

<DateSubmitted>

HOUSE OF REPRESENTATIVES  
CONFERENCE COMMITTEE REPORT

Mr. President:  
Mr. Speaker:

The Conference Committee, to which was referred

**HB1640**

By: Martinez of the House and Pugh of the Senate

Title: Alcoholic beverages; location of licensed establishments; authorizing certain waiver to prohibited location of licensed establishments; effective date.

Together with Engrossed Senate Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the Senate recede from its amendments; and
2. That the attached Conference Committee Substitute be adopted.

Respectfully submitted,

House Action \_\_\_\_\_ Date \_\_\_\_\_ Senate Action \_\_\_\_\_ Date \_\_\_\_\_

**SENATE CONFEREES**

Pugh \_\_\_\_\_  
Leewright \_\_\_\_\_  
Bice \_\_\_\_\_  
Stanislowski \_\_\_\_\_  
Brooks \_\_\_\_\_  
Young \_\_\_\_\_

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 CONFERENCE COMMITTEE  
4 SUBSTITUTE  
5 FOR ENGROSSED  
6 HOUSE BILL NO. 1640

By: Martinez of the House

and

Pugh of the Senate

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10 CONFERENCE COMMITTEE SUBSTITUTE

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

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

19 SECTION 1. AMENDATORY Section 51, Chapter 366, O.S.L.  
20 2016, as amended by Section 1, Chapter 205, O.S.L. 2018 (37A O.S.  
21 Supp. 2018, Section 2-139), is amended to read as follows:

22 Section 2-139. A. It shall be unlawful for any mixed beverage  
23 establishment, beer and wine establishment or bottle club which has  
24 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,

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- 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

1 premises, or package store, than is allowed by this  
2 section, or

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

9 SECTION 2. It being immediately necessary for the preservation  
10 of the public peace, health or safety, an emergency is hereby  
11 declared to exist, by reason whereof this act shall take effect and  
12 be in full force from and after its passage and approval.

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14 57-1-8947 MB 05/14/19  
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