

1 **SENATE FLOOR VERSION**

2 February 25, 2021

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 945

6 By: David

7 **[beer industry requirements - regulation of beer**
8 **distribution agreements - non-manufactured products -**
9 **brewers and manufacturers - effective date]**

10
11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

19 B. Statutory regulation of the sales and distribution of
20 designated brands in designated territories by distributors shall
21 include but not be limited to:

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

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

3 3. Provisions for penalties for violations.

4 C. Except for a brewer or manufacturer that has met the
5 provisions of subsection E of Section 3-108 of this title, for
6 contracts entered or renewed on and after the effective date of this
7 act, a beer distribution agreement with a manufacturer, brewer or
8 importer of beer shall not have any provision to:

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

13 2. Mandate wholesaler employee hiring decisions or payment rates
14 including incentives;

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

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

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

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

10 7. Require a wholesaler to use or pay for development, installation
11 or use of any software owned or mandated by the manufacturer, brewer or
12 importer, except a wholesaler may be required to maintain data in a
13 format compatible with data format standards adopted or with electronic
14 information systems utilized by a manufacturer, brewer or importer.

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

16 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM
17 February 25, 2021 - DO PASS AS AMENDED