

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

HOUSE BILL NO. 1419

By: Kirby

AS INTRODUCED

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 retail package stores and beer and wine establishments; authorizing protests of licensing by interested parties; providing protest requirements; defining term; providing an effective date; 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. 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 subsection 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 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.

B. 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 school. 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 premises have been licensed, this subsection shall not be a bar to the renewal of such license so long as it has been in continuous force and effect. Provided further, this subsection 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 approved and licensed by the ABLE Commission. The distance indicated in this subsection shall be measured from the nearest property line of such church or school to the nearest public entrance door of the premises of such 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 church or school shall be considered as if it were located on the same side of the street with such church or school.

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

1. Be submitted in writing;
2. Be signed by the person protesting;
3. Contain the mailing address and address of residence, if different from the mailing address, of the protester;
4. Contain the title of the person signing the protest, if the person is acting in an official capacity as a school board member or church official; and

5. Contain a concise statement as to why the application is being protested.

D. Within thirty (30) days of the date of receipt of the written protest, the ABLE Commission shall conduct a hearing on any protest received that meets the requirements of subsection C of this section.

E. As used in subsection C of this section, "interested party" means:

1. A parent or legal guardian whose child or children attend the school or church which is alleged to be closer to the package store or beer and wine establishment than is allowed by this section;

2. A church official of the church which is alleged to be closer to the package store or beer and wine establishment than is allowed by this section; or

3. A property owner who has real property located within one (1) mile of the package store or beer and wine establishment which is alleged to be closer to a church or school than is allowed by this section.

SECTION 2. This act shall become effective July 1, 1997.

SECTION 3. 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.

46-1-6413

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