

House Bill 2702

Sponsored by Representative TOMEI, Senator DINGFELDER; Representatives DOHERTY, FREDERICK, KENY-GUYER, NATHANSON, Senators MONNES ANDERSON, MONROE, SHIELDS

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**.

Establishes process for Oregon Liquor Control Commission to adopt rule declaring alcohol impact area upon petition by municipality. Establishes processes for granting exemptions and for review of rule.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to alcohol impact areas; and declaring an emergency.

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

SECTION 1. Sections 2 to 5 of this 2013 Act are added to and made a part of ORS chapter 471.

SECTION 2. As used in sections 3 to 5 of this 2013 Act, "municipality" means a city or county as represented by its governing body or a designee.

SECTION 3. (1) A municipality that has complied with this subsection may file a petition with the Oregon Liquor Control Commission requesting that the commission adopt rules establishing an alcohol impact area within the municipality. Prior to filing the petition with the commission, the municipality must provide an opportunity for public comment for the purpose of identifying voluntary actions that businesses and residents in the area affected by the petition may take to address chronic problems in the area involving disturbances, prohibited drinking on public streets or in alleys, parks or similar public places, public intoxication or noise. The opportunity for public comment must include an opportunity for any business in the affected area to explain why the business should be exempt from any requirement, limitation or prohibition regarding alcohol sales that the municipality is considering for inclusion in a petition to the commission.

(2) A petition that a municipality files with the commission under this section must:

(a) Describe the opportunity provided by the municipality for public comment under subsection (1) of this section;

(b) Provide documentation of chronic problems in the requested alcohol impact area involving disturbances, prohibited drinking on public streets or in alleys, parks or similar public places, public intoxication or noise that cannot readily be attributed to a particular licensed premises;

(c) Identify proposed uniform requirements, limitations or prohibitions regarding alcohol sales in the area; and

(d) Explain why the proposed limitations and prohibitions are expected to alleviate or eliminate the documented problems in the area.

(3) Documentation required under subsection (2)(b) of this section may include, but need

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 not be limited to, crime statistics, police records, detoxification center statistics or other
 2 documentation acceptable to the commission that establishes the nature and extent of the
 3 problems.

4 (4) If the commission receives a petition filed in compliance with this section, the com-
 5 mission shall initiate proceedings under ORS chapter 183 to determine whether to adopt a
 6 rule establishing an alcohol impact area.

7 (5) If the commission adopts a rule establishing an alcohol impact area, the commission
 8 shall determine and identify the boundaries of the area. The commission may determine and
 9 identify boundaries for an alcohol impact area that differ from the boundaries contained in
 10 the petition filed by the municipality. Notwithstanding ORS 471.175, 471.178, 471.186, 471.200,
 11 471.220 and 471.223, the rule establishing the alcohol impact area may impose any uniform
 12 requirements, limitations or prohibitions regarding alcohol sales in the area that the com-
 13 mission believes may alleviate or eliminate documented problems in the area, including, but
 14 not limited to, limitations on off-premises sales or on hours of alcohol sales. The rule may
 15 impose uniform requirements, limitations or prohibitions that differ from the proposed uni-
 16 form requirements, limitations or prohibitions contained in the petition filed by the munici-
 17 pality.

18 (6) For purposes of ORS 471.313, 471.315, 471.322 and 471.327, a violation of any limitation,
 19 restriction, condition, prohibition or requirement that the commission imposes within an
 20 alcohol impact area is a violation of the rule establishing the alcohol impact area.

21 (7) Notwithstanding subsection (5) of this section, the commission may not establish an
 22 alcohol impact area, determine and identify boundaries of the area or impose any require-
 23 ment, limitation or prohibition on alcohol sales within the area based upon a consideration
 24 of the age, race, sex, disability, marital status, national origin, sexual orientation, color or
 25 religion of commission licensees having a licensed premises in the area or of patrons of li-
 26 censed premises in the area.

27 (8) The authority of the commission to establish an alcohol impact area under this sec-
 28 tion is in addition to any other authority of the commission to address serious and persistent
 29 problems associated with alcohol.

30 **SECTION 4.** (1) If the Oregon Liquor Control Commission establishes an alcohol impact
 31 area under section 3 of this 2013 Act, after all requirements, limitations and prohibitions
 32 imposed by the rule regarding alcohol sales in the area have become operative, a licensed
 33 premises within the area may file a request with the commission seeking exemption from
 34 one or more of the requirements, limitations or prohibitions. The petition must:

35 (a) Be in writing;

36 (b) Identify the requirements, limitations or prohibitions from which the licensee is
 37 seeking exemption;

38 (c) Explain why the licensed premises of the licensee is unlikely to have contributed to
 39 the past documented problems in the area; and

40 (d) For each requirement, limitation or prohibition identified in the exemption request,
 41 explain why the licensed premises of the licensee are unlikely to contribute to documented
 42 problems in the area in the future if the exemption is granted.

43 (2) A licensee seeking an exemption under this section bears the burden of demonstrating
 44 that it is unlikely the licensed premises contributed to the past documented problems in the
 45 area and that the licensed premises are unlikely to contribute to future problems in the area

1 if one or more of the requested exemptions are granted.

2 (3) The commission shall provide notice of an exemption requested under this section to
 3 the municipality that petitioned for establishment of the alcohol impact area. The commis-
 4 sion shall allow the municipality a reasonable opportunity to comment on the requested ex-
 5 emption.

6 (4) The commission may refuse an exemption or may grant all or part of a requested
 7 exemption. An exemption from an alcohol impact area requirement, limitation or prohibition
 8 expires after one year unless the licensee files a request to renew the exemption. A licensee
 9 filing a request to renew an exemption under this section bears the burden of demonstrating
 10 that it is unlikely the licensed premises contributed to documented problems in the area
 11 during the most recent exemption period and that the licensed premises are unlikely to
 12 contribute to future problems in the area if the exemption is renewed. The commission may
 13 refuse to renew the exemption or may renew all or part of the exemption previously granted
 14 to the licensee.

15 **SECTION 5.** (1) One year after all requirements, limitations and prohibitions imposed by
 16 a rule establishing an alcohol impact area have become operative, and at any other times
 17 that the Oregon Liquor Control Commission in its discretion may deem appropriate, the
 18 commission shall review the rule establishing the area. The commission shall provide an
 19 opportunity for public comment regarding whether the rule establishing the area should
 20 continue in effect, be amended or be repealed. In addition to any other notice of the oppor-
 21 tunity for public comment, the commission shall make a reasonable effort to give notice of
 22 the opportunity to:

- 23 (a) The municipality that petitioned for establishment of the area;
- 24 (b) The commission licensees having a licensed premises in the area;
- 25 (c) Any neighborhood or business associations known to the commission and serving all
 26 or part of the area; and
- 27 (d) Any person that submitted comments or testified during the rule adoption process
 28 that resulted in establishment of the area.

29 (2) After the commission closes the opportunity for public comment, the commission
 30 shall decide whether it is appropriate to amend or repeal the rule establishing the area. If
 31 the commission decides to amend or repeal the rule, the commission shall initiate rule
 32 making as provided under ORS chapter 183.

33 **SECTION 6.** Section 3 of this 2013 Act applies to petitions filed with the Oregon Liquor
 34 Control Commission on or after the effective date of this 2013 Act.

35 **SECTION 7.** Any rule adopted by the Oregon Liquor Control Commission prior to the
 36 effective date of this 2013 Act that established an alcohol impact area shall be treated in the
 37 same manner as a rule adopted in compliance with section 3 of this 2013 Act. However, sec-
 38 tion 3 (6) of this 2013 Act does not affect the validity of any civil penalty or other sanction
 39 imposed by the commission for a rule violation occurring prior to the effective date of this
 40 2013 Act. No later than one year after the effective date of this 2013 Act, the commission
 41 shall conduct a review as provided in section 5 of this 2013 Act of any rules establishing an
 42 alcohol impact area prior to the effective date of this 2013 Act.

43 **SECTION 8.** Section 7 of this 2013 Act is repealed January 2, 2017.

44 **SECTION 9.** This 2013 Act being necessary for the immediate preservation of the public
 45 peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect

1 **on its passage.**

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