

Requested by Representative MANNIX

**PROPOSED AMENDMENTS TO
HOUSE BILL 4002**

1 In line 2 of the printed bill, after “state” insert “; creating new provisions;
2 amending ORS 430.306 and 430.401; and repealing ORS 430.402”.

3 Delete lines 4 through 8 and insert:

4 **“SECTION 1. (1) A political subdivision in this state may enact a**
5 **local law, ordinance or regulation prohibiting or restricting any of the**
6 **following conduct, including but not limited to making any of the**
7 **following conduct a criminal offense:**

8 **“(a) Public intoxication or being under the influence of controlled**
9 **substances in public;**

10 **“(b) Public drinking of alcohol;**

11 **“(c) Public use of any drug that is unlawfully possessed under fed-**
12 **eral law;**

13 **“(d) Disorderly conduct related to the use of alcohol or controlled**
14 **substances; or**

15 **“(e) Trespassing on public property while using alcohol or con-**
16 **trolled substances, or while intoxicated or under the influence of con-**
17 **trolled substances.**

18 **“(2) As used in this section, ‘controlled substance’ and ‘drug’ have**
19 **the meanings given those terms in ORS 475.005.**

20 **“SECTION 2. ORS 430.402 is repealed.**

21 **“SECTION 3. ORS 430.306 is amended to read:**

1 “430.306. As used in ORS 430.262, 430.315, 430.335, 430.342, 430.397, 430.399,
2 430.401, [430.402,] 430.420 and 430.630, unless the context requires otherwise:

3 “(1) ‘Alcoholic’ means any person who has lost the ability to control the
4 use of alcoholic beverages, or who uses alcoholic beverages to the extent that
5 the health of the person or that of others is substantially impaired or en-
6 dangered or the social or economic function of the person is substantially
7 disrupted. An alcoholic may be physically dependent, a condition in which
8 the body requires a continuing supply of alcohol to avoid characteristic
9 withdrawal symptoms, or psychologically dependent, a condition character-
10 ized by an overwhelming mental desire for continued use of alcoholic
11 beverages.

12 “(2) ‘Detoxification center’ means a publicly or privately operated profit
13 or nonprofit facility approved by the Oregon Health Authority that provides
14 emergency care or treatment for alcoholics or drug-dependent persons.

15 “(3) ‘Director of the treatment facility’ means the person in charge of
16 treatment and rehabilitation programs at a treatment facility.

17 “(4) ‘Drug-dependent person’ means one who has lost the ability to control
18 the personal use of controlled substances or other substances with abuse
19 potential, or who uses such substances or controlled substances to the extent
20 that the health of the person or that of others is substantially impaired or
21 endangered or the social or economic function of the person is substantially
22 disrupted. A drug-dependent person may be physically dependent, a condition
23 in which the body requires a continuing supply of a drug or controlled sub-
24 stance to avoid characteristic withdrawal symptoms, or psychologically de-
25 pendent, a condition characterized by an overwhelming mental desire for
26 continued use of a drug or controlled substance.

27 “(5) ‘Halfway house’ means a publicly or privately operated profit or
28 nonprofit, residential facility approved by the authority that provides
29 rehabilitative care and treatment for alcoholics or drug-dependent persons.

30 “(6) ‘Local planning committee’ means a local planning committee for al-

1 cohol and drug prevention and treatment services appointed or designated
2 by the county governing body under ORS 430.342.

3 “(7) ‘Police officer’ means a member of a law enforcement unit who is
4 employed on a part-time or full-time basis as a peace officer, commissioned
5 by a city, a county or the Department of State Police and responsible for
6 enforcing the criminal laws of this state and any person formally deputized
7 by the law enforcement unit to take custody of a person who is intoxicated
8 or under the influence of controlled substances.

9 “(8) ‘Sobering facility’ means a facility that meets all of the following
10 criteria:

11 “(a) The facility operates for the purpose of providing to individuals who
12 are acutely intoxicated a safe, clean and supervised environment until the
13 individuals are no longer acutely intoxicated.

14 “(b) The facility contracts with or is affiliated with a treatment program
15 or a provider approved by the authority to provide addiction treatment, and
16 the contract or affiliation agreement includes, but is not limited to, case
17 consultation, training and advice and a plan for making referrals to ad-
18 diction treatment.

19 “(c) The facility, in consultation with the addiction treatment program
20 or provider, has adopted comprehensive written policies and procedures in-
21 corporating best practices for the safety of intoxicated individuals, employees
22 of the facility and volunteers at the facility.

23 “(d) The facility is registered with the Oregon Health Authority under
24 ORS 430.262.

25 “(9) ‘Treatment facility’ includes outpatient facilities, inpatient facilities
26 and other facilities the authority determines suitable and that provide ser-
27 vices that meet minimum standards established under ORS 430.357, any of
28 which may provide diagnosis and evaluation, medical care, detoxification,
29 social services or rehabilitation for alcoholics or drug-dependent persons and
30 which operate in the form of a general hospital, a state hospital, a foster

1 home, a hostel, a clinic or other suitable form approved by the authority.

2 **“SECTION 4.** ORS 430.401 is amended to read:

3 “430.401. (1) A police officer, physician, naturopathic physician, physician
4 assistant, nurse practitioner, judge, treatment facility, treatment facility
5 staff member or sobering facility that is registered with the Oregon Health
6 Authority under ORS 430.262 based on a written request for registration re-
7 ceived by the authority before January 1, 2016, or the staff of the sobering
8 facility, may not be held criminally or civilly liable for actions pursuant to
9 ORS 430.315, 430.335[,] **and** 430.397 to 430.401 [*and 430.402*] provided the
10 actions are in good faith, on probable cause and without malice.

11 “(2) A sobering facility registered with the authority under ORS 430.262
12 based on a written request for registration received by the authority on or
13 after January 1, 2016, and the staff of the sobering facility, may not be held
14 criminally or civilly liable for actions pursuant to ORS 430.315, 430.335[,]
15 **and** 430.397 to 430.401 [*and 430.402*] provided the actions are in good faith,
16 on probable cause and without gross negligence.”.

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