

HOUSE AMENDMENTS TO HOUSE BILL 2361

By COMMITTEE ON JUDICIARY

April 5

1 On page 1 of the printed bill, line 3, after “471.315” insert “and 471.412”.

2 Delete lines 5 through 30 and delete page 2 and insert:

3 “**SECTION 1.** ORS 471.315 is amended to read:

4 “471.315. (1) The Oregon Liquor Control Commission may cancel or suspend any license issued
5 under this chapter, or impose a civil penalty in lieu of or in addition to suspension as provided by
6 ORS 471.322, if [*it*] **the commission** finds or has reasonable ground to believe any of the following
7 to be true:

8 “(a) That the licensee:

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

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

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

15 “(D) Has maintained an insanitary establishment.

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

18 “(F) Is in the habit of using alcoholic liquor, habit-forming drugs or controlled substances to
19 excess.

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

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

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

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

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

33 “(c) That there is a history of serious and persistent problems involving disturbances, lewd or
34 unlawful activities or noise either in the premises or involving patrons of the establishment in the
35 immediate vicinity of the premises if the activities in the immediate vicinity of the premises are

1 related to the sale or service of alcohol under the exercise of the license privilege. Behavior
2 [*which*] **that** is grounds for cancellation or suspension of a license under this section, where so re-
3 lated to the sale or service of alcohol, includes[,] but is not limited to obtrusive or excessive noise,
4 music or sound vibrations; public drunkenness; fights; altercations; harassment or unlawful drug
5 sales; alcohol or related litter; trespassing on private property; and public urination. Mitigating
6 factors include a showing by the licensee that the problems are not serious or persistent or that the
7 licensee has demonstrated a willingness and ability to control adequately the licensed premises and
8 patrons' behavior in the immediate vicinity of the premises which is related to the licensee's sale
9 or service of alcohol under the licensee's exercise of the license privilege.

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

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

13 "**SECTION 2.** ORS 471.412 is amended to read:

14 "471.412. (1) [*No*] **A** licensee or permittee [*shall knowingly*] **may not** allow a person to consume
15 or to continue to consume alcoholic beverages on the licensed premises after observing that the
16 person is visibly intoxicated.

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

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

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

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

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