

HOUSE OF REPRESENTATIVES  
CONFERENCE COMMITTEE REPORT

Mr. President:  
Mr. Speaker:

The Conference Committee, to which was referred

**HB1211**

By: Kirby of the House and Newberry of the Senate

Title: Intoxicating liquors; underage drinking; effective date.

Together with Engrossed Senate Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the Senate recede from its Amendments No. 1 and 2; and
2. That the attached Conference Committee Substitute be adopted.

Respectfully submitted,

House Action \_\_\_\_\_ Date \_\_\_\_\_ Senate Action \_\_\_\_\_ Date \_\_\_\_\_

**HOUSE CONFEREES**

Jordan Fred Jordan

Martin (Steve) Steve Martin

McCullough McCullough

Moore J. H. Moore

Morrisette \_\_\_\_\_

Roan Paul D. Roan

Roberts (Dustin) D. Roberts

Schwartz \_\_\_\_\_

Sherrer Ben Sherrer

Sullivan \_\_\_\_\_

Tibbs Sue Tibbs

Wesselhoft \_\_\_\_\_

Williams \_\_\_\_\_

**SENATE CONFEREES**

Newberry



Barrington



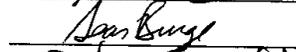
Treat



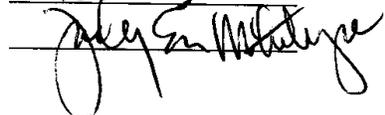
Brecheen



Burrage



Eason McIntyre



House Action \_\_\_\_\_ Date \_\_\_\_\_ Senate Action \_\_\_\_\_ Date \_\_\_\_\_

House Action \_\_\_\_\_ Date \_\_\_\_\_ Senate Action \_\_\_\_\_ Date \_\_\_\_\_

STATE OF OKLAHOMA

1st Session of the 53rd Legislature (2011)

CONFERENCE COMMITTEE  
SUBSTITUTE  
FOR ENGROSSED  
HOUSE BILL NO. 1211

By: Kirby, Steele, Osborn,  
Wright, Holland, Faught,  
Kern, Ortega, Nollan,  
Tibbs, Russ, Thomsen and  
Brumbaugh of the House

and

Newberry, Simpson, David,  
Shortey and Brinkley of the  
Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to intoxicating liquors; creating  
Cody's Law; amending Section 1, Chapter 312, O.S.L.  
2006, as amended by Section 2, Chapter 365, O.S.L.  
2007 (37 O.S. Supp. 2010, Section 8.2), which relates  
to underage drinking; modifying underage drinking  
prohibition; modifying punishment; amending 37 O.S.  
2001, Section 163.27, which relates to location  
restrictions on certain establishments authorized to  
sell low-point beer; providing exemption for certain  
establishments; authorizing municipalities to enact  
certain ordinance relating to low-point beer;  
amending 37 O.S. 2001, Section 518.3, which relates  
to location restrictions on certain establishments  
licensed by the Alcoholic Beverage Laws Enforcement  
Commission; providing exemption for certain  
establishments; providing for codification; providing  
for noncodification; and providing an effective date.

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

2 SECTION 1. NEW LAW A new section of law not to be  
3 codified in the Oklahoma Statutes reads as follows:

4 This act shall be known and may be cited as "Cody's Law".

5 SECTION 2. AMENDATORY Section 1, Chapter 312, O.S.L.  
6 2006, as amended by Section 2, Chapter 365, O.S.L. 2007 (37 O.S.  
7 Supp. 2010, Section 8.2), is amended to read as follows:

8 Section 8.2 A. No person shall knowingly and willfully permit  
9 any individual under twenty-one (21) years of age who is an invitee  
10 to the person's residence, any building, structure, or room owned,  
11 occupied, leased or otherwise procured by the person or on any land  
12 owned, occupied, leased or otherwise procured by the person, to  
13 possess or consume any alcoholic beverage as defined by Section 506  
14 of ~~Title 37 of the Oklahoma Statutes~~ this title, any low-point beer  
15 as defined by Section 163.2 of this title, any controlled dangerous  
16 substance as defined in the Uniform Controlled Dangerous Substances  
17 Act, or any combination thereof, in such place.

18 B. Except as provided for in subsection C of this section,  
19 punishment for violation of this section shall be as follows:

20 1. Any person who is convicted of a violation of the provisions  
21 of this section shall be deemed guilty of a misdemeanor for the  
22 first offense and be punished by a fine of not more than Five  
23 Hundred Dollars (\$500.00);

24

1        2. Any person who, within ten (10) years after previous  
2 convictions of a violation:

3            a. of this section, or

4            b. of the provisions of any law of another state  
5            prohibiting the offense provided for in subsection A  
6            of this section, or

7            c. in a municipal criminal court of record for the  
8            violation of a municipal ordinance prohibiting the  
9            offense provided for in subsection A of this section,

10 shall be guilty of a misdemeanor and shall be punished by a fine of  
11 not more than One Thousand Dollars (\$1,000.00);

12        3. Any person who, within ten (10) years after two or more  
13 previous convictions of a violation:

14            a. of this section, or

15            b. of the provisions of any law of another state  
16            prohibiting the offense provided for in subsection A  
17            of this section, or

18            c. in a municipal criminal court of record for the  
19            violation of a municipal ordinance prohibiting the  
20            offense provided for in subsection A of this section,

21            or

22            d. or any combination of two or more thereof,

23 shall be guilty of a felony and shall be punished by a fine of not  
24 more than Two Thousand Five Hundred Dollars (\$2,500.00), or by

1 imprisonment in the custody of the Department of Corrections for not  
2 more than five (5) years, or by both such fine and imprisonment.

3 C. Any person who violates this section, and such actions cause  
4 great bodily injury or the death of a person, shall, in addition to  
5 any other penalty provided by law, be guilty of a felony, punishable  
6 by imprisonment in the custody of the Department of Corrections for  
7 not more than five (5) years, a fine of not less than Two Thousand  
8 Five Hundred Dollars (\$2,500.00) nor more than Five Thousand Dollars  
9 (\$5,000.00), or both such fine and imprisonment.

10 SECTION 3. AMENDATORY 37 O.S. 2001, Section 163.27, is  
11 amended to read as follows:

12 Section 163.27 It shall be unlawful for any place which has  
13 received a permit or which has been licensed to sell low-point beer  
14 and which has as its main purpose the selling or serving of low-  
15 point beer for consumption on the premises to be located within  
16 three hundred (300) feet of any public or private school or church  
17 property primarily and regularly used for worship services and  
18 religious activities; provided, however, this restriction shall not  
19 apply to an establishment located within an improvement district  
20 created pursuant to the Improvement District Act in a municipality  
21 with a population of three hundred thousand (300,000) or more. The  
22 distance indicated in this section shall be measured from the  
23 nearest property line of such public or private school or church to  
24 the nearest perimeter wall of the premises of any such place which

1 has received a permit or which has been licensed to sell low-point  
2 beer. The provisions of this section shall not apply to places  
3 which have received a permit or which have been licensed to sell  
4 low-point beer for on-premises consumption prior to the effective  
5 date of this act. If any school or church shall be established  
6 within three hundred (300) feet of any place subject to the  
7 provisions of this section after such place has received a permit or  
8 been licensed, the provisions of this section shall not be a  
9 deterrent to the renewal of such permit or license if there has not  
10 been a lapse of more than sixty (60) days. When any place subject  
11 to the provisions of this section which has a permit or license to  
12 sell low-point beer for on-premises consumption changes ownership or  
13 the operator thereof is changed, and such change results in the same  
14 type of business being conducted on the premises, the provisions of  
15 this section shall not be a deterrent to the issuance of a license  
16 or permit to the new owner or operator if he or she is otherwise  
17 qualified.

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

23  
24

1 SECTION 4. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 219.2 of Title 37, unless there  
3 is created a duplication in numbering, reads as follows:

4 All municipalities of this state may enact ordinances  
5 prohibiting the sale, barter or gift of low-point beer to persons  
6 under twenty-one (21) years of age and regulating the admission of  
7 persons under eighteen (18) of age to certain establishments selling  
8 low-point beer, provided the ordinances are not otherwise  
9 inconsistent with prohibitions relating to the same as set forth in  
10 Sections 241 and 246 of Title 37 of the Oklahoma Statutes.

11 SECTION 5. AMENDATORY 37 O.S. 2001, Section 518.3, is  
12 amended to read as follows:

13 Section 518.3 A. It shall be unlawful for any mixed beverage  
14 establishment, beer and wine establishment, or bottle club which has  
15 been licensed by the Alcoholic Beverage Laws Enforcement Commission  
16 and which has as its main purpose the selling or serving of  
17 alcoholic beverages for consumption on the premises, or retail  
18 package store, to be located within three hundred (300) feet of any  
19 public or private school or church property primarily and regularly  
20 used for worship services and religious activities; provided,  
21 however, this restriction shall not apply to an establishment  
22 located within an improvement district created pursuant to the  
23 Improvement District Act in a municipality with a population of  
24 three hundred thousand (300,000) or more. The distance indicated in

1 this section shall be measured from the nearest property line of  
2 such public or private school or church to the nearest perimeter  
3 wall of the premises of any such mixed beverage establishment, beer  
4 and wine establishment, bottle club, or retail package store which  
5 has been licensed to sell alcoholic beverages. The provisions of  
6 this section shall not apply to mixed beverage establishments, beer  
7 and wine establishments, or bottle clubs, which have been licensed  
8 to sell alcoholic beverages for on-premises consumption or retail  
9 package stores prior to November 1, 2000; provided, if at the time  
10 of application for license renewal the licensed location has not  
11 been in actual operation for a continuous period of more than sixty  
12 (60) days, the license shall not be renewed. If any school or  
13 church shall be established within three hundred (300) feet of any  
14 retail package store, mixed beverage establishment, beer and wine  
15 establishment, or bottle club subject to the provisions of this  
16 section after such retail package store, mixed beverage  
17 establishment, beer and wine establishment, or bottle club has been  
18 licensed, the provisions of this section shall not be a deterrent to  
19 the renewal of such license if there has not been a lapse of more  
20 than sixty (60) days. When any mixed beverage establishment, beer  
21 and wine establishment, or bottle club subject to the provisions of  
22 this section which has a license to sell alcoholic beverages for on-  
23 premises consumption or retail package store changes ownership or  
24 the operator thereof is changed and such change of ownership results

1 in the same type of business being conducted on the premises, the  
2 provisions of this section shall not be a deterrent to the issuance  
3 of a license to the new owner or operator if he or she is otherwise  
4 qualified.

5 B. 1. Any interested party may protest the application for or  
6 granting of a license for a retail package store, or for a mixed  
7 beverage establishment, beer and wine establishment, or bottle club  
8 which has as its main purpose the selling or serving of alcoholic  
9 beverages for consumption on the premises, based on an alleged  
10 violation of this section. To be considered by the ABLE Commission,  
11 the protest must:

- 12 a. be submitted in writing,
- 13 b. be signed by the person protesting,
- 14 c. contain the mailing address and address of residence,  
15 if different from the mailing address of the protester,
- 16 d. contain the title of the person signing the protest, if  
17 the person is acting in an official capacity as a  
18 church or school official, and
- 19 e. contain a concise statement explaining why the  
20 application is being protested.

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

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

2 a. a parent or legal guardian whose child or children  
3 attend the church or school which is alleged to be  
4 closer to the mixed beverage establishment or bottle  
5 club which has as its main purpose the selling or  
6 serving of alcoholic beverages for consumption on the  
7 premises, or retail package store, than is allowed by  
8 this section,

9 b. an official of a church which is alleged to be closer  
10 to the mixed beverage establishment or bottle club  
11 which has as its main purpose the selling or serving of  
12 alcoholic beverages for consumption on the premises, or  
13 retail package store, than is allowed by this section,  
14 or

15 c. an official of a school which is alleged to be closer  
16 to the mixed beverage establishment or bottle club  
17 which has as its main purpose the selling or serving of  
18 alcoholic beverages for consumption on the premises, or  
19 retail package store, than is allowed by this section.

20 SECTION 6. This act shall become effective November 1, 2011.

21  
22 53-1-7727 CJB 05/04/11  
23  
24