

HB 3308 -9 STAFF MEASURE SUMMARY

House Committee On Rules

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Meeting Dates: 5/4, 5/11

WHAT THE MEASURE DOES:

Authorizes Oregon Liquor and Cannabis Commission (OLCC) to issue delivery permit to qualified applicant to deliver alcoholic beverages to final consumers. Requires third-party delivery facilitators to be registered with OLCC in order to facilitate sales and deliveries of alcoholic beverages. Imposes requirements for delivery persons and third-party delivery facilitators. Prohibits delivery of alcoholic beverages without valid service or delivery permit. Punishes first offense by maximum of \$2,000 fine. Punishes second or subsequent offense by maximum of 364 days imprisonment, \$6,250 fine, or both. Prohibits person not registered as third-party delivery facilitator from engaging in activity that requires registration as third-party delivery facilitator. Punishes by maximum of 364 days imprisonment, \$6,250 fine, or both. Authorizes OLCC to impose civil penalty against third-party delivery facilitator for violation committed by facilitator or delivery person on behalf of facilitator. Requires OLCC to develop uniform standards for minor decoy operations to investigate deliveries of alcoholic beverages to final consumers for violations of laws prohibiting deliveries to minors. Expands categories of persons prohibited from selling, giving or otherwise making available alcoholic liquor to person under 21 years of age. Takes effect on 91st day following adjournment sine die.

ISSUES DISCUSSED:

- Balance regulation, public safety, and business in third-party delivery system
- Compromise amendment
- Permit and training requirements for third-party delivery facilitators and delivery persons

EFFECT OF AMENDMENT:

-9 Replaces measure. Authorizes Oregon Liquor and Cannabis Commission (OLCC) to issue delivery permit to qualified third-party facilitator to deliver alcoholic beverages, on behalf of an eligible business to final consumers. Qualified third-party facilitator may deliver, or cause to be delivered, alcoholic beverages to final consumer on behalf of an eligible business; advertise alcoholic beverages available for retail sale; solicit, receive, and accept orders for alcoholic beverages; and receive payment for alcoholic beverages ordered by final consumer. Permits third-party delivery facilitator to charge eligible business fee for delivering alcoholic beverages on behalf of eligible business. Requires third-party delivery facilitator to maintain and make available records to OLCC.

Prohibits person not registered as third-party delivery facilitator from engaging in activity that requires registration as third-party delivery facilitator. Establishes violation of prohibition as Class A misdemeanor. Permits OLCC to assess civil penalty of at least \$500 per violation, but not more than \$4,000 per violation against third-party delivery facilitator for a violation of this Act or rules adopted by OLCC under this Act, if the violation is committed by the third-party delivery facilitator or a delivery person acting on behalf of the third-party delivery facilitator.

Permits third-party delivery facilitator or eligible business to use delivery person to delivery alcohol beverages to final consumer. Requires delivery person to be at least 18 years old, have valid driver license or state-issued identification, and complete training course, and obtain certificate of completion, prior to making any deliveries. Permits delivery person to charge eligible business fee. Violation of requirements for delivery person is Class A Violation for first conviction, Class A misdemeanor for second or subsequent convictions.

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Requires third-party delivery facilitator to develop alcohol delivery training program that includes training on at least: Forms of identification required for age verification and methods for identifying, inspecting, accepting, or rejecting identification; signs of visible intoxication and methods for recognizing signs and for refusing to deliver alcoholic beverages to a final consumer; and rules adopted by OLCC relating to delivery of alcoholic beverages to a final consumer.

Third-party delivery facilitator must submit copy of training program to OLCC for approval. Requires third-party delivery facilitator provide training program, and issue certificate of completion, to delivery persons employed by or contracted with third-party delivery facilitator. Requires delivery person must complete training program and have certificates for all third-party facilitators who they deliver alcoholic beverages on behalf of.

Provides that eligible business is not responsible for ensuring that deliveries made by third-party delivery facilitator, or a delivery person employed by or contracted with the third-party delivery facilitator, to comply with requirements of this Act or rules adopted by OLCC in accordance with this Act.

Requires OLCC to develop uniform standards for minor decoy operations to investigate third-party delivery facilitators and any person delivering alcoholic beverages to final consumers for violations of laws prohibiting deliveries to minors. OLCC may not impose civil penalty, take licensure action, or sanction a licensee if complaint was a result of minor decoy operation not conducted in accordance with the uniform standards.

Expands categories of persons prohibited from selling, giving or otherwise making available alcoholic liquor to person under 21 years of age.

Provides OLCC rulemaking authority to implement provisions of Act including adoption of rules regarding the approval of training programs, rules to establish fee for review and approval of a training; to regulate delivery of alcoholic beverages by parties including, but not limited to, eligible businesses, delivery persons and third-party delivery facilitators.

Defines terms including “eligible business”, “third-party delivery facilitators”, and “delivery person.”

Provisions of measure become operative January 1, 2024. Takes effect on 91st day following adjournment sine die.

BACKGROUND:

In 2021, the Legislative Assembly passed Senate Bill 317 to allow a full on-premises sales licensee to sell and deliver mixed drinks and single servings of wine in a sealed container for off-premises consumption beginning January 1, 2022. Sales must be made directly to the consumer, although delivery may be made through a third party.

The Oregon Liquor and Cannabis Commission (OLCC) adopted rules related to the ability of a licensee to use a for-hire carrier including rules regarding a requirement that the for-hire carrier have an OLCC-approved plan for the delivery of malt beverages, wine, cider, or distilled spirits. A for-hire carriers delivery plan must ensure that: only persons age 18 or over will be used to deliver the alcohol to the resident; person delivering the alcohol verifies that the person receiving the alcohol is at least 21 years of age by inspecting government-issued photo identification; the person used to deliver the alcohol will determine that the person receiving the alcohol is not visibly intoxicated; deliveries of alcohol will be completed in accordance with the hours and allowable delivery locations in the direct delivery of malt beverages, wine, and cider to a resident of Oregon; any package containing alcohol is conspicuously labeled with the words Contains alcohol: signature of person age 21 years or older required for delivery or similar language approved by the OLCC; and information is collected that must be retained by the for-hire carrier for a minimum of eighteen months from the date of delivering the alcohol. The information may be collected and retained electronically (if the carrier so chooses) and must include: date and

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time the alcohol was delivered to the resident; name or information which can be used to determine the name of the person delivering the alcohol to the resident; and name, signature, and delivery address of the person receiving the alcohol.

Following the passage of SB 317, OLCC completed a study of alcohol delivery by third-party carriers in Oregon. The study asked the question whether unlicensed third parties have safe alcohol delivery policies that keep alcohol out of the hands of minors. OLCC learned that there was need for improvement regarding ID checking compliance by third-party carriers. Possible improvements could include better education, consistent ID checking policies and practices, and increase oversight to establish effective approaches to improving compliance with ID checking requirements.

House Bill 3308 authorizes OLCC to establish a system to issue a delivery permit to an individual to deliver alcoholic beverages on behalf of a business that holds a license, permit or is an agent with the authority to deliver to the final consumer at a delivery address. The applicant must be 18 years old, submit a form, pay a fee less than \$50, and provide any other requested information. Further, the measure requires third-party delivery facilitator register with OLCC.