

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 1643

By: McCall

6
7
8 COMMITTEE SUBSTITUTE

9 An Act relating to alcoholic beverages; amending
10 Section 93, Chapter 366, O.S.L. 2016 (37A O.S. Supp.
11 2018, Section 3-123), which relates to the sale of
12 alcoholic beverages to wholesalers or retailers;
13 modifying prohibition against certain sales of
14 alcoholic beverages to wholesalers; excepting certain
15 inducements from prohibition; prohibiting price
16 discrimination in sales of alcoholic beverages to
17 retailers, with certain exception; prohibiting
18 inducements, with certain exception; authorizing wine
19 and spirits wholesalers to refuse to make certain
20 deliveries; clarifying situations in which the
21 posting or invoicing of charges is permitted;
22 expanding effect of certain exception within title
23 and administrative rules; authorizing the imposition
24 of a tiered structure of fines or license suspension
or revocation; specifying fine amounts; and providing
an effective date.

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

SECTION 1. AMENDATORY Section 93, Chapter 366, O.S.L.
2016 (37A O.S. Supp. 2018, Section 3-123), is amended to read as
follows:

1 Section 3-123. A. It shall be unlawful for any person
2 privileged to sell alcoholic beverages to wholesalers ~~or retailers:~~

3 1. To discriminate, directly or indirectly, in price between
4 one wine and spirits wholesaler and another wine and spirits
5 wholesaler, when that manufacturer has not designated a single wine
6 and spirits wholesaler, ~~or between one retailer and another retailer~~
7 ~~purchasing alcoholic beverages bearing the same brand or trade name~~
8 ~~and of like age and quality; or~~

9 2. To grant, directly or indirectly, any discount, rebate, free
10 goods, allowance or other inducement, unless otherwise expressly
11 permitted by law.

12 B. It shall be unlawful for any person privileged to sell
13 alcoholic beverages to retailers:

14 1. To discriminate in price between one retailer and another
15 retailer purchasing alcoholic beverages bearing the same brand or
16 trade name and of like age and quality, unless otherwise expressly
17 permitted by law; or

18 2. To grant, directly or indirectly, any discount, rebate, free
19 goods, allowance or other inducement, unless otherwise expressly
20 permitted by law.

21 C. A wine and spirits wholesaler's refusal to deliver alcoholic
22 beverages when the retailer has not satisfied the wholesaler's
23 minimum case or minimum order requirement or failure to fill an
24

1 order sequentially shall not constitute a violation of this title or
2 any rule promulgated under this title.

3 D. The ABLE Commission is hereby authorized to promulgate rules
4 which are necessary to carry out the purpose of this section and to
5 prevent its circumvention by offering or giving of any rebate,
6 allowance, free goods, discount or any other thing or service of
7 value; provided, the posting or invoicing of charges per order for
8 processing minimum orders or per case for the handling or repacking
9 of goods by wine and spirits wholesalers and beer distributors for
10 sales in less than full case lots or minimum delivery requirements
11 shall not constitute a violation of this ~~section~~ title or any rule
12 promulgated under this title.

13 ~~C.~~ E. For the violation of any provision of this ~~section~~ title
14 or of any rule duly promulgated under this ~~section~~ title within one
15 (1) calendar year, the ABLE Commission may impose a monetary fine
16 and/or suspend or revoke a license as follows:

17 1. For a first offense, a fine of One Thousand Dollars
18 (\$1,000.00) and/or license suspension not exceeding ten (10) ~~days~~'
19 suspension of license days;

20 2. For a second offense, a fine of Three Thousand Dollars
21 (\$3,000.00) and/or license suspension not exceeding thirty (30)
22 ~~days~~' suspension of license days; and

23
24

1 3. For a third offense, ~~the ABLE Commission shall revoke the~~
2 license a fine of Ten Thousand Dollars (\$10,000.00) and/or license
3 revocation.

4 SECTION 2. This act shall become effective November 1, 2019.

5
6 57-1-8371 MB 02/28/19

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24