

**PROPOSED AMENDMENTS TO
A-ENGROSSED SENATE BILL 841**

1 On page 1 of the printed A-engrossed bill, delete lines 7 through 25 and
2 delete pages 2 and 3.

3 On page 4, delete lines 1 through 38 and insert:

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

6 “215.452. (1) A winery may be established as a permitted use **on land**
7 **zoned for exclusive farm use** under ORS 215.213 (1)(p) and 215.283 (1)(n)
8 [*in an area zoned for exclusive farm use*] **or on land zoned for mixed farm**
9 **and forest use** if the winery produces wine with a maximum annual pro-
10 duction 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
15 at least 15 acres of a vineyard contiguous to the winery; or

16 “(D) Obtains grapes from any combination of subparagraph (A), (B) or (C)
17 of this paragraph; or

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

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

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

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

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

3 “[*(2) A winery described in subsection (1) of this section may:*]

4 “[*(a) Market and sell wine produced in conjunction with the winery, in-*
5 *cluding the following activities:*]

6 “[*(A) Wine tours;*]

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

8 “[*(C) Wine clubs; and*]

9 “[*(D) Similar activities conducted for the primary purpose of promoting*
10 *wine produced in conjunction with the winery; and*]

11 “[*(b) Market and sell items directly related to the sale or promotion of wine*
12 *produced in conjunction with the winery, the marketing and sale of which is*
13 *incidental to retail sale of wine on-site, including food and beverages served*
14 *by a limited service restaurant, as defined in ORS 624.010.*]

15 “**(2) A winery established under this section may:**

16 “**(a) Produce, distribute and sell wine produced in conjunction with**
17 **the winery, including the marketing and sale of wine through the**
18 **winery’s wine club.**

19 “**(b) Conduct activities that are directly related to, and for the pri-**
20 **mary purpose of, marketing or selling wine produced in conjunction**
21 **with the winery, including:**

22 “**(A) Wine tastings in a tasting room or other location on the tract**
23 **occupied by the winery;**

24 “**(B) Winery and vineyard tours;**

25 “**(C) Business meetings or winery-related activities with winery**
26 **staff, suppliers, distributors, wholesale customers and wine industry**
27 **members;**

28 “**(D) Luncheons or dinners hosted by the winery for wine club**
29 **members, business partners or winery staff;**

30 “**(E) Open house promotions of wine produced in conjunction with**

1 **the winery; and**

2 **“(F) Activities similar to the activities described in this paragraph.**

3 **“(c) Market and sell items directly related to the sale or promotion**
4 **of wine produced in conjunction with the winery, the marketing and**
5 **sale of which is incidental to on-site retail sale of wine, including food**
6 **and beverages:**

7 **“(A) Required to be made available in conjunction with the con-**
8 **sumption of wine on the premises by the Liquor Control Act or rules**
9 **adopted under the Liquor Control Act; or**

10 **“(B) Served in conjunction with an activity authorized by paragraph**
11 **(b) or (d) of this subsection.**

12 **“(d) Carry out agri-tourism or other commercial events on the tract**
13 **occupied by the winery subject to subsections (5), (6) and (7) of this**
14 **section.**

15 **“(e) Host charitable activities for which the winery does not charge**
16 **a facility rental fee or receive any payment except to recover the**
17 **winery’s actual costs for allowing the use of the winery for the chari-**
18 **table activity.**

19 **“(3) A winery may include on-site kitchen facilities licensed by the**
20 **Oregon Health Authority under ORS 624.010 to 624.121 for the prepa-**
21 **ration of food and beverages described in subsection (2)(c) of this sec-**
22 **tion. Food and beverage services authorized under subsection (2)(c) of**
23 **this section may not utilize menu options or meal services that cause**
24 **the kitchen facilities to function as a café or other dining establish-**
25 **ment open to the public.**

26 **“(4) The gross income of the winery from the sale of incidental**
27 **items or services provided pursuant to subsection (2)(c) of this section**
28 **may not exceed 25 percent of the gross income from the on-site retail**
29 **sale of wine produced in conjunction with the winery. At the request**
30 **of a local government with land use jurisdiction over the site of a**

1 winery, the winery shall submit to the local government a written
2 statement that is prepared by a certified public accountant and certi-
3 fies the compliance of the winery with this subsection for the previous
4 tax year.

5 “(5) For the purposes of approving events described in subsection
6 (2)(d) of this section:

7 “(a) A local government shall issue a renewable multiyear license
8 that:

9 “(A) Has a term of four years; and

10 “(B) Is subject to an administrative review to determine necessary
11 conditions pursuant to subsection (6) of this section;

12 “(b) Except as provided otherwise in this subsection or subsections
13 (6) and (7) of this section, the events must comply with ORS 215.213
14 (11) or 215.283 (4); and

15 “(c) The local government’s decision to issue or renew a license
16 under paragraph (a) of this subsection is:

17 “(A) A land use decision, as defined in ORS 197.015, and is subject
18 to review by the Land Use Board of Appeals.

19 “(B) A permit, as defined in ORS 215.402 or 227.160.

20 “(6) To ensure that agri-tourism or other commercial events on a
21 tract occupied by a winery are subordinate to the production and sale
22 of wine and do not create significant adverse impacts to uses on sur-
23 rounding land, the local government shall impose conditions on a li-
24 cense issued pursuant to subsection (5) of this section related to:

25 “(a) The number of event attendees;

26 “(b) The hours of event operation;

27 “(c) Access and parking;

28 “(d) Traffic management;

29 “(e) Noise management; and

30 “(f) Sanitation and solid waste.

1 “(7) A local government may charge a fee for processing a license
2 under subsections (5) and (6) of this section. A fee may not exceed the
3 actual or average cost of providing the applicable licensing service.

4 “[(3)] (8) A winery operating under this section shall provide parking for
5 all activities or uses of the lot, parcel or tract on which the winery is es-
6 tablished.

7 “[(4)] (9) Prior to the issuance of a permit to establish a winery under this
8 section, the applicant shall show that vineyards described in subsection (1)
9 of this section have been planted or that the contract has been executed, as
10 applicable.

11 “[(5)] (10) A local government shall [*adopt findings for each of*] **apply** the
12 standards described in this subsection. Standards imposed on the siting of
13 a winery shall be limited solely to each of the following for the sole purpose
14 of limiting demonstrated conflicts with accepted farming or forest practices
15 on adjacent lands:

16 “(a) Establishment of a setback of at least 100 feet from all property lines
17 for the winery and all public gathering places **unless the local government**
18 **grants an adjustment or variance allowing a setback of less than 100**
19 **feet; and**

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

21 “[(6)] (11) A local government shall apply:

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

24 “(b) Regulations **of general applicability** for the public health and
25 safety; and

26 “(c) Regulations for resource protection acknowledged to comply with any
27 statewide goal respecting open spaces, scenic and historic areas and natural
28 resources.

29 “[(7)(a)] *A local government may issue a permit for a winery operating un-*
30 *der this section to host outdoor concerts for which admission is charged, fa-*

1 *cility rentals or celebratory events if the local government issued permits to*
2 *wineries operating under this section in similar circumstances before August*
3 *2, 2011.]*

4 *“(b) A local government may not issue a permit for a winery operating*
5 *under this section to host outdoor concerts for which admission is charged,*
6 *facility rentals or celebratory events if the local government did not issue per-*
7 *mits to wineries operating under this section in similar circumstances before*
8 *August 2, 2011.]*

9 **“(12) When a bed and breakfast facility, as defined in ORS 624.010,**
10 **is sited as a home occupation under ORS 215.448 on the same tract as**
11 **a winery established under this section and is in association with the**
12 **winery:**

13 **“(a) The bed and breakfast facility may prepare and serve any meals**
14 **for a maximum of 18 patrons; and**

15 **“(b) Meals prepared at the bed and breakfast facility for a maximum**
16 **of 18 patrons may be served at the winery.**

17 **“(13) As used in this section:**

18 **“(a) ‘Agri-tourism or other commercial events’ includes outdoor**
19 **concerts for which admission is charged, educational, cultural, health**
20 **or lifestyle events, facility rentals, celebratory gatherings and other**
21 **events at which the promotion of wine produced in conjunction with**
22 **the winery is a secondary purpose of the event.**

23 **“(b) ‘On-site retail sale’ includes the retail sale of wine in person**
24 **at the winery and to a member of the winery’s wine club through the**
25 **Internet or by telephone.”.**

26 On page 5, line 4, after the period delete the rest of the line and delete
27 lines 5 and 6.

28 In line 10, delete “(5)” and insert “(2)(d)”.

29 Delete lines 21 through 45 and delete pages 6 and 7.

30 On page 8, delete lines 1 through 4 and insert:

1 **“SECTION 6.** ORS 215.453, as amended by section 5a, chapter 679, Oregon
2 Laws 2011, is amended to read:

3 “215.453. (1) A winery may be established as a permitted use **on land**
4 **zoned for exclusive farm use** under ORS 215.213 (1)(p) or 215.283 (1)(n) [*in*
5 *an area zoned for exclusive farm use*] **or on land zoned for mixed farm and**
6 **forest use** if:

7 “(a) The winery owns and is sited on a tract of 80 acres or more, at least
8 50 acres of which is a vineyard;

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

12 “(c) The winery has produced annually, at the same or a different lo-
13 cation, at least 150,000 gallons of wine in at least three of the five calendar
14 years before the winery is established under this section.

15 “[(2) A winery described in subsection (1) of this section may:]

16 “[(a) Market and sell wine produced in conjunction with the winery, in-
17 cluding the following activities:]

18 “[(A) Wine tours;]

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

20 “[(C) Wine clubs; and]

21 “[(D) Similar activities conducted for the primary purpose of promoting
22 wine produced in conjunction with the winery;]

23 **“(2) A winery established under this section may:**

24 **“(a) Produce, distribute and sell wine produced in conjunction with**
25 **the winery, including the marketing and sale of wine through the**
26 **winery’s wine club.**

27 **“(b) Conduct activities that are directly related to, and for the pri-**
28 **mary purpose of, marketing or selling wine produced in conjunction**
29 **with the winery, including:**

30 **“(A) Wine tastings in a tasting room or other location on the tract**

1 **occupied by the winery;**
2 **“(B) Winery and vineyard tours;**
3 **“(C) Business meetings or winery-related activities with winery**
4 **staff, suppliers, distributors, wholesale customers and wine industry**
5 **members;**
6 **“(D) Luncheons or dinners hosted by the winery for wine club**
7 **members, business partners or winery staff;**
8 **“(E) Open house promotions of wine produced in conjunction with**
9 **the winery; and**
10 **“(F) Activities similar to the activities described in this paragraph.**
11 **“[(b)] (c) Market and sell items directly related to the sale or promotion**
12 **of wine produced in conjunction with the winery, the marketing and sale of**
13 **which is incidental to on-site retail sale of wine [on-site, including food and**
14 **beverages served by a limited service restaurant, as defined in ORS 624.010,**
15 **wine not produced in conjunction with the winery and gifts; and], including**
16 **food and beverages:**
17 **“(A) Required to be made available in conjunction with the con-**
18 **sumption of wine on the premises by the Liquor Control Act or rules**
19 **adopted under the Liquor Control Act; or**
20 **“(B) Served in conjunction with an activity authorized by paragraph**
21 **(b) or (d) of this subsection.**
22 **“[(c)] (d) Provide services, including [private] agri-tourism or other**
23 **commercial events, hosted by the winery or patrons of the winery, at which**
24 **wine produced in conjunction with the winery is featured, that:**
25 **“(A) Are directly related to the sale or promotion of wine produced in**
26 **conjunction with the 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 **“(e) Host charitable activities for which the winery does not charge**
30 **a facility rental fee or receive any payment except to recover the**

1 **winery’s actual costs for allowing the use of the winery for the chari-**
2 **table activity.**

3 “(3)(a) The gross income of the winery from the sale of incidental items
4 **or services provided** pursuant to subsection [(2)(b)] **(2)(c)** of this section
5 [*and services provided pursuant to subsection (2)(c) of this section*] may not
6 exceed 25 percent of the gross income from the on-site retail sale of wine
7 produced in conjunction with the winery.

8 “(b) At the request of a local government with land use jurisdiction over
9 the site of a winery, the winery shall submit to the local government a
10 written statement[,] **that is** prepared by a certified public accountant[,
11 *that*] **and certifies the compliance of the winery** with paragraph (a) of this
12 subsection for the previous tax year.

13 “(4) A winery operating under this section:

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

16 “(b) May operate a restaurant, as defined in ORS 624.010, in which food
17 is prepared for consumption on the premises of the winery.

18 “(5)(a) A winery shall obtain a permit from the local government if the
19 winery operates a restaurant that is open to the public for more than 25 days
20 in a calendar year or provides for [*private events*] **agri-tourism or other**
21 **commercial events authorized under subsection (2)(d) of this section**
22 occurring on more than 25 days in a calendar year.

23 “(b) In addition to any other requirements, a local government may ap-
24 prove a permit application under this subsection if the local government
25 finds that the authorized activity:

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

27 “(B) Is incidental and subordinate to the retail sale of wine produced in
28 conjunction with the winery; and

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

1 “(c) If the local government issues a permit under this subsection for
2 [*private*] **agri-tourism or other commercial** events, the local government
3 shall review the permit at least once every [*five*] **four** years and, if appro-
4 priate, may renew the permit.

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

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

10 “(8) A local government shall require a winery operating under this sec-
11 tion to provide for:

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

14 “(b) Direct road access and internal circulation.

15 “(9) A local government shall apply:

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

18 “(b) Regulations for the public health and safety; and

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

22 “(10) The local government may authorize a winery [*described in sub-*
23 *section (1) of*] **established under** this section to sell or deliver items or
24 provide services not described in subsection [(2)(b) or (c)] **(2)(c) or (d)** or (3)
25 of this section under the criteria for a commercial activity in conjunction
26 with farm use under ORS 215.213 (2)(c) or 215.283 (2)(a) **or under other**
27 **provisions of law.**

28 “(11)(a) A local government may issue a permit for a winery operating
29 under this section to host outdoor concerts for which admission is charged,
30 facility rentals or celebratory events if the local government issued permits

1 to wineries operating under this section in similar circumstances before
2 August 2, 2011.

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

8 “[*(12) As used in this section, ‘private events’ includes, but is not limited*
9 *to, facility rentals and celebratory gatherings.*]

10 **“(12) When a bed and breakfast facility, as defined in ORS 624.010,**
11 **is sited as a home occupation under ORS 215.448 on the same tract as**
12 **a winery established under this section and is in association with the**
13 **winery:**

14 **“(a) The bed and breakfast facility may prepare and serve any meals**
15 **for a maximum of 18 patrons; and**

16 **“(b) Meals prepared at the bed and breakfast facility for a maximum**
17 **of 18 patrons may be served at the winery.**

18 **“(13) As used in this section:**

19 **“(a) ‘Agri-tourism or other commercial events’ includes outdoor**
20 **concerts for which admission is charged, educational, cultural, health**
21 **or lifestyle events, facility rentals, celebratory gatherings and other**
22 **events at which the promotion of wine produced in conjunction with**
23 **the winery is a secondary purpose of the event.**

24 **“(b) ‘On-site retail sale’ includes the retail sale of wine in person**
25 **at the winery and to a member of the winery’s wine club through the**
26 **Internet or by telephone.”.**

27