

DRAFT

SUMMARY

Authorizes establishment of wineries as outright permitted use, subject to certain conditions, on land zoned for exclusive farm use, on land zoned for forest use and on land zoned for mixed farm and forest use.

Modifies authority for winery to host agri-tourism and other commercial events.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to wineries; creating new provisions; amending ORS 215.452; repealing ORS 215.237 and section 11, chapter 679, Oregon Laws 2011; and declaring an emergency.

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

SECTION 1. ORS 215.237 and section 11, chapter 679, Oregon Laws 2011, are repealed.

SECTION 2. ORS 215.452, as amended by sections 3 and 3a, chapter 679, Oregon Laws 2011, is amended to read:

215.452. (1) A winery may be established as a permitted use **on land zoned for exclusive farm use** under ORS 215.213 (1)(p) and 215.283 (1)(n) [*in an area zoned for exclusive farm use*], **on land zoned for forest use or on land zoned for mixed farm and forest use**, if the winery produces wine with a maximum annual production of:

(a) Less than 50,000 gallons and:

(A) Owns an on-site vineyard of at least 15 acres;

(B) Owns a contiguous vineyard of at least 15 acres;

(C) Has a long-term contract for the purchase of all of the grapes from

1 at least 15 acres of a vineyard contiguous to the winery; or

2 (D) Obtains grapes from any combination of subparagraph (A), (B) or (C)
3 of this paragraph; or

4 (b) At least 50,000 gallons and the winery:

5 (A) Owns an on-site vineyard of at least 40 acres;

6 (B) Owns a contiguous vineyard of at least 40 acres;

7 (C) Has a long-term contract for the purchase of all of the grapes from
8 at least 40 acres of a vineyard contiguous to the winery; or

9 (D) Obtains grapes from any combination of subparagraph (A), (B) or (C)
10 of this paragraph.

11 (2) A winery described in subsection (1) of this section may:

12 (a) **Produce and distribute wine.**

13 [(a)] (b) Market and sell wine produced in conjunction with the winery.
14 [, including the following activities:]

15 [(A) Wine tours;]

16 [(B) Wine tastings in a tasting room or other location at the winery;]

17 [(C) Wine clubs; and]

18 (c) **Conduct operations that are directly related to the sale or mar-**
19 **keting of wine produced in conjunction with the winery, including:**

20 (A) **Wine tastings;**

21 (B) **Wine clubs;**

22 (C) **Winemaker luncheons and dinners;**

23 (D) **Winery and vineyard tours;**

24 (E) **Meeting or business activities with winery suppliers, winery**
25 **customers and wine industry members;**

26 (F) **Winery staff appreciation activities;**

27 (G) **Open house promotions of wine produced in conjunction with**
28 **the winery; and**

29 [(D)] (H) Similar activities conducted for the primary purpose of promot-
30 ing wine produced in conjunction with the winery[; and].

31 [(b)] (d) Market and sell items directly related to the sale or promotion

1 of wine produced in conjunction with the winery, the marketing and sale of
2 which is incidental to retail sale of wine on-site, including food and
3 beverages [*served by a limited service restaurant, as defined in ORS*
4 *624.010.*] **required by the Liquor Control Act to be served in conjunction**
5 **with the consumption of wine on the premises or that are served in**
6 **conjunction with one or more of the activities authorized under para-**
7 **graph (c) of this subsection. Food and beverage services authorized**
8 **under this subsection may not use menu options or meal services that**
9 **cause the winery kitchen to function as a cafe or other dining estab-**
10 **lishment open to the public. A winery may include on-site kitchen fa-**
11 **cilities licensed by the Oregon Health Authority under ORS chapter**
12 **624 for the preparation of food and beverages described in this sub-**
13 **section.**

14 (e) **Carry out agri-tourism or other commercial events on the tract**
15 **occupied by the winery, subject to the limitations set forth in sub-**
16 **section (6) of this section.**

17 (f) **Host charitable activities for which the winery does not charge**
18 **a fee.**

19 [(3) *A winery operating under this section shall provide parking for all*
20 *activities or uses of the lot, parcel or tract on which the winery is*
21 *established.*]

22 [(4) *Prior to the issuance of a permit to establish a winery under this sec-*
23 *tion, the applicant shall show that vineyards described in subsection (1) of this*
24 *section have been planted or that the contract has been executed, as*
25 *applicable.*]

26 [(5) *A local government shall adopt findings for each of the standards de-*
27 *scribed in this subsection. Standards imposed on the siting of a winery shall*
28 *be limited solely to each of the following for the sole purpose of limiting*
29 *demonstrated conflicts with accepted farming or forest practices on adjacent*
30 *lands:*]

31 [(a) *Establishment of a setback of at least 100 feet from all property lines*

1 *for the winery and all public gathering places; and]*

2 *[(b) Provision of direct road access and internal circulation.]*

3 *[(6) A local government shall apply:]*

4 *[(a) Local criteria regarding floodplains, geologic hazards, the Willamette*
5 *River Greenway, solar access and airport safety;]*

6 *[(b) Regulations for the public health and safety; and]*

7 *[(c) Regulations for resource protection acknowledged to comply with any*
8 *statewide goal respecting open spaces, scenic and historic areas and natural*
9 *resources.]*

10 *[(7)(a) A local government may issue a permit for a winery operating under*
11 *this section to host outdoor concerts for which admission is charged, facility*
12 *rentals or celebratory events if the local government issued permits to wineries*
13 *operating under this section in similar circumstances before August 2, 2011.]*

14 *[(b) A local government may not issue a permit for a winery operating un-*
15 *der this section to host outdoor concerts for which admission is charged, fa-*
16 *cility rentals or celebratory events if the local government did not issue permits*
17 *to wineries operating under this section in similar circumstances before August*
18 *2, 2011.]*

19 **(3) The gross income of the winery from the sale of incidental items**
20 **or services provided pursuant to subsection (2)(c) to (e) of this section**
21 **may not exceed 25 percent of the gross income from the on-site retail**
22 **sale of wine produced in conjunction with the winery. At the request**
23 **of a local government with land use jurisdiction over the site of a**
24 **winery, the winery shall submit to the local government a written**
25 **statement, prepared by a certified public accountant, that certifies**
26 **compliance for the previous tax year with this subsection.**

27 **(4) Before a local government may issue a permit to establish a**
28 **winery under this section, the applicant shall show, as required by**
29 **subsection (1) of this section, that vineyards have been planted and,**
30 **if appropriate, a contract has been executed.**

31 **(5) The local government shall impose conditions on a winery that**

1 **is outright permitted under this section to address public health and**
2 **safety and environmental concerns, including:**

3 **(a) Sanitation;**

4 **(b) Noise;**

5 **(c) Development hazards, wetlands and the Willamette River**
6 **Greenway;**

7 **(d) Traffic;**

8 **(e) On-site parking for all activities or uses; and**

9 **(f) Direct road access and internal circulation.**

10 **(6) Within the gross income limit imposed by subsection (3) of this**
11 **section, a winery established under this section may conduct agri-**
12 **tourism or other commercial events on the tract occupied by the**
13 **winery as follows:**

14 **(a) The local government may issue a multi-year license with a**
15 **maximum term of five years that authorizes events on up to six days**
16 **per calendar year through an administrative review for conditions.**
17 **The local government's decision on issuance of the license is not a**
18 **land use decision, as defined in ORS 197.015, subject to review by the**
19 **Land Use Board of Appeals. A license issued under this paragraph:**

20 **(A) May be renewed.**

21 **(B) Is not a permit, as defined in ORS 215.402.**

22 **(b) The local government may issue a multi-year license with a**
23 **maximum term of five years that authorizes events on up to 12 days**
24 **per calendar year through an administrative review for conditions.**
25 **The local government's decision on issuance of the license is not a**
26 **land use decision, as defined in ORS 197.015, subject to review by the**
27 **Land Use Board of Appeals. A license issued under this paragraph:**

28 **(A) May be renewed.**

29 **(B) Is a permit, as defined in ORS 215.402, subject to the notice re-**
30 **quirements of ORS 215.416 (11) or 227.175 (10), whichever is applicable.**

31 **(c) The local government may establish conditions, including a limit**

1 on the number of attendees of events authorized under this subsection,
2 to:

3 (A) Ensure that the uses are subordinate to the production and sale
4 of wine;

5 (B) Avoid adverse impacts to surrounding uses, including farm and
6 forest uses; and

7 (C) Ensure that the uses do not force a significant change in ac-
8 cepted farm or forest practices on surrounding lands devoted to farm
9 or forest use or significantly increase the cost of accepted farm or
10 forest practices on surrounding lands devoted to farm or forest use.

11 (7) The local government may authorize a winery established under
12 this section to conduct:

13 (a) Commercial activity in conjunction with farm use, if the pro-
14 posed activity meets the criteria of ORS 215.213 (2)(c) or 215.283 (2)(a),
15 whichever is applicable; or

16 (b) Agri-tourism or other commercial events or activities if the
17 proposed activity meets the criteria of 215.213 (11) to (13) or ORS 215.283
18 (4) to (6), whichever is applicable.

19 SECTION 3. If a local government with land use jurisdiction au-
20 thorizes the establishment of a winery on land zoned for exclusive
21 farm use, on land zoned for forest use or on land zoned for mixed farm
22 and forest use, under authority other than ORS 215.452 or 215.453, the
23 winery is subject to the gross income limit imposed by ORS 215.452 (3).

24 SECTION 4. This 2013 Act being necessary for the immediate pres-
25 ervation of the public peace, health and safety, an emergency is de-
26 clared to exist, and this 2013 Act takes effect on its passage.

27