

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

HOUSE BILL HB2551

By: Easley

AS INTRODUCED

An Act relating to intoxicating liquors; amending Section 3, Chapter 391, O.S.L. 1999 (37 O.S. Supp. 1999, Section 163.27), which relates to low-point beer establishments; modifying scope of application of restrictions; amending Section 4, Chapter 391, O.S.L. 1999 (37 O.S. Supp. 1999, Section 518.3), which relates to certain licensed establishments; making locations subject to municipal nondiscriminatory zoning ordinances; modifying scope of application of restrictions; providing procedure for protest of application or granting of license; defining term; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 3, Chapter 391, O.S.L. 1999 (37 O.S. Supp. 1999, Section 163.27), is amended to read as follows:

Section 163.27 It shall be unlawful for any place which has received a permit or which has been licensed to sell low-point beer ~~and which has as its main purpose the selling or serving of low-point beer~~ for consumption on the premises to be located within three hundred (300) feet of any public or private school or church property primarily and regularly used for worship services and religious activities. The distance indicated in this section shall be measured from the nearest property line of such public or private school or church to the nearest perimeter wall of the premises of any such place which has received a permit or which has been licensed to sell low-point beer. The provisions of this section shall not apply to places which have received a permit or which have been licensed prior to the effective date of this act to sell low-point beer for on-premises consumption ~~prior to the effective date~~

~~of this act.~~ If any school or church shall be established within three hundred (300) feet of any place subject to the provisions of this section after such place has received a permit or been licensed, the provisions of this section shall not be a deterrent to the renewal of such permit or license if there has not been a lapse of more than sixty (60) days. When any place subject to the provisions of this section which has a permit or license to sell low-point beer for on-premises consumption changes ownership or the operator thereof is changed, and such change results in the same type of business being conducted on the premises, the provisions of this section shall not be a deterrent to the issuance of a license or permit to the new owner or operator if he or she is otherwise qualified.

If an establishment selling low-point beer also is the holder of a mixed beverage or beer and wine license issued by the Alcoholic Beverage Laws Enforcement Commission, the establishment shall be subject to the zoning provisions of Section ~~3~~ 518.3 of this ~~act~~ title rather than the provisions of this section.

SECTION 2. AMENDATORY Section 4, Chapter 391, O.S.L. 1999 (37 O.S. Supp. 1999, Section 518.3), is amended to read as follows:

Section 518.3 A. The location of a retail package store, mixed beverage establishment, beer and wine establishment, or bottle club shall be subject to the nondiscriminatory zoning ordinances of the town or city in which located.

B. It shall be unlawful for any retail package store, mixed beverage establishment, beer and wine establishment, or bottle club which has been licensed by the Alcoholic Beverage Laws Enforcement Commission ~~and which has as its main purpose the selling or serving of alcoholic beverages for consumption on the premises~~ to be located within three hundred (300) feet of any public or private school or church property primarily and regularly used for worship services

and religious activities. The distance indicated in this section shall be measured from the nearest property line of such public or private school or church to the nearest perimeter wall of the premises of any such retail package store, mixed beverage establishment, beer and wine establishment, or bottle club which has been licensed to sell alcoholic beverages. ~~The provisions of three-hundred-foot restriction provided for in this section shall not apply to retail package stores, mixed beverage establishments, beer and wine establishments, or bottle clubs which have been licensed prior to the effective date of this act to sell alcoholic beverages for on-premises consumption prior to the effective date of this act at a location that otherwise would be prohibited by this section.~~ If any school or church shall be established within three hundred (300) feet of any retail package store, mixed beverage establishment, beer and wine establishment, or bottle club subject to the provisions of this section after such retail package store, mixed beverage establishment, beer and wine establishment, or bottle club has been licensed, the provisions of this section shall not be a deterrent to the renewal of such license if there has not been a lapse of license for more than sixty (60) days. When any licensed retail package store, mixed beverage establishment, beer and wine establishment, or bottle club subject to the provisions of this section ~~which has a license to sell alcoholic beverages for on-premises consumption~~ changes ownership or the operator thereof is changed and such change of ownership results in the same type of business being conducted on the premises if the original license has been in continuous force and effect, the provisions of this section shall not be a deterrent to the issuance of a license to the new owner or operator if he or she is otherwise qualified.

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 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.

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