

Requested by HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT AND TRADE

**PROPOSED AMENDMENTS TO
A-ENGROSSED SENATE BILL 1044**

1 On page 1 of the printed A-engrossed bill, line 2, delete “471.162,” and
2 insert “471.130, 471.162, 471.292, 471.313, 471.315.”

3 On page 4, after line 31, insert:

4 **“SECTION 5.** ORS 471.130 is amended to read:

5 “471.130. (1) All licensees and permittees of the Oregon Liquor Control
6 Commission, before selling or serving alcoholic liquor to any person about
7 whom there is any reasonable doubt of the person’s having reached 21 years
8 of age, shall require such person to produce one of the following pieces of
9 identification:

10 “(a) The person’s passport.

11 “(b) The person’s motor vehicle operator’s license [*, whether issued in this*
12 *state or by any other state, so long as the license has a picture of the person*]
13 **issued by this state or another state of the United States.**

14 “(c) An identification card issued under ORS 807.400.

15 “(d) A United States military identification card.

16 **“(e) An identification card issued by a federally recognized Indian**
17 **tribe.**

18 “[*e*] (f) Any other identification card issued by a state **or territory of**
19 **the United States** that bears a picture of the person, the name of the per-
20 son, the person’s date of birth and a physical description of the person.

21 “(2) If a person does not have identification as described in subsection (1)

1 of this section, the permittee or licensee shall require such person to make
2 a written statement of age and furnish evidence of the person's true age and
3 identity. The written statement of age shall be on a form furnished or ap-
4 proved by the commission, including but not limited to the following infor-
5 mation:

6 “ _____

7 Date _____

8 I am 21 years of age or over. _____

9 Signature _____

10 Description of evidence in support of age and identity:

11 _____ Identification No. (if any) _____

12 _____ Identification No. (if any) _____

13 (Fill in information pertaining to any two or more pieces of evidence submitted by the person.)

14 I hereby certify that I have accurately recorded identification of the evidence submitted to
15 complete this form.

16 _____

17 Signature of permittee or licensee

18 [ORS 165.805 provides as follows:]

19 [165.805. (1) A person commits the crime of misrepresentation of age by a minor if:]

20 [(a) Being less than a certain, specified age, the person knowingly purports to be of any age
21 other than the person's true age with the intent of securing a right, benefit or privilege which by
22 law is denied to persons under that certain, specified age; or]

23 [(b) (Not applicable.)]

24 [(2) Misrepresentation of age by a minor is a Class C misdemeanor.]

25 **A person under 21 years of age who knowingly misrepresents the**
26 **person's true age with the intent of obtaining alcohol in violation of**
27 **ORS chapter 471 may be subject to criminal penalties under ORS**
28 **165.805.**

29 “ _____ ”.

30 In line 32, delete “5” and insert “6”.

1 On page 5, after line 27, insert:

2 **“SECTION 7.** ORS 471.292 is amended to read:

3 “471.292. (1) A license granted under the Liquor Control Act [*or the*
4 *Oregon Distilled Liquor Control Act*] shall:

5 “(a) Be a purely personal privilege.

6 “(b) Be valid for the period stated in the license.

7 “(c) Be renewable in the manner provided in ORS 471.311, except for a
8 cause which would be grounds for refusal to issue such license under ORS
9 471.313.

10 “(d) Be [*revocable or suspendible*] **subject to cancellation, suspension**
11 **or restriction** as provided in ORS 471.315.

12 “(e) Be transferable from the place for which the license was originally
13 issued to another location subject to the provisions of the Liquor Control
14 Act, [*the Oregon Distilled Liquor Control Act,*] any rules of the Oregon Li-
15 quor Control Commission and any municipal ordinance or local regulation.

16 “(f) Cease upon the death of the licensee, except as provided in subsection
17 (2) of this section.

18 “(g) Not constitute property.

19 “(h) Not be alienable.

20 “(i) Not be subject to attachment or execution.

21 “(j) Not descend by the laws of testate or intestate devolution.

22 “(2) The commission may, by order, provide for the manner and conditions
23 under which:

24 “(a) Alcoholic liquors left by any deceased, insolvent or bankrupt person
25 or licensee, or subject to a security interest, may be foreclosed, sold under
26 execution or otherwise disposed of.

27 “(b) The business of any deceased, insolvent or bankrupt licensee may be
28 operated for a reasonable period following the death, insolvency or bank-
29 ruptcy.

30 “(c) A business licensed pursuant to this chapter subject to a security

1 interest may be continued in business by a secured party as defined in ORS
2 79.0102 for a reasonable period after default on the indebtedness by the
3 debtor.

4 “(d) A license granted under this chapter may be transferred from the
5 place for which the license was originally issued to another location.

6 **“SECTION 8.** ORS 471.313 is amended to read:

7 “471.313. The Oregon Liquor Control Commission may refuse to **issue a**
8 **license, or may issue a restricted license, to** any applicant under the
9 provisions of this chapter if the commission has reasonable ground to believe
10 any of the following to be true:

11 “(1) That there are sufficient licensed premises in the locality set out in
12 the application, or that the granting of a license in the locality set out in
13 the application is not demanded by public interest or convenience. In deter-
14 mining whether there are sufficient licensed premises in the locality, the
15 commission shall consider seasonal fluctuations in the population of the lo-
16 cality and shall ensure that there are adequate licensed premises to serve the
17 needs of the locality during the peak seasons.

18 “(2) That the applicant has not furnished an acceptable bond as required
19 by ORS 471.311 or is not maintaining the insurance or bond required by ORS
20 471.168.

21 “(3) That, except as allowed by ORS 471.392 to 471.400, any applicant to
22 sell at retail for consumption on the premises has been financed or furnished
23 with money or property by, or has any connection with, or is a manufacturer
24 of, or wholesale dealer in, alcoholic liquor.

25 “(4) That the applicant:

26 “(a) Is in the habit of using alcoholic beverages, habit-forming drugs or
27 controlled substances to excess.

28 “(b) Has made false statements to the commission.

29 “(c) Is incompetent or physically unable to carry on the management of
30 the establishment proposed to be licensed.

1 “(d) Has been convicted of violating a general or local law of this state
2 or another state, or of violating a federal law, if the conviction is substan-
3 tially related to the fitness and ability of the applicant to lawfully carry out
4 activities under the license.

5 “(e) Has maintained an insanitary establishment.

6 “(f) Is not of good repute and moral character.

7 “(g) Did not have a good record of compliance with the alcoholic liquor
8 laws of this state and the rules of the commission when previously licensed.

9 “(h) Is not the legitimate owner of the business proposed to be licensed,
10 or other persons have ownership interests in the business which have not
11 been disclosed.

12 “(i) Is not possessed of or has not demonstrated financial responsibility
13 sufficient to adequately meet the requirements of the business proposed to
14 be licensed.

15 “(j) Is unable to read or write the English language or to understand the
16 laws of Oregon relating to alcoholic liquor or the rules of the commission.

17 “(5) That there is a history of serious and persistent problems involving
18 disturbances, lewd or unlawful activities or noise either in the premises
19 proposed to be licensed or involving patrons of the establishment in the im-
20 mediate vicinity of the premises if the activities in the immediate vicinity
21 of the premises are related to the sale or service of alcohol under the exer-
22 cise of the license privilege. Behavior which is grounds for refusal of a li-
23 cense under this section, where so related to the sale or service of alcohol,
24 includes, but is not limited to obtrusive or excessive noise, music or sound
25 vibrations; public drunkenness; fights; altercations; harassment; unlawful
26 drug sales; alcohol or related litter; trespassing on private property; and
27 public urination. Histories from premises currently or previously operated
28 by the applicant may be considered when reasonable inference may be made
29 that similar activities will occur as to the premises proposed to be licensed.
30 The applicant may overcome the history by showing that the problems are

1 not serious or persistent or that the applicant demonstrates a willingness
2 and ability to control adequately the premises proposed to be licensed and
3 patrons' behavior in the immediate vicinity of the premises which is related
4 to the licensee's sale or service of alcohol under the licensee's exercise of the
5 license privilege.

6 **SECTION 9.** ORS 471.315 is amended to read:

7 "471.315. (1) The Oregon Liquor Control Commission may cancel, [*or*]
8 suspend, **restrict or require mandatory training for** any license issued
9 under this chapter, or impose a civil penalty in lieu of or in addition to a
10 suspension as provided by ORS 471.322, if the commission finds or has rea-
11 sonable ground to believe any of the following to be true:

12 "(a) That the licensee:

13 "(A) Has violated any provision of this chapter or ORS 474.115 or any rule
14 of the commission adopted pursuant thereto.

15 "(B) Has made any false representation or statement to the commission
16 in order to induce or prevent action by the commission.

17 "(C) Is not maintaining an acceptable bond as required by ORS 471.311
18 or is not maintaining the insurance or bond required by ORS 471.168.

19 "(D) Has maintained an insanitary establishment.

20 "(E) Is insolvent or incompetent or physically unable to carry on the
21 management of the establishment of the licensee.

22 "(F) Is in the habit of using alcoholic liquor, habit-forming drugs or
23 controlled substances to excess.

24 "(G) Has knowingly sold alcoholic liquor to persons under 21 years of age
25 or to persons visibly intoxicated at the time of sale.

26 "(H) Has allowed the consumption of alcoholic liquor on the licensed
27 premises by a person who is visibly intoxicated at the time of consumption.

28 "(I) Has misrepresented to a customer or the public any alcoholic liquor
29 sold by the licensee.

30 "(J) Since the granting of the license, has been convicted of a felony, of

1 violating any of the liquor laws of this state, general or local, or of any
2 misdemeanor or violation of any municipal ordinance committed on the li-
3 censed premises.

4 “(b) That any person licensed to sell at retail for consumption on the
5 premises is acting as an agent of, or is a manufacturer or wholesaler of al-
6 coholic liquors, or has borrowed money or property, or has accepted
7 gratuities or rebates, or has obtained the use of equipment from any man-
8 ufacturer or wholesaler of alcoholic liquor or any agent thereof.

9 “(c) That there is a history of serious and persistent problems involving
10 disturbances, lewd or unlawful activities or noise either in the premises or
11 involving patrons of the establishment in the immediate vicinity of the
12 premises if the activities in the immediate vicinity of the premises are re-
13 lated to the sale or service of alcohol under the exercise of the license
14 privilege. Behavior that is grounds for cancellation or suspension of a license
15 under this section, where so related to the sale or service of alcohol, includes
16 but is not limited to obtrusive or excessive noise, music or sound vibrations;
17 public drunkenness; fights; altercations; harassment or unlawful drug sales;
18 alcohol or related litter; trespassing on private property; and public
19 urination. Mitigating factors include a showing by the licensee that the
20 problems are not serious or persistent or that the licensee has demonstrated
21 a willingness and ability to control adequately the licensed premises and
22 patrons’ behavior in the immediate vicinity of the premises which is related
23 to the licensee’s sale or service of alcohol under the licensee’s exercise of the
24 license privilege.

25 “(d) That there is any other reason that, in the opinion of the commission,
26 based on public convenience or necessity, warrants canceling or suspending
27 such license.

28 “(2) Civil penalties under this section shall be imposed as provided in
29 ORS 183.745.”

30 In line 28, delete “6” and insert “10”.

- 1 In line 33, delete “7” and insert “11”.
- 2 On page 6, line 26, delete “8” and insert “12”.
- 3 In line 45, delete “9” and insert “13”.
- 4 On page 7, line 22, delete “10” and insert “14”.
- 5 On page 8, line 10, delete “11” and insert “15”.
- 6 In line 11, delete “12” and insert “16”.
- 7 In line 14, delete “6” and insert “10”.
- 8 In line 16, delete “7 to 9” and insert “11 to 13”.
- 9 In line 19, delete “13” and insert “17”.
- 10 _____