

Senate Bill 504

Sponsored by Senator CLOSE (at the request of Linn County Commissioner John Lindsey)

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 criteria for siting winery in exclusive farm use zone. Allows winery to be sited in exclusive farm use zone in conjunction with plantation of agricultural produce, including grapes, grown for winemaking.

A BILL FOR AN ACT

1
2 Relating to wineries sited in exclusive farm use zones; amending ORS 215.452 and 215.453.

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

4 **SECTION 1.** ORS 215.452, as amended by section 3, chapter 679, Oregon Laws 2011, is amended
5 to read:

6 215.452. (1) A winery may be established as a permitted use under ORS 215.213 (1)(p) and 215.283
7 (1)(n) in an area zoned for exclusive farm use if the winery produces wine with a maximum annual
8 production of:

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

10 (A) Owns an on-site [*vineyard*] **plantation** of at least 15 acres;

11 (B) Owns a contiguous [*vineyard*] **plantation** of at least 15 acres;

12 (C) Has a long-term contract for the purchase of all of the [*grapes*] **agricultural produce** from
13 at least 15 acres of a [*vineyard*] **plantation** contiguous to the winery; or

14 (D) Obtains [*grapes*] **agricultural produce** from any combination of subparagraph (A), (B) or (C)
15 of this paragraph; or

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

17 (A) Owns an on-site [*vineyard*] **plantation** of at least 40 acres;

18 (B) Owns a contiguous [*vineyard*] **plantation** of at least 40 acres;

19 (C) Has a long-term contract for the purchase of all of the [*grapes*] **agricultural produce** from
20 at least 40 acres of a [*vineyard*] **plantation** contiguous to the winery; or

21 (D) Obtains [*grapes*] **agricultural produce** from any combination of subparagraph (A), (B) or (C)
22 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;

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; and

3 (c) Provide services, including private events, hosted by the winery or patrons of the winery,
4 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 the
6 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 subsection
10 (2)(b) of this section and services provided pursuant to subsection (2)(c) of this section may not ex-
11 ceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with
12 the winery.

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

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

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

21 (6) A local government shall adopt findings for each of the standards described in this sub-
22 section. Standards imposed on the siting of a winery shall be limited solely to each of the following
23 for the sole purpose of limiting demonstrated conflicts with accepted farming or forest practices on
24 adjacent lands:

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

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

28 (7) A local government shall apply:

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

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

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

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

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

42 (9) As used in this section[,]:

43 (a) **“Plantation” means an area of land, including a vineyard, that is cultivated in, or used**
44 **to produce, agricultural produce to be used in winemaking.**

45 (b) **“Private events”** includes, but is not limited to, facility rentals and celebratory gatherings.

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

3 215.452. (1) A winery may be established as a permitted use under ORS 215.213 (1)(p) and 215.283
 4 (1)(n) in an area zoned for exclusive farm use if the winery produces wine with a maximum annual
 5 production of:

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

7 (A) Owns an on-site [*vineyard*] **plantation** of at least 15 acres;

8 (B) Owns a contiguous [*vineyard*] **plantation** of at least 15 acres;

9 (C) Has a long-term contract for the purchase of all of the [*grapes*] **agricultural produce** from
 10 at least 15 acres of a [*vineyard*] **plantation** contiguous to the winery; or

11 (D) Obtains [*grapes*] **agricultural produce** from any combination of subparagraph (A), (B) or (C)
 12 of this paragraph; or

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

14 (A) Owns an on-site [*vineyard*] **plantation** of at least 40 acres;

15 (B) Owns a contiguous [*vineyard*] **plantation** of at least 40 acres;

16 (C) Has a long-term contract for the purchase of all of the [*grapes*] **agricultural produce** from
 17 at least 40 acres of a [*vineyard*] **plantation** contiguous to the winery; or

18 (D) Obtains [*grapes*] **agricultural produce** from any combination of subparagraph (A), (B) or (C)
 19 of this paragraph.

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

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

23 (A) Wine tours;

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

25 (C) Wine clubs; and

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

28 (b) Market and sell items directly related to the sale or promotion of wine produced in con-
 29 junction with the winery, the marketing and sale of which is incidental to retail sale of wine on-site,
 30 including food and beverages served by a limited service restaurant, as defined in ORS 624.010.

31 (3) A winery operating under this section shall provide parking for all activities or uses of the
 32 lot, parcel or tract on which the winery is established.

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

36 (5) A local government shall adopt findings for each of the standards described in this sub-
 37 section. Standards imposed on the siting of a winery shall be limited solely to each of the following
 38 for the sole purpose of limiting demonstrated conflicts with accepted farming or forest practices on
 39 adjacent lands:

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

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

43 (6) A local government shall apply:

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

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

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

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

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

12 **(8) As used in this section, “plantation” means an area of land, including a vineyard, that**
 13 **is cultivated in, or used to produce, agricultural produce to be used in winemaking.**

14 **SECTION 3.** ORS 215.453, as amended by section 5a, chapter 679, Oregon Laws 2011, is
 15 amended to read:

16 215.453. (1) A winery may be established as a permitted use under ORS 215.213 (1)(p) or 215.283
 17 (1)(n) in an area zoned for exclusive farm use if:

18 (a) The winery owns and is sited on a tract of 80 acres or more, at least 50 acres of which is
 19 a [*vineyard*] **plantation**;

20 (b) The winery owns at least 80 additional acres of [*planted vineyards*] **plantations** in Oregon
 21 that need not be contiguous to the acreage described in paragraph (a) of this subsection; and

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

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

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

28 (A) Wine tours;

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

30 (C) Wine clubs; and

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

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

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

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

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

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

43 (3)(a) The gross income of the winery from the sale of incidental items pursuant to subsection
 44 (2)(b) of this section and services provided pursuant to subsection (2)(c) of this section may not ex-
 45 ceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with

1 the winery.

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

5 (4) A winery operating under this section:

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

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

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

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

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

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

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

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

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

24 (7) Prior to the issuance of a permit to establish a winery under this section, the applicant shall
25 show that [*vineyards*] **plantations** described in subsection (1) of this section have been planted.

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

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

29 (b) Direct road access and internal circulation.

30 (9) A local government shall apply:

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

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

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

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

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

44 (b) A local government may not issue a permit for a winery operating under this section to host
45 outdoor concerts for which admission is charged, facility rentals or celebratory events if the local

1 government did not issue permits to wineries operating under this section in similar circumstances
2 before August 2, 2011.

3 (12) As used in this section[,]:

4 (a) **“Plantation” means an area of land, including a vineyard, that is cultivated in, or used**
5 **to produce, agricultural produce to be used in winemaking.**

6 (b) “Private events” includes, but is not limited to, facility rentals and celebratory gatherings.

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