CHAPTER 30. MANUFACTURERS, WINE AND SPIRIT WHOLESALERS, BREWERS, NONRESIDENT SELLERS AND BEER DISTRIBUTORS

Authority: 37 O.S., §§ 502 et seq.

Source: Codified 12-31-91

SUBCHAPTER 1. GENERAL PROVISIONS

45:30-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Adjusted Price" means percentage or individual item prices reported and registered by a Wine and Spirits Wholesaler on or before the 25th day of a posting month in response to a lower percentage reported and registered by a competitor Wine and Spirits Wholesaler on the 15th day of the month.

"Alternating Proprietorship" or "Premises Arrangement" means an arrangement where two (2) or more qualified licensees may alternate using a licensed premises and equipment and/or employees to manufacture alcoholic beverages in compliance with the requirements of each licensee's valid ABLE license.

"Alternating Proprietorship Agreement" means a written agreement under which two (2) or more qualified licensees share a licensed premises and alternate exclusive use of the premises over the term of the agreement.

"Brewer or Nonresident Seller" means a manufacturer or distributor of beer or brewed products and shall also include:

(A) A corporate subsidiary of any such brewer or nonresident seller who markets his products solely through a subsidiary or subsidiaries; and

(B) A distributor of beer or brewed products manufactured or bottled in a foreign country.

"Beer Distributor" means an entity licensed to sell beer or brewed products to the holder of a Retail Spirit, Retail Beer, Beer and Wine, Mixed Beverage, Caterer or Special Event license.

"Host Proprietor" means a qualified small brewer, charitable collaboration brewer, distiller, winemaker, rectifier, small farm winery, manufacturer, or other qualified licensee who shares a licensed premises with a qualified tenant proprietor for the means and purpose of manufacturing alcoholic beverages in accordance with the requirements of each proprietors' valid ABLE license.

"Manufacturer, Broker, or Nonresident Seller" means a manufacturer of alcoholic beverages other than beer and shall also include:

(A) A corporate subsidiary of any such manufacturer who markets his products solely through a subsidiary or subsidiaries; and

(B) A distributor of alcoholic beverages manufactured or bottled in a foreign country.

"New Item" means an item not previously stocked, or a item newly priced with the Commission by the Wine and Spirits Wholesaler on or since his last price posting.

"New Percentage" means a percentage reported and registered by the Wine and Spirits Wholesaler with the Commission on or before the 15th day of January, March, May, July,

September and November whether such percentage be higher, lower or the same as the previous posting.

"Percentage Markup" means a percentage of increase or decrease in relation to the Wine and Spirits Wholesaler laid-in-cost for all items in each category. The percentage does not have to be the same for all categories, but in the original posting the percentage shall be the same for all items in the same category.

"Small Brewer" means an individual or entity who manufactures beer or brewed products and is designated as a manufacturer by the Alcohol and Tobacco Tax and Trade Bureau.

"Tenant Proprietor" means a qualified small brewer, charitable collaboration brewer, distiller, winemaker, rectifier, small farm winery, manufacturer, or other qualified licensee who is party to an alternating proprietorship agreement with a qualified host proprietor.

"**TTB**" means the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of the Treasury.

"Wine and Spirits Wholesaler" means an individual or partnership licensed to sell alcoholic beverages to the holder of a Retail Spirit, Retail Wine, Beer and Wine, Mixed Beverage, Caterer or Special Event license.

"Wholesaler Laid-In-Cost" means the current posted Nonresident Seller F.O.B. price to which shall be added State and Federal Taxes on alcoholic beverages not including beer plus any miscellaneous charges added by the Nonresident Sellers.

[**Source:** Amended at 23 Ok Reg 882, eff 5-11-06 ; Amended at 35 Ok Reg 833, eff 10-1-18 ; Amended at 43 Ok Reg, Number 21, effective 7-25-26]

SUBCHAPTER 5. BREWERS, NONRESIDENT SELLERS, AND BEER DISTRIBUTORS

45:30-5-12. Alternating proprietorships [NEW]

(a) Licensees qualified to apply for an alternating proprietorship license include small brewer, charitable collaboration brewer, distiller, winemaker, rectifier, small farm winery, manufacturer, or other qualified licensee. Distribution and wholesale licensees are ineligible for alternating proprietorship licenses.

(b) Each tenant proprietor and host proprietor applicant for an ABLE alternating proprietorship license must obtain all necessary federal permits and approvals from the TTB prior to application to ABLE.

(c) Qualified applicants shall meet all license requirements, maintain good standing with the TTB, the Oklahoma Tax Commission, and the ABLE Commission, and must remit with their application each of the following:

(1) A valid alcoholic beverage manufacturing license issued by the ABLE Commission that is not subject to any delinquent administrative fines and is in compliance with any ABLE administrative case disposition;

(2) All necessary federal permits and approvals from the TTB for an alternating proprietorship;

(3) A properly labeled diagram of the premises designating the areas and equipment to be used by the tenant;
(4) A description of the method that the host proprietor will employ to separate the alternating areas of the premises from any areas that will not be alternated;
(5) A copy of the executed alternating proprietorship agreement between host proprietor and tenant proprietor(s) detailing the extent to which the licensed premises and equipment and/or employee(s) of the host proprietor may be used by each tenant proprietor.
(6) A time-blocked, shared-use schedule detailing the rotational use of the premises and equipment to be used by the host proprietor and tenant proprietor(s), with start and end times and transition periods identified;

(d) An alternating proprietorship shall only occur between licensees of the same manufacturing license type. There shall be no cross-manufacturing of spirits, wine, or beer.

(e) A qualified licensee shall not enter into an alternating proprietorship agreement with any person or entity that holds an alcoholic beverage license for which the licensee is ineligible or prohibited from holding under Oklahoma law.

45:30-5-13. Requirements of alternating proprietorships [NEW]

Alternating proprietorships shall comply with the following requirements:

(a) The host proprietor and each tenant proprietor shall maintain good standing in regard to all required permits and notices from the TTB and shall comply with all applicable federal laws.

(b) Each licensee in an alternating proprietorship must separately manufacture alcoholic beverages, whereby each licensee's product must be separate and identifiable from the product of any other parties to the alternating proprietorship during all stages of production, including prior to fermentation or distillation, during fermentation or distillation, during storage, and as finished product until removal from the licensed premises.

(c) The host proprietor and each tenant proprietor will maintain control and responsibility over the respective beverages it produces, including formula development, production quantity, quality control standards, and independence of brands, trademarks, marketing and sales.

(d) The host proprietor and each tenant proprietor will respectively hold title, possession, and control over each proprietor's own raw and manufacturing materials as well as the beverages it produces at all stages of production and until removal from the licensed premises.

(f) All alternating proprietorship licenses issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act shall be displayed in a conspicuous place at all times on the licensed premises.

45:30-5-14. Recordkeeping requirements [NEW]

(a) The host proprietor and each tenant proprietor will maintain separate business and reporting records subject to applicable state and federal laws and regulations.

(b) Receipts of manufacturing materials and transfers of materials and products shall be kept in the records of each proprietor.

(c) Each proprietor shall be responsible for compliance with all applicable federal and state requirements for labelling and label registration, brand registration, and tax compliance for the respective alcoholic beverages it produces.
(d) The host proprietor and tenant proprietor will maintain and make the following available at all times to the ABLE Commission and its agents:

(1) An up-to-date listing and copies of all alternating proprietorship agreements;
(2) Premises diagrams and operation schedules;
(3) Proof of current ABLE manufacturing and alternating proprietorship licensure and TTB permit or notice;
(5) Copies of all employee licenses.

(e) The ABLE Commission and its agents may make an examination of any records kept by the host proprietor or tenant proprietor at any time to ensure compliance with applicable law. Licensees are required to comply with reasonable requests by the ABLE Commission or its agents to examine such records.

45:30-5-24. Termination of agreement

(a) A manufacturer terminating an agreement with a wholesaler shall file a copy of the written notification with the Commission no more than five (5) calendar days from the date of termination.
(b) A party to an alternating proprietorship agreement who is terminating such agreement must, on a form provided by the ABLE Commission, provide notice to the ABLE Commission within ten (10) calendar days of the agreement termination.

45:30-5-25. Termination by TTB

The tenant proprietor(s) and host proprietor shall notify the ABLE Commission within ten (10) calendar days of receiving notice from the TTB that approval of an existing alternating proprietorship arrangement has been revoked by the TTB. Such notification to the ABLE Commission must be submitted on a form provided by the ABLE Commission.
[**Source:** Added at 35 Ok Reg 833, eff 10-1-18]