

Senate Bill 1020

Sponsored by COMMITTEE ON JUDICIARY

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**.

Repeals laws prohibiting person from engaging in both wholesale and retail sales of alcoholic beverages.

A BILL FOR AN ACT

1
2 Relating to alcoholic beverages; amending ORS 166.715, 471.038, 471.186, 471.200, 471.223, 471.227,
3 471.229, 471.242, 471.313, 471.315, 471.329, 471.331, 471.342, 471.344 and 471.412; and repealing
4 ORS 471.392, 471.394, 471.396, 471.398, 471.400, 471.401, 471.402, 471.485, 471.490, 471.495 and
5 471.500.

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

7 **SECTION 1. ORS 471.392, 471.394, 471.396, 471.398, 471.400, 471.401, 471.402, 471.485, 471.490,**
8 **471.495 and 471.500 are repealed.**

9 **SECTION 2.** ORS 166.715 is amended to read:

10 166.715. As used in ORS 166.715 to 166.735, unless the context requires otherwise:

11 (1) "Documentary material" means any book, paper, document, writing, drawing, graph, chart,
12 photograph, phonograph record, magnetic tape, computer printout, other data compilation from
13 which information can be obtained or from which information can be translated into usable form,
14 or other tangible item.

15 (2) "Enterprise" includes any individual, sole proprietorship, partnership, corporation, business
16 trust or other profit or nonprofit legal entity, and includes any union, association or group of indi-
17 viduals associated in fact although not a legal entity, and both illicit and licit enterprises and gov-
18 ernmental and nongovernmental entities.

19 (3) "Investigative agency" means the Department of Justice or any district attorney.

20 (4) "Pattern of racketeering activity" means engaging in at least two incidents of racketeering
21 activity that have the same or similar intents, results, accomplices, victims or methods of commis-
22 sion or otherwise are interrelated by distinguishing characteristics, including a nexus to the same
23 enterprise, and are not isolated incidents, provided at least one of such incidents occurred after
24 November 1, 1981, and that the last of such incidents occurred within five years after a prior inci-
25 dent of racketeering activity. Notwithstanding ORS 131.505 to 131.525 or 419A.190 or any other
26 provision of law providing that a previous prosecution is a bar to a subsequent prosecution, conduct
27 that constitutes an incident of racketeering activity may be used to establish a pattern of
28 racketeering activity without regard to whether the conduct previously has been the subject of a
29 criminal prosecution or conviction or a juvenile court adjudication, unless the prosecution resulted
30 in an acquittal or the adjudication resulted in entry of an order finding the youth not to be within
31 the jurisdiction of the juvenile court.

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 (5) "Person" means any individual or entity capable of holding a legal or beneficial interest in
2 real or personal property.

3 (6) "Racketeering activity" includes conduct of a person committed both before and after the
4 person attains the age of 18 years, and means to commit, to attempt to commit, to conspire to
5 commit, or to solicit, coerce or intimidate another person to commit:

6 (a) Any conduct that constitutes a crime, as defined in ORS 161.515, under any of the following
7 provisions of the Oregon Revised Statutes:

8 (A) ORS 59.005 to 59.451, 59.660 to 59.830, 59.991 and 59.995, relating to securities;

9 (B) ORS 162.015, 162.025 and 162.065 to 162.085, relating to bribery and perjury;

10 (C) ORS 162.235, 162.265 to 162.305, 162.325, 162.335, 162.355 and 162.365, relating to obstructing
11 governmental administration;

12 (D) ORS 162.405 to 162.425, relating to abuse of public office;

13 (E) ORS 162.455, relating to interference with legislative operation;

14 (F) ORS 163.095 to 163.115, 163.118, 163.125 and 163.145, relating to criminal homicide;

15 (G) ORS 163.160 to 163.205, relating to assault and related offenses;

16 (H) ORS 163.225 and 163.235, relating to kidnapping;

17 (I) ORS 163.275, relating to coercion;

18 (J) ORS 163.670 to 163.693, relating to sexual conduct of children;

19 (K) ORS 164.015, 164.043, 164.045, 164.055, 164.057, 164.075 to 164.095, 164.125, 164.135, 164.140,
20 164.215, 164.225 and 164.245 to 164.270, relating to theft, burglary, criminal trespass and related of-
21 fenses;

22 (L) ORS 164.315 to 164.335, relating to arson and related offenses;

23 (M) ORS 164.345 to 164.365, relating to criminal mischief;

24 (N) ORS 164.395 to 164.415, relating to robbery;

25 (O) ORS 164.865, 164.875 and 164.868 to 164.872, relating to unlawful recording or labeling of a
26 recording;

27 (P) ORS 165.007 to 165.022, 165.032 to 165.042 and 165.055 to 165.070, relating to forgery and
28 related offenses;

29 (Q) ORS 165.080 to 165.109, relating to business and commercial offenses;

30 (R) ORS 165.485 to 165.515, 165.540 and 165.555, relating to communication crimes;

31 (S) ORS 166.180, 166.190, 166.220, 166.250, 166.270, 166.275, 166.410, 166.450 and 166.470, relating
32 to firearms and other weapons;

33 (T) ORS 164.377 (2) to (4), as punishable under ORS 164.377 (5)(b), 167.007 to 167.017, 167.062 to
34 167.080, 167.087, 167.090, 167.122 to 167.137, 167.147, 167.164, 167.167, 167.212, 167.355, 167.365,
35 167.370, 167.428, 167.431 and 167.439, relating to prostitution, obscenity, gambling, computer crimes
36 involving the Oregon State Lottery, animal fighting, forcible recovery of a fighting bird and related
37 offenses;

38 (U) ORS 171.990, relating to legislative witnesses;

39 (V) ORS 260.575 and 260.665, relating to election offenses;

40 (W) ORS 314.075, relating to income tax;

41 (X) ORS 180.440 (2) and ORS chapter 323, relating to cigarette and tobacco products taxes and
42 the directory developed under ORS 180.425;

43 (Y) ORS 411.630, 411.675, 411.690 and 411.840, relating to public assistance payments, and ORS
44 411.990 (2) and (3);

45 (Z) ORS 462.140, 462.415 and 462.420 to 462.520, relating to racing;

- 1 (AA) ORS 463.995, relating to boxing and wrestling, as defined in ORS 463.015;
- 2 (BB) ORS 471.305, 471.360, [471.392 to 471.400,] 471.403, 471.404, 471.405, 471.425, 471.442, 471.445,
- 3 471.446[, 471.485, 471.490] and 471.675, relating to alcoholic liquor, and any of the provisions of ORS
- 4 chapter 471 relating to licenses issued under the Liquor Control Act;
- 5 (CC) ORS 475.005 to 475.285 and 475.840 to 475.980, relating to controlled substances;
- 6 (DD) ORS 480.070, 480.210, 480.215, 480.235 and 480.265, relating to explosives;
- 7 (EE) ORS 819.010, 819.040, 822.100, 822.135 and 822.150, relating to motor vehicles;
- 8 (FF) ORS 658.452 or 658.991 (2) to (4), relating to farm labor contractors;
- 9 (GG) ORS chapter 706, relating to banking law administration;
- 10 (HH) ORS chapter 714, relating to branch banking;
- 11 (II) ORS chapter 716, relating to mutual savings banks;
- 12 (JJ) ORS chapter 723, relating to credit unions;
- 13 (KK) ORS chapter 726, relating to pawnbrokers;
- 14 (LL) ORS 166.382 and 166.384, relating to destructive devices;
- 15 (MM) ORS 165.074;
- 16 (NN) ORS 59.840 to 59.980, relating to mortgage bankers and mortgage brokers;
- 17 (OO) ORS chapter 496, 497 or 498, relating to wildlife;
- 18 (PP) ORS 163.355 to 163.427, relating to sexual offenses;
- 19 (QQ) ORS 166.015, relating to riot;
- 20 (RR) ORS 166.155 and 166.165, relating to intimidation;
- 21 (SS) ORS chapter 696, relating to real estate and escrow;
- 22 (TT) ORS chapter 704, relating to outfitters and guides;
- 23 (UU) ORS 165.692, relating to making a false claim for health care payment;
- 24 (VV) ORS 162.117, relating to public investment fraud;
- 25 (WW) ORS 164.170 or 164.172;
- 26 (XX) ORS 647.140, 647.145 or 647.150, relating to trademark counterfeiting;
- 27 (YY) ORS 164.877;
- 28 (ZZ) ORS 167.312 and 167.388;
- 29 (AAA) ORS 164.889; or
- 30 (BBB) ORS 165.800.
- 31 (b) Any conduct defined as “racketeering activity” under 18 U.S.C. 1961 (1)(B), (C), (D) and (E).
- 32 (7) “Unlawful debt” means any money or other thing of value constituting principal or interest
- 33 of a debt that is legally unenforceable in the state in whole or in part because the debt was incurred
- 34 or contracted:
- 35 (a) In violation of any one of the following:
- 36 (A) ORS chapter 462, relating to racing;
- 37 (B) ORS 167.108 to 167.164, relating to gambling; or
- 38 (C) ORS 82.010 to 82.170, relating to interest and usury.
- 39 (b) In gambling activity in violation of federal law or in the business of lending money at a rate
- 40 usurious under federal or state law.
- 41 (8) Notwithstanding contrary provisions in ORS 174.060, when this section references a statute
- 42 in the Oregon Revised Statutes that is substantially different in the nature of its essential provisions
- 43 from what the statute was when this section was enacted, the reference shall extend to and include
- 44 amendments to the statute.
- 45 **SECTION 3.** ORS 471.038 is amended to read:

1 471.038. (1) Nonbeverage food products described in subsection (6) of this section may be sold
 2 at retail by any holder of a license issued by the Oregon Liquor Control Commission that authorizes
 3 the sale of alcoholic liquor at retail, or in any store operated by the commission under the pro-
 4 visions of ORS 471.750. Any nonbeverage food product containing more than one-half of one percent
 5 of alcohol by volume must be clearly labeled to reflect the alcohol content of the product and clearly
 6 labeled on the front of the package to indicate that the product may not be sold to persons under
 7 21 years of age.

8 (2) Except as provided by this section, sales of nonbeverage food products described in sub-
 9 section (6) of this section are subject to all provisions of this chapter, including the prohibitions on
 10 sales to persons under 21 years of age and the prohibitions on sales to persons who are visibly
 11 intoxicated.

12 (3) Nonbeverage food products described in subsection (6) of this section may be imported,
 13 stored and distributed in this state without a license issued by the commission. Nonbeverage food
 14 products described in subsection (6) of this section are not subject to the privilege taxes imposed
 15 by ORS chapter 473.

16 (4) *[Manufacturers of nonbeverage food products described in subsection (6) of this section are not*
 17 *subject to the provisions of ORS 471.392 to 471.400, 471.485, 471.490 or 471.495 or any other provision*
 18 *of this chapter relating to manufacturers of alcoholic liquor.]* A manufacturer of nonbeverage food
 19 products described in subsection (6) of this section may sell and deliver the product directly to a
 20 licensee authorized under this section to sell the product at retail.

21 (5) The holder of a distillery license issued under ORS 471.230 who is also a manufacturer of
 22 nonbeverage food products described in subsection (6) of this section may purchase distilled liquor
 23 directly from other distilleries.

24 (6) The provisions of this section apply only to nonbeverage food products that contain not more
 25 than five percent alcohol by weight or 10 percent alcohol by volume, whichever is greater.

26 **SECTION 4.** ORS 471.200 is amended to read:

27 471.200. (1) A brewery-public house license allows the licensee:

28 (a) To manufacture on the licensed premises, store, transport, sell to wholesale malt beverage
 29 and wine licensees of the Oregon Liquor Control Commission and export malt beverages;

30 (b) To sell malt beverages manufactured on or off the licensed premises at retail for consumption
 31 on or off the premises;

32 (c) To sell malt beverages in brewery-sealed packages at retail directly to the consumer for
 33 consumption off the premises;

34 (d) To sell on the licensed premises at retail malt beverages manufactured on or off the licensed
 35 premises in unpasteurized or pasteurized form directly to the consumer for consumption off the
 36 premises, delivery of which may be made in a securely covered container supplied by the consumer;

37 (e) To sell wine and cider at retail for consumption on or off the premises; and

38 (f) To conduct the activities described in paragraphs (b) to (e) of this subsection at one location
 39 other than the premises where the manufacturing occurs.

40 *[(2) In addition to the privileges specified in subsection (1) of this section, in any calendar year a*
 41 *brewery-public house licensee may sell at wholesale to licensees of the commission malt beverages*
 42 *produced by the brewery-public house licensee if the brewery-public house licensee produced 1,000*
 43 *barrels or less of malt beverages in the immediately preceding calendar year.]*

44 *[(3) A brewery-public house licensee, or any person having an interest in the licensee, is a retail*
 45 *licensee for the purposes of ORS 471.394 and, except as otherwise provided by this section and ORS*

1 471.396, may not acquire or hold any right, title, lien, claim or other interest, financial or otherwise,
2 in, upon or to the premises, equipment, business or merchandise of any manufacturer or wholesaler,
3 as defined in ORS 471.392. A brewery-public house licensee, or any person having an interest in the
4 licensee, is also a manufacturer for the purposes of ORS 471.398 and, except as otherwise provided by
5 this section and ORS 471.400, may not acquire or hold any right, title, lien, claim or other interest,
6 financial or otherwise, in, upon or to the premises, equipment, business or merchandise of any other
7 retail licensee, as defined in ORS 471.392.]

8 [(4) A brewery-public house licensee, or any person having an interest in the licensee, is a retail
9 licensee for the purposes of ORS 471.398 and, except as otherwise provided by this section and ORS
10 471.400, may not accept directly or indirectly any financial assistance described in ORS 471.398 from
11 any manufacturer or wholesaler, as defined in ORS 471.392. A brewery-public house licensee, or any
12 person having an interest in the licensee, is also a manufacturer for the purposes of ORS 471.398 and,
13 except as otherwise provided by this section and ORS 471.400, may not provide directly or indirectly
14 any financial assistance described in ORS 471.398 to any retail licensee, as defined in ORS 471.392.
15 The prohibitions on financial assistance in ORS 471.398 do not apply to financial assistance between
16 manufacturing and retail businesses licensed to the same person under the provisions of this section.]

17 [(5) Notwithstanding subsection (3) of this section, a brewery-public house licensee, or any person
18 having an interest in the licensee, may also hold a winery license authorized by ORS 471.223. A
19 brewery-public house licensee, or any person having an interest in the licensee, may also hold a ware-
20 house license authorized by ORS 471.242.]

21 [(6) Notwithstanding subsection (3) of this section, a brewery-public house licensee is eligible for
22 limited on-premises sales licenses and temporary sales licenses.]

23 [(7)(a) Notwithstanding subsection (3) of this section, and except as provided in this subsection, a
24 brewery-public house licensee, or any person having an interest in the licensee, may also hold a full
25 on-premises sales license. If a person holds both a brewery-public house license and a full on-premises
26 sales license, nothing in this chapter shall prevent the sale by the licensee of both distilled liquor and
27 malt beverages manufactured under the brewery-public house license.]

28 [(b) The commission may not issue a full on-premises sales license to a brewery-public house
29 licensee under the provisions of this subsection if the brewery-public house licensee, or any person
30 having an interest in the licensee or exercising control over the licensee, is a brewery that brews more
31 than 200,000 barrels of malt beverages annually or a winery that produces more than 200,000 gallons
32 of wine annually.]

33 [(c) The commission may not issue a full on-premises sales license to a brewery-public house
34 licensee under the provisions of this subsection if the brewery-public house licensee, or any person
35 having an interest in the licensee or exercising control over the licensee, is a distillery, unless the
36 distillery produces only pot distilled liquor and produces no more than 12,000 gallons of pot distilled
37 liquor annually.]

38 [(8) Notwithstanding any other provision of this chapter, a brewery-public house licensee, or any
39 person having an interest in the licensee, may also hold a distillery license if the licensee produces only
40 pot distilled liquor, and produces no more than 12,000 gallons of pot distilled liquor annually. No
41 provision of this chapter prevents a brewery-public house licensee from becoming a retail sales agent
42 of the commission for the purpose of selling distilled liquors.]

43 [(9) Notwithstanding subsection (3) of this section, the commission by rule may authorize a
44 brewery-public house licensee to coproduce special events with other manufacturers.]

45 [(10)(a) Notwithstanding subsection (3) of this section, a brewery-public house licensee may hold,

1 *directly or indirectly, an interest in a manufacturer or wholesaler, provided that the interest does not*
 2 *result in exercise of control over, or participation in the management of, the manufacturer's or whole-*
 3 *saler's business or business decisions and does not result in exclusion of any competitor's brand of*
 4 *alcoholic liquor.]*

5 *[(b) Notwithstanding subsection (3) of this section, a manufacturer or wholesaler, and any officer,*
 6 *director or substantial stockholder of any corporate manufacturer or wholesaler, may hold, directly or*
 7 *indirectly, an interest in a brewery-public house licensee, provided that the interest does not result in*
 8 *exercise of control over, or participation in the management of, the licensee's business or business de-*
 9 *cidations and does not result in exclusion of any competitor's brand of alcoholic liquor.]*

10 *[(11)] (2) For purposes of ORS chapter 473, a brewery-public house licensee shall be considered*
 11 *to be a manufacturer.*

12 **SECTION 5.** ORS 471.227 is amended to read:

13 471.227. (1) A grower sales privilege license shall allow the licensee to perform the following
 14 activities only for fruit or grape wine or cider where all of the fruit or grapes used to make the
 15 wine or cider are grown in Oregon under the control of the licensee:

16 (a) To import, store, transport or export such wines or cider.

17 (b) To sell such wines or cider at wholesale to the Oregon Liquor Control Commission or
 18 licensees of the commission.

19 (c) To sell such wines or cider at retail directly to the consumer for consumption on or off the
 20 licensed premises.

21 (d) To conduct the activities allowed under paragraph (a), (b) or (c), or all, of this subsection
 22 at a second or third premises as may be designated by the commission.

23 (e) To obtain a special events grower sales privilege license which shall entitle the holder to
 24 conduct the activities allowed under paragraph (c) of this subsection at a designated location other
 25 than the one set forth in the grower sales privilege license for a period not to exceed five days.

26 *[(2) For purposes of ORS 471.392 to 471.400, a grower sales privilege licensee shall be considered*
 27 *a manufacturer.]*

28 *[(3)] (2) A person holding a winery license in another state is not eligible for a license under*
 29 *this section.*

30 *[(4)] (3) A person licensed under this section is not eligible for a limited on-premises sales li-*
 31 *cence or an off-premises sales license.*

32 *[(5)] (4) As used in this section, "control" means the grower either owns the land upon which*
 33 *the fruit or grapes are grown or has a legal right to perform or does perform all of the acts common*
 34 *to fruit farming or viticulture under terms of a lease or similar agreement of at least three years'*
 35 *duration.*

36 *[(6)] (5) For the purposes of tax reporting, payment and record keeping, the provisions of law*
 37 *that shall apply to a manufacturer under ORS chapter 473 shall apply to a grower sales privilege*
 38 *licensee, but such a licensee is not a manufacturer for purposes of ORS 473.050 (5).*

39 **SECTION 6.** ORS 471.242 is amended to read:

40 471.242. (1) A warehouse license shall allow the licensee to store, import, bottle, produce, blend,
 41 transport and export nontax paid, bonded wine or wine on which the tax is paid and to store, import
 42 and export nontax paid malt beverages and cider, or malt beverages and cider on which the tax is
 43 paid. Wine, cider and malt beverages may be removed from the licensed premises only for:

44 (a) Sale for export;

45 (b) Sale or shipment to a wholesale malt beverage and wine licensee;

1 (c) Sale or shipment to another warehouse licensee;

2 (d) Sale or shipment to a winery licensee; or

3 (e) Shipment of wine or cider produced by a winery licensee to a licensee of the Oregon Liquor
4 Control Commission authorized to sell wine or cider at retail if the shipment is made pursuant to
5 a sale to the retail licensee by a winery licensed under ORS 471.223.

6 (2) A license applicant must hold an approved registration for a bonded wine cellar or winery
7 under federal law.

8 (3) For the purposes of tax reporting, payment and record keeping, the provisions that shall
9 apply to a manufacturer under ORS chapter 473 shall apply to a warehouse licensee.

10 (4) A warehouse must be physically secure in an area zoned for the intended use and be phys-
11 ically separated from any other use.

12 *[(5) For purposes of ORS 471.392 to 471.400, a warehouse licensee shall be considered a man-
13 ufacturer.]*

14 *[(6)]* (5) For purposes of ORS 473.045, a warehouse licensee shall be considered a winery
15 licensee.

16 **SECTION 7.** ORS 471.313 is amended to read:

17 471.313. The Oregon Liquor Control Commission may refuse to license any applicant under the
18 provisions of this chapter if the commission has reasonable ground to believe any of the following
19 to be true:

20 (1) That there are sufficient licensed premises in the locality set out in the application, or that
21 the granting of a license in the locality set out in the application is not demanded by public interest
22 or convenience. In determining whether there are sufficient licensed premises in the locality, the
23 commission shall consider seasonal fluctuations in the population of the locality and shall ensure
24 that there are adequate licensed premises to serve the needs of the locality during the peak seasons.

25 (2) That the applicant has not furnished an acceptable bond as required by ORS 471.311 or is
26 not maintaining the insurance or bond required by ORS 471.168.

27 *[(3) That, except as allowed by ORS 471.392 to 471.400, any applicant to sell at retail for con-
28 sumption on the premises has been financed or furnished with money or property by, or has any con-
29 nection with, or is a manufacturer of, or wholesale dealer in, alcoholic liquor.]*

30 *[(4)]* (3) That the applicant:

31 (a) Is in the habit of using alcoholic beverages, habit-forming drugs or controlled substances to
32 excess.

33 (b) Has made false statements to the commission.

34 (c) Is incompetent or physically unable to carry on the management of the establishment pro-
35 posed to be licensed.

36 (d) Has been convicted of violating any of the alcoholic liquor laws of this state, general or lo-
37 cal, or has been convicted at any time of a felony.

38 (e) Has maintained an insanitary establishment.

39 (f) Is not of good repute and moral character.

40 (g) Did not have a good record of compliance with the alcoholic liquor laws of this state and
41 the rules of the commission when previously licensed.

42 (h) Is not the legitimate owner of the business proposed to be licensed, or other persons have
43 ownership interests in the business which have not been disclosed.

44 (i) Is not possessed of or has not demonstrated financial responsibility sufficient to adequately
45 meet the requirements of the business proposed to be licensed.

1 (j) Is unable to read or write the English language or to understand the laws of Oregon relating
 2 to alcoholic liquor or the rules of the commission.

3 [(5)] (4) That there is a history of serious and persistent problems involving disturbances, lewd
 4 or unlawful activities or noise either in the premises proposed to be licensed or involving patrons
 5 of the establishment in the immediate vicinity of the premises if the activities in the immediate vi-
 6 cinity of the premises are related to the sale or service of alcohol under the exercise of the license
 7 privilege. Behavior which is grounds for refusal of a license under this section, where so related to
 8 the sale or service of alcohol, includes, but is not limited to obtrusive or excessive noise, music or
 9 sound vibrations; public drunkenness; fights; altercations; harassment; unlawful drug sales; alcohol
 10 or related litter; trespassing on private property; and public urination. Histories from premises cur-
 11 rently or previously operated by the applicant may be considered when reasonable inference may
 12 be made that similar activities will occur as to the premises proposed to be licensed. The applicant
 13 may overcome the history by showing that the problems are not serious or persistent or that the
 14 applicant demonstrates a willingness and ability to control adequately the premises proposed to be
 15 licensed and patrons' behavior in the immediate vicinity of the premises which is related to the
 16 licensee's sale or service of alcohol under the licensee's exercise of the license privilege.

17 **SECTION 8.** ORS 471.315 is amended to read:

18 471.315. (1) The Oregon Liquor Control Commission may cancel or suspend any license issued
 19 under this chapter, or impose a civil penalty in lieu of or in addition to suspension as provided by
 20 ORS 471.322, if it finds or has reasonable ground to believe any of the following to be true:

21 (a) That the licensee:

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

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

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

28 (D) Has maintained an insanitary establishment.

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

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

33 (G) Knowingly has sold alcoholic liquor to persons under 21 years of age or to persons visibly
 34 intoxicated at the time of sale or has knowingly allowed the consumption of alcoholic liquor on the
 35 licensed premises by a person who is visibly intoxicated at the time of consumption.

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

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

40 *[(b) That any person licensed to sell at retail for consumption on the premises is acting as an agent*
 41 *of, or is a manufacturer or wholesaler of alcoholic liquors, or has borrowed money or property, or has*
 42 *accepted gratuities or rebates, or has obtained the use of equipment from any manufacturer or whole-*
 43 *saler of alcoholic liquor or any agent thereof.]*

44 [(c)] (b) That there is a history of serious and persistent problems involving disturbances, lewd
 45 or unlawful activities or noise either in the premises or involving patrons of the establishment in

1 the immediate vicinity of the premises if the activities in the immediate vicinity of the premises are
 2 related to the sale or service of alcohol under the exercise of the license privilege. Behavior which
 3 is grounds for cancellation or suspension of a license under this section, where so related to the sale
 4 or service of alcohol, includes, but is not limited to obtrusive or excessive noise, music or sound
 5 vibrations; public drunkenness; fights; altercations; harassment or unlawful drug sales; alcohol or
 6 related litter; trespassing on private property; and public urination. Mitigating factors include a
 7 showing by the licensee that the problems are not serious or persistent or that the licensee has
 8 demonstrated a willingness and ability to control adequately the licensed premises and patrons' be-
 9 havior in the immediate vicinity of the premises which is related to the licensee's sale or service
 10 of alcohol under the licensee's exercise of the license privilege.

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

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

14 **SECTION 9.** ORS 471.342 is amended to read:

15 471.342. Upon finding that [a retail licensee, as defined in ORS 471.392,] **a person licensed un-**
 16 **der a full or limited on-premises sales license, an off-premises sales license or a temporary**
 17 **sales license**, or an employee of [a retail] **the** licensee, has sold alcoholic beverages to a minor, or
 18 has failed to properly verify identification of a person who purchased alcoholic beverages, the
 19 Oregon Liquor Control Commission may allow the licensee, in lieu of a civil penalty or denial, sus-
 20 pension or cancellation of the license, to acquire and use equipment designed to prevent sales of
 21 alcoholic beverages to minors.

22 **SECTION 10.** ORS 471.344 is amended to read:

23 471.344. (1) The Oregon Liquor Control Commission shall by rule establish a responsible vendor
 24 program **that is available to all persons licensed under a full or limited on-premises sales li-**
 25 **cence, an off-premises sales license or a temporary sales license.** The program shall include a
 26 list of positive measures that a [retail licensee, as defined in ORS 471.392,] **person licensed under**
 27 **a full or limited on-premises sales license, an off-premises sales license or a temporary sales**
 28 **license** must take to avoid sales of alcoholic beverages to minors. [Any retail licensee may participate
 29 in the program.]

30 (2) If a [retail licensee, as defined in ORS 471.392,] **person licensed under a full or limited**
 31 **on-premises sales license, an off-premises sales license or a temporary sales license** partic-
 32 ipates in the responsible vendor program established under this section, and the licensee takes all
 33 measures specified by the program as necessary to prevent sales of alcoholic beverages to minors,
 34 the commission shall not cancel the license of the licensee, or deny issuance of a license to the
 35 person that holds the [retail] license, based on sales of alcoholic beverages to minors by employees
 36 of the licensee.

37 **SECTION 11.** ORS 471.186 is amended to read:

38 471.186. (1) The holder of an off-premises sales license may sell factory-sealed containers of wine,
 39 malt beverages and cider. Containers of malt beverages sold under the license may not hold more
 40 than two and one-quarter gallons.

41 (2) The holder of an off-premises sales license may provide sample tasting of alcoholic beverages
 42 on the licensed premises if the licensee makes written application to the Oregon Liquor Control
 43 Commission and receives approval from the commission to conduct tastings on the premises.
 44 Tastings must be limited to the alcoholic beverages that may be sold under the privileges of the li-
 45 cense.

1 (3) An off-premises sales license may not be issued for use at a premises that is mobile.

2 [(4) *Except as provided in ORS 471.402, a manufacturer or wholesaler may not provide or pay for*
3 *sample tastings of alcoholic beverages for the public on premises licensed under an off-premises sales*
4 *license.*]

5 **SECTION 12.** ORS 471.223 is amended to read:

6 471.223. (1) A winery license shall allow the licensee:

7 (a) To import, bottle, produce, blend, store, transport or export wines or cider.

8 (b) To sell wines or cider at wholesale to the Oregon Liquor Control Commission or to licensees
9 of the commission.

10 (c) To sell wines or cider at retail directly to the consumer for consumption on or off the li-
11 censed premises.

12 (d) To sell malt beverages at retail for consumption on or off the licensed premises.

13 (e) To conduct the activities allowed under paragraph (a), (b), (c) or (d), or all, of this subsection
14 at a second or third premises as may be designated by the commission.

15 (f) To purchase from or through the commission brandy or other distilled liquors for fortifying
16 wines.

17 (g) To obtain a special events winery license that shall entitle the holder to conduct the activ-
18 ities allowed under paragraph (c) of this subsection at a designated location other than the one set
19 forth in the winery license for a period not to exceed five days.

20 (2) In order to hold a winery license the licensee shall principally produce wine or cider in this
21 state.

22 (3) On and after July 1, 1990, a winery licensee is not authorized to import wine or cider in
23 bottles unless the brand of wine or cider is owned by the licensee.

24 (4) A winery licensee is authorized to ship not more than two cases of wine or cider per month
25 for personal use and not for resale, containing not more than nine liters per case to any resident
26 of this state who is at least 21 years of age. The shipping container of any wine or cider shipped
27 under this subsection must be clearly labeled to indicate that the container contains alcoholic
28 beverages and cannot be delivered to a person who is not at least 21 years of age or to a person
29 who is visibly intoxicated. Orders for shipments under this subsection may be taken by phone, mail
30 or any other form of communication.

31 [(5)(a) *Except as provided in paragraph (b) of this subsection, a winery licensee, or any person*
32 *having an interest in the licensee, may also hold a full on-premises sales license. If a person holds both*
33 *a winery license and a full on-premises sales license, nothing in this chapter shall prevent the sale by*
34 *the licensee of both distilled liquor and wine or cider bottled and produced under the winery license.*]

35 [(b) *The commission may not issue a full on-premises sales license to a winery licensee under the*
36 *provisions of this subsection if the winery licensee, or any person having an interest in the licensee or*
37 *exercising control over the licensee, is a distillery, a brewery that brews more than 200,000 barrels of*
38 *malt beverages annually or a winery that produces more than 200,000 gallons of wine or cider annu-*
39 *ally.*]

40 [(6)] (5) More than one winery licensee may exercise the privileges of a winery license at a
41 single location. The commission may not refuse to issue a winery license to a person for the pro-
42 duction of wine or cider on specified premises based on the fact that other winery licensees also
43 produce wine or cider on those premises.

44 **SECTION 13.** ORS 471.229 is amended to read:

45 471.229. (1) Any resident of this state who is at least 21 years of age is entitled to receive not

1 more than two cases of wine or cider per month for personal use, containing not more than nine
 2 liters per case, from another state without payment of additional state tax, fees or charges if the
 3 state from which the wine or cider is sent allows its residents to receive wine or cider from this
 4 state without imposition of state tax, fees or charges. For privilege tax purposes, receipt of a ship-
 5 ment into this state under this subsection shall not be considered to constitute a sale in this state.
 6 No person who transports wine or cider pursuant to this section shall deliver more than two cases
 7 of wine or cider to the same address at one time. No person who receives wine or cider pursuant
 8 to this section shall resell any of the wine or cider.

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

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

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

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

22 [(6)] (5) Out-of-state wine or cider suppliers that supply wine or cider under subsection (1) of this
 23 section must obtain a license from the Oregon Liquor Control Commission under procedures pre-
 24 scribed by rule of the commission before selling or soliciting sales of wine or cider in Oregon.

25 [(7)] (6) Any person who knowingly or negligently delivers wine or cider under the provisions
 26 of this section to a person under 21 years of age, or who knowingly or negligently delivers wine or
 27 cider under the provisions of this section to a visibly intoxicated person, violates ORS 471.410,
 28 whether or not the person is licensed or appointed under the provisions of this chapter.

29 **SECTION 14.** ORS 471.329 is amended to read:

30 471.329. (1) For the purpose of determining whether there is a history of serious and persistent
 31 problems involving noise under the provisions of ORS 471.313 [(5)] (4) and 471.315 [(1)(c)] (1)(b), or
 32 whether the licensee maintains a noisy establishment in violation of the provisions of ORS 471.425:

33 (a) Noise from the inside of a licensed premises located within the boundaries of a city or county
 34 that has an ordinance regulating excessive noise may be considered obtrusive or excessive only if
 35 the noise violates the ordinance;

36 (b) Noise caused by patrons outside a licensed premises located within the boundaries of a city
 37 or county that has an ordinance regulating excessive noise may be considered obtrusive or excessive
 38 only if the noise violates the ordinance or if the noise is of a type that a reasonable person would
 39 not expect to hear outside a premises licensed for the sale of alcoholic beverages; and

40 (c) Noise caused by patrons inside or outside a licensed premises located within the boundaries
 41 of a city or county that does not have an ordinance regulating excessive noise may be considered
 42 obtrusive or excessive only if the noise is of the type that a reasonable person would not expect to
 43 hear inside or outside a premises licensed for the sale of alcoholic beverages.

44 (2) For the purpose of determining whether noise is obtrusive under the provisions of ORS
 45 471.313 [(5)] (4) and 471.315 [(1)(c)] (1)(b), or whether the licensee maintains a noisy establishment

1 in violation of the provisions of ORS 471.425, the Oregon Liquor Control Commission shall consider
2 whether persons complaining about the noise have taken any action to mitigate the disturbance al-
3 leged to have been caused by the noise.

4 **SECTION 15.** ORS 471.331 is amended to read:

5 471.331. (1) Whenever the Oregon Liquor Control Commission proposes to refuse to renew or to
6 suspend or cancel any license issued under this chapter because of adverse neighborhood impact of
7 the licensee's operation, notwithstanding ORS 183.435, the commission shall grant the affected
8 licensee 20 days from notification of the proposed commission action to request a hearing.

9 (2) Notwithstanding ORS 183.482 (3), the Oregon Liquor Control Commission shall not stay any
10 order refusing a license or suspending or canceling any license if the order was entered on grounds
11 stated in ORS 471.313 [(5)] (4) or 471.315 [(1)(c)] (1)(b).

12 **SECTION 16.** ORS 471.412 is amended to read:

13 471.412. (1) No licensee or permittee shall knowingly allow a person to consume or to continue
14 to consume alcoholic beverages on the licensed premises after observing that the person is visibly
15 intoxicated.

16 (2) A licensee or permittee is not in violation of subsection (1) of this section if the licensee or
17 permittee makes a good faith effort to remove any unconsumed alcoholic beverages from the per-
18 son's possession when the licensee or permittee observes that the person is visibly intoxicated.

19 (3) Nothing in this section applies to determining liability under ORS 471.565.

20 (4) Notwithstanding any other provision of law, the Oregon Liquor Control Commission shall
21 only impose letters of reprimand for the first three violations of this section within a two-year pe-
22 riod. For license renewal purposes, the first three violations of this section in a two-year period
23 shall not apply in determining the past record of compliance under ORS 471.313 [(4)(g)] (3)(g).

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