

1 ENGROSSED SENATE
2 BILL NO. 1218

By: Holt and Johnson
(Constance) of the Senate

3 and

4 McDaniel (Randy) of the
5 House

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7
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
of Title 11 of the Oklahoma Statutes may waive the three-hundred-
foot requirement by providing written notice to the establishment

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

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

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

20 D. When any place subject to the provisions of subsection A of
21 this section which has a permit or license to sell low-point beer
22 for on-premises consumption changes ownership or the operator
23 thereof is changed, and ~~such~~ the change results in the same type of
24 business being conducted on the premises, the provisions of

1 subsection A of this section shall not be a deterrent to the
2 issuance of a license or permit to the new owner or operator if he
3 or she is otherwise qualified.

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

9 SECTION 2. AMENDATORY 37 O.S. 2011, Section 518.3, is
10 amended to read as follows:

11 Section 518.3. A. It shall be unlawful for any mixed beverage
12 establishment, beer and wine establishment, or bottle club which has
13 been licensed by the Alcoholic Beverage Laws Enforcement Commission
14 and which has as its main purpose the selling or serving of
15 alcoholic beverages for consumption on the premises, or retail
16 package store, to be located within three hundred (300) feet of any
17 public or private school or church property primarily and regularly
18 used for worship services and religious activities; however, a
19 college or university located within an improvement district created
20 pursuant to Section 39-103.1 of Title 11 of the Oklahoma Statutes
21 may waive the three-hundred-foot requirement by providing written
22 notice to the establishment seeking the license and to the Alcoholic
23 Beverage Laws Enforcement Commission. The distance indicated in
24 this section shall be measured from the nearest property line of

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

1 provisions of this section shall not be a deterrent to the issuance
2 of a license to the new owner or operator if he or she is otherwise
3 qualified.

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

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

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

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

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

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

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

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

20 SECTION 4. It being immediately necessary for the preservation
21 of the public peace, health and safety, an emergency is hereby
22 declared to exist, by reason whereof this act shall take effect and
23 be in full force from and after its passage and approval.

1 Passed the Senate the 7th day of March, 2012.

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4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2012.

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8 _____
9 Presiding Officer of the House
10 of Representatives