

SENATE AMENDMENTS TO SENATE BILL 677

By COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

March 24

1 On page 1 of the printed bill, delete lines 6 through 31 and delete pages 2 and 3.

2 On page 4, delete lines 1 through 28 and insert:

3 **“SECTION 2. (1) As used in this section:**

4 **“(a) ‘Agri-tourism or other commercial events’ includes outdoor concerts for which ad-**
5 **mission is charged, educational, cultural, health or lifestyle events, facility rentals,**
6 **celebratory gatherings and other events at which the promotion of cider produced in con-**
7 **junction with the cider business is a secondary purpose of the event.**

8 **“(b)(A) ‘Cider’ means an alcoholic beverage made from the fermentation of the juice of**
9 **apples or pears.**

10 **“(B) ‘Cider’ includes but is not limited to flavored cider, sparkling cider and carbonated**
11 **cider.**

12 **“(c) ‘Cider business’ means a facility used primarily for the commercial production,**
13 **shipping and distribution, wholesale or retail sales, tasting, crushing, making, blending,**
14 **storage, bottling, administrative functions or warehousing of cider.**

15 **“(d) ‘Cidermaker’ means a person who makes cider.**

16 **“(e) ‘On-site retail sale’ includes the retail sale of cider in person at the cider business**
17 **site, through a cider club or over the Internet or telephone.**

18 **“(f) ‘Orchard’ means a piece of land planted with apple or pear trees.**

19 **“(2) A cider business may be established as a permitted use on land zoned for exclusive**
20 **farm use under ORS 215.213 (1)(aa) and 215.283 (1)(y) or on land zoned for mixed farm and**
21 **forest use if the cider business produces:**

22 **“(a) Less than 100,000 gallons of cider annually and the cider business:**

23 **“(A) Owns an on-site orchard of at least 15 acres;**

24 **“(B) Owns a contiguous orchard of at least 15 acres;**

25 **“(C) Has a long-term contract for the purchase of all of the apples or pears from at least**
26 **15 acres of an orchard contiguous to the cider business; or**

27 **“(D) Obtains apples or pears from any combination of subparagraph (A), (B) or (C) of this**
28 **paragraph; or**

29 **“(b) At least 100,000 gallons of cider annually and the cider business:**

30 **“(A) Owns an on-site orchard of at least 40 acres;**

31 **“(B) Owns a contiguous orchard of at least 40 acres;**

32 **“(C) Has a long-term contract for the purchase of all of the apples or pears from at least**
33 **40 acres of an orchard contiguous to the cider business;**

34 **“(D) Owns an on-site orchard of at least 15 acres on a tract of at least 40 acres and owns**
35 **at least 40 additional acres of orchards in Oregon that are located within 15 miles of the cider**

1 **business site; or**

2 **“(E) Obtains apples or pears from any combination of subparagraph (A), (B), (C) or (D)**
3 **of this paragraph.**

4 **“(3) In addition to any other activities authorized for a cider business, a cider business**
5 **established under this section may:**

6 **“(a) Market cider produced in conjunction with the cider business.**

7 **“(b) Conduct operations that are directly related to the sale or marketing of cider**
8 **produced in conjunction with the cider business, including:**

9 **“(A) Cider tastings in a tasting room or other location on the premises occupied by the**
10 **cider business;**

11 **“(B) Cider club activities;**

12 **“(C) Cidermaker luncheons and dinners;**

13 **“(D) Cider business and orchard tours;**

14 **“(E) Meetings or business activities with cider business suppliers, distributors, wholesale**
15 **customers and cider industry members;**

16 **“(F) Cider business staff activities;**

17 **“(G) Open house promotions of cider produced in conjunction with the cider business; and**

18 **“(H) Similar activities conducted for the primary purpose of promoting cider produced in**
19 **conjunction with the cider business.**

20 **“(c) Market and sell items directly related to the sale or promotion of cider produced in**
21 **conjunction with the cider business, the marketing and sale of which is incidental to on-site**
22 **retail sale of cider, including food and beverages:**

23 **“(A) Required to be made available in conjunction with the consumption of cider on the**
24 **premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or**

25 **“(B) Served in conjunction with an activity authorized by paragraph (b), (d) or (e) of this**
26 **subsection.**

27 **“(d) Subject to subsections (6) to (9) of this section, carry out agri-tourism or other**
28 **commercial events on the tract occupied by the cider business.**

29 **“(e) Host charitable activities for which the cider business does not charge a facility**
30 **rental fee.**

31 **“(f) Site a bed and breakfast as a home occupation on the same tract, and in association**
32 **with, the cider business.**

33 **“(4) A cider business may include on-site kitchen facilities licensed by the Oregon Health**
34 **Authority under ORS 624.010 to 624.121 for the preparation of food and beverages described**
35 **in subsection (3)(c) of this section. Food and beverage services authorized under subsection**
36 **(3)(c) of this section may not utilize menu options or meal services that cause the kitchen**
37 **facilities to function as a cafe or other dining establishment open to the public.**

38 **“(5)(a) The gross income of the cider business from the sale of incidental items or ser-**
39 **vices provided pursuant to subsection (3)(c) to (e) of this section may not exceed 25 percent**
40 **of the gross income from the on-site retail sale of cider produced in conjunction with the**
41 **cider business. The gross income of a cider business does not include income received by**
42 **third parties unaffiliated with the cider business.**

43 **“(b) At the request of a local government with land use jurisdiction over the site of a**
44 **cider business, the cider business shall submit to the local government a written statement**
45 **prepared by a certified public accountant that certifies the compliance of the cider business**

1 with this subsection for the previous tax year.

2 “(6) Except as provided by subsections (7) and (8) of this section, a cider business may
3 carry out agri-tourism or other commercial events described in subsection (3)(d) of this
4 section for up to 18 days per calendar year.

5 “(7) A cider business in the Willamette Valley may carry out agri-tourism or other
6 commercial events as provided in subsection (6) of this section, provided:

7 “(a) Events on the first six days of the 18-day limit per calendar year are authorized by
8 the local government through the issuance of a renewable multi-year license that:

9 “(A) Has a term of five years; and

10 “(B) Is subject to an administrative review to determine necessary conditions pursuant
11 to subsection (8) of this section.

12 “(b) The local government’s decision on a license under paragraph (a) of this subsection
13 is not:

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

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

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

19 “(A) Has a term of five years;

20 “(B) Is subject to an administrative review to determine necessary conditions pursuant
21 to subsection (8) of this section; and

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

23 “(d) The local government’s decision on a permit under paragraph (c) of this subsection
24 is:

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

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

28 “(8)(a) A local government with land use jurisdiction over the site of a cider business
29 shall ensure that agri-tourism or other commercial events occurring as described in sub-
30 section (3)(d) of this section are subordinate to the production and sale of cider and do not
31 create significant adverse impacts to uses on surrounding land.

32 “(b) A local government may impose conditions on a license or permit issued pursuant
33 to subsection (7) of this section as necessary to meet the requirements of paragraph (a) of
34 this subsection. The conditions must be related to:

35 “(A) The number of event attendees;

36 “(B) The hours of event operation;

37 “(C) Access and parking;

38 “(D) Traffic management;

39 “(E) Noise management; and

40 “(F) Sanitation and solid waste.

41 “(9) A local government may charge a fee for processing a license or permit under sub-
42 sections (6) and (7) of this section. The fee may not exceed the actual or average cost of
43 providing the applicable licensing or permitting service.

44 “(10) When a bed and breakfast facility is sited as a home occupation on the same tract
45 as a cider business as described in subsection (3)(f) of this section:

1 “(a) The bed and breakfast facility may prepare and serve two meals per day to the reg-
2 istered guests of the bed and breakfast facility; and

3 “(b) The meals may be served at the bed and breakfast facility or at the cider business.

4 “(11) A cider business operating under this section shall provide parking for all activities
5 or uses of the lot, parcel or tract on which the cider business is situated.

6 “(12) A local government with land use jurisdiction over the site of a cider business shall
7 ensure that the cider business complies with:

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

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

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

13 (13)(a) For the purpose of limiting demonstrated conflicts with accepted farm and forest
14 practices on adjacent lands, a local government with land use jurisdiction over the site of a
15 cider business shall:

16 (A) Except as provided in paragraph (b) of this subsection, establish a setback of at least
17 100 feet from all property lines for the cider business and all public gathering places; and

18 (B) Require cider businesses to provide direct road access and internal circulation for the
19 cider business and all public gathering places.

20 (b) A local government may allow a setback of less than 100 feet by granting a cider
21 business an adjustment or variance to the requirement described in paragraph (a)(A) of this
22 subsection.”.

23
