 of this ~~act~~ title. Such license shall authorize the holder
6 thereof to transport alcoholic beverages other than wine sold
7 directly by a winemaker or winery to a retail package store or
8 restaurant into, within, or out of this state under such terms,
9 conditions, limitations and restrictions as the ABLE Commission may
10 prescribe by order issuing such license and by rule. No carrier
11 license or private carrier license shall be required of licensed
12 brewers, distillers, winemakers, rectifiers, wholesalers or beer
13 distributors, to transport alcoholic beverages from the place of
14 purchase or acquisition to the licensed premises of such licensees
15 and from such licensed premises to the licensed premises of the
16 purchaser in vehicles owned or leased by such licensee when such
17 transportation is for a lawful purpose and not for hire.

18 B. No carrier license or private carrier license shall be
19 required of the holder of a grocery retail spirits, retail spirits,
20 retail wine, retail beer, mixed beverage, caterer, special event,
21 hotel beverage, public event or airline/railroad license to pick up
22 alcoholic beverage orders from the licensee's wholesaler, beer
23 distributor or holder of a small brewer self-distribution license or
24 brewpub self-distribution license from whom they are purchased and

1 to transport such alcoholic beverages from the place of purchase or
2 acquisition to the licensed premise of such licensees in vehicles
3 owned or under the control of such licensee or a licensed employee
4 of such licensee under such terms, conditions, limitations and
5 restrictions as the ABLE Commission may prescribe.

6 SECTION 9. AMENDATORY 37A O.S. 2021, Section 2-141, is
7 amended to read as follows:

8 Section 2-141. Applicants for original brewer, distiller,
9 winemaker, rectifier, wine and spirits wholesaler, beer distributor,
10 mixed beverage, beer and wine, bottle club, caterer, grocery retail
11 spirits, retail spirits, retail wine or retail beer licenses shall,
12 prior to applying for such license, twice publish, in such form and
13 containing such information as the ABLE Commission shall by rule
14 prescribe, a notice of its intention to apply for any such license,
15 once a week for two (2) successive weeks in a legal newspaper of
16 general circulation within the county where the proposed premises is
17 to be located, and file proof of such publication with the ABLE
18 Commission. Unless otherwise provided, the ABLE Commission shall
19 give notice of approval or disapproval of an application for a
20 license within thirty (30) days after the filing of the application.
21 The ABLE Commission shall give notice of approval or disapproval of
22 an application for a mixed beverage, beer and wine, bottle club or
23 caterer license within sixty (60) days after the filing of the
24 application. Provided, the ABLE Commission may extend the period

1 for making a determination of whether to approve or disapprove an
2 application an additional thirty (30) days for good cause. The ABLE
3 Commission may conditionally approve any application which is
4 subject to Section ~~54~~ 2-142 of this ~~act~~ title if:

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

7 2. The applicant furnishes a conditional certification issued
8 by the municipality or county that the applicant's plans and
9 specifications indicate that the proposed premises will comply with
10 the municipality's or county's zoning, fire, safety and health
11 codes.

12 The ABLE Commission shall issue its final notice of approval
13 when the applicant furnishes final certificates required by Section
14 ~~54~~ 2-142 of this ~~act~~ title.

15 SECTION 10. AMENDATORY 37A O.S. 2021, Section 2-143, is
16 amended to read as follows:

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

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

23 2. A list of all corporate officers, directors, executive
24 committee members or members of a similar governing body and their

1 addresses, except for a charitable organization exempt from taxation
2 under Section 501(c)(3), (4), (5), (6), (7), (8), (9), (10), or (19) of the
3 United States Internal Revenue Code, which shall only be required to
4 furnish its corporate officers; and

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

7 B. Any corporation applying for a grocery retail spirits,
8 retail wine or retail beer license shall submit to the ABLE
9 Commission the following:

10 1. A certificate of good standing from the office of the
11 Secretary of State;

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

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

19 C. A corporate licensee shall notify the ABLE Commission in
20 writing of any change in the officers or directors of the
21 corporation or in the principal managers of premises licensed to the
22 corporation and shall pay a fee of One Hundred Dollars (\$100.00) for
23 each notification of change. Provided, service organizations which
24

1 are exempt under Section 501(c)(8), (10), or (14) of the Internal
2 Revenue Code shall be exempt from such fee.

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

10 E. The ABLE Commission may disapprove a change of officers,
11 directors or principal managers or the acquisition of more than the
12 percentages specified in paragraph 3 of subsection A or B of this
13 section of the stock in a licensed corporation if the ABLE
14 Commission feels that such change would materially affect the
15 conditions under which the license was issued, such that the license
16 would not have been issued had such change been in existence at the
17 time of the original application. If such disapproval occurs, the
18 ABLE Commission shall notify the licensee in writing and in the case
19 of a publicly traded corporation, allow a reasonable time for the
20 licensee to remove such officer, director or manager or for the
21 stockholder to divest himself or herself of any stock held in excess
22 of the percentages specified in paragraph 3 of subsection A or B of
23 this section; provided, a reasonable time may not exceed a ninety-
24 day period following notification of denial by the ABLE Commission.

1 Failure to comply with the provisions of this subsection may result
2 in revocation or suspension of such license.

3 F. Any person who was an officer or director or who has owned
4 the percentages specified in paragraph 3 of subsection A or B of
5 this section or more of the stock in a corporation which has been
6 denied a license or had a license revoked or suspended pursuant to
7 the provisions of the Oklahoma Alcoholic Beverage Control Act shall
8 not own stock in any other corporation seeking a license pursuant to
9 the provisions of the Oklahoma Alcoholic Beverage Control Act for a
10 period of twelve (12) months from the date the license was revoked
11 or suspended.

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

19 SECTION 11. AMENDATORY 37A O.S. 2021, Section 2-146, as
20 amended by Section 2, Chapter 192, O.S.L. 2022 (37A O.S. Supp. 2022,
21 Section 2-146), is amended to read as follows:

22 Section 2-146. A. The ABLE Commission shall refuse to issue a
23 wine and spirits wholesaler, beer distributor, grocery retail
24 spirits, retail spirits, retail wine or retail beer license, either

1 on an original application or a renewal application, if it has
2 reasonable grounds to believe and finds any of the following to be
3 true:

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

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

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

12 4. That the applicant or any partner, or spouse of the
13 applicant or any partner, has been convicted of a violation of any
14 state or federal law relating to alcoholic beverages, has forfeited
15 a bond while any charge of such violation was pending, nor may any
16 license be granted for any purpose under the Oklahoma Alcoholic
17 Beverage Control Act to an Oklahoma resident, who has held or whose
18 spouse has held a Federal Liquor Stamp in Oklahoma before the
19 adoption of Article XXVIII-A of the Oklahoma Constitution unless the
20 Liquor Stamp was granted for supplying alcoholic beverages to a
21 federal military installation, or was granted under the Oklahoma
22 Alcoholic Beverage Control Act;

23 5. That the applicant or any partner has, within twelve (12)
24 months next preceding the date of the application, violated any

1 provision of the Oklahoma Alcoholic Beverage Control Act or rule of
2 the ABLE Commission promulgated pursuant hereto. Provided, however,
3 that if the ABLE Commission has, during such twelve-month period,
4 suspended any license sought to be renewed, such renewal application
5 may be approved if the term of the suspension has been completed and
6 the applicant has complied with any special conditions imposed in
7 connection with the suspension;

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

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

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

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

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

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

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

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

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

10 15. That, in the case of an application for a wine and spirits
11 wholesaler or beer distributor license, the applicant or any
12 partner, or spouse of the applicant or any partner, is the holder or
13 partner of the holder of any other class of license issued under the
14 provisions of the Oklahoma Alcoholic Beverage Control Act, other
15 than an agent or employee license for employment by the applicant,
16 or a storage license, bonded warehouse license, carrier license or
17 private carrier license; provided, nothing shall prohibit a wine and
18 spirits wholesaler, who is otherwise qualified, from maintaining
19 beer distributor licenses in the state, nor a beer distributor, who
20 is otherwise qualified, from maintaining a wine and spirits
21 wholesaler license in the state;

22 16. That, in the case of an application for a grocery retail
23 spirits, retail spirits, retail wine or retail beer license, the
24 applicant or any partner is the holder or partner of the holder, or

1 employee of such holder of any other class of license issued under
2 the provisions of the Oklahoma Alcoholic Beverage Control Act, other
3 than a storage license or an employee license for the proposed
4 licensed premises of the applicant, provided, nothing in this title
5 shall prohibit an applicant for a grocery retail spirits, retail
6 wine and/or retail beer license from maintaining a separate mixed
7 beverage, caterer, mixed beverage/caterer combination license,
8 and/or an on-premises beer and wine license; or

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

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

16 SECTION 12. AMENDATORY 37A O.S. 2021, Section 2-148, is
17 amended to read as follows:

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

23 1. Violated any rule promulgated by the ABLE Commission;
24

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

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

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

8 5. Stored, possessed, mixed or served on the premises of a
9 bottle club any alcoholic beverage upon which the tax levied by
10 Section 5-101 of this title has not been paid as provided for in the
11 Oklahoma Alcoholic Beverage Control Act, in a county of this state
12 where the sale of alcoholic beverages by the individual drink for
13 on-premises consumption has not been authorized;

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

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

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

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

24

- 1 1. Has acted as an agent of a manufacturer, brewer or
2 wholesaler of alcoholic beverages;
- 3 2. Is a manufacturer, brewer or wholesaler of alcoholic
4 beverages;
- 5 3. Has borrowed money or property or accepted gratuities or
6 rebates from a manufacturer, brewer or wholesaler of alcoholic
7 beverages;
- 8 4. Has obtained the use of equipment from any manufacturer,
9 brewer or wholesaler of alcoholic beverages or any agent thereof;
- 10 5. Has violated any of the provisions of the Oklahoma Alcoholic
11 Beverage Control Act for which mandatory revocation or suspension is
12 not required;
- 13 6. Has been convicted within the past twenty-five (25) years,
14 of a violation of any state or federal law relating to alcoholic
15 beverage for which mandatory revocation or suspension is not
16 required; or
- 17 7. Is not in compliance with the tax laws of this state as
18 required in Article XXVIII-A of the Oklahoma Constitution.

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

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

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

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

16 3. That, in the case of a wine and spirits wholesaler, beer
17 distributor, grocery retail spirits, retail spirits, retail wine or
18 retail beer licensee, the holder of the license or any member of a
19 general or limited partnership which is the holder of such a
20 license, has been convicted of a prohibitory law relating to the
21 sale, manufacture or transportation of alcoholic beverages which
22 constitutes a felony.

23 E. If the ABLE Commission shall find by a preponderance of the
24 evidence as in civil cases that a licensee has knowingly sold any

1 alcoholic beverage to any person under the age of twenty-one (21)
2 years, after a public hearing, the ABLE Commission shall revoke such
3 license and no discretion as to the revocation shall be exercised by
4 the ABLE Commission.

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

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

17 G. The ABLE Commission or the Tax Commission may impose a
18 monetary penalty in lieu of or in addition to suspension of a
19 license. The amount of the fine for a major violation shall be
20 computed by multiplying the proposed number of days of the
21 suspension period by One Hundred Dollars (\$100.00). The amount of
22 the fine for a minor violation shall be computed by multiplying the
23 number of days of the proposed suspension period by Fifty Dollars
24 (\$50.00).

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

4 I. If the ABLE Commission or the Tax Commission finds that
5 public health, safety or welfare require emergency action, and
6 incorporates a finding to that effect in its order, summary
7 suspension of a license may be ordered pending proceeding for
8 revocation or other action, pursuant to the provisions of Section
9 314 of Title 75 of the Oklahoma Statutes.

10 SECTION 13. AMENDATORY 37A O.S. 2021, Section 2-161, is
11 amended to read as follows:

12 Section 2-161. A. ~~Retail spirit~~ Grocery retail spirits and
13 retail spirits licensees may sell curbside and deliver alcoholic
14 beverages including beer, wine, and spirits in sealed original
15 containers to consumers aged twenty-one (21) years and older as
16 follows:

17 1. Grocery retail spirits licensees are permitted to make
18 alcoholic beverage product deliveries to consumers using an
19 employee, third-party delivery service, or independent contractor
20 delivering on behalf of the licensee;

21 2. Only employees of the retail ~~spirit~~ spirits licensee shall
22 be permitted to make alcoholic beverage product deliveries to
23 consumers;

24

1 ~~2.~~ 3. Payment for alcoholic beverage product delivery by the
2 grocery retail spirits licensee or retail ~~spirit~~ spirits licensee
3 may be made by cash, check, transportable credit/debit card
4 processors or advance on-line payment methods; and

5 ~~3.~~ 4. The grocery retail spirits licensee and retail ~~spirit~~
6 spirits licensee shall be responsible for his or her delivery
7 employees as provided in Section 2-133 of ~~Title 37A of the Oklahoma~~
8 ~~Statutes~~ this title.

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

13 1. Only employees of the licensed small brewer or small farm
14 winery shall be permitted to make alcoholic beverage product
15 deliveries to consumers;

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

20 3. Small brewers and small farm wineries shall be responsible
21 for their delivery employees as provided in Section 2-133 of ~~Title~~
22 ~~37A of the Oklahoma Statutes~~ this title.

23 C. Restaurants, bars and clubs holding mixed beverage, beer and
24 wine, or caterer/mixed beverage licenses issued by the Oklahoma ABLE

1 Commission may sell curbside and deliver only closed packages of
2 beer and wine to consumers aged twenty-one (21) years and older as
3 follows:

4 1. Only employees of such restaurant, bar or club licensee
5 shall be permitted to make alcoholic beverage package deliveries to
6 consumers;

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

11 3. Restaurants, bars and clubs licensed by the Oklahoma ABLE
12 Commission shall be responsible for their delivery employees as
13 provided in Section 2-133 of ~~Title 37A of the Oklahoma Statutes~~ this
14 title.

15 D. Grocery and convenience stores holding a grocery retail
16 spirits, retail beer and/or retail wine license issued by the
17 Oklahoma ABLE Commission may sell curbside and deliver original
18 sealed containers of spirits, beer and/or wine only according to the
19 license held to consumers aged twenty-one (21) years and older as
20 follows:

21 1. ~~Only employees of such licensed grocery or convenience store~~
22 ~~shall be permitted to make alcoholic beverage product deliveries to~~
23 ~~consumers~~ Grocery and convenience store licensees are permitted to
24 make alcoholic beverage deliveries to consumers using an employee,

1 third-party delivery service, or independent contractor delivering
2 on behalf of the licensee;

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

7 3. Grocery and convenience store licensees shall be responsible
8 for their delivery employees as provided in Section 2-133 of ~~Title~~
9 ~~37A of the Oklahoma Statutes~~ this title.

10 E. Licensees authorized by this section to make alcoholic
11 beverage product deliveries to consumers are prohibited from
12 utilizing third-party vendors or delivery services for purposes of
13 completing such product deliveries to consumers.

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

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

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

1 SECTION 14. AMENDATORY 37A O.S. 2021, Section 3-114, is
2 amended to read as follows:

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

5 B. The holder of a retail beer, grocery retail spirits or
6 retail spirits license may resell beer only in the packaging in
7 which the holder received the beer or may resell the contents of the
8 packages as individual containers.

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

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

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

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

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

19 2. Impose a fine of not more than One Thousand Dollars
20 (\$1,000.00) for each violation.

21 Any licensee whose license is revoked pursuant to this
22 subsection shall not be eligible to reapply for a license for at
23 least three (3) months from the date of the revocation. Any stock
24 of beer in undamaged original packaging in the possession of such

1 licensee shall be repurchased by the distributor as long as the
2 repurchased inventory falls within the date considered by the brewer
3 of the product to be appropriate for sale to a consumer.

4 E. Administrative fines collected pursuant to this section
5 shall be enforceable in the district courts of this state. All
6 administrative fines collected by the ABLE Commission pursuant to
7 this section shall be forwarded to the State Treasurer for deposit
8 in the General Revenue Fund.

9 SECTION 15. AMENDATORY 37A O.S. 2021, Section 3-123, is
10 amended to read as follows:

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

14 1. To discriminate, directly or indirectly, in price between
15 one wine and spirits wholesaler and another wine and spirits
16 wholesaler, when that manufacturer has not designated a single wine
17 and spirits wholesaler, or between one retailer and another retailer
18 purchasing alcoholic beverages bearing the same brand or trade name
19 and of like age and quality, unless otherwise provided by law; or

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

22 B. The ABLE Commission is hereby authorized to promulgate rules
23 which are necessary to carry out the purpose of this section and to
24 prevent its circumvention by offering or giving of any rebate,

1 allowance, free goods, discount or any other thing or service of
2 value; provided, the posting or invoicing of charges per order for
3 processing minimum orders or per case for the handling or repacking
4 of goods by wine and spirits wholesalers and beer distributors for
5 sales in less than full case lots shall not constitute a violation
6 of this section.

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

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

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

14 3. For a third offense, the ABLE Commission shall revoke the
15 license.

16 D. For purposes of this section, and except as otherwise
17 provided in subsection E of this section, "inducement" means
18 directly or indirectly offering, selling, trading, giving or
19 furnishing any discount, free goods, electronic or nonelectronic
20 refrigerated equipment, barrels, tubs, fixtures, dispensing
21 equipment, outdoor electric or nonelectric advertising structure
22 displaying the retailer's name, permanent shelving, supplies, gifts,
23 prizes, instantly redeemable coupons, premiums, retailer rebates,
24 services of any employee including but not limited to affixing price

1 labels or tags, routinely stocking product on shelves other than the
2 stocking of cold boxes, paying a third party for entering product
3 and price information into a retailer's computer system, portal,
4 website, spreadsheet or third-party system, handling product that
5 was not sold to the retailer by the licensee, paying a slotting fee,
6 selling on consignment, operating a retailer's cash register,
7 conducting janitorial services, decoration, samples of alcoholic
8 beverages, personal property or other inducement or thing of value
9 to any grocery retail spirits, retail ~~spirit~~ spirits, retail beer,
10 retail wine, beer and wine, mixed beverage, caterer, bottle club or
11 special event licensee, wine and spirits wholesaler or beer
12 distributor, their agents or employees.

13 E. It shall not be deemed an inducement for a brewer, beer
14 distributor, small brewer self-distributor or brewpub self-
15 distributor to voluntarily take the following merchandising actions
16 with the permission of the retail licensee:

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

21 2. Give or sell product displays, including but not limited to
22 barrels and tubs, provided that the value of such displays does not
23 exceed the limits and restrictions provided in 27 C.F.R., Section
24 6.83;

- 1 3. Build product displays, accessible to the customer and
2 without disturbing competitors' products, for the product being
3 delivered by the beer distributor;
- 4 4. Affix pricing to the shelf strip or product display for the
5 product being delivered by the beer distributor, small brewer self-
6 distributor or brewpub self-distributor, or brewed by the brewer;
- 7 5. Routinely stock and restock shelves and cold boxes and
8 rotate product that has been sold to the retail licensee by the beer
9 distributor, small brewer self-distributor or brewpub self-
10 distributor, or brewed by the brewer;
- 11 6. Furnish things of value to a temporary retailer, as defined
12 in 27 C.F.R., Section 6.85;
- 13 7. Sell equipment or supplies to a retail licensee, provided
14 the equipment or supplies are sold at a price not less than the cost
15 to the industry member and payment is collected within thirty (30)
16 days of the sale;
- 17 8. Install dispensing accessories at the retail location, as
18 long as the retailer bears the cost of installation including
19 equipment; or furnish, give or sell coil cleaning services to a
20 retailer;
- 21 9. Withdraw quantities of beer or cider in undamaged, original
22 packaging from the retail licensee's stock, provided the beer
23 distributor, small brewer self-distributor, brewpub self-distributor
24 or brewer sold such beer, directly or indirectly, to the retail

1 licensee and such removal is otherwise permitted under Section 3-115
2 of this title; provided, however, replacing with beer or cider of
3 equivalent value shall not be considered a consignment sale;

4 10. Provide mail-in rebates for beer, cider and nonalcoholic
5 beverage merchandise items, funded by the brewer and redeemed by the
6 brewer, either by itself or through a third-party fulfillment
7 company, for a discount or rebate on the beer, cider or nonalcoholic
8 item;

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

12 12. Furnish or give a sample of beer or cider to a retailer who
13 has not purchased the brand from that brewer, beer distributor,
14 small brewer self-distributor or brewpub self-distributor within the
15 last twelve (12) months, provided that the brewer, beer distributor,
16 small brewer self-distributor or brewpub self-distributor may not
17 give more than thirty-six (36) ounces of any brand of beer or cider
18 to a specific retailer;

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

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

23 15. Give or sponsor educational seminars for employees of
24 retailers either at the brewer, beer distributor, small brewer self-

1 distributor or brewpub self-distributor's premises or at the
2 retailer's establishment, including seminars dealing with use of a
3 retailer's equipment, training seminars for employees of retailers
4 or tours of the brewer, beer distributor, small brewer self-
5 distributor, or brewpub self-distributor's plant premises, provided
6 that the brewer, beer distributor, small brewer self-distributor or
7 brewpub self-distributor shall not pay the retailer for the
8 employees' travel, lodging or other expenses in conjunction with an
9 educational seminar but may provide nominal hospitality during the
10 event;

11 16. Conduct tasting or sampling activities at a retail
12 establishment and purchase the products to be used from the retailer
13 so long as the purchase price paid does not exceed the ordinary
14 retail price; provided, a beer distributor shall not be required to
15 provide labor for such sampling activities;

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

21 18. List the names and addresses of two or more unaffiliated
22 retailers selling the products of a brewer, beer distributor, small
23 brewer, small brewer self-distributor or brewpub self-distributor in
24 an advertisement of such brewer, beer distributor, small brewer,

1 small brewer self-distributor or brewpub self-distributor so long as
2 the requirements of 27 C.F.R., Section 6.98 are satisfied,
3 considering applicable guidance issued by the United States
4 Department of the Treasury Alcohol and Tobacco Tax and Trade Bureau;
5 provided, nothing in the Oklahoma Alcoholic Beverage Control Act
6 shall prohibit a retail, mixed beverage, on-premises beer and wine,
7 public event, special event, charitable auction, charitable
8 alcoholic beverage event, or complimentary beverage licensee from
9 communicating with a brewer, beer distributor, small brewer, small
10 brewer self-distributor or brewpub self-distributor on social media
11 or sharing media on the social media page or site of a brewer, beer
12 distributor, small brewer, small brewer self-distributor or brewpub
13 self-distributor. A retail, mixed beverage, on-premises beer and
14 wine, public event, special event, charitable auction, charitable
15 alcoholic beverage event, or complimentary beverage licensee may
16 request free social media advertising from a brewer, beer
17 distributor, small brewer, small brewer self-distributor or brewpub
18 self-distributor; provided, nothing in this section shall prohibit a
19 brewer, beer distributor, small brewer, small brewer self-
20 distributor or brewpub self-distributor from sharing, reposting or
21 forwarding a social media post by a retail, mixed beverage, on-
22 premises beer and wine, public event, special event, charitable
23 auction, charitable alcoholic beverage event, or complimentary
24 beverage licensee, as long as the sharing, reposting or forwarding

1 of the social media post does not contain the retail price of any
2 alcoholic beverage. No brewer, beer distributor, small brewer,
3 small brewer self-distributor or brewpub self-distributor shall pay
4 or reimburse a retail, mixed beverage, on-premises beer and wine,
5 public event, special event, charitable auction, charitable
6 alcoholic beverage event, or complimentary beverage licensee,
7 directly or indirectly, for any social media advertising services.
8 No retail, mixed beverage, on-premises beer and wine, public event,
9 special event, charitable auction, charitable alcoholic beverage
10 event, or complimentary beverage licensee shall accept any payment
11 or reimbursement, directly or indirectly, for any social media
12 advertising service offered by a brewer, beer distributor, small
13 brewer, small brewer self-distributor or brewpub self-distributor.
14 For purposes of this paragraph, "social media" means a service,
15 platform or site where users communicate with one another and share
16 media, such as pictures, videos, music and blogs, with other users
17 free of charge; or

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

22 F. It shall not be deemed an inducement for a brewer, beer
23 distributor, small brewer self-distributor or brewpub self-
24 distributor to engage in the following marketing activities,

1 provided that the brewer, beer distributor, small brewer self-
2 distributor or brewpub self-distributor shall not pay the retailer's
3 travel costs other than those for local transportation or lodging:

4 1. Provide tickets to a retailer for a sporting or
5 entertainment event so long as a representative of the brewer, beer
6 distributor, small brewer self-distributor or brewpub self-
7 distributor attends the event with the retailer;

8 2. Provide food and beverage to a retailer for immediate
9 consumption:

10 a. at a meeting at which the primary purpose is the
11 discussion of business,

12 b. at a convention when the food and beverages are
13 offered to all participants, or

14 c. at a sports or entertainment event that the
15 representatives of a brewer, beer distributor, small
16 brewer self-distributor or brewpub self-distributor
17 attend with the retailer;

18 3. Participate in retailer association activities by engaging
19 in the following actions:

20 a. displaying products at a convention or trade show,

21 b. renting display booth space if the rental fee is the
22 same as paid by all exhibitors at the event,

23 c. providing its own hospitality which is independent
24 from association-sponsored activities,

- 1 d. purchasing tickets to functions and paying
2 registration fees if the payments or fees are the same
3 as paid by all attendees, participants or exhibitors
4 at the event, or
5 e. making payments for advertisements in programs or
6 brochures issued by retailer associations at a
7 convention or trade show; or

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

- 10 a. the sign bears conspicuous and substantial advertising
11 matter about the product or the brewer, beer
12 distributor, small brewer self-distributor or brewpub
13 self-distributor which is permanently inscribed or
14 securely affixed,
15 b. the retailer is not compensated, directly or
16 indirectly, such as through a sign company, for
17 displaying the signs, and
18 c. a permanent outdoor sign does not contain the
19 retailer's name.

20 SECTION 16. AMENDATORY 37A O.S. 2021, Section 6-103, as
21 amended by Section 1, Chapter 82, O.S.L. 2022 (37A O.S. Supp. 2022,
22 Section 6-103), is amended to read as follows:

23 Section 6-103. A. No grocery retail spirits licensee shall:
24

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

4 2. Suffer or permit any retail container to be opened, or any
5 alcoholic beverage to be consumed on the licensed premises, except
6 when serving samples as authorized by Section 2-109 of this title or
7 otherwise permitted by law; provided, the licensee shall not permit
8 any alcoholic beverage content or retail container unsealed in
9 connection with sampling authorized by Section 2-109 of this title
10 to remain on the licensed premises at the close of business on that
11 day, excluding spirits;

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

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

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

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

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

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

22 B. No retail spirits licensee shall:
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1 1. Purchase or receive any alcoholic beverage other than from a
2 wine and spirits wholesaler, beer distributor, winery or small
3 brewer self-distribution licensee who elects to self-distribute;

4 2. Suffer or permit any retail container to be opened, or any
5 alcoholic beverage to be consumed on the licensed premises, except
6 when serving samples as authorized by Section 2-109 of this title or
7 otherwise permitted by law; provided, the licensee shall not permit
8 any alcoholic beverage content or retail container unsealed in
9 connection with sampling authorized by Section 2-109 of this title
10 to remain on the licensed premises at the close of business on that
11 day, excluding spirits;

12 3. Sell any alcoholic beverages at any hour other than between
13 the hours of 8:00 a.m. and midnight Monday through Saturday, and
14 shall not be permitted to be open on Thanksgiving Day or Christmas
15 Day; provided, a county may, pursuant to the provisions of
16 subsections B and C of Section 3-124 of this title, elect to allow
17 such sales between the hours of noon and midnight on Sunday. Retail
18 spirits licensees shall be permitted to sell alcoholic beverages on
19 the day of any General, Primary, Runoff Primary or Special Election
20 whether on a national, state, county or city election, provided that
21 the election day does not occur on any day on which such sales are
22 otherwise prohibited by law;

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

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

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

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

22 6. Offer or furnish any prize, premium, gift or similar
23 inducement to a consumer in connection with the sale of alcoholic
24 beverages, except that goods or merchandise included by the

1 manufacturer in packaging with alcoholic beverages or for packaging
2 with alcoholic beverages shall not be included in this prohibition,
3 but no wholesaler or retailer shall sell any alcoholic beverage
4 prepackaged with other goods or merchandise at a price which is
5 greater than the price at which the alcoholic beverage alone is
6 sold; or

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

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

18 1. Is at least eighteen (18) years of age;

19 2. Is accompanied by a coworker at least twenty-one (21) years
20 of age; and

21 3. Enters for the sole purpose of merchandising or delivering
22 product to the licensee in the normal course of business.

23 SECTION 17. AMENDATORY 37A O.S. 2021, Section 6-104, is
24 amended to read as follows:

1 Section 6-104. No wine or spirits wholesaler licensee shall
2 sell or deliver, and no wine, grocery retail spirits or retail
3 spirits ~~retail~~ licensee shall receive:

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

7 SECTION 18. This act shall become effective November 1, 2023.

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9 COMMITTEE REPORT BY: COMMITTEE ON ALCOHOL, TOBACCO AND CONTROLLED
10 SUBSTANCES, dated 03/02/2023 - DO PASS, As Amended.

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