

Senate Bill 1026

Sponsored by Senator DINGFELDER, Representative KOTEK; Senators ROSENBAUM, SHIELDS, Representatives CANNON, DEMBROW, SCHAUFLEER (Presession filed.)

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**.

Allows Oregon Liquor Control Commission to place restrictions on license of premises that experiences specified problems for purpose of preventing continuation of problems. Creates exception.

A BILL FOR AN ACT

1
2 Relating to Oregon Liquor Control Commission licensees; amending ORS 471.313 and 471.315.

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

4 **SECTION 1.** ORS 471.313 is amended to read:

5 471.313. The Oregon Liquor Control Commission may refuse to license any applicant under the
6 provisions of this chapter if the commission has reasonable ground to believe any of the following
7 to be true:

8 (1) That there are sufficient licensed premises in the locality set out in the application, or that
9 the granting of a license in the locality set out in the application is not demanded by public interest
10 or convenience. In determining whether there are sufficient licensed premises in the locality, the
11 commission shall consider seasonal fluctuations in the population of the locality and shall ensure
12 that there are adequate licensed premises to serve the needs of the locality during the peak seasons.

13 (2) That the applicant has not furnished an acceptable bond as required by ORS 471.311 or is
14 not maintaining the insurance or bond required by ORS 471.168.

15 (3) That, except as allowed by ORS 471.392 to 471.400, any applicant to sell at retail for con-
16 sumption on the premises has been financed or furnished with money or property by, or has any
17 connection with, or is a manufacturer of, or wholesale dealer in, alcoholic liquor.

18 (4) That the applicant:

19 (a) Is in the habit of using alcoholic beverages, habit-forming drugs or controlled substances to
20 excess.

21 (b) Has made false statements to the commission.

22 (c) Is incompetent or physically unable to carry on the management of the establishment pro-
23 posed to be licensed.

24 (d) Has been convicted of violating any of the alcoholic liquor laws of this state, general or lo-
25 cal, or has been convicted at any time of a felony.

26 (e) Has maintained an insanitary establishment.

27 (f) Is not of good repute and moral character.

28 (g) Did not have a good record of compliance with the alcoholic liquor laws of this state and
29 the rules of the commission when previously licensed.

30 (h) Is not the legitimate owner of the business proposed to be licensed, or other persons have
31 ownership interests in the business which have not been disclosed.

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 (i) Is not possessed of or has not demonstrated financial responsibility sufficient to adequately
 2 meet the requirements of the business proposed to be licensed.

3 (j) Is unable to read or write the English language or to understand the laws of Oregon relating
 4 to alcoholic liquor or the rules of the commission.

5 (5) That there is a history of serious and persistent problems involving disturbances, lewd or
 6 unlawful activities or noise, either in the premises proposed to be licensed or involving patrons of
 7 the establishment in the immediate vicinity of the premises, if the [*activities*] **problems** in the im-
 8 mediate vicinity of the premises are related to the sale or service of alcohol under the exercise of
 9 the license privilege. [*Behavior which is*] **For the purpose of addressing premises problems, the**
 10 **following apply:**

11 (a) **Problems that are** grounds for refusal of a license under this section, where so related to
 12 the sale or service of alcohol, [*includes, but is*] **include but are** not limited to:

- 13 (A) Obtrusive or excessive noise, music or sound vibrations;
- 14 (B) Public drunkenness;
- 15 (C) Fights;
- 16 (D) Altercations;
- 17 (E) Harassment;
- 18 (F) Unlawful drug sales;
- 19 (G) Alcohol or related litter;
- 20 (H) Trespassing on private property; and
- 21 (I) Public urination.

22 (b) Histories from premises currently or previously operated by the applicant may be considered
 23 when reasonable inference may be made that similar activities will occur as to the premises pro-
 24 posed to be licensed. The applicant may overcome the history by showing that the problems are not
 25 serious or persistent or [*that the applicant demonstrates*] **demonstrating** a willingness and ability to
 26 control adequately the premises proposed to be licensed and patrons' behavior in the immediate vi-
 27 cinity of the premises [*which*] **that** is related to the licensee's sale or service of alcohol under the
 28 licensee's exercise of the license privilege.

29 (c) **Except as provided in this paragraph, if a premises is experiencing serious and per-**
 30 **sistent problems listed in paragraph (a)(A) to (G) of this subsection but does not have a**
 31 **history of those problems, the commission may place restrictions on the license for the**
 32 **purpose of preventing the continuation of the problems. This paragraph does not apply to an**
 33 **off-premises sales license.**

34 **SECTION 2.** ORS 471.315 is amended to read:

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

39 (a) That the licensee:

- 40 (A) Has violated any provision of this chapter or ORS 474.115 or any rule of the commission
 41 adopted pursuant thereto.
- 42 (B) Has made any false representation or statement to the commission in order to induce or
 43 prevent action by the commission.

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

1 (D) Has maintained an insanitary establishment.

2 (E) Is insolvent or incompetent or physically unable to carry on the management of the estab-
3 lishment of the licensee.

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

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

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

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

13 (b) That any person licensed to sell at retail for consumption on the premises:

14 (A) Is, **or is** acting as an agent of, [*or is*] a manufacturer or wholesaler of alcoholic liquors;[
15 or

16 (B) Has borrowed money or property, [*or has*] accepted gratuities or rebates[,] or [*has*] obtained
17 the use of equipment from any manufacturer or wholesaler of alcoholic liquor or any agent
18 [*thereof*] **of a manufacturer or wholesaler of alcoholic liquor.**

19 (c) That there is a history of serious and persistent problems involving disturbances, lewd or
20 unlawful activities or noise, either in the premises or involving patrons of the establishment in the
21 immediate vicinity of the premises, if the [*activities*] **problems** in the immediate vicinity of the
22 premises are related to the sale or service of alcohol under the exercise of the license privilege.
23 [*Behavior which is*] **For the purpose of addressing premises problems, the following apply:**

24 (A) **Problems that are** grounds for cancellation or suspension of a license under this section,
25 where so related to the sale or service of alcohol, [*includes, but is*] **include but are** not limited to:

26 (i) Obtrusive or excessive noise, music or sound vibrations;

27 (ii) Public drunkenness;

28 (iii) Fights;

29 (iv) Altercations;

30 (v) Harassment; [*or*]

31 (vi) Unlawful drug sales;

32 (vii) Alcohol or related litter;

33 (viii) Trespassing on private property; and

34 (ix) Public urination.

35 (B) Mitigating factors include a showing by the licensee that the problems are not serious or
36 persistent or that the licensee has demonstrated a willingness and ability to control adequately the
37 licensed premises and patrons' behavior in the immediate vicinity of the premises [*which*] **that** is
38 related to the licensee's sale or service of alcohol under the licensee's exercise of the license priv-
39 ilege.

40 (C) **Except as provided in this subparagraph, if a premises is experiencing serious and**
41 **persistent problems listed in subparagraph (A)(i) to (vii) of this paragraph but does not have**
42 **a history of those problems, the commission may place restrictions on the license for the**
43 **purpose of preventing the continuation of the problems. This subparagraph does not apply**
44 **to an off-premises sales license.**

45 (d) That there is any other reason [*which*] **that**, in the opinion of the commission, based on

1 public convenience or necessity, warrants canceling or suspending [*such*] **the** license.

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

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