

# Senate Bill 227

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## 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**.

Increases penalty for knowingly furnishing alcohol to persons under age of 21 years.  
Imposes suspension of driving privileges or right to apply for driving privileges for 90 days in certain instances.

## A BILL FOR AN ACT

1  
2 Relating to furnishing alcoholic beverages to a minor; creating new provisions; and amending ORS  
3 471.410 and 809.280.

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

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

6 471.410. (1) No person shall sell, give or otherwise make available any alcoholic liquor to any  
7 person who is visibly intoxicated.

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

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

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

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

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

25 (c) Upon a third or subsequent conviction, a fine of [\$1,000] **at least \$1,500** and not less than  
26 30 days of imprisonment.

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

**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        [(6)] (5) The mandatory minimum penalty provisions of subsection (4) of this section [shall] do  
 2 not apply to persons licensed [or appointed] under the provisions of this chapter[.], to an agent  
 3 appointed under ORS 471.750 or to an employee of a licensee or agent, unless the person  
 4 knowingly sells, gives or otherwise makes available alcoholic beverages to a person under the  
 5 age of 21 years. For all other violations of subsection (2) of this section by a person licensed  
 6 under the provisions of this chapter, by an agent appointed under ORS 471.750 or by an em-  
 7 ployee of the licensee or agent, the court shall impose a mandatory minimum sentence as  
 8 follows:

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

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

11       (6) When a court imposes a sentence under subsection (4)(b) of this section, the court  
 12 shall order that the person's driving privileges or right to apply for driving privileges be  
 13 suspended for a period of 90 days.

14       (7) When a court imposes a suspension under subsection (6) of this section, the court  
 15 shall prepare and send to the Department of Transportation an order of suspension of driving  
 16 privileges of the person. Upon receipt of an order under this subsection, the department shall  
 17 take action as directed under ORS 809.280.

18       (8) The court may not waive or suspend imposition or execution of the mandatory mini-  
 19 mum sentence required by subsection (4) or (5) of this section. In addition to the mandatory  
 20 sentence, the court may require the violator to make restitution for any damages to prop-  
 21 erty where the alcoholic liquor was illegally consumed or may require participation in vol-  
 22 unteer service to a community service agency.

23       [(7)] (9) A person who violates subsection (3) of this section commits a violation. Upon violation  
 24 of subsection (3) of this section, the court shall impose at least a mandatory minimum fine as follows:

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

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

27       [(8)] (10) Nothing in this section prohibits any licensee under this chapter from allowing a per-  
 28 son who is visibly intoxicated from remaining on the licensed premises so long as the person is not  
 29 sold or served any alcoholic liquor.

30       **SECTION 2.** ORS 809.280 is amended to read:

31       809.280. (1) This section establishes the procedures the Department of Transportation shall fol-  
 32 low when a court orders or recommends the suspension or revocation of driving privileges. This  
 33 section also establishes the period of time the revocation or suspension will be effective.

34       (2) When a court orders a suspension of driving privileges under ORS 809.270, the department  
 35 shall immediately make proper entry in its files and records and take other action as necessary to  
 36 implement the order. The suspension shall remain in force until the department is notified by the  
 37 court that the suspension is ended, except that, if the department is ordered to automatically restore  
 38 the driving privileges upon the successful completion of a program, the department shall do so and  
 39 shall notify the judge that the person has complied with the order of the judge.

40       (3) When a court recommends a suspension of driving privileges under ORS 809.120, the de-  
 41 partment shall impose the suspension as recommended by the court.

42       (4) When a court notifies the department under ORS 809.130 of an unsettled judgment, the de-  
 43 partment shall suspend and, subject to any other requirements of law, restore the driving privileges  
 44 upon appropriate notification from the court under ORS 809.130, except that the department shall  
 45 only impose the suspension after the department has determined that:

1 (a) The judgment was rendered against the person;

2 (b) The judgment has remained unsettled as described in ORS 809.470 for 60 days; and

3 (c) The judgment continues to be unsettled as described in ORS 809.470.

4 (5) When a court notifies the department under ORS 419C.472 or 809.220 to suspend for failure  
5 to appear, the department shall suspend the driving privileges of the person for an indefinite period.  
6 The department shall terminate the suspension upon notification by the court or upon the elapse  
7 of 10 years from the date of suspension. A suspension under this subsection shall be placed on the  
8 defendant's driving record. The department shall not suspend any driving privileges under this sub-  
9 section for a person's failure to appear on a parking, pedestrian or bicyclist offense.

10 (6) When a court sends the department a license or otherwise notifies the department under ORS  
11 810.310, the department shall suspend the driving privileges of the person for an indefinite period.  
12 The department shall terminate the suspension ordered under this section upon notification by the  
13 court or upon the lapse of 10 years from the date of suspension, whichever comes first.

14 (7) In addition to any other authority to suspend driving privileges under the vehicle code, the  
15 department shall suspend all driving privileges of any person upon receipt of an order of denial of  
16 driving privileges under ORS 809.260. The suspension shall be imposed without hearing. The driving  
17 privileges of the person shall be suspended as provided in the following:

18 (a) Upon receipt of the first order denying driving privileges, the department shall impose a  
19 suspension for one year, or until the person so suspended reaches 17 years of age, whichever is  
20 longer.

21 (b) Upon receipt of a second or subsequent order denying driving privileges, the department  
22 shall suspend for one year or until the person reaches 18 years of age, whichever is longer.

23 (8) If the department receives notice from a court that it has withdrawn an order issued under  
24 ORS 809.260, the department shall immediately reinstate any driving privileges that have been sus-  
25 pended under subsection (7) of this section because of the issuance of the order.

26 (9) When a court orders suspension of driving privileges under ORS 165.805 or 471.430, the de-  
27 partment shall impose the suspension as ordered by the court.

28 (10) When a court orders a suspension of driving privileges under ORS 809.265, the department  
29 shall immediately suspend all driving privileges of the person. Upon receipt of an order suspending  
30 driving privileges, the department shall impose a suspension for six months.

31 (11) When a court orders revocation of driving privileges as provided in ORS 809.235, the de-  
32 partment shall impose the revocation as ordered. The revocation shall remain in effect until the  
33 department is notified by a court that the person's driving privileges have been ordered restored.

34 (12) When a court orders suspension of driving privileges under ORS 811.109, the department  
35 shall impose the suspension as ordered by the court.

36 (13) When a court orders suspension of driving privileges under ORS 811.135, the department  
37 shall immediately suspend all driving privileges of the person for one year.

38 **(14) When a court orders suspension of driving privileges under ORS 471.410, the de-**  
39 **partment shall immediately suspend all driving privileges and the right to apply for driving**  
40 **privileges for 90 days.**

41 **SECTION 3. The amendments to ORS 471.410 and 809.280 by sections 1 and 2 of this 2009**  
42 **Act apply to violations of ORS 417.410 committed on or after the effective date of this 2009**  
43 **Act.**