

<DateSubmitted>

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 Gene Tibbs

Wesselhoft _____

Williams _____

SENATE CONFEREES

Newberry _____

Barrington _____

Treat _____

Brecheen _____

Burrage _____

Eason McIntyre _____

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 CONFERENCE COMMITTEE
4 SUBSTITUTE
5 FOR ENGROSSED
6 HOUSE BILL NO. 1211

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

7 and

8 Newberry, Simpson, David,
9 Shortey and Brinkley of the
10 Senate

11
12 CONFERENCE COMMITTEE SUBSTITUTE

13 An Act relating to intoxicating liquors; creating
14 Cody's Law; amending Section 1, Chapter 312, O.S.L.
15 2006, as amended by Section 2, Chapter 365, O.S.L.
16 2007 (37 O.S. Supp. 2010, Section 8.2), which relates
17 to underage drinking; modifying underage drinking
18 prohibition; modifying punishment; amending 37 O.S.
19 2001, Section 163.27, which relates to location
20 restrictions on certain establishments authorized to
21 sell low-point beer; providing exemption for certain
22 establishments; authorizing municipalities to enact
23 certain ordinance relating to low-point beer;
24 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.

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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.

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22 53-1-7727 CJB 05/04/11
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