

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

CONFERENCE COMMITTEE
SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1640

By: Martinez of the House

and

Pugh of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to alcoholic beverages; amending
Section 51, Chapter 366, O.S.L. 2016, as amended by
Section 1, Chapter 205, O.S.L. 2018 (37A O.S. Supp.
2018, Section 2-139), which relates to the location
of licensed establishments; authorizing certain
waiver to prohibited location of licensed
establishments; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 51, Chapter 366, O.S.L.
2016, as amended by Section 1, Chapter 205, O.S.L. 2018 (37A O.S.
Supp. 2018, Section 2-139), is amended to read as follows:

Section 2-139. A. It shall be unlawful for any mixed beverage
establishment, beer and wine establishment or bottle club which has
been licensed by the ABLE Commission and which has as its main
purpose the selling or serving of alcoholic beverages for

1 consumption on the premises, or package store, to be located within
2 three hundred (300) feet of any public or private school or church
3 property primarily and regularly used for worship services and
4 religious activities; however, a college or university located
5 within an improvement district created pursuant to Section 39-103.1
6 of Title 11 of the Oklahoma Statutes may waive the three-hundred-
7 foot requirement by providing written notice to the establishment
8 seeking the license and to the ABLE Commission; further, a church
9 may waive the three-hundred-foot requirement by providing written
10 notice to the establishment seeking the license and to the ABLE
11 Commission. Provided, a college or university or church prior to
12 waiving the three-hundred-foot requirement found in this subsection
13 shall publish a notice of its intention to waive such requirement in
14 a legal newspaper of general circulation within the state at least
15 thirty (30) days but no more than forty (40) days prior to providing
16 any written notice, waiving the three-hundred-foot requirement, to
17 the establishment seeking the license or to the ABLE Commission. As
18 used in this subsection "legal newspaper of general circulation
19 within this state" means a newspaper meeting the requisites of a
20 newspaper for publication of legal notices as prescribed in Section
21 106 of Title 25 of the Oklahoma Statutes in a majority of the
22 counties in this state.

23 B. The distance indicated in this section shall be measured
24 from the nearest property line of such public or private school or

1 church to the nearest perimeter wall of the premises of any such
2 mixed beverage establishment, beer and wine establishment, bottle
3 club or package store which has been licensed to sell alcoholic
4 beverages.

5 C. The provisions of this section shall not apply to:

6 1. Mixed beverage establishments, beer and wine establishments,
7 or bottle clubs, which have been licensed to sell alcoholic
8 beverages for on-premises consumption or retail package stores prior
9 to November 1, 2000; provided, if at the time of application for
10 license renewal the licensed location has not been in actual
11 operation for a continuous period of more than sixty (60) days, the
12 license shall not be renewed; or

13 2. Establishments licensed prior to October 1, 2018, to sell
14 low-point beer which were permitted to be located within three
15 hundred (300) feet of any public or private school or church
16 property primarily and regularly used for worship services and
17 religious activities, pursuant to the provisions of Section 163.27
18 of Title 37 of the Oklahoma Statutes. Such establishments shall be
19 permitted to have any license in effect on October 1, 2018,
20 transferred to a mixed beverage license; provided, if such an
21 establishment ceases to regularly be open to the public or changes
22 ownership, the provisions of this paragraph shall cease to apply.

23 D. If any school or church shall be established within three
24 hundred (300) feet of any package store, mixed beverage

1 establishment, beer and wine establishment or bottle club subject to
2 the provisions of this section after such package store, mixed
3 beverage establishment, beer and wine establishment or bottle club
4 has been licensed, the provisions of this section shall not be a
5 deterrent to the renewal of such license if there has not been a
6 lapse of more than sixty (60) days. When any mixed beverage
7 establishment, beer and wine establishment or bottle club subject to
8 the provisions of this section which has a license to sell alcoholic
9 beverages for on-premises consumption, or package store, changes
10 ownership or the operator thereof is changed and such change of
11 ownership results in the same type of business being conducted on
12 the premises, the provisions of this section shall not be a
13 deterrent to the issuance of a license to the new owner or operator
14 if he or she is otherwise qualified.

15 E. 1. Any interested party may protest the application for or
16 granting of a license for a package store, or for a mixed beverage
17 establishment, beer and wine establishment or bottle club which has
18 as its main purpose the selling or serving of alcoholic beverages
19 for consumption on the premises, based on an alleged violation of
20 this section. To be considered by the ABLE Commission, the protest
21 must:

- 22 a. be submitted in writing,
- 23 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 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 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 package store, than is allowed by this
section.

SECTION 2. It being immediately necessary for the preservation
of the public peace, health or 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.

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