

A-Engrossed
Senate Bill 1801

Ordered by the Senate December 21
Including Senate Amendments dated December 21

Sponsored by Senator COURTNEY (at the request of Joint Committee on the Third Special Session of 2020)

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.

Allows holder of full on-premises sales license to sell and deliver mixed drinks or single serving of wine in sealed containers for off-premises consumption. Requires Oregon Liquor Control Commission to adopt rules providing that not more than two mixed drinks or single servings of wine may be ordered per substantial food item ordered.

Limits fees that third-party food platform may charge restaurant. Exempts restaurants located in specified jurisdictions from limits on fees. Establishes private right of action against third-party food platform for specified violation. Defines "third-party food platform."

Requires third-party food platform to meet certain requirements within seven days of effective date.

Sunset 60 days after date on which declaration of state of emergency issued by Governor on March 8, 2020, and any extension of declaration, is no longer in effect.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to consumable items; and declaring an emergency.

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

4 **SECTION 1. Section 2 of this 2020 third special session Act is added to and made a part**
5 **of ORS chapter 471.**

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

7 (a) **"Mixed drink" means a beverage that is a combination of wine or distilled liquor and**
8 **one or more mixers that is combined on a licensed premises and sold in a sealed container**
9 **for consumption off the licensed premises.**

10 (b) **"Sealed container" means a container:**

11 (A) **With a secure cap or lid that indicates whether the container has been opened; and**

12 (B) **That is further defined by the Oregon Liquor Control Commission by rule.**

13 (c) **"Third-party food platform" means a website, mobile application or other electronic**
14 **service that:**

15 (A) **Facilitates the order of food and beverages for sale to a consumer by a licensee; and**

16 (B)(i) **Delivers, or arranges for the delivery of, the order to the consumer; or**

17 (ii) **Arranges for the pickup of the order by the consumer from the licensee.**

18 (2)(a) **Notwithstanding ORS 471.175, the holder of a full on-premises sales license may:**

19 (A) **Sell for off-premises consumption mixed drinks and single servings of wine if the**
20 **mixed drink or single serving of wine is sold in a sealed container that meets the require-**
21 **ments of subsection (3) of this section; and**

22 (B) **Deliver mixed drinks and single servings of wine to consumers in this state if the**

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 mixed drink or single serving of wine is delivered in a sealed container that meets the re-
2 quirements of subsection (3) of this section. Notwithstanding ORS 471.405 (3) and 471.406, a
3 delivery may be made by a third-party food platform on behalf of the holder of a full on-
4 premises sales license.

5 (b) The retail sale or delivery of a mixed drink or single serving of wine under this sub-
6 section, including a delivery carried out by the licensee through a third-party food platform,
7 is subject to rules adopted by the commission.

8 (3) The cap or lid, and any seal, of the sealed container must be affixed to the container
9 in a manner that makes it obvious when the cap or lid, and any seal, has been removed or
10 broken. The cap or lid, and any seal, may be affixed with the use of tape or other adhesive.

11 (4)(a) The commission shall adopt rules to carry out this section. The rules adopted under
12 this subsection:

13 (A) Must provide that not more than a total of two beverages may be ordered per sub-
14 stantial food item ordered.

15 (B) May:

16 (i) Define “substantial food item.”

17 (ii) Establish additional requirements for the retail sale and delivery of mixed drinks and
18 single servings of wine for off-premises consumption.

19 (b) The commission shall adopt the rules described in this subsection not later than 30
20 days after the effective date of this 2020 third special session Act.

21 (c) As used in this subsection, “beverage” means a mixed drink or single serving of wine.

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

23 (a)(A) “Purchase price” means the menu price of an item displayed for an online or
24 telephone order.

25 (B) “Purchase price” does not include taxes, gratuities or other fees that make up the
26 total cost of an item to a consumer.

27 (b) “Restaurant” has the meaning given that term in ORS 624.010.

28 (c) “Third-party food platform” means a website, mobile application or other electronic
29 service that:

30 (A) Facilitates the order of food and beverages for sale to a consumer by a restaurant;
31 and

32 (B)(i) Delivers, or arranges for the delivery of, the order to the consumer; or

33 (ii) Arranges for the pickup of the order by the consumer from the restaurant.

34 (2)(a) If a restaurant that uses a third-party food platform to facilitate orders of food and
35 beverages for sale to consumers includes with an order the option of delivery of the order
36 by the third-party food platform, the third-party food platform may not charge the restau-
37 rant total fees in excess of 15 percent of the purchase price of the order for use of the
38 third-party food platform’s services.

39 (b) If a restaurant described in paragraph (a) of this subsection does not offer the option
40 of delivery of the order by the third-party food platform, the third-party food platform may
41 not charge the restaurant total fees in excess of five percent of the purchase price of the
42 order for the use of the third-party food platform’s services.

43 (c) A third-party food platform may not reduce the rate of compensation paid to, or
44 garnish the gratuities of, an individual who makes deliveries of orders to consumers on be-
45 half of the third-party food platform as a result of the requirements of this subsection.

1 **(3) An individual who makes deliveries of orders to consumers on behalf of a third-party**
2 **food platform may bring an action against the third-party food platform for a violation of**
3 **subsection (2)(c) of this section and may recover damages in the amount of \$500 for each**
4 **violation.**

5 **(4) Subsection (2) of this section does not apply to a restaurant located in an area subject**
6 **to the jurisdiction of a local governing body that, on or before December 18, 2020, adopted**
7 **an ordinance limiting the fees described in subsection (2) of this section.**

8 **SECTION 4.** **A third-party food platform, as defined in section 3 of this 2020 third special**
9 **session Act, shall meet the requirements established in section 3 (2) of this 2020 third special**
10 **session Act not later than seven days after the effective date specified in section 6 of this**
11 **2020 third special session Act.**

12 **SECTION 5.** **Sections 2 to 4 of this 2020 third special session Act are repealed 60 days**
13 **after the date on which the declaration of a state of emergency issued by the Governor on**
14 **March 8, 2020, and any extension of the declaration, is no longer in effect.**

15 **SECTION 6.** **This 2020 third special session Act being necessary for the immediate pres-**
16 **ervation of the public peace, health and safety, an emergency is declared to exist, and this**
17 **2020 third special session Act takes effect on its passage.**

18