

**PROPOSED AMENDMENTS TO
HOUSE BILL 2702**

1 On page 1 of the printed bill, delete lines 4 through 30 and delete pages
2 2 through 4 and insert:

3 **“SECTION 1. Sections 2 to 7 of this 2013 Act are added to and made**
4 **a part of ORS chapter 471.**

5 **“SECTION 2. As used in sections 2 to 7 of this 2013 Act, ‘municipi-**
6 **ality’ means a city or county as represented by its governing body**
7 **or a designee.**

8 **“SECTION 3. (1) The Oregon Liquor Control Commission may adopt**
9 **rules establishing an alcohol impact area in a municipality that has**
10 **filed a petition with the commission as provided in this section. Prior**
11 **to filing a petition with the commission, the municipality must provide**
12 **an opportunity for public comment for the purpose of identifying vol-**
13 **untary actions that businesses and residents in the area affected by**
14 **the petition may take to address chronic problems in the area involv-**
15 **ing disturbances, prohibited drinking on public streets or in alleys,**
16 **parks or similar public places, public intoxication or noise. The op-**
17 **portunity for public comment must include an opportunity for any**
18 **business in the affected area to explain why the business should be**
19 **exempt from any requirement, limitation or prohibition regarding al-**
20 **cohol sales that the municipality is considering for inclusion in a pe-**
21 **tition to the commission.**

22 **“(2) A petition that a municipality files with the commission under**

1 **this section must:**

2 **“(a) Identify the geographic boundaries proposed for the alcohol**
3 **impact area;**

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

9 **“(c) Identify proposed uniform requirements, limitations or prohi-**
10 **bitions regarding alcohol sales in the area;**

11 **“(d) Explain why the proposed requirements, limitations and pro-**
12 **hibitions are expected to alleviate or eliminate the documented prob-**
13 **lems in the area; and**

14 **“(e) Describe the opportunity provided by the municipality for**
15 **public comment under subsection (1) of this section.**

16 **“(3) If a petition includes a request to limit or prohibit the off-**
17 **premises sales of specific alcoholic liquor products, the petition must**
18 **provide documentation to the satisfaction of the commission that the**
19 **products are reasonably linked to chronic problems in the proposed**
20 **alcohol impact area involving disturbances, prohibited drinking on**
21 **public streets or in alleys, parks or similar public places, public**
22 **intoxication or noise that cannot readily be attributed to a particular**
23 **licensed premises.**

24 **“(4) Documentation required under subsection (2)(b) or (3) of this**
25 **section may include, but need not be limited to, crime statistics, po-**
26 **lice, fire and emergency medical response statistics, detoxification**
27 **center statistics, photographic evidence, police officer, resident or**
28 **medical provider testimony, testimony of current or former chronic**
29 **public inebriates, litter pickup data or other documentation acceptable**
30 **to the commission that establishes the nature and extent of the prob-**

1 lems.

2 “(5) If the commission receives a petition filed in compliance with
3 this section, the commission shall initiate proceedings under ORS
4 chapter 183 to determine whether to adopt a rule establishing an al-
5 cohol impact area.

6 “SECTION 4. (1) If the Oregon Liquor Control Commission adopts
7 a rule establishing an alcohol impact area, the commission shall de-
8 termine and identify the boundaries of the area. The commission may
9 determine and identify boundaries for an alcohol impact area that
10 differ from the boundaries contained in a petition filed by a munici-
11 pality. Notwithstanding ORS 471.175, 471.178, 471.186, 471.200, 471.220
12 and 471.223 and except as provided in subsection (6) of this section, the
13 rule establishing the alcohol impact area may impose any uniform
14 requirements, limitations or prohibitions regarding alcohol sales in the
15 area that the commission believes may alleviate or eliminate docu-
16 mented problems in the area, including but not limited to limitations
17 on off-premises sales in general, limitations or prohibitions on sales
18 of specific alcoholic liquor products and restrictions on the hours for
19 off-premises sales of alcoholic liquor. The rule may impose uniform
20 requirements, limitations or prohibitions that differ from the proposed
21 uniform requirements, limitations or prohibitions contained in the
22 petition filed by the municipality.

23 “(2) A commission limitation or prohibition on the sale of specific
24 alcoholic liquor products must individually identify each product for
25 which sale is being limited or prohibited. A commission limitation or
26 prohibition on the sale of a specific alcoholic liquor product applies to
27 all container sizes in which the product is sold.

28 “(3) If a new alcoholic liquor product becomes available in an alco-
29 hol impact area that has substantial and material similarities to a
30 product for which sales are limited or prohibited under subsection (2)

1 of this section, a municipality may request in writing that the com-
2 mission limit or prohibit sales of the new alcoholic liquor product in
3 the alcohol impact area. Notwithstanding section 3 (3) of this 2013 Act
4 and subsection (4) of this section, proof that a new alcoholic liquor
5 product has substantial and material similarities to a product for
6 which sales are limited or prohibited and is a substitute in the mar-
7 ketplace for the product is sufficient to establish that the new alco-
8 holic liquor product is reasonably linked to chronic problems in the
9 alcohol impact area involving disturbances, prohibited drinking on
10 public streets or in alleys, parks or similar public places, public
11 intoxication or noise. The commission shall approve or deny a written
12 request made by a municipality under this subsection no later than
13 30 days after receiving the request. If the commission does not issue
14 a decision on the request within 30 days, the commission shall be
15 deemed to have approved the request. The commission shall send the
16 requesting municipality written notice of the decision no later than
17 five business days after the 30-day period expires. If the commission
18 approves a request made under this subsection, the approval must in-
19 dividually identify the specific new alcoholic liquor product for which
20 sale is being limited or prohibited.

21 “(4) A municipality may request in writing that the commission add
22 a specific alcoholic liquor product to a list of limited or prohibited
23 products for an alcohol impact area. A request that a municipality
24 files under this subsection must demonstrate to the commission as
25 described in section 3 (3) of this 2013 Act that the specific alcoholic
26 liquor product is reasonably linked to chronic problems in the alcohol
27 impact area involving disturbances, prohibited drinking on public
28 streets or in alleys, parks or similar public places, public intoxication
29 or noise. The commission shall approve or deny a written request
30 made by a municipality under this subsection no later than 30 days

1 after receiving the request. If the commission does not issue a decision
2 on the request within 30 days, the commission shall be deemed to have
3 approved the request. The commission shall send the requesting
4 municipality written notice of the decision no later than five business
5 days after the 30-day period expires. If the commission approves a re-
6 quest made under this subsection, the approval must individually
7 identify the specific alcoholic liquor product that is being added to the
8 list of products for which sales are being limited or prohibited.

9 “(5) For purposes of ORS 471.313, 471.315, 471.322 and 471.327, a vio-
10 lation of any requirement, limitation or prohibition that the commis-
11 sion imposes within an alcohol impact area is a violation of the rule
12 establishing the alcohol impact area.

13 “(6) The commission may not establish an alcohol impact area, de-
14 termine and identify boundaries of the area or impose any require-
15 ment, limitation or prohibition on alcohol sales within the area based
16 upon a consideration of the age, race, sex, disability, marital status,
17 national origin, sexual orientation, color or religion of commission
18 licensees having a licensed premises in the area or of patrons of li-
19 censed premises in the area.

20 “(7) The authority of the commission to establish an alcohol impact
21 area under this section is in addition to any other authority of the
22 commission to address serious and persistent problems associated with
23 alcohol.

24 SECTION 5. (1) If the Oregon Liquor Control Commission estab-
25 lishes an alcohol impact area under section 3 of this 2013 Act, after
26 all requirements, limitations and prohibitions imposed by the rule re-
27 garding alcohol sales in the area have been fully implemented, a li-
28 censed premises within the area may file a request with the
29 commission seeking exemption from one or more of the requirements,
30 limitations or prohibitions. The petition must:

1 “(a) Be in writing;

2 “(b) Identify the requirements, limitations or prohibitions from
3 which the licensee is seeking exemption;

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

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

10 “(2) A licensee seeking an exemption under this section bears the
11 burden of demonstrating that it is unlikely the licensed premises
12 contributed to the past documented problems in the area and that the
13 licensed premises are unlikely to contribute to future problems in the
14 area if one or more of the requested exemptions are granted.

15 “(3) The commission shall provide notice of an exemption requested
16 under this section to the municipality that petitioned for establish-
17 ment of the alcohol impact area. The commission shall allow the
18 municipality a reasonable opportunity to comment on the requested
19 exemption.

20 “(4) The commission may refuse an exemption or may grant all or
21 part of a requested exemption. An exemption from an alcohol impact
22 area requirement, limitation or prohibition expires after one year un-
23 less the licensee files a request to renew the exemption. A licensee
24 filing a request to renew an exemption under this section bears the
25 burden of demonstrating that it is unlikely the licensed premises
26 contributed to documented problems in the area during the most re-
27 cent exemption period and that the licensed premises are unlikely to
28 contribute to future problems in the area if the exemption is renewed.
29 The commission may refuse to renew the exemption or may renew all
30 or part of the exemption previously granted to the licensee.

1 **“SECTION 6. (1) If the Oregon Liquor Control Commission estab-**
2 **lishes an alcohol impact area for a municipality, the commission may**
3 **require the municipality to keep the commission informed of progress**
4 **in implementing the alcohol impact area.**

5 **“(2) Two years after all requirements, limitations or prohibitions for**
6 **an alcohol impact area have been fully implemented in a municipality,**
7 **the municipality shall report as provided under ORS 192.235 to 192.245**
8 **to the Legislative Assembly or, if the Legislative Assembly is not in**
9 **session, to an interim committee of the Legislative Assembly dealing**
10 **with alcohol. The report shall contain an assessment regarding the**
11 **effect of the alcohol impact area on the problems identified in the pe-**
12 **tition that the municipality filed with the commission for establish-**
13 **ment of the area. For purposes of this section, the addition of a**
14 **product to a list of products for which sales are limited or prohibited,**
15 **or the exemption of a licensed premises under section 5 of this 2013**
16 **Act, does not affect the implementation date for the alcohol impact**
17 **area.**

18 **“(3) The commission may, at its discretion, allow a municipality to**
19 **delay reporting under subsection (2) of this section for good cause af-**
20 **fecting the ability of the municipality to determine the effects of the**
21 **alcohol impact area. If the commission grants the municipality a delay**
22 **under this subsection, the commission shall inform the Legislative**
23 **Assembly or, if the Legislative Assembly is not in session, an interim**
24 **committee of the Legislative Assembly dealing with alcohol, of the**
25 **delay and of the new date by which the municipality is to report.**

26 **“SECTION 7. (1) A person or governmental entity may petition the**
27 **Oregon Liquor Control Commission for the review of a commission**
28 **rule that established an alcohol impact area. The petition must iden-**
29 **tify one or more reasons why a review is warranted. The commission**
30 **shall have discretion to determine whether to review the rule. If the**

1 commission grants the petition, the commission shall provide an op-
2 portunity for public comment regarding whether the rule establishing
3 the area should continue in effect, be amended or be repealed. In ad-
4 dition to any other notice of the opportunity for public comment, the
5 commission shall make a reasonable effort to give notice of the op-
6 portunity to:

7 “(a) The municipality that petitioned for establishment of the area;

8 “(b) The commission licensees having a licensed premises in the
9 area;

10 “(c) Any neighborhood or business associations known to the com-
11 mission and serving all or part of the area; and

12 “(d) Any person that submitted comments or testified during the
13 rule adoption process that resulted in establishment of the area.

14 “(2) After the commission closes the opportunity for public com-
15 ment, the commission shall decide whether it is appropriate to amend
16 or repeal the rule establishing the area. The commission may amend
17 or repeal the rule only if the commission finds that the evidence re-
18 ceived during the review affirmatively demonstrates that the rule
19 should be amended or repealed. If the commission decides to amend
20 or repeal the rule, the commission shall initiate rulemaking as pro-
21 vided under ORS chapter 183.

22 “SECTION 8. Sections 2 to 7 of this 2013 Act apply to petitions filed
23 with the Oregon Liquor Control Commission on or after the effective
24 date of this 2013 Act.

25 “SECTION 9. Any rule adopted by the Oregon Liquor Control
26 Commission prior to the effective date of this 2013 Act that established
27 an alcohol impact area shall be treated in the same manner as a rule
28 adopted in compliance with section 4 of this 2013 Act. However, section
29 4 (5) of this 2013 Act does not affect the validity of any civil penalty
30 or other sanction imposed by the commission for a rule violation oc-

1 **curing prior to the effective date of this 2013 Act.**

2 **“SECTION 10. Section 9 of this 2013 Act is repealed on January 2,**
3 **2017.**

4 **“SECTION 11. This 2013 Act being necessary for the immediate**
5 **preservation of the public peace, health and safety, an emergency is**
6 **declared to exist, and this 2013 Act takes effect on its passage.”.**

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