

# An Act

ENROLLED HOUSE  
BILL NO. 1640

By: Martinez of the House

and

Pugh of the Senate

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.

SUBJECT: Alcoholic beverages

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 consumption on the premises, or 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 ABLE Commission; further, a church may waive the three-hundred-foot requirement by providing written notice to the establishment seeking the license and to the ABLE

Commission. Provided, a college or university or church prior to waiving the three-hundred-foot requirement found in this subsection shall publish a notice of its intention to waive such requirement in a legal newspaper of general circulation within the state at least thirty (30) days but no more than forty (40) days prior to providing any written notice, waiving the three-hundred-foot requirement, to the establishment seeking the license or to the ABLE Commission. As used in this subsection "legal newspaper of general circulation within this state" means a newspaper meeting the requisites of a newspaper for publication of legal notices as prescribed in Section 106 of Title 25 of the Oklahoma Statutes in a majority of the counties in this state.

B. 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 package store which has been licensed to sell alcoholic beverages.

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

1. 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; or

2. Establishments licensed prior to October 1, 2018, to sell low-point beer which were permitted 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, pursuant to the provisions of Section 163.27 of Title 37 of the Oklahoma Statutes. Such establishments shall be permitted to have any license in effect on October 1, 2018, transferred to a mixed beverage license; provided, if such an establishment ceases to regularly be open to the public or changes ownership, the provisions of this paragraph shall cease to apply.

D. If any school or church shall be established within three hundred (300) feet of any package store, mixed beverage establishment, beer and wine establishment or bottle club subject to the provisions of this section after such 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 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.

E. 1. Any interested party may protest the application for or granting of a license for a 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 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.

Passed the House of Representatives the 21st day of May, 2019.

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Presiding Officer of the House  
of Representatives

Passed the Senate the 22nd day of May, 2019.

\_\_\_\_\_  
Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_