

House Bill 2145

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Attorney General Hardy Myers for Attorney General's Underage Drinking Task Force)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Prohibits parent or guardian from providing alcoholic beverages to parent's or guardian's minor child or ward if child or ward is impaired to noticeable degree.

Increases punishment for person exercising control over real property who knowingly allows minor to consume alcoholic beverages on property, or allows minor to remain on property if minor consumes alcoholic beverages on property.

Punishes by maximum imprisonment of one year, \$6,250 fine, or both.

A BILL FOR AN ACT

1
2 Relating to alcoholic beverages; creating new provisions; and amending ORS 131.602, 471.229,
3 471.410 and 471.478.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 471.410 is amended to read:

6 471.410. (1) [No] **A** person [shall] **may not** sell, give or otherwise make available [any] alcoholic
7 [liquor] **beverages** to [any] **a** person who is visibly intoxicated.

8 [(2) *No one other than the person's parent or guardian shall sell, give or otherwise make available*
9 *any alcoholic liquor to a person under the age of 21 years. A person violates this subsection who sells,*
10 *gives or otherwise makes available alcoholic liquor to a person with the knowledge that the person to*
11 *whom the liquor is made available will violate this subsection.*]

12 [(3) *No person who exercises control over private real property may knowingly allow any other*
13 *person under the age of 21 years who is not a child or minor ward of the person to consume alcoholic*
14 *liquor on the property, or allow any other person under the age of 21 years who is not a child or minor*
15 *ward of the person to remain on the property if the person under the age of 21 years consumes alcoholic*
16 *liquor on the property. The prohibitions of this subsection apply only to a person who is present and*
17 *in control of the location at the time the consumption occurs. The prohibitions of this subsection do not*
18 *apply to the owner of rental property, or the agent of an owner of rental property, unless the con-*
19 *sumption occurs in the individual unit in which the owner or agent resides.*]

20 [(4) *A person who violates subsection (1) or (2) of this section commits a Class A misdemeanor.*
21 *Upon violation of subsection (2) of this section, the court shall impose at least a mandatory minimum*
22 *sentence as follows:*]

23 [(a) *Upon a first conviction, a fine of \$350.*]

24 [(b) *Upon a second conviction, a fine of \$1,000.*]

25 [(c) *Upon a third or subsequent conviction, a fine of \$1,000 and not less than 30 days of*
26 *imprisonment.*]

27 [(5) *The court shall not waive or suspend imposition or execution of the mandatory minimum sen-*
28 *tence required by subsection (4) of this section. In addition to the mandatory sentence the court may*

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 *require the violator to make restitution for any damages to property where the alcoholic liquor was il-*
 2 *legally consumed or may require participation in volunteer service to a community service agency.]*

3 [(6) *The mandatory minimum penalty provisions of subsection (4) of this section shall not apply to*
 4 *persons licensed or appointed under the provisions of this chapter.*]

5 [(7) *A person who violates subsection (3) of this section commits a violation. Upon violation of*
 6 *subsection (3) of this section, the court shall impose at least a mandatory minimum fine as follows:]*

7 [(a) *Upon a first conviction, a fine of \$350.*]

8 [(b) *Upon a second or subsequent conviction, a fine of \$1,000.*]

9 [(8)] (2) Nothing in this section prohibits any licensee under this chapter from allowing a person
 10 who is visibly intoxicated from remaining on the licensed premises so long as the person is not sold
 11 or served any alcoholic [*liquor*] **beverages.**

12 (3) **A person who violates this section commits a Class A misdemeanor.**

13 **SECTION 2.** Sections 3 and 4 of this 2007 Act are added to and made a part of ORS
 14 chapter 471.

15 **SECTION 3.** (1) **A person may not sell, give or otherwise make available alcoholic**
 16 **beverages to a person under 21 years of age.**

17 (2) **A person may not sell, give or otherwise make available alcoholic beverages to an-**
 18 **other person with the knowledge that the other person will sell, give or otherwise make the**
 19 **alcoholic beverages available to a person who is under 21 years of age.**

20 (3) **Except as provided in subsection (4) of this section, the prohibitions of subsection (1)**
 21 **of this section do not apply to a parent or guardian who provides alcoholic beverages to the**
 22 **parent's child or the guardian's ward.**

23 (4) **A person who is a parent or guardian may not provide or make available alcoholic**
 24 **beverages to the person's child or the guardian's ward if:**

25 (a) **The child or ward is under 21 years of age; and**

26 (b) **The child or ward is impaired to a noticeable degree at the time the alcoholic**
 27 **beverages are provided.**

28 (5) **A person who violates any provision of this section commits a Class A misdemeanor.**
 29 **For a violation of subsection (1) of this section, the court shall impose at least a mandatory**
 30 **minimum sentence as follows:**

31 (a) **Upon a first conviction, a fine of \$350.**

32 (b) **Upon a second conviction, a fine of \$1,000.**

33 (c) **Upon a third or subsequent conviction, a fine of \$1,000 and not less than 30 days of**
 34 **imprisonment.**

35 (6) **The court may not waive or suspend imposition or execution of the mandatory mini-**
 36 **imum sentence required by subsection (5) of this section. In addition to the mandatory min-**
 37 **imum sentence, the court may require restitution for any damages to property where the**
 38 **alcoholic beverages were illegally consumed or participation in volunteer service to a com-**
 39 **munity service agency.**

40 (7) **The mandatory minimum sentence provisions of subsection (5) of this section do not**
 41 **apply to persons licensed or appointed under this chapter.**

42 **SECTION 4.** (1) **A person who exercises control over private real property may not**
 43 **knowingly allow any other person under 21 years of age who is not a child or ward of the**
 44 **person to consume alcoholic beverages on the property, or knowingly allow any other person**
 45 **under 21 years of age who is not a child or ward of the person to remain on the property if**

1 **the person under 21 years of age consumes alcoholic beverages on the property. The prohi-**
 2 **bitions of this section apply only to a person who is in control of and present at the private**
 3 **real property at the time the consumption occurs. The prohibitions of this section do not**
 4 **apply to the owner of a rental property, or the agent of an owner of a rental property, unless**
 5 **the consumption occurs in the individual unit in which the owner or agent resides.**

6 **(2) A person who violates this section commits a Class A misdemeanor.**

7 **SECTION 5.** ORS 131.602 is amended to read:

8 131.602. The crimes to which ORS 131.550 (11)(b) applies are:

9 (1) Bribe giving, as defined in ORS 162.015.

10 (2) Bribe receiving, as defined in ORS 162.025.

11 (3) Public investment fraud, as defined in ORS 162.117.

12 (4) Bribing a witness, as defined in ORS 162.265.

13 (5) Bribe receiving by a witness, as defined in ORS 162.275.

14 (6) Simulating legal process, as defined in ORS 162.355.

15 (7) Official misconduct in the first degree, as defined in ORS 162.415.

16 (8) Custodial interference in the second degree, as defined in ORS 163.245.

17 (9) Custodial interference in the first degree, as defined in ORS 163.257.

18 (10) Buying or selling a person under 18 years of age, as defined in ORS 163.537.

19 (11) Using a child in a display of sexually explicit conduct, as defined in ORS 163.670.

20 (12) Encouraging child sexual abuse in the first degree, as defined in ORS 163.684.

21 (13) Encouraging child sexual abuse in the second degree, as defined in ORS 163.686.

22 (14) Encouraging child sexual abuse in the third degree, as defined in ORS 163.687.

23 (15) Possession of materials depicting sexually explicit conduct of a child in the first degree, as
 24 defined in ORS 163.688.

25 (16) Possession of materials depicting sexually explicit conduct of a child in the second degree,
 26 as defined in ORS 163.689.

27 (17) Theft in the second degree, as defined in ORS 164.045.

28 (18) Theft in the first degree, as defined in ORS 164.055.

29 (19) Aggravated theft in the first degree, as defined in ORS 164.057.

30 (20) Theft by extortion, as defined in ORS 164.075.

31 (21) Theft by deception, as defined in ORS 164.085, if it is a felony or a Class A misdemeanor.

32 (22) Theft by receiving, as defined in ORS 164.095, if it is a felony or a Class A misdemeanor.

33 (23) Theft of services, as defined in ORS 164.125, if it is a felony or a Class A misdemeanor.

34 (24) Unauthorized use of a vehicle, as defined in ORS 164.135.

35 (25) Mail theft or receipt of stolen mail, as defined in ORS 164.162.

36 (26) Laundering a monetary instrument, as defined in ORS 164.170.

37 (27) Engaging in a financial transaction in property derived from unlawful activity, as defined
 38 in ORS 164.172.

39 (28) Burglary in the second degree, as defined in ORS 164.215.

40 (29) Burglary in the first degree, as defined in ORS 164.225.

41 (30) Possession of a burglary tool or theft device, as defined in ORS 164.235.

42 (31) Unlawful entry into a motor vehicle, as defined in ORS 164.272.

43 (32) Arson in the second degree, as defined in ORS 164.315.

44 (33) Arson in the first degree, as defined in ORS 164.325.

45 (34) Computer crime, as defined in ORS 164.377.

- 1 (35) Robbery in the third degree, as defined in ORS 164.395.
- 2 (36) Robbery in the second degree, as defined in ORS 164.405.
- 3 (37) Robbery in the first degree, as defined in ORS 164.415.
- 4 (38) Unlawful labeling of a sound recording, as defined in ORS 164.868.
- 5 (39) Unlawful recording of a live performance, as defined in ORS 164.869.
- 6 (40) Unlawful labeling of a videotape recording, as defined in ORS 164.872.
- 7 (41) A violation of ORS 164.877.
- 8 (42) Endangering aircraft, as defined in ORS 164.885.
- 9 (43) Interference with agricultural operations, as defined in ORS 164.887.
- 10 (44) Forgery in the second degree, as defined in ORS 165.007.
- 11 (45) Forgery in the first degree, as defined in ORS 165.013.
- 12 (46) Criminal possession of a forged instrument in the second degree, as defined in ORS 165.017.
- 13 (47) Criminal possession of a forged instrument in the first degree, as defined in ORS 165.022.
- 14 (48) Criminal possession of a forgery device, as defined in ORS 165.032.
- 15 (49) Criminal simulation, as defined in ORS 165.037.
- 16 (50) Fraudulently obtaining a signature, as defined in ORS 165.042.
- 17 (51) Fraudulent use of a credit card, as defined in ORS 165.055.
- 18 (52) Negotiating a bad check, as defined in ORS 165.065.
- 19 (53) Possessing a fraudulent communications device, as defined in ORS 165.070.
- 20 (54) Unlawful factoring of a payment card transaction, as defined in ORS 165.074.
- 21 (55) Falsifying business records, as defined in ORS 165.080.
- 22 (56) Sports bribery, as defined in ORS 165.085.
- 23 (57) Sports bribe receiving, as defined in ORS 165.090.
- 24 (58) Misapplication of entrusted property, as defined in ORS 165.095.
- 25 (59) Issuing a false financial statement, as defined in ORS 165.100.
- 26 (60) Obtaining execution of documents by deception, as defined in ORS 165.102.
- 27 (61) A violation of ORS 165.543.
- 28 (62) Cellular counterfeiting in the third degree, as defined in ORS 165.577.
- 29 (63) Cellular counterfeiting in the second degree, as defined in ORS 165.579.
- 30 (64) Cellular counterfeiting in the first degree, as defined in ORS 165.581.
- 31 (65) Identity theft, as defined in ORS 165.800.
- 32 (66) A violation of ORS 166.190.
- 33 (67) Unlawful use of a weapon, as defined in ORS 166.220.
- 34 (68) A violation of ORS 166.240.
- 35 (69) Unlawful possession of a firearm, as defined in ORS 166.250.
- 36 (70) A violation of ORS 166.270.
- 37 (71) Unlawful possession of a machine gun, short-barreled rifle, short-barreled shotgun or
38 firearms silencer, as defined in ORS 166.272.
- 39 (72) A violation of ORS 166.275.
- 40 (73) Unlawful possession of armor piercing ammunition, as defined in ORS 166.350.
- 41 (74) A violation of ORS 166.370.
- 42 (75) Unlawful possession of a destructive device, as defined in ORS 166.382.
- 43 (76) Unlawful manufacture of a destructive device, as defined in ORS 166.384.
- 44 (77) Possession of a hoax destructive device, as defined in ORS 166.385.
- 45 (78) A violation of ORS 166.410.

- 1 (79) Providing false information in connection with a transfer of a firearm, as defined in ORS
2 166.416.
- 3 (80) Improperly transferring a firearm, as defined in ORS 166.418.
- 4 (81) Unlawfully purchasing a firearm, as defined in ORS 166.425.
- 5 (82) A violation of ORS 166.429.
- 6 (83) A violation of ORS 166.470.
- 7 (84) A violation of ORS 166.480.
- 8 (85) A violation of ORS 166.635.
- 9 (86) A violation of ORS 166.638.
- 10 (87) Unlawful paramilitary activity, as defined in ORS 166.660.
- 11 (88) A violation of ORS 166.720.
- 12 (89) Prostitution, as defined in ORS 167.007.
- 13 (90) Promoting prostitution, as defined in ORS 167.012.
- 14 (91) Compelling prostitution, as defined in ORS 167.017.
- 15 (92) Exhibiting an obscene performance to a minor, as defined in ORS 167.075.
- 16 (93) Unlawful gambling in the second degree, as defined in ORS 167.122.
- 17 (94) Unlawful gambling in the first degree, as defined in ORS 167.127.
- 18 (95) Possession of gambling records in the second degree, as defined in ORS 167.132.
- 19 (96) Possession of gambling records in the first degree, as defined in ORS 167.137.
- 20 (97) Possession of a gambling device, as defined in ORS 167.147.
- 21 (98) Possession of a gray machine, as defined in ORS 167.164.
- 22 (99) Cheating, as defined in ORS 167.167.
- 23 (100) Tampering with drug records, as defined in ORS 167.212.
- 24 (101) A violation of ORS 167.262.
- 25 (102) Research and animal interference, as defined in ORS 167.312.
- 26 (103) Animal abuse in the first degree, as defined in ORS 167.320.
- 27 (104) Aggravated animal abuse in the first degree, as defined in ORS 167.322.
- 28 (105) Animal neglect in the first degree, as defined in ORS 167.330.
- 29 (106) Interfering with an assistance, a search and rescue or a therapy animal, as defined in ORS
30 167.352.
- 31 (107) Involvement in animal fighting, as defined in ORS 167.355.
- 32 (108) Dogfighting, as defined in ORS 167.365.
- 33 (109) Participation in dogfighting, as defined in ORS 167.370.
- 34 (110) Unauthorized use of a livestock animal, as defined in ORS 167.385.
- 35 (111) Interference with livestock production, as defined in ORS 167.388.
- 36 (112) A violation of ORS 167.390.
- 37 (113) A violation of ORS 471.410 **or section 3 or 4 of this 2007 Act.**
- 38 (114) Failure to report missing precursor substances, as defined in ORS 475.955.
- 39 (115) Illegally selling drug equipment, as defined in ORS 475.960.
- 40 (116) Providing false information on a precursor substances report, as defined in ORS 475.965.
- 41 (117) Unlawful delivery of an imitation controlled substance, as defined in ORS 475.912.
- 42 (118) A violation of ORS 475.840, if it is a felony or a Class A misdemeanor.
- 43 (119) A violation of ORS 475.914, if it is a felony or a Class A misdemeanor.
- 44 (120) A violation of ORS 475.916.
- 45 (121) A violation of ORS 475.906, if it is a felony or a Class A misdemeanor.

1 (122) A violation of ORS 475.904 (2).

2 (123) Misuse of an identification card, as defined in ORS 807.430.

3 (124) Unlawful production of identification cards, licenses, permits, forms or camera cards, as
4 defined in ORS 807.500.

5 (125) Transfer of documents for the purposes of misrepresentation, as defined in ORS 807.510.

6 (126) Using an invalid license, as defined in ORS 807.580.

7 (127) Permitting misuse of a license, as defined in ORS 807.590.

8 (128) Using another's license, as defined in ORS 807.600.

9 (129) Criminal driving while suspended or revoked, as defined in ORS 811.182, when it is a fel-
10 ony.

11 (130) Driving while under the influence of intoxicants, as defined in ORS 813.010, when it is a
12 felony.

13 (131) Unlawful distribution of cigarettes, as defined in ORS 323.482.

14 (132) A violation of ORS 180.440 (2).

15 (133) A violation described in ORS 475.846 to 475.894, if it is a felony.

16 (134) An attempt, conspiracy or solicitation to commit a crime in subsections (1) to (133) of this
17 section if the attempt, conspiracy or solicitation is a felony or a Class A misdemeanor.

18 **SECTION 6.** ORS 471.229 is amended to read:

19 471.229. (1) Any resident of this state who is at least 21 years of age is entitled to receive not
20 more than two cases of wine or cider per month for personal use, containing not more than nine
21 liters per case, from another state without payment of additional state tax, fees or charges if the
22 state from which the wine or cider is sent allows its residents to receive wine or cider from this
23 state without imposition of state tax, fees or charges. For privilege tax purposes, receipt of a ship-
24 ment into this state under this subsection shall not be considered to constitute a sale in this state.
25 No person who transports wine or cider pursuant to this section shall deliver more than two cases
26 of wine or cider to the same address at one time. No person who receives wine or cider pursuant
27 to this section shall resell any of the wine or cider.

28 (2) A licensee who holds an off-premises sales license or any other license that authorizes retail
29 sale of wine or cider for consumption off the licensed premises may ship not more than two cases
30 of wine or cider, containing not more than nine liters per case, per shipment, for personal use and
31 not for resale, directly to a resident of another state if the state to which the wine or cider is sent
32 allows residents of this state to receive wine or cider sent from that state without payment of ad-
33 ditional state tax, fees or charges. The sale shall be considered to have occurred in this state.

34 (3) The shipping container of any wine or cider sent into or out of this state under this section
35 must be clearly labeled to indicate that the container contains alcoholic beverages and cannot be
36 delivered to a person who is not at least 21 years of age or to a person who is visibly intoxicated.

37 (4) For purposes of ORS 471.305, an order for wine or cider that is received in writing is a bona
38 fide order.

39 (5) Sales authorized by this section are sales made by a retailer who is not authorized to sell
40 at wholesale or sales by a winery of wine or cider produced or bottled by the winery.

41 (6) Out-of-state wine or cider suppliers that supply wine or cider under subsection (1) of this
42 section must obtain a license from the Oregon Liquor Control Commission under procedures pre-
43 scribed by rule of the commission before selling or soliciting sales of wine or cider in Oregon.

44 (7) Any person, **whether or not the person is licensed or appointed under this chapter,**
45 *[who knowingly or negligently delivers wine or cider under the provisions of this section to a person*

1 *under 21 years of age, or] who knowingly or negligently delivers wine or cider under [the provisions*
 2 *of] this section to a visibly intoxicated person[,]* violates ORS 471.410[, *whether or not the person is*
 3 *licensed or appointed under the provisions of this chapter].*

4 **(8) Any person, whether or not the person is licensed or appointed under this chapter,**
 5 **who knowingly or negligently delivers wine or cider under this section to a person under 21**
 6 **years of age violates section 3 of this 2007 Act.**

7 **SECTION 7.** ORS 471.478 is amended to read:

8 471.478. On and after January 1, 1978:

9 (1) The Oregon Liquor Control Commission by rule shall require the identification of kegs of
 10 malt beverages sold directly to consumers who are not licensees of the commission and the signing
 11 of a receipt therefor by the purchaser in order to allow the kegs to be traced if the contents are
 12 consumed in violation of the Liquor Control Act. The keg identification shall be in the form of a
 13 numbered label prescribed and supplied by the commission which identifies the seller and which is
 14 removable or obliterated when the keg is processed for refilling. The receipt shall be on a form
 15 prescribed and supplied by the commission and shall include the name and address of the purchaser;
 16 motor vehicle operator's license number, if any; the automobile registration of the motor vehicle in
 17 which the keg was removed from the seller's premises, if any; and such other identification as the
 18 commission by rule may require. The receipt shall contain a statement that must be signed by the
 19 purchaser that, under penalty of false swearing, the purchaser will not allow consumption of any
 20 malt beverage in the keg in violation of ORS 471.410 **or section 3 or 4 of this 2007 Act.** A copy
 21 of the receipt shall be given to the purchaser and the seller shall retain the original receipt for such
 22 period as the commission by rule may require.

23 (2) Possession of a keg containing malt beverages which is not identified as required by sub-
 24 section (1) of this section is a Class A misdemeanor.

25 (3) A person who signs a receipt described in subsection (1) of this section in order to obtain a
 26 keg, knowing the receipt to be false, or who falsifies any information required on the receipt, is
 27 guilty of false swearing as prescribed by ORS 162.075.

28 (4) As used in this section, "keg" means any brewery-sealed, individual container of malt
 29 beverage having a liquid capacity of more than seven gallons.

30