

Senate Bill 655

Sponsored by Senator MORRISETTE

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**.

Repeals laws relating to required contracts between suppliers and wholesalers of alcoholic beverages. Eliminates statutorily mandated exclusive territories for wholesalers of alcoholic beverages. Repeals other laws governing relationship between suppliers and wholesalers of alcoholic beverages.

Allows manufacturer or wholesaler of alcoholic beverages to enter into agreement with retail licensee that provides for payment for alcoholic beverages, after delivery, by check or electronic fund transfer.

A BILL FOR AN ACT

1
2 Relating to alcoholic beverages; creating new provisions; amending ORS 166.715, 471.027, 471.038,
3 471.040, 471.200, 471.315, 471.500, 471.730, 471.760 and 471.990; and repealing ORS 471.485,
4 474.005, 474.007, 474.011, 474.015, 474.025, 474.035, 474.045, 474.055, 474.065, 474.075, 474.085,
5 474.095, 474.105 and 474.115.

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

7 **SECTION 1. ORS 471.485, 474.005, 474.007, 474.011, 474.015, 474.025, 474.035, 474.045, 474.055,**
8 **474.065, 474.075, 474.085, 474.095, 474.105 and 474.115 are repealed.**

9 **SECTION 2. Section 3 of this 2009 Act is added to and made a part of ORS 471.392 to**
10 **471.400.**

11 **SECTION 3. Nothing in ORS 471.392 to 471.400 or any other provision of this chapter**
12 **prevents a manufacturer or wholesaler from entering into an agreement with a retail**
13 **licensee that provides for payment for alcoholic beverages by check or electronic funds**
14 **transfer after the alcoholic beverages are delivered to the licensed premises of the retail**
15 **licensee.**

16 **SECTION 4. ORS 166.715 is amended to read:**

17 166.715. As used in ORS 166.715 to 166.735, unless the context requires otherwise:

18 (1) "Documentary material" means any book, paper, document, writing, drawing, graph, chart,
19 photograph, phonograph record, magnetic tape, computer printout, other data compilation from
20 which information can be obtained or from which information can be translated into usable form,
21 or other tangible item.

22 (2) "Enterprise" includes any individual, sole proprietorship, partnership, corporation, business
23 trust or other profit or nonprofit legal entity, and includes any union, association or group of indi-
24 viduals associated in fact although not a legal entity, and both illicit and licit enterprises and gov-
25 ernmental and nongovernmental entities.

26 (3) "Investigative agency" means the Department of Justice or any district attorney.

27 (4) "Pattern of racketeering activity" means engaging in at least two incidents of racketeering
28 activity that have the same or similar intents, results, accomplices, victims or methods of commis-

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 sion or otherwise are interrelated by distinguishing characteristics, including a nexus to the same
2 enterprise, and are not isolated incidents, provided at least one of such incidents occurred after
3 November 1, 1981, and that the last of such incidents occurred within five years after a prior inci-
4 dent of racketeering activity. Notwithstanding ORS 131.505 to 131.525 or 419A.190 or any other
5 provision of law providing that a previous prosecution is a bar to a subsequent prosecution, conduct
6 that constitutes an incident of racketeering activity may be used to establish a pattern of
7 racketeering activity without regard to whether the conduct previously has been the subject of a
8 criminal prosecution or conviction or a juvenile court adjudication, unless the prosecution resulted
9 in an acquittal or the adjudication resulted in entry of an order finding the youth not to be within
10 the jurisdiction of the juvenile court.

11 (5) "Person" means any individual or entity capable of holding a legal or beneficial interest in
12 real or personal property.

13 (6) "Racketeering activity" includes conduct of a person committed both before and after the
14 person attains the age of 18 years, and means to commit, to attempt to commit, to conspire to
15 commit, or to solicit, coerce or intimidate another person to commit:

16 (a) Any conduct that constitutes a crime, as defined in ORS 161.515, under any of the following
17 provisions of the Oregon Revised Statutes:

18 (A) ORS 59.005 to 59.451, 59.710 to 59.830, 59.991 and 59.995, relating to securities;

19 (B) ORS 162.015, 162.025 and 162.065 to 162.085, relating to bribery and perjury;

20 (C) ORS 162.235, 162.265 to 162.305, 162.325, 162.335, 162.355 and 162.365, relating to obstructing
21 governmental administration;

22 (D) ORS 162.405 to 162.425, relating to abuse of public office;

23 (E) ORS 162.455, relating to interference with legislative operation;

24 (F) ORS 163.095 to 163.115, 163.118, 163.125 and 163.145, relating to criminal homicide;

25 (G) ORS 163.160 to 163.205, relating to assault and related offenses;

26 (H) ORS 163.225 and 163.235, relating to kidnapping;

27 (I) ORS 163.275, relating to coercion;

28 (J) ORS 163.670 to 163.693, relating to sexual conduct of children;

29 (K) ORS 164.015, 164.043, 164.045, 164.055, 164.057, 164.075 to 164.095, 164.098, 164.125, 164.135,
30 164.140, 164.215, 164.225 and 164.245 to 164.270, relating to theft, burglary, criminal trespass and
31 related offenses;

32 (L) ORS 164.315 to 164.335, relating to arson and related offenses;

33 (M) ORS 164.345 to 164.365, relating to criminal mischief;

34 (N) ORS 164.395 to 164.415, relating to robbery;

35 (O) ORS 164.865, 164.875 and 164.868 to 164.872, relating to unlawful recording or labeling of a
36 recording;

37 (P) ORS 165.007 to 165.022, 165.032 to 165.042 and 165.055 to 165.070, relating to forgery and
38 related offenses;

39 (Q) ORS 165.080 to 165.109, relating to business and commercial offenses;

40 (R) ORS 165.485 to 165.515, 165.540 and 165.555, relating to communication crimes;

41 (S) ORS 166.180, 166.190, 166.220, 166.250, 166.270, 166.275, 166.410, 166.450 and 166.470, relating
42 to firearms and other weapons;

43 (T) ORS 164.377 (2) to (4), as punishable under ORS 164.377 (5)(b), 167.007 to 167.017, 167.054,
44 167.057, 167.062 to 167.080, 167.090, 167.122 to 167.137, 167.147, 167.164, 167.167, 167.212, 167.355,
45 167.365, 167.370, 167.428, 167.431 and 167.439, relating to prostitution, obscenity, sexually explicit

1 material, sexual conduct, gambling, computer crimes involving the Oregon State Lottery, animal
2 fighting, forcible recovery of a fighting bird and related offenses;

3 (U) ORS 171.990, relating to legislative witnesses;

4 (V) ORS 260.575 and 260.665, relating to election offenses;

5 (W) ORS 314.075, relating to income tax;

6 (X) ORS 180.440 (2) and ORS chapter 323, relating to cigarette and tobacco products taxes and
7 the directory developed under ORS 180.425;

8 (Y) ORS 411.630, 411.675, 411.690 and 411.840, relating to public assistance payments, and ORS
9 411.990 (2) and (3);

10 (Z) ORS 462.140, 462.415 and 462.420 to 462.520, relating to racing;

11 (AA) ORS 463.995, relating to boxing, mixed martial arts and entertainment wrestling, as defined
12 in ORS 463.015;

13 (BB) ORS 471.305, 471.360, 471.392 to 471.400, 471.403, 471.404, 471.405, 471.425, 471.442, 471.445,
14 471.446, [471.485,] 471.490 and 471.675, relating to alcoholic liquor, and any of the provisions of ORS
15 chapter 471 relating to licenses issued under the Liquor Control Act;

16 (CC) ORS 475.005 to 475.285 and 475.840 to 475.980, relating to controlled substances;

17 (DD) ORS 480.070, 480.210, 480.215, 480.235 and 480.265, relating to explosives;

18 (EE) ORS 819.010, 819.040, 822.100, 822.135 and 822.150, relating to motor vehicles;

19 (FF) ORS 658.452 or 658.991 (2) to (4), relating to farm labor contractors;

20 (GG) ORS chapter 706, relating to banking law administration;

21 (HH) ORS chapter 714, relating to branch banking;

22 (II) ORS chapter 716, relating to mutual savings banks;

23 (JJ) ORS chapter 723, relating to credit unions;

24 (KK) ORS chapter 726, relating to pawnbrokers;

25 (LL) ORS 166.382 and 166.384, relating to destructive devices;

26 (MM) ORS 165.074;

27 (NN) ORS 59.840 to 59.980, relating to mortgage bankers and mortgage brokers;

28 (OO) ORS chapter 496, 497 or 498, relating to wildlife;

29 (PP) ORS 163.355 to 163.427, relating to sexual offenses;

30 (QQ) ORS 166.015, relating to riot;

31 (RR) ORS 166.155 and 166.165, relating to intimidation;

32 (SS) ORS chapter 696, relating to real estate and escrow;

33 (TT) ORS chapter 704, relating to outfitters and guides;

34 (UU) ORS 165.692, relating to making a false claim for health care payment;

35 (VV) ORS 162.117, relating to public investment fraud;

36 (WW) ORS 164.170 or 164.172;

37 (XX) ORS 647.140, 647.145 or 647.150, relating to trademark counterfeiting;

38 (YY) ORS 164.886;

39 (ZZ) ORS 167.312 and 167.388;

40 (AAA) ORS 164.889;

41 (BBB) ORS 165.800; or

42 (CCC) ORS 163.263, 163.264 or 163.266.

43 (b) Any conduct defined as “racketeering activity” under 18 U.S.C. 1961 (1)(B), (C), (D) and (E).

44 (7) “Unlawful debt” means any money or other thing of value constituting principal or interest
45 of a debt that is legally unenforceable in the state in whole or in part because the debt was incurred

1 or contracted:

2 (a) In violation of any one of the following:

3 (A) ORS chapter 462, relating to racing;

4 (B) ORS 167.108 to 167.164, relating to gambling; or

5 (C) ORS 82.010 to 82.170, relating to interest and usury.

6 (b) In gambling activity in violation of federal law or in the business of lending money at a rate
7 usurious under federal or state law.

8 (8) Notwithstanding contrary provisions in ORS 174.060, when this section references a statute
9 in the Oregon Revised Statutes that is substantially different in the nature of its essential provisions
10 from what the statute was when this section was enacted, the reference shall extend to and include
11 amendments to the statute.

12 **SECTION 5.** ORS 471.027 is amended to read:

13 471.027. This chapter [*and ORS 474.105 and 474.115*] shall be known and may be cited as the
14 “Liquor Control Act.”

15 **SECTION 6.** ORS 471.038 is amended to read:

16 471.038. (1) Nonbeverage food products described in subsection (6) of this section may be sold
17 at retail by any holder of a license issued by the Oregon Liquor Control Commission that authorizes
18 the sale of alcoholic liquor at retail, or in any store operated by the commission under the pro-
19 visions of ORS 471.750. Any nonbeverage food product containing more than one-half of one percent
20 of alcohol by volume must be clearly labeled to reflect the alcohol content of the product and clearly
21 labeled on the front of the package to indicate that the product may not be sold to persons under
22 21 years of age.

23 (2) Except as provided by this section, sales of nonbeverage food products described in sub-
24 section (6) of this section are subject to all provisions of this chapter, including the prohibitions on
25 sales to persons under 21 years of age and the prohibitions on sales to persons who are visibly
26 intoxicated.

27 (3) Nonbeverage food products described in subsection (6) of this section may be imported,
28 stored and distributed in this state without a license issued by the commission. Nonbeverage food
29 products described in subsection (6) of this section are not subject to the privilege taxes imposed
30 by ORS chapter 473.

31 (4) Manufacturers of nonbeverage food products described in subsection (6) of this section are
32 not subject to the provisions of ORS 471.392 to 471.400, [*471.485,*] 471.490 or 471.495 or any other
33 provision of this chapter relating to manufacturers of alcoholic liquor. A manufacturer of
34 nonbeverage food products described in subsection (6) of this section may sell and deliver the
35 product directly to a licensee authorized under this section to sell the product at retail.

36 (5) The holder of a distillery license issued under ORS 471.230 who is also a manufacturer of
37 nonbeverage food products described in subsection (6) of this section may purchase distilled liquor
38 directly from other distilleries.

39 (6) The provisions of this section apply only to nonbeverage food products that contain not more
40 than five percent alcohol by weight or 10 percent alcohol by volume, whichever is greater.

41 **SECTION 7.** ORS 471.040 is amended to read:

42 471.040. (1) The Oregon Liquor Control Commission has the powers and duties specified in this
43 chapter [*and ORS 474.105 and 474.115*], and also the powers necessary or proper to enable it to
44 carry out fully and effectually all the purposes of this chapter [*and ORS 474.105 and 474.115*]. [*It*]
45 **The commission** shall make such rules and regulations pertaining to natural and fortified wines

1 as will prevent the importation and sale in Oregon of blended, rectified, adulterated or low-quality
2 wines. The jurisdiction, supervision, powers and duties of the commission extend to any person who
3 buys, sells, manufactures, imports or transports any alcoholic liquor within this state. The commis-
4 sion may sue and be sued.

5 (2) Except for the power to adopt rules, the commission may delegate any of the commission's
6 powers or duties to the administrator appointed under ORS 471.720.

7 **SECTION 8.** ORS 471.200 is amended to read:

8 471.200. (1) A brewery-public house license allows the licensee:

9 (a) To manufacture on the licensed premises, store, transport, sell to wholesale malt beverage
10 and wine licensees of the Oregon Liquor Control Commission and export malt beverages;

11 (b) To sell malt beverages manufactured on or off the licensed premises at retail for consumption
12 on or off the premises;

13 (c) To sell malt beverages in brewery-sealed packages at retail directly to the consumer for
14 consumption off the premises;

15 (d) To sell on the licensed premises at retail malt beverages manufactured on or off the licensed
16 premises in unpasteurized or pasteurized form directly to the consumer for consumption off the
17 premises, delivery of which may be made in a securely covered container supplied by the consumer;

18 (e) To sell wine and cider at retail for consumption on or off the premises; and

19 (f) To conduct the activities described in paragraphs (b) to (e) of this subsection at one location
20 other than the premises where the manufacturing occurs.

21 (2) In addition to the privileges specified in subsection (1) of this section, in any calendar year
22 a brewery-public house licensee may sell at wholesale to licensees of the commission malt beverages
23 produced by the brewery-public house licensee if the brewery-public house licensee produced 1,000
24 barrels or less of malt beverages in the immediately preceding calendar year.

25 (3) A brewery-public house licensee, or any person having an interest in the licensee, is a retail
26 licensee for the purposes of ORS 471.394 and, except as otherwise provided by this section and ORS
27 471.396, may not acquire or hold any right, title, lien, claim or other interest, financial or otherwise,
28 in, upon or to the premises, equipment, business or merchandise of any manufacturer or wholesaler,
29 as defined in ORS 471.392. A brewery-public house licensee, or any person having an interest in the
30 licensee, is also a manufacturer for the purposes of ORS 471.398 and, except as otherwise provided
31 by this section and ORS 471.400 **and section 3 of this 2009 Act**, may not acquire or hold any right,
32 title, lien, claim or other interest, financial or otherwise, in, upon or to the premises, equipment,
33 business or merchandise of any other retail licensee, as defined in ORS 471.392.

34 (4) A brewery-public house licensee, or any person having an interest in the licensee, is a retail
35 licensee for the purposes of ORS 471.398 and, except as otherwise provided by this section and ORS
36 471.400, may not accept directly or indirectly any financial assistance described in ORS 471.398 from
37 any manufacturer or wholesaler, as defined in ORS 471.392. A brewery-public house licensee, or any
38 person having an interest in the licensee, is also a manufacturer for the purposes of ORS 471.398
39 and, except as otherwise provided by this section and ORS 471.400, may not provide directly or in-
40 directly any financial assistance described in ORS 471.398 to any retail licensee, as defined in ORS
41 471.392. The prohibitions on financial assistance in ORS 471.398 do not apply to financial assistance
42 between manufacturing and retail businesses licensed to the same person under the provisions of
43 this section.

44 (5) Notwithstanding subsection (3) of this section, a brewery-public house licensee, or any person
45 having an interest in the licensee, may also hold a winery license authorized by ORS 471.223. A

1 brewery-public house licensee, or any person having an interest in the licensee, may also hold a
2 warehouse license authorized by ORS 471.242.

3 (6) Notwithstanding subsection (3) of this section, a brewery-public house licensee is eligible for
4 limited on-premises sales licenses and temporary sales licenses.

5 (7)(a) Notwithstanding subsection (3) of this section, and except as provided in this subsection,
6 a brewery-public house licensee, or any person having an interest in the licensee, may also hold a
7 full on-premises sales license. If a person holds both a brewery-public house license and a full on-
8 premises sales license, nothing in this chapter shall prevent the sale by the licensee of both distilled
9 liquor and malt beverages manufactured under the brewery-public house license.

10 (b) The commission may not issue a full on-premises sales license to a brewery-public house
11 licensee under the provisions of this subsection if the brewery-public house licensee, or any person
12 having an interest in the licensee or exercising control over the licensee, is a brewery that brews
13 more than 200,000 barrels of malt beverages annually or a winery that produces more than 200,000
14 gallons of wine annually.

15 (8) Notwithstanding any other provision of this chapter, a brewery-public house licensee, or any
16 person having an interest in the licensee, may also hold a distillery license. No provision of this
17 chapter prevents a brewery-public house licensee from becoming a retail sales agent of the com-
18 mission for the purpose of selling distilled liquors.

19 (9) Notwithstanding subsection (3) of this section, the commission by rule may authorize a
20 brewery-public house licensee to coproduce special events with other manufacturers.

21 (10)(a) Notwithstanding subsection (3) of this section, a brewery-public house licensee may hold,
22 directly or indirectly, an interest in a manufacturer or wholesaler, provided that the interest does
23 not result in exercise of control over, or participation in the management of, the manufacturer's or
24 wholesaler's business or business decisions and does not result in exclusion of any competitor's
25 brand of alcoholic liquor.

26 (b) Notwithstanding subsection (3) of this section, a manufacturer or wholesaler, and any officer,
27 director or substantial stockholder of any corporate manufacturer or wholesaler, may hold, directly
28 or indirectly, an interest in a brewery-public house licensee, provided that the interest does not re-
29 sult in exercise of control over, or participation in the management of, the licensee's business or
30 business decisions and does not result in exclusion of any competitor's brand of alcoholic liquor.

31 (11) For purposes of ORS chapter 473, a brewery-public house licensee shall be considered to
32 be a manufacturer.

33 **SECTION 9.** ORS 471.315 is amended to read:

34 471.315. (1) The Oregon Liquor Control Commission may cancel or suspend any license issued
35 under this chapter, or impose a civil penalty in lieu of or in addition to suspension as provided by
36 ORS 471.322, if it finds or has reasonable ground to believe any of the following to be true:

37 (a) That the licensee:

38 (A) Has violated any provision of this chapter [*or ORS 474.115*] or any rule of the commission
39 adopted pursuant thereto.

40 (B) Has made any false representation or statement to the commission in order to induce or
41 prevent action by the commission.

42 (C) Is not maintaining an acceptable bond as required by ORS 471.311 or is not maintaining the
43 insurance or bond required by ORS 471.168.

44 (D) Has maintained an insanitary establishment.

45 (E) Is insolvent or incompetent or physically unable to carry on the management of the estab-

1 lishment of the licensee.

2 (F) Is in the habit of using alcoholic liquor, habit-forming drugs or controlled substances to ex-
3 cess.

4 (G) Knowingly has sold alcoholic liquor to persons under 21 years of age or to persons visibly
5 intoxicated at the time of sale or has knowingly allowed the consumption of alcoholic liquor on the
6 licensed premises by a person who is visibly intoxicated at the time of consumption.

7 (H) Has misrepresented to a customer or the public any alcoholic liquor sold by the licensee.

8 (I) Since the granting of the license, has been convicted of a felony, of violating any of the liquor
9 laws of this state, general or local, or of any misdemeanor or violation of any municipal ordinance
10 committed on the licensed premises.

11 (b) That any person licensed to sell at retail for consumption on the premises is acting as an
12 agent of, or is a manufacturer or wholesaler of alcoholic liquors, or has borrowed money or prop-
13 erty, or has accepted gratuities or rebates, or has obtained the use of equipment from any man-
14 ufacturer or wholesaler of alcoholic liquor or any agent thereof.

15 (c) That there is a history of serious and persistent problems involving disturbances, lewd or
16 unlawful activities or noise either in the premises or involving patrons of the establishment in the
17 immediate vicinity of the premises if the activities in the immediate vicinity of the premises are
18 related to the sale or service of alcohol under the exercise of the license privilege. Behavior which
19 is grounds for cancellation or suspension of a license under this section, where so related to the sale
20 or service of alcohol, includes, but is not limited to obtrusive or excessive noise, music or sound
21 vibrations; public drunkenness; fights; altercations; harassment or unlawful drug sales; alcohol or
22 related litter; trespassing on private property; and public urination. Mitigating factors include a
23 showing by the licensee that the problems are not serious or persistent or that the licensee has
24 demonstrated a willingness and ability to control adequately the licensed premises and patrons' be-
25 havior in the immediate vicinity of the premises which is related to the licensee's sale or service
26 of alcohol under the licensee's exercise of the license privilege.

27 (d) That there is any other reason which, in the opinion of the commission, based on public
28 convenience or necessity, warrants canceling or suspending such license.

29 (2) Civil penalties under this section shall be imposed as provided in ORS 183.745.

30 **SECTION 10.** ORS 471.500 is amended to read:

31 471.500. The provisions of ORS [471.485,] 471.490 and 471.495 [shall] **do** not apply to [any] a
32 common carrier licensed by the Oregon Liquor Control Commission.

33 **SECTION 11.** ORS 471.730 is amended to read:

34 471.730. The function, duties and powers of the Oregon Liquor Control Commission include the
35 following:

36 (1) To control the manufacture, possession, sale, purchase, transportation, importation and de-
37 livery of alcoholic liquor in accordance with the provisions of this chapter [and ORS 474.105 and
38 474.115].

39 (2) To grant, refuse, suspend or cancel licenses and permits for the sale or manufacture of al-
40 coholic liquor, or other licenses and permits in regard thereto, and to permit, in its discretion, the
41 transfer of a license of any person.

42 (3) To collect the taxes and duties imposed by statutes relating to alcoholic liquors, and to issue,
43 and provide for cancellation, stamps and other devices as evidence of payment of such taxes or du-
44 ties.

45 (4) To investigate and aid in the prosecution of every violation of statutes relating to alcoholic

1 liquors[,] **and** to seize alcoholic liquor manufactured, sold, kept, imported or transported in
2 contravention of this chapter [*and ORS 474.105 and 474.115*], and apply for the confiscation thereof,
3 whenever required by statute, and cooperate in the prosecution of offenders before any court of
4 competent jurisdiction.

5 (5) To adopt such regulations as are necessary and feasible for carrying out the provisions of
6 this chapter [*and ORS 474.105 and 474.115*] and to amend or repeal such regulations. When such
7 regulations are adopted they shall have the full force and effect of law.

8 (6) To exercise all powers incidental, convenient or necessary to enable it to administer or carry
9 out any of the provisions of this chapter [*and ORS 474.105 and 474.115*].

10 (7) To control, regulate and prohibit any advertising by manufacturers, wholesalers or retailers
11 of alcoholic liquor by the medium of newspapers, letters, billboards, radio or otherwise.

12 (8) To sell, license, regulate and control the use of alcohol for scientific, pharmaceutical, man-
13 ufacturing, mechanical, industrial and other purposes, and to provide by regulation for the sale
14 thereof for such uses.

15 **SECTION 12.** ORS 471.760 is amended to read:

16 471.760. Each member of the Oregon Liquor Control Commission, or any of its authorized agents,
17 shall, for the purposes contemplated by this chapter [*and ORS 474.105 and 474.115*], have power to
18 issue subpoenas, compel the attendance of witnesses, administer oaths, certify to official acts, take
19 depositions within or without this state, as provided by law, and compel the production of pertinent
20 books, payrolls, accounts, papers, records, documents and testimony.

21 **SECTION 13.** ORS 471.990 is amended to read:

22 471.990. (1) Except where other punishment is specifically provided for, violation of any pro-
23 vision of this chapter [*and ORS 474.105 and 474.115*] is a misdemeanor.

24 (2) Except as otherwise specifically provided, municipal, justice and circuit courts have concur-
25 rent jurisdiction of all violations of this chapter [*and ORS 474.105 and 474.115*] committed within
26 their respective jurisdictions.

27 (3) A second or subsequent violation of ORS 471.440 is punishable upon conviction by
28 imprisonment in the custody of the Department of Corrections for not more than three years and
29 by a fine of not more than \$3,000.

30 (4) Subject to ORS 153.022, violation of any regulation promulgated under ORS 471.730 (5) is a
31 Class C violation.

32