

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 HOUSE BILL 3256

By: Nollan

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5
6 AS INTRODUCED

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8 An Act relating to day cares; amending Section 51,
9 Chapter 366, O.S.L. 2016, as last amended by Section
10 1, Chapter 470, O.S.L. 2019 (37A O.S. Supp. 2019,
11 Section 2-139), which relates to alcoholic beverage
12 establishments; modifying location requirements;
13 requiring that no alcoholic beverage establishment be
14 within three hundred feet of day cares; amending
15 Section 6, State Question No. 788, Initiative
16 Petition No. 412, as amended by Section 3, Chapter
17 509, O.S.L. 2019 (63 O.S. Supp. 2019, Section 425),
18 which relates to medical marijuana establishments;
19 requiring that no medical marijuana establishment be
20 within one thousand feet of a day care entrance;
21 repealing Section 6, State Question No. 788,
22 Initiative Petition No. 412, as amended by Section 2,
23 Chapter 378, O.S.L. 2019 (63 O.S. Supp. 2019, Section
24 425), which relates to a duplicate section; and
providing an effective date.

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

SECTION 1. AMENDATORY Section 51, Chapter 366, O.S.L.
2016, as last amended by Section 1, Chapter 470, O.S.L. 2019 (37A
O.S. Supp. 2019, 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

1 | been licensed by the ABLE Commission and which has as its main
2 | purpose the selling or serving of alcoholic beverages for
3 | consumption on the premises, or package store, to be located within
4 | three hundred (300) feet of any public or private school, day care,
5 | or church property primarily and regularly used for worship services
6 | and religious activities; however, a college or university located
7 | within an improvement district created pursuant to Section 39-103.1
8 | of Title 11 of the Oklahoma Statutes may waive the three-hundred-
9 | foot requirement by providing written notice to the establishment
10 | seeking the license and to the ABLE Commission; further, a church
11 | may waive the three-hundred-foot requirement by providing written
12 | notice to the establishment seeking the license and to the ABLE
13 | Commission. Provided, a college or university or church prior to
14 | waiving the three-hundred-foot requirement found in this subsection
15 | shall publish a notice of its intention to waive such requirement in
16 | a legal newspaper of general circulation within the state at least
17 | thirty (30) days but no more than forty (40) days prior to providing
18 | any written notice, waiving the three-hundred-foot requirement, to
19 | the establishment seeking the license or to the ABLE Commission. As
20 | used in this subsection "legal newspaper of general circulation
21 | within this state" means a newspaper meeting the requisites of a
22 | newspaper for publication of legal notices as prescribed in Section
23 | 106 of Title 25 of the Oklahoma Statutes in a majority of the
24 | counties in this state.

1 B. The distance indicated in this section shall be measured
2 from the nearest property line of such public or private school or
3 church to the nearest perimeter wall of the premises of any such
4 mixed beverage establishment, beer and wine establishment, bottle
5 club or package store which has been licensed to sell alcoholic
6 beverages.

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

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

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

1 D. If any school or church shall be established within three
2 hundred (300) feet of any package store, mixed beverage
3 establishment, beer and wine establishment or bottle club subject to
4 the provisions of this section after such package store, mixed
5 beverage establishment, beer and wine establishment or bottle club
6 has been licensed, the provisions of this section shall not be a
7 deterrent to the renewal of such license if there has not been a
8 lapse of more than sixty (60) days. When any mixed beverage
9 establishment, beer and wine establishment or bottle club subject to
10 the provisions of this section which has a license to sell alcoholic
11 beverages for on-premises consumption, or package store, changes
12 ownership or the operator thereof is changed and such change of
13 ownership results in the same type of business being conducted on
14 the premises, the provisions of this section shall not be a
15 deterrent to the issuance of a license to the new owner or operator
16 if he or she is otherwise qualified.

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

24 a. be submitted in writing,

- 1 b. be signed by the person protesting,
- 2 c. contain the mailing address and address of residence,
- 3 if different from the mailing address of the
- 4 protester,
- 5 d. contain the title of the person signing the protest,
- 6 if the person is acting in an official capacity as a
- 7 church ~~or~~, school or day care official, and
- 8 e. contain a concise statement explaining why the
- 9 application is being protested.

10 2. Within thirty (30) days of the date of receipt of a written
11 protest, the ABLE Commission shall conduct a hearing on the protest
12 if the protest meets the requirements of paragraph 1 of this
13 subsection.

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

- 15 a. a parent or legal guardian whose child or children
- 16 attend the church ~~or~~, school or day care which is
- 17 alleged to be closer to the mixed beverage
- 18 establishment or bottle club which has as its main
- 19 purpose the selling or serving of alcoholic beverages
- 20 for consumption on the premises, or package store,
- 21 than is allowed by this section,
- 22 b. an official of a church which is alleged to be closer
- 23 to the mixed beverage establishment or bottle club
- 24 which has as its main purpose the selling or serving

1 of alcoholic beverages for consumption on the
2 premises, or package store, than is allowed by this
3 section, or

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

10 SECTION 2. AMENDATORY Section 6, State Question No. 788,
11 Initiative Petition No. 412, as amended by Section 3, Chapter 509,
12 O.S.L. 2019 (63 O.S. Supp. 2019, Section 425), is amended to read as
13 follows:

14 Section 425. A. No school or landlord may refuse to enroll or
15 lease to and may not otherwise penalize a person solely for his or
16 her status as a medical marijuana license holder, unless failing to
17 do so would cause the school or landlord the potential to lose a
18 monetary or licensing-related benefit under federal law or
19 regulations.

20 B. Unless a failure to do so would cause an employer the
21 potential to lose a monetary or licensing-related benefit under
22 federal law or regulations, an employer may not discriminate against
23 a person in hiring, termination or imposing any term or condition of
24 employment or otherwise penalize a person based upon either:

1 1. The status of the person as a medical marijuana license
2 holder; or

3 2. Employers may take action against a holder of a medical
4 marijuana license if the holder uses or possesses marijuana while in
5 his or her place of employment or during the hours of employment.
6 Employers may not take action against the holder of a medical
7 marijuana license solely based upon the status of an employee as a
8 medical marijuana license holder or the results of a drug test
9 showing positive for marijuana or its components.

10 C. For the purposes of medical care, including organ
11 transplants, the authorized use of marijuana by a medical marijuana
12 license holder shall be considered the equivalent of the use of any
13 other medication under the direction of a physician and does not
14 constitute the use of an illicit substance or otherwise disqualify a
15 registered qualifying patient from medical care.

16 D. No medical marijuana license holder may be denied custody of
17 or visitation or parenting time with a minor, and there is no
18 presumption of neglect or child endangerment for conduct allowed
19 under this law, unless the behavior of the person creates an
20 unreasonable danger to the safety of the minor.

21 E. No person holding a medical marijuana license may unduly be
22 withheld from holding a state-issued license by virtue of their
23 being a medical marijuana license holder including, but not limited
24 to, a concealed carry permit.

1 F. 1. No city or local municipality may unduly change or
2 restrict zoning laws to prevent the opening of a retail marijuana
3 establishment.

4 2. For purposes of this subsection, an undue change or
5 restriction of municipal zoning laws means an act which entirely
6 prevents retail marijuana establishments from operating within
7 municipal boundaries as a matter of law. Municipalities may follow
8 their standard planning and zoning procedures to determine if
9 certain zones or districts would be appropriate for locating
10 marijuana-licensed premises, medical marijuana businesses or any
11 other premises where marijuana or its by-products are cultivated,
12 grown, processed, stored or manufactured.

13 3. For purposes of this section, "retail marijuana
14 establishment" means an entity licensed by the State Department of
15 Health as a medical marijuana dispensary. Retail marijuana
16 establishment does not include those other entities licensed by the
17 Department as marijuana-licensed premises, medical marijuana
18 businesses or other facilities or locations where marijuana or any
19 product containing marijuana or its by-products are cultivated,
20 grown, processed, stored or manufactured.

21 G. The location of any retail marijuana establishment is
22 specifically prohibited within one thousand (1,000) feet of any
23 public or private school or day care entrance.
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1 H. Research shall be provided for under this law. A researcher
2 may apply to the State Department of Health for a special research
3 license. The license shall be granted, provided the applicant meets
4 the criteria listed under subsection B of Section 421 of this title.
5 Research license holders shall be required to file monthly
6 consumption reports to the State Department of Health with amounts
7 of marijuana used for research. Biomedical and clinical research
8 which is subject to federal regulations and institutional oversight
9 shall not be subject to State Department of Health oversight.

10 SECTION 3. REPEALER Section 6, State Question No. 788,
11 Initiative Petition No. 412, as amended by Section 2, Chapter 378,
12 O.S.L. 2019 (63 O.S. Supp. 2019, Section 425), is hereby repealed.

13 SECTION 4. This act shall become effective November 1, 2020.

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