

**TITLE 45. ALCOHOLIC BEVERAGE LAWS ENFORCEMENT COMMISSION  
CHAPTER 25. WINEMAKERS, SELF-DISTRIBUTION, DIRECT SHIPMENT**

**SUBCHAPTER 3. SELF-DISTRIBUTION LICENSE**

**45:25-3-6. Affidavit Requirement for Winemaker and Small Brewer Self-Distribution License**

**(a) Winemaker Self-Distribution License.** Unless application includes a Manufacturer Affidavit of Eligibility for a Self-Distribution License certifying that the applicant for a Winemaker Self-Distribution License produced 10,000 gallons or less in the last calendar year, the applicant shall pay a \$750.00 annual licensing fee as set forth in 37A O.S. § 2-101, or the amount authorized by 37A O.S. § 2-101 should the annual licensing fee be later amended. If a signed and notarized Manufacturer Affidavit of Eligibility for a Self-Distribution License is included in the application, the applicant shall pay a \$350.00 annual licensing fee as set forth in 37A O.S. § 2-101, or the amount authorized by 37A O.S. § 2-101 should the annual licensing fee be later amended. If statements certified in the applicant's Manufacturer Affidavit of Eligibility for a Self-Distribution License are found to be false, the Director of the ABLE Commission may deny, refuse to renew, or cause applicant's Winemaker Self-Distribution License to be revoked, or take any other action as authorized by Oklahoma law.

**(b) Small Brewer Self-Distribution License.** Unless application includes a Manufacturer Affidavit of Eligibility for a Self-Distribution License certifying that the applicant for a Small Brewer Self-Distribution License produced 15,000 barrels or less in the last calendar year, the applicant shall pay a \$750.00 annual licensing fee as set forth in 37A O.S. § 2-101, or the amount authorized by 37A O.S. § 2-101 should the annual licensing fee be later amended. If a signed and notarized Manufacturer Affidavit of Eligibility for a Self-Distribution License is included in the application, the applicant shall pay a \$350.00 annual licensing fee as set forth in 37A O.S. § 2-101, or the amount authorized by 37A O.S. § 2-101 should the annual licensing fee be later amended. If statements certified in the applicant's Manufacturer Affidavit of Eligibility for a Self-Distribution License are found to be false, the Director of the ABLE Commission may deny, refuse to renew, or cause applicant's Small Brewer Self-Distribution License to be revoked, or take any other action as authorized by Oklahoma law.

## **RULE IMPACT STATEMENT**

[as required by 75 O.S., Section 303(D)]

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#### **SUBCHAPTER 3. SELF-DISTRIBUTION LICENSE**

##### **A. BRIEF DESCRIPTION OF PURPOSE OF PROPOSED RULES:**

The Alcoholic Beverage Laws Enforcement Commission proposes a new emergency rule which establishes an affidavit requirement to ensure compliance with the recent amendments to 37A O.S. § 2-101 in HB1715. The amendment of 37A O.S. § 2-101 established a new threshold-based fee for two of the licenses in 37A O.S. § 2-101. Prior to the amendment, a Winemaker Self-Distribution license fee was \$750 for any amount produced under 15,000 gallons. The amendment created a lesser fee of \$350 if the licensee produced 10,000 gallons or less in the last calendar year. Similarly, a Small Brewer Self-Distribution license fee was \$750. The amendment created a lesser fee of \$350 if the licensee produced 15,000 barrels or less in the last calendar year.

To ensure compliance with the lower threshold-based fee, the agency is establishing an affidavit requirement for any licensee seeking licensure under the lesser threshold amount. In the affidavit, the licensee will certify actual production met the threshold requirements for the last calendar year. The imposition of an affidavit is a nonintrusive measure whereby the agency can ensure compliance with the threshold-based fee requirement and, if necessary, take action against any fraudulently procured licenses.

##### **B. CLASS OF PERSON(S) AFFECTED (CLASS BEARING COST OF RULES):**

At this point in time, the agency does not anticipate cost impacts associated with the proposed emergency rule beyond nominal costs associated with notary services by potential licensees.

##### **C. CLASS OF PERSON(S) BENEFITED BY PROPOSED RULES:**

These rules are to provide the agency and its licensee's direction and a defined process to fulfill legislative intent and comply with recently enacted state law.

##### **D. DESCRIPTION OF ECONOMIC IMPACT UPON AFFECTED CLASSES OF PERSONS OR POLITICAL SUBDIVISIONS**

These new rules will not financially impact the agency's current budget or the State of Oklahoma. The fee associated with these rule changes were levied in an amendment to 37A O.S. § 2-101 in HB1715. The amended text of 37A O.S. § 2-101 established a second fee amount for Winemaker Self-Distribution licensees who produce less than 10,000 gallons and Small Brewer Self-Distribution licensees who produce less than 15,000 barrels.

**E. COST TO AGENCY, EFFECT ON STATE, INCLUDING A PROJECTED NET LOSS OR GAIN IN SUCH REVENUES:**

The agency does not anticipate any additional costs, not legislatively provided to the agency, to implement and administer the licensing program.

**F. ECONOMIC IMPACT THAT IMPLEMENTATION OF THE RULES WILL HAVE ON POLITICAL SUBDIVISIONS AND WHETHER THE IMPLEMENTATION WILL REQUIRE THE SUBDIVISION'S COOPERATION IN IMPLEMENTING OR ENFORCING THE RULE:**

The agency does not anticipate any economic impact on any political subdivision to implement the proposed emergency rule at this time.

**G. IMPACT THAT IMPLEMENTATION OF THE RULES WILL HAVE ADVERSELY ON SMALL BUSINESSES AS PROVIDED BY THE OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT:**

The agency does not anticipate any adverse economic impact on small businesses as a result of the proposed emergency rule at this time.

**H. LESS COSTLY OR INTRUSIVE METHODS:**

N/A

**I. IMPACT THAT IMPLEMENTATION OF THE RULES WILL HAVE ON PUBLIC HEALTH, SAFETY, AND ENVIRONMENT:**

The agency does not anticipate any negative effect on the public health, safety, and environment as a result of the proposed emergency rules at this time.

**J. DETRIMENTAL EFFECT ON PUBLIC HEALTH, SAFETY, AND ENVIRONMENT IF THE RULE IS NOT IMPLEMENTED:**

The agency does have reasonable anticipation that a detrimental effect on public health, safety, and environment could result from a failure to implement the proposed emergency rule at this time. Without this proposed emergency rule in place, more intrusive investigatory methods would be required to ensure compliance with the statutorily set threshold requirements. Additionally, the proposed emergency rule clarifies potential consequences to licensees who procure or attempt to procure licensure through fraud.

**K. DATE PREPARED:** August 16, 2023

**L. DATE MODIFIED:** August 17, 2023

# Manufacturer Affidavit of Eligibility for a Self-Distribution License

Manufacturers of beer must complete the section below:

I \_\_\_\_\_, operating under Oklahoma Alcoholic Beverages Law Enforcement("ABLE")Commission License No. \_\_\_\_\_ depose and state that as a manufacturer of beer I produced fifteen thousand(15,000)barrels or less in Oklahoma last calendar year. I certify that the statements made herein are true and correct and that if any statements herein are found to be false or omitted, that the Director of the ABLE Commission may refuse to renew any applicable license or may cause such license to be revoked forthwith at any time.

State of Oklahoma )

County of \_\_\_\_\_)

Signed and sworn to or affirmed before me on \_\_\_\_\_ [Date] by  
\_\_\_\_\_ Name of **Manufacturer** making statement.

Affix Notary Seal or Stamp

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Printed or typed name of Notary Public

My Commission Expires: \_\_\_\_\_

# Manufacturer Affidavit of Eligibility for a Self-Distribution License

Manufacturers of wine must complete the section below:

I \_\_\_\_\_, operating under Oklahoma Alcoholic Beverages Law Enforcement("ABLE")Commission License No. \_\_\_\_\_ depose and state that as a manufacturer of wine I produced ten thousand(10,000)gallons or less in Oklahoma last calendar year. I certify that the statements made herein are true and correct and that if any statements herein are found to be false or omitted, that the Director of the ABLE Commission may refuse to renew any applicable license or may cause such license to be revoked forthwith at any time.

State of Oklahoma )

County of \_\_\_\_\_)

Signed and sworn to or affirmed before me on \_\_\_\_\_ [Date] by  
\_\_\_\_\_ Name of **Manufacturer** making statement.

Affix Notary Seal or Stamp

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Printed or typed name of Notary Public

My Commission Expires: \_\_\_\_\_