

SENATE AMENDMENTS TO RESOLVE CONFLICTS TO A-ENGROSSED HOUSE BILL 2246

By COMMITTEE ON JUDICIARY

June 2

1 On page 2 of the printed A-engrossed bill, after line 29, insert:

2 “**SECTION 3. If Senate Bill 227 becomes law, section 1 of this 2009 Act (amending ORS**
3 **471.410) is repealed and ORS 471.410, as amended by section 1, chapter __, Oregon Laws 2009**
4 **(Enrolled Senate Bill 227), is amended to read:**

5 “471.410. (1) [*No person shall*] **A person may not** sell, give or otherwise make available any
6 alcoholic liquor to any person who is visibly intoxicated.

7 “(2) No one other than the person’s parent or guardian shall sell, give or otherwise make
8 available any alcoholic liquor to a person under the age of 21 years. **A parent or guardian may**
9 **give or otherwise make alcoholic liquor available to a person under the age of 21 years only**
10 **if the person is in a private residence and is accompanied by the parent or guardian.** A person
11 violates this subsection who sells, gives or otherwise makes available alcoholic liquor to a person
12 with the knowledge that the person to whom the liquor is made available will violate this sub-
13 section.

14 “(3)(a) [*No*] **A person who exercises control over private real property may not** knowingly allow
15 any other person under the age of 21 years who is not a child or minor ward of the person to con-
16 sume alcoholic liquor on the property, or allow any other person under the age of 21 years who is
17 not a child or minor ward of the person to remain on the property if the person under the age of
18 21 years consumes alcoholic liquor on the property. [*The prohibitions of*]

19 “(b) This subsection: [*apply*]

20 “(A) **Applies** only to a person who is present and in control of the location at the time the
21 consumption occurs; [*The prohibitions of this subsection do*]

22 “(B) **Does** not apply to the owner of rental property, or the agent of an owner of rental prop-
23 erty, unless the consumption occurs in the individual unit in which the owner or agent resides[.];
24 **and**

25 “(C) **Does not apply to a person who exercises control over a private residence if the li-**
26 **quor consumed by the person under the age of 21 years is supplied only by an accompanying**
27 **parent or guardian.**

28 “(4) **This section does not apply to sacramental wine given or provided as part of a reli-**
29 **gious rite or service.**

30 “[*4*] (5) A person who violates subsection (1) or (2) of this section commits a Class A
31 misdemeanor. Except as provided in subsection [*5*] (6) of this section, upon violation of subsection
32 (2) of this section, the court shall impose at least a mandatory minimum sentence as follows:

33 “(a) Upon a first conviction, a fine of at least \$500.

34 “(b) Upon a second conviction, a fine of at least \$1,000.

35 “(c) Upon a third or subsequent conviction, a fine of at least \$1,500 and not less than 30 days

1 of imprisonment.

2 “[5] (6) The mandatory minimum penalty provisions of subsection [(4)] (5) of this section do
3 not apply to persons licensed under the provisions of this chapter, to an agent appointed under ORS
4 471.750 or to an employee of a licensee or agent, unless the person knowingly sells, gives or other-
5 wise makes available alcoholic beverages to a person under the age of 21 years. For all other vio-
6 lations of subsection (2) of this section by a person licensed under the provisions of this chapter,
7 by an agent appointed under ORS 471.750 or by an employee of the licensee or agent, the court shall
8 impose a mandatory minimum sentence as follows:

9 “(a) Upon a first conviction, a fine of at least \$350.

10 “(b) Upon a second or subsequent conviction, a fine of at least \$1,000.

11 “[6] (7) The court may waive an amount that is at least \$200 but not more than one-third of
12 the fine imposed under subsection [(4)] (5) of this section, if the violator performs at least 30 hours
13 of community service.

14 “[7] (8) Except as provided in subsection [(6)] (7) of this section, the court may not waive or
15 suspend imposition or execution of the mandatory minimum sentence required by subsection [(4) or
16 (5)] (5) or (6) of this section. In addition to the mandatory sentence, the court may require the vi-
17 olator to make restitution for any damages to property where the alcoholic liquor was illegally
18 consumed or may require participation in volunteer service to a community service agency.

19 “[8] (9) A person who violates subsection (3) of this section commits a violation. Upon violation
20 of subsection (3) of this section, the court shall impose at least a mandatory minimum fine as follows:

21 “(a) Upon a first conviction, a fine of \$350.

22 “(b) Upon a second or subsequent conviction, a fine of \$1,000.

23 “[9] (10) Nothing in this section prohibits any licensee under this chapter from allowing a
24 person who is visibly intoxicated from remaining on the licensed premises so long as the person is
25 not sold or served any alcoholic liquor.

26 “**SECTION 4.** If Senate Bill 227 becomes law, section 2 of this 2009 Act is amended to read:

27 “**Sec. 2.** The amendments to ORS 471.410 by section [1] 3 of this 2009 Act apply to:

28 “(1) The selling, giving or making available of alcoholic liquor on or after the effective date of
29 this 2009 Act for the purpose of enabling a person under the age of 21 years to possess the alcoholic
30 liquor; and

31 “(2) A person exercising control over private property at which a person under the age of 21
32 years consumes alcoholic liquor on or after the effective date of this 2009 Act.”.

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