SENATE FLOOR VERSION
February 23, 2012

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 1218 By: Holt of the Senate

and

McDaniel (Randy) of the House

An Act relating to alcoholic beverages; amending 37 O.S. 2011, Sections 163.27 and 518.3, which relate to location of licensed establishment; authorizing certain waiver to prohibited location of licensed establishments within improvement district; 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. 2011, Section 163.27, is amended to read as follows:

Section 163.27. A. 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; however, a college or university located

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

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

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

D. When any place subject to the provisions of subsection A 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~~ the change results in the same type of business being conducted on the premises, the provisions of subsection A 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.

E. 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 37 O.S. 2011, Section 518.3, is amended to read as follows:

Section 518.3. A. It shall be unlawful for any 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, or retail package store, 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; however, a college or university located 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 seeking the license and to the Alcoholic Beverage Laws Enforcement Commission. 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 mixed beverage establishment, beer and wine establishment, bottle club, or retail package store which has been licensed to sell alcoholic beverages. The provisions of this section shall not apply to mixed beverage establishments, beer and wine establishments, or bottle clubs, which have been licensed to sell alcoholic beverages for on-premises consumption or retail package stores prior to November 1, 2000; provided, if at the time of application for license renewal the licensed location has not been in actual operation for a continuous period of more than sixty (60) days, the license shall not be renewed. 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 more than sixty (60) days. When any 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 or retail package store 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, 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.

B. 1. Any interested party may protest the application for or granting of a license for a retail package store, or for a mixed beverage establishment, beer and wine establishment, or bottle club which has as its main purpose the selling or serving of alcoholic beverages for consumption on the premises, 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 mixed beverage establishment or bottle club which has as its main purpose the selling or serving of alcoholic beverages for consumption on the premises, or retail package store, than is allowed by this section,

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

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

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

SECTION 4. 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.

COMMITTEE REPORT BY: COMMITTEE ON BUSINESS & COMMERCE, dated 2-16-12 - DO PASS, As Amended and Coauthored.