

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

COMMITTEE SUBSTITUTE

FOR HOUSE BILL NO. 2109

By: Rhodes (Dusty)

COMMITTEE SUBSTITUTE

An Act relating to intoxicating liquors; amending 37 O.S. 1991, Sections 163.24, which relates to nonintoxicating liquors, and 518.2, as amended by Section 1, Chapter 180, O.S.L. 1993 (37 O.S. Supp. 1993, Section 518.2), which relates to intoxicating beverages; modifying distance requirements for certain establishments; exempting certain establishments; and providing an effective date.

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

SECTION 1. AMENDATORY 37 O.S. 1991, Section 163.24, is amended to read as follows:

Section 163.24 A. From and after the effective date of this act, it shall be unlawful for any place located within an incorporated city or town and licensed to sell nonintoxicating beverages as defined in paragraph (a) of Section 163.2 of this title, for ~~on-premise~~ on-premises consumption to be located within three hundred (300) feet from any public school or church property primarily and regularly used for worship services and religious activities. Provided, if any public school or church shall be established within three hundred (300) feet of any place which sells nonintoxicating beverages for ~~on-premise~~ on-premises consumption after such place has been licensed, this shall not be a deterrent to the renewal of such license so long as there has not been a lapse of more than sixty (60) days.

B. Beginning September 1, 1994, it shall be unlawful for any place located outside of an incorporated city or town and licensed to sell nonintoxicating beverages as defined in paragraph (a) of Section 163.2 of this title, for on-premises consumption to be located within one thousand (1,000) feet from any public school or church property primarily and regularly used for worship services

and religious activities. Provided, if any public school or church shall be established within one thousand (1,000) feet of any place which sells nonintoxicating beverages for on-premises consumption after such place has been licensed, this shall not be a deterrent to the renewal of such license so long as there has not been a lapse of more than sixty (60) days. All establishments with the primary purpose of serving food are exempt from the provisions of this subsection, so long as such establishments serve nonintoxicating beverages with meals only.

C. When any place which has a permit to sell nonintoxicating beverages for ~~on-premise~~ on-premises consumption changes ownership and such change of ownership results in the same type of business being conducted on the premises, the prohibition of this section shall not be a deterrent to the issuance of a permit to the new owner, if otherwise qualified to sell nonintoxicating beverages for ~~on-premise~~ on-premises consumption.

D. The distance indicated in this section shall be measured from the nearest property line of such public school or church to the nearest public entrance door of the premises of any place licensed to sell such nonintoxicating beverages for ~~on-premise~~ on-premises consumption along the street right-of-way line providing the nearest direct route usually traveled by pedestrians between such points. For purposes of determining measured distance, property situated on the opposite side of the street from such public school or church shall be considered as if it were located on the same side of the street with the school or church. Provided further, the above restrictions shall not affect premises already licensed to sell nonintoxicating beverages for ~~on-premise~~ on-premises consumption or premises which may presently or in the future be licensed to sell nonintoxicating beverages for ~~on-premise~~ on-premises consumption even though a school or church is subsequently established within ~~three hundred (300) feet of the~~ minimum distance, required by subsection A or B of this section, from such licensed premises.

SECTION 2. AMENDATORY 37 O.S. 1991, Section 518.2, as amended by Section 1, Chapter 180, O.S.L. 1993 (37 O.S. Supp. 1993, Section 518.2), is amended to read as follows:

Section 518.2 A. The location of a retail package store, or a mixed beverage establishment or bottle club located within an incorporated city or town shall be subject to the nondiscriminatory zoning ordinances of the town or city in which located, and the location of such entities is specifically prohibited within three hundred (300) feet from any church property primarily and regularly used for worship services and religious activities, or public school.

B. Beginning September 1, 1994, the location of a mixed beverage establishment or bottle club which is not located within an incorporated city or town is specifically prohibited within one thousand (1,000) feet from any church property primarily and regularly used for worship services and religious activities or public school. All establishments with the primary purpose of serving food are exempt from the provisions of this subsection, so long as such establishments serve alcoholic beverages with meals only.

C. Provided, that if any such church, or school, shall be established within ~~three hundred (300) feet of~~ the minimum distance, required by subsection A or B of this section, from any licensed premises after such premises have been licensed, this shall not be a bar to the renewal of such license so long as it has been in continuous force and effect.

D. The distance indicated in this section shall be measured from the nearest property line of such church or school to the nearest public entrance door of the premises of such package store, mixed beverage establishment or bottle club along the street right-of-way line providing the nearest direct route usually traveled by pedestrians between such points. For purposes of determining measured distance, property situated on the opposite side of the street from such church or school shall be considered as if it were located on the same side of the street with such church or school. Furthermore, a license shall not be

issued for a location on any city or town block where a school or church is located. ~~Provided, the~~

E. The above shall not bar the future issuance or renewal of a retail package store license to any retail package store license holder or subsequent transferee of any said license holder for a retail package store location that was approved and licensed by the predecessor of the ABLE Commission, the Oklahoma Alcoholic Beverage Control Board, prior to January 7, 1976, so long as such license has been in continuous force and effect. Provided further, the above shall not bar the issuance or renewal of a mixed beverage or bottle club license to any mixed beverage or bottle club license holder or applicant for a mixed beverage or bottle club license for any location that was approved and licensed as a private club by a city or town prior to the effective date of this act, March 14, 1985, so long as a municipal license, bottle club license or mixed beverage license covering any portion of such premises or location has been in continuous force and effect.

SECTION 3. This act shall become effective September 1, 1994.

44-2-9101

MCD