

1 ENGROSSED SENATE AMENDMENT
TO

2 ENGROSSED HOUSE
BILL NO. 1302

By: Murdock of the House

and

Bice of the Senate

[alcoholic beverages - alcoholic beverage licensing
- effective date]

11 AMENDMENT NO. 1. Page 1, strike the stricken title, enacting clause
and entire bill and insert

"An Act relating to alcoholic beverages; defining terms; prohibiting certain acts relating to powdered alcohol; providing penalties; amending 37 O.S. 2011, Sections 521, as last amended by Section 1, Chapter 367, O.S.L. 2016 and 595 (37 O.S. Supp. 2016, Section 521), and Sections 27 and 41, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2016, Sections 2-115 and 2-129), which relate to acts authorized by various licenses; providing that special event license and charitable alcoholic beverage event license not required for certain entities under certain circumstances; repealing Section 1 of act effective October 1, 2018; providing for codification; providing effective dates; and declaring an emergency.

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

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 537.4 of Title 37, unless there
3 is created a duplication in numbering, reads as follows:

4 A. As used in this section, "powdered alcohol" means alcohol
5 prepared or sold in a powder form for either direct use or
6 reconstitution.

7 B. It is unlawful for any person or licensee to use, offer for
8 use, purchase, offer to purchase, sell, offer to sell or possess
9 powdered alcohol.

10 C. It is unlawful for a holder of a license pursuant to the
11 provisions of Title 37 of the Oklahoma Statutes for on-premises or
12 off-premises consumption of intoxicating beverages or low-point beer
13 to use powdered alcohol as an alcoholic beverage.

14 D. Any person or license holder that violates this section is
15 guilty of a misdemeanor and shall be punished as follows:

16 1. For a first offense, by a fine of not more than Three
17 Hundred Dollars (\$300.00) or by imprisonment for not more than
18 thirty (30) days or by both;

19 2. For a second offense, by a fine of not more than Seven
20 Hundred Fifty Dollars (\$750.00) or by imprisonment for not more than
21 six (6) months or by both; or

22 3. For a third or subsequent offense, by a fine of not more
23 than Three Thousand Dollars (\$3,000.00) or by imprisonment for not
24 more than two (2) years or by both.

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 6-129 of Title 37A, unless there
3 is created a duplication in numbering, reads as follows:

4 A. As used in this section, "powdered alcohol" means alcohol
5 prepared or sold in a powder form for either direct use or
6 reconstitution.

7 B. It is unlawful for any person or licensee to use, offer for
8 use, purchase, offer to purchase, sell, offer to sell or possess
9 powdered alcohol.

10 C. It is unlawful for a holder of a license pursuant to the
11 provisions of Title 37A of the Oklahoma Statutes for on-premises or
12 off-premises consumption of alcoholic beverages to use powdered
13 alcohol as an alcoholic beverage.

14 D. Any person or license holder that violates this section is
15 guilty of a misdemeanor and shall be punished as follows:

16 1. For a first offense, by a fine of not more than Three
17 Hundred Dollars (\$300.00) or by imprisonment for not more than
18 thirty (30) days or by both;

19 2. For a second offense, by a fine of not more than Seven
20 Hundred Fifty Dollars (\$750.00) or by imprisonment for not more than
21 six (6) months or by both; or

22 3. For a third or subsequent offense, by a fine of not more
23 than Three Thousand Dollars (\$3,000.00) or by imprisonment for not
24 more than two (2) years or by both.

1 SECTION 3. AMENDATORY 37 O.S. 2011, Section 595, is
2 amended to read as follows:

3 Section 595. A. A special event license may be issued to an
4 organization, association or nonprofit corporation organized for
5 political, fraternal, charitable, religious or social purposes. The
6 holder of a special event license is authorized to sell and
7 distribute alcoholic beverage on the premises for which the license
8 is issued.

9 B. The Alcoholic Beverage Laws Enforcement Commission shall
10 adopt rules and regulations governing the application for and the
11 issuance of special event licenses.

12 C. The restrictions and regulations which apply to the sale of
13 mixed beverages on the premises of a mixed beverage licensee also
14 apply to the sale of such beverages under the authority of a special
15 event license. Any act which if done on the premises of a mixed
16 beverage licensee would be a ground for revocation or suspension of
17 the mixed beverage license is a ground for revocation or suspension
18 of a special event license.

19 D. No special event license may be issued for any premises
20 already licensed by the ABLE Commission.

21 E. No special event license shall be required for an
22 organization, association or nonprofit corporation which is an
23 economic development chamber or similar entity, provided the event
24 is not conducted primarily for fundraising purposes, and provided

1 the services of a licensed caterer are used to provide and
2 distribute the alcoholic beverages at the event.

3 SECTION 4. AMENDATORY Section 27, Chapter 366, O.S.L.
4 2016 (37A O.S. Supp. 2016, Section 2-115), is amended to read as
5 follows:

6 Section 2-115. A. A special event license may be issued to an
7 organization, association or nonprofit corporation organized for
8 political, fraternal, charitable, religious or social purposes. The
9 holder of a special event license is authorized to sell and
10 distribute alcoholic beverage on the premises for which the license
11 is issued.

12 B. The ABLE Commission shall promulgate rules governing the
13 application for and the issuance of special event licenses.

14 C. The restrictions and rules which apply to the sale of mixed
15 beverages on the premises of a mixed beverage licensee also apply to
16 the sale of such beverages under the authority of a special event
17 license. Any act which if done on the premises of a mixed beverage
18 licensee would be a ground for revocation or suspension of the mixed
19 beverage license is a ground for revocation or suspension of a
20 special event license.

21 D. No special event license may be issued for any premises
22 already licensed by the ABLE Commission.

23 E. No special event license shall be required for an
24 organization, association or nonprofit corporation which is an

1 economic development chamber or similar entity, provided the event
2 is not conducted primarily for fundraising purposes, and provided
3 the services of a licensed caterer are used to provide and
4 distribute the alcoholic beverages at the event.

5 SECTION 5. AMENDATORY 37 O.S. 2011, Section 521, as last
6 amended by Section 1, Chapter 367, O.S.L. 2016 (37 O.S. Supp. 2016,
7 Section 521), is amended to read as follows:

8 Section 521. A. A brewer license shall authorize the holder
9 thereof: To manufacture, bottle, package, and store beer on
10 licensed premises; to sell beer in this state to holders of Class B
11 wholesaler licenses and retail licenses and to sell beer out of this
12 state to qualified persons; to sell beer produced by the licensee to
13 consumers twenty-one (21) years of age or older on the premises of
14 the brewery; and to serve free samples of beer produced by the
15 licensee to visitors twenty-one (21) years of age or older. For
16 purposes of this section, no visitor may sample more than a total of
17 twelve (12) fluid ounces of beer per day. The brewer must restrict
18 the distribution and consumption of beer samples to an area within
19 the licensed premises designated by the brewer. A current floor
20 plan that includes the designated sampling area must be on file with
21 the Oklahoma Alcoholic Beverage Laws Enforcement (ABLE) Commission.
22 No visitor under twenty-one (21) years of age shall be permitted to
23 enter this designated sampling area when samples are being
24 distributed or consumed. Samples and sales may only be distributed

1 or consumed between 10:00 a.m. and 9:00 p.m. Samples and sales of
2 beer made or served by a brewery under this section shall not be
3 considered a "sale" of beer within the meaning of Article XXVIII of
4 the Oklahoma Constitution or Section 506 of this title; however,
5 such samples and sales of beer shall be considered beer removed or
6 withdrawn from the brewery for "use or consumption" within the
7 meaning of Section 542 of this title for excise tax determination
8 and reporting requirements.

9 B. A distiller license shall authorize the holder thereof: To
10 manufacture, bottle, package, and store spirits on licensed
11 premises; to sell spirits in this state to licensed wholesalers and
12 manufacturers only; to sell spirits out of this state to qualified
13 persons; to purchase from licensed distillers and rectifiers in this
14 state, and import spirits from without this state for manufacturing
15 purposes in accordance with federal laws and regulations.

16 C. A winemaker license shall authorize the holder thereof: To
17 manufacture (including such mixing, blending and cellar treatment as
18 authorized by federal law), bottle, package, and store on licensed
19 premises wine containing not more than twenty-four percent (24%)
20 alcohol by volume, provided the bottle or package sizes authorized
21 shall be limited to the capacities approved by the United States
22 Alcohol and Tobacco Tax and Trade Bureau; to sell wine in this state
23 to licensed wholesalers and manufacturers; to sell bottles of wine
24 produced at the winery from grapes and other fruits and berries

1 grown in this state, if available, to consumers on the premises of
2 the winery; to serve visitors on the licensed premises samples of
3 wine produced on the premises; to serve samples of wine produced at
4 the winery at festivals and trade shows; to sell wine produced at
5 the winery, in original sealed containers, at festivals and trade
6 shows; to sell wine out of this state to qualified persons; to
7 purchase from licensed winemakers, distillers and rectifiers in this
8 state, and to import into this state wine, brandy and fruit spirits
9 for use in manufacturing in accordance with federal laws and
10 regulations; provided, a winemaker either within or without this
11 state that annually produces no more than ten thousand (10,000)
12 gallons of wine may elect to sell and self-distribute the wine
13 produced by such winemaker directly to licensed retail package
14 stores and restaurants in this state; and provided further that:

15 1. Any such winemaker which elects to directly sell its wine to
16 package stores and restaurants shall not also use a licensed
17 wholesale distributor as a means of distribution, and shall be
18 required to sell its wines to every package store and restaurant
19 licensee who desires to purchase the same, on the same price basis
20 and without discrimination;

21 2. If a winemaker or winery sells directly to a retail package
22 store or restaurant, the winemaker shall transport the wine from the
23 winemaker's winery to the premises where the wine is to be delivered
24 only in vehicles owned or leased by the winemaker and not by common

1 or private contract carrier and shall obtain all necessary permits
2 as required by the Oklahoma Alcoholic Beverage Control Act; and

3 3. If the production volume limit applicable to winemakers is
4 ruled to be unconstitutional by a court of competent jurisdiction,
5 then no winemaker shall be permitted to directly sell its wine to
6 retail package stores or restaurants in this state.

7 D. A winemaker self-distribution license shall authorize a
8 licensed winemaker within or without this state which is permitted
9 by Section 3 of Article XXVIII of the Oklahoma Constitution and
10 subsection C of this section, to distribute its wine directly to
11 retail package stores and restaurants in this state and that elects
12 to do so, to sell and deliver its wines directly to licensed retail
13 package stores and restaurants in this state in full case lots only,
14 and in accordance with the provisions of the Oklahoma Alcoholic
15 Beverage Control Act and such rules as the ABLE Commission shall
16 adopt.

17 E. A rectifier license shall authorize the holder thereof: To
18 rectify spirits and wines, bottle, package, and store same on the
19 licensed premises; to sell spirits and wines in this state to
20 licensed wholesalers and manufacturers only; to sell spirits and
21 wines out of this state to qualified persons; to purchase from
22 licensed manufacturers in this state; and to import into this state
23 for manufacturing purposes spirits and wines in accordance with
24 federal laws and regulations.

1 F. 1. A wholesaler license shall authorize the holder thereof:
2 To purchase and import into this state spirits and wines from
3 persons authorized to sell same who are the holders of a nonresident
4 seller license, and their agents who are the holders of
5 manufacturers agent licenses; to purchase spirits and wines from
6 licensed distillers, rectifiers and winemakers in this state; to
7 purchase spirits and wines from licensed wholesalers, to the extent
8 set forth in paragraphs 2 and 3 of this subsection; to sell in
9 retail containers in this state to retailers, mixed beverage,
10 caterer, special event, public event, hotel beverage or
11 airline/railroad beverage licensees, spirits and wines which have
12 been received and unloaded at the bonded warehouse facilities of the
13 wholesaler before such sale; to sell to licensed wholesalers, to the
14 extent set forth in paragraphs 2 and 3 of this subsection, spirits
15 and wines which have been received and unloaded at the bonded
16 warehouse facilities of the wholesaler before such sale; and to sell
17 spirits and wines out of this state to qualified persons. Provided,
18 however, sales of spirits and wine in containers with a capacity of
19 less than one-twentieth (1/20) gallon by a holder of a wholesaler
20 license shall be in full case lots and in the original unbroken
21 case. Wholesalers shall be authorized to place such signs outside
22 their place of business as are required by Acts of Congress and by
23 such laws and regulations promulgated under such Acts.

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1 2. Wholesalers are prohibited from purchasing annually in
2 excess of fifteen percent (15%) of their total spirits inventory and
3 fifteen percent (15%) of their total wine inventory from one or more
4 wholesalers. Wholesalers are also prohibited from purchasing
5 annually in excess of fifteen percent (15%) of their inventory of
6 any individual brand of spirits or wine from one or more
7 wholesalers. The volume of spirits and wine and of each brand that
8 each wholesaler is permitted to purchase annually from other
9 wholesalers shall be calculated by the ABLE Commission by
10 multiplying fifteen percent (15%) by:

- 11 a. the total volume of spirits sales of the wholesaler,
12 by liter, from the previous calendar year, and
- 13 b. the total volume of wine sales of the wholesaler, by
14 liter, from the previous calendar year, and
- 15 c. the volume of sales of each brand of spirits or wine
16 of the wholesaler, by liter, from the previous
17 calendar year.

18 A wholesaler who did not post any sales of spirits, wine or of a
19 particular brand in the previous calendar year shall be deemed to
20 have sold the same volume of spirits, wine or of a particular brand
21 as the wholesaler posting the smallest volumes of sales in spirits,
22 wine or of a particular brand for that year for the purposes of this
23 paragraph. Notwithstanding the foregoing, wholesalers shall not
24 purchase any inventory in spirits or wine from any other wholesaler

1 until such time that the purchasing wholesaler possesses an
2 inventory valued at no less than Two Hundred Fifty Thousand Dollars
3 (\$250,000.00). Inventory valuation shall be based on the original
4 actual price paid by the purchasing wholesaler to the nonresident
5 seller for the inventory.

6 3. A wholesaler may sell spirits and wine to other wholesalers
7 or purchase spirits and wines from other wholesalers without
8 complying with paragraph 2 of this subsection in the case of the
9 sale, purchase, or other transfer or acquisition of the entire
10 business of a wholesaler, including the inventory of spirits and
11 wine.

12 4. A wholesaler license shall authorize the holder thereof to
13 operate a single bonded warehouse with a single central office
14 together with delivery facilities at a location in this state only
15 at the principal place of business for which the wholesaler license
16 was granted.

17 5. All licensed wholesalers shall register prices, purchase and
18 keep on hand or have on order a fifteen-day supply of all brands
19 constituting the top eighteen brands in total sales by all Oklahoma
20 wholesalers during the past twelve-month period, according to the
21 records of the ABLE Commission as revised by the ABLE Commission
22 quarterly; provided, however, that not more than three brands of any
23 particular nonresident seller shall be included in the top-brands
24 classification. All purchase orders for these top eighteen brands

1 must show an expected due delivery date. These purchase orders may
2 only be canceled with prior approval of the Director of the ABLE
3 Commission, unless a wholesaler shall have in its warehouse a
4 fifteen-day supply of merchandise on such purchase order.

5 In order to allow the ABLE Commission to determine the top
6 eighteen brands, wholesalers must submit to the ABLE Commission
7 every sixty (60) days a sworn affidavit listing their top twenty-
8 five brands in sales for the previous sixty (60) days, excluding
9 sales to wholesalers. Such affidavits shall be submitted in
10 conjunction with the original price postings of wholesalers.

11 A fifteen-day supply of a particular brand for a particular
12 wholesaler shall be based upon the market share of the wholesaler,
13 determined by first multiplying the total number of liters of such
14 brand sold by all wholesalers to all retailers during the previous
15 calendar year by the percentage that the total sales of wine and
16 spirits of the particular wholesaler, in liters, for such calendar
17 year bears to the total sales of wine and spirits, in liters,
18 reported by all wholesalers for such calendar year; and then
19 dividing by twenty-four (24); provided, that a fifteen-day supply
20 for a wholesaler who has not been in business for the entirety of
21 the previous calendar year shall be deemed to be equal to that of
22 the wholesaler who was in business for the entirety of the previous
23 calendar year and who reported the lowest volume of sales of wine

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1 and spirits, in liters, of any wholesaler having been in business
2 for such period.

3 G. A Class B wholesaler license shall authorize the holder
4 thereof: To purchase and import into this state beer from persons
5 authorized to sell same who are the holders of nonresident seller
6 licenses, and their agents who are the holders of manufacturers
7 agent licenses; to purchase beer from licensed brewers and Class B
8 wholesalers in this state; to sell in retail containers to
9 retailers, mixed beverage, caterer, special event, public event,
10 hotel beverage, and airline/railroad beverage licensees in this
11 state, beer which has been unloaded and stored at the holder's self-
12 owned or leased and self-operated warehouse facilities for a period
13 of at least twenty-four (24) hours before such sale; and to sell
14 beer in this state to Class B wholesalers and out of this state to
15 qualified persons, including federal instrumentalities and voluntary
16 associations of military personnel on federal enclaves in this state
17 over which this state has ceded jurisdiction.

18 H. A package store license shall authorize the holder thereof:
19 To purchase alcohol, spirits, beer, and wine in retail containers
20 from the holder of a brewer, wholesaler or Class B wholesaler
21 license and to purchase wine from a winemaker who is permitted and
22 has elected to self-distribute as provided in Section 3 of Article
23 XXVIII of the Oklahoma Constitution and to sell same on the licensed
24 premises in such containers to consumers for off-premises

1 consumption only and not for resale; provided, wine, beer, and
2 spirits may be sold to charitable organizations that are holders of
3 charitable alcoholic beverage auction or charitable alcoholic
4 beverage event licenses. All alcoholic beverages that are sold by a
5 package store are to be sold at ordinary room temperature.

6 I. A mixed beverage license shall authorize the holder thereof:
7 To purchase alcohol, spirits, beer or wine in retail containers from
8 the holder of a wholesaler or Class B wholesaler license or as
9 specifically provided by law and to sell, offer for sale and possess
10 mixed beverages for on-premises consumption only; provided, the
11 holder of a mixed beverage license issued for an establishment which
12 is also a restaurant may purchase wine directly from a winemaker who
13 is permitted and has elected to self-distribute as provided in
14 Section 3 of Article XXVIII of the Oklahoma Constitution.

15 Sales and service of mixed beverages by holders of mixed
16 beverage licenses shall be limited to the licensed premises of the
17 licensee unless the holder of the mixed beverage license also
18 obtains a caterer license or a mixed beverage/caterer combination
19 license. A mixed beverage license shall only be issued in counties
20 of this state where the sale of alcoholic beverages by the
21 individual drink for on-premises consumption has been authorized. A
22 separate license shall be required for each place of business. No
23 mixed beverage license shall be issued for any place of business
24 functioning as a motion picture theater, as defined by Section 506

1 of this title. A mixed beverage licensee whose main purpose is
2 hosting live performance art presentations may utilize the services
3 of a licensed caterer for its alcoholic beverage service as long as
4 it is not open to the public more than one hundred twenty (120) days
5 per year.

6 J. A bottle club license shall authorize the holder thereof: To
7 store, possess and mix alcoholic beverages belonging to members of
8 the club and to serve such alcoholic beverages for on-premises
9 consumption to club members. A bottle club license shall only be
10 issued in counties of this state where the sale of alcoholic
11 beverages by the individual drink for on-premises consumption has
12 not been authorized. A separate license shall be required for each
13 place of business.

14 K. A caterer license shall authorize the holder thereof: To
15 sell mixed beverages for on-premises consumption incidental to the
16 sale or distribution of food at particular functions, occasions, or
17 events which are private and temporary in nature. A caterer license
18 shall not be issued in lieu of a mixed beverage license. A caterer
19 license shall only be issued or utilized in counties of this state
20 where the sale of alcoholic beverages by the individual drink for
21 on-premises consumption has been authorized. A separate license
22 shall be required for each place of business.

23 A licensed caterer shall be authorized to sell mixed beverages
24 for on-premises consumption incidental to the distribution of food

1 at temporary private functions, at temporary public events that are
2 licensed and approved by the ABLE Commission, and on the premises of
3 a mixed beverage licensee whose main purpose is the hosting of live
4 performing art presentations and is not open to the public more than
5 one hundred twenty (120) days per year.

6 L. 1. An annual special event license shall authorize the
7 holder thereof: To sell and distribute mixed beverages for
8 consumption on the premises for which the license has been issued
9 for up to four events to be held over a period not to exceed one (1)
10 year, not to exceed two such events in any three-month period. For
11 purposes of this paragraph, an event shall not exceed a period of
12 ten (10) consecutive days. An annual special event license shall
13 only be issued in counties of this state where the sale of alcoholic
14 beverages by the individual drink for on-premises consumption has
15 been authorized. The holder of an annual special event license
16 shall provide written notice to the ABLE Commission of each special
17 event not less than ten (10) days before the event is held.

18 2. A quarterly special event license shall authorize the holder
19 thereof: To sell and distribute mixed beverages for consumption on
20 the premises for which the license has been issued for up to three
21 events to be held over a period not to exceed three (3) months. For
22 purposes of this paragraph, an event shall not exceed a period of
23 ten (10) consecutive days. A quarterly special event license shall
24 only be issued in counties of this state where the sale of alcoholic

1 beverages by the individual drink for on-premises consumption has
2 been authorized. The holder of a quarterly special event license
3 shall provide written notice to the ABLE Commission of each special
4 event not less than ten (10) days before the event is held.

5 3. An annual public event license shall authorize the holder
6 thereof: to sell and distribute mixed beverages for consumption on
7 the premises for which the license has been issued for up to six
8 events to be held over a period not to exceed one (1) year. The
9 applicant for an annual public event license, who does not already
10 hold a license issued by the ABLE Commission, shall make application
11 not less than sixty (60) days before its first event. The ABLE
12 Commission shall have the authority to waive the sixty-day
13 requirement at its discretion. For purposes of this paragraph, an
14 event shall not exceed a period of three (3) consecutive days. An
15 annual public event license shall only be issued in counties of this
16 state where the sale of alcoholic beverages by the individual drink
17 for on-premises consumption has been authorized. The holder of an
18 annual public event license shall provide written notice to the ABLE
19 Commission of each subsequent public event not less than ten (10)
20 days before the event is held. A public event license shall not be
21 used in lieu of a mixed beverage license. The holder of an annual
22 public event license may choose to utilize the services of a
23 licensed caterer to provide and distribute the alcoholic beverages
24 at their events. When the applicant chooses to utilize the services

1 of a licensed caterer, the applicant shall declare upon application
2 which licensed caterer will be used. The licensed caterer shall be
3 responsible for payment of all applicable mixed beverage taxes
4 through the existing Mixed Beverage Tax Permit issued to his or her
5 business by the Oklahoma Tax Commission.

6 4. A one-time public event license shall authorize the holder
7 thereof: to sell and distribute mixed beverages for consumption on
8 the premises for which the license has been issued. The applicant
9 for a one-time public event license, who does not already hold a
10 license issued by the ABLE Commission, shall make application not
11 less than sixty (60) days before the event. The ABLE Commission
12 shall have the authority to waive the sixty-day requirement at its
13 discretion. For purposes of this paragraph, an event shall not
14 exceed a period of three (3) consecutive days. A public event
15 license shall only be issued in counties of this state where the
16 sale of alcoholic beverages by the individual drink for on-premises
17 consumption has been authorized. A public event license shall not
18 be used in lieu of a mixed beverage license. The holder of a one-
19 time public event license may choose to utilize the services of a
20 licensed caterer to provide and distribute the alcoholic beverages
21 at his or her event. When the applicant chooses to utilize the
22 services of a licensed caterer, the applicant shall declare upon
23 application which licensed caterer will be used. The licensed
24 caterer shall be responsible for payment of all applicable mixed

1 beverage taxes through the existing Mixed Beverage Tax Permit issued
2 to his or her business by the Oklahoma Tax Commission.

3 M. A hotel beverage license shall authorize the holder thereof:
4 To sell or serve alcoholic beverages in 50 milliliter spirits, 187
5 milliliter wine, and 12-ounce malt beverage containers which are
6 distributed from a hotel room mini-bar. A hotel beverage license
7 shall only be issued in counties of this state where the sale of
8 alcoholic beverages by the individual drink for on-premises
9 consumption has been authorized. A hotel beverage license shall
10 only be issued to a hotel or motel as defined by Section 506 of this
11 title which is also the holder of a mixed beverage license.
12 Provided, that application may be made simultaneously for both such
13 licenses. A separate license shall be required for each place of
14 business.

15 N. An airline/railroad beverage license shall authorize the
16 holder thereof: To sell or serve alcoholic beverages in or from any
17 size container on a commercial passenger airplane or railroad
18 operated in compliance with a valid license, permit or certificate
19 issued under the authority of the United States or this state, even
20 though the airplane or train, in the course of its travel, may cross
21 an area in which the sale of alcoholic beverages by the individual
22 drink is not authorized and to store alcoholic beverages in sealed
23 containers of any size at any airport or station regularly served by
24 the licensee, in accordance with rules promulgated by the Alcoholic

1 Beverage Laws Enforcement Commission. Alcoholic beverages purchased
2 by the holder of an airline/railroad license from the holder of a
3 wholesaler license shall be presumed to be purchased for consumption
4 outside the State of Oklahoma or in interstate commerce, and shall
5 be exempt from the excise tax provided for in Section 553 of this
6 title.

7 O. An agent license shall authorize the holder thereof: To
8 represent only the holders of licenses within this state, other than
9 retailers, authorized to sell alcoholic beverages to retail dealers
10 in Oklahoma, and to solicit and to take orders for the purchase of
11 alcoholic beverages from retailers including licensees authorized to
12 sell alcoholic beverages by the individual drink for on-premises
13 consumption. Such license shall be issued only to agents and
14 employees of the holder of a license under the Oklahoma Alcoholic
15 Beverage Control Act, but no such license shall be required of an
16 employee making sales of alcoholic beverages on licensed premises of
17 the employee's principal. No person holding an agent license shall
18 be entitled to a manufacturers agent license.

19 P. An employee license shall authorize the holder thereof: To
20 work in a package store, mixed beverage establishment, beer and wine
21 establishment, bottle club, public event or any establishment where
22 alcohol or alcoholic beverages are sold, mixed, or served. Persons
23 employed by a mixed beverage licensee, beer and wine licensee,
24 public event licensee or a bottle club who do not participate in the

1 service, mixing, or sale of mixed beverages shall not be required to
2 have an employee license. Provided, however, that a manager
3 employed by a mixed beverage licensee, public event licensee or a
4 bottle club shall be required to have an employee license whether or
5 not the manager participates in the service, mixing or sale of mixed
6 beverages. Applicants for an employee license must have a health
7 card issued by the county in which they are employed, if the county
8 issues such a card. Employees of special event, caterer, unless
9 catering a mixed beverage licensed premises, or airline/railroad
10 beverage licensees shall not be required to obtain an employee
11 license. Persons employed by a hotel licensee who participate in
12 the stocking of hotel room mini-bars or in the handling of alcoholic
13 beverages to be placed in such devices shall be required to have an
14 employee license.

15 Q. An industrial license may be issued to persons desiring to
16 import, transport, and use alcohol for the following purposes:

17 1. Manufacture of patent, proprietary, medicinal,
18 pharmaceutical, antiseptic, and toilet preparations;

19 2. Manufacture of extracts, syrups, condiments, and food
20 products; and

21 3. For use in scientific, chemical, mechanical, industrial, and
22 medicinal products and purposes.
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1 No other provisions of the Oklahoma Alcoholic Beverage Control
2 Act shall apply to alcohol intended for industrial, medical,
3 mechanical or scientific use.

4 Any person receiving alcohol under authority of an industrial
5 license who shall use, permit, or cause same to be used for purposes
6 other than authorized purposes specified above, and all such
7 alcohol, shall be liable to all provisions of the Oklahoma Alcoholic
8 Beverage Control Act, including payment of tax thereon.

9 No provisions of the Oklahoma Alcoholic Beverage Control Act
10 shall apply to alcohol withdrawn by any person free of federal tax
11 under a tax-free permit issued by the United States government, if
12 such alcohol is received, stored, and used as authorized by federal
13 laws.

14 R. A carrier license may be issued to any common carrier
15 operating under a certificate of convenience and necessity issued by
16 any duly authorized federal or state regulatory agency. Such
17 license shall authorize the holder thereof to transport alcoholic
18 beverages other than wine sold directly by a winemaker or winery to
19 a retail package store or restaurant into, within, and out of this
20 state under such terms, conditions, limitations, and restrictions as
21 the ABLE Commission may prescribe by order issuing such license and
22 by regulations.

23 S. A private carrier license may be issued to any carrier other
24 than a common carrier described in subsection Q of this section.

1 Such license shall authorize the holder thereof to transport
2 alcoholic beverages other than wine sold directly by a winemaker or
3 winery to a retail package store or restaurant into, within, or out
4 of this state under such terms, conditions, limitations, and
5 restrictions as the ABLE Commission may prescribe by order issuing
6 such license and by regulations. No carrier license or private
7 carrier license shall be required of licensed brewers, distillers,
8 winemakers, rectifiers, wholesalers, or Class B wholesalers, to
9 transport alcoholic beverages from the place of purchase or
10 acquisition to the licensed premises of such licensees and from such
11 licensed premises to the licensed premises of the purchaser in
12 vehicles owned or leased by such licensee when such transportation
13 is for a lawful purpose and not for hire.

14 No carrier license or private carrier license shall be required
15 of the holder of a package store, mixed beverage, caterer, special
16 event, hotel beverage, public event or airline/railroad license to
17 pick up alcoholic beverage orders from the licensees' wholesaler or
18 Class B wholesaler from whom they are purchased, and to transport
19 such alcoholic beverages from the place of purchase or acquisition
20 to the licensed premise of such licensees in vehicles owned or under
21 the control of such licensee or a licensed employee of such licensee
22 under such terms, conditions, limitations and restrictions as the
23 ABLE Commission may prescribe.

24

1 T. A bonded warehouse license shall authorize the holder
2 thereof: To receive and store alcoholic beverages for the holders of
3 storage licenses on the licensed premises of the bonded warehouse
4 licensee. No goods, wares or merchandise other than alcoholic
5 beverages may be stored in the same bonded warehouse with alcoholic
6 beverages. The holder of a bonded warehouse license shall furnish
7 and file with the ABLE Commission a bond running to all bailers of
8 alcoholic beverages under proper storage licenses and their
9 assignees (including mortgagees or other bona fide lienholders)
10 conditioned upon faithful performance of the terms and conditions of
11 such bailments.

12 U. A storage license may be issued to a holder of a brewer,
13 distiller, winemaker, rectifier, wholesaler, Class B wholesaler,
14 nonresident seller, package store, mixed beverage, caterer, public
15 event or hotel beverage license, and shall authorize the holder
16 thereof: To store alcoholic beverages in a public warehouse holding
17 a bonded warehouse license, and no goods, wares or merchandise other
18 than alcoholic beverages may be stored in the same warehouse with
19 alcoholic beverages in private warehouses owned or leased and
20 operated by such licensees elsewhere than on their licensed
21 premises. Provided:

22 1. A storage license issued to a Class B wholesaler shall
23 permit the storage of light beer and permit the sale and delivery to
24 retailers from the premises covered by such license;

1 2. Any licensee who is the holder of a mixed beverage/caterer
2 combination license or the holder of a mixed beverage license and a
3 hotel beverage license who is issued a storage license shall store
4 all inventories of alcoholic beverages either on the premises of the
5 mixed beverage establishment or in the warehouse;

6 3. A storage license shall not be required for a special event
7 licensee storing alcoholic beverages for use at a subsequent event;

8 4. A storage license shall be required for a public event
9 licensee storing alcoholic beverages for use at a subsequent event;
10 and

11 5. Notwithstanding the provisions of subsection I of this
12 section or any other provision of this title, a licensee who wholly
13 owns more than one licensed mixed beverage establishment may store
14 alcoholic beverages for each of the licensed establishments in one
15 location under one storage license. Alcoholic beverages purchased
16 and stored pursuant to the provisions of a storage license, for one
17 licensed mixed beverage establishment may be transferred by a
18 licensee to another licensed mixed beverage establishment which is
19 wholly owned by the same licensee. Notice of such a transfer shall
20 be given in writing to the Oklahoma Tax Commission and the ABLE
21 Commission within three (3) business days of the transfer. The
22 notice shall clearly show the quantity, brand and size of every
23 transferred bottle or case.

1 V. A sacramental wine supplier license shall authorize the
2 holder thereof: To sell, ship or deliver sacramental wine to any
3 religious corporation or society of this state holding a valid
4 exemption from taxation issued pursuant to Section 501(a) of the
5 Internal Revenue Code, 1986, and listed as an exempt organization in
6 Section 501(c)(3) of the Internal Revenue Code, 1986, of the United
7 States, as amended.

8 W. A beer and wine license shall authorize the holder thereof:
9 To purchase beer and wine in retail containers from the holder of a
10 wholesaler or Class B wholesaler license or as specifically provided
11 by law and to sell, offer for sale and possess beer and wine for on-
12 premises consumption only; provided, the holder of a beer and wine
13 license issued for an establishment which is also a restaurant may
14 purchase wine from a winemaker who is permitted and has elected to
15 self-distribute as provided in Section 3 of Article XXVIII of the
16 Oklahoma Constitution.

17 Sales and service of beer and wine by holders of beer and wine
18 licenses shall be limited to the licensed premises of the licensee
19 unless the holder of the beer and wine license also obtains a
20 caterer license. A beer and wine license shall only be issued in
21 counties of this state where the sale of alcoholic beverages by the
22 individual drink for on-premises consumption has been authorized. A
23 separate license shall be required for each place of business. No
24 beer and wine license shall be issued for any place of business

1 functioning as a motion picture theater, as defined by Section 506
2 of this title. No spirits shall be stored, possessed or consumed on
3 the licensed premises of a beer and wine licensee.

4 X. A charitable auction or charitable alcoholic beverage event
5 license may be issued to a charitable organization exempt from
6 taxation under Section 501(c)(3), (4), (5), (6), (7), (8), (9),
7 (10), or (19) of the United States Internal Revenue Code. The
8 charitable alcoholic beverage event license shall authorize the
9 holder thereof to conduct a wine, spirit and/or beer event which may
10 consist of one or more of a wine, spirit and/or beer tasting event,
11 a wine, spirit and/or beer dinner event or a wine, spirit and/or
12 beer auction, which may be either a live auction conducted by an
13 auctioneer or a silent auction for which:

14 1. Bid sheets are accepted from interested bidders at the
15 event;

16 2. The holders of tickets are allowed to bid online for a
17 period not exceeding thirty (30) days prior to the event; or

18 3. Both bid sheets are accepted at the event and online bids
19 are accepted pursuant to paragraph 2 of this subsection.

20 A charitable alcoholic beverage event shall be conducted solely
21 to raise funds for charitable purposes. A charitable alcoholic
22 beverage license will allow the event attendees access to tastings,
23 samples, dinners, and alcoholic beverages as parts of their entrance
24 fee or ticket price. Wine, spirits and/or beer used in, served, or

1 consumed at a charitable alcoholic beverage event may be purchased
2 by the charitable organization or donated by any person or entity.
3 The charitable alcoholic beverage event license shall be issued for
4 a period not exceeding four (4) days. Only eight such licenses may
5 be issued to an organization in any twelve-month period. The
6 charitable organization holding a charitable alcoholic beverage
7 event license shall not be required to obtain a special event
8 license. Charitable auction and charitable alcoholic beverage event
9 license holders may also utilize a licensed caterer to provide
10 additional alcohol services at the event and on the premises. The
11 charitable auction license shall authorize the holder thereof to
12 auction wine, spirits, and/or beer purchased from a retail package
13 store or received as a gift from an individual if the auction is
14 conducted to raise funds for charitable purposes. The charitable
15 auction license shall be issued for a period not to exceed two (2)
16 days. Only four such licenses shall be issued to an organization in
17 any twelve-month period. The maximum amount of wine, spirits,
18 and/or beer auctioned pursuant to the charitable auction license
19 shall not exceed fifty (50) gallons. All wine, beer, and spirits
20 auctioned pursuant to the charitable auction license shall be
21 registered and all fees and taxes shall be paid in accordance with
22 the Oklahoma Alcoholic Beverage Control Act.

23 No charitable alcoholic beverage event license shall be required
24 for an organization, association or nonprofit corporation which is

1 an economic development chamber or similar entity, provided the
2 event is not conducted primarily for fundraising purposes, and
3 provided the services of a licensed caterer are used to provide and
4 distribute the alcoholic beverages at the event.

5 Y. A mixed beverage/caterer combination license shall authorize
6 the holder thereof: To purchase or sell mixed beverages as
7 specifically provided by law for the holder of a mixed beverage
8 license or a caterer license. All provisions of the Oklahoma
9 Alcoholic Beverage Control Act applicable to mixed beverage licenses
10 or caterer licenses, or the holders thereof, shall also be
11 applicable to mixed beverage/caterer combination licenses or the
12 holders thereof, except where specifically otherwise provided. A
13 mixed beverage/caterer combination license shall only be issued in
14 counties of this state where the sale of alcoholic beverages by the
15 individual drink for on-premises consumption has been authorized. A
16 separate license shall be required for each place of business.

17 A licensed mixed beverage/caterer licensee shall be authorized
18 to sell mixed beverages for on-premises consumption incidental to
19 the distribution of food at temporary private functions, at
20 temporary public events that are licensed and approved by the ABLE
21 Commission, and on the premises of a mixed beverage licensee whose
22 main purpose is the hosting of live art presentations and is not
23 open to the public more than one hundred twenty (120) days per year.

24

1 Z. A small farm winery license shall authorize the holder
2 thereof: To manufacture and bottle wines produced by that small
3 farm winery. In addition, a small farm winery license authorizes
4 the holder of that permit to bottle and sell wines produced by
5 another small farm winery. In order for a small farm winery to
6 bottle and sell another small farm winery's products, both the
7 selling winery and the buying winery shall be small farm winery
8 permit holders. A small farm wine may display the trademarked
9 "Oklahoma Grown" sticker available from the Oklahoma Grape Industry
10 Council.

11 AA. In the event any portion of this section is declared
12 invalid for any reason, the invalid portion shall be severed and the
13 rest and remainder of the section shall be saved and given full
14 force and application.

15 BB. Except as provided in Sections 554.1 and 554.2 of this
16 title with respect to cities, towns and counties, and except as may
17 be provided under Title 68 of the Oklahoma Statutes with respect to
18 the Oklahoma Tax Commission, no license or permit other than
19 licenses as provided under the Oklahoma Alcoholic Beverage Control
20 Act shall be required of any licensee by any agency, instrumentality
21 or political subdivision of this state to engage in any activity
22 covered by the Oklahoma Alcoholic Beverage Control Act anywhere
23 within the State of Oklahoma and no agency, instrumentality or
24 political subdivision of this state shall interfere with the ABLE

1 Commission's regulation of, or a wholesaler's performance of, the
2 sale, distribution, possession, handling or marketing of alcoholic
3 beverages on any premises of any licensee as defined in Section 506
4 of this title.

5 SECTION 6. AMENDATORY Section 41, Chapter 366, O.S.L.
6 2016 (37A O.S. Supp. 2016, Section 2-129), is amended to read as
7 follows:

8 Section 2-129. A. A charitable auction or charitable alcoholic
9 beverage event license may be issued to a charitable organization
10 exempt from taxation under Section 501(c)(3), (4), (5), (6), (7),
11 (8), (9), (10) or (19) of the United States Internal Revenue Code.
12 The charitable alcoholic beverage event license shall authorize the
13 holder thereof to conduct a wine, spirit and/or beer event which may
14 consist of one or more of a wine, spirit and/or beer-tasting event,
15 a wine, spirit and/or beer dinner event or a wine, spirit and/or
16 beer auction, which may be either a live auction conducted by an
17 auctioneer or a silent auction for which:

18 1. Bid sheets are accepted from interested bidders at the
19 event;

20 2. The holders of tickets are allowed to bid online for a
21 period not exceeding thirty (30) days prior to the event; or

22 3. Both bid sheets are accepted at the event and online bids
23 are accepted pursuant to paragraph 2 of this subsection.

24

1 B. A charitable alcoholic beverage event shall be conducted
2 solely to raise funds for charitable purposes. A charitable
3 alcoholic beverage license shall allow the event attendees access to
4 tastings, samples, dinners and alcoholic beverages as parts of their
5 entrance fee or ticket price. Wine, spirits and/or beer used in,
6 served or consumed at a charitable alcoholic beverage event may be
7 purchased by the charitable organization or donated by any person or
8 entity.

9 C. The charitable alcoholic beverage event license shall be
10 issued for a period not exceeding four (4) days. Only eight such
11 licenses may be issued to an organization in any twelve-month
12 period. The charitable organization holding a charitable alcoholic
13 beverage event license shall not be required to obtain a special
14 event license.

15 D. Charitable auction and charitable alcoholic beverage event
16 license holders may also utilize a licensed caterer to provide
17 additional alcohol services at the event and on the premises.

18 E. The charitable auction license shall authorize the holder
19 thereof to auction wine, spirits and/or beer purchased from a retail
20 package store or received as a gift from an individual if the
21 auction is conducted to raise funds for charitable purposes. The
22 charitable auction license shall be issued for a period not to
23 exceed two (2) days. Only four such licenses shall be issued to an
24 organization in any twelve-month period. The maximum amount of

1 wine, spirits and/or beer auctioned pursuant to the charitable
2 auction license shall not exceed fifty (50) gallons. All wines,
3 beer and spirits auctioned pursuant to the charitable auction
4 license shall be registered and all fees and taxes shall be paid in
5 accordance with the Oklahoma Alcoholic Beverage Control Act.

6 F. No charitable alcoholic beverage event license shall be
7 required for an organization, association or nonprofit corporation
8 which is an economic development chamber or similar entity, provided
9 the event is not conducted primarily for fundraising purposes, and
10 provided the services of a licensed caterer are used to provide and
11 distribute the alcoholic beverages at the event.

12 SECTION 7. REPEALER Section 1 of this act shall be
13 repealed October 1, 2018.

14 SECTION 8. Sections 1, 3 and 5 of this act shall become
15 effective July 1, 2017.

16 SECTION 9. Sections 2, 4 and 6 of this act shall become
17 effective October 1, 2018.

18 SECTION 10. It being immediately necessary for the preservation
19 of the public peace, health or safety, an emergency is hereby
20 declared to exist, by reason whereof this act shall take effect and
21 be in full force from and after its passage and approval."
22
23
24

1 Passed the Senate the 26th day of April, 2017.

2
3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2017.

7
8 _____
9 Presiding Officer of the House
10 of Representatives

1 ENGROSSED HOUSE
2 BILL NO. 1302

By: Murdock of the House

3 and

4 Bice of the Senate

5
6 [alcoholic beverages - alcoholic beverage licensing
7 - effective date]
8
9

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

11 SECTION 11. AMENDATORY Section 27, Chapter 366, O.S.L.
12 2016 (37A O.S. Supp. 2016, Section 2-115), is amended to read as
13 follows:

14 Section 2-115. A. A special event license may be issued to an
15 organization, association or nonprofit corporation organized for
16 political, fraternal, charitable, religious or social purposes. The
17 holder of a special event license is authorized to sell and
18 distribute alcoholic beverage on the premises for which the license
19 is issued.

20 B. The ABLE Commission shall promulgate rules governing the
21 application for and the issuance of special event licenses.

22 C. The restrictions and rules which apply to the sale of mixed
23 beverages on the premises of a mixed beverage licensee also apply to
24 the sale of such beverages under the authority of a special event

1 license. Any act which if done on the premises of a mixed beverage
2 licensee would be a ground for revocation or suspension of the mixed
3 beverage license is a ground for revocation or suspension of a
4 special event license.

5 D. No special event license may be issued for any premises
6 already licensed by the ABLE Commission.

7 E. No special event license shall be required for an
8 organization, association or nonprofit corporation whose purpose is
9 to promote the common interest of economic development and business
10 growth within a community, provided the event is not conducted
11 primarily for fundraising purposes, and provided the services of a
12 licensed caterer are used to provide and distribute the alcoholic
13 beverages at the event.

14 SECTION 12. AMENDATORY Section 41, Chapter 366, O.S.L.
15 2016 (37A O.S. Supp. 2016, Section 2-129), is amended to read as
16 follows:

17 Section 2-129. A. A charitable auction or charitable alcoholic
18 beverage event license may be issued to a charitable organization
19 exempt from taxation under Section 501(c)(3), (4), (5), (6), (7),
20 (8), (9), (10) or (19) of the United States Internal Revenue Code.
21 The charitable alcoholic beverage event license shall authorize the
22 holder thereof to conduct a wine, spirit and/or beer event which may
23 consist of one or more of a wine, spirit and/or beer-tasting event,
24 a wine, spirit and/or beer dinner event or a wine, spirit and/or

1 beer auction, which may be either a live auction conducted by an
2 auctioneer or a silent auction for which:

3 1. Bid sheets are accepted from interested bidders at the
4 event;

5 2. The holders of tickets are allowed to bid online for a
6 period not exceeding thirty (30) days prior to the event; or

7 3. Both bid sheets are accepted at the event and online bids
8 are accepted pursuant to paragraph 2 of this subsection.

9 B. A charitable alcoholic beverage event shall be conducted
10 solely to raise funds for charitable purposes. A charitable
11 alcoholic beverage license shall allow the event attendees access to
12 tastings, samples, dinners and alcoholic beverages as parts of their
13 entrance fee or ticket price. Wine, spirits and/or beer used in,
14 served or consumed at a charitable alcoholic beverage event may be
15 purchased by the charitable organization or donated by any person or
16 entity.

17 C. The charitable alcoholic beverage event license shall be
18 issued for a period not exceeding four (4) days. Only eight such
19 licenses may be issued to an organization in any twelve-month
20 period. The charitable organization holding a charitable alcoholic
21 beverage event license shall not be required to obtain a special
22 event license.

23

24

1 D. Charitable auction and charitable alcoholic beverage event
2 license holders may also utilize a licensed caterer to provide
3 additional alcohol services at the event and on the premises.

4 E. The charitable auction license shall authorize the holder
5 thereof to auction wine, spirits and/or beer purchased from a retail
6 package store or received as a gift from an individual if the
7 auction is conducted to raise funds for charitable purposes. The
8 charitable auction license shall be issued for a period not to
9 exceed two (2) days. Only four such licenses shall be issued to an
10 organization in any twelve-month period. The maximum amount of
11 wine, spirits and/or beer auctioned pursuant to the charitable
12 auction license shall not exceed fifty (50) gallons. All wines,
13 beer and spirits auctioned pursuant to the charitable auction
14 license shall be registered and all fees and taxes shall be paid in
15 accordance with the Oklahoma Alcoholic Beverage Control Act.

16 F. No charitable alcoholic beverage event license shall be
17 required for an organization, association or nonprofit corporation
18 whose purpose is to promote the common interest of economic
19 development and business growth within a community, provided the
20 event is not conducted primarily for fundraising purposes, and
21 provided the services of a licensed caterer are used to provide and
22 distribute the alcoholic beverages at the event.

23 SECTION 13. This act shall become effective October 1, 2018.
24

1 Passed the House of Representatives the 22nd day of March, 2017.

2
3 _____
4 Presiding Officer of the House
of Representatives

5 Passed the Senate the ____ day of _____, 2017.

6
7
8 _____
9 Presiding Officer of the Senate