

1 ENGROSSED HOUSE
2 BILL NO. 1640

By: Martinez of the House

3 and

4 Pugh of the Senate
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7 An Act relating to alcoholic beverages; amending
8 Section 51, Chapter 366, O.S.L. 2016, as amended by
9 Section 1, Chapter 205, O.S.L. 2018 (37A O.S. Supp.
10 2018, Section 2-139), which relates to the location
11 of licensed establishments; authorizing certain
12 waiver to prohibited location of licensed
13 establishments; and providing an effective date.

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

15 SECTION 1. AMENDATORY Section 51, Chapter 366, O.S.L.
16 2016, as amended by Section 1, Chapter 205, O.S.L. 2018 (37A O.S.
17 Supp. 2018, Section 2-139), is amended to read as follows:

18 Section 2-139. A. It shall be unlawful for any mixed beverage
19 establishment, beer and wine establishment or bottle club which has
20 been licensed by the ABLE Commission and which has as its main
21 purpose the selling or serving of alcoholic beverages for
22 consumption on the premises, or package store, to be located within
23 three hundred (300) feet of any public or private school or church
24 property primarily and regularly used for worship services and
religious activities; however, a college or university located

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

19 B. The distance indicated in this section shall be measured
20 from the nearest property line of such public or private school or
21 church to the nearest perimeter wall of the premises of any such
22 mixed beverage establishment, beer and wine establishment, bottle
23 club or package store which has been licensed to sell alcoholic
24 beverages.

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

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

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

19 D. If any school or church shall be established within three
20 hundred (300) feet of any package store, mixed beverage
21 establishment, beer and wine establishment or bottle club subject to
22 the provisions of this section after such package store, mixed
23 beverage establishment, beer and wine establishment or bottle club
24 has been licensed, the provisions of this section shall not be a

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

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

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

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

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

- 11 a. a parent or legal guardian whose child or children
12 attend the church or school which is alleged to be
13 closer to the mixed beverage establishment or bottle
14 club which has as its main purpose the selling or
15 serving of alcoholic beverages for consumption on the
16 premises, or package store, than is allowed by this
17 section,
18 b. an official of a church which is alleged to be closer
19 to the mixed beverage establishment or bottle club
20 which has as its main purpose the selling or serving
21 of alcoholic beverages for consumption on the
22 premises, or package store, than is allowed by this
23 section, or
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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. This act shall become effective November 1, 2019.

Passed the House of Representatives the 13th day of March, 2019.

Presiding Officer of the House
of Representatives

Passed the Senate the ____ day of _____, 2019.

Presiding Officer of the Senate