

SHORT TITLE: Intoxicating liquors; modifying licensing provisions and grounds for refusal to issue licenses; allowing posting of certain charges; emergency.

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

SENATE BILL NO. 162

By: Cullison

AS INTRODUCED

An Act relating to intoxicating liquors; amending 37

O.S. 1991, Sections 518.2, 527 and 536, which relate to the Oklahoma Alcoholic Beverage Control Act; modifying restrictions on location of mixed beverage establishment or bottle club; modifying grounds for refusal to issue certain licenses; authorizing certain license holders to hold certain other licenses; providing that posting of certain charges shall not constitute violation of certain provision; and declaring an emergency.

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

SECTION 1. AMENDATORY 37 O.S. 1991, Section 518.2, is amended to read as follows:

Section 518.2 The location of a retail package store, mixed beverage establishment or bottle club 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. Provided, that if any such church, or school, shall be established within three hundred (300) feet of 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. 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 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 ~~establishment~~ 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 ~~such a~~ 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 2. AMENDATORY 37 O.S. 1991, Section 527, is amended to read as follows:

Section 527. A. The Alcoholic Beverage Laws Enforcement Commission shall refuse to issue a wholesaler, Class B wholesaler or package store license either on an original application or a renewal application, if it has reasonable grounds to believe and finds any of the following to be true:

1. That the applicant is not a citizen of the United States or is not a qualified elector in this state, or has not been a continuous resident of this state for the ten (10) years next preceding the application for the license;

2. That the applicant is under twenty-one (21) years of age;

3. That the applicant or any partner, or spouse of the applicant or any partner, has been convicted of a felony;

4. That the applicant or any partner, or spouse of the applicant or any partner, has been convicted of a violation of any state or federal law relating to alcoholic beverages, has forfeited a bond while any charge of such violation was pending against him, nor may any license be granted for any purpose under the Oklahoma Alcoholic Beverage Control Act, Section 501 et seq. of this title, to an Oklahoma resident, who has held or whose spouse has held a Federal Liquor Stamp in Oklahoma before the adoption of Article XXVII of the Oklahoma Constitution unless said Liquor Stamp was granted for supplying alcoholic beverages to a federal military installation, or was granted under ~~Title 37 of the Oklahoma Statutes~~ this title;

5. That the applicant or any partner has, within twelve (12) months next preceding the date of the application, violated any provision of the Oklahoma Alcoholic Beverage Control Act or regulation of the ABLE Commission issued pursuant hereto. Provided, however, that if the ABLE Commission has, during said twelve-month period, suspended any license sought to be renewed, such renewal application may be approved if the term of the suspension has been

completed and the applicant has complied with any special conditions imposed in connection with the suspension;

6. That the applicant is not of good moral character, or that the applicant is in the habit of using alcoholic beverages to excess, or is mentally incapacitated. Provided, that the record in any municipal court showing a conviction of violation of any municipal ordinances or state statutes involving moral character or public nuisance obtained after passage and approval of the Oklahoma Alcoholic Beverage Control Act shall be received in evidence by the ABLE Commission;

7. That the applicant does not own or have a written lease for at least a period of one (1) year on the premises for which a license is sought;

8. That the applicant has, within twelve (12) months next preceding the date of application, been the holder of a license revoked for cause;

9. That the applicant is not the real party in interest, or intends to carry on the business authorized by the license as the agent of another;

10. That the applicant, in the case of an application for renewal of any license, would not be eligible for such license on a first application;

11. That the applicant is a person who appoints or is a law enforcement official or is an employee of the ABLE Commission or of the Director;

12. That the proposed location of the licensed premises would violate a valid municipal nondiscriminatory zoning ordinance;

13. That, in the case of an application for a wholesaler license, or Class B wholesaler license, any manufacturer, including an officer, director or principal stockholder thereof, or any partner, has any financial interest in the business to be conducted under the license;

14. That the issuance of the license applied for would result in a violation of any provision of the Oklahoma Alcoholic Beverage Control Act;

15. That, except as otherwise provided in subsection B of this section, in the case of an application for a wholesaler, ~~or~~ Class B wholesaler or package store license, the applicant or any partner, or spouse of the applicant or any partner, is the holder or partner of the holder of any other class of license issued under the provisions of the Oklahoma Alcoholic Beverage Control Act, other than an agent or employee license for the proposed licensed premises of employment by the applicant, or a storage license ~~or a,~~ bonded warehouse license, carrier license or private carrier license; or

16. That, in the case of an application for a package store license the applicant or any partner, or the spouse of the applicant or any partner, is the holder or partner of the holder, or employee of such holder, of any other class of license issued under the provisions of the Oklahoma Alcoholic Beverage Control Act, other than a storage license or an employee license for the proposed licensed premises of the applicant or of a retail dealer's permit for the same location issued by the Oklahoma Tax Commission for the sale of nonintoxicating beverages for consumption on the premises as provided by Section 163.7 of ~~Title 37 of the Oklahoma Statutes~~ this title.

B. Nothing contained herein shall prohibit the holder of a wholesaler license from also holding a Class B wholesaler license, or the holder of a Class B wholesaler license from also holding a wholesaler license.

SECTION 3. AMENDATORY 37 O.S. 1991, Section 536, is amended to read as follows:

Section 536. 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 wholesaler and another 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.

B. The Alcoholic Beverage Laws Enforcement 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, that the posting of charges per order for processing minimum orders or per case for the handling or repacking of goods by wholesalers for sales in less than full case lots shall not constitute a violation of this section.

C. For the violation of any provision of this section or of any rule duly promulgated under this section, the ABLE Commission may suspend or revoke a license as follows: For the first offense, not exceeding ten (10) days' suspension of license; for a second offense, not exceeding thirty (30) days' suspension of license; and for a third offense, the ABLE Commission shall revoke the license.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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