

**SENATE AMENDMENTS TO
A-ENGROSSED HOUSE BILL 3343
(INCLUDING AMENDMENTS TO RESOLVE CONFLICTS)**

By COMMITTEE ON JUDICIARY

June 4

1 On page 2 of the printed A-engrossed bill, line 23, after “person” insert “does not act knowingly
2 or intentionally and”.

3 After line 32, insert:

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

6 In line 33, delete “(C) A third” and insert “(D) A fourth”.

7 After line 42, insert

8 **“SECTION 2. If House Bill 2246 becomes law and Senate Bill 227 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9 section 1 of this 2009 Act (amending ORS 471.410) is repealed and ORS 471.410, as amended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 House Bill 2246), is amended to read:**

11 “471.410. (1) A person may not sell, give or otherwise make available any alcoholic liquor to any
12 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 parent or guardian may give
15 or otherwise make alcoholic liquor available to a person under the age of 21 years only if the person
16 is in a private residence and is accompanied by the parent or guardian. A person violates this sub-
17 section who sells, gives or otherwise makes available alcoholic liquor to a person with the knowl-
18 edge that the person to whom the liquor is made available will violate this subsection.

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

24 “(b) This subsection:

25 “(A) Applies only to a person who is present and in control of the location at the time the
26 consumption occurs;

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

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

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

34 “(5) **Except as provided in subsection (7) of this section,** a person who violates subsection

1 (1) or (2) of this section commits a Class A misdemeanor. Upon violation of subsection (2) of this
2 section, the court shall impose at least a mandatory minimum sentence as follows:

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

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

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

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

12 “[7] *The mandatory minimum penalty provisions of subsection (5) of this section do not apply to*
13 *persons licensed or appointed under the provisions of this chapter.*]

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

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

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

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

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

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

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

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

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

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

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

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

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

41 “471.410. (1) [No person shall] **A person may not** sell, give or otherwise make available any
42 alcoholic liquor to any person who is visibly intoxicated.

43 “(2) No one other than the person’s parent or guardian [shall] **may** sell, give or otherwise make
44 available any alcoholic liquor to a person under the age of 21 years. A person violates this sub-
45 section who sells, gives or otherwise makes available alcoholic liquor to a person with the knowl-

1 edge that the person to whom the liquor is made available will violate this subsection.

2 “(3) [No] A person who exercises control over private real property may **not** knowingly allow
3 any other person under the age of 21 years who is not a child or minor ward of the person to con-
4 sume alcoholic liquor on the property, or allow any other person under the age of 21 years who is
5 not a child or minor ward of the person to remain on the property if the person under the age of
6 21 years consumes alcoholic liquor on the property. The prohibitions of this subsection apply only
7 to a person who is present and in control of the location at the time the consumption occurs. The
8 prohibitions of this subsection do not apply to the owner of rental property, or the agent of an
9 owner of rental property, unless the consumption occurs in the individual unit in which the owner
10 or agent resides.

11 “(4) **Except as provided in subsection (5) of this section**, a person who violates subsection
12 (1) or (2) of this section commits a Class A misdemeanor. [*Except as provided in subsection (5) 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 “[*(5) The mandatory minimum penalty provisions of subsection (4) 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 “(5)(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**
37 **of 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 “(6) The court may waive an amount that is at least \$200 but not more than one-third of the fine

1 imposed under subsection (4) of this section, if the violator performs at least 30 hours of community
2 service.

3 “(7) Except as provided in subsection (6) of this section, the court may not waive or suspend
4 imposition or execution of the mandatory minimum sentence required by subsection (4) or (5) 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 “(8) 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 “(9) 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.

15 “**SECTION 4. If both House Bill 2246 and Senate Bill 227 become law, section 1 of this 2009**
16 **Act (amending ORS 471.410) is repealed and ORS 471.410, as amended by section 1, chapter**
17 **___, Oregon Laws 2009 (Enrolled Senate Bill 227), and section 3, chapter ___, Oregon Laws**
18 **2009 (Enrolled House Bill 2246), is amended to read:**

19 “471.410. (1) A person may not sell, give or otherwise make available any alcoholic liquor to any
20 person who is visibly intoxicated.

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

27 “(3)(a) A person who exercises control over private real property may not knowingly allow any
28 other person under the age of 21 years who is not a child or minor ward of the person to consume
29 alcoholic liquor on the property, or allow any other person under the age of 21 years who is not a
30 child or minor ward of the person to remain on the property if the person under the age of 21 years
31 consumes alcoholic liquor on the property.

32 “(b) This subsection:

33 “(A) Applies only to a person who is present and in control of the location at the time the
34 consumption occurs;

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

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

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

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

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

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

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

4 of imprisonment.

5 “[(6) *The mandatory minimum penalty provisions of subsection (5) of this section do not apply to*

6 *persons licensed under the provisions of this chapter, to an agent appointed under ORS 471.750 or to*

7 *an employee of a licensee or agent, unless the person knowingly sells, gives or otherwise makes avail-*

8 *able alcoholic beverages to a person under the age of 21 years. For all other violations of subsection*

9 *(2) of this section by a person licensed under the provisions of this chapter, by an agent appointed*

10 *under ORS 471.750 or by an employee of the licensee or agent, the court shall impose a mandatory*

11 *minimum sentence as follows:]*

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

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

14 “**(6)(a) A person who violates subsection (2) of this section is subject to a mandatory**

15 **minimum penalty under this subsection if the person does not act knowingly or intentionally**

16 **and:**

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

18 “**(B) Is an employee of a person licensed or appointed under this chapter and holds a valid**

19 **service permit or has attended a program approved by the Oregon Liquor Control Commis-**

20 **sion that provides training to avoid violations of this section.**

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

22 “**(A) A first conviction is a Class A violation. The court shall impose a mandatory fine**

23 **of not less than \$350.**

24 “**(B) A second conviction is a Class A violation. The court shall impose a mandatory fine**

25 **of not less than \$720.**

26 “**(C) A third conviction is a Class A misdemeanor. The court shall impose a mandatory**

27 **fine of not less than \$1,000.**

28 “**(D) A fourth or subsequent conviction is a Class A misdemeanor. The court shall impose**

29 **a mandatory fine of not less than \$1,000 and a mandatory sentence of not less than 30 days**

30 **of imprisonment.**

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

32 imposed under subsection (5) of this section, if the violator performs at least 30 hours of community

33 service.

34 “(8) Except as provided in subsection (7) of this section, the court may not waive or suspend

35 imposition or execution of the mandatory minimum sentence required by subsection (5) or (6) of this

36 section. In addition to the mandatory sentence, the court may require the violator to make

37 restitution for any damages to property where the alcoholic liquor was illegally consumed or may

38 require participation in volunteer service to a community service agency.

39 “(9) A person who violates subsection (3) of this section commits a violation. Upon violation of

40 subsection (3) of this section, the court shall impose at least a mandatory minimum fine as follows:

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

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

43 “(10) Nothing in this section prohibits any licensee under this chapter from allowing a person

44 who is visibly intoxicated from remaining on the licensed premises so long as the person is not sold

45 or served any alcoholic liquor.”.

