

# House Bill 2151

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**.

Allows city or county to adopt limits on numbers of premises within city or county, or within specific areas of city or county, that Oregon Liquor Control Commission may license for full or limited on-premises sales or off-premises sales of alcoholic beverages or as brewery-public house.

## A BILL FOR AN ACT

1  
2 Relating to alcoholic beverages; creating new provisions; and amending ORS 471.313.

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

4 **SECTION 1. Section 2 of this 2011 Act is added to and made a part of ORS chapter 471.**

5 **SECTION 2. (1) A city or county may adopt limits on the number of premises within the**  
6 **city or county, or within specific areas of the city or county, that the Oregon Liquor Control**  
7 **Commission may license for full on-premises sales, limited on-premises sales or off-premises**  
8 **sales or as a brewery-public house. A city or county shall base any limit that applies for all**  
9 **of the city or county on public safety concerns. A city or county shall base any limit that**  
10 **applies for a specific area of the city or county on officially designated local alcohol impact**  
11 **areas.**

12 **(2) Subject to subsections (3) and (4) of this section, the commission may not issue a full**  
13 **or limited on-premises sales license, off-premises sales license or brewery-public house li-**  
14 **cence if issuance of the license would violate a limit adopted by a city or county under this**  
15 **section.**

16 **(3) A limit adopted by a city or county under this section must be delivered to the com-**  
17 **mission in written form, identify each type of license being limited and state the maximum**  
18 **permissible number for that type of license. A city or county may change or rescind the limit**  
19 **by delivering written notice to the commission. A limit, change or rescission shall take ef-**  
20 **fect on July 1 on or next following the date of receipt of the notice by the commission.**

21 **(4) A limit adopted by a city or county under this section does not apply to the following:**

22 **(a) The issuance of a license to a public passenger carrier under ORS 471.182.**

23 **(b) The renewal of a license for a premises.**

24 **(c) The reinstatement of a suspended license.**

25 **(d) The issuance of a temporary authority or license upon a change in ownership of an**  
26 **existing business that is a licensed premises.**

27 **(e) A change in the location of a licensed premises, unless the new location is subject to**  
28 **a limit that did not apply at the former location.**

29 **(5) A city or county that adopts a limit under subsection (1) of this section shall maintain**  
30 **a list of the applicants that are refused licensing because of the limit. The city or county**

**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 **shall provide a process ensuring that when licensing opportunities become available within**  
 2 **an area affected by a limit, the listed applicants are allowed to reapply for licensing in the**  
 3 **same order that their previous applications were refused.**

4 **SECTION 3.** 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.

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

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

36 (5) That there is a history of serious and persistent problems involving disturbances, lewd or  
 37 unlawful activities or noise either in the premises proposed to be licensed or involving patrons of  
 38 the establishment in the immediate vicinity of the premises if the activities in the immediate vicinity  
 39 of the premises are related to the sale or service of alcohol under the exercise of the license privi-  
 40 lege. Behavior which is grounds for refusal of a license under this section, where so related to the  
 41 sale or service of alcohol, includes, but is not limited to obtrusive or excessive noise, music or sound  
 42 vibrations; public drunkenness; fights; altercations; harassment; unlawful drug sales; alcohol or re-  
 43 lated litter; trespassing on private property; and public urination. Histories from premises currently  
 44 or previously operated by the applicant may be considered when reasonable inference may be made  
 45 that similar activities will occur as to the premises proposed to be licensed. The applicant may

1 overcome the history by showing that the problems are not serious or persistent or that the appli-  
2 cant demonstrates a willingness and ability to control adequately the premises proposed to be li-  
3 censed and patrons' behavior in the immediate vicinity of the premises which is related to the  
4 licensee's sale or service of alcohol under the licensee's exercise of the license privilege.

5 **(6) That issuance of the license would exceed an applicable city or county limit on li-**  
6 **censed premises adopted under section 2 of this 2011 Act.**

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