

ENROLLED SENATE
BILL NO. 285

By: Helton of the Senate

and

Kirby and Satterfield of
the House

An Act relating to intoxicating liquors; amending 37 O.S. 1991, Section 518.2, as last amended by Section 5, Chapter 361, O.S.L. 1994 (37 O.S. Supp. 1996, Section 518.2), which relates to the location of certain liquor establishments; modifying language; prohibiting issuance of license for certain locations and providing certain exceptions; providing for protests of licensing of certain liquor establishments by certain parties; stating protest requirements; requiring hearing by ABLE Commission under certain circumstances; defining term; 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, as last amended by Section 5, Chapter 361, O.S.L. 1994 (37 O.S. Supp. 1996, Section 518.2), is amended to read as follows:

Section 518.2 A. 1. 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~~ of any church property primarily and regularly used for worship services and religious activities, or public or private school. ~~Provided; provided, that~~ if any such church, or school, shall be established within three hundred (300) feet of any licensed premises after such the premises have been licensed, this subsection shall not be a bar to the renewal of such the license so long as if it has been in continuous force and effect. A license shall not be issued for a location on any city or town block where a church or school is located; provided, that this prohibition shall not bar:

- a. the renewal of a license if the license has been in continuous force and effect since the effective date of this act, or
- b. the issuance of a license to a subsequent licensee for the same location if a license for the location has been in continuous force and effect since the effective date of this act.

2. The ~~distance~~ distances indicated in paragraph 1 of this subsection shall be measured from the nearest property line of ~~such~~ the church or school to the nearest public entrance door of the premises of ~~such~~ the 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~~ the church or school shall be considered as if it were located on the same side of the street with ~~such~~ the 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~~

3. ~~Nothing 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~~ if the license has been in continuous force and effect. ~~Provided further, the above~~

4. ~~Nothing 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~~ if a municipal license, bottle club license, or mixed beverage license covering any portion of ~~such~~ the premises or location has been in continuous force and effect.

B. 1. The location of a beer and wine establishment shall be subject to the nondiscriminatory zoning ordinances of the town or city in which located, and any such ordinance shall provide that the location of a beer and wine establishment shall not be within three hundred (300) feet of any church property primarily and regularly used for worship services and religious activities, or public or private school. ~~Provided; provided, that~~ if any such church, or school, shall be established within three hundred (300) feet of any licensed premises of a beer and wine establishment after ~~such~~ the premises have been licensed, this subsection shall not be a bar to the renewal of ~~such~~ the license ~~so long as~~ if it has been in continuous force and effect. ~~Provided further, this subsection~~

2. ~~Nothing shall not~~ bar the future issuance or renewal of a beer and wine license to any beer and wine license holder or subsequent transferee of any ~~said~~ license holder for a beer and wine location that ~~was~~ has been approved and licensed by the ABLE Commission.

3. The distance indicated in paragraph 1 of this subsection shall be measured from the nearest property line of ~~such~~ the church or school to the nearest public entrance door of the premises of ~~such~~ the beer and wine establishment 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~~ the church or school shall be considered as if it were located on the same side of the street with ~~such~~ the church or school.

C. 1. Any interested party may protest the application for or granting of an original package store, mixed beverage, bottle club, or beer and wine license based on an alleged violation of this section. To be considered by the ABLE Commission, the protest must:

- a. be submitted in writing,
- b. be signed by the person protesting,
- c. contain the mailing address and address of residence, if different from the mailing address, of the protester,
- d. contain the title of the person signing the protest, if the person is acting in an official capacity as a church or school official, and

e. contain a concise statement explaining why the application is being protested.

2. Within thirty (30) days of the date of receipt of a written protest, the ABLE Commission shall conduct a hearing on the protest if the protest meets the requirements of paragraph 1 of this subsection.

3. As used in this subsection, "interested party" means:

a. a parent or legal guardian whose child or children attend the church or school which is alleged to be closer to the package store, mixed beverage establishment, bottle club, or beer and wine establishment than is allowed by this section,

b. an official of a church which is alleged to be closer to the package store, mixed beverage establishment, bottle club, or beer and wine establishment than is allowed by this section, or

c. an official of a school which is alleged to be closer to the package store, mixed beverage establishment, bottle club, or beer and wine establishment than is allowed by this section.

SECTION 2. 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.

Passed the Senate the 30th day of April, 1997.

President of the Senate

Passed the House of Representatives the 7th day of May, 1997.

Speaker of the House of Representatives