

## HOUSE AMENDMENTS TO HOUSE BILL 3245

By COMMITTEE ON GENERAL GOVERNMENT

April 19

1 On page 1 of the printed bill, line 2, after “ORS” delete the rest of the line and delete line 3  
2 and insert “471.346 and 471.410; and declaring an emergency.”.

3 Delete lines 5 through 23 and delete pages 2 through 13 and insert:

4 “**SECTION 1.** ORS 471.346 is amended to read:

5 “471.346. (1)(a) The Oregon Liquor Control Commission shall by rule develop uniform standards  
6 for minor decoy operations used to investigate licensees, [and] agents operating stores on behalf of  
7 the commission under ORS 471.750 **and any person delivering alcoholic beverages to consumers**  
8 **in this state** for violations of the laws of this state prohibiting sales **and deliveries** of alcoholic  
9 beverages to minors.

10 “(b) Uniform standards established by the commission under this section apply to all investi-  
11 gations conducted by the commission that use minor decoys. The commission shall encourage all law  
12 enforcement agencies of this state to use the uniform standards established under this section for  
13 minor decoy operations conducted by the law enforcement agencies.

14 “(2) To the greatest extent possible, the uniform standards established by the commission under  
15 this section:

16 “(a) [Shall] **Must** be the same for minor decoy operations conducted by the commission and for  
17 minor decoy operations conducted by law enforcement agencies of this state; and

18 “(b) [Shall] **Must** provide for coordination between the commission and law enforcement agen-  
19 cies of this state in conducting minor decoy operations.

20 “(3)(a) The uniform standards established by the commission under **subsection (1) of this sec-**  
21 **tion [shall] for investigating sales by licensees occurring on licensed premises and in-store**  
22 **sales by agents operating stores on behalf of the commission under ORS 471.750 must** provide  
23 that minor decoy operations must be conducted on either a random or a targeted basis in cities with  
24 populations of 20,000 or more. Random minor decoy operations [shall] **must** cover a range of retail  
25 outlets. Targeted minor decoy operations may be conducted for a single licensee or agent, but may  
26 be used only if there is a documented compliance problem with the specific licensee or agent that  
27 is the target of the operation. For the purpose of implementing standards for random minor decoy  
28 operations under this subsection, the commission shall by rule adopt a methodology that produces,  
29 to the greatest extent possible, an equal chance that any licensee or agent will be subject to a minor  
30 decoy operation.

31 “(b) **The uniform standards established by the commission under subsection (1) of this**  
32 **section for investigating deliveries of alcoholic beverages to consumers in this state are not**  
33 **required to include the random or targeted minor decoy operations described in paragraph**  
34 **(a) of this subsection.**

35 “(4) Except as provided in subsection (5) of this section, the failure of the commission or of a

1 law enforcement agency to follow uniform standards established by the commission under this sec-  
2 tion is not grounds for challenging any complaint, citation or conviction for violation of the laws  
3 prohibiting the sale **or delivery** of alcoholic beverages to minors.

4 “(5) In determining whether to impose sanctions based on multiple violations of the laws of this  
5 state prohibiting sales **or deliveries** of alcoholic beverages to minors, the commission may not  
6 consider any complaint filed against, **citation issued to or conviction of** a licensee **or person**  
7 **delivering alcoholic beverages to consumers** for selling **or delivering** alcoholic beverages to a  
8 minor[, *citation issued to a licensee for selling alcoholic beverages to a minor or conviction of a licensee*  
9 *for selling alcoholic beverages to a minor*] if the complaint, citation or conviction arose out of a mi-  
10 nor decoy operation that was not conducted pursuant to the uniform standards established by the  
11 commission under this section.

12 “(6) Notwithstanding any other provision of this chapter, the commission may not consider any  
13 sale **or delivery** of alcoholic beverages to a minor that results from a minor decoy operation that  
14 is not conducted in compliance with the standards established under this section for the purpose of  
15 imposing any civil penalty against a licensee **or person delivering alcoholic beverages to con-**  
16 **sumers in this state**, making a decision on the renewal, suspension or cancellation of a license  
17 **or the carrier approval of a person delivering alcoholic beverages to consumers in this state**  
18 issued under this chapter **or rules adopted pursuant to this chapter** or otherwise sanctioning a  
19 licensee **or person delivering alcoholic beverages to consumers** for the sale **or delivery** of al-  
20 coholic beverages to a minor.

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

23 “**SECTION 2.** ORS 471.410 is amended to read:

24 “471.410. (1) A person may not sell, give or otherwise make available any alcoholic liquor to any  
25 person who is visibly intoxicated.

26 “(2) No one other than the person’s parent or guardian may sell, give or otherwise make avail-  
27 able any alcoholic liquor to a person under the age of 21 years. A parent or guardian may give or  
28 otherwise make alcoholic liquor available to a person under the age of 21 years only if the person  
29 is in a private residence and is accompanied by the parent or guardian. A person violates this sub-  
30 section [*who*] **if the person** sells, gives or otherwise makes available alcoholic liquor to a person  
31 with the knowledge that the person to whom the liquor is made available will violate this sub-  
32 section.

33 “(3)(a) A person who exercises control over private real property may not knowingly allow any  
34 other person under the age of 21 years who is not a child or minor ward of the person to consume  
35 alcoholic liquor on the property, or allow any other person under the age of 21 years who is not a  
36 child or minor ward of the person to remain on the property if the person under the age of 21 years  
37 consumes alcoholic liquor on the property.

38 “(b) This subsection:

39 “(A) Applies only to a person who is present and in control of the location at the time the  
40 consumption occurs;

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

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

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

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

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

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

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

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

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

14 “(B) Is an employee of a person licensed or appointed under this chapter and holds a valid ser-  
15 vice permit [or has attended a program approved by the Oregon Liquor Control Commission that  
16 provides training to avoid violations of this section.];

17 “(C) **Is an employee of a person that is licensed or appointed under this chapter and that**  
18 **has the privilege of selling factory-sealed containers of alcoholic beverages for off-premises**  
19 **consumption; or**

20 “(D) **Is an individual who delivers alcoholic beverages to the physical possession of con-**  
21 **sumers at delivery addresses that are in this state and not regulated by the Oregon Liquor**  
22 **Control Commission under this chapter or ORS 475B.010 to 475B.545, 475B.550 to 475B.590 or**  
23 **475B.600 to 475B.655.**

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

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

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

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

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

33 “[7] *For an employee of an off-premises sales licensee who violates subsection (2) of this section*  
34 *while operating a checkout device and does not act knowingly or intentionally, a first conviction is a*  
35 *Class A violation.*]

36 “[8] (7) The court may waive an amount that is at least \$200 but not more than one-third of  
37 the fine imposed under subsection (5) of this section, if the violator performs at least 30 hours of  
38 community service.

39 “[9] (8) Except as provided in subsection [(8)] (7) of this section, the court may not waive or  
40 suspend imposition or execution of the mandatory minimum sentence required by subsection (5) or  
41 (6) of this section. In addition to the mandatory sentence, the court may require the violator to make  
42 restitution for any damages to property where the alcoholic liquor was illegally consumed or may  
43 require participation in volunteer service to a community service agency.

44 “[10)(a) (9)(a) Except as provided in paragraph (b) of this subsection, a person who violates  
45 subsection (3) of this section commits a Class A violation.

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

3 “[11] (10) Nothing in this section prohibits any licensee under this chapter from allowing a  
4 person who is visibly intoxicated from remaining on the licensed premises so long as the person is  
5 not sold or served any alcoholic liquor.

6 **“SECTION 3. (1) The Task Force on the Regulation and Enforcement of Alcohol Delivery  
7 by Third-Party E-commerce Providers is established.**

8 **“(2) The task force consists of 14 members as follows:**

9 **“(a) The President of the Senate shall appoint:**

10 **“(A) One member from among members of the Senate.**

11 **“(B) Five members as follows:**

12 **“(i) One member who represents law enforcement agencies in this state;**

13 **“(ii) One member who represents businesses licensed under ORS 471.175 and 471.178 that  
14 sell alcoholic beverages through third-party electronic commerce providers in this state;**

15 **“(iii) One member who represents businesses licensed under ORS 471.186 that sell alco-  
16 holic beverages through third-party electronic commerce providers in this state;**

17 **“(iv) One member who represents an organization that focuses on public health; and**

18 **“(v) One member who is a retail sales agent appointed by the Oregon Liquor Control  
19 Commission under ORS 471.750.**

20 **“(b) The Speaker of the House of Representatives shall appoint:**

21 **“(A) One member from among members of the House of Representatives.**

22 **“(B) Four members as follows:**

23 **“(i) Two members who represent trade associations whose members include third-party  
24 delivery services operating in this state;**

25 **“(ii) One member who represents an organization that has expertise in training in the  
26 delivery of alcoholic beverages; and**

27 **“(iii) One member who represents local government.**

28 **“(c) In addition to the members described in paragraphs (a) and (b) of this subsection,  
29 one representative from each of the following state agencies shall be members of the task  
30 force:**

31 **“(A) The Alcohol and Drug Policy Commission;**

32 **“(B) The Oregon Health Authority; and**

33 **“(C) The Oregon Liquor Control Commission.**

34 **“(3) The task force shall conduct a study, with a focus on at least the following:**

35 **“(a) Best practices for verifying the age of consumers to whom alcoholic beverages are  
36 delivered;**

37 **“(b) The effectiveness of consumer age verification systems currently used by third-party  
38 electronic commerce providers that operate in this state;**

39 **“(c) The transaction process flow on third-party electronic commerce provider platforms  
40 for the purpose of modernizing the use of ‘sale of alcoholic beverages,’ and similar terms, in  
41 ORS 471.405 and 471.406;**

42 **“(d) Communication relating to consumer age verification between different entities and  
43 actors that operate through a third-party electronic commerce provider platform;**

44 **“(e) Data collection and retention related to alcohol delivery records; and**

45 **“(f) The appropriate structure and impact of regulation by the Oregon Liquor Control**

1 Commission on independent contractors that make deliveries of alcoholic beverages.

2 “(4) The task force shall not consider in the study described in subsection (3) of this  
3 section a person that transports or delivers alcohol in this state and that is:

4 “(a) Regulated as a motor carrier or freight forwarder, as defined in 49 U.S.C. 13102, and  
5 subject to the registration requirements under 49 U.S.C. 13902 or 13903; or

6 “(b) Regulated as an air carrier, as defined in 49 U.S.C. 40102.

7 “(5) Any information requested by or provided to the Oregon Liquor Control Commission  
8 under this section may be used only to inform the regulation and enforcement of deliveries  
9 of alcoholic beverages completed by third-party electronic commerce providers for purposes  
10 of the study described in subsection (3) of this section.

11 “(6) A majority of the voting members of the task force constitutes a quorum for the  
12 transaction of business.

13 “(7) Official action by the task force requires the approval of a majority of the voting  
14 members of the task force.

15 “(8) The task force shall elect one of its members to serve as chairperson.

16 “(9) If there is a vacancy for any cause, the appointing authority shall make an appoint-  
17 ment to become immediately effective.

18 “(10) The task force shall meet at times and places specified by the call of the chair-  
19 person or of a majority of the voting members of the task force.

20 “(11) The task force may adopt rules necessary for the operation of the task force.

21 “(12) The task force shall submit a report in the manner provided by ORS 192.245, and  
22 may include recommendations for legislation, to an interim committee of the Legislative  
23 Assembly related to business no later than June 20, 2022.

24 “(13) The Oregon Liquor Control Commission shall provide staff support to the task  
25 force.

26 “(14) Members of the Legislative Assembly and the Oregon Liquor Control Commission  
27 appointed to the task force are nonvoting members of the task force and may act in an ad-  
28 visory capacity only.

29 “(15) Members of the task force who are not members of the Legislative Assembly are  
30 not entitled to compensation or reimbursement for expenses and serve as volunteers on the  
31 task force.

32 “(16) All agencies of state government, as defined in ORS 174.111, are directed to assist  
33 the task force in the performance of the duties of the task force and, to the extent permitted  
34 by laws relating to confidentiality, to furnish information and advice the members of the task  
35 force consider necessary to perform their duties.

36 “SECTION 4. Section 3 of this 2021 Act is repealed on July 1, 2022.

37 “SECTION 5. (1) The amendments to ORS 471.346 by section 1 of this 2021 Act become  
38 operative on January 1, 2022.

39 “(2) The Oregon Liquor Control Commission may take any action before the operative  
40 date specified in subsection (1) of this section that is necessary to enable the commission to  
41 exercise, on and after the operative date specified in subsection (1) of this section, all of the  
42 duties, functions and powers conferred on the commission by the amendments to ORS 471.346  
43 by section 1 of this 2021 Act.

44 “SECTION 6. This 2021 Act being necessary for the immediate preservation of the public  
45 peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect

1 **on its passage.”**

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