

1 ENGROSSED HOUSE
2 BILL NO. 3353

By: Marti of the House

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4 Seifried of the Senate

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6 An Act relating to alcoholic beverages; amending 37A
7 O.S. 2021, Sections 2-107 and 2-108, as amended by
8 Section 1, Chapter 94, O.S.L. 2023 (37A O.S. Supp.
9 2023, Section 2-108), which relates wholesaler and
10 distributor license; providing for the ability to
11 sell to a charitable auction or charitable alcoholic
12 beverage event licensees; and declaring an emergency.

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

14 SECTION 1. AMENDATORY 37A O.S. 2021, Section 2-107, is
15 amended to read as follows:

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

18 1. To purchase and import into this state spirits and wines
19 from persons authorized to sell same who are the holders of a
20 manufacturer or nonresident seller license, and their agents who are
21 the holders of manufacturer's agent licenses;

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

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

1 4. To sell in retail containers in this state to retailers⁷ⁱ
2 mixed beverage, caterer, special event, public event, hotel
3 beverage, airline/railroad beverage, and charitable auction or
4 charitable alcoholic beverage event licensees, spirits and wines
5 which have been received and unloaded at the bonded warehouse
6 facilities of the wholesaler before such sale;

7 5. To sell to licensed wholesalers, to the extent set forth in
8 subsections B and C of this section, spirits and wines which have
9 been received and unloaded at the bonded warehouse facilities of the
10 wholesaler before such sale;

11 6. To sell spirits and wines out of this state to qualified
12 persons; and

13 7. To sell to licensed distillers spirits that were
14 manufactured by that distiller and which have been received and
15 unloaded at a bonded warehouse facility of a wholesaler before such
16 sale.

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

23 B. A wholesaler may sell spirits and wine to other wholesalers
24 or purchase spirits and wines from other wholesalers without

1 complying with subsection A of this section in the case of the sale,
2 purchase or other transfer or acquisition of the entire business of
3 a wholesaler including the inventory of spirits and wine.

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

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

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

13 SECTION 2. AMENDATORY 37A O.S. 2021, Section 2-108, as
14 amended by Section 1, Chapter 94, O.S.L. 2023 (37A O.S. Supp. 2023,
15 Section 2-108), is amended to read as follows:

16 Section 2-108. A. A beer distributor license shall authorize
17 the holder thereof:

18 1. To purchase and import into this state cider from persons
19 authorized to sell the same who are the holders of manufacturer's
20 licenses, and their agents who are the holders of manufacturer's
21 agent licenses;

22 2. To purchase and import into this state beer or cider from
23 persons authorized to sell the same who are the holders of brewer's
24 or small brewer's licenses;

1 3. To purchase beer and cider from licensed beer distributors
2 in this state;

3 4. To sell in retail containers to retailers, on-premises beer
4 and wine, mixed beverage, caterer, special event, public event,
5 hotel beverage ~~and~~, airline/railroad beverage, and charitable
6 auction or charitable alcoholic beverage event licensees or any
7 other licensee permitted to sell beer to consumers in this state,
8 beer and cider which has been received, unloaded and stored at the
9 holder's self-owned or leased and self-operated warehouses before
10 such sale, unless otherwise permitted by this section;

11 5. To sell beer and cider in this state to beer distributors
12 and out of this state to qualified persons, including federal
13 instrumentalities and voluntary associations of military personnel
14 on federal enclaves in this state over which this state has ceded
15 jurisdiction;

16 6. To donate beer and cider to organizations, associations or
17 nonprofit corporations organized for political, fraternal,
18 charitable, religious or social purposes or to charitable events;

19 7. To transport wine, spirits, beer and cider in vehicles
20 owned, leased or operated by the beer distributor, a subsidiary of
21 the beer distributor, or its agent, in addition to any nonalcoholic
22 items. Provided, if the beer distributor transports wine and
23 spirits, a valid wine and spirits wholesaler license must be
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1 maintained by the beer distributor or affiliated entity having
2 common ownership with the licensed beer distributor; and

3 8. To store alcoholic beverages of any kind, including wine and
4 spirits owned by a licensed affiliated entity having common
5 ownership, nonalcoholic beverages, and other goods, wares, and
6 merchandise related to the foregoing, in any number of warehouses
7 owned or leased by the beer distributor as determined by the beer
8 distributor. Provided, however, the storage of wine and spirits
9 shall comply with the limitations to the number of warehouses
10 contained in Section 2-107 of this title. There shall be no
11 obligation to segregate the products in the warehouse by alcohol
12 content or type of product. For purposes of this section, a leased
13 warehouse includes a leased space within a multi-tenant building as
14 long as such leased space is a discrete, enclosed area operated and
15 controlled exclusively by the beer distributor.

16 B. In the event that no in-state beer distributor for a
17 particular brewer or manufacturer is willing to deliver beer or
18 cider to a county or counties located within the state, the ABLE
19 Commission may grant an economic hardship exemption to an out-of-
20 state beer distributor for a particular brewer and waive the at-rest
21 requirement set forth in this section, upon a good-faith showing
22 that:

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1 1. It is economically infeasible or impractical for an in-state
2 beer distributor for a particular brewer to deliver to the county or
3 counties due to remoteness, or population, or both;

4 2. No in-state beer distributor of a particular brewer or
5 manufacturer objects to the waiver within thirty (30) days of
6 receiving written notice of the economic hardship application sent
7 by the ABLE Commission; and

8 3. The out-of-state beer distributor agrees to pay all
9 necessary licensing fees and remit all applicable taxes to the State
10 of Oklahoma.

11 C. The economic hardship exemption provided for in subsection B
12 of this section shall renew annually, provided that no in-state beer
13 distributor for a particular brewer or manufacturer submits an
14 executed distribution agreement to assume responsibility to
15 distribute the beer in the subject county or counties at least sixty
16 (60) days prior to the renewal date of the exemption. The in-state
17 beer distributor who has executed a distribution agreement to assume
18 responsibility to distribute beer in the subject territory shall
19 compensate the out-of-state distributor the fair market value of the
20 distribution rights of the territory as determined pursuant to
21 Section 3-108 of this title.

22 D. Provided, nothing in this section shall require an Oklahoma
23 licensed beer distributor with an Oklahoma designated territory on
24 the effective date of this act to meet the hardship provisions in

