

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   1st Session of the 57th Legislature (2019)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 1643

By: **Echols**

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9                                   COMMITTEE SUBSTITUTE

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

1 SECTION 1. AMENDATORY Section 93, Chapter 366, O.S.L.  
2 2016 (37A O.S. Supp. 2018, Section 3-123), is amended to read as  
3 follows:

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

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

12 2. To grant, directly or indirectly, any discount, rebate, free  
13 goods, allowance or other inducement, unless otherwise expressly  
14 permitted by law.

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

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

21 2. To grant, directly or indirectly, any discount, rebate, free  
22 goods, allowance or other inducement, unless otherwise expressly  
23 permitted by law.

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1        C. A wine and spirits wholesaler's refusal to deliver alcoholic  
2 beverages when the retailer has not satisfied the wholesaler's  
3 minimum case or minimum order requirement or failure to fill an  
4 order sequentially shall not constitute a violation of this title or  
5 any rule promulgated under this title.

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

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

20        1. For a first offense, a fine of One Thousand Dollars  
21 (\$1,000.00) and/or license suspension not exceeding ten (10) ~~days~~  
22 ~~suspension of license~~ days;

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

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

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

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9 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE, dated  
10 03/04/2019 - DO PASS, As Amended and Coauthored.

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