

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 55th Legislature (2016)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2675

By: Williams

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8 COMMITTEE SUBSTITUTE

9 An Act relating to intoxicating liquors; amending 37
10 O.S. 2011, Section 163.26, which relates to low-point
11 beer; preventing certain interpretation; amending 37
12 O.S. 2011, Section 506, as last amended by Section 1,
13 Chapter 275, O.S.L. 2015 (37 O.S. Supp. 2015, Section
14 506), which relates to Oklahoma Alcoholic Beverage
15 Control Act definitions; modifying definitions;
16 amending 37 O.S. 2011, Section 520A, which relates to
17 personal use permits; authorizing certain activities;
18 defining term; prohibiting certain acts; prohibiting
19 certain owners and employees from certain
20 definitions; repealing 63 O.S. 2011, Section 3001,
21 which relates to pull-top can sales; and providing an
22 effective date.

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

24 SECTION 1. AMENDATORY 37 O.S. 2011, Section 163.26, is
amended to read as follows:

 Section 163.26 No person shall manufacture, sell, possess,
store, import into or export from this state, transport, or deliver
any low-point beer except as specifically provided in this title;
provided however, this provision shall not be interpreted to prevent

1 the operation of brew-on-premises stores as defined in Section 520A
2 of this title. It is unlawful for any manufacturer, wholesaler or
3 retailer of low-point beer, located and doing business from outside
4 this state, to make retail sales of low-point beer to purchasers
5 located in this state or to ship low-point beer sold at retail to
6 persons located in this state.

7 SECTION 2. AMENDATORY 37 O.S. 2011, Section 506, as last
8 amended by Section 1, Chapter 275, O.S.L. 2015 (37 O.S. Supp. 2015,
9 Section 506), is amended to read as follows:

10 Section 506. When used in the Oklahoma Alcoholic Beverage
11 Control Act, the following words and phrases shall have the
12 following meaning:

13 1. "ABLE Commission" means the Alcoholic Beverage Laws
14 Enforcement Commission;

15 2. "Alcohol" means and includes hydrated oxide of ethyl, ethyl
16 alcohol, ethanol, or spirits of wine, from whatever source or by
17 whatever process produced. It does not include wood alcohol or
18 alcohol which has been denatured or produced as denatured in
19 accordance with Acts of Congress and regulations promulgated
20 thereunder;

21 3. "Alcoholic beverage" means alcohol, spirits, beer, and wine
22 as those terms are defined herein and also includes every liquid or
23 solid, patented or not, containing alcohol, spirits, wine or beer
24 and capable of being consumed as a beverage by human beings, but

1 does not include low-point beer as that term is defined in Section
2 163.2 of this title;

3 4. "Applicant" means any individual, legal or commercial
4 business entity, or any individual involved in any legal or
5 commercial business entity allowed to hold any license issued in
6 accordance with the Oklahoma Alcoholic Beverage Control Act;

7 5. "Beer" means any beverage containing more than three and
8 two-tenths percent (3.2%) of alcohol by weight and obtained by the
9 alcoholic fermentation of an infusion or decoction of barley, or
10 other grain, malt or similar products. "Beer" may or may not
11 contain hops or other vegetable products. "Beer" includes, among
12 other things, beer, ale, stout, lager beer, porter and other malt or
13 brewed liquors, but does not include sake, known as Japanese rice
14 wine;

15 6. "Bottle club" means any establishment in a county which has
16 not authorized the retail sale of alcoholic beverages by the
17 individual drink, which is required to be licensed to keep, mix, and
18 serve alcoholic beverages belonging to club members on club
19 premises;

20 7. "Brewer" means any person who produces beer in this state
21 but shall not mean an owner or employee of a brew-on-premises store
22 as defined in Section 520A of this title;
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1 8. "Class B wholesaler" means and includes any person doing any
2 such acts or carrying on any such business that would require such
3 person to obtain a Class B wholesaler license hereunder;

4 9. "Convicted" and "conviction" mean and include a finding of
5 guilt resulting from a plea of guilty or nolo contendere, the
6 decision of a court or magistrate or the verdict of a jury,
7 irrespective of the pronouncement of judgment or the suspension
8 thereof;

9 10. "Director" means the Director of the Alcoholic Beverage
10 Laws Enforcement Commission under the supervision of said
11 Commission;

12 11. "Distiller" means any person who produces spirits from any
13 source or substance, or any person who brews or makes mash, wort, or
14 wash, fit for distillation or for the production of spirits (except
15 a person making or using such material in the authorized production
16 of wine or beer, or the production of vinegar by fermentation), or
17 any person who by any process separates alcoholic spirits from any
18 fermented substance, or any person who, making or keeping mash,
19 wort, or wash, has also in his or her possession or use a still but
20 shall not mean an owner or employee of a brew-on-premises store as
21 defined in Section 520A of this title;

22 12. "Hotel" or "motel" shall mean an establishment which is
23 licensed to sell alcoholic beverages by the individual drink and
24 which contains guestroom accommodations with respect to which the

1 predominant relationship existing between the occupants thereof and
2 the owner or operator of the establishment is that of innkeeper and
3 guest. For purposes of this section, the existence of other legal
4 relationships as between some occupants and the owner or operator
5 thereof shall be immaterial;

6 13. "Legal newspaper" means a newspaper meeting the requisites
7 of a newspaper for publication of legal notices as prescribed in
8 Sections 101 through ~~114~~ 115 of Title 25 of the Oklahoma Statutes;

9 14. "Licensee" means any person holding a license under the
10 Oklahoma Alcoholic Beverage Control Act, and any agent, servant, or
11 employee of such licensee while in the performance of any act or
12 duty in connection with the licensed business or on the licensed
13 premises;

14 15. "Light beer" means a low-point beer controlled under this
15 title;

16 16. "Light wine" means any wine containing not more than
17 fourteen percent (14%) alcohol measured by volume at sixty (60)
18 degrees Fahrenheit;

19 17. "Manufacturer's agent" means a salaried or commissioned
20 salesman who sells to a wholesaler or Class B wholesaler only;

21 18. "Manufacturer" means a brewer, distiller, winemaker,
22 rectifier, or bottler of any alcoholic beverage but shall not mean
23 an owner or employee of a brew-on-premises store as defined in
24 Section 520A of this title;

1 19. "Meals" means foods commonly ordered at lunch or dinner and
2 at least part of which is cooked on the licensed premises and
3 requires the use of dining implements for consumption. Provided,
4 that the service of only food such as appetizers, sandwiches, salads
5 or desserts shall not be considered "meals";

6 20. "Mini-bar" means a closed container, either refrigerated,
7 in whole or in part, or nonrefrigerated, and access to the interior
8 of which is (1) restricted by means of a locking device which
9 requires the use of a key, magnetic card, or similar device, or (2)
10 controlled at all times by the licensee;

11 21. "Mixed beverage cooler" means any beverage, by whatever
12 name designated, consisting of an alcoholic beverage and fruit or
13 vegetable juice, fruit or vegetable flavorings, dairy products or
14 carbonated water containing more than one-half of one percent (1/2
15 of 1%) of alcohol measured by volume but not more than seven percent
16 (7%) alcohol by volume at sixty (60) degrees Fahrenheit and which is
17 packaged in a container not larger than three hundred seventy-five
18 (375) milliliters. Such term shall include, but not be limited to,
19 the beverage popularly known as a "wine cooler";

20 22. "Mixed beverages" means one or more servings of a beverage
21 composed in whole or part of an alcoholic beverage in a sealed or
22 unsealed container of any legal size for consumption on the premises
23 where served or sold by the holder of a mixed beverage, beer and
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1 wine, caterer, public event, charitable event or special event
2 license;

3 23. "Motion picture theater" means a place where motion
4 pictures are exhibited and to which the general public is admitted,
5 but does not include a place where meals, as defined by this
6 section, are served, if only persons over twenty-one (21) years of
7 age are admitted;

8 24. "Retail salesperson" means a salesperson soliciting orders
9 from and calling upon retail alcoholic beverage stores with regard
10 to his or her product;

11 25. "Occupation" as used in connection with "occupation tax"
12 means the sites occupied as the places of business of the
13 manufacturers, wholesalers, Class B wholesalers, retailers, mixed
14 beverage licensees, beer and wine licensees, bottle clubs, caterers,
15 public event, and special event licensees;

16 26. "Original package" means any container of alcoholic
17 beverage filled and stamped or sealed by the manufacturer;

18 27. "Patron" means any person, customer, or visitor who is not
19 employed by a licensee or who is not a licensee;

20 28. "Person" means an individual, any type of partnership,
21 corporation, association, limited liability company or any
22 individual involved in the legal structure of any such business
23 entity;

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1 29. "Premises" means the grounds and all buildings and
2 appurtenances pertaining to the grounds including any adjacent
3 premises if under the direct or indirect control of the licensee and
4 the rooms and equipment under the control of the licensee and used
5 in connection with or in furtherance of the business covered by a
6 license. Provided that the ABLE Commission shall have the authority
7 to designate areas to be excluded from the licensed premises solely
8 for the purpose of:

- 9 a. allowing the presence and consumption of alcoholic
10 beverages by private parties which are closed to the
11 general public, or
- 12 b. allowing the services of a caterer serving alcoholic
13 beverages provided by a private party.

14 This exception shall in no way limit the licensee's concurrent
15 responsibility for any violations of the Oklahoma Alcoholic Beverage
16 Control Act occurring on the licensed premises;

17 30. "Public event" means any event that can be attended by the
18 general public;

19 31. "Private event" means a social gathering or event attended
20 by invited guests who share a common cause, membership, business or
21 task and have a prior established relationship. For purposes of
22 this definition, advertisement for general public attendance or
23 sales of tickets to the general public shall not constitute a
24 private event;

1 32. "Rectifier" means any person who rectifies, purifies, or
2 refines spirits or wines by any process (other than by original and
3 continuous distillation, or original and continuous processing, from
4 mash, wort, wash, or other substance, through continuous closed
5 vessels and pipes, until the production thereof is complete), and
6 any person who, without rectifying, purifying, or refining spirits,
7 shall by mixing (except for immediate consumption on the premises
8 where mixed) such spirits, wine, or other liquor with any material,
9 manufactures any spurious, imitation, or compound liquors for sale,
10 under the name of whiskey, brandy, rum, gin, wine, spirits,
11 cordials, or any other name;

12 33. "Regulation" or "rule" means a formal rule of general
13 application promulgated by the ABLE Commission as herein required;

14 34. "Restaurant" means an establishment that is licensed to
15 sell alcoholic beverages by the individual drink for on-premises
16 consumption and where food is prepared and sold for immediate
17 consumption on the premises;

18 35. "Retail container for spirits and wines" means an original
19 package of any capacity approved by the United States Bureau of
20 Alcohol, Tobacco and Firearms;

21 36. "Retailer" means the holder of a Package Store License;

22 37. "Sale" means any transfer, exchange or barter in any manner
23 or by any means whatsoever, and includes and means all sales made by
24 any person, whether as principal, proprietor or as an agent, servant

1 or employee. The term "sale" is also declared to be and include the
2 use or consumption in this state of any alcoholic beverage obtained
3 within or imported from without this state, upon which the excise
4 tax levied by the Oklahoma Alcoholic Beverage Control Act has not
5 been paid or exempted;

6 38. "Short order food" means food other than full meals
7 including but not limited to sandwiches, soups, and salads.
8 Provided that popcorn, chips, and other similar snack food shall not
9 be considered "short order food";

10 39. "Sparkling wine" means champagne or any artificially
11 carbonated wine;

12 40. "Spirits" means any beverage other than wine, beer or light
13 beer, which contains more than one-half of one percent (1/2 of 1%)
14 alcohol measured by volume and obtained by distillation, whether or
15 not mixed with other substances in solution and includes those
16 products known as whiskey, brandy, rum, gin, vodka, liqueurs,
17 cordials and fortified wines and similar compounds; but shall not
18 include any alcohol liquid completely denatured in accordance with
19 the Acts of Congress and regulations pursuant thereto;

20 41. "Wholesaler" means and includes any person doing any such
21 acts or carrying on any such business or businesses that would
22 require such person to obtain a wholesaler's license or licenses
23 hereunder but shall not mean an owner or employee of a brew-on-
24 premises store as defined in Section 520A of this title;

1 42. "Wine" means and includes any beverage containing more than
2 one-half of one percent (1/2 of 1%) alcohol by volume and not more
3 than twenty-four percent (24%) alcohol by volume at sixty (60)
4 degrees Fahrenheit obtained by the fermentation of the natural
5 contents of fruits, vegetables, honey, milk or other products
6 containing sugar, whether or not other ingredients are added, and
7 includes vermouth and sake, known as Japanese rice wine;

8 43. "Winemaker" means any person who produces wine; and

9 44. "Oklahoma winemaker" means a business premises in Oklahoma
10 licensed pursuant to the Oklahoma Alcoholic Beverage Control Act
11 wherein wine is produced by the licensee who must be a resident of
12 the state. The wine product fermented in said licensed premises
13 shall be of grapes, berries and other fruits and vegetables imported
14 into this state and processed herein or shall be of grapes, berries
15 and other fruits and vegetables grown in Oklahoma.

16 Words in the plural include the singular, and vice versa, and
17 words imparting the masculine gender include the feminine, as well
18 as persons and licensees as defined in this section.

19 SECTION 3. AMENDATORY 37 O.S. 2011, Section 520A, is
20 amended to read as follows:

21 Section 520A. A. The Alcoholic Beverage Laws Enforcement
22 Commission is authorized to issue, upon application of a person who
23 is twenty-one (21) years of age or older, an annual personal use
24 permit which when granted authorizes the holder thereof to make,

1 store, possess and transport for personal use, low-point beer as
2 defined by Section 163.2 of this title, beer as defined by Section
3 506 of this title, fermented non-distilled ciders, and wine as
4 defined by Section 506 of this title. The total volume of each
5 authorized beverage made and possessed for personal use in a given
6 calendar year shall be limited to a volume less than two hundred
7 (200) gallons. The term "personal use" as used in this section and
8 Sections 163.1 and 505 of ~~Title 37 of the Oklahoma Statutes~~ this
9 title means the individual making beverages pursuant to a valid
10 personal use permit issued by the Alcoholic Beverage Laws
11 Enforcement Commission produces such beverages solely for his or her
12 use and consumption, for consumption by his or her family and
13 guests, and for transport to and use at organized affairs,
14 exhibitions or competitions, including, but not limited to,
15 homemaker contests, tastings or judgments. No beverage made pursuant
16 to a personal use permit shall be sold or offered for sale.

17 B. 1. An annual personal use permit shall authorize the holder
18 to engage in the activities authorized under subsection A of this
19 section on the premises of a brew-on-premises store.

20 2. A "brew-on-premises store" means a facility that provides
21 the ingredients and equipment for a customer to use to brew malt
22 liquor or wine on the premises of the store.

23 3. Alcoholic beverages shall not be sold or otherwise provided
24 to customers of a brew-on-premises store.

1 4. An owner or employee of a brew-on-premises store shall not
2 be considered a brewer, distiller, manufacturer or wholesaler of
3 intoxicating liquor.

4 SECTION 4. REPEALER 63 O.S. 2011, Section 3001, is
5 hereby repealed.

6 SECTION 5. This act shall become effective November 1, 2016.

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8 COMMITTEE REPORT BY: COMMITTEE ON ALCOHOL, TOBACCO AND CONTROLLED
9 SUBSTANCES, dated 02/24/2016 - DO PASS, As Amended.

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