

Requested by Representative BYNUM

**PROPOSED AMENDMENTS TO
HOUSE BILL 3308**

1 On page 1 of the printed bill, line 2, after “ORS” insert “471.186,”.

2 Delete lines 5 through 22 and delete pages 2 through 9 and insert:

3 **“SECTION 1. Sections 2 to 7 of this 2023 Act are added to and made**
4 **a part of ORS chapter 471.**

5 **“SECTION 2. As used in sections 2 to 7 of this 2023 Act:**

6 **“(1) ‘Deliver’ means to transfer alcoholic beverages from a delivery**
7 **person to a final consumer at a delivery address.**

8 **“(2) ‘Delivery address’ means a location with a permanent street**
9 **address in Oregon that is not licensed by the Oregon Liquor and**
10 **Cannabis Commission under this chapter or ORS 475C.005 to 475C.525**
11 **or 475C.548.**

12 **“(3) ‘Delivery person’ means an employee, agent or contractor of a**
13 **third-party delivery facilitator who delivers alcoholic beverages to the**
14 **physical possession of a final consumer on behalf of a licensee or**
15 **third-party delivery facilitator.**

16 **“(4) ‘Eligible business’ means a licensee, a permittee or an agent**
17 **appointed by the commission, or an agent of a licensee, permittee or**
18 **agent, that has, as a part of the privileges of the license, permit or**
19 **appointment, the authority to sell and deliver alcoholic beverages to**
20 **a final consumer at a delivery address.**

21 **“(5) ‘Final consumer’ means an individual who takes possession of**

1 alcoholic beverages at a delivery address for personal or social use, and
2 not for resale.

3 “(6)(a) ‘Third-party delivery facilitator’ means an individual, person
4 or company that:

5 “(A) Delivers, or holds itself out as willing to deliver, alcoholic
6 beverages from an eligible business to a final consumer; or

7 “(B) Facilitates, or holds itself out as willing to facilitate, the sale
8 and delivery of alcoholic beverages by an eligible business to a final
9 consumer.

10 “(b) ‘Third-party delivery facilitator’ does not include a motor car-
11 rier as defined in 49 U.S.C. 13102, a freight forwarder as defined in 49
12 U.S.C. 13102 or an air carrier as defined in 49 U.S.C. 40102.

13 **“SECTION 3. (1) An eligible business or third-party delivery**
14 **facilitator may employ or contract with a delivery person to deliver**
15 **alcoholic beverages to the physical possession of a final consumer at**
16 **a delivery address only if the individual:**

17 “(a) Is at least 18 years of age; and

18 “(b) Has a valid driver license or other state-issued identification.

19 “(2) Prior to making any deliveries of alcoholic beverages, a delivery
20 person shall first complete the training program and be issued a cer-
21 tificate of completion, as described in section 4 of this 2023 Act.

22 “(3) A delivery person may also be a third-party delivery facilitator
23 that holds a permit issued under section 6 of this 2023 Act.

24 “(4) A delivery person may charge an eligible business a fee for de-
25 livering alcoholic beverages on behalf of the eligible business.

26 “(5) A violation of subsection (1) of this section:

27 “(a) Upon a first conviction, is a Class A violation.

28 “(b) Upon a second or subsequent conviction, is a Class A
29 misdemeanor.

30 **“SECTION 4. (1) A third-party delivery facilitator shall develop an**

1 alcohol delivery training program that includes training on at least:

2 “(a) Forms of identification required by ORS 471.130 and methods
3 for identifying, inspecting, accepting or rejecting identification;

4 “(b) Signs of visible intoxication and methods for recognizing these
5 signs and for refusing to deliver alcoholic beverages to a final con-
6 sumer; and

7 “(c) Rules adopted by the Oregon Liquor and Cannabis Commission
8 relating to the delivery of alcoholic beverages to a final consumer.

9 “(2) The commission may adopt rules regarding the approval of
10 training programs described in subsection (1) of this section.

11 “(3) In conjunction with an application for a permit under section
12 6 of this 2023 Act, a third-party delivery facilitator shall submit to the
13 commission a copy of the third-party delivery facilitator’s training
14 program for approval by the commission.

15 “(4)(a) A third-party delivery facilitator shall provide the training
16 program described in subsection (1) of this section to delivery persons
17 employed by or contracted with the third-party delivery facilitator,
18 and shall issue to delivery persons who successfully complete the
19 training program a certificate of completion.

20 “(b) In order to provide the training program described in sub-
21 section (1) of this section, a third-party delivery facilitator may offer
22 a training program internally or may contract with another party that
23 offers a training program that is approved by the commission.

24 “(c) A third-party delivery facilitator may offer a training program
25 described in subsection (1) of this section only if the training program
26 is approved by the commission.

27 “(5) A delivery person may not engage in the delivery of alcoholic
28 beverages unless the delivery person first completes the training pro-
29 gram described in subsection (1) of this section and holds a certificate
30 of completion described in subsection (4) of this section. A delivery

1 person who delivers alcoholic beverages on behalf of more than one
2 third-party delivery facilitator must complete the training program,
3 and hold a certificate of completion, from each third-party delivery
4 facilitator on whose behalf the delivery person delivers alcoholic
5 beverages.

6 “(6) The commission may adopt rules to carry out this section, in-
7 cluding rules to establish a fee for review and approval of a training
8 program described in subsection (1) of this section.

9 “SECTION 5. The Oregon Liquor and Cannabis Commission may
10 adopt rules to regulate the delivery of alcoholic beverages by parties
11 including, but not limited to, eligible businesses, delivery persons and
12 third-party delivery facilitators.

13 “SECTION 6. (1) In order to engage in the delivery of alcoholic
14 beverages, a third-party delivery facilitator must hold a permit issued
15 by the Oregon Liquor and Cannabis Commission and must comply with
16 applicable requirements under this chapter.

17 “(2)(a) The commission may refuse to issue a permit, and may
18 suspend or revoke a permit, if the commission finds or has reasonable
19 grounds to believe that:

20 “(A) A third-party delivery facilitator is, or has a financial interest
21 in, a manufacturer;

22 “(B) A third-party delivery facilitator provided material false or
23 misleading information to the commission or omitted information that
24 should have been provided to the commission; or

25 “(C) Subject to paragraph (b) of this subsection, a third-party de-
26 livery facilitator, or any person used by or acting on behalf or at the
27 direction of the third-party delivery facilitator, does not have a good
28 record of compliance under this chapter, as assessed upon initial ap-
29 plication for a permit under this section and annually upon application
30 for renewal of a permit issued under this section.

1 **“(b) The commission shall establish by rule a process through which**
2 **the commission shall notify a third-party delivery facilitator of a**
3 **compliance issue as described under paragraph (a)(A) of this sub-**
4 **section and allow the third-party delivery facilitator an opportunity**
5 **to cure the issue prior to the commission’s refusal to issue or renew**
6 **the third-party delivery facilitator’s permit under this section.**

7 **“(3) A retail licensee, as defined in ORS 471.392, is eligible to qualify**
8 **as a third-party delivery facilitator. A retail licensee that is also a**
9 **third-party delivery facilitator may exercise any privilege granted by**
10 **the retail license.**

11 **“(4)(a) A third-party delivery facilitator acting on behalf of an eli-**
12 **gible business may:**

13 **“(A) Deliver, or cause to be delivered, alcoholic beverages to the**
14 **physical possession of a final consumer on behalf of an eligible busi-**
15 **ness;**

16 **“(B) Advertise alcoholic beverages available for retail sale;**

17 **“(C) Solicit, receive and accept orders for alcoholic beverages from**
18 **final consumers; and**

19 **“(D) Receive payment for alcoholic beverages ordered by final con-**
20 **sumers.**

21 **“(b) A third-party delivery facilitator may engage in an activity**
22 **described in this section only when the third-party delivery facilitator**
23 **is acting on behalf of an eligible business.**

24 **“(c) A third-party delivery facilitator may use only a delivery per-**
25 **son who meets the requirements of section 3 of this 2023 Act to deliver**
26 **alcoholic beverages to a final consumer.**

27 **“(d) A third-party delivery facilitator that is an individual who is a**
28 **delivery person must meet the requirements of section 3 of this 2023**
29 **Act, including the requirement to hold a valid driver license.**

30 **“(5) A third-party delivery facilitator may charge an eligible busi-**

1 **ness a fee for delivering alcoholic beverages on behalf of the eligible**
2 **business.**

3 **“(6) A third-party delivery facilitator shall maintain and make**
4 **available records to the commission as required by the commission by**
5 **rule.**

6 **“(7) The commission may adopt rules as necessary to regulate**
7 **third-party delivery facilitators.**

8 **“(8)(a) In order to carry out deliveries described under ORS 471.175,**
9 **471.176, 471.186 and 471.200 and transport or export described under ORS**
10 **471.221, an eligible business that is the holder of a full on-premises**
11 **sales license issued under ORS 471.175, the holder of an off-premises**
12 **sales license issued under ORS 471.186, the holder of a brewery-public**
13 **house license issued under ORS 471.200 or the holder of a brewery li-**
14 **cence issued under ORS 471.221 may use a third-party delivery**
15 **facilitator.**

16 **“(b) The commission shall adopt rules to carry out this subsection.**

17 **“(9) An eligible business that uses a third-party delivery facilitator**
18 **to deliver alcoholic beverages on behalf of the eligible business is not**
19 **responsible for any failure of the third-party delivery facilitator, or a**
20 **delivery person employed by or contracted with the third-party deliv-**
21 **ery facilitator, to comply with the requirements of sections 2 to 7 of**
22 **this 2023 Act or rules adopted under sections 2 to 7 of this 2023 Act.**

23 **“SECTION 7. (1) It is a Class A misdemeanor for a person that is**
24 **not a third-party delivery facilitator that holds a permit issued under**
25 **section 6 of this 2023 Act to engage in any activity for which a permit**
26 **is required unless the person is a licensee, permittee or agent ap-**
27 **pointed by the Oregon Liquor and Cannabis Commission, or is an em-**
28 **ployee or agent of a licensee, permittee or agent acting on behalf of**
29 **the licensee, permittee or agent, and the activity is allowed by the**
30 **privileges of the license, permit or appointment.**

1 “(2)(a) The commission may assess a civil penalty against a third-
2 party delivery facilitator for a violation of this chapter or rules
3 adopted by the commission under this chapter if the violation is com-
4 mitted by the third-party delivery facilitator or a delivery person act-
5 ing on behalf of the third-party delivery facilitator.

6 “(b) The civil penalty assessed under paragraph (a) of this sub-
7 section must be at least \$500 per violation and may not be more than
8 \$4,000 per violation.

9 “(c) ORS 471.990 does not apply to a violation for which a civil
10 penalty may be issued under this subsection.

11 “SECTION 8. ORS 471.186 is amended to read:

12 “471.186. (1) The holder of an off-premises sales license may sell factory-
13 sealed containers of malt beverages, wine and cider for consumption off the
14 licensed premises.

15 “(2) The holder of an off-premises sales license may sell for consumption
16 off the licensed premises malt beverages, wine and cider in securely covered
17 containers supplied by the consumer and that have capacities of not more
18 than two gallons each.

19 “(3) The holder of an off-premises sales license may provide sample tasting
20 of alcoholic beverages on the licensed premises if the licensee applies in
21 writing to the Oregon Liquor and Cannabis Commission and receives written
22 approval from the commission to conduct tastings on the premises. Tastings
23 must be limited to the alcoholic beverages that may be sold under the priv-
24 ileges of the license.

25 “(4) An off-premises sales license may not be issued for use at a premises
26 that is mobile.

27 “(5) Except as provided in ORS 471.402, a manufacturer or wholesaler may
28 not provide or pay for sample tastings of alcoholic beverages for the public
29 on premises licensed under an off-premises sales license.

30 “(6) The holder of an off-premises sales license may deliver malt

1 beverages, wine or cider that is sold under the privileges of the license to
2 retail customers in this state without a direct shipper permit issued under
3 ORS 471.282. **The holder of an off-premises sales license may use an**
4 **employee, agent or contractor of the holder or a delivery person or**
5 **third-party delivery facilitator, as those terms are defined in section**
6 **2 of this 2023 Act, to make the deliveries described in this subsection.**

7 Any deliveries by the holder of an off-premises sales license are subject to
8 any rules adopted by the commission relating to deliveries made under this
9 subsection. Deliveries under this subsection:

10 “(a) May be made only to a person who is at least 21 years of age;

11 “(b) May be made only for personal use and not for the purpose of resale;
12 [*and*]

13 “(c) Must be made in containers that are conspicuously labeled with the
14 words: ‘CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 YEARS
15 OR OLDER REQUIRED FOR DELIVERY[.]’; **and**

16 “[*(7) The holder of an off-premises sales license that makes deliveries of*
17 *malt beverages, wine or cider under subsection (6) of this section shall take*
18 *all actions necessary to ensure that a carrier used by the licensee does not*
19 *deliver any malt beverages, wine or cider unless the carrier:]*

20 “**(d) May not be completed unless the person making the delivery:**

21 “[*(a)*] **(A)** Obtains the signature of the recipient of the malt beverages,
22 wine or cider upon delivery;

23 “[*(b)*] **(B)** Verifies by inspecting government-issued photo identification
24 that the recipient is at least 21 years of age; and

25 “[*(c)*] **(C)** Determines that the recipient is not visibly intoxicated at the
26 time of delivery.

27 “[*(8)*] **(7)** Any person who knowingly or negligently delivers malt
28 beverages, wine or cider under the provisions of this section to a person
29 under 21 years of age, or who knowingly or negligently delivers malt
30 beverages, wine or cider under the provisions of this section to a visibly

1 intoxicated person, violates ORS 471.410.

2 “[9] (8) If a court determines that deliveries of malt beverages, wine or
3 cider under subsection (6) of this section cannot be restricted to holders of
4 off-premises sales licenses, and the decision is a final judgment that is no
5 longer subject to appeal, the holder of an off-premises sales license may not
6 make deliveries of malt beverages, wine or cider under the provisions of
7 subsection (6) of this section after entry of the final judgment.

8 “[10] (9) The [*Oregon Liquor and Cannabis*] commission may adopt rules
9 to carry out this section.

10 **“SECTION 9.** ORS 471.346 is amended to read:

11 “471.346. (1)(a) The Oregon Liquor and Cannabis Commission shall by
12 rule develop uniform standards for minor decoy operations used to investi-
13 gate licensees, **permittees**, [*and agents operating stores on behalf of the*
14 *commission under ORS 471.750*] **agents appointed by the commission,**
15 **third-party delivery facilitators and any person delivering alcoholic**
16 **beverages to final consumers in this state** for violations of the laws of
17 this state prohibiting sales **and deliveries** of alcoholic beverages to minors.

18 “(b) Uniform standards established by the commission under this section
19 apply to all investigations conducted by the commission that use minor
20 decoys. The commission shall encourage all law enforcement agencies of this
21 state to use the uniform standards established under this section for minor
22 decoy operations conducted by the law enforcement agencies.

23 “(2) To the greatest extent possible, the uniform standards established by
24 the commission under this section **must**:

25 “(a) [*Shall*] Be the same for minor decoy operations conducted by the
26 commission and for minor decoy operations conducted by law enforcement
27 agencies of this state; and

28 “(b) [*Shall*] Provide for coordination between the commission and law
29 enforcement agencies of this state in conducting minor decoy operations.

30 “(3)(a) The uniform standards established by the commission under this

1 section *[shall]* **for investigating sales by licensees occurring on licensed**
2 **premises and in-store sales by agents appointed by the commission**
3 **must** provide that:

4 “(A) Minor decoy operations must be conducted on either a random or a
5 targeted basis in cities with populations of 20,000 or more.

6 “(B) Random minor decoy operations *[shall]* **must** cover a range of li-
7 **censed premises and** retail outlets. **For the purpose of implementing**
8 **standards for random minor decoy operations under this subpara-**
9 **graph, the commission shall by rule adopt a methodology that**
10 **produces, to the greatest extent possible, an equal chance that any**
11 **licensee or agent will be subject to a minor decoy operation.**

12 “(C) Targeted minor decoy operations may be conducted for a single
13 licensee or agent, but may be used only if there is a documented compliance
14 problem with the specific licensee or agent that is the target of the **minor**
15 **decoy** operation. *[For the purpose of implementing standards for random mi-*
16 *nor decoy operations under this subsection, the commission shall by rule adopt*
17 *a methodology that produces, to the greatest extent possible, an equal chance*
18 *that any licensee or agent will be subject to a minor decoy operation.]*

19 “(b) **Investigations of deliveries of alcoholic beverages to final con-**
20 **sumers in this state are exempt from the requirements for random and**
21 **targeted minor decoy operations under paragraph (a) of this sub-**
22 **section.**

23 “(4) Except as provided in subsection (5) of this section, the failure of the
24 commission or of a law enforcement agency to follow uniform standards es-
25 tablished by the commission under this section is not grounds for challenging
26 any complaint, citation or conviction for violation of the laws prohibiting
27 the sale **or delivery** of alcoholic beverages to minors.

28 “(5) In determining whether to impose sanctions based on multiple vio-
29 lations of the laws of this state prohibiting sales **or deliveries** of alcoholic
30 beverages to minors, the commission may not consider any complaint filed

1 against, **citation issued to or conviction of** a licensee, **permittee, agent**
2 **appointed by the commission, third-party delivery facilitator or a per-**
3 **son delivering alcoholic beverages to final consumers** for selling or de-
4 **livering** alcoholic beverages to a minor[, *citation issued to a licensee for*
5 *selling alcoholic beverages to a minor or conviction of a licensee for selling*
6 *alcoholic beverages to a minor*] if the complaint, citation or conviction arose
7 out of a minor decoy operation that was not conducted pursuant to the uni-
8 form standards established by the commission under this section.

9 “(6) Notwithstanding any other provision of this chapter, the commission
10 may not consider any sale **or delivery** of alcoholic beverages to a minor that
11 results from a minor decoy operation that is not conducted in compliance
12 with the standards established under this section for the purpose of:

13 “(a) Imposing any civil penalty against a licensee, **permittee, agent**
14 **appointed by the commission, third-party delivery facilitator or a per-**
15 **son delivering alcoholic beverages to final consumers;**

16 “(b) Making a decision on the renewal, suspension or cancellation of a
17 license, **permit, appointment or third-party delivery facilitator permit**
18 issued under this chapter or **rules adopted under this chapter; or**

19 “(c) Otherwise sanctioning a licensee, **permittee, agent appointed by**
20 **the commission, third-party delivery facilitator or a person delivering**
21 **alcoholic beverages to final consumers** for the sale **or delivery** of alco-
22 holic beverages to a minor.

23 “(7) The commission shall give notice of the uniform standards established
24 under this section to all law enforcement agencies of this state that conduct
25 minor decoy operations.

26 “**SECTION 10.** ORS 471.410 is amended to read:

27 “471.410. (1) A person may not sell, give or otherwise make available any
28 alcoholic liquor to any person who is visibly intoxicated.

29 “(2) [*No one*] **A person** other than the person’s parent or guardian may
30 **not** sell, give or otherwise make available any alcoholic liquor to a person

1 under the age of 21 years. A parent or guardian may give or otherwise make
2 alcoholic liquor available to a person under the age of 21 years only if the
3 person is in a private residence and is accompanied by the parent or guard-
4 ian. A person violates this subsection [*who*] **if the person** sells, gives or
5 otherwise makes available alcoholic liquor to a person with the knowledge
6 that the person to whom the liquor is made available will violate this sub-
7 section.

8 “(3)(a) A person who exercises control over private real property may not
9 knowingly allow any other person under the age of 21 years who is not a
10 child or minor ward of the person to consume alcoholic liquor on the prop-
11 erty, or allow any other person under the age of 21 years who is not a child
12 or minor ward of the person to remain on the property if the person under
13 the age of 21 years consumes alcoholic liquor on the property.

14 “(b) This subsection:

15 “(A) Applies only to a person who is present and in control of the lo-
16 cation at the time the consumption occurs;

17 “(B) Does not apply to the owner of rental property, or the agent of an
18 owner of rental property, unless the consumption occurs in the individual
19 unit in which the owner or agent resides; and

20 “(C) Does not apply to a person who exercises control over a private
21 residence if the liquor consumed by the person under the age of 21 years is
22 supplied only by an accompanying parent or guardian.

23 “(4) This section does not apply to sacramental wine given or provided
24 as part of a religious rite or service.

25 “(5) Except as provided in [*subsections (6) and (7)*] **subsection (6)** of this
26 section, a person who violates subsection (1) or (2) of this section commits
27 a Class A misdemeanor. Upon violation of subsection (2) of this section, the
28 court shall impose at least a mandatory minimum sentence as follows:

29 “(a) Upon a first conviction, a fine of at least \$500.

30 “(b) Upon a second conviction, a fine of at least \$1,000.

1 “(c) Upon a third or subsequent conviction, a fine of at least \$1,500 and
2 not less than 30 days of imprisonment.

3 “(6)(a) A person who violates subsection (2) of this section is subject to
4 the provisions of this subsection if the person does not act knowingly or
5 intentionally and:

6 “(A) Is licensed or appointed under this chapter; *[or]*

7 “(B) Is an employee **or agent** of a person licensed or appointed under this
8 chapter and *[holds a valid service permit or has attended a program approved*
9 *by the Oregon Liquor and Cannabis Commission that provides training to*
10 *avoid violations of this section.]* **the employee or agent violates subsection**
11 **(2) of this section while acting on behalf or at the direction of the**
12 **licensee or person appointed under this chapter; or**

13 “(C) **Is a delivery person as defined in section 2 of this 2023 Act and**
14 **was delivering alcoholic beverages to a final consumer.**

15 “(b) For a person described in paragraph (a) of this subsection:

16 “(A) A first conviction is a Class A violation.

17 “(B) A second conviction is a specific fine violation, and the presumptive
18 fine for the violation is \$860.

19 “(C) A third conviction is a Class A misdemeanor. The court shall impose
20 a mandatory fine of not less than \$1,000.

21 “(D) A fourth or subsequent conviction is a Class A misdemeanor. The
22 court shall impose a mandatory fine of not less than \$1,000 and a mandatory
23 sentence of not less than 30 days of imprisonment.

24 “*[(7) For an employee of an off-premises sales licensee who violates sub-*
25 *section (2) of this section while operating a checkout device and does not act*
26 *knowingly or intentionally, a first conviction is a Class A violation.]*

27 “*[(8)] (7)* The court may waive an amount that is at least \$200 but not
28 more than one-third of the fine imposed under subsection (5) of this section,
29 if the violator performs at least 30 hours of community service.

30 “*[(9)] (8)* Except as provided in subsection *[(8)] (7)* of this section, the

1 court may not waive or suspend imposition or execution of the mandatory
2 minimum sentence required by subsection (5) or (6) of this section. In addi-
3 tion to the mandatory sentence, the court may require the violator to make
4 restitution for any damages to property where the alcoholic liquor was ille-
5 gally consumed or may require participation in volunteer service to a com-
6 munity service agency.

7 “[~~(10)(a)~~] **(9)(a)** Except as provided in paragraph (b) of this subsection, a
8 person who violates subsection (3) of this section commits a Class A vio-
9 lation.

10 “(b) A second or subsequent violation of subsection (3) of this section is
11 a specific fine violation, and the presumptive fine for the violation is \$1,000.

12 “[~~(11)~~] **(10)** Nothing in this section prohibits any licensee under this
13 chapter from allowing a person who is visibly intoxicated to remain on the
14 licensed premises so long as the person is not sold or served any alcoholic
15 liquor.

16 “**SECTION 11.** ORS 471.430 is amended to read:

17 “471.430. (1) A person under 21 years of age may not attempt to purchase,
18 purchase or acquire alcoholic beverages. Except when [*such*] **a** minor is in
19 a private residence accompanied by the parent or guardian of the minor and
20 with [*such*] **the** parent’s or guardian’s consent, a person under 21 years of
21 age may not have personal possession of alcoholic beverages.

22 “(2) For the purposes of this section, personal possession of alcoholic
23 beverages includes the acceptance or consumption of a bottle of [*such*] **al-**
24 **coholic** beverages, or any portion [*thereof*] or a drink of [*such*] **alcoholic**
25 beverages. However, this section does not prohibit the acceptance or con-
26 sumption by any person of sacramental wine as part of a religious rite or
27 service.

28 “(3) Except as authorized by rule or as necessitated in an emergency, a
29 person under 21 years of age may not enter or attempt to enter any portion
30 of a licensed premises that is posted or otherwise identified as being pro-

1 hibited to the use of minors.

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

4 “(b) A person commits a Class A violation if the person violates sub-
5 section (1) of this section by reason of personal possession of alcoholic
6 beverages while the person is operating a motor vehicle as defined in ORS
7 801.360.

8 “(c) Notwithstanding ORS 153.018, if a person who violates subsection (1)
9 or (3) of this section was under 18 years of age at the time of the violation,
10 the court may not impose any fine for the violation.

11 “(5) In addition to and not in lieu of any other penalty established by law:

12 “(a) The court may order a person who violates subsection (1) of this
13 section through misrepresentation of age to perform community service; and

14 “(b) The court shall order, when a person violates subsection (1) of this
15 section, that the person’s driving privileges and right to apply for driving
16 privileges be suspended pursuant to ORS 809.260 and 809.280. The court no-
17 tification made to the Department of Transportation under this paragraph
18 may include a recommendation that the person be granted a hardship permit
19 under ORS 807.240 if the person is otherwise eligible for the permit.

20 “(6) If a person cited under this section is at least 13 years of age but less
21 than 21 years of age at the time the person is found in default under ORS
22 153.102 or 419C.472 for failure to appear, in addition to and not in lieu of
23 any other penalty established by law, the court shall issue notice under ORS
24 809.220 to the department for the department to suspend the person’s driving
25 privileges under ORS 809.280 (4).

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

1 “(8) The prohibitions of this section do not apply to a person under 21
2 years of age who is acting under the direction of the Oregon Liquor and
3 Cannabis Commission or under the direction of state or local law enforce-
4 ment agencies for the purpose of investigating possible violations of laws
5 prohibiting sales of alcoholic beverages to persons who are under 21 years
6 of age.

7 “(9) The prohibitions of this section do not apply to a person under 21
8 years of age who is acting under the direction of a licensee, **an eligible**
9 **business, as defined in section 2 of this 2023 Act, or a third-party de-**
10 **livery facilitator, as defined in section 2 of this 2023 Act,** for the purpose
11 of investigating possible violations by employees **or agents** of the licensee,
12 **eligible business or third-party delivery facilitator** of laws prohibiting
13 sales **or deliveries** of alcoholic beverages to persons who are under 21 years
14 of age.

15 “(10)(a) A person under 21 years of age is not in violation of, and is im-
16 mune from prosecution under, this section if:

17 “(A) The person contacted emergency medical services or a law enforce-
18 ment agency in order to obtain medical assistance for another person who
19 was in need of medical assistance due to alcohol consumption and the evi-
20 dence of the violation was obtained as a result of the person’s having con-
21 tacted emergency medical services or a law enforcement agency; or

22 “(B) The person was in need of medical assistance due to alcohol con-
23 sumption and the evidence of the violation was obtained as a result of the
24 person’s having sought or obtained the medical assistance.

25 “(b) Paragraph (a) of this subsection does not exclude the use of evidence
26 obtained as a result of a person’s having sought medical assistance in pro-
27 ceedings for crimes or offenses other than a violation of this section.

28 **“SECTION 12. (1) Sections 2 to 7 of this 2023 Act and the amend-**
29 **ments to ORS 471.186, 471.346, 471.410 and 471.430 by sections 8 to 11 of**
30 **this 2023 Act become operative on January 1, 2024.**

1 “(2) The Oregon Liquor and Cannabis Commission may take any
2 action before the operative date specified in subsection (1) of this sec-
3 tion that is necessary to enable the commission to exercise, on and
4 after the operative date specified in subsection (1) of this section, all
5 of the duties, functions and powers conferred on the commission by
6 sections 2 to 7 of this 2023 Act and the amendments to ORS 471.186,
7 471.346, 471.410 and 471.430 by sections 8 to 11 of this 2023 Act.

8 “SECTION 13. This 2023 Act takes effect on the 91st day after the
9 date on which the 2023 regular session of the Eighty-second Legislative
10 Assembly adjourns sine die.”

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