

SENATE AMENDMENTS TO A-ENGROSSED HOUSE BILL 3280

By COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

June 6

- 1 On page 1 of the printed A-engrossed bill, line 2, after “ORS” insert “215.203,”.
2 In line 3, delete “and 308A.053” and insert “, 308A.053 and 308A.056”.
3 Delete lines 6 through 28 and delete page 2.
4 On page 3, delete lines 1 through 22 and insert:
5 **“SECTION 1. Section 3, chapter 97, Oregon Laws 2010, is repealed.**
6 **“SECTION 2.** ORS 215.452, as amended by sections 1 and 2, chapter 97, Oregon Laws 2010, is
7 amended to read:
8 *“215.452. [(1) A winery may be established as an outright permitted use in an area zoned for ex-*
9 *clusive farm use under ORS 215.213 (1)(p) and 215.283 (1)(n) if the winery produces wine with a*
10 *maximum annual production of:]*
11 *“[(a) Less than 50,000 gallons and that:]*
12 *“[(A) Owns an on-site vineyard of at least 15 acres;]*
13 *“[(B) Owns a contiguous vineyard of at least 15 acres;]*
14 *“[(C) Has a long-term contract for the purchase of all of the grapes from at least 15 acres of a*
15 *vineyard contiguous to the winery; or]*
16 *“[(D) Obtains grapes from any combination of subparagraph (A), (B) or (C) of this paragraph;*
17 *or]*
18 *“[(b) At least 50,000 gallons and no more than 100,000 gallons and that:]*
19 *“[(A) Owns an on-site vineyard of at least 40 acres;]*
20 *“[(B) Owns a contiguous vineyard of at least 40 acres;]*
21 *“[(C) Has a long-term contract for the purchase of all of the grapes from at least 40 acres of a*
22 *vineyard contiguous to the winery; or]*
23 *“[(D) Obtains grapes from any combination of subparagraph (A), (B) or (C) of this paragraph.]*
24 *“[(2) A winery described in subsection (1) of this section may sell only:]*
25 *“[(a) Wines produced in conjunction with the winery; and]*
26 *“[(b) Items directly related to the sale and promotion of wine produced in conjunction with the*
27 *winery, the sale of which is incidental to retail sale of wine on-site, including food and beverages served*
28 *by a limited service restaurant, as defined in ORS 624.010.]*
29 *“[(3) Prior to the issuance of a permit to establish a winery under this section, the applicant shall*
30 *show that vineyards described in subsection (1) of this section have been planted or that the contract*
31 *has been executed, as applicable.]*
32 *“[(4) A local government shall adopt findings for each of the standards described in paragraphs*
33 *(a) and (b) of this subsection. Standards imposed on the siting of a winery shall be limited solely to*
34 *each of the following for the sole purpose of limiting demonstrated conflicts with accepted farming or*
35 *forest practices on adjacent lands:]*

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

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

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

8 “(1) As used in this section:

9 “(a) ‘Contiguous vineyards’ means vineyards located:

10 “(A) On the same tract as a winery; or

11 “(B) On a different tract that is contiguous to the tract on which a winery is sited.

12 “(b) ‘Production’ means the process of:

13 “(A) On-site fermenting of grapes into wine;

14 “(B) Changing the class or type of wine by blending wine with distilled liquor, flavors,
15 colors or artificial carbonation; or

16 “(C) Making sparkling wine by secondary fermentation.

17 “(c) ‘Winery’ means one or more structures used for the production of wine.

18 “(2) A winery may be operated as a permitted use in an area zoned for exclusive farm
19 use pursuant to ORS 215.213 (1)(p) or 215.283 (1)(n) if the winery is located on a tract of at
20 least 20 acres of land, at least 10 acres of which are planted in vineyards, and the winery
21 produces at least 1,000 gallons of wine in a calendar year from the vineyards.

22 “(3) A winery allowed under subsection (2) of this section may include the following uses:

23 “(a) The production of wine;

24 “(b) The wholesale or retail sale of wine produced in conjunction with the winery, in-
25 cluding wine tastings; and

26 “(c) When the activity occurs by appointment only, activities that are directly related to
27 the sale or promotion of wine produced in conjunction with the winery, including but not
28 limited to:

29 “(A) Wine tours;

30 “(B) Consumer education;

31 “(C) Private events or activities at which wine produced in conjunction with the winery
32 is featured; and

33 “(D) The service of food required by state law to be served in conjunction with the con-
34 sumption of wine on the premises.

35 “(4) A winery allowed under subsection (2) of this section may not include kitchen facil-
36 ities.

37 “(5) A winery may be operated as a permitted use in an area zoned for exclusive farm
38 use pursuant to ORS 215.213 (1)(p) or 215.283 (1)(n) if:

39 “(a) The winery is located on a tract of at least 20 acres of land;

40 “(b) The winery produces at least 10,000 gallons of wine in a calendar year; and

41 “(c) The owner of the winery owns or holds under a long-term lease, or holds under a
42 long-term contract the right to purchase all grapes from, vineyards of at least 25 acres, at
43 least 15 acres of which must be contiguous vineyards.

44 “(6) A winery allowed under subsection (5) of this section may include the following uses:

45 “(a) The production of wine;

1 **“(b) The wholesale and retail sale of wine produced in conjunction with the winery;**
2 **“(c) Activities that are directly related to the sale or promotion of wine produced in**
3 **conjunction with the winery, including but not limited to wine tours and tastings and con-**
4 **sumer education;**
5 **“(d) The sale of items that support the sale and promotion of wine produced in conjunc-**
6 **tion with the winery, including gifts and merchandise and wine produced by other wineries;**
7 **“(e) The preparation and sale of food and beverages in kitchen facilities licensed under**
8 **ORS 624.010 to 624.121 when food is:**
9 **“(A) Required by state law to be served in conjunction with the consumption of wine on**
10 **premises; or**
11 **“(B) Served in conjunction with the consumption of wine at events or activities permitted**
12 **under this subsection;**
13 **“(f) Public and private events or activities, the primary purpose of which is to promote**
14 **the winery or the Oregon wine industry;**
15 **“(g) Outdoor concerts for which admission is charged, facility rentals or celebratory**
16 **events that are approved by issuance of a multiyear temporary permit that is reviewed at**
17 **least once each five years for compliance with the following standards:**
18 **“(A) The events or activities must comply with ORS 215.296;**
19 **“(B) The events or activities may not materially alter the stability of the land use pattern**
20 **in the area; and**
21 **“(C) If the events or activities include food service, the food service is not functioning**
22 **as a restaurant or a facility providing off-site catering; and**
23 **“(h) A restaurant or other food service facility for the sale of food not allowed under**
24 **paragraph (e) of this subsection may be established in conjunction with a winery when ap-**
25 **proved by issuance of a permit that requires compliance with the following standards:**
26 **“(A) In the calendar year immediately preceding issuance of the permit, the winery**
27 **produced at least 250,000 gallons of wine;**
28 **“(B) The winery is located on the same tract of land as a vineyard of at least 50 acres;**
29 **“(C) The restaurant or other facility must comply with ORS 215.296;**
30 **“(D) The restaurant or other facility will not materially alter the stability of the land use**
31 **pattern in the area; and**
32 **“(E) The restaurant or other facility must be incidental and subordinate to the pro-**
33 **duction and sale of wine.**
34 **“(7) The uses authorized under subsection (3)(c) or (6)(c) to (g) of this section must be:**
35 **“(a) Incidental and subordinate to the production of wine and the on-site retail sale of**
36 **wine; and**
37 **“(b) Limited such that the annual gross income from the activities and uses, collectively,**
38 **does not exceed 25 percent of the annual gross income from the on-site retail sale of wine**
39 **produced in conjunction with the winery.**
40 **“(8) A winery that includes the uses authorized under subsections (3)(c) and (6)(c) to (g)**
41 **of this section must submit an annual written report documenting compliance with sub-**
42 **section (7)(b) of this section to the local government with land use jurisdiction over the**
43 **winery and to the Department of Land Conservation and Development.**
44 **“(9) Before issuance of a permit to establish a winery, the applicant must show that any**
45 **vineyards required by subsection (2) or (5) of this section have been planted or that a con-**

1 tract to purchase grapes from contiguous vineyards has been executed, as applicable.

2 “(10) A local government shall impose the following conditions on the operation of a
3 winery under this section:

4 “(a) A setback of at least 100 feet from the property line of the tract for public gathering
5 places;

6 “(b) Provision of direct road access, internal circulation and sufficient off-street parking
7 to accommodate the uses authorized;

8 “(c) Measures related to floodplains, geologic hazards, the Willamette River Greenway,
9 solar access, airport safety and other measures for resource protection acknowledged in the
10 comprehensive plan and land use regulations to comply with a statewide land use planning
11 goal related to open spaces, scenic and historic areas and natural resources; and

12 “(d) Measures to ensure compliance with public health and safety laws and regulations.

13 “SECTION 3. Section 4 of this 2011 Act is added to and made a part of ORS chapter 215.

14 “SECTION 4. (1) If a winery does not meet the requirements of ORS 215.452, the winery
15 may be operated as a conditional use in an area zoned for exclusive farm use pursuant to
16 ORS 215.213 (2)(c)(B) or 215.283 (2)(a)(B).

17 “(2) A winery allowed under this section may conduct the uses authorized by ORS 215.452
18 (3), subject to the limitations that apply to the uses.”.

19 In line 23, delete “4” and insert “5”.

20 On page 4, line 32, delete the boldfaced material.

21 On page 6, line 38, after “including” insert a colon and begin a new paragraph and insert
22 “(A)”.

23 In line 39, delete the period and insert “; and

24 “(B) A winery, as described in section 4 of this 2011 Act.”.

25 On page 10, line 9, delete “5” and insert “6”.

26 On page 11, line 6, delete the boldfaced material.

27 On page 12, line 40, after “including” insert a colon and begin a new paragraph and insert
28 “(A)”.

29 In line 41, delete the period and insert “; and

30 “(B) A winery, as described in section 4 of this 2011 Act.”.

31 On page 15, after line 15, insert:

32 “SECTION 7. ORS 215.203 is amended to read:

33 “215.203. (1) Zoning ordinances may be adopted to zone designated areas of land within the
34 county as exclusive farm use zones. Land within such zones shall be used exclusively for farm use
35 except as otherwise provided in ORS 215.213, 215.283 or 215.284. Farm use zones shall be established
36 only when such zoning is consistent with the comprehensive plan.

37 “(2)(a) As used in this section, ‘farm use’ means the current employment of land for the primary
38 purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding,
39 breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or
40 honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural
41 use or animal husbandry or any combination thereof. ‘Farm use’ includes the preparation, storage
42 and disposal by marketing or otherwise of the products or by-products raised on such land for hu-
43 man or animal use. ‘Farm use’ also includes the current employment of land for the primary purpose
44 of obtaining a profit in money by stabling or training equines including but not limited to providing
45 riding lessons, training clinics and schooling shows. ‘Farm use’ also includes the propagation, culti-

1 vation, maintenance and harvesting of aquatic, bird and animal species that are under the jurisdic-
2 tion of the State Fish and Wildlife Commission, to the extent allowed by the rules adopted by the
3 commission. 'Farm use' includes the on-site construction and maintenance of equipment and facilities
4 used for the activities described in this subsection. 'Farm use' does not include the use of land
5 subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured
6 Christmas trees as defined in subsection (3) of this section or land described in ORS 321.267 (3) or
7 321.824 (3).

8 "(b) 'Current employment' of land for farm use includes:

9 "(A) Farmland, the operation or use of which is subject to any farm-related government program;

10 "(B) Land lying fallow for one year as a normal and regular requirement of good agricultural
11 husbandry;

12 "(C) Land planted in orchards or other perennials, other than land specified in subparagraph (D)
13 of this paragraph, prior to maturity;

14 "(D) Land not in an exclusive farm use zone which has not been eligible for assessment at spe-
15 cial farm use value in the year prior to planting the current crop and has been planted in orchards,
16 cultured Christmas trees or vineyards for at least three years;

17 "(E) Wasteland, in an exclusive farm use zone, dry or covered with water, neither economically
18 tillable nor grazeable, lying in or adjacent to and in common ownership with a farm use land and
19 which is not currently being used for any economic farm use;

20 "(F) Except for land under a single family dwelling, land under buildings supporting accepted
21 farm practices, including the processing facilities allowed by ORS 215.213 (1)(u) and 215.283 (1)(r)
22 and the processing of farm crops into biofuel as commercial activities in conjunction with farm use
23 under ORS 215.213 [(2)(c)] **(2)(c)(A)** and 215.283 [(2)(a)] **(2)(a)(A)**;

24 "(G) Water impoundments lying in or adjacent to and in common ownership with farm use land;

25 "(H) Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the
26 owner of land specially valued for farm use even if the land constituting the woodlot is not utilized
27 in conjunction with farm use;

28 "(I) Land lying idle for no more than one year where the absence of farming activity is due to
29 the illness of the farmer or member of the farmer's immediate family. For purposes of this paragraph,
30 illness includes injury or infirmity whether or not such illness results in death;

31 "(J) Any land described under ORS 321.267 (3) or 321.824 (3);

32 "(K) Land used for the primary purpose of obtaining a profit in money by breeding, raising,
33 kenneling or training of greyhounds for racing; and

34 "(L) Land used for the processing of farm crops into biofuel, as defined in ORS 315.141, if:

35 "(i) Only the crops of the landowner are being processed;

36 "(ii) The biofuel from all of the crops purchased for processing into biofuel is used on the farm
37 of the landowner; or

38 "(iii) The landowner is custom processing crops into biofuel from other landowners in the area
39 for their use or sale.

40 "(c) As used in this subsection, 'accepted farming practice' means a mode of operation that is
41 common to farms of a similar nature, necessary for the operation of such farms to obtain a profit
42 in money, and customarily utilized in conjunction with farm use.

43 "(3) 'Cultured Christmas trees' means trees:

44 "(a) Grown on lands used exclusively for that purpose, capable of preparation by intensive cul-
45 tivation methods such as plowing or turning over the soil;

1 “(b) Of a marketable species;

2 “(c) Managed to produce trees meeting U.S. No. 2 or better standards for Christmas trees as

3 specified by the Agriculture Marketing Services of the United States Department of Agriculture; and

4 “(d) Evidencing periodic maintenance practices of shearing for Douglas fir and pine species,

5 weed and brush control and one or more of the following practices: Basal pruning, fertilizing, insect

6 and disease control, stump culture, soil cultivation, irrigation.”.

7 In line 16, delete “6” and insert “8”.

8 In line 17, delete “3” and insert “4”.

9 In line 19, delete “7” and insert “9”.

10 In line 24, delete “3” and insert “4”.

11 After line 36, insert:

12 “**SECTION 10.** ORS 308A.056 is amended to read:

13 “308A.056. (1) As used in ORS 308A.050 to 308A.128, ‘farm use’ means the current employment

14 of land for the primary purpose of obtaining a profit in money by:

15 “(a) Raising, harvesting and selling crops.

16 “(b) Feeding, breeding, managing or selling livestock, poultry, fur-bearing animals or honeybees

17 or the produce thereof.

18 “(c) Dairying and selling dairy products.

19 “(d) Stabling or training equines, including but not limited to providing riding lessons, training

20 clinics and schooling shows.

21 “(e) Propagating, cultivating, maintaining or harvesting aquatic species and bird and animal

22 species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission.

23 “(f) On-site constructing and maintaining equipment and facilities used for the activities de-

24 scribed in this subsection.

25 “(g) Preparing, storing or disposing of, by marketing or otherwise, the products or by-products

26 raised for human or animal use on land described in this section.

27 “(h) Implementing a remediation plan previously presented to the assessor for the county in

28 which the land that is the subject of the plan is located.

29 “(i) Using land described in this section for any other agricultural or horticultural use or animal

30 husbandry or any combination thereof.

31 “(2) ‘Farm use’ does not include the use of land subject to timber and forestland taxation under

32 ORS chapter 321, except land used exclusively for growing cultured Christmas trees or land de-

33 scribed in ORS 321.267 (3) or 321.824 (3) (relating to land used to grow certain hardwood timber,

34 including hybrid cottonwood).

35 “(3) For purposes of this section, land is currently employed for farm use if the land is:

36 “(a) Farmland, the operation or use of which is subject to any farm-related government program;

37 “(b) Land lying fallow for one year as a normal and regular requirement of good agricultural

38 husbandry;

39 “(c) Land planted in orchards or other perennials, other than land specified in paragraph (d) of

40 this subsection, prior to maturity;

41 “(d) Land not in an exclusive farm use zone that has not been eligible for assessment at special

42 farm use value in the year prior to planting the current crop and has been planted in orchards,

43 cultured Christmas trees or vineyards for at least three years;

44 “(e) Wasteland, in an exclusive farm use zone, dry or covered with water, neither economically

45 tillable nor grazeable, lying in or adjacent to and in common ownership with farm use land and that

1 is not currently being used for any economic farm use;

2 “(f) Except for land under a single family dwelling, land under buildings supporting accepted
3 farming practices, including the processing facilities allowed by ORS 215.213 (1)(u) and 215.283 (1)(r)
4 and the processing of farm crops into biofuel as commercial activities in conjunction with farm use
5 under ORS 215.213 [(2)(c)] (2)(c)(A) and 215.283 [(2)(a)] (2)(a)(A);

6 “(g) Water impoundments lying in or adjacent to and in common ownership with farm use land;

7 “(h) Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the
8 owner of land specially valued for farm use even if the land constituting the woodlot is not utilized
9 in conjunction with farm use;

10 “(i) Land lying idle for no more than one year when the absence of farming activity is the result
11 of the illness of the farmer or a member of the farmer’s immediate family, including injury or
12 infirmity, regardless of whether the illness results in death;

13 “(j) Land described under ORS 321.267 (3) or 321.824 (3) (relating to land used to grow certain
14 hardwood timber, including hybrid cottonwood);

15 “(k) Land used for the primary purpose of obtaining a profit in money by breeding, raising,
16 kenneling or training greyhounds for racing;

17 “(L) Land subject to a remediation plan previously presented to the assessor for the county in
18 which the land that is the subject of the plan is located; or

19 “(m) Land used for the processing of farm crops into biofuel, as defined in ORS 315.141, if:

20 “(i) Only the crops of the landowner are being processed;

21 “(ii) The biofuel from all of the crops purchased for processing into biofuel is used on the farm
22 of the landowner; or

23 “(iii) The landowner is custom processing crops into biofuel from other landowners in the area
24 for their use or sale.

25 “(4) As used in this section:

26 “(a) ‘Accepted farming practice’ means a mode of operation that is common to farms of a similar
27 nature, necessary for the operation of these similar farms to obtain a profit in money and custom-
28 arily utilized in conjunction with farm use.

29 “(b) ‘Cultured Christmas trees’ means trees:

30 “(A) Grown on lands used exclusively for that purpose, capable of preparation by intensive cul-
31 tivation methods such as plowing or turning over the soil;

32 “(B) Of a marketable species;

33 “(C) Managed to produce trees meeting U.S. No. 2 or better standards for Christmas trees as
34 specified by the Agricultural Marketing Service of the United States Department of Agriculture; and

35 “(D) Evidencing periodic maintenance practices of shearing for Douglas fir and pine species,
36 weed and brush control and one or more of the following practices:

37 “(i) Basal pruning;

38 “(ii) Fertilizing;

39 “(iii) Insect and disease control;

40 “(iv) Stump culture;

41 “(v) Soil cultivation; or

42 “(vi) Irrigation.

43 “**SECTION 11. (1) A use or structure lawfully established at a winery before the effective**
44 **date of this 2011 Act may be continued, including but not limited to events and activities that**
45 **exceed the income limit imposed by ORS 215.452.**

