

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 57th Legislature (2019)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1640

By: McCall

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8 COMMITTEE SUBSTITUTE

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

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

17 SECTION 1. AMENDATORY Section 51, Chapter 366, O.S.L.
18 2016, as amended by Section 1, Chapter 205, O.S.L. 2018 (37A O.S.
19 Supp. 2018, Section 2-139), is amended to read as follows:

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

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

21 B. The distance indicated in this section shall be measured
22 from the nearest property line of such public or private school or
23 church to the nearest perimeter wall of the premises of any such
24 mixed beverage establishment, beer and wine establishment, bottle

1 club or package store which has been licensed to sell alcoholic
2 beverages.

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

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

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

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

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

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

- 20 a. be submitted in writing,
- 21 b. be signed by the person protesting,
- 22 c. contain the mailing address and address of residence,
23 if different from the mailing address of the
24 protester,

- 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
24

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

7 SECTION 2. This act shall become effective November 1, 2019.

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9 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE, dated
10 02/21/2019 - DO PASS, As Amended.
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