ENGROSSED HOUSE
BILL NO. 1643

By: Echols of the House
and
Bice of the Senate

An Act relating to alcoholic beverages; amending Section 93, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 3-123), which relates to the sale of alcoholic beverages to wholesalers or retailers; modifying prohibition against certain sales of alcoholic beverages to wholesalers; excepting certain inducements from prohibition; prohibiting price discrimination in sales of alcoholic beverages to retailers, with certain exception; prohibiting inducements, with certain exception; authorizing wine and spirits wholesalers to refuse to make certain deliveries; clarifying situations in which the posting or invoicing of charges is permitted; expanding effect of certain exception within title 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:

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

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

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

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

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

C. A wine and spirits wholesaler's refusal to deliver alcoholic beverages when the retailer has not satisfied the wholesaler's minimum case or minimum order requirement or failure to fill an order sequentially shall not constitute a violation of this title or any rule promulgated under this title.
D. The ABLE Commission is hereby authorized to promulgate rules which are necessary to carry out the purpose of this section and to prevent its circumvention by offering or giving of any rebate, allowance, free goods, discount or any other thing or service of value; provided, the posting or invoicing of charges per order for processing minimum orders or per case for the handling or repacking of goods by wine and spirits wholesalers and beer distributors for sales in less than full case lots or minimum delivery requirements shall not constitute a violation of this section title or any rule promulgated under this title.

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

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

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

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

SECTION 2. This act shall become effective November 1, 2019.
Passed the House of Representatives the 6th day of March, 2019.

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Presiding Officer of the House of Representatives

Passed the Senate the ___ day of __________, 2019.

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Presiding Officer of the Senate