

Senate Bill 226

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Attorney General Hardy Myers for Attorney General's Underage Drinking Task Force)

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**.

Authorizes Department of Human Services to approve education programs for instructing persons found in violation of alcohol control laws. Requires department to offer alcohol control law education program if adequate private programs are not available. Requires department to ensure program availability by July 1, 2010.

Appropriates moneys to department for 2009-2011 biennium for carrying out department duties, powers and functions regarding alcohol control law education programs.

Requires court to include participation in alcohol control law education program in sentence for first or second violation of law prohibiting supplying alcoholic liquor to underage person. Applies to sentences imposed for offenses committed on or after July 1, 2010.

Declares emergency, effective July 1, 2009.

A BILL FOR AN ACT

1
2 Relating to alcohol control law education programs; creating new provisions; amending ORS 471.410;
3 appropriating money; and declaring an emergency.

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

5 **SECTION 1. Section 2 of this 2009 Act is added to and made a part of ORS chapter 471.**

6 **SECTION 2. (1) The Department of Human Services may approve education programs to**
7 **provide persons convicted of violating a provision of this chapter or ORS chapter 473 with**
8 **instruction regarding alcohol control law requirements. The department shall adopt program**
9 **standards by rule, including but not limited to standards establishing the maximum fees to**
10 **be charged by a provider, the length and format of a program, the times and mediums for**
11 **delivery of a program, instructor qualifications, program curricula and criteria for successful**
12 **completion of a program. The department may require program providers to furnish reports**
13 **to the department and may conduct reasonable inspections of program records to verify the**
14 **proper operation of programs. The department may condition, suspend or revoke approval**
15 **for a program.**

16 **(2) The department may adopt rules establishing a fee to be paid to the department by**
17 **participants in alcohol control law education programs. The fee shall be in addition to any**
18 **fee the provider charges for the program. A fee adopted under this subsection may not ex-**
19 **ceed an amount reasonably calculated to reimburse the department for the cost of adminis-**
20 **tering and enforcing this section. The department may require the program provider to**
21 **collect and forward the fee. Moneys received by the department from a fee adopted under**
22 **this subsection shall be deposited to the credit of the Department of Human Services Ac-**
23 **count and used by the department for the purpose of administering and enforcing this sec-**
24 **tion.**

25 **(3) If the department determines that one or more areas of this state are not adequately**

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 served by alcohol control law education programs offered through private providers, the de-
 2 partment shall:

3 (a) Locate additional private providers to serve the areas;

4 (b) Develop an education program and make the program available in the areas not ade-
 5 quately served by private providers; or

6 (c) Contract with public bodies to provide an education program developed or approved
 7 by the department in the areas not adequately served by private providers.

8 **SECTION 3.** ORS 471.410 is amended to read:

9 471.410. (1) No person shall sell, give or otherwise make available any alcoholic liquor to any
 10 person who is visibly intoxicated.

11 (2) No one other than the person's parent or guardian shall sell, give or otherwise make avail-
 12 able any alcoholic liquor to a person under the age of 21 years. A person violates this subsection
 13 who sells, gives or otherwise makes available alcoholic liquor to a person with the knowledge that
 14 the person to whom the liquor is made available will violate this subsection.

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

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

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

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

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

30 (5) The court shall not waive or suspend imposition or execution of the mandatory minimum
 31 sentence required by subsection (4) of this section. In addition to the mandatory sentence, the
 32 court:

33 (a) Shall require a person sentenced under subsection (4)(a) or (b) of this section to
 34 participate in an alcohol control law education program administered under section 2 of this
 35 2009 Act.

36 (b) May require the violator to make restitution for any damages to property where the alco-
 37 holic liquor was illegally consumed or may require participation in volunteer service to a community
 38 service agency.

39 (6) The mandatory minimum penalty provisions of subsection (4) of this section shall not apply
 40 to persons licensed or appointed under the provisions of this chapter.

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

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

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

45 (8) Nothing in this section prohibits any licensee under this chapter from allowing a person who

1 is visibly intoxicated from remaining on the licensed premises so long as the person is not sold or
2 served any alcoholic liquor.

3 **SECTION 4.** In addition to and not in lieu of any other appropriation, there is appropri-
4 ated to the Department of Human Services, for the biennium beginning July 1, 2009, out of
5 the General Fund, the amount of \$1, which may be expended for carrying out the duties,
6 functions and powers of the department with regard to alcohol control law education pro-
7 grams.

8 **SECTION 5.** (1) The Department of Human Services shall take all actions necessary and
9 proper to ensure that an adequate number of alcohol control law education programs, as
10 described in section 2 of this 2009 Act, are available in all areas of this state no later than
11 July 1, 2010.

12 (2) The amendments to ORS 471.410 by section 3 of this 2009 Act apply to persons sen-
13 tenced for offenses committed on or after July 1, 2010.

14 **SECTION 6.** This 2009 Act being necessary for the immediate preservation of the public
15 peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect
16 July 1, 2009.

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