

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 SENATE BILL 613

By: Smalley

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5
6 AS INTRODUCED

7 An Act relating to low-point beer; amending 37 O.S.
8 2011, Section 163.7, as amended by Section 1, Chapter
9 120, O.S.L. 2012 (37 O.S. Supp. 2014, Section 163.7),
10 which relates to annual state permits and taxes;
11 prohibiting issuance of certain permit to certain
12 manufacturers or persons; providing certain
13 exception; and providing an effective date.

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

15 SECTION 1. AMENDATORY 37 O.S. 2011, Section 163.7, as
16 amended by Section 1, Chapter 120, O.S.L. 2012 (37 O.S. Supp. 2014,
17 Section 163.7), is amended to read as follows:

18 Section 163.7. In addition to the excise tax payable under
19 Section 163.1 et seq. of this title, and in addition to the license
20 required to be procured from the judge of the district court, the
21 following permits shall be required and the following annual license
22 taxes shall be payable to the Oklahoma Tax Commission with respect
23 to low-point beer; provided, any such permit issued prior to
24 November 1, 1995, with respect to low-point beer shall be valid
until it expires:

1 1. Manufacturers: Every manufacturer, located and doing
2 business in this state, shall, before commencing the manufacture of
3 low-point beer, obtain from the Tax Commission a permit to engage in
4 such manufacture. As a condition of the issuance of this permit,
5 such manufacturer shall pay to the Tax Commission a license tax of
6 Four Hundred Fifty Dollars (\$450.00), which shall cover a three-year
7 period commencing with the effective date of such permit. This
8 permit must be renewed and the license tax paid thereafter at the
9 expiration of the preceding permit and license tax period. Each and
10 every other manufacturer of such beverages, coming within the
11 provisions of Section 163.1 et seq. of this title, shall before
12 selling or offering for sale such beverages within the State of
13 Oklahoma, qualify with the Secretary of State of the State of
14 Oklahoma for a permit to do business within the State of Oklahoma
15 and, after so qualifying, shall obtain a permit or license from the
16 Tax Commission and, in addition to any other license, taxes or fees,
17 pay therefor a license tax of Five Hundred Dollars (\$500.00), which
18 shall cover a one-year period commencing with the effective date of
19 such permit. The permit or license shall be for the privilege of
20 doing business in Oklahoma as a manufacturer of low-point beer. The
21 permit must be renewed and the license tax paid annually thereafter
22 at the expiration of the preceding permit and license tax period.
23 The receipt of payment of such permit or license shall be on file
24 with the Tax Commission before such manufacturer shall sell, or

1 offer for sale, such beverages to any person within the State of
2 Oklahoma. Provided, a manufacturer located and doing business in
3 this state may sell not more than five thousand (5,000) barrels
4 annually of its own products directly to consumers by procuring a
5 retail license.

6 Every manufacturer, located and doing business outside the State
7 of Oklahoma, desiring to pay the excise tax on sales to retail
8 dealers, as provided for in Section 163.1 et seq. of this title,
9 shall procure annually a permit and pay annually the license tax
10 required of wholesalers, as provided for under this section. The
11 payment of such fee shall be in addition to the payment of the
12 license fee or tax in the sum of Five Hundred Dollars (\$500.00) as
13 provided herein;

14 2. Wholesalers: Every wholesaler, located and doing business
15 in this state, must annually obtain from the Tax Commission a permit
16 to sell low-point beer. As a condition of the issuance of this
17 permit, such wholesaler shall pay to the Tax Commission a license
18 fee of Two Hundred Fifty Dollars (\$250.00) which shall cover a one-
19 year period commencing with the effective date of such permit. The
20 permit must be renewed and the license tax paid annually thereafter
21 at the expiration of the preceding permit and license tax period.
22 ~~The fee shall be reduced by seventy-five percent (75%) if the~~
23 ~~applicant is a holder of a license to manufacture low-point beer and~~
24 ~~is located and doing business in this state~~ Notwithstanding any

1 provisions to the contrary, no wholesaler permit shall be issued to
2 any holder of a license to manufacture low-point beer or to any
3 person who has an interest, in whole or in part, directly or
4 indirectly, in the license, business, assets or corporate stock in
5 the holder of a license to manufacture low-point beer; provided,
6 however, that any holder of a license to manufacture low-point beer
7 who annually produces ten thousand barrels of low-point beer or less
8 may be issued a permit.

9 Every wholesaler, located and doing business outside the state
10 desiring to pay the excise tax on sales to retail dealers, as
11 provided for in Section 163.1 et seq. of this title, shall procure
12 annually a permit and pay annually the license tax required of
13 wholesalers located and doing business in this state.

14 Wholesalers within this state shall be required to secure an
15 annual permit and must pay an annual license tax for each city or
16 incorporated town from which deliveries of low-point beer are made
17 to retail dealers.

18 Permits issued to wholesalers shall not be transferable from one
19 person to another person but shall be transferable from one location
20 to another location; and

21 3. Retail Dealers: Every retail dealer shall, before offering
22 low-point beer for sale to the public, obtain from the Tax
23 Commission a permit to engage in such sales, and shall pay to the
24

1 Tax Commission, in advance of the issuance of the permit, the
2 license tax, as follows:

3 a. each retail dealer who sells low-point beer, on
4 draught and in original packages, for consumption on
5 or off the premises, shall obtain a permit which shall
6 be valid for a period of three (3) years and shall pay
7 a license tax of Four Hundred Dollars (\$400.00) for
8 every permit issued or renewed on or after July 1,
9 2003, but prior to July 1, 2006, of which One Hundred
10 Dollars (\$100.00) shall be deposited in the Community-
11 based Substance Abuse Revolving Fund established in
12 Section 2-311 of Title 43A of the Oklahoma Statutes.
13 The fee for every permit issued or renewed on or after
14 July 1, 2006, shall be Five Hundred Dollars (\$500.00),
15 of which Two Hundred Dollars (\$200.00) shall be
16 deposited in the Community-based Substance Abuse
17 Revolving Fund,

18 b. each retail dealer who sells such beverages in
19 original packages only for consumption on or off the
20 premises shall obtain a permit which shall be valid
21 for a period of three (3) years and shall pay a
22 license tax of Two Hundred Fifty Dollars (\$250.00) for
23 each permit issued or renewed on or after July 1,
24 2003, but before July 1, 2006, of which One Hundred

1 Dollars (\$100.00) shall be deposited in the Community-
2 based Substance Abuse Revolving Fund. The fee for
3 every permit issued on or after July 1, 2006, shall be
4 Three Hundred Fifty Dollars (\$350.00), of which Two
5 Hundred Dollars (\$200.00) shall be deposited in the
6 Community-based Substance Abuse Revolving Fund,

7 c. each retail dealer who sells low-point beer purchased
8 from a licensed manufacturer or licensed wholesaler
9 for consumption on or off the premises and who sells
10 low-point beer manufactured by the retail dealer for
11 consumption on or off the premises shall obtain a
12 permit which shall be valid for a period of three (3)
13 years and shall pay a license fee of Five Hundred
14 Fifty Dollars (\$550.00) for each permit issued or
15 renewed on or after July 1, 2003, but before July 1,
16 2006, of which One Hundred Dollars (\$100.00) shall be
17 deposited in the Community-based Substance Abuse
18 Revolving Fund. The fee for every permit issued on or
19 after July 1, 2006, shall be Six Hundred Fifty Dollars
20 (\$650.00), of which Two Hundred Dollars (\$200.00)
21 shall be deposited in the Community-based Substance
22 Abuse Revolving Fund. Provided, a retail dealer
23 licensed pursuant to this subparagraph shall not
24 manufacture more than five thousand (5,000) barrels of

1 low-point beer per year. A retail dealer, that has
2 obtained a permit pursuant to this subparagraph, may
3 sell low-point beer manufactured by the retail dealer,
4 at any of the retail dealer's places of business, as
5 defined in Section 163.8 of this title, or any other
6 place owned and operated by an entity which has common
7 owners with the licensed dealer, regardless of which
8 place of business brews the beverage. "Common owners"
9 means that the owners at each place or entity together
10 own more than fifty percent (50%) of the interest in
11 each place or entity that has a permit issued pursuant
12 to this subparagraph. A retail dealer, that has
13 obtained a permit pursuant to this subparagraph, may
14 sell low-point beer manufactured by the same retailer
15 pursuant to special licenses issued pursuant to
16 subparagraph d of this paragraph,

- 17 d. special licenses, as provided, may be issued for the
18 sum of Five Dollars (\$5.00) per day for each license;
19 provided, that in the event any state or county fair
20 association shall meet for more than five (5) days in
21 any year, a special license for the sale of such
22 beverages shall be issued for the sum of Twenty-five
23 Dollars (\$25.00),
24

1 e. each retail dealer who sells such beverages in
2 original packages and not for consumption on the
3 premises, shall obtain a permit which shall be valid
4 for a period of three (3) years and shall pay a
5 license tax of One Hundred Thirty Dollars (\$130.00)
6 for each permit issued or renewed on or after July 1,
7 2003, but prior to July 1, 2006, of which One Hundred
8 Dollars (\$100.00) shall be deposited in the Community-
9 based Substance Abuse Revolving Fund. The fee for
10 every permit issued or renewed on or after July 1,
11 2006, shall be Two Hundred Thirty Dollars (\$230.00),
12 of which Two Hundred Dollars (\$200.00) shall be
13 deposited in the Community-based Substance Abuse
14 Revolving Fund. It shall be unlawful for such off-
15 premise dealer to allow any bottle, can, or original
16 package to be broken or opened, or to allow any of
17 such low-point beer to be consumed, in or upon the
18 premises described in such permit; provided, however,
19 a manufacturer located and doing business in this
20 state and selling its own products for off-premises
21 consumption may serve visitors on the premises free
22 samples of low-point beer produced on the premises
23 provided such samples shall not exceed twelve (12)
24 fluid ounces per customer per visit,

1 f. a retail dealer who has obtained a permit pursuant to
2 this paragraph and who ceases to offer low-point beer
3 for sale to the public shall be entitled to receive a
4 refund of the permit fee from the Tax Commission
5 prorated with respect to the amount of time remaining
6 until expiration of the permit, upon surrender of the
7 permit to the Oklahoma Tax Commission. The manner and
8 prorated refund shall be prescribed by the Tax
9 Commission, and

10 g. a retail dealer who has obtained a permit pursuant to
11 this paragraph prior to July 1, 2003, shall not be
12 subject to the increased fees provided for in
13 subparagraphs a, b, c or e of this paragraph until the
14 permit is renewed.

15 Except as provided in this section, the permit required from the
16 judge of the district court under Section 163.11 of this title and
17 the license fee permissible by municipal corporations pursuant to
18 Section 163.10 of this title, no license or permit or fee related
19 thereto shall be required in relation to the sale, distribution,
20 possession or handling of low-point beer, as defined by Section
21 163.2 of this title by any agency, instrumentality or political
22 subdivision of this state and no agency, instrumentality or
23 political subdivision of this state shall interfere with the
24 Oklahoma Tax Commission's regulation of, or a wholesaler's

1 performance of, the sale, distribution, possession, handling or
2 marketing of low-point beer on any premises of any retail dealer or
3 permit holder under ~~Section 163.7 of this title~~ this section.

4 SECTION 2. This act shall become effective November 1, 2015.

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