

(Including Amendments to Resolve Conflicts)

## B-Engrossed House Bill 3343

Ordered by the Senate June 4  
Including House Amendments dated May 1 and Senate Amendments dated  
June 4

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.

Establishes penalties for Oregon Liquor Control Commission licensee, or employee of licensee, committing offense of selling or making alcoholic liquor available to person under age of 21 years. Makes first offense violation punishable by fine of not less than \$250 and not more than \$720. Makes second offense violation punishable by fine of not less than \$500 and not more than \$720. Makes third [*or subsequent*] offense misdemeanor punishable by not less than \$1,000 fine [*and 30 days' imprisonment*] and not more than \$6,250 fine and one year's imprisonment. **Makes fourth or subsequent offense misdemeanor punishable by not less than \$1,000 fine and 30 days' imprisonment and not more than \$6,250 fine and one year's imprisonment.**

### A BILL FOR AN ACT

1  
2 Relating to persons providing alcoholic beverages; amending ORS 471.410.

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

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

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

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

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

19 (4) **Except as provided in subsection (6) of this section,** a person who violates subsection (1)  
20 or (2) of this section commits a Class A misdemeanor. Upon violation of subsection (2) of this sec-  
21 tion, the court shall impose at least a mandatory minimum sentence as follows:

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

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

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

3 (5) The court *[shall]* **may** not waive or suspend imposition or execution of the mandatory mini-  
4 mum sentence required by subsection (4) of this section. In addition to the mandatory sentence the  
5 court may require the violator to make restitution for any damages to property where the alcoholic  
6 liquor was illegally consumed or may require participation in volunteer service to a community  
7 service agency.

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

10 **(6)(a) A person who violates subsection (2) of this section is subject to a mandatory**  
11 **minimum penalty under this subsection if the person does not act knowingly or intentionally**  
12 **and:**

13 **(A) Is licensed or appointed under this chapter; or**

14 **(B) Is an employee of a person licensed or appointed under this chapter and holds a valid**  
15 **service permit or has attended a program approved by the Oregon Liquor Control Commis-**  
16 **sion that provides training to avoid violations of this section.**

17 **(b) For a person described in paragraph (a) of this subsection:**

18 **(A) A first conviction is a Class A violation. The court shall impose a mandatory fine of**  
19 **not less than \$250.**

20 **(B) A second conviction is a Class A violation. The court shall impose a mandatory fine**  
21 **of not less than \$500.**

22 **(C) A third conviction is a Class A misdemeanor. The court shall impose a mandatory**  
23 **fine of not less than \$1,000.**

24 **(D) A fourth or subsequent conviction is a Class A misdemeanor. The court shall impose**  
25 **a mandatory fine of not less than \$1,000 and a mandatory sentence of not less than 30 days**  
26 **of imprisonment.**

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

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

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

31 (8) Nothing in this section prohibits any licensee under this chapter from allowing a person who  
32 is visibly intoxicated from remaining on the licensed premises so long as the person is not sold or  
33 served any alcoholic liquor.

34 **SECTION 2. If House Bill 2246 becomes law and Senate Bill 227 does not become law,**  
35 **section 1 of this 2009 Act (amending ORS 471.410) is repealed and ORS 471.410, as amended**  
36 **by section 1, chapter \_\_, Oregon Laws 2009 (Enrolled House Bill 2246), is amended to read:**

37 471.410. (1) A person may not sell, give or otherwise make available any alcoholic liquor to any  
38 person who is visibly intoxicated.

39 (2) No one other than the person's parent or guardian *[shall]* **may** sell, give or otherwise make  
40 available any alcoholic liquor to a person under the age of 21 years. A parent or guardian may give  
41 or otherwise make alcoholic liquor available to a person under the age of 21 years only if the person  
42 is in a private residence and is accompanied by the parent or guardian. A person violates this sub-  
43 section who sells, gives or otherwise makes available alcoholic liquor to a person with the knowl-  
44 edge that the person to whom the liquor is made available will violate this subsection.

45 (3)(a) A person who exercises control over private real property may not knowingly allow any

1 other person under the age of 21 years who is not a child or minor ward of the person to consume  
2 alcoholic liquor on the property, or allow any other person under the age of 21 years who is not a  
3 child or minor ward of the person to remain on the property if the person under the age of 21 years  
4 consumes alcoholic liquor on the property.

5 (b) This subsection:

6 (A) Applies only to a person who is present and in control of the location at the time the con-  
7 sumption occurs;

8 (B) Does not apply to the owner of rental property, or the agent of an owner of rental property,  
9 unless the consumption occurs in the individual unit in which the owner or agent resides; and

10 (C) Does not apply to a person who exercises control over a private residence if the liquor  
11 consumed by the person under the age of 21 years is supplied only by an accompanying parent or  
12 guardian.

13 (4) This section does not apply to sacramental wine given or provided as part of a religious rite  
14 or service.

15 (5) **Except as provided in subsection (7) of this section,** a person who violates subsection (1)  
16 or (2) of this section commits a Class A misdemeanor. Upon violation of subsection (2) of this sec-  
17 tion, the court shall impose at least a mandatory minimum sentence as follows:

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

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

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

22 (6) The court may not waive or suspend imposition or execution of the mandatory minimum  
23 sentence required by subsection (5) of this section. In addition to the mandatory sentence the court  
24 may require the violator to make restitution for any damages to property where the alcoholic liquor  
25 was illegally consumed or may require participation in volunteer service to a community service  
26 agency.

27 *[(7) The mandatory minimum penalty provisions of subsection (5) of this section do not apply to*  
28 *persons licensed or appointed under the provisions of this chapter.]*

29 **(7)(a) A person who violates subsection (2) of this section is subject to a mandatory**  
30 **minimum penalty under this subsection if the person does not act knowingly or intentionally**  
31 **and:**

32 **(A) Is licensed or appointed under this chapter; or**

33 **(B) Is an employee of a person licensed or appointed under this chapter and holds a valid**  
34 **service permit or has attended a program approved by the Oregon Liquor Control Commis-**  
35 **sion that provides training to avoid violations of this section.**

36 **(b) For a person described in paragraph (a) of this subsection:**

37 **(A) A first conviction is a Class A violation. The court shall impose a mandatory fine of**  
38 **not less than \$250.**

39 **(B) A second conviction is a Class A violation. The court shall impose a mandatory fine**  
40 **of not less than \$500.**

41 **(C) A third conviction is a Class A misdemeanor. The court shall impose a mandatory**  
42 **fine of not less than \$1,000.**

43 **(D) A fourth or subsequent conviction is a Class A misdemeanor. The court shall impose**  
44 **a mandatory fine of not less than \$1,000 and a mandatory sentence of not less than 30 days**  
45 **of imprisonment.**

1 (8) A person who violates subsection (3) of this section commits a violation. Upon violation of  
2 subsection (3) of this section, the court shall impose at least a mandatory minimum fine as follows:

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

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

5 (9) Nothing in this section prohibits any licensee under this chapter from allowing a person who  
6 is visibly intoxicated from remaining on the licensed premises so long as the person is not sold or  
7 served any alcoholic liquor.

8 **SECTION 3. If Senate Bill 227 becomes law and House Bill 2246 does not become law,**  
9 **section 1 of this 2009 Act (amending ORS 471.410) is repealed and ORS 471.410, as amended**  
10 **by section 1, chapter \_\_\_, Oregon Laws 2009 (Enrolled Senate Bill 227), is amended to read:**

11 471.410. (1) *[No person shall]* **A person may not** sell, give or otherwise make available any al-  
12 coholic liquor to any person who is visibly intoxicated.

13 (2) No one other than the person's parent or guardian *[shall]* **may** sell, give or otherwise make  
14 available any alcoholic liquor to a person under the age of 21 years. A person violates this sub-  
15 section who sells, gives or otherwise makes available alcoholic liquor to a person with the knowl-  
16 edge that the person to whom the liquor is made available will violate this subsection.

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

25 (4) **Except as provided in subsection (5) of this section,** a person who violates subsection (1)  
26 or (2) of this section commits a Class A misdemeanor. *[Except as provided in subsection (5) of this*  
27 *section,]* Upon violation of subsection (2) of this section, the court shall impose at least a mandatory  
28 minimum sentence as follows:

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

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

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

33 *[(5) The mandatory minimum penalty provisions of subsection (4) of this section do not apply to*  
34 *persons licensed under the provisions of this chapter, to an agent appointed under ORS 471.750 or to*  
35 *an employee of a licensee or agent, unless the person knowingly sells, gives or otherwise makes avail-*  
36 *able alcoholic beverages to a person under the age of 21 years. For all other violations of subsection*  
37 *(2) of this section by a person licensed under the provisions of this chapter, by an agent appointed*  
38 *under ORS 471.750 or by an employee of the licensee or agent, the court shall impose a mandatory*  
39 *minimum sentence as follows:]*

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

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

42 **(5)(a) A person who violates subsection (2) of this section is subject to a mandatory**  
43 **minimum penalty under this subsection if the person does not act knowingly or intentionally**  
44 **and:**

45 **(A) Is licensed or appointed under this chapter; or**

1 (B) Is an employee of a person licensed or appointed under this chapter and holds a valid  
2 service permit or has attended a program approved by the Oregon Liquor Control Commis-  
3 sion that provides training to avoid violations of this section.

4 (b) For a person described in paragraph (a) of this subsection:

5 (A) A first conviction is a Class A violation. The court shall impose a mandatory fine of  
6 not less than \$350.

7 (B) A second conviction is a Class A violation. The court shall impose a mandatory fine  
8 of not less than \$720.

9 (C) A third conviction is a Class A misdemeanor. The court shall impose a mandatory  
10 fine of not less than \$1,000.

11 (D) A fourth or subsequent conviction is a Class A misdemeanor. The court shall impose  
12 a mandatory fine of not less than \$1,000 and a mandatory sentence of not less than 30 days  
13 of imprisonment.

14 (6) The court may waive an amount that is at least \$200 but not more than one-third of the fine  
15 imposed under subsection (4) of this section, if the violator performs at least 30 hours of community  
16 service.

17 (7) Except as provided in subsection (6) of this section, the court may not waive or suspend  
18 imposition or execution of the mandatory minimum sentence required by subsection (4) or (5) of this  
19 section. In addition to the mandatory sentence, the court may require the violator to make  
20 restitution for any damages to property where the alcoholic liquor was illegally consumed or may  
21 require participation in volunteer service to a community service agency.

22 (8) A person who violates subsection (3) of this section commits a violation. Upon violation of  
23 subsection (3) of this section, the court shall impose at least a mandatory minimum fine as follows:

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

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

26 (9) Nothing in this section prohibits any licensee under this chapter from allowing a person who  
27 is visibly intoxicated from remaining on the licensed premises so long as the person is not sold or  
28 served any alcoholic liquor.

29 **SECTION 4. If both House Bill 2246 and Senate Bill 227 become law, section 1 of this 2009**  
30 **Act (amending ORS 471.410) is repealed and ORS 471.410, as amended by section 1, chapter**  
31 **\_\_\_, Oregon Laws 2009 (Enrolled Senate Bill 227), and section 3, chapter \_\_\_, Oregon Laws**  
32 **2009 (Enrolled House Bill 2246), is amended to read:**

33 471.410. (1) A person may not sell, give or otherwise make available any alcoholic liquor to any  
34 person who is visibly intoxicated.

35 (2) No one other than the person's parent or guardian [*shall*] **may** sell, give or otherwise make  
36 available any alcoholic liquor to a person under the age of 21 years. A parent or guardian may give  
37 or otherwise make alcoholic liquor available to a person under the age of 21 years only if the person  
38 is in a private residence and is accompanied by the parent or guardian. A person violates this sub-  
39 section who sells, gives or otherwise makes available alcoholic liquor to a person with the knowl-  
40 edge that the person to whom the liquor is made available will violate this subsection.

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

1 (b) This subsection:

2 (A) Applies only to a person who is present and in control of the location at the time the con-  
3 sumption occurs;

4 (B) Does not apply to the owner of rental property, or the agent of an owner of rental property,  
5 unless the consumption occurs in the individual unit in which the owner or agent resides; and

6 (C) Does not apply to a person who exercises control over a private residence if the liquor  
7 consumed by the person under the age of 21 years is supplied only by an accompanying parent or  
8 guardian.

9 (4) This section does not apply to sacramental wine given or provided as part of a religious rite  
10 or service.

11 (5) **Except as provided in subsection (6) of this section**, a person who violates subsection (1)  
12 or (2) of this section commits a Class A misdemeanor. [*Except as provided in subsection (6) of this*  
13 *section,*] Upon violation of subsection (2) of this section, the court shall impose at least a mandatory  
14 minimum sentence as follows:

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

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

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

19 [*(6) The mandatory minimum penalty provisions of subsection (5) of this section do not apply to*  
20 *persons licensed under the provisions of this chapter, to an agent appointed under ORS 471.750 or to*  
21 *an employee of a licensee or agent, unless the person knowingly sells, gives or otherwise makes avail-*  
22 *able alcoholic beverages to a person under the age of 21 years. For all other violations of subsection*  
23 *(2) of this section by a person licensed under the provisions of this chapter, by an agent appointed*  
24 *under ORS 471.750 or by an employee of the licensee or agent, the court shall impose a mandatory*  
25 *minimum sentence as follows:]*

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

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

28 **(6)(a) A person who violates subsection (2) of this section is subject to a mandatory**  
29 **minimum penalty under this subsection if the person does not act knowingly or intentionally**  
30 **and:**

31 **(A) Is licensed or appointed under this chapter; or**

32 **(B) Is an employee of a person licensed or appointed under this chapter and holds a valid**  
33 **service permit or has attended a program approved by the Oregon Liquor Control Commis-**  
34 **sion that provides training to avoid violations of this section.**

35 **(b) For a person described in paragraph (a) of this subsection:**

36 **(A) A first conviction is a Class A violation. The court shall impose a mandatory fine of**  
37 **not less than \$350.**

38 **(B) A second conviction is a Class A violation. The court shall impose a mandatory fine**  
39 **of not less than \$720.**

40 **(C) A third conviction is a Class A misdemeanor. The court shall impose a mandatory**  
41 **fine of not less than \$1,000.**

42 **(D) A fourth or subsequent conviction is a Class A misdemeanor. The court shall impose**  
43 **a mandatory fine of not less than \$1,000 and a mandatory sentence of not less than 30 days**  
44 **of imprisonment.**

45 (7) The court may waive an amount that is at least \$200 but not more than one-third of the fine

1 imposed under subsection (5) of this section, if the violator performs at least 30 hours of community  
2 service.

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

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

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

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

12 (10) Nothing in this section prohibits any licensee under this chapter from allowing a person  
13 who is visibly intoxicated from remaining on the licensed premises so long as the person is not sold  
14 or served any alcoholic liquor.

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