

A-Engrossed
House Bill 2361

Ordered by the House April 5
Including House Amendments dated April 5

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Business and Labor)

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.

Eliminates culpable mental state requirement for administrative sanctions against liquor licensees and service permit holders that [*sell to, or*] allow on-premises consumption of alcohol by, [*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 and 471.412.

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*] **the commission** finds or has reasonable ground to believe any of the following
9 to be true:

10 (a) That the licensee:

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

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

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

17 (D) Has maintained an insanitary establishment.

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

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

22 (G) [*Knowingly*] Has **knowingly** sold alcoholic liquor to persons under 21 years of age or to
23 persons visibly intoxicated at the time of sale. [*or*]

24 (H) Has [*knowingly*] allowed the consumption of alcoholic liquor on the licensed premises by a
25 person who is visibly intoxicated at the time of consumption.

26 [*H*] (I) Has misrepresented to a customer or the public any alcoholic liquor sold by the
27 licensee.

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)* **(J)** Since the granting of the license, has been convicted of a felony, of violating any of the
2 liquor laws of this state, general or local, or of any misdemeanor or violation of any municipal or-
3 dinance committed on the licensed premises.

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

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

20 (d) That there is any other reason *[which]* **that**, in the opinion of the commission, based on
21 public convenience or necessity, warrants canceling or suspending such license.

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

23 **SECTION 2.** ORS 471.412 is amended to read:

24 471.412. (1) *[No]* **A** licensee or permittee *[shall knowingly]* **may not** allow a person to consume
25 or to continue to consume alcoholic beverages on the licensed premises after observing that the
26 person is visibly intoxicated.

27 (2) A licensee or permittee is not in violation of subsection (1) of this section if the licensee or
28 permittee makes a good faith effort to remove any unconsumed alcoholic beverages from the
29 person's possession when the licensee or permittee observes that the person is visibly intoxicated.

30 (3) Nothing in this section applies to determining liability under ORS 471.565.

31 (4) Notwithstanding any other provision of law, the Oregon Liquor Control Commission shall
32 only impose letters of reprimand for the first three violations of this section within a two-year pe-
33 riod. For license renewal purposes, the first three violations of this section in a two-year period
34 *[shall]* **do** not apply in determining the past record of compliance under ORS 471.313 (4)(g).

35 **SECTION 3. The amendments to ORS 471.315 and 471.412 by sections 1 and 2 of this 2011**
36 **Act apply with regard to consumption that occurs on a licensed premises on or after the**
37 **effective date of this 2011 Act.**

38