

A-Engrossed
House Bill 3201

Ordered by the House April 30
Including House Amendments dated April 30

Sponsored by Representatives KOTEK, ESQUIVEL; Representative SHIELDS

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.

[Requires Oregon Liquor Control Commission to refuse issuance of license if commission has reasonable grounds for refusal. Requires commission to cancel or suspend license upon finding, or having reasonable belief of, grounds for cancellation or suspension. Changes nature of problems caused by licensed premises that are grounds for commission to refuse issuance of license or to cancel or suspend license.]

Allows Oregon Liquor Control Commission to place restrictions on license of premises that experiences specified problems for purpose of preventing continuation of problems. Creates exception.

A BILL FOR AN ACT

1
2 Relating to Oregon Liquor Control Commission licensees; amending ORS 471.313 and 471.315.

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

4 **SECTION 1.** ORS 471.313 is amended to read:

5 471.313. The Oregon Liquor Control Commission may refuse to license any applicant under the
6 provisions of this chapter if the commission has reasonable ground to believe any of the following
7 to be true:

8 (1) That there are sufficient licensed premises in the locality set out in the application, or that
9 the granting of a license in the locality set out in the application is not demanded by public interest
10 or convenience. In determining whether there are sufficient licensed premises in the locality, the
11 commission shall consider seasonal fluctuations in the population of the locality and shall ensure
12 that there are adequate licensed premises to serve the needs of the locality during the peak seasons.

13 (2) That the applicant has not furnished an acceptable bond as required by ORS 471.311 or is
14 not maintaining the insurance or bond required by ORS 471.168.

15 (3) That, except as allowed by ORS 471.392 to 471.400, any applicant to sell at retail for con-
16 sumption on the premises has been financed or furnished with money or property by, or has any
17 connection with, or is a manufacturer of, or wholesale dealer in, alcoholic liquor.

18 (4) That the applicant:

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

21 (b) Has made false statements to the commission.

22 (c) Is incompetent or physically unable to carry on the management of the establishment pro-
23 posed to be licensed.

24 (d) Has been convicted of violating any of the alcoholic liquor laws of this state, general or lo-
25 cal, or has been convicted at any time of a felony.

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 (e) Has maintained an insanitary establishment.

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

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

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

7 (i) Is not possessed of or has not demonstrated financial responsibility sufficient to adequately
8 meet the requirements of the business proposed to be licensed.

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

11 (5)(a) That there is a history of serious and persistent problems involving disturbances, lewd or
12 unlawful activities or noise either in the premises proposed to be licensed or involving patrons of
13 the establishment in the immediate vicinity of the premises if the [activities] **problems** in the im-
14 mediate vicinity of the premises are related to the sale or service of alcohol under the exercise of
15 the license privilege. [*Behavior which is*] **Problems that are** grounds for refusal of a license under
16 this section, where so related to the sale or service of alcohol, [*includes, but is*] **include, but are**
17 not limited to:

18 (A) Obtrusive or excessive noise, music or sound vibrations;

19 (B) Public drunkenness;

20 (C) Fights;

21 (D) Altercations;

22 (E) Harassment;

23 (F) Unlawful drug sales;

24 (G) Alcohol or related litter;

25 (H) Trespassing on private property; and

26 (I) Public urination.

27 (b) **For purposes of this subsection**, histories from premises currently or previously operated
28 by the applicant may be considered when reasonable inference may be made that similar activities
29 will occur as to the premises proposed to be licensed. The applicant may overcome the history by
30 showing that the problems are not serious or persistent or [*that the applicant demonstrates*] **dem-**
31 **onstrating** a willingness and ability to control adequately the premises proposed to be licensed and
32 patrons' behavior in the immediate vicinity of the premises [*which*] **that** is related to the licensee's
33 sale or service of alcohol under the licensee's exercise of the license privilege.

34 (c) **Except as provided in this paragraph, if a premises is experiencing serious or per-**
35 **sistent problems listed in paragraph (a)(A) to (F) of this subsection, but does not have a**
36 **history of those problems, the commission may place restrictions on the license for the**
37 **purpose of preventing the continuation of the problems. This paragraph does not apply to a**
38 **license that is only for off-premises sales.**

39 **SECTION 2.** ORS 471.315 is amended to read:

40 471.315. (1) The Oregon Liquor Control Commission may cancel or suspend any license issued
41 under this chapter, or impose a civil penalty in lieu of or in addition to suspension as provided by
42 ORS 471.322, if it finds or has reasonable ground to believe any of the following to be true:

43 (a) That the licensee:

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

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

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

5 (D) Has maintained an insanitary establishment.

6 (E) Is insolvent or incompetent or physically unable to carry on the management of the estab-
7 lishment of the licensee.

8 (F) Is in the habit of using alcoholic liquor, habit-forming drugs or controlled substances to ex-
9 cess.

10 (G) Knowingly has sold alcoholic liquor to persons under 21 years of age or to persons visibly
11 intoxicated at the time of sale or has knowingly allowed the consumption of alcoholic liquor on the
12 licensed premises by a person who is visibly intoxicated at the time of consumption.

13 (H) Has misrepresented to a customer or the public any alcoholic liquor sold by the licensee.

14 (I) Since the granting of the license, has been convicted of a felony, of violating any of the liquor
15 laws of this state, general or local, or of any misdemeanor or violation of any municipal ordinance
16 committed on the licensed premises.

17 (b) That any person licensed to sell at retail for consumption on the premises is acting as an
18 agent of, or is a manufacturer or wholesaler of alcoholic liquors, or has borrowed money or prop-
19 erty, or has accepted gratuities or rebates, or has obtained the use of equipment from any man-
20 ufacturer or wholesaler of alcoholic liquor or any agent thereof.

21 (c)(A) That there is a history of serious and persistent problems involving disturbances, lewd
22 or unlawful activities or noise either in the premises or involving patrons of the establishment in
23 the immediate vicinity of the premises if the [*activities*] **problems** in the immediate vicinity of the
24 premises are related to the sale or service of alcohol under the exercise of the license privilege.
25 [*Behavior which is*] **Problems that are** grounds for cancellation or suspension of a license under
26 this section, where so related to the sale or service of alcohol, [*includes, but is*] **include, but are**
27 not limited to:

28 (i) Obtrusive or excessive noise, music or sound vibrations;

29 (ii) Public drunkenness;

30 (iii) Fights;

31 (iv) Altercations;

32 (v) Harassment or unlawful drug sales;

33 (vi) Alcohol or related litter;

34 (vii) Trespassing on private property; and

35 (viii) Public urination.

36 (B) **For purposes of this paragraph**, mitigating factors include a showing by the licensee that
37 the problems are not serious or persistent or that the licensee has demonstrated a willingness and
38 ability to control adequately the licensed premises and patrons' behavior in the immediate vicinity
39 of the premises [*which*] **that** is related to the licensee's sale or service of alcohol under the
40 licensee's exercise of the license privilege.

41 (C) **Except as provided in this subparagraph, if a premises is experiencing serious or**
42 **persistent problems listed in subparagraph (A)(i) to (vi) of this paragraph, but does not have**
43 **a history of those problems, the commission may place restrictions on the license for the**
44 **purpose of preventing the continuation of the problems. This subparagraph does not apply**
45 **to a license that is only for off-premises sales.**

1 (d) That there is any other reason [*which*] **that**, in the opinion of the commission, based on
2 public convenience or necessity, warrants canceling or suspending [*such*] **the** license.

3 (2) Civil penalties under this section shall be imposed as provided in ORS 183.745.

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