

House Bill 3173

Sponsored by Representative HOLVEY

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**.

Modifies authority for establishment of winery and for winery sales and services in exclusive farm use zone.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to wineries; creating new provisions; amending ORS 215.452 and 215.453; repealing section
3 11, chapter 679, Oregon Laws 2011; and declaring an emergency.

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

5 **SECTION 1. Section 11, chapter 679, Oregon Laws 2011, is repealed.**

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

8 215.452. (1) A winery may be established as a permitted use under ORS 215.213 (1)(p) and 215.283
9 (1)(n) in an area zoned for exclusive farm use if the winery produces wine with a maximum annual
10 production of:

11 (a) Less than 50,000 gallons and:

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; or

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

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

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

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

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

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

24 (a) Market and sell wine produced in conjunction with the winery, including the following ac-
25 tivities:

26 (A) Wine tours;

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

28 (C) Wine clubs; and

29 (D) Similar activities conducted for the primary purpose of promoting wine produced in con-
30 junction with the winery; and

31 (b) Market and sell items directly related to the sale or promotion of wine produced in con-

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 junction with the winery, the marketing and sale of which is incidental to retail sale of wine on-site,
 2 including food and beverages served by a limited service restaurant, as defined in ORS 624.010.

3 **(c) Provide services, including private events, hosted by the winery or patrons of the**
 4 **winery, at which wine produced in conjunction with the winery is featured, that:**

5 **(A) Are directly related to the sale or promotion of wine produced in conjunction with**
 6 **the winery;**

7 **(B) Are incidental to the retail sale of wine on-site; and**

8 **(C) Are limited to 25 days or fewer in a calendar year.**

9 **(3)(a) The gross income of the winery from the sale of incidental items pursuant to sub-**
 10 **section (2)(b) of this section and services provided pursuant to subsection (2)(c) of this sec-**
 11 **tion may not exceed 25 percent of the gross income from the on-site retail sale of wine**
 12 **produced in conjunction with the winery.**

13 **(b) At the request of a local government with land use jurisdiction over the site of a**
 14 **winery, the winery shall submit to the local government a written statement, prepared by a**
 15 **certified public accountant, that certifies compliance with paragraph (a) of this subsection**
 16 **for the previous tax year.**

17 [(3)] **(4)** A winery operating under this section shall provide parking for all activities or uses
 18 of the lot, parcel or tract on which the winery is established.

19 [(4)] **(5)** Prior to the issuance of a permit to establish a winery under this section, the applicant
 20 shall show that vineyards described in subsection (1) of this section have been planted or that the
 21 contract has been executed, as applicable.

22 [(5)] **(6)** A local government shall adopt findings for each of the standards described in this
 23 subsection. Standards imposed on the siting of a winery shall be limited solely to each of the fol-
 24 lowing for the sole purpose of limiting demonstrated conflicts with accepted farming or forest prac-
 25 tices on adjacent lands:

26 (a) Establishment of a setback of at least 100 feet from all property lines for the winery and all
 27 public gathering places; and

28 (b) Provision of direct road access and internal circulation.

29 [(6)] **(7)** A local government shall apply:

30 (a) Local criteria regarding floodplains, geologic hazards, the Willamette River Greenway, solar
 31 access and airport safety;

32 (b) Regulations for the public health and safety; and

33 (c) Regulations for resource protection acknowledged to comply with any statewide goal re-
 34 specting open spaces, scenic and historic areas and natural resources.

35 [(7)(a)] **(8)(a)** A local government may issue a permit for a winery operating under this section
 36 to host outdoor concerts for which admission is charged, facility rentals or celebratory events if the
 37 local government issued permits to wineries operating under this section in similar circumstances
 38 before August 2, 2011.

39 (b) A local government may not issue a permit for a winery operating under this section to host
 40 outdoor concerts for which admission is charged, facility rentals or celebratory events if the local
 41 government did not issue permits to wineries operating under this section in similar circumstances
 42 before August 2, 2011.

43 **(9) As used in this section, “private events” includes, but is not limited to, facility rentals**
 44 **and celebratory gatherings.**

45 **SECTION 3.** ORS 215.453, as amended by section 5a, chapter 679, Oregon Laws 2011, is

1 amended to read:

2 215.453. (1) A winery may be established as a permitted use under ORS 215.213 (1)(p) or 215.283
3 (1)(n) in an area zoned for exclusive farm use if:

4 (a) The winery owns and is sited on a tract of 80 acres or more, at least 50 acres of which is
5 a vineyard;

6 (b) The winery owns at least 80 additional acres of planted vineyards in Oregon that need not
7 be contiguous to the acreage described in paragraph (a) of this subsection; and

8 (c) The winery has produced annually, at the same or a different location, at least 150,000 gal-
9 lons of wine in at least three of the five calendar years before the winery is established under this
10 section.

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

12 (a) Market and sell wine produced in conjunction with the winery, including the following ac-
13 tivities:

14 (A) Wine tours;

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

16 (C) Wine clubs; and

17 (D) Similar activities conducted for the primary purpose of promoting wine produced in con-
18 junction with the winery;

19 (b) Market and sell items directly related to the sale or promotion of wine produced in con-
20 junction with the winery, the marketing and sale of which is incidental to retail sale of wine on-site,
21 including food and beverages served by a limited service restaurant, as defined in ORS 624.010, wine
22 not produced in conjunction with the winery and gifts; and

23 (c) Provide services, including private events, hosted by the winery or patrons of the winery,
24 at which wine produced in conjunction with the winery is featured, that:

25 (A) Are directly related to the sale or promotion of wine produced in conjunction with the
26 winery;

27 (B) Are incidental to the retail sale of wine on-site; and

28 (C) Are limited to 25 days or fewer in a calendar year.

29 [(3)(a)] **(3)** The gross income of the winery from the sale of incidental items pursuant to sub-
30 section (2)(b) of this section and services provided pursuant to subsection (2)(c) of this section may
31 not exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunc-
32 tion with the winery.

33 *[(b) At the request of a local government with land use jurisdiction over the site of a winery, the*
34 *winery shall submit to the local government a written statement, prepared by a certified public ac-*
35 *countant, that certifies compliance with paragraph (a) of this subsection for the previous tax year.]*

36 (4) A winery operating under this section:

37 (a) Shall provide parking for all activities or uses of the lot, parcel or tract on which the winery
38 is established.

39 (b) May operate a restaurant, as defined in ORS 624.010, in which food is prepared for con-
40 sumption on the premises of the winery.

41 (5)(a) A winery shall obtain a permit from the local government if the winery operates a res-
42 taurant that is open to the public for more than 25 days in a calendar year or provides for private
43 events occurring on more than 25 days in a calendar year.

44 (b) In addition to any other requirements, a local government may approve a permit application
45 under this subsection if the local government finds that the authorized activity:

1 (A) Complies with the standards described in ORS 215.296;

2 (B) Is incidental and subordinate to the retail sale of wine produced in conjunction with the
3 winery; and

4 (C) Does not materially alter the stability of the land use pattern in the area.

5 (c) If the local government issues a permit under this subsection for private events, the local
6 government shall review the permit at least once every five years and, if appropriate, may renew
7 the permit.

8 (6) A person may not have a substantial ownership interest in more than one winery operating
9 a restaurant under this section.

10 (7) Prior to the issuance of a permit to establish a winery under this section, the applicant shall
11 show that vineyards described in subsection (1) of this section have been planted.

12 (8) A local government shall require a winery operating under this section to provide for:

13 (a) Establishment of a setback of at least 100 feet from all property lines for the winery and all
14 public gathering places; and

15 (b) Direct road access and internal circulation.

16 (9) A local government shall apply:

17 (a) Local criteria regarding floodplains, geologic hazards, the Willamette River Greenway, solar
18 access and airport safety;

19 (b) Regulations for the public health and safety; and

20 (c) Regulations for resource protection acknowledged to comply with any statewide goal re-
21 specting open spaces, scenic and historic areas and natural resources.

22 (10) The local government may authorize a winery described in subsection (1) of this section to
23 sell or deliver items or provide services not described in subsection (2)(b) or (c) or (3) of this section
24 under the criteria for a commercial activity in conjunction with farm use under ORS 215.213 (2)(c)
25 or 215.283 (2)(a).

26 (11)(a) A local government may issue a permit for a winery operating under this section to host
27 outdoor concerts for which admission is charged, facility rentals or celebratory events if the local
28 government issued permits to wineries operating under this section in similar circumstances before
29 August 2, 2011.

30 (b) A local government may not issue a permit for a winery operating under this section to host
31 outdoor concerts for which admission is charged, facility rentals or celebratory events if the local
32 government did not issue permits to wineries operating under this section in similar circumstances
33 before August 2, 2011.

34 (12) As used in this section, "private events" includes, but is not limited to, facility rentals and
35 celebratory gatherings.

36 **SECTION 4. The repeal of section 11, chapter 679, Oregon Laws 2011, by section 1 of this**
37 **2013 Act and the amendments to ORS 215.452 and 215.453 by sections 2 and 3 of this 2013 Act**
38 **apply to activities occurring on or after January 1, 2013, in relation to a winery established**
39 **under ORS 215.452 or 215.453.**

40 **SECTION 5. This 2013 Act being necessary for the immediate preservation of the public**
41 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
42 **on its passage.**