

House Bill 4121

Sponsored by Representative SPRENGER; Representatives BREWER, HUFFMAN, OLSON, PARRISH, SCHAUFLER, SHEEHAN (Pre-session filed.)

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 **as introduced**.

Expands basis for allowing winery to be sited on land zoned for exclusive farm use to include cultivation or production of agricultural products that are used in winemaking, including fruit other than grapes, other cultivated crops and honey.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to wineries sited in exclusive farm use zones; amending ORS 215.452 and 215.453; and de-
3 claring an emergency.

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

5 **SECTION 1.** ORS 215.452, as operative until January 1, 2013, is amended to read:

6 215.452. (1) A winery may be established as a permitted use under ORS 215.213 (1)(p) [*and*] **or**
7 215.283 (1)(n) in an area zoned for exclusive farm use if the winery produces wine with a maximum
8 annual production of:

9 (a) Less than 50,000 gallons and:

10 (A) Owns [*an on-site vineyard of*] at least 15 acres **of land on-site that is currently employed**
11 **in the production of grapes or other fruit for the purpose of winemaking, or in the pro-**
12 **duction of honey or other agricultural products used in winemaking;**

13 (B) Owns [*a contiguous vineyard of*] at least 15 acres **of land contiguous to the site that is**
14 **currently employed in the production of grapes or other fruit for the purpose of winemaking,**
15 **or in the production of honey or other agricultural products used in winemaking;**

16 (C) Has a long-term contract [*for the purchase of all of the grapes from at least 15 acres of a*
17 *vineyard*], **for the purpose of winemaking, to purchase grapes or other fruit, or to purchase**
18 **honey or other agricultural products used in winemaking, from a farm operation of at least**
19 **15 acres that is** contiguous to the winery; or

20 (D) Obtains [*grapes*], **for the purpose of winemaking, grapes or other fruit, or honey or**
21 **other agricultural products used in winemaking,** from [*any combination of*] **sources described**
22 **in subparagraph (A), (B) or (C) of this paragraph totaling at least 15 acres of land on-site or**
23 **contiguous to the site;** or

24 (b) At least 50,000 gallons and [*the winery*]:

25 (A) Owns [*an on-site vineyard of*] at least 40 acres **of land on-site that is currently employed**
26 **in the production of grapes or other fruit for the purpose of winemaking, or in the pro-**
27 **duction of honey or other agricultural products used in winemaking;**

28 (B) Owns [*a contiguous vineyard of*] at least 40 acres **of land contiguous to the site that is**
29 **currently employed in the production of grapes or other fruit for the purpose of winemaking,**
30 **or in the production of honey or other agricultural products used in winemaking;**

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 (C) Has a long-term contract [*for the purchase of all of the grapes from at least 40 acres of a*
 2 *vineyard*], **for the purpose of winemaking, to purchase grapes or other fruit, or to purchase**
 3 **honey or other agricultural products used in winemaking, from a farm operation of at least**
 4 **40 acres that is** contiguous to the winery; or

5 (D) Obtains [*grapes*], **for the purpose of winemaking, grapes or other fruit, or honey or**
 6 **other agricultural products used in winemaking**, from [*any combination of*] **sources described**
 7 **in** subparagraph (A), (B) or (C) of this paragraph **totaling at least 40 acres of land on-site or**
 8 **contiguous to the site.**

9 (2) A winery described in subsection (1) of this section may:

10 (a) Market and sell wine produced in conjunction with the winery, including the following ac-
 11 tivities:

12 (A) Wine tours;

13 (B) Wine tastings in a tasting room or other location at the winery;

14 (C) Wine clubs; and

15 (D) Similar activities conducted for the primary purpose of promoting wine produced in con-
 16 junction with the winery;

17 (b) Market and sell items directly related to the sale or promotion of wine produced in con-
 18 junction with the winery, the marketing and sale of which is incidental to retail sale of wine on-site,
 19 including food and beverages served by a limited service restaurant, as defined in ORS 624.010; and

20 (c) Provide services, including private events, hosted by the winery or patrons of the winery,
 21 at which wine produced in conjunction with the winery is featured, that:

22 (A) Are directly related to the sale or promotion of wine produced in conjunction with the
 23 winery;

24 (B) Are incidental to the retail sale of wine on-site; and

25 (C) Are limited to 25 days or fewer in a calendar year.

26 (3) The gross income of the winery from the sale of incidental items pursuant to subsection (2)(b)
 27 of this section and services provided pursuant to subsection (2)(c) of this section may not exceed 25
 28 percent of the gross income from the on-site retail sale of wine produced in conjunction with the
 29 winery.

30 (4) A winery operating under this section shall provide parking for all activities or uses of the
 31 lot, parcel or tract on which the winery is established.

32 (5) Prior to the issuance of a permit to establish a winery under this section, the applicant shall
 33 show, **as applicable**, that:

34 (a) Vineyards [*described in subsection (1) of this section have been planted or that*], **orchards or**
 35 **other cultivated crops used in winemaking have been planted or, for the production of honey**
 36 **used in winemaking, that a hive has been made or prepared and bees have occupied the hive;**
 37 **or**

38 (b) The contract has been executed[, *as applicable*].

39 (6) A local government shall adopt findings for each of the standards described in this sub-
 40 section. Standards imposed on the siting of a winery shall be limited solely to each of the following
 41 for the sole purpose of limiting demonstrated conflicts with accepted farming or forest practices on
 42 adjacent lands:

43 (a) Establishment of a setback of at least 100 feet from all property lines for the winery and all
 44 public gathering places; and

45 (b) Provision of direct road access and internal circulation.

(7) A local government shall apply:

(a) Local criteria regarding floodplains, geologic hazards, the Willamette River Greenway, solar access and airport safety;

(b) Regulations for the public health and safety; and

(c) Regulations for resource protection acknowledged to comply with any statewide goal respecting open spaces, scenic and historic areas and natural resources.

(8)(a) A local government may issue a permit for a winery operating under this section to host outdoor concerts for which admission is charged, facility rentals or celebratory events if the local government issued permits to wineries operating under this section in similar circumstances before August 2, 2011.

(b) A local government may not issue a permit for a winery operating under this section to host outdoor concerts for which admission is charged, facility rentals or celebratory events if the local government did not issue permits to wineries operating under this section in similar circumstances before August 2, 2011.

(9) As used in this section[,]:

(a) **“Bees” has the meaning given that term in ORS 602.010;**

(b) **“Hive” has the meaning given that term in ORS 602.010; and**

(c) “Private events” includes, but is not limited to, facility rentals and celebratory gatherings.

SECTION 2. ORS 215.452, as amended by section 3, chapter 679, Oregon Laws 2011, is amended to read:

215.452. (1) A winery may be established as a permitted use under ORS 215.213 (1)(p) *[and]* or 215.283 (1)(n) in an area zoned for exclusive farm use if the winery produces wine with a maximum annual production of:

(a) Less than 50,000 gallons and:

(A) Owns *[an on-site vineyard of]* at least 15 acres **of land on-site that is currently employed in the production of grapes or other fruit for the purpose of winemaking, or in the production of honey or other agricultural products used in winemaking;**

(B) Owns *[a contiguous vineyard of]* at least 15 acres **of land contiguous to the site that is currently employed in the production of grapes or other fruit for the purpose of winemaking, or in the production of honey or other agricultural products used in winemaking;**

(C) Has a long-term contract *[for the purchase of all of the grapes from at least 15 acres of a vineyard]*, **for the purpose of winemaking, to purchase grapes or other fruit, or to purchase honey or other agricultural products used in winemaking, from a farm operation of at least 15 acres that is contiguous to the winery; or**

(D) Obtains *[grapes]*, **for the purpose of winemaking, grapes or other fruit, or honey or other agricultural products used in winemaking,** from *[any combination of]* sources described in subparagraph (A), (B) or (C) of this paragraph **totaling at least 15 acres of land on-site or contiguous to the site; or**

(b) At least 50,000 gallons and *[the winery]*:

(A) Owns *[an on-site vineyard of]* at least 40 acres **of land on-site that is currently employed in the production of grapes or other fruit for the purpose of winemaking, or in the production of honey or other agricultural products used in winemaking;**

(B) Owns *[a contiguous vineyard of]* at least 40 acres **of land contiguous to the site that is currently employed in the production of grapes or other fruit for the purpose of winemaking, or in the production of honey or other agricultural products used in winemaking;**

1 (C) Has a long-term contract [*for the purchase of all of the grapes from at least 40 acres of a*
 2 *vineyard*], **for the purpose of winemaking, to purchase grapes or other fruit, or to purchase**
 3 **honey or other agricultural products used in winemaking, from a farm operation of at least**
 4 **40 acres that is** contiguous to the winery; or

5 (D) Obtains [*grapes*], **for the purpose of winemaking, grapes or other fruit, or honey or**
 6 **other agricultural products used in winemaking**, from [*any combination of*] **sources described**
 7 **in** subparagraph (A), (B) or (C) of this paragraph **totaling at least 40 acres of land on-site or**
 8 **contiguous to the site.**

9 (2) A winery described in subsection (1) of this section may:

10 (a) Market and sell wine produced in conjunction with the winery, including the following ac-
 11 tivities:

12 (A) Wine tours;

13 (B) Wine tastings in a tasting room or other location at the winery;

14 (C) Wine clubs; and

15 (D) Similar activities conducted for the primary purpose of promoting wine produced in con-
 16 junction with the winery;

17 (b) Market and sell items directly related to the sale or promotion of wine produced in con-
 18 junction with the winery, the marketing and sale of which is incidental to retail sale of wine on-site,
 19 including food and beverages served by a limited service restaurant, as defined in ORS 624.010; and

20 (c) Provide services, including private events, hosted by the winery or patrons of the winery,
 21 at which wine produced in conjunction with the winery is featured, that:

22 (A) Are directly related to the sale or promotion of wine produced in conjunction with the
 23 winery;

24 (B) Are incidental to the retail sale of wine on-site; and

25 (C) Are limited to 25 days or fewer in a calendar year.

26 (3)(a) The gross income of the winery from the sale of incidental items pursuant to subsection
 27 (2)(b) of this section and services provided pursuant to subsection (2)(c) of this section may not ex-
 28 ceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with
 29 the winery.

30 (b) At the request of a local government with land use jurisdiction over the site of a winery, the
 31 winery shall submit to the local government a written statement, prepared by a certified public ac-
 32 countant, that certifies compliance with paragraph (a) of this subsection for the previous tax year.

33 (4) A winery operating under this section shall provide parking for all activities or uses of the
 34 lot, parcel or tract on which the winery is established.

35 (5) Prior to the issuance of a permit to establish a winery under this section, the applicant shall
 36 show, **as applicable**, that:

37 (a) Vineyards [*described in subsection (1) of this section have been planted or that*], **orchards or**
 38 **other cultivated crops used in winemaking have been planted or, for the production of honey**
 39 **used in winemaking, that a hive has been made or prepared and bees have occupied the hive;**
 40 **or**

41 (b) The contract has been executed[, *as applicable*].

42 (6) A local government shall adopt findings for each of the standards described in this sub-
 43 section. Standards imposed on the siting of a winery shall be limited solely to each of the following
 44 for the sole purpose of limiting demonstrated conflicts with accepted farming or forest practices on
 45 adjacent lands:

1 (a) Establishment of a setback of at least 100 feet from all property lines for the winery and all
2 public gathering places; and

3 (b) Provision of direct road access and internal circulation.

4 (7) A local government shall apply:

5 (a) Local criteria regarding floodplains, geologic hazards, the Willamette River Greenway, solar
6 access and airport safety;

7 (b) Regulations for the public health and safety; and

8 (c) Regulations for resource protection acknowledged to comply with any statewide goal re-
9 specting open spaces, scenic and historic areas and natural resources.

10 (8)(a) A local government may issue a permit for a winery operating under this section to host
11 outdoor concerts for which admission is charged, facility rentals or celebratory events if the local
12 government issued permits to wineries operating under this section in similar circumstances before
13 August 2, 2011.

14 (b) A local government may not issue a permit for a winery operating under this section to host
15 outdoor concerts for which admission is charged, facility rentals or celebratory events if the local
16 government did not issue permits to wineries operating under this section in similar circumstances
17 before August 2, 2011.

18 (9) As used in this section[,]:

19 (a) **“Bees” has the meaning given that term in ORS 602.010;**

20 (b) **“Hive” has the meaning given that term in ORS 602.010; and**

21 (c) “Private events” includes, but is not limited to, facility rentals and celebratory gatherings.

22 **SECTION 3.** ORS 215.452, as amended by sections 3 and 3a, chapter 679, Oregon Laws 2011, is
23 amended to read:

24 215.452. (1) A winery may be established as a permitted use under ORS 215.213 (1)(p) [*and*] **or**
25 215.283 (1)(n) in an area zoned for exclusive farm use if the winery produces wine with a maximum
26 annual production of:

27 (a) Less than 50,000 gallons and:

28 (A) Owns [*an on-site vineyard of*] **at least 15 acres of land on-site that is currently employed**
29 **in the production of grapes or other fruit for the purpose of winemaking, or in the pro-**
30 **duction of honey or other agricultural products used in winemaking;**

31 (B) Owns [*a contiguous vineyard of*] **at least 15 acres of land contiguous to the site that is**
32 **currently employed in the production of grapes or other fruit for the purpose of winemaking,**
33 **or in the production of honey or other agricultural products used in winemaking;**

34 (C) Has a long-term contract [*for the purchase of all of the grapes from at least 15 acres of a*
35 *vineyard*], **for the purpose of winemaking, to purchase grapes or other fruit, or to purchase**
36 **honey or other agricultural products used in winemaking, from a farm operation of at least**
37 **15 acres that is contiguous to the winery; or**

38 (D) Obtains [*grapes*], **for the purpose of winemaking, grapes or other fruit, or honey or**
39 **other agricultural products used in winemaking, from [*any combination of*] sources described**
40 **in subparagraph (A), (B) or (C) of this paragraph totaling at least 15 acres of land on-site or**
41 **contiguous to the site; or**

42 (b) At least 50,000 gallons and [*the winery*]:

43 (A) Owns [*an on-site vineyard of*] **at least 40 acres of land on-site that is currently employed**
44 **in the production of grapes or other fruit for the purpose of winemaking, or in the pro-**
45 **duction of honey or other agricultural products used in winemaking;**

1 (B) Owns [*a contiguous vineyard of*] at least 40 acres **of land contiguous to the site that is**
 2 **currently employed in the production of grapes or other fruit for the purpose of winemaking,**
 3 **or in the production of honey or other agricultural products used in winemaking;**

4 (C) Has a long-term contract [*for the purchase of all of the grapes from at least 40 acres of a*
 5 *vineyard*], **for the purpose of winemaking, to purchase grapes or other fruit, or to purchase**
 6 **honey or other agricultural products used in winemaking, from a farm operation of at least**
 7 **40 acres that is** contiguous to the winery; or

8 (D) Obtains [*grapes*], **for the purpose of winemaking, grapes or other fruit, or honey or**
 9 **other agricultural products used in winemaking,** from [*any combination of*] **sources described**
 10 **in subparagraph (A), (B) or (C) of this paragraph totaling at least 40 acres of land on-site or**
 11 **contiguous to the site.**

12 (2) A winery described in subsection (1) of this section may:

13 (a) Market and sell wine produced in conjunction with the winery, including the following ac-
 14 tivities:

15 (A) Wine tours;

16 (B) Wine tastings in a tasting room or other location at the winery;

17 (C) Wine clubs; and

18 (D) Similar activities conducted for the primary purpose of promoting wine produced in con-
 19 junction with the winery; and

20 (b) Market and sell items directly related to the sale or promotion of wine produced in con-
 21 junction with the winery, the marketing and sale of which is incidental to retail sale of wine on-site,
 22 including food and beverages served by a limited service restaurant, as defined in ORS 624.010.

23 (3) A winery operating under this section shall provide parking for all activities or uses of the
 24 lot, parcel or tract on which the winery is established.

25 (4) Prior to the issuance of a permit to establish a winery under this section, the applicant shall
 26 show, **as applicable**, that:

27 (a) Vineyards [*described in subsection (1) of this section have been planted or that*], **orchards or**
 28 **other cultivated crops used in winemaking have been planted or, for the production of honey**
 29 **used in winemaking, that a hive has been made or prepared and bees have occupied the hive;**
 30 **or**

31 (b) The contract has been executed[, *as applicable*].

32 (5) A local government shall adopt findings for each of the standards described in this sub-
 33 section. Standards imposed on the siting of a winery shall be limited solely to each of the following
 34 for the sole purpose of limiting demonstrated conflicts with accepted farming or forest practices on
 35 adjacent lands:

36 (a) Establishment of a setback of at least 100 feet from all property lines for the winery and all
 37 public gathering places; and

38 (b) Provision of direct road access and internal circulation.

39 (6) A local government shall apply:

40 (a) Local criteria regarding floodplains, geologic hazards, the Willamette River Greenway, solar
 41 access and airport safety;

42 (b) Regulations for the public health and safety; and

43 (c) Regulations for resource protection acknowledged to comply with any statewide goal re-
 44 specting open spaces, scenic and historic areas and natural resources.

45 (7)(a) A local government may issue a permit for a winery operating under this section to host

1 outdoor concerts for which admission is charged, facility rentals or celebratory events if the local
 2 government issued permits to wineries operating under this section in similar circumstances before
 3 August 2, 2011.

4 (b) A local government may not issue a permit for a winery operating under this section to host
 5 outdoor concerts for which admission is charged, facility rentals or celebratory events if the local
 6 government did not issue permits to wineries operating under this section in similar circumstances
 7 before August 2, 2011.

8 **(8) As used in this section:**

9 **(a) “Bees” has the meaning given that term in ORS 602.010; and**

10 **(b) “Hive” has the meaning given that term in ORS 602.010.**

11 **SECTION 4.** ORS 215.453, as operative until January 1, 2013, is amended to read:

12 215.453. (1) A winery may be established as a permitted use under ORS 215.213 (1)(p) or 215.283
 13 (1)(n) in an area zoned for exclusive farm use if:

14 (a) The winery owns and is sited on a tract of 80 acres or more, at least 50 acres of which [*is*]
 15 **are utilized:**

16 **(A) As a vineyard, orchard or plantation of other cultivated crops used in winemaking;**
 17 **or**

18 **(B) For the production of honey used in winemaking;**

19 (b) The winery owns at least 80 additional acres [*of planted vineyards*] in Oregon that:

20 **(A) Are utilized as a vineyard, orchard or plantation of other cultivated crops used in**
 21 **winemaking; and**

22 **(B) Need not be contiguous to the acreage described in paragraph (a) of this subsection; and**

23 (c) The winery has produced annually, at the same or a different location, at least 150,000 gal-
 24 lons of wine in at least three of the five calendar years before the winery is established under this
 25 section.

26 (2) A winery described in subsection (1) of this section may:

27 (a) Market and sell wine produced in conjunction with the winery, including the following ac-
 28 tivities:

29 (A) Wine tours;

30 (B) Wine tastings in a tasting room or other location at the winery;

31 (C) Wine clubs; and

32 (D) Similar activities conducted for the primary purpose of promoting wine produced in con-
 33 junction with the winery;

34 (b) Market and sell items directly related to the sale or promotion of wine produced in con-
 35 junction with the winery, the marketing and sale of which is incidental to retail sale of wine on-site,
 36 including food and beverages served by a limited service restaurant, as defined in ORS 624.010, wine
 37 not produced in conjunction with the winery and gifts; and

38 (c) Provide services, including private events, hosted by the winery or patrons of the winery,
 39 at which wine produced in conjunction with the winery is featured, that:

40 (A) Are directly related to the sale or promotion of wine produced in conjunction with the
 41 winery;

42 (B) Are incidental to the retail sale of wine on-site; and

43 (C) Are limited to 25 days or fewer in a calendar year.

44 (3) The gross income of the winery from the sale of incidental items pursuant to subsection (2)(b)
 45 of this section and services provided pursuant to subsection (2)(c) of this section may not exceed 25

1 percent of the gross income from the on-site retail sale of wine produced in conjunction with the
2 winery.

3 (4) A winery operating under this section:

4 (a) Shall provide parking for all activities or uses of the lot, parcel or tract on which the winery
5 is established.

6 (b) May operate a restaurant, as defined in ORS 624.010, in which food is prepared for con-
7 sumption on the premises of the winery.

8 (5)(a) A winery shall obtain a permit from the local government if the winery operates a res-
9 taurant that is open to the public for more than 25 days in a calendar year or provides for private
10 events occurring on more than 25 days in a calendar year.

11 (b) In addition to any other requirements, a local government may approve a permit application
12 under this subsection if the local government finds that the authorized activity:

13 (A) Complies with the standards described in ORS 215.296;

14 (B) Is incidental and subordinate to the retail sale of wine produced in conjunction with the
15 winery; and

16 (C) Does not materially alter the stability of the land use pattern in the area.

17 (c) If the local government issues a permit under this subsection for private events, the local
18 government shall review the permit at least once every five years and, if appropriate, may renew
19 the permit.

20 (6) A person may not have a substantial ownership interest in more than one winery operating
21 a restaurant under this section.

22 (7) Prior to the issuance of a permit to establish a winery under this section, the applicant shall
23 show that vineyards [*described in subsection (1) of this section have been planted*], **orchards or other**
24 **cultivated crops used in winemaking have been planted or, for the production of honey used**
25 **in winemaking, that a hive has been made or prepared and bees have occupied the hive.**

26 (8) A local government shall require a winery operating under this section to provide for:

27 (a) Establishment of a setback of at least 100 feet from all property lines for the winery and all
28 public gathering places; and

29 (b) Direct road access and internal circulation.

30 (9) A local government shall apply:

31 (a) Local criteria regarding floodplains, geologic hazards, the Willamette River Greenway, solar
32 access and airport safety;

33 (b) Regulations for the public health and safety; and

34 (c) Regulations for resource protection acknowledged to comply with any statewide goal re-
35 specting open spaces, scenic and historic areas and natural resources.

36 (10) The local government may authorize a winery described in subsection (1) of this section to
37 sell or deliver items or provide services not described in subsection (2)(b) or (c) or (3) of this section
38 under the criteria for a commercial activity in conjunction with farm use under ORS 215.213 (2)(c)
39 or 215.283 (2)(a).

40 (11)(a) A local government may issue a permit for a winery operating under this section to host
41 outdoor concerts for which admission is charged, facility rentals or celebratory events if the local
42 government issued permits to wineries operating under this section in similar circumstances before
43 August 2, 2011.

44 (b) A local government may not issue a permit for a winery operating under this section to host
45 outdoor concerts for which admission is charged, facility rentals or celebratory events if the local

1 government did not issue permits to wineries operating under this section in similar circumstances
 2 before August 2, 2011.

3 (12) As used in this section[,]:

4 (a) **“Bees” has the meaning given that term in ORS 602.010;**

5 (b) **“Hive” has the meaning given that term in ORS 602.010; and**

6 (c) “Private events” includes, but is not limited to, facility rentals and celebratory gatherings.

7 **SECTION 5.** ORS 215.453, as amended by section 5a, chapter 679, Oregon Laws 2011, is
 8 amended to read:

9 215.453. (1) A winery may be established as a permitted use under ORS 215.213 (1)(p) or 215.283
 10 (1)(n) in an area zoned for exclusive farm use if:

11 (a) The winery owns and is sited on a tract of 80 acres or more, at least 50 acres of which [*is*]
 12 **are utilized:**

13 (A) **As a vineyard, orchard or plantation of other cultivated crops used in winemaking;**
 14 **or**

15 (B) **For the production of honey used in winemaking;**

16 (b) The winery owns at least 80 additional acres [*of planted vineyards*] in Oregon that:

17 (A) **Are utilized as a vineyard, orchard or plantation of other cultivated crops used in**
 18 **winemaking; and**

19 (B) **Need not be contiguous to the acreage described in paragraph (a) of this subsection; and**

20 (c) The winery has produced annually, at the same or a different location, at least 150,000 gal-
 21 lons of wine in at least three of the five calendar years before the winery is established under this
 22 section.

23 (2) A winery described in subsection (1) of this section may:

24 (a) Market and sell wine produced in conjunction with the winery, including the following ac-
 25 tivities:

26 (A) Wine tours;

27 (B) Wine tastings in a tasting room or other location at the winery;

28 (C) Wine clubs; and

29 (D) Similar activities conducted for the primary purpose of promoting wine produced in con-
 30 junction with the winery;

31 (b) Market and sell items directly related to the sale or promotion of wine produced in con-
 32 junction with the winery, the marketing and sale of which is incidental to retail sale of wine on-site,
 33 including food and beverages served by a limited service restaurant, as defined in ORS 624.010, wine
 34 not produced in conjunction with the winery and gifts; and

35 (c) Provide services, including private events, hosted by the winery or patrons of the winery,
 36 at which wine produced in conjunction with the winery is featured, that:

37 (A) Are directly related to the sale or promotion of wine produced in conjunction with the
 38 winery;

39 (B) Are incidental to the retail sale of wine on-site; and

40 (C) Are limited to 25 days or fewer in a calendar year.

41 (3)(a) The gross income of the winery from the sale of incidental items pursuant to subsection
 42 (2)(b) of this section and services provided pursuant to subsection (2)(c) of this section may not ex-
 43 ceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with
 44 the winery.

45 (b) At the request of a local government with land use jurisdiction over the site of a winery, the

1 winery shall submit to the local government a written statement, prepared by a certified public ac-
 2 countant, that certifies compliance with paragraph (a) of this subsection for the previous tax year.

3 (4) A winery operating under this section:

4 (a) Shall provide parking for all activities or uses of the lot, parcel or tract on which the winery
 5 is established.

6 (b) May operate a restaurant, as defined in ORS 624.010, in which food is prepared for con-
 7 sumption on the premises of the winery.

8 (5)(a) A winery shall obtain a permit from the local government if the winery operates a res-
 9 taurant that is open to the public for more than 25 days in a calendar year or provides for private
 10 events occurring on more than 25 days in a calendar year.

11 (b) In addition to any other requirements, a local government may approve a permit application
 12 under this subsection if the local government finds that the authorized activity:

13 (A) Complies with the standards described in ORS 215.296;

14 (B) Is incidental and subordinate to the retail sale of wine produced in conjunction with the
 15 winery; and

16 (C) Does not materially alter the stability of the land use pattern in the area.

17 (c) If the local government issues a permit under this subsection for private events, the local
 18 government shall review the permit at least once every five years and, if appropriate, may renew
 19 the permit.

20 (6) A person may not have a substantial ownership interest in more than one winery operating
 21 a restaurant under this section.

22 (7) Prior to the issuance of a permit to establish a winery under this section, the applicant shall
 23 show that vineyards [*described in subsection (1) of this section have been planted*], **orchards or other**
 24 **cultivated crops used in winemaking have been planted or, for the production of honey used**
 25 **in winemaking, that a hive has been made or prepared and bees have occupied the hive.**

26 (8) A local government shall require a winery operating under this section to provide for:

27 (a) Establishment of a setback of at least 100 feet from all property lines for the winery and all
 28 public gathering places; and

29 (b) Direct road access and internal circulation.

30 (9) A local government shall apply:

31 (a) Local criteria regarding floodplains, geologic hazards, the Willamette River Greenway, solar
 32 access and airport safety;

33 (b) Regulations for the public health and safety; and

34 (c) Regulations for resource protection acknowledged to comply with any statewide goal re-
 35 specting open spaces, scenic and historic areas and natural resources.

36 (10) The local government may authorize a winery described in subsection (1) of this section to
 37 sell or deliver items or provide services not described in subsection (2)(b) or (c) or (3) of this section
 38 under the criteria for a commercial activity in conjunction with farm use under ORS 215.213 (2)(c)
 39 or 215.283 (2)(a).

40 (11)(a) A local government may issue a permit for a winery operating under this section to host
 41 outdoor concerts for which admission is charged, facility rentals or celebratory events if the local
 42 government issued permits to wineries operating under this section in similar circumstances before
 43 August 2, 2011.

44 (b) A local government may not issue a permit for a winery operating under this section to host
 45 outdoor concerts for which admission is charged, facility rentals or celebratory events if the local

1 government did not issue permits to wineries operating under this section in similar circumstances
2 before August 2, 2011.

3 (12) As used in this section[,]:

4 (a) **“Bees” has the meaning given that term in ORS 602.010;**

5 (b) **“Hive” has the meaning given that term in ORS 602.010; and**

6 (c) “Private events” includes, but is not limited to, facility rentals and celebratory gatherings.

7 **SECTION 6. This 2012 Act being necessary for the immediate preservation of the public**
8 **peace, health and safety, an emergency is declared to exist, and this 2012 Act takes effect**
9 **on its passage.**

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