

1 1. Enter into a distributor agreement with a licensed
2 distributor, as defined herein, to sell the designated brands,
3 including brand extensions, of the brewer or cider manufacturer.
4 The agreement shall designate the sales territory of that licensed
5 distributor and the designated brands to be sold by the licensed
6 distributor. All such distributor agreements shall specifically
7 authorize this sale of the designated brands by a licensed
8 distributor within that sales territory. All such distributor
9 agreements shall further provide that the licensed manufacturer who
10 desires to sell a brand extension of a low-point beer in Oklahoma
11 must assign the low-point beer brand extension to the licensed
12 distributor to whom the licensed manufacturer granted the exclusive
13 sales territory to the low-point beer brand from which the brand
14 extension resulted;

15 2. Sell its registered and approved designated brands only to a
16 licensed distributor with whom that brewer or cider manufacturer has
17 a distributor agreement designating the sales territory of the
18 licensed distributor and the designated brands to be sold by the
19 licensed distributor;

20 3. Authorize only one licensed distributor for each designated
21 sales territory. Such licensed distributor shall be the only
22 licensed distributor for the designated brands of the authorizing
23 brewer or cider manufacturer within that designated sales territory;
24 and

1 4. Designate who is responsible for the distribution of its
2 designated brands.

3 C. Subject to the provisions of subsection D of this section,
4 any and all licensed distributors possessing the rights to
5 distribute a low-point beer brand in a specific territory prior to
6 the introduction of that low-point beer's correlating beer brand
7 extension in that specific territory shall retain the right to
8 distribute the low-point beer from which the brand extension
9 resulted.

10 D. 1. No later than August 2, 2018, a brewer shall assign the
11 exclusive right to distribute a beer brand, including brand
12 extensions thereof, to the low-point beer distributor who was, prior
13 to ~~the effective date of this act~~ October 1, 2018, assigned the
14 exclusive distribution rights to the low-point beer from which the
15 brand extension arose without charge or payment of compensation,
16 unless the low-point beer distributor is, on ~~the effective date of~~
17 ~~this act~~ October 1, 2018, a brewer of beer or low-point beer and has
18 therefore been distributing low-point beer pursuant to a license to
19 so distribute, subject to the provisions of subsection E of this
20 section. This subsection shall not apply to a small brewer as
21 defined in Section 1-103 of this title.

22 2. With respect to brand extensions which arise after October
23 1, 2018, the brewer or cider manufacturer shall assign the exclusive
24 right to distribute the brand extension to the distributor who has

1 | been assigned the exclusive distribution rights to the beer or cider
2 | from which the brand extension arose, without charge or payment of
3 | compensation.

4 | 3. With respect to a brand of beer or cider which was, prior to
5 | April 15, 2017, distributed in this state only as strong beer or
6 | cider pursuant to the Oklahoma Alcoholic Beverage Control Act then
7 | in effect, if a low-point version of the brand is introduced after
8 | April 15, 2017, no later than August 2, 2018, the brewer or cider
9 | manufacturer shall assign the exclusive rights to distribute the
10 | low-point version of the brand to the distributor who was,
11 | immediately prior to the introduction of the low-point version of
12 | the brand, assigned the exclusive distribution rights to the strong
13 | version of the brand without charge or payment of compensation.

14 | 4. No later than August 2, 2018, with respect to dual strength
15 | beer, the brewer thereof shall assign the exclusive right to
16 | distribute the brands represented by the dual strength beer to
17 | either the low-point beer distributor or the nonresident seller who
18 | had theretofore been assigned the exclusive distribution rights in
19 | the territory to either version of the dual strength beer; provided,
20 | however, whichever party is selected by the brewer must compensate
21 | the party that was not selected by the brewer for the loss of the
22 | distribution rights with respect to that particular territory.
23 | Whichever party is selected shall obtain the requisite distributor

24 |

1 license and shall be subject to the provisions of ~~this act~~ the
2 Oklahoma Alcoholic Beverage Control Act.

3 5. Compensation for the purposes of this provision shall be the
4 fair market value of the party losing its distribution rights with
5 respect to the beer within that specific territory. Fair market
6 value shall be determined as set forth in Section 3-111 of this
7 title and shall take into account all aspects of brand valuation,
8 including but not limited to:

- 9 a. the diminished value of the distribution of one
10 version of beer as a consequence of the subsequent
11 introduction of the other version,
- 12 b. the expected annual sales and earnings of the
13 distributor agreement,
- 14 c. the length of time the existing distributor held in
15 the distribution sales agreement, and
- 16 d. any other relevant items of value, such as goodwill
17 and going concern.

18 E. If a brewer, whether directly or through an affiliate,
19 maintained one or more licenses to distribute low-point beer in this
20 state prior to ~~the effective date of this act~~ October 1, 2018, then
21 up to two of the brewer's low-point beer distribution licenses shall
22 automatically convert to beer distribution licenses ~~upon the~~
23 ~~effective date of this act~~ on October 1, 2018, and such brewer shall
24 be permitted to continue to distribute beer in two territories

1 within which it currently distributes without the appointment of a
2 distributor for such period of time as determined by the Legislature
3 and consistent with the Constitution of the State of Oklahoma;
4 provided however, it shall not be permitted to distribute beer
5 outside of the territory unless it enters into a distributor
6 agreement with an independent licensed distributor as provided in
7 paragraph 1 of subsection B of this section. This section shall not
8 apply to small brewers that have elected to self-distribute.

9 F. If, on October 1, 2018, a licensed distributor possesses
10 inventory of a brand that it is no longer authorized to distribute
11 within this state, such inventory shall be sold to a licensed
12 distributor authorized to distribute such brand, at a price not to
13 exceed the total of the actual purchase price of the selling
14 distributor plus the cost of inbound and outbound shipping to the
15 purchasing distributor. The provisions of this paragraph shall not
16 apply to inventory purchased on or after September 15, 2018.

17 SECTION 2. This act shall become effective October 1, 2018.

18
19 COMMITTEE REPORT BY: COMMITTEE ON BANKING AND BUSINESS, dated
20 04/04/2018 - DO PASS.
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