

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 945

By: David

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6 AS INTRODUCED

7 An Act relating to beer industry requirements;
8 amending Section 77, Chapter 366, O.S.L. 2016, as
9 amended by Section 13, Chapter 322, O.S.L. 2019 (37A
10 O.S. Supp. 2020, Section 3-107), which relates to
11 regulation of beer distribution agreements;
12 prohibiting certain requirement on non-manufactured
13 products; prohibiting controlling hiring decisions;
14 prohibiting mandating advertising payments;
15 prohibiting mandating certain point of sale
16 advertising and payments; prohibiting initiation of
17 electronic funds for products exceeding the order;
18 prohibiting certain penalty for noncompliance;
19 prohibiting loss for product not in possession;
20 prohibiting certain payments or mandates for
21 software; providing a certain exception; providing
22 for codification; and providing an effective date.

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

24 SECTION 1. AMENDATORY Section 77, Chapter 366, O.S.L.
25 2016, as amended by Section 13, Chapter 322, O.S.L. 2019 (37A O.S.
26 Supp. 2020, Section 3-107), is amended to read as follows:

27 Section 3-107. A. In order to provide for regulation of the
28 sales and distribution of beer in this state by the ABLE Commission,
29 this Legislature hereby declares it is necessary to implement the
30 section.

1 B. Statutory regulation of the sales and distribution of
2 designated brands in designated territories by distributors shall
3 include but not be limited to:

4 1. A requirement for written distributor agreements between a
5 brewer and distributor designating a specific territory within which
6 the distributor may sell the designated brands of the brewer;

7 2. Provisions for prohibited acts applicable to the distributor
8 and brewer; and

9 3. Provisions for penalties for violations.

10 C. For contracts entered or renewed on and after the effective date
11 of this act, a beer distribution agreement with a manufacturer, brewer
12 or importer of beer shall not have any provision to:

13 1. Coerce or require a wholesaler to gather or submit sales
14 records, retail placement, price, discount, rebate, or other details for
15 beer brands not manufactured, brewed or imported by the manufacturer,
16 brewer or importer;

17 2. Mandate wholesaler employee hiring decisions or payment rates
18 including incentives;

19 3. Require a wholesaler to pay or contribute marketing,
20 advertising or other funds for control or expenditure by the
21 manufacturer, brewer or importer, except a wholesaler may agree, in
22 writing and advance, to spend or contribute wholesaler funds for a
23 specified marketing or advertising plan or opportunity;

1 4. Ship, invoice or initiate electronic funds transfer payment for
2 any quantity of beer exceeding an order, forecast or inventory level
3 specified by a wholesaler or include in a beer sales invoice charges for
4 any items other than beer, freight, fuel, cooperage, dunnage, pallets
5 and related deposits;

6 5. Invoice or initiate electronic funds transfer payment for point
7 of sale advertising specialties or other items, except a manufacturer,
8 brewer or importer may itself place an order and invoice or initiate
9 electronic funds transfer payment for point of sale advertising
10 specialties or other items pursuant to a specific and advance written
11 agreement to do so between the wholesaler and the manufacturer, brewer
12 or importer;

13 6. Attribute risk of loss, ownership or other financial interest
14 to a wholesaler for beer not in the wholesaler's possession; or

15 7. Require a wholesaler to use or pay for development,
16 installation, or use of any software owned or mandated by the
17 manufacturer, brewer or importer, except a wholesaler may be required to
18 maintain data in a format compatible with data format standards adopted
19 or with electronic information systems utilized by a manufacturer,
20 brewer or importer.

21 SECTION 2. This act shall become effective November 1, 2021.

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