

# House Bill 3256

Sponsored by Representative FREDERICK; Representatives BUCKLEY, DEMBROW, GORSEK, GREENLICK, KENY-GUYER, KOMP, LIVELY, NATHANSON, TOMEI, WITT

## 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**.

Allows parties to good neighbor agreement to file agreement with Oregon Liquor Control Commission. Specifies effect of commission licensee compliance or noncompliance with agreement for purposes of commission proceeding to determine whether to suspend or cancel license or impose civil penalty. Requires commission to allow neighborhood association or local government that is party to agreement to present testimony or other evidence in proceeding to determine whether to cancel or suspend license or impose civil penalty.

Requires commission to give notice and request comments by known parties to agreement when considering application for renewal of license.

## A BILL FOR AN ACT

1  
2 Relating to agreements by licensees of the Oregon Liquor Control Commission; creating new pro-  
3 visions; and amending ORS 471.315.

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

5 **SECTION 1. Section 2 of this 2013 Act is added to and made a part of ORS chapter 471.**

6 **SECTION 2. (1) As used in this section:**

7 (a) **“Good neighbor agreement” means an agreement or any modification or addendum**  
8 **to an agreement:**

9 (A) **That a licensee of the Oregon Liquor Control Commission enters into with a neigh-**  
10 **borhood association, a local government or both a neighborhood association and a local gov-**  
11 **ernment;**

12 (B) **That is consistent with the provisions of this chapter and commission rules; and**

13 (C) **That sets forth actions and conditions that, if carried out by the licensee, the parties**  
14 **to the agreement deem sufficient to prevent or mitigate adverse impacts to the neighborhood**  
15 **arising from the operation of a premises by the licensee.**

16 (b) **“Neighborhood association” means an organization recognized by a local government**  
17 **as being formed for the purpose of benefiting and promoting the well-being of residents**  
18 **within an area by action or advocacy regarding matters of general interest to the residents**  
19 **of the area.**

20 (2) **If a licensee of the commission enters into a good neighbor agreement:**

21 (a) **Any party to the agreement may file the agreement with the commission.**

22 (b) **The licensee’s compliance with the agreement is prima facie evidence for purposes**  
23 **of ORS 471.315 that the licensee has demonstrated a willingness and ability to adequately**  
24 **control the licensed premises and patron behavior in the immediate vicinity of the premises**  
25 **related to the licensee’s sale or service of alcohol under the licensee’s exercise of the license**  
26 **privilege. There is a rebuttable presumption that the licensee has complied with the terms**  
27 **of the agreement.**

**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       (c) **The licensee’s substantial or persistent noncompliance with the agreement is grounds**  
 2 **for sanctions against the licensee under ORS 471.315 and is prima facie evidence for purposes**  
 3 **of ORS 471.315 that the licensee is unwilling or unable to adequately control the licensed**  
 4 **premises and patron behavior in the immediate vicinity of the premises related to the**  
 5 **licensee’s sale or service of alcohol under the licensee’s exercise of the license privilege. The**  
 6 **commission shall afford a neighborhood association or local government that is a party to**  
 7 **the agreement the opportunity to present testimony or other evidence at any commission**  
 8 **proceeding held for the purpose of determining whether to cancel or suspend the license or**  
 9 **impose a civil penalty against the licensee. In any commission proceeding to determine**  
 10 **whether to grant an application for the renewal of a license, the commission shall give notice**  
 11 **to and request recommendations or other comments by any neighborhood association or lo-**  
 12 **cal government known to the commission to have entered into a good neighbor agreement**  
 13 **with the licensee.**

14       (d) **In addition to any other remedy available, a neighborhood association or local gov-**  
 15 **ernment that is a party to the agreement may file a request with the commission for an**  
 16 **order requiring the licensee to participate in mediation or binding arbitration to resolve**  
 17 **disputes arising under the agreement.**

18       (3) **The officers of a neighborhood association are deemed the representatives of the as-**  
 19 **sociation for purposes of this section.**

20       **SECTION 3.** ORS 471.315 is amended to read:

21       471.315. (1) The Oregon Liquor Control Commission may cancel or suspend any license issued  
 22 under this chapter, or impose a civil penalty in lieu of or in addition to suspension as provided by  
 23 ORS 471.322, if the commission finds or has reasonable ground to believe any of the following to be  
 24 true:

25       (a) That the licensee:

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

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

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

32       (D) Has maintained an insanitary establishment.

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

35       (F) Is in the habit of using alcoholic liquor, habit-forming drugs or controlled substances to ex-  
 36 cess.

37       (G) Has knowingly sold alcoholic liquor to persons under 21 years of age or to persons visibly  
 38 intoxicated at the time of sale.

39       (H) Has allowed the consumption of alcoholic liquor on the licensed premises by a person who  
 40 is visibly intoxicated at the time of consumption.

41       (I) Has misrepresented to a customer or the public any alcoholic liquor sold by the licensee.

42       (J) Since the granting of the license, has been convicted of a felony, of violating any of the li-  
 43 quor laws of this state, general or local, or of any misdemeanor or violation of any municipal ordi-  
 44 nance committed on the licensed premises.

45       **(K) Has substantially or persistently failed to comply with the terms of a good neighbor**

1 **agreement filed with the commission under section 2 of this 2013 Act.**

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

6 (c) That there is a history of serious and persistent problems involving disturbances, lewd or  
7 unlawful activities or noise either in the premises or involving patrons of the establishment in the  
8 immediate vicinity of the premises if the activities in the immediate vicinity of the premises are  
9 related to the sale or service of alcohol under the exercise of the license privilege. Behavior that  
10 is grounds for cancellation or suspension of a license under this section, where so related to the sale  
11 or service of alcohol, includes but is not limited to obtrusive or excessive noise, music or sound vi-  
12 brations; public drunkenness; fights; altercations; harassment or unlawful drug sales; alcohol or re-  
13 lated litter; trespassing on private property; and public urination. Mitigating factors include a  
14 showing by the licensee that the problems are not serious or persistent or that the licensee has  
15 demonstrated a willingness and ability to control adequately the licensed premises and patrons' be-  
16 havior in the immediate vicinity of the premises which is related to the licensee's sale or service  
17 of alcohol under the licensee's exercise of the license privilege.

18 (d) That there is any other reason that, in the opinion of the commission, based on public con-  
19 venience or necessity, warrants canceling or suspending such license.

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

21 **SECTION 4. Section 2 of this 2013 Act and the amendments to ORS 471.315 by section 3**  
22 **of this 2013 Act apply to:**

23 (1) **Good neighbor agreements entered into, added to or modified on or after the effective**  
24 **date of this 2013 Act; and**

25 (2) **With the written consent of all parties to the agreement, good neighbor agreements**  
26 **entered into before the effective date of this 2013 Act.**

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