

# House Bill 3340

Sponsored by Representative JOHNSON

## 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**.

Eliminates requirement that vineyards be contiguous to winery for wineries in Eastern Oregon or Southern Oregon that produce less than 50,000 gallons per year.

## A BILL FOR AN ACT

1  
2 Relating to wineries sited in resource zones; amending ORS 215.452.

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

4 **SECTION 1.** ORS 215.452 is amended to read:

5 215.452. (1) **Except as provided for portions of this state that are subject to subsection (2)**  
6 **of this section**, a winery may be established as a permitted use on land zoned for exclusive farm  
7 use under ORS 215.213 (1)(p) and 215.283 (1)(n) or on land zoned for mixed farm and forest use if the  
8 winery produces wine with a maximum annual production of:

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

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

11 (B) Owns a contiguous vineyard of at least 15 acres;

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

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

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

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

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

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

20 (D) Owns an on-site vineyard of at least 15 acres on a tract of at least 40 acres and owns at  
21 least 40 additional acres of vineyards in Oregon that are located within 15 miles of the winery site;

22 or

23 (E) Obtains grapes from any combination of subparagraph (A), (B), (C) or (D) of this paragraph.

24 **(2) In eastern Oregon or southern Oregon, a winery may be established as a permitted**  
25 **use on land zoned for exclusive farm use under ORS 215.213 (1)(p) and 215.283 (1)(n) or on**  
26 **land zoned for mixed farm and forest use if the winery produces wine with a maximum an-**  
27 **annual production of:**

28 (a) **Less than 50,000 gallons and:**

29 (A) **Owns an on-site vineyard of at least 15 acres;**

30 (B) **Owns an off-site vineyard of at least 15 acres;**

31 (C) **Has a long-term contract for the purchase of all of the grapes from at least 15 acres**

**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 **of an off-site vineyard; or**

2 **(D) Obtains grapes from any combination of subparagraph (A), (B) or (C) of this para-**  
 3 **graph; or**

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

5 **(A) Owns an on-site vineyard of at least 40 acres;**

6 **(B) Owns a contiguous vineyard of at least 40 acres;**

7 **(C) Has a long-term contract for the purchase of all of the grapes from at least 40 acres**  
 8 **of a vineyard contiguous to the winery;**

9 **(D) Owns an on-site vineyard of at least 15 acres on a tract of at least 40 acres and owns**  
 10 **at least 40 additional acres of vineyards in Oregon that are located within 15 miles of the**  
 11 **winery site; or**

12 **(E) Obtains grapes from any combination of subparagraph (A), (B), (C) or (D) of this**  
 13 **paragraph.**

14 [(2)] (3) In addition to producing and distributing wine, a winery established under this section  
 15 may:

16 (a) Market and sell wine produced in conjunction with the winery.

17 (b) Conduct operations that are directly related to the sale or marketing of wine produced in  
 18 conjunction with the winery, including:

19 (A) Wine tastings in a tasting room or other location on the premises occupied by the winery;

20 (B) Wine club activities;

21 (C) Winemaker luncheons and dinners;

22 (D) Winery and vineyard tours;

23 (E) Meetings or business activities with winery suppliers, distributors, wholesale customers and  
 24 wine-industry members;

25 (F) Winery staff activities;

26 (G) Open house promotions of wine produced in conjunction with the winery; and

27 (H) Similar activities conducted for the primary purpose of promoting wine produced in con-  
 28 junction with the winery.

29 (c) Market and sell items directly related to the sale or promotion of wine produced in con-  
 30 junction with the winery, the marketing and sale of which is incidental to on-site retail sale of wine,  
 31 including food and beverages:

32 (A) Required to be made available in conjunction with the consumption of wine on the premises  
 33 by the Liquor Control Act or rules adopted under the Liquor Control Act; or

34 (B) Served in conjunction with an activity authorized by paragraph (b), (d) or (e) of this sub-  
 35 section.

36 (d) Carry out agri-tourism or other commercial events on the tract occupied by the winery  
 37 subject to subsections [(5), (6), (7) and (8)] (6), (7), (8) and (9) of this section.

38 (e) Host charitable activities for which the winery does not charge a facility rental fee.

39 [(3)] (4) A winery may include on-site kitchen facilities licensed by the Oregon Health Authority  
 40 under ORS 624.010 to 624.121 for the preparation of food and beverages described in subsection  
 41 [(2)(c)] (3)(c) of this section. Food and beverage services authorized under subsection [(2)(c)] (3)(c)  
 42 of this section may not utilize menu options or meal services that cause the kitchen facilities to  
 43 function as a café or other dining establishment open to the public.

44 [(4)] (5) The gross income of the winery from the sale of incidental items or services provided  
 45 pursuant to subsection [(2)(c)] (3)(c) to (e) of this section may not exceed 25 percent of the gross

1 income from the on-site retail sale of wine produced in conjunction with the winery. The gross in-  
 2 come of a winery does not include income received by third parties unaffiliated with the winery.  
 3 At the request of a local government with land use jurisdiction over the site of a winery, the winery  
 4 shall submit to the local government a written statement that is prepared by a certified public ac-  
 5 countant and certifies the compliance of the winery with this subsection for the previous tax year.

6 [(5)] (6) A winery may carry out up to 18 days of agri-tourism or other commercial events an-  
 7 nually on the tract occupied by the winery.

8 [(6)] (7) For events described in subsection [(5)] (6) of this section for a winery in the Willamette  
 9 Valley:

10 (a) Events on the first six days of the 18-day limit per calendar year must be authorized by the  
 11 local government through the issuance of a renewable multi-year license that:

12 (A) Has a term of five years; and

13 (B) Is subject to an administrative review to determine necessary conditions pursuant to sub-  
 14 section [(7)] (8) of this section.

15 (b) The local government's decision on a license under paragraph (a) of this subsection is not:

16 (A) A land use decision, as defined in ORS 197.015, and is not subject to review by the Land  
 17 Use Board of Appeals.

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

19 (c) Events on days seven through 18 of the 18-day limit per calendar year must be authorized  
 20 by the local government through the issuance of a renewable multi-year permit that:

21 (A) Has a term of five years;

22 (B) Is subject to an administrative review to determine necessary conditions pursuant to sub-  
 23 section [(7)] (8) of this section; and

24 (C) Is subject to notice as specified in ORS 215.416 (11) or 227.175 (10).

25 (d) The local government's decision on a permit under paragraph (c) of this subsection is:

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

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

29 [(7)] (8) As necessary to ensure that agri-tourism or other commercial events on a tract occupied  
 30 by a winery are subordinate to the production and sale of wine and do not create significant adverse  
 31 impacts to uses on surrounding land, the local government may impose conditions on a license or  
 32 permit issued pursuant to subsection [(6)] (7) of this section related to:

33 (a) The number of event attendees;

34 (b) The hours of event operation;

35 (c) Access and parking;

36 (d) Traffic management;

37 (e) Noise management; and

38 (f) Sanitation and solid waste.

39 [(8)] (9) A local government may charge a fee for processing a license or permit under sub-  
 40 sections [(6) and] (7) **and** (8) of this section. A fee may not exceed the actual or average cost of  
 41 providing the applicable licensing or permitting service.

42 [(9)] (10) A winery operating under this section shall provide parking for all activities or uses  
 43 of the lot, parcel or tract on which the winery is established.

44 [(10)] (11) Prior to the issuance of a permit to establish a winery under this section, the appli-  
 45 cant shall show that vineyards described in subsection (1) **or** (2) of this section have been planted

1 or that the contract has been executed, as applicable.

2 [(11)] (12) A local government shall apply the standards described in this subsection. Standards  
3 imposed on the siting of a winery shall be limited solely to each of the following for the sole purpose  
4 of limiting demonstrated conflicts with accepted farming or forest practices on adjacent lands:

5 (a) Establishment of a setback of at least 100 feet from all property lines for the winery and all  
6 public gathering places unless the local government grants an adjustment or variance allowing a  
7 setback of less than 100 feet; and

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

9 [(12)] (13) A local government shall apply:

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

12 (b) Regulations of general applicability for the public health and safety; and

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

15 [(13)] (14) When a bed and breakfast facility is sited as a home occupation on the same tract  
16 as a winery established under this section and in association with the winery:

17 (a) The bed and breakfast facility may prepare and serve two meals per day to the registered  
18 guests of the bed and breakfast facility; and

19 (b) The meals may be served at the bed and breakfast facility or at the winery.

20 [(14)] (15) As used in this section:

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

25 (b) "Eastern Oregon" has the meaning given that term in ORS 321.700.

26 [(b)] (c) "On-site retail sale" includes the retail sale of wine in person at the winery site,  
27 through a wine club or over the Internet or telephone.

28 (d) "Southern Oregon" means Coos, Curry, Douglas, Jackson and Josephine Counties.  
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