

House Bill 2146

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor John A. Kitzhaber for Oregon Liquor Control Commission)

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**.

Eliminates culpable mental state requirement for administrative sanctions against liquor licensee selling alcoholic liquor to minors or visibly intoxicated persons.

A BILL FOR AN ACT

1
2 Relating to the imposition of sanctions by the Oregon Liquor Control Commission; creating new
3 provisions; and amending ORS 471.315.

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

5 **SECTION 1.** ORS 471.315 is amended to read:

6 471.315. (1) The Oregon Liquor Control Commission may cancel or suspend any license issued
7 under this chapter, or impose a civil penalty in lieu of or in addition to suspension as provided by
8 ORS 471.322, if it finds or has reasonable ground to believe any of the following to be true:

9 (a) That the licensee:

10 (A) Has violated any provision of this chapter or ORS 474.115 or any rule of the commission
11 adopted pursuant thereto.

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

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

16 (D) Has maintained an insanitary establishment.

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

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

21 (G) [*Knowingly*] Has sold alcoholic liquor to persons under 21 years of age or to persons visibly
22 intoxicated at the time of sale or has knowingly allowed the consumption of alcoholic liquor on the
23 licensed premises by a person who is visibly intoxicated at the time of consumption.

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

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

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

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

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

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

16 **SECTION 2. The amendments to ORS 471.315 by section 1 of this 2011 Act apply to can-**
17 **cellations, suspensions and civil penalties imposed for sales that a licensee makes on or after**
18 **the effective date of this 2011 Act.**

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