

Enrolled
Senate Bill 1055

Sponsored by Senator WINTERS; Senators ATKINSON, DEVLIN, FERRIOLI, TELFER, WHITSETT,
Representative WINGARD (Pre-session filed.)

CHAPTER

AN ACT

Relating to wineries in exclusive farm use zones; creating new provisions; amending ORS 215.452; and declaring an emergency.

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

SECTION 1. ORS 215.452 is amended to read:

215.452. (1) A winery[, *authorized*] **may be established as an outright permitted use in an area zoned for exclusive farm use** under ORS 215.213 (1)(p) and 215.283 (1)(n)[, *is a facility that*] **if the winery produces wine with a maximum annual production of:**

(a) Less than 50,000 gallons and that:

(A) Owns an on-site vineyard of at least 15 acres;

(B) Owns a contiguous vineyard of at least 15 acres;

(C) Has a long-term contract for the purchase of all of the grapes from at least 15 acres of a vineyard contiguous to the winery; or

(D) Obtains grapes from any combination of subparagraph (A), (B) or (C) of this paragraph; or

(b) At least 50,000 gallons and no more than 100,000 gallons and that:

(A) Owns an on-site vineyard of at least 40 acres;

(B) Owns a contiguous vineyard of at least 40 acres;

(C) Has a long-term contract for the purchase of all of the grapes from at least 40 acres of a vineyard contiguous to the winery; or

(D) Obtains grapes from any combination of subparagraph (A), (B) or (C) of this paragraph.

(2) [The] A winery described in subsection (1)[(a) or (b)] of this section [shall allow only the sale of] **may sell only:**

[(a) Wines produced in conjunction with the winery; and]

[(b) Items directly related to wine, the sales of which are incidental to retail sale of wine on-site. Such items include those served by a limited service restaurant, as defined in ORS 624.010.]

(a) Wines produced in conjunction with the winery;

(b) Items directly related to the sale and promotion of wine produced in conjunction with the winery, the sale of which is incidental to retail sale of wine on-site, including food and beverages served by a limited service restaurant, as defined in ORS 624.010, wine not produced in conjunction with the winery and gifts; and

(c) Services directly related to the sale and promotion of wine produced in conjunction with the winery, the sale and delivery of which are incidental to retail sale of wine on-site, including private events hosted by the winery or by patrons of the winery, at which wine produced in conjunction with the winery is featured.

(3) The gross income from the sale of incidental items and services under subsection (2)(b) and (c) of this section may not exceed 25 percent of the gross income from the retail sale on-site of wine produced in conjunction with the winery.

[(3)] (4) Prior to the issuance of a permit to establish a winery under this section, the applicant shall show that vineyards[,] described in subsection (1)[(a) and (b)] of this section[,] have been planted or that the contract has been executed, as applicable.

[(4)] (5) A local government shall adopt findings for each of the standards described in paragraphs (a) and (b) of this subsection. Standards imposed on the siting of a winery shall be limited solely to each of the following for the sole purpose of limiting demonstrated conflicts with accepted farming or forest practices on adjacent lands:

(a) Establishment of a setback, not to exceed 100 feet, from all property lines for the winery and all public gathering places; and

(b) Provision of direct road access, internal circulation and parking.

[(5)] (6) A local government shall also apply local criteria regarding floodplains, geologic hazards, the Willamette River Greenway, solar access, airport safety or other regulations for resource protection acknowledged to comply with any statewide goal respecting open spaces, scenic and historic areas and natural resources.

SECTION 2. ORS 215.452, as amended by section 1 of this 2010 Act, is amended to read:

215.452. (1) A winery may be established as an outright permitted use in an area zoned for exclusive farm use under ORS 215.213 (1)(p) and 215.283 (1)(n) if the winery produces wine with a maximum annual production of:

(a) Less than 50,000 gallons and that:

(A) Owns an on-site vineyard of at least 15 acres;

(B) Owns a contiguous vineyard of at least 15 acres;

(C) Has a long-term contract for the purchase of all of the grapes from at least 15 acres of a vineyard contiguous to the winery; or

(D) Obtains grapes from any combination of subparagraph (A), (B) or (C) of this paragraph; or

(b) At least 50,000 gallons and no more than 100,000 gallons and that:

(A) Owns an on-site vineyard of at least 40 acres;

(B) Owns a contiguous vineyard of at least 40 acres;

(C) Has a long-term contract for the purchase of all of the grapes from at least 40 acres of a vineyard contiguous to the winery; or

(D) Obtains grapes from any combination of subparagraph (A), (B) or (C) of this paragraph.

(2) A winery described in subsection (1) of this section may sell only:

(a) Wines produced in conjunction with the winery; **and**

(b) Items directly related to the sale and promotion of wine produced in conjunction with the winery, the sale of which is incidental to retail sale of wine on-site, including food and beverages served by a limited service restaurant, as defined in ORS 624.010. [*wine not produced in conjunction with the winery and gifts; and*]

[(c) *Services directly related to the sale and promotion of wine produced in conjunction with the winery, the sale and delivery of which are incidental to retail sale of wine on-site, including private events hosted by the winery or by patrons of the winery, at which wine produced in conjunction with the winery is featured.*]

[(3) *The gross income from the sale of incidental items and services under subsection (2)(b) and (c) of this section may not exceed 25 percent of the gross income from the retail sale on-site of wine produced in conjunction with the winery.*]

[(4)] (3) Prior to the issuance of a permit to establish a winery under this section, the applicant shall show that vineyards described in subsection (1) of this section have been planted or that the contract has been executed, as applicable.

[(5)] (4) A local government shall adopt findings for each of the standards described in paragraphs (a) and (b) of this subsection. Standards imposed on the siting of a winery shall be limited

solely to each of the following for the sole purpose of limiting demonstrated conflicts with accepted farming or forest practices on adjacent lands:

(a) Establishment of a setback, not to exceed 100 feet, from all property lines for the winery and all public gathering places; and

(b) Provision of direct road access, internal circulation and parking.

[(6)] (5) A local government shall also apply local criteria regarding floodplains, geologic hazards, the Willamette River Greenway, solar access, airport safety or other regulations for resource protection acknowledged to comply with any statewide goal respecting open spaces, scenic and historic areas and natural resources.

SECTION 3. The amendments to ORS 215.452 by section 2 of this 2010 Act become operative on January 1, 2013.

SECTION 4. This 2010 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2010 Act takes effect on its passage.

Passed by Senate February 16, 2010

Received by Governor:

Repassed by Senate February 23, 2010

.....M,....., 2010

Approved:

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Secretary of Senate

.....M,....., 2010

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President of Senate

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Governor

Passed by House February 23, 2010

Filed in Office of Secretary of State:

.....M,....., 2010

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Speaker of House

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Secretary of State