

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 1583

By: Roach

COMMITTEE SUBSTITUTE

An Act relating to intoxicating beverages; amending 11 O.S. 1991, Section 43-102, which relates to municipal zoning; removing restriction; amending 37 O.S. 1991, Section 163.10, which relates to nonintoxicating beverages; allowing municipalities to enact and enforce certain zoning ordinances; authorizing municipalities to initiate license revocation proceedings against certain retail sellers of nonintoxicating beverages; authorizing municipalities to regulate certain establishments by zoning ordinances; granting municipal courts jurisdiction to hear violations of such ordinances; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 11 O.S. 1991, Section 43-102, is amended to read as follows:

Section 43-102. A. The municipal governing body may divide the municipality into districts of such number, shape and area as it deems suitable in carrying out its powers as to buildings, land and structures. Within the districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land. All such regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts.

B. The municipal governing body may enact nondiscriminatory zoning ordinances regulating the location for the sale for consumption on the premises of nonintoxicating beverages, as defined in Section 163.1 of Title 37 of the Oklahoma Statutes, commonly called 3.2 beer; ~~provided, however, that no special or separate classification shall be created only for businesses~~

selling said product, as provided in Section 163.10 of Title 37 of the Oklahoma Statutes.

C. Nothing in this section shall be construed to apply to telephone exchange buildings.

SECTION 2. AMENDATORY 37 O.S. 1991, Section 163.10, is amended to read as follows:

Section 163.10 A. No tax, license fee, or charge upon the distribution, possession, or handling of nonintoxicating beverages, as defined by Section 163.2 of this title, shall be levied or collected by any political subdivision of this state, except the sales tax, the general ad valorem tax, and the county nonintoxicating beverage permit fee. Municipal corporations may require the payment of an annual license fee of not more than Twenty Dollars (\$20.00) from retail dealers, as defined by Section 163.2 of this title, selling nonintoxicating beverages for consumption on or off the premises, and an annual license fee of not more than Ten Dollars (\$10.00) from retail dealers, as defined by Section 163.2 of this title, selling said beverages in original packages and not for consumption on the premises.

B. Municipalities and counties are hereby authorized to regulate the location of establishments that sell, serve, dispense, or allow consumption of nonintoxicating beverages, as defined by Section 163.2 of this title, on the premises through their zoning ordinances. Such zoning provisions shall apply only to establishments whose gross sales of nonintoxicating beverages exceed twenty-five percent (25%) of the total gross sales of the establishment and may include but shall not be limited to reasonable parking, access regulations, and other such zoning regulations as the local authorities may deem necessary for local control; however such classification shall not conflict with the provisions of Section 163.24 of this title. Municipal courts are hereby authorized jurisdiction to hear violations of any ordinances enacted pursuant to the provisions of this subsection.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 163.26 of Title 37, unless there is created a duplication in numbering, reads as follows:

The governing board of any municipality may initiate a license suspension or revocation proceeding as to any retail dealer of nonintoxicating beverages, as defined by Section 163.2 of Title 37 of the Oklahoma Statutes, having its principal place of business in such municipality, if the licensee is in violation of any municipal ordinance or state law prohibiting the sale or serving of nonintoxicating beverages to a person under twenty-one (21) years of age. To initiate the proceeding the governing board of the municipality must file a written complaint with the district attorney of the county in which the licensee is located, setting forth the grounds for the proposed suspension or revocation. Upon receipt of such complaint, the district attorney shall forward a copy of the complaint to the licensee together with written notice of the time and place of hearing thereon. In any proceeding initiated pursuant to this section, the municipality shall be deemed an interested party, shall have the right to be heard and to present evidence at the hearing on the complaint.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 247 of Title 37, unless there is created a duplication in numbering, reads as follows:

Municipalities are hereby authorized to enact ordinances consistent with the provisions of Sections 241 through 246 of Title 37 of the Oklahoma Statutes. Municipal courts are hereby authorized jurisdiction to hear violations of any ordinances enacted pursuant to the provisions of this section.

SECTION 5. This act shall become effective September 1, 1993.

44-1-6189 SD