

1 **SENATE FLOOR VERSION**

2 April 11, 2019

3 ENGROSSED HOUSE
4 BILL NO. 1643

By: Echols of the House

and

Bice of the Senate

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

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

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

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

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

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

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

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

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

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

15 1. For a first offense, a fine of One Thousand Dollars
16 (\$1,000.00) and/or license suspension not exceeding ten (10) ~~days~~
17 suspension of license days;

18 2. For a second offense, a fine of Three Thousand Dollars
19 (\$3,000.00) and/or license suspension not exceeding thirty (30)
20 days' suspension of license days; and

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

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

1 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM
April 11, 2019 - DO PASS

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