

Enrolled Senate Bill 227

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CHAPTER

AN ACT

Relating to furnishing alcoholic beverages to a minor; creating new provisions; and amending ORS 471.410.

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

SECTION 1. ORS 471.410 is amended to read:

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

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

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

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

(a) Upon a first conviction, a fine of [~~\$350~~] **at least \$500.**

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

(c) Upon a third or subsequent conviction, a fine of [~~\$1,000~~] **at least \$1,500** and not less than 30 days of imprisonment.

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

[(6)] **(5)** The mandatory minimum penalty provisions of subsection (4) of this section [~~shall~~] **do** not apply to persons licensed [~~or appointed~~] under the provisions of this chapter[.], **to an agent**

appointed under ORS 471.750 or to an employee of a licensee or agent, unless the person knowingly sells, gives or otherwise makes available alcoholic beverages to a person under the age of 21 years. For all other violations of subsection (2) of this section by a person licensed under the provisions of this chapter, by an agent appointed under ORS 471.750 or by an employee of the licensee or agent, the court shall impose a mandatory minimum sentence as follows:

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

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

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

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

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

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

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

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

SECTION 2. The amendments to ORS 471.410 by section 1 of this 2009 Act apply to violations committed on or after the effective date of this 2009 Act.

Passed by Senate May 5, 2009

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Secretary of Senate

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President of Senate

Passed by House June 1, 2009

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Speaker of House

Received by Governor:

.....M.,....., 2009

Approved:

.....M.,....., 2009

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Governor

Filed in Office of Secretary of State:

.....M.,....., 2009

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Secretary of State