

Representative Mike Winder proposes the following substitute bill:

RESTAURANT PROXIMITY AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mike Winder

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends provisions of the Alcohol Beverage Control Act related to licensing requirements.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies the method for measuring the distance between a proposed restaurant licensee and a public or private school, church, or public library;
- ▶ creates an exception to certain proximity requirements for a restaurant that serves alcohol only during limited hours; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

32B-1-202, as last amended by Laws of Utah 2018, Chapter 249



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Be it enacted by the Legislature of the state of Utah:

Section 1. Section **32B-1-202** is amended to read:

32B-1-202. Proximity to community location.

(1) As used in this section:

(a) "Accessory structure" means a detached building that:

(i) is part of a community location; and

(ii) is not used for a primary function of the community location.

(b) "Building" means the same as that term is defined in Section [15A-1-202](#).

~~(a)~~ (c) (i) "Outlet" means:

(A) a state store;

(B) a package agency; or

(C) a retail licensee.

(ii) "Outlet" does not include:

(A) an airport lounge licensee; or

(B) a restaurant.

~~(b)~~ (d) "Restaurant" means:

(i) a full-service restaurant licensee;

(ii) a limited-service restaurant licensee; or

(iii) a beer-only restaurant licensee.

(2) (a) The commission may not issue a license for an outlet if, on the date the commission takes final action to approve or deny the application, there is a community location:

(i) within 600 feet of the proposed outlet, as measured from the nearest patron entrance of the proposed outlet by following the shortest route of ordinary pedestrian travel to the property boundary of the community location; or

(ii) within 200 feet of the proposed outlet, measured in a straight line from the nearest patron entrance of the proposed outlet to the nearest property boundary of the community location.

(b) ~~[The]~~ Except as provided in Subsection (3), the commission may not issue a license for a restaurant if, on the date the commission takes final action to approve or deny the

57 application, there is a community location:

58 (i) within 300 feet of the proposed restaurant, as measured from the nearest patron
59 entrance of the proposed restaurant by following the shortest route of ordinary pedestrian travel
60 to the property boundary of the community location; or

61 (ii) (A) if the community location is a public playground, a public or private school
62 playground, or a public park, within 200 feet of the proposed restaurant, measured in a straight
63 line from the nearest patron entrance of the proposed restaurant to the nearest property
64 boundary of the community location[-]; or

65 (B) if the community location is a public or private school, a church, or a public
66 library, within 200 feet of the proposed restaurant, measured in a straight line from the nearest
67 patron entrance of the proposed restaurant to the nearest edge of the nearest building of the
68 community location that is not an accessory structure.

69 (3) The commission may issue a license for a restaurant that is located closer to a
70 public or private school or a public or private school playground than allowed under
71 Subsection (2) if the restaurant:

72 (a) does not sell, offer for sale, or furnish an alcoholic product on a weekday before 5
73 p.m.; and

74 (b) otherwise complies with the provisions of this section.

75 [~~3~~] (4) (a) For an outlet or a restaurant that holds a license on May 9, 2017, and
76 operates under a previously approved variance to one or more proximity requirements in effect
77 before May 9, 2017, subject to the other provisions of this title, that outlet or restaurant, or
78 another outlet or restaurant with the same type of license as that outlet or restaurant, may
79 operate under the previously approved variance regardless of whether:

80 (i) the outlet or restaurant changes ownership;

81 (ii) the property on which the outlet or restaurant is located changes ownership; or

82 (iii) there is a lapse in the use of the property as an outlet or a restaurant with the same
83 type of license, unless during the lapse, the property is used for a different purpose.

84 (b) An outlet or a restaurant that has continuously operated at a location since before
85 January 1, 2007, is considered to have a previously approved variance.

86 [~~4~~] (5) (a) If, after an outlet or a restaurant obtains a license under this title, a person
87 establishes a community location on a property that puts the outlet or restaurant in violation of

88 the proximity requirements in effect at the time the license is issued or a previously approved
89 variance described in Subsection [~~(3)~~] (4), subject to the other provisions of this title, that
90 outlet or restaurant, or an outlet or a restaurant with the same type of license as that outlet or
91 restaurant, may operate at the premises regardless of whether:

- 92 (i) the outlet or restaurant changes ownership;
- 93 (ii) the property on which the outlet or restaurant is located changes ownership; or
- 94 (iii) there is a lapse in the use of the property as an outlet or a restaurant with the same
95 type of license, unless during the lapse the property is used for a different purpose.

96 (b) The provisions of this Subsection [~~(4)~~] (5) apply regardless of when the outlet's or
97 restaurant's license is issued.

98 [~~(5)~~] (6) Nothing in this section prevents the commission from considering the
99 proximity of an educational, religious, and recreational facility, or any other relevant factor in
100 reaching a decision on a proposed location of an outlet.