

# House Bill 2166

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Oregon Liquor Control Commission)

## 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**.

Allows Oregon Liquor Control Commission to cancel or suspend license, or impose civil penalty, if commission finds or has reasonable ground to believe that licensee has sold alcoholic liquor to person who licensee should have known was under 21 years of age or has sold alcoholic liquor to person who licensee should have known was visibly intoxicated.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to alcoholic beverages; creating new provisions; amending ORS 471.315; and declaring an  
3 emergency.

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

5 **SECTION 1.** ORS 471.315 is amended to read:

6 471.315. (1) The Oregon Liquor Control Commission may cancel or suspend any license issued  
7 under this chapter, or impose a civil penalty in lieu of or in addition to suspension as provided by  
8 ORS 471.322, if *[it]* **the commission** finds or has reasonable ground to believe any of the following  
9 to be true:

10 (a) That the licensee:

11 (A) Has violated any provision of this chapter or ORS 474.115 or any rule of the commission  
12 adopted pursuant thereto.

13 (B) Has made any false representation or statement to the commission in order to induce or  
14 prevent action by the commission.

15 (C) Is not maintaining an acceptable bond as required by ORS 471.311 or is not maintaining the  
16 insurance or bond required by ORS 471.168.

17 (D) Has maintained an insanitary establishment.

18 (E) Is insolvent or incompetent or physically unable to carry on the management of the estab-  
19 lishment of the licensee.

20 (F) Is in the habit of using alcoholic liquor, habit-forming drugs or controlled substances to ex-  
21 cess.

22 (G) *[Knowingly has sold alcoholic liquor to persons under 21 years of age or to persons visibly*  
23 *intoxicated at the time of sale or has knowingly allowed the consumption of alcoholic liquor on the li-*  
24 *icensed premises by a person who is visibly intoxicated at the time of consumption.]* **Has sold alcoholic**  
25 **liquor to a person who the licensee knew or should have known was under 21 years of age,**  
26 **has sold alcoholic liquor to a person who the licensee knew or should have known was visibly**  
27 **intoxicated at the time of sale, or has knowingly allowed the consumption of alcoholic liquor**  
28 **on the licensed premises by a person who was visibly intoxicated at the time of consumption.**

29 (H) Has misrepresented to a customer or the public any alcoholic liquor sold by the licensee.

**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 (I) Since the granting of the license, has been convicted of a felony, of violating any of the liquor  
2 laws of this state, general or local, or of any misdemeanor or violation of any municipal ordinance  
3 committed on the licensed premises.

4 (b) That any person licensed to sell at retail for consumption on the premises is acting as an  
5 agent of, or is a manufacturer or wholesaler of alcoholic liquors, or has borrowed money or prop-  
6 erty, or has accepted gratuities or rebates, or has obtained the use of equipment from any man-  
7 ufacturer or wholesaler of alcoholic liquor or any agent thereof.

8 (c) That there is a history of serious and persistent problems involving disturbances, lewd or  
9 unlawful activities or noise either in the premises or involving patrons of the establishment in the  
10 immediate vicinity of the premises if the activities in the immediate vicinity of the premises are  
11 related to the sale or service of alcohol under the exercise of the license privilege. Behavior which  
12 is grounds for cancellation or suspension of a license under this section, where so related to the sale  
13 or service of alcohol, includes, but is not limited to obtrusive or excessive noise, music or sound  
14 vibrations; public drunkenness; fights; altercations; harassment or unlawful drug sales; alcohol or  
15 related litter; trespassing on private property; and public urination. Mitigating factors include a  
16 showing by the licensee that the problems are not serious or persistent or that the licensee has  
17 demonstrated a willingness and ability to control adequately the licensed premises and patrons' be-  
18 havior in the immediate vicinity of the premises which is related to the licensee's sale or service  
19 of alcohol under the licensee's exercise of the license privilege.

20 (d) That there is any other reason which, in the opinion of the commission, based on public  
21 convenience or necessity, warrants canceling or suspending such license.

22 (2) Civil penalties under this section shall be imposed as provided in ORS 183.745.

23 **SECTION 2. The amendments to ORS 471.315 by section 1 of this 2007 Act apply only to**  
24 **sales of alcoholic beverages that occur on or after the effective date of this 2007 Act.**

25 **SECTION 3. This 2007 Act being necessary for the immediate preservation of the public**  
26 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**  
27 **on its passage.**

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