

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 COMMITTEE SUBSTITUTE

4 FOR

5 SENATE BILL 1218

6 By: Holt

7 COMMITTEE SUBSTITUTE

8 An Act relating to alcoholic beverages; amending 37
9 O.S. 2011, Sections 163.27 and 518.3, which relate to
10 location of licensed establishment; authorizing
11 certain waiver to prohibited location of licensed
12 establishments within improvement district; providing
13 an effective date; and declaring an emergency.

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

15 SECTION 1. AMENDATORY 37 O.S. 2011, Section 163.27, is
16 amended to read as follows:

17 Section 163.27. A. It shall be unlawful for any place which
18 has received a permit or which has been licensed to sell low-point
19 beer and which has as its main purpose the selling or serving of
20 low-point beer for consumption on the premises to be located within
21 three hundred (300) feet of any public or private school or church
22 property primarily and regularly used for worship services and
23 religious activities; however, a college or university located
24 within an improvement district created pursuant to Section 39-103.1

1 of Title 11 of the Oklahoma Statutes may waive the three-hundred-
2 foot requirement by providing written notice to the establishment
3 seeking the license and to the district court of the county in which
4 the establishment is located during the county beverage permit
5 application process pursuant to Section 163.11 of this title. The
6 distance indicated in this ~~section~~ subsection shall be measured from
7 the nearest property line of ~~such~~ the public or private school or
8 church to the nearest perimeter wall of the premises of ~~any such~~ the
9 place which has received a permit or which has been licensed to sell
10 low-point beer.

11 B. The provisions of subsection A of this section shall not
12 apply to places which have received a permit or which have been
13 licensed to sell low-point beer for on-premises consumption prior to
14 ~~the effective date of this act~~ July 1, 1999.

15 C. If any school or church shall be established within three
16 hundred (300) feet of any place subject to the provisions of
17 subsection A of this section after ~~such~~ the place has received a
18 permit or been licensed, the provisions of subsection A of this
19 section shall not be a deterrent to the renewal of ~~such~~ the permit
20 or license if there has not been a lapse of more than sixty (60)
21 days.

22 D. When any place subject to the provisions of subsection A of
23 this section which has a permit or license to sell low-point beer
24 for on-premises consumption changes ownership or the operator

1 thereof is changed, and ~~such~~ the change results in the same type of
2 business being conducted on the premises, the provisions of
3 subsection A of this section shall not be a deterrent to the
4 issuance of a license or permit to the new owner or operator if he
5 or she is otherwise qualified.

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

11 SECTION 2. AMENDATORY 37 O.S. 2011, 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; however, a
21 college or university located within an improvement district created
22 pursuant to Section 39-103.1 of Title 11 of the Oklahoma Statutes
23 may waive the three-hundred-foot requirement by providing written
24 notice to the establishment seeking the license and to the Alcoholic

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

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

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

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

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

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

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

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

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

22 SECTION 3. This act shall become effective July 1, 2012.

23 SECTION 4. It being immediately necessary for the preservation
24 of the public peace, health and safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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