

Senate Bill 303

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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**.

Amends, clarifies and creates consistency in statutes setting forth prohibitions and procedures related to minors possessing, purchasing, attempting to purchase or acquiring alcoholic beverages or marijuana items.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to substances the sale of which is prohibited to minors; creating new provisions; amending
3 ORS 419C.239, 419C.420, 419C.472, 471.430, 475B.260 and 809.260; repealing ORS 419C.443; and
4 declaring an emergency.

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

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

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

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

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

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

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

23 (5) In addition to and not in lieu of any other penalty established by law[,:]

24 (a) **The court may order** a person [*under 21 years of age*] who violates subsection (1) of this
25 section through misrepresentation of age [*may be required*] to perform community service; and [*the*]

26 (b) **The court shall order, when a person violates subsection (1) of this section,** that the
27 person's driving privileges and right to apply for driving privileges be suspended [*for a period not*
28 *to exceed one year. If a court has issued an order suspending driving privileges under this section, the*
29 *court, upon petition of the person, may withdraw the order at any time the court deems appropriate.*]

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 **pursuant to ORS 809.260 and 809.280.** The court notification **made** to the Department of Trans-
 2 portation under this [*subsection*] **paragraph** may include a recommendation that the person be
 3 granted a hardship permit under ORS 807.240 if the person is otherwise eligible for the permit.

4 (6) If a person cited under this section is at least 13 years of age but less than 21 years of age
 5 at the time the person is found in default under ORS 153.102 or 419C.472 for failure to appear, in
 6 addition to and not in lieu of any other penalty **established by law**, the court shall issue notice
 7 under ORS 809.220 to the department for the department to suspend the person's driving privileges
 8 under ORS 809.280 (4).

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

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

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

21 (10)(a) A person under 21 years of age is not in violation of, and is immune from prosecution
 22 under, this section if:

23 (A) The person contacted emergency medical services or a law enforcement agency in order to
 24 obtain medical assistance for another person who was in need of medical assistance due to alcohol
 25 consumption and the evidence of the violation [*of this section*] was obtained as a result of the
 26 person's having contacted emergency medical services or a law enforcement agency; or

27 (B) The person was in need of medical assistance due to alcohol consumption and the evidence
 28 of the violation [*of this section*] was obtained as a result of the person's having sought or obtained
 29 the medical assistance.

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

33 **SECTION 2.** ORS 475B.260 is amended to read:

34 475B.260. (1)(a) A person under 21 years of age may not **possess**, attempt to purchase[,] **or**
 35 purchase [*or acquire*] a marijuana item.

36 (b) For purposes of this subsection, purchasing a marijuana item includes accepting a marijuana
 37 item, and [*acquiring*] **possessing** a marijuana item includes consuming a marijuana item, provided
 38 that the consumption of the marijuana item occurred no more than 24 hours before the determi-
 39 nation that the person consumed the marijuana item.

40 (2) Except as authorized by the Oregon Liquor Control Commission by rule, or as necessary in
 41 an emergency, a person under 21 years of age may not enter or attempt to enter any portion of a
 42 [*licensed*] premises that is posted or otherwise identified as being prohibited to the use of persons
 43 under 21 years of age.

44 [(3)] (3)(a) **Except as provided in paragraph (b) of this subsection**, a person who violates
 45 subsection (1) or (2) of this section commits a Class B violation.

1 **(b) A person commits a Class A violation if the person violates subsection (1) of this**
 2 **section by reason of possessing a marijuana item while the person is operating a motor ve-**
 3 **hicle as defined in ORS 801.360.**

4 (4) In addition to and not in lieu of any other penalty established by law[,];

5 **(a) [A] The court may require a person [under 21 years of age] who violates subsection (1) of**
 6 **this section through misrepresentation of age to perform community service[,]; and [the]**

7 **(b) The court [may] shall order that, when a person violates subsection (1) of this section,**
 8 **the person’s driving privileges and right to apply for driving privileges be suspended [for a period**
 9 **not to exceed one year. If a court has issued an order suspending driving privileges under this section,**
 10 **the court, upon petition of the person, may withdraw the order at any time the court deems**
 11 **appropriate.] pursuant to ORS 809.260 and 809.280. The court notification made to the Department**
 12 **of Transportation under this [subsection] paragraph may include a recommendation that the person**
 13 **be granted a hardship permit under ORS 807.240 if the person is otherwise eligible for the permit.**

14 (5) If a person cited under this section is at least 13 years of age but less than 21 years of age
 15 at the time the person is found in default under ORS 153.102 or 419C.472 for failure to appear, in
 16 addition to and not in lieu of any other penalty **established by law**, the court shall issue notice
 17 under ORS 809.220 to the department for the department to suspend the person’s driving privileges
 18 under ORS 809.280 (4).

19 (6) In addition to and not in lieu of any penalty established by law, the court may order a person
 20 **who violates this section** to undergo assessment and treatment [*if the person has previously been*
 21 *found to have violated this section*]. **The court shall order a person to undergo assessment and**
 22 **treatment if the person has previously been found to have violated this section.**

23 (7) The prohibitions of this section do not apply to a person under 21 years of age who is acting
 24 under the direction of the commission or under the direction of state or local law enforcement
 25 agencies for the purpose of investigating possible violations of laws prohibiting sales of marijuana
 26 items to persons who are under 21 years of age.

27 (8) The prohibitions of this section do not apply to a person under 21 years of age who is acting
 28 under the direction of a licensee for the purpose of investigating possible violations by employees
 29 of the licensee of laws prohibiting sales of marijuana items to persons who are under 21 years of
 30 age.

31 (9)(a) A person under 21 years of age is not in violation of, and is immune from prosecution
 32 under, this section if:

33 (A) The person contacted emergency medical services or a law enforcement agency in order to
 34 obtain medical assistance for another person who was in need of medical assistance because that
 35 person consumed a marijuana item and the evidence of the violation [*of this section*] was obtained
 36 as a result of the person’s having contacted emergency medical services or a law enforcement
 37 agency; or

38 (B) The person was in need of medical assistance because the person consumed a marijuana item
 39 and the evidence of the violation [*of this section*] was obtained as a result of the person’s having
 40 sought or obtained the medical assistance.

41 (b) Paragraph (a) of this subsection does not exclude the use of evidence obtained as a result
 42 of a person’s having sought medical assistance in proceedings for crimes or offenses other than a
 43 violation of this section.

44 **SECTION 3.** ORS 419C.239, as amended by section 55, chapter 24, Oregon Laws 2016, is
 45 amended to read:

1 419C.239. (1) A formal accountability agreement shall:

2 (a) Be completed within a period of time not to exceed one year;

3 (b) Be voluntarily entered into by all parties;

4 (c) Be revocable by the youth at any time by a written revocation;

5 (d) Be revocable by the juvenile department in the event the department has reasonable cause
6 to believe the youth has failed to carry out the terms of the formal accountability agreement or has
7 committed a subsequent offense;

8 (e) Not be used as evidence against the youth at any adjudicatory hearing;

9 (f) Be executed in writing and expressed in language understandable to the persons involved;

10 (g) Be signed by the juvenile department, the youth, the youth's parent or parents or legal
11 guardian, and the youth's counsel, if any; **and**

12 (h) Become part of the youth's juvenile department record[; *and*].

13 *[(i) When the youth has been charged with having committed the youth's first violation of a pro-*
14 *vision under ORS 475.860 and unless the juvenile department determines that it would be inappropriate*
15 *in the particular case:]*

16 *[(A) Require the youth to participate in a diagnostic assessment and an information or treatment*
17 *program as recommended by the assessment. The agencies or organizations providing assessment or*
18 *programs of information or treatment must be the same as those designated by the court under ORS*
19 *419C.443 (1) and must meet the standards set by the Director of the Oregon Health Authority. The*
20 *parent of the youth shall pay the cost of the youth's participation in the program based upon the ability*
21 *of the parent to pay.]*

22 *[(B) Monitor the youth's progress in the program which shall be the responsibility of the diagnostic*
23 *assessment agency or organization. It shall make a report to the juvenile department stating the youth's*
24 *successful completion or failure to complete all or any part of the program specified by the diagnostic*
25 *assessment. The form of the report shall be determined by agreement between the juvenile department*
26 *and the diagnostic assessment agency or organization. The juvenile department shall make the report*
27 *a part of the record of the case.]*

28 (2) Notwithstanding any other provision of law, the following information contained in a formal
29 accountability agreement under ORS 419C.230 is not confidential and is not exempt from disclosure:

30 (a) The name and date of birth of the youth;

31 (b) The act alleged; and

32 (c) The portion of the agreement providing for the disposition of the youth.

33 **SECTION 4.** ORS 419C.420, as amended by section 56, chapter 24, Oregon Laws 2016, is
34 amended to read:

35 419C.420. If a youth is cited or summoned for a violation under ORS 471.430 or [475.860]
36 **475B.260** and fails to appear, the court may adjudicate the citation or petition and enter a dispo-
37 sition without a hearing.

38 **SECTION 5.** ORS 419C.472 is amended to read:

39 419C.472. (1) The court may order that the driving privileges of a youth be suspended if:

40 (a) The petition alleges that the youth is within the jurisdiction of the court for violating ORS
41 471.430 **or 475B.260**;

42 (b) The youth has been issued a summons under ORS 419C.306; and

43 (c) The youth fails to appear as required by the summons.

44 (2) When a court issues an order under subsection (1) of this section:

45 (a) The court shall send a notice to the Department of Transportation certifying that the youth

1 failed to appear and that the court has ordered the suspension of the driving privileges of the youth;
 2 and

3 (b) Neither the state nor a juvenile department counselor may file a petition under ORS
 4 419C.250 alleging that the youth is within the jurisdiction of the court for having committed an act
 5 that if committed by an adult would constitute a violation of ORS 153.992.

6 **SECTION 6.** ORS 809.260 is amended to read:

7 809.260. (1) Whenever a person who is 17 years of age or younger, but not younger than 13 years
 8 of age, is convicted of any offense described in this subsection or determined by a juvenile court to
 9 have committed one of the described offenses, the court [*in which the person is convicted*] shall order
 10 suspension of the person’s driving privileges. This subsection applies to ORS 166.370 and to any of-
 11 fense involving the delivery, manufacture or possession of controlled substances.

12 (2) Whenever a person who is 20 years of age or younger, but not younger than 13 years of age,
 13 at the time of committing any offense described in this subsection, is convicted or determined by a
 14 juvenile court to have committed one of the described offenses, the court [*in which the person is*
 15 *convicted*] shall order suspension of the person’s driving privileges. This subsection applies to any
 16 offense involving the possession, use or abuse of alcohol **or cannabis**.

17 (3) If a court has issued an order suspending driving privileges under this section, the court,
 18 upon petition of the person, may review the order and may withdraw the order at any time the court
 19 deems appropriate except as provided in the following:

20 (a) A court may not withdraw an order for a period of 90 days following the issuance of the
 21 order if it is the first such order issued with respect to the person.

22 (b) A court may not withdraw an order for a period of one year following the issuance of the
 23 order if it is the second or subsequent such order issued with respect to the person.

24 (c) Notwithstanding paragraph (a) of this subsection, a court may not withdraw an order for a
 25 period of six months if the order is based on a determination or conviction involving controlled
 26 substances.

27 (4) Upon receipt of an order under this section, the department shall take action as directed
 28 under ORS 809.280.

29 **SECTION 7.** ORS 419C.443 is repealed.

30 **SECTION 8.** (1) The amendments to ORS 475B.260 (3) and (4) by section 2 of this 2017 Act
 31 apply to conduct occurring on or after the effective date of this 2017 Act.

32 (2) The amendments to ORS 419C.239, 419C.420, 419C.472, 471.430, 475B.260 and 809.260 by
 33 sections 1 to 6 of this 2017 Act that are not specified in subsection (1) of this section and the
 34 repeal of ORS 419C.443 by section 7 of this 2017 Act apply to conduct occurring before, on
 35 or after the effective date of this 2017 Act.

36 **SECTION 9.** This 2017 Act being necessary for the immediate preservation of the public
 37 peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect
 38 on its passage.