

House Bill 3343

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**.

Revises laws dealing with certain offenses related to alcoholic beverages. Maintains current penalty for provision of alcoholic beverages to visibly intoxicated individual as maximum of one year's imprisonment, \$6,250 fine, or both.

Modifies penalties for providing alcoholic beverages to individual under 21 years of age or to another person with knowledge that other person will provide alcoholic beverages to individual under 21 years of age. Makes first violation committed knowingly subject to minimum penalty of \$500 fine and maximum penalty of 30 days' imprisonment, \$1,250 fine, or both. Authorizes diversion for first violation. Makes second violation committed knowingly subject to minimum penalty of \$1,500 fine and maximum penalty of six months' imprisonment, \$2,500 fine, or both. Makes third or subsequent violation committed knowingly subject to minimum penalty of 30 days' imprisonment and \$2,000 fine and maximum penalty of one year's imprisonment, \$6,250 fine, or both. Exempts agent or licensee of Oregon Liquor Control Commission or employee of agent or licensee from minimum penalty requirements.

Authorizes civil penalties for providing alcoholic beverages to individual under 21 years of age if offender did not know that individual was under 21 years of age.

Allows employee of off-premises sales licensee to attend clerk training course approved by commission. Reduces classification of first offense by employee of off-premises sales licensee for making alcoholic liquor available to person under 21 years of age if employee has successfully completed approved clerk training course, training under responsible vendor program or alcohol server education course. Reduces classification from misdemeanor having maximum penalty of 30 days' imprisonment, \$1,250 fine, or both, to violation having maximum penalty of \$180 fine. Requires court to order convicted employee to attend training if employee has not attended training program or course.

Maintains current penalty for allowing individual under 21 years of age to remain on property after consumption of alcoholic beverage as \$350 fine for first offense and \$1,000 for second or subsequent offense.

A BILL FOR AN ACT

1
2 Relating to persons providing alcoholic beverages; creating new provisions; amending ORS 131.602,
3 471.186, 471.282, 471.341 and 471.478; and repealing ORS 471.410.

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

5 **SECTION 1. Sections 2 to 4 of this 2009 Act are added to and made a part of ORS chapter**
6 **471.**

7 **SECTION 2. (1) A person may not sell, give or otherwise make available alcoholic**
8 **beverages to an individual who is visibly intoxicated.**

9 **(2) A court shall give the Oregon Liquor Control Commission written notice of a con-**
10 **viction under this section if:**

11 **(a) The person is a licensee under this chapter, an agent appointed under ORS 471.750**
12 **or an employee of a licensee or agent; and**

13 **(b) The offense is committed in the course of the person's occupation or employment.**

14 **(3) This section does not prohibit a licensee from allowing an individual who is visibly**
15 **intoxicated to remain on licensed premises, provided that the individual is not sold or served**
16 **any alcoholic beverages.**

17 **(4) Violation of subsection (1) of this section is a Class A misdemeanor.**

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 **SECTION 3.** (1) A person may not sell, give or otherwise make available alcoholic
2 beverages to an individual who is under 21 years of age.

3 (2) A person may not sell, give or otherwise make available alcoholic beverages to an-
4 other person with the knowledge that the other person will sell, give or otherwise make the
5 alcoholic beverages available to an individual who is under 21 years of age.

6 (3) Subsection (1) of this section does not apply to a parent or guardian who gives or
7 otherwise makes available alcoholic beverages to a child or ward of the parent or guardian.
8 Subsection (2) of this section does not apply to a person that gives or otherwise makes
9 available alcoholic beverages to an individual with knowledge that the individual will give or
10 make available alcoholic beverages to a child or ward of the individual.

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

13 (5) If a person violates subsection (1) or (2) of this section with knowledge that the indi-
14 vidual directly or indirectly receiving the alcoholic beverages is under 21 years of age and the
15 person:

16 (a) Has not previously been convicted under this subsection, except as provided under
17 subsection (9) of this section, the violation is a Class C misdemeanor for which the minimum
18 penalty is a fine of not less than \$500. The court shall order a person who is convicted under
19 this paragraph to complete a program that addresses the personal and social impacts of al-
20 cohol consumption.

21 (b) Has one previous conviction under this subsection, the violation is a Class B
22 misdemeanor for which the minimum penalty is a fine of not less than \$1,500.

23 (c) Has two or more previous convictions under this subsection, the violation is a Class
24 A misdemeanor for which the minimum penalty is a sentence of not less than 30 days'
25 imprisonment and a fine of not less than \$2,000. Except as provided in subsection (9) of this
26 section, a court may not waive or suspend the imposition or execution of the mandatory
27 minimum period of imprisonment required by this paragraph.

28 (6) For purposes of subsection (5) of this section, a conviction for a violation of former
29 ORS 471.410 (2) as set forth in the 2007 Edition of Oregon Revised Statutes is considered a
30 previous conviction under subsection (5) of this section.

31 (7) In addition to the minimum penalties described in subsection (5) of this section, the
32 court may require a person described in subsection (5) of this section to make restitution for
33 any damage to property where the alcoholic beverage was illegally consumed or may require
34 the person to perform work for a community service agency.

35 (8)(a) If a person who violates subsection (1) or (2) of this section is the employee of an
36 off-premises sales licensee and has not within the preceding three years successfully com-
37 pleted a clerk training course as described in ORS 471.341, training under a responsible ven-
38 dor program as described in ORS 471.344 or an alcohol server education course and
39 examination as described in ORS 471.542, in addition to any sentence imposed under sub-
40 section (5) of this section the court shall order the person to successfully complete a clerk
41 training course under ORS 471.341 or training under a responsible vendor program.

42 (b) If a person who violates subsection (1) or (2) of this section is the employee of an
43 off-premises sales licensee and affirmatively establishes that the person has within the pre-
44 ceding three years successfully completed a clerk training course as described in ORS
45 471.341, training under a responsible vendor program as described in ORS 471.344 or an al-

1 **cohol server education course and examination as described in ORS 471.542, a first offense**
 2 **for violating subsection (1) or (2) of this section is a Class C violation. Notwithstanding that**
 3 **the first conviction was a violation, a second offense by the person for violating subsection**
 4 **(1) or (2) of this section is a Class B misdemeanor and a third offense is a Class A**
 5 **misdemeanor.**

6 **(9) The minimum penalty provisions in subsection (5) of this section do not apply to a**
 7 **person who violates subsection (1) or (2) of this section if:**

8 **(a) The person is licensed under this chapter or is an agent appointed under ORS 471.750**
 9 **or an employee of a licensee or agent; and**

10 **(b) The violation is committed in the course of the person's occupation or employment.**

11 **(10) If a person described in subsection (5)(a) of this section has not previously entered**
 12 **into a diversion agreement under this subsection, the district attorney shall propose a di-**
 13 **version agreement to the person under ORS 135.891, 135.896 and 135.901. Diversion agree-**
 14 **ments under this subsection are not subject to ORS 135.905. As a condition of entering into**
 15 **a diversion agreement under this subsection, the defendant must pay a filing fee of \$350. The**
 16 **fee shall be distributed as follows:**

17 **(a) \$112 to the Department of Revenue for deposit in the Criminal Fine and Assessment**
 18 **Account;**

19 **(b) \$100 to be distributed as provided under ORS 153.630 for the distribution of costs; and**

20 **(c) \$138 to be paid into the Mental Health Alcoholism and Drug Services Account.**

21 **(11) If a person violates subsection (1) or (2) of this section without knowing that the**
 22 **individual directly or indirectly receiving the alcoholic beverages is under 21 years of age:**

23 **(a) The Oregon Liquor Control Commission may require the person to complete training**
 24 **approved by the commission;**

25 **(b) The commission may impose a civil penalty of not more than \$200 if the person has**
 26 **committed a previous violation of subsection (1) or (2) of this section; and**

27 **(c) The commission may impose a civil penalty of not more than \$500 if the person has**
 28 **committed two or more previous violations of subsection (1) or (2) of this section.**

29 **(12) Subsection (11) of this section does not apply to a violation for which the person has**
 30 **been placed in jeopardy before a court. A civil penalty imposed under subsection (11) of this**
 31 **section shall be imposed as provided under ORS 183.745.**

32 **SECTION 4. (1) A person who exercises control over private real property may not**
 33 **knowingly allow a person under the age of 21 years who is not the child or ward of the person**
 34 **to remain on the property if the person under the age of 21 years consumes alcoholic**
 35 **beverages on the property. This subsection applies only if the person exercising control over**
 36 **the property is present at the time the consumption occurs. This subsection does not apply**
 37 **to the owner of rental property or the agent of the owner of rental property, unless the**
 38 **consumption occurs in the individual unit where the owner or agent resides. This subsection**
 39 **does not apply to consumption of alcohol given or otherwise provided as described in section**
 40 **3 (3) or (4) of this 2009 Act.**

41 **(2) A person who violates subsection (1) of this section commits an unclassified violation.**
 42 **If the person has not previously committed a violation of subsection (1) of this section, the**
 43 **penalty is a mandatory fine of \$350. If the person has previously committed a violation of**
 44 **subsection (1) of this section, the penalty is a mandatory fine of \$1,000.**

45 **(3) For purposes of subsection (2) of this section, a conviction for a violation of former**

1 **ORS 471.410 (3) as set forth in the 2007 Edition of Oregon Revised Statutes is considered a**
 2 **previous violation of subsection (1) of this section.**

3 **SECTION 5.** ORS 471.341 is amended to read:

4 471.341. (1) An employee of an off-premises sales licensee who has been found by the Oregon
 5 Liquor Control Commission to have sold alcoholic beverages to a minor, or to have failed to prop-
 6 erly verify identification of a person who purchased alcoholic beverages, must attend a clerk train-
 7 ing course approved by the commission as a condition of making sales of alcoholic beverages to
 8 members of the public under an off-premises sales license.

9 (2) The commission shall by rule establish times for employees to complete a required clerk
 10 training course under this section. An employee required to complete a clerk training course under
 11 this section may continue to make sales of alcoholic beverages to members of the public until taking
 12 such training, but may not make any sales of alcoholic beverages after the expiration of the time
 13 allowed by commission rule if the employee has not completed the training before the expiration of
 14 that time.

15 (3) Except as provided in subsection (2) of this section, the holder of an off-premises sales license
 16 may not allow an employee who has been found by the Oregon Liquor Control Commission to have
 17 sold alcoholic beverages to a minor, or to have failed to properly verify identification of a person
 18 who purchased alcoholic beverages, to sell alcoholic beverages under the license unless the em-
 19 ployee completes a clerk training course as required by this section.

20 (4) The Oregon Liquor Control Commission, as part of the Alcohol Education Program estab-
 21 lished under ORS 471.541, shall approve all clerk training courses offered for the purpose of this
 22 section. The holder of an off-premises sales license may establish a clerk training course for em-
 23 ployees of the licensee, but the course must be approved by the commission to meet the require-
 24 ments of this section. Clerk training courses approved under this section must address at least the
 25 following topics:

26 (a) The importance of not selling alcoholic beverages to minors and visibly intoxicated persons.

27 (b) Guidelines for recognizing minors and visibly intoxicated persons.

28 (c) Guidelines for checking and verifying identification, and for recognizing false or altered
 29 identification.

30 (d) Recommended approaches for refusing sales of alcoholic beverages to minors and visibly
 31 intoxicated persons.

32 (5) If an employee of an off-premises sales licensee is found to have sold alcoholic beverages to
 33 a minor, or to have failed to properly verify identification of a person who purchased alcoholic
 34 beverages, the commission shall notify the licensee that the employee must complete a clerk training
 35 course approved under this section and may not sell alcoholic beverages to members of the public
 36 after the time established by the commission unless the employee completes the training within the
 37 time allowed. If the off-premises sales licensee offers a clerk training course to new employees, and
 38 the employee has previously completed that course, the requirements of this section may be met by
 39 retaking the clerk training course if the course has been approved by the commission for the pur-
 40 poses of this section.

41 (6) Upon completion of a clerk training course by an employee of an off-premises sales licensee
 42 pursuant to the requirements of this section, the off-premises sales licensee that employs the person
 43 must notify the commission in writing that the employee has successfully completed the training.
 44 The notification must include the name and address of the employee, the name of the clerk training
 45 course attended by the employee, and the date or dates on which the course was attended. The no-

1 tification shall be kept by the commission in the licensee’s file.

2 **(7) This section does not prohibit an employee of an off-premises sales licensee who has**
 3 **not been found by the commission to have sold alcoholic beverages to a minor or to have**
 4 **failed to properly verify identification of a person who purchased alcoholic beverages from**
 5 **voluntarily attending a clerk training course approved by the commission. Voluntary at-**
 6 **tendance at a clerk training course, or the failure to complete voluntary attendance at the**
 7 **clerk training course, does not affect the ability of the employee to sell alcoholic beverages.**
 8 **If an off-premises sales licensee notifies the commission as described in subsection (6) of this**
 9 **section that an employee has voluntarily completed an approved clerk training course, the**
 10 **commission shall keep the notification in the licensee’s file.**

11 [(7)] **(8)** The commission shall assess and collect a fee not to exceed \$13 from each person [*re-*
 12 *quired to attend*] **attending** a clerk training course under this section. Amounts collected under this
 13 section shall be used for the administrative expenses incurred by the commission in the performance
 14 of the commission’s duties under the Alcohol Education Program.

15 [(8)] **(9)** In addition to any other penalty provided for by law, the commission may impose a civil
 16 penalty against any employee of an off-premises sales licensee who sells alcoholic beverages to
 17 members of the public and who is prohibited from making those sales under this section. A civil
 18 penalty under this subsection may not exceed \$500. Civil penalties under this subsection shall be
 19 imposed by the commission in the manner provided by ORS 183.745.

20 **SECTION 6.** ORS 131.602 is amended to read:

21 131.602. The crimes to which ORS 131.550 (11)(b) applies are:

- 22 (1) Bribe giving, as defined in ORS 162.015.
- 23 (2) Bribe receiving, as defined in ORS 162.025.
- 24 (3) Public investment fraud, as defined in ORS 162.117.
- 25 (4) Bribing a witness, as defined in ORS 162.265.
- 26 (5) Bribe receiving by a witness, as defined in ORS 162.275.
- 27 (6) Simulating legal process, as defined in ORS 162.355.
- 28 (7) Official misconduct in the first degree, as defined in ORS 162.415.
- 29 (8) Custodial interference in the second degree, as defined in ORS 163.245.
- 30 (9) Custodial interference in the first degree, as defined in ORS 163.257.
- 31 (10) Buying or selling a person under 18 years of age, as defined in ORS 163.537.
- 32 (11) Using a child in a display of sexually explicit conduct, as defined in ORS 163.670.
- 33 (12) Encouraging child sexual abuse in the first degree, as defined in ORS 163.684.
- 34 (13) Encouraging child sexual abuse in the second degree, as defined in ORS 163.686.
- 35 (14) Encouraging child sexual abuse in the third degree, as defined in ORS 163.687.
- 36 (15) Possession of materials depicting sexually explicit conduct of a child in the first degree, as
 37 defined in ORS 163.688.
- 38 (16) Possession of materials depicting sexually explicit conduct of a child in the second degree,
 39 as defined in ORS 163.689.
- 40 (17) Theft in the second degree, as defined in ORS 164.045.
- 41 (18) Theft in the first degree, as defined in ORS 164.055.
- 42 (19) Aggravated theft in the first degree, as defined in ORS 164.057.
- 43 (20) Theft by extortion, as defined in ORS 164.075.
- 44 (21) Theft by deception, as defined in ORS 164.085, if it is a felony or a Class A misdemeanor.
- 45 (22) Theft by receiving, as defined in ORS 164.095, if it is a felony or a Class A misdemeanor.

- 1 (23) Theft of services, as defined in ORS 164.125, if it is a felony or a Class A misdemeanor.
- 2 (24) Unauthorized use of a vehicle, as defined in ORS 164.135.
- 3 (25) Mail theft or receipt of stolen mail, as defined in ORS 164.162.
- 4 (26) Laundering a monetary instrument, as defined in ORS 164.170.
- 5 (27) Engaging in a financial transaction in property derived from unlawful activity, as defined
- 6 in ORS 164.172.
- 7 (28) Burglary in the second degree, as defined in ORS 164.215.
- 8 (29) Burglary in the first degree, as defined in ORS 164.225.
- 9 (30) Possession of a burglary tool or theft device, as defined in ORS 164.235.
- 10 (31) Unlawful entry into a motor vehicle, as defined in ORS 164.272.
- 11 (32) Arson in the second degree, as defined in ORS 164.315.
- 12 (33) Arson in the first degree, as defined in ORS 164.325.
- 13 (34) Computer crime, as defined in ORS 164.377.
- 14 (35) Robbery in the third degree, as defined in ORS 164.395.
- 15 (36) Robbery in the second degree, as defined in ORS 164.405.
- 16 (37) Robbery in the first degree, as defined in ORS 164.415.
- 17 (38) Unlawful labeling of a sound recording, as defined in ORS 164.868.
- 18 (39) Unlawful recording of a live performance, as defined in ORS 164.869.
- 19 (40) Unlawful labeling of a videotape recording, as defined in ORS 164.872.
- 20 (41) A violation of ORS 164.886.
- 21 (42) Endangering aircraft, as defined in ORS 164.885.
- 22 (43) Interference with agricultural operations, as defined in ORS 164.887.
- 23 (44) Forgery in the second degree, as defined in ORS 165.007.
- 24 (45) Forgery in the first degree, as defined in ORS 165.013.
- 25 (46) Criminal possession of a forged instrument in the second degree, as defined in ORS 165.017.
- 26 (47) Criminal possession of a forged instrument in the first degree, as defined in ORS 165.022.
- 27 (48) Criminal possession of a forgery device, as defined in ORS 165.032.
- 28 (49) Criminal simulation, as defined in ORS 165.037.
- 29 (50) Fraudulently obtaining a signature, as defined in ORS 165.042.
- 30 (51) Fraudulent use of a credit card, as defined in ORS 165.055.
- 31 (52) Negotiating a bad check, as defined in ORS 165.065.
- 32 (53) Possessing a fraudulent communications device, as defined in ORS 165.070.
- 33 (54) Unlawful factoring of a payment card transaction, as defined in ORS 165.074.
- 34 (55) Falsifying business records, as defined in ORS 165.080.
- 35 (56) Sports bribery, as defined in ORS 165.085.
- 36 (57) Sports bribe receiving, as defined in ORS 165.090.
- 37 (58) Misapplication of entrusted property, as defined in ORS 165.095.
- 38 (59) Issuing a false financial statement, as defined in ORS 165.100.
- 39 (60) Obtaining execution of documents by deception, as defined in ORS 165.102.
- 40 (61) A violation of ORS 165.543.
- 41 (62) Cellular counterfeiting in the third degree, as defined in ORS 165.577.
- 42 (63) Cellular counterfeiting in the second degree, as defined in ORS 165.579.
- 43 (64) Cellular counterfeiting in the first degree, as defined in ORS 165.581.
- 44 (65) Identity theft, as defined in ORS 165.800.
- 45 (66) A violation of ORS 166.190.

- 1 (67) Unlawful use of a weapon, as defined in ORS 166.220.
- 2 (68) A violation of ORS 166.240.
- 3 (69) Unlawful possession of a firearm, as defined in ORS 166.250.
- 4 (70) A violation of ORS 166.270.
- 5 (71) Unlawful possession of a machine gun, short-barreled rifle, short-barreled shotgun or
- 6 firearms silencer, as defined in ORS 166.272.
- 7 (72) A violation of ORS 166.275.
- 8 (73) Unlawful possession of armor piercing ammunition, as defined in ORS 166.350.
- 9 (74) A violation of ORS 166.370.
- 10 (75) Unlawful possession of a destructive device, as defined in ORS 166.382.
- 11 (76) Unlawful manufacture of a destructive device, as defined in ORS 166.384.
- 12 (77) Possession of a hoax destructive device, as defined in ORS 166.385.
- 13 (78) A violation of ORS 166.410.
- 14 (79) Providing false information in connection with a transfer of a firearm, as defined in ORS
- 15 166.416.
- 16 (80) Improperly transferring a firearm, as defined in ORS 166.418.
- 17 (81) Unlawfully purchasing a firearm, as defined in ORS 166.425.
- 18 (82) A violation of ORS 166.429.
- 19 (83) A violation of ORS 166.470.
- 20 (84) A violation of ORS 166.480.
- 21 (85) A violation of ORS 166.635.
- 22 (86) A violation of ORS 166.638.
- 23 (87) Unlawful paramilitary activity, as defined in ORS 166.660.
- 24 (88) A violation of ORS 166.720.
- 25 (89) Prostitution, as defined in ORS 167.007.
- 26 (90) Promoting prostitution, as defined in ORS 167.012.
- 27 (91) Compelling prostitution, as defined in ORS 167.017.
- 28 (92) Exhibiting an obscene performance to a minor, as defined in ORS 167.075.
- 29 (93) Unlawful gambling in the second degree, as defined in ORS 167.122.
- 30 (94) Unlawful gambling in the first degree, as defined in ORS 167.127.
- 31 (95) Possession of gambling records in the second degree, as defined in ORS 167.132.
- 32 (96) Possession of gambling records in the first degree, as defined in ORS 167.137.
- 33 (97) Possession of a gambling device, as defined in ORS 167.147.
- 34 (98) Possession of a gray machine, as defined in ORS 167.164.
- 35 (99) Cheating, as defined in ORS 167.167.
- 36 (100) Tampering with drug records, as defined in ORS 167.212.
- 37 (101) A violation of ORS 167.262.
- 38 (102) Research and animal interference, as defined in ORS 167.312.
- 39 (103) Animal abuse in the first degree, as defined in ORS 167.320.
- 40 (104) Aggravated animal abuse in the first degree, as defined in ORS 167.322.
- 41 (105) Animal neglect in the first degree, as defined in ORS 167.330.
- 42 (106) Interfering with an assistance, a search and rescue or a therapy animal, as defined in ORS
- 43 167.352.
- 44 (107) Involvement in animal fighting, as defined in ORS 167.355.
- 45 (108) Dogfighting, as defined in ORS 167.365.

- 1 (109) Participation in dogfighting, as defined in ORS 167.370.
- 2 (110) Unauthorized use of a livestock animal, as defined in ORS 167.385.
- 3 (111) Interference with livestock production, as defined in ORS 167.388.
- 4 (112) A violation of ORS 167.390.
- 5 (113) A violation of [ORS 471.410] **section 2, 3 or 4 of this 2009 Act.**
- 6 (114) Failure to report missing precursor substances, as defined in ORS 475.955.
- 7 (115) Illegally selling drug equipment, as defined in ORS 475.960.
- 8 (116) Providing false information on a precursor substances report, as defined in ORS 475.965.
- 9 (117) Unlawful delivery of an imitation controlled substance, as defined in ORS 475.912.
- 10 (118) A violation of ORS 475.840, if it is a felony or a Class A misdemeanor.
- 11 (119) A violation of ORS 475.914, if it is a felony or a Class A misdemeanor.
- 12 (120) A violation of ORS 475.916.
- 13 (121) A violation of ORS 475.906, if it is a felony or a Class A misdemeanor.
- 14 (122) A violation of ORS 475.904.
- 15 (123) Misuse of an identification card, as defined in ORS 807.430.
- 16 (124) Unlawful production of identification cards, licenses, permits, forms or camera cards, as
- 17 defined in ORS 807.500.
- 18 (125) Transfer of documents for the purposes of misrepresentation, as defined in ORS 807.510.
- 19 (126) Using an invalid license, as defined in ORS 807.580.
- 20 (127) Permitting misuse of a license, as defined in ORS 807.590.
- 21 (128) Using another’s license, as defined in ORS 807.600.
- 22 (129) Criminal driving while suspended or revoked, as defined in ORS 811.182, when it is a fel-
- 23 ony.
- 24 (130) Driving while under the influence of intoxicants, as defined in ORS 813.010, when it is a
- 25 felony.
- 26 (131) Unlawful distribution of cigarettes, as defined in ORS 323.482.
- 27 (132) Unlawful distribution of tobacco products, as defined in ORS 323.632.
- 28 (133) A violation of ORS 180.440 (2).
- 29 (134) A violation described in ORS 475.846 to 475.894, if it is a felony.
- 30 (135) Subjecting another person to involuntary servitude in the first degree, as defined in ORS
- 31 163.264.
- 32 (136) Subjecting another person to involuntary servitude in the second degree, as defined in ORS
- 33 163.263.
- 34 (137) Trafficking in persons, as defined in ORS 163.266.
- 35 (138) Furnishing sexually explicit material to a child, as defined in ORS 167.054.
- 36 (139) Luring a minor, as defined in ORS 167.057.
- 37 (140) Online sexual corruption of a child in the second degree, as defined in ORS 163.432.
- 38 (141) Online sexual corruption of a child in the first degree, as defined in ORS 163.433.
- 39 (142) An attempt, conspiracy or solicitation to commit a crime in subsections (1) to (141) of this
- 40 section if the attempt, conspiracy or solicitation is a felony or a Class A misdemeanor.
- 41 **SECTION 7.** ORS 471.186, as amended by section 1, chapter 34, Oregon Laws 2008, is amended
- 42 to read:
- 43 471.186. (1) The holder of an off-premises sales license may sell factory-sealed containers of wine,
- 44 malt beverages and cider. Containers of malt beverages sold under the license may not hold more
- 45 than two and one-quarter gallons.

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

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

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

10 (5) The holder of an off-premises sales license may deliver wine or cider that is sold under the
 11 privileges of the license to retail customers in this state without a direct shipper permit issued un-
 12 der ORS 471.282. Any deliveries by the holder of an off-premises sales license are subject to any
 13 rules adopted by the commission relating to deliveries made under this subsection. Deliveries under
 14 this subsection:

15 (a) May be made only to a person who is at least 21 years of age;

16 (b) May be made only for personal use and not for the purpose of resale; and

17 (c) Must be made in containers that are conspicuously labeled with the words: "CONTAINS
 18 ALCOHOL: SIGNATURE OF PERSON AGE 21 YEARS OR OLDER REQUIRED FOR
 19 DELIVERY."

20 (6) The holder of an off-premises sales license that makes deliveries of wine or cider under
 21 subsection (5) of this section must take all actions necessary to ensure that a carrier used by the
 22 licensee does not deliver any wine or cider unless the carrier:

23 (a) Obtains the signature of the recipient of the wine or cider upon delivery;

24 (b) Verifies by inspecting government-issued photo identification that the recipient is at least
 25 21 years of age; and

26 (c) Determines that the recipient is not visibly intoxicated at the time of delivery.

27 (7) Any person who knowingly or negligently delivers wine or cider under the provisions of this
 28 section to a person under 21 years of age, or who knowingly or negligently delivers wine or cider
 29 under the provisions of this section to a visibly intoxicated person, violates [ORS 471.410] **section**
 30 **2 or 3 of this 2009 Act.**

31 (8) If a court determines that deliveries of wine or cider under subsection (5) of this section
 32 cannot be restricted to holders of off-premises sales licenses, and the decision is a final judgment
 33 that is no longer subject to appeal, the holder of an off-premises sales license may not make deliv-
 34 eries of wine or cider under the provisions of subsection (5) of this section after entry of the final
 35 judgment.

36 **SECTION 8.** ORS 471.282, as amended by section 2, chapter 34, Oregon Laws 2008, is amended
 37 to read:

38 471.282. (1) Notwithstanding any other provision of this chapter and except as provided by ORS
 39 471.186 (5), a person may sell and ship wine or cider directly to a resident of Oregon only if the
 40 person holds a direct shipper permit. The Oregon Liquor Control Commission shall issue a direct
 41 shipper permit only to:

42 (a) A person that holds a license issued by this state or another state that authorizes the man-
 43 ufacture of wine or cider;

44 (b) A person that holds a license issued by this state or another state that authorizes the sale
 45 of wine or cider produced only from grapes or other fruit grown under the control of the person;

- 1 (c) A person that holds a license authorizing the sale of wine or cider at retail; or
- 2 (d) A nonprofit trade association that holds a temporary sales license under ORS 471.190 and
- 3 that has a membership primarily composed of persons holding winery licenses issued under ORS
- 4 471.223 or grower sales privilege licenses issued under ORS 471.227.
- 5 (2) A person may apply for a direct shipper permit by filing an application with the commission.
- 6 The application must be made in such form as may be prescribed by the commission. The person
- 7 must include in the application the number of the license issued to the person by the commission,
- 8 or a true copy of the license issued to the person by another state. If the application is based on a
- 9 license issued by another state, or the application is by a nonprofit trade association described in
- 10 subsection (1)(d) of this section, the person or association must pay a \$50 registration fee and
- 11 maintain a bond or other security described in ORS 471.155 in the minimum amount of \$1,000.
- 12 (3) Sales and shipments under a direct shipper permit:
- 13 (a) May be made only to a person who is at least 21 years of age;
- 14 (b) May be made only for personal use and not for the purpose of resale; and
- 15 (c) May not exceed two cases, containing not more than nine liters per case, to any resident per
- 16 month.
- 17 (4) Sales and shipments under a direct shipper permit must be made directly to a resident of this
- 18 state in containers that are conspicuously labeled with the words: "CONTAINS ALCOHOL: SIG-
- 19 NATURE OF PERSON AGE 21 YEARS OR OLDER REQUIRED FOR DELIVERY."
- 20 (5) A person holding a direct shipper permit must take all actions necessary to ensure that a
- 21 carrier used by the permit holder does not deliver any wine or cider unless the carrier:
- 22 (a) Obtains the signature of the recipient of the wine or cider upon delivery;
- 23 (b) Verifies by inspecting government-issued photo identification that the recipient is at least
- 24 21 years of age; and
- 25 (c) Determines that the recipient is not visibly intoxicated at the time of delivery.
- 26 (6)(a) A person holding a direct shipper permit must report to the commission all shipments of
- 27 wine or cider made to Oregon residents under the permit as required by ORS chapter 473. The re-
- 28 port must be made in a form prescribed by the commission.
- 29 (b) A person holding a direct shipper permit must allow the commission to audit the permit
- 30 holder's records upon request and shall make those records available to the commission in this state.
- 31 (c) A person holding a direct shipper permit consents to the jurisdiction of the commission and
- 32 the courts of this state for the purpose of enforcing the provisions of this section and any related
- 33 laws or rules.
- 34 (7)(a) A person holding a direct shipper permit must timely pay to the commission all taxes im-
- 35 posed under ORS chapter 473 on wine and cider sold and shipped under the permit. For the purpose
- 36 of the privilege tax imposed under ORS chapter 473, all wine or cider sold and shipped pursuant to
- 37 a direct shipper permit is sold in this state.
- 38 (b) A person holding a direct shipper permit based on a license issued by another state must
- 39 timely pay to the commission all taxes imposed under ORS chapter 473 on all wine or cider sold and
- 40 shipped directly to Oregon residents under the permit. The permit holder, not the purchaser, is re-
- 41 sponsible for the tax.
- 42 (8) A direct shipper permit must be renewed annually. If the person holds the permit based on
- 43 an annual license issued by another state, the permit may be renewed by paying a \$50 renewal fee
- 44 and providing the commission with a true copy of a current license issued to the person by the other
- 45 state. If the person holds the permit based on an annual license issued by this state, the permit may

1 be renewed at the same time that the license is renewed.

2 (9) The commission may refuse to issue or may suspend or revoke a direct shipper permit if the
 3 permit holder fails to comply with the provisions of this section. A person may sell and ship wine
 4 or cider under a direct shipper permit only for as long as the person has the license issued by this
 5 state or another state that authorizes the person to hold a direct shipper permit.

6 (10) Any person who knowingly or negligently delivers wine or cider under the provisions of this
 7 section to a person under 21 years of age, or who knowingly or negligently delivers wine or cider
 8 under the provisions of this section to a visibly intoxicated person, violates **[ORS 471.410] section**
 9 **2 or 3 of this 2009 Act.**

10 (11) A person may not make sales and shipments of wine or cider directly to Oregon residents
 11 unless the person holds a direct shipper permit issued under this section. Any person who knowingly
 12 makes, participates in, transports, imports or receives a shipment of wine or cider that is in vio-
 13 lation of this section commits a misdemeanor as provided in ORS 471.990 (1).

14 **SECTION 9.** ORS 471.478 is amended to read:

15 471.478. *[On and after January 1, 1978:]*

16 (1) The Oregon Liquor Control Commission by rule shall require the identification of kegs of
 17 malt beverages sold directly to consumers who are not licensees of the commission and the signing
 18 of a receipt therefor by the purchaser in order to allow the kegs to be traced if the contents are
 19 consumed in violation of the Liquor Control Act. The keg identification shall be in the form of a
 20 numbered label prescribed and supplied by the commission which identifies the seller and which is
 21 removable or obliterated when the keg is processed for refilling. The receipt shall be on a form
 22 prescribed and supplied by the commission and shall include the name and address of the purchaser;
 23 motor vehicle operator’s license number, if any; the automobile registration of the motor vehicle in
 24 which the keg was removed from the seller’s premises, if any; and such other identification as the
 25 commission by rule may require. The receipt shall contain a statement that must be signed by the
 26 purchaser that, under penalty of false swearing, the purchaser will not allow consumption of any
 27 malt beverage in the keg in violation of **[ORS 471.410] section 2 or 3 of this 2009 Act.** A copy of
 28 the receipt shall be given to the purchaser and the seller shall retain the original receipt for such
 29 period as the commission by rule may require.

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

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

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

37 **SECTION 10.** ORS 471.410 is repealed.

38 **SECTION 11.** (1) **The repeal of ORS 471.410 by section 10 of this 2009 Act and the**
 39 **amendments to ORS 471.186, 471.282 and 471.478 by sections 7 to 9 of this 2009 Act do not**
 40 **prevent or terminate any prosecution for a violation of ORS 471.186, 471.282, 471.410 or**
 41 **471.478 committed before the effective date of this 2009 Act.**

42 (2) **The amendments to ORS 131.602 by section 6 of this 2009 Act do not prevent or ter-**
 43 **minate the seizure and forfeiture of property under ORS 131.550 to 131.600 for a violation of**
 44 **ORS 471.410 that occurred before the effective date of this 2009 Act or any process for res-**
 45 **toration of the property to a petitioner or financial institution holding an interest in the**

1 **property.**

2 **SECTION 12. Section 3 (10) of this 2009 Act applies to persons who sell, give or otherwise**
3 **make available alcoholic beverages on or after the effective date of this 2009 Act to individ-**
4 **uals under 21 years of age.**

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