

# House Bill 4094

Sponsored by Representative DOHERTY; Representatives BARKER, HICKS, KRIEGER, OLSON, TOMEI, WILLIAMSON, Senators DEMBROW, ROBLAN, STEINER HAYWARD (Pre-session filed.)

## 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**.

Creates defense to possession of alcohol by person under 21 years of age if evidence of offense resulted from person's having sought medical assistance for alcohol poisoning.

## A BILL FOR AN ACT

1  
2 Relating to possession of alcohol by persons under 21 years of age; creating new provisions; and  
3 amending ORS 471.430.

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

5 **SECTION 1.** ORS 471.430 is amended to read:

6 471.430. (1) A person under 21 years of age may not attempt to purchase, purchase or acquire  
7 alcoholic beverages. Except when such minor is in a private residence accompanied by the parent  
8 or guardian of the minor and with such parent's or guardian's consent, a person under 21 years of  
9 age may not have personal possession of alcoholic beverages.

10 (2) For the purposes of this section, personal possession of alcoholic beverages includes the ac-  
11 ceptance or consumption of a bottle of such beverages, or any portion thereof or a drink of such  
12 beverages. However, this section does not prohibit the acceptance or consumption by any person  
13 of sacramental wine as part of a religious rite or service.

14 (3) Except as authorized by rule or as necessitated in an emergency, a person under 21 years  
15 of age may not enter or attempt to enter any portion of a licensed premises that is posted or oth-  
16 erwise identified as being prohibited to the use of minors.

17 (4)(a) Except as provided in paragraph (b) of this subsection, a person who violates subsection  
18 (1) or (3) of this section commits a Class B violation.

19 (b) A person commits a Class A violation if the person violates subsection (1) of this section by  
20 reason of personal possession of alcoholic beverages while the person is operating a motor vehicle,  
21 as defined in ORS 801.360.

22 (5) In addition to and not in lieu of any other penalty established by law, a person under 21  
23 years of age who violates subsection (1) of this section through misrepresentation of age may be  
24 required to perform community service and the court shall order that the person's driving privileges  
25 and right to apply for driving privileges be suspended for a period not to exceed one year. If a court  
26 has issued an order suspending driving privileges under this section, the court, upon petition of the  
27 person, may withdraw the order at any time the court deems appropriate. The court notification to  
28 the Department of Transportation under this subsection may include a recommendation that the  
29 person be granted a hardship permit under ORS 807.240 if the person is otherwise eligible for the  
30 permit.

31 (6) If a person cited under this section is at least 13 years of age but less than 21 years of age

**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 at the time the person is found in default under ORS 153.102 or 419C.472 for failure to appear, in  
2 addition to and not in lieu of any other penalty, the court shall issue notice under ORS 809.220 to  
3 the department for the department to suspend the person's driving privileges under ORS 809.280 (4).

4 (7) In addition to and not in lieu of any penalty established by law, the court may order a person  
5 who violates this section to undergo assessment and treatment as provided in ORS 471.432. The  
6 court shall order a person to undergo assessment and treatment as provided in ORS 471.432 if the  
7 person has previously been found to have violated this section.

8 (8) The prohibitions of this section do not apply to a person under 21 years of age who is acting  
9 under the direction of the Oregon Liquor Control Commission or under the direction of state or lo-  
10 cal law enforcement agencies for the purpose of investigating possible violations of laws prohibiting  
11 sales of alcoholic beverages to persons who are under 21 years of age.

12 (9) The prohibitions of this section do not apply to a person under 21 years of age who is acting  
13 under the direction of a licensee for the purpose of investigating possible violations by employees  
14 of the licensee of laws prohibiting sales of alcoholic beverages to persons who are under 21 years  
15 of age.

16 **(10)(a) A person under 21 years of age is not in violation of this section if:**

17 **(A) The person sought medical assistance for another person for what the person rea-**  
18 **sonably believed was alcohol poisoning, and the evidence of the violation of this section was**  
19 **obtained as a result of the person's having sought medical assistance; or**

20 **(B)(i) The person needed medical assistance as a result of experiencing alcohol poisoning;**

21 **(ii) The person, or another person acting on the person's behalf, sought or obtained**  
22 **medical assistance for the person; and**

23 **(iii) The evidence of the violation of this section was obtained as a result of the person's**  
24 **having sought or obtained medical assistance.**

25 **(b) Paragraph (a) of this subsection does not exclude the use of evidence obtained as a**  
26 **result of a person's having sought medical assistance in proceedings for crimes or offenses**  
27 **other than a violation of this section.**

28 **SECTION 2. The amendments to ORS 471.430 by section 1 of this 2014 Act apply to con-**  
29 **duct occurring on or after the effective date of this 2014 Act.**

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