

House Bill 3245

Sponsored by Representative WILDE

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**.

Authorizes eligible business to deliver malt beverages, wine or cider to final consumer through use of delivery person. Authorizes Oregon Liquor Control Commission retail sales agent to deliver distilled liquor to final consumer through use of delivery person. Defines "delivery person" and "eligible business."

Authorizes commission to develop, implement and maintain electronic platform for ordering of distilled liquor. Authorizes registered third party provider to facilitate ordering and payment by final consumer of alcoholic beverages and delivery of alcoholic beverages from eligible business or retail sales agent to final consumer.

Imposes requirements for individual acting as third party provider or delivery person.

Requires that service permit training include training in making delivery to final consumer.

Requires that shipment of alcoholic beverages to final consumer made under direct shipper permit be delivered to final consumer by individual having qualifications required of delivery person.

Eliminates requirements for certain information in application to commission for license or permit.

Eliminates restriction on visibility of liquor store advertising or display.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to alcohol; creating new provisions; amending ORS 471.282, 471.311, 471.322, 471.360,
3 471.430, 471.542 and 471.750; and prescribing an effective date.

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

5 **SECTION 1. Sections 2 to 10 of this 2021 Act are added to and made a part of ORS**
6 **chapter 471.**

7 **SECTION 2. As used in sections 2 to 8 of this 2021 Act:**

8 (1) "Deliver" means to transport alcoholic beverages from an eligible business or a retail
9 sales agent to a delivery address.

10 (2) "Delivery address" means a location with a permanent street address in Oregon that
11 is not regulated by the Oregon Liquor Control Commission under this chapter or ORS chap-
12 ter 475B.

13 (3) "Delivery person" means an individual who delivers alcoholic beverages to the phys-
14 ical possession of a final consumer as directed by an eligible business, a retail sales agent
15 or a third party provider.

16 (4) "Eligible business" means the holder of:

17 (a) An off-premises sales license issued under ORS 471.186;

18 (b) A brewery-public house license issued under ORS 471.200;

19 (c) A brewery license issued under ORS 471.221;

20 (d) A winery license issued under ORS 471.223;

21 (e) A grower sales privilege license issued under ORS 471.227; or

22 (f) A direct shipper permit issued under ORS 471.282.

23 (5) "Final consumer" means an individual taking possession of alcoholic beverages at a

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 delivery address for personal or social use, and not for resale.

2 (6) "Retail sales agent" means an agent appointed by the commission under ORS 471.750
3 to operate a retail liquor store.

4 (7) "Third party provider" means a person, other than an eligible business or a retail
5 sales agent, that enters into an agreement with an eligible business or a retail sales agent
6 to facilitate the ordering of alcoholic beverages by a final consumer and the delivery of or-
7 dered alcoholic beverages from the business or agent to a final consumer.

8 **SECTION 3.** (1) An eligible business may deliver, or cause to be delivered, malt beverages,
9 wine or cider to a final consumer only by using a delivery person.

10 (2) A retail sales agent may deliver, or cause to be delivered, distilled liquor to a final
11 consumer only by using a delivery person.

12 **SECTION 4.** (1) An individual may not perform services as a delivery person unless the
13 individual:

14 (a) Has completed an approved alcohol server education course and examination as pro-
15 vided under ORS 471.542;

16 (b) Holds a valid service permit described in ORS 471.360 to 471.385; or

17 (c) Has completed a training provided by a third party provider, eligible business or retail
18 sales agent that, at a minimum, covers the following subjects:

19 (A) Methods for inspecting government-issued photo identification;

20 (B) Methods for recognizing signs of visible intoxication; and

21 (C) Oregon Liquor Control Commission rules relating to alcohol delivery.

22 (2) A delivery person may also be a third party provider registered under section 7 of this
23 2021 Act. However, a delivery person that is a third party provider may not be both a recip-
24 ient and provider at the same training under subsection (1)(c) of this section.

25 **SECTION 5.** (1)(a) A delivery person may deliver malt beverages, wine or cider on behalf
26 of an eligible business only if:

27 (A) The delivery person obtains the malt beverages, wine or cider from the eligible busi-
28 ness;

29 (B) The malt beverages, wine or cider is in a factory-sealed container or a container
30 sealed by the eligible business; and

31 (C) The delivery is to a final consumer.

32 (b) As used in paragraph (a) of this subsection, "container sealed by the eligible
33 business" includes but is not limited to a securely covered container supplied by the final
34 consumer.

35 (2) A delivery person may deliver distilled liquor on behalf of a retail sales agent only if:

36 (a) The delivery person obtains the distilled liquor directly from the retail sales agent;

37 (b) The distilled liquor is in a factory-sealed container; and

38 (c) The delivery is to a final consumer.

39 **SECTION 6.** The Oregon Liquor Control Commission may develop, implement and main-
40 tain an electronic system to facilitate final consumer ordering of distilled liquor from retail
41 sales agents. The commission system must include, but need not be limited to, accessibility
42 through the use of third party provider digital platforms or marketplaces.

43 **SECTION 7.** (1) A third party provider must be registered with the Oregon Liquor Control
44 Commission pursuant to rules adopted by the commission. A third party provider may not:

45 (a) Be a manufacturer as defined in ORS 471.001;

1 (b) Except as provided in this section, sell alcoholic beverages; or

2 (c) Import distilled liquor into Oregon.

3 (2) Subsection (1) of this section does not:

4 (a) Prohibit a retail licensee as defined in ORS 471.392 or an individual with a service
5 permit from being a third party provider or from holding an interest in a third party pro-
6 vider.

7 (b) Prevent a retail licensee that is also a third party provider from exercising any priv-
8 ilege under the retail license.

9 (3) A third party provider may provide the technology through which an eligible business
10 or a retail sales agent:

11 (a) Advertises alcoholic beverages available for sale;

12 (b) Accepts orders for alcoholic beverages from final consumers; and

13 (c) Receives payment for alcoholic beverages ordered by final consumers.

14 (4) The provision of technology described in this section by a third party provider does
15 not violate any sales prohibition in this chapter if the eligible business or retail sales agent
16 using the technology at all times:

17 (a) Controls the selection of alcoholic beverages to be advertised;

18 (b) Controls the prices at which alcoholic beverages are advertised;

19 (c) Controls the acceptance of orders for alcoholic beverages from final consumers; and

20 (d) Directly receives and retains all payments for ordered alcoholic beverages.

21 (5)(a) A third party provider may direct or deploy a delivery person to deliver alcoholic
22 beverages to a final consumer on behalf of an eligible business or retail sales agent.

23 (b) A third party provider may not direct or deploy an individual to deliver alcoholic
24 beverages to a final consumer on behalf of the third party provider unless the third party
25 provider has verified that the individual meets the requirements of section 4 of this 2021 Act.

26 (6) A third party provider may store or hold alcoholic beverages in Oregon that are in
27 transit from an eligible business or a retail sales agent to a final consumer for no more than
28 72 hours. The third party provider may not sell the stored or held alcoholic beverages and
29 may deliver the alcoholic beverages only as allowed under this chapter or by commission
30 rule.

31 (7) Notwithstanding subsection (4) of this section, failure to register as a third party
32 provider prior to engaging in activities under subsection (3) of this section or directing or
33 deploying a delivery person constitutes an unlicensed selling, soliciting, taking orders for or
34 peddling alcoholic beverages in violation of ORS 471.405.

35 (8) A third party provider shall maintain records as required by the commission. The
36 third party provider shall make the records available for inspection by the commission at a
37 location in this state no later than 30 days after receiving a request for inspection.

38 **SECTION 8.** (1) An eligible business or retail sales agent may not use the services of a
39 third party provider unless the eligible business or retail sales agent has entered into a
40 written agreement with that third party provider prior to using the services. A third party
41 provider may not provide any service described in this section or section 7 of this 2021 Act
42 to an eligible business or retail sales agent unless the third party provider enters into a
43 written agreement with that eligible business or retail sales agent prior to providing the
44 service.

45 (2) The terms of an agreement between an eligible business or retail sales agent and a

1 third party provider may include, but need not be limited to, requirements for the third party
2 provider to maintain a digital platform or marketplace on which the eligible business or re-
3 tail sales agent may:

4 (a) Advertise alcoholic beverages available for sale;

5 (b) Accept orders for alcoholic beverages;

6 (c) Receive payment for alcoholic beverages; and

7 (d) Initiate the direction or deployment of delivery persons to complete a delivery of al-
8 coholic beverages to final consumers.

9 (3) If an agreement under this section provides for the third party provider to arrange
10 delivery to a final consumer, the agreement must require the third party provider to use a
11 delivery person for the delivery.

12 (4) The Oregon Liquor Control Commission may adopt rules regulating the delivery of
13 alcoholic beverages, including but not limited to prohibiting the delivery of alcoholic
14 beverages to final consumers during specified hours and limiting the amount of alcoholic
15 beverages that may be delivered to a delivery address or a final consumer in a single day.

16 (5) Third party providers and delivery persons may charge an eligible business, a retail
17 sales agent or a final consumer a fee for delivering alcoholic beverages.

18 (6) An agreement into which an eligible business or a retail sales agent enters with a
19 third party provider may not authorize any delivery in violation of a requirement, condition,
20 restriction or prohibition imposed under this chapter or commission rules, including but not
21 limited to any delivery restrictions under ORS 471.282.

22 **SECTION 9.** (1) As used in this section, “delivery person” and “third party provider” have
23 the meanings given those terms in section 2 of this 2021 Act.

24 (2) The Oregon Liquor Control Commission may assess a civil penalty against a third
25 party provider for a violation of this chapter or commission rules by the third party provider
26 or a delivery person acting on behalf of or at the direction of the third party provider.

27 (3) A civil penalty that the commission assesses under this section must be not less than
28 \$500 and not more than \$4,000 per violation. ORS 471.990 does not apply to a violation that
29 is subject to a civil penalty under this section.

30 **SECTION 10.** (1) As used in this section, “delivery person” has the meaning given that
31 term in section 2 of this 2021 Act.

32 (2) The Oregon Liquor Control Commission may assess a civil penalty against a delivery
33 person or a person described in ORS 471.282 (6) for a violation of this chapter or commission
34 rules.

35 (3) A civil penalty imposed under this section must be not less than \$250 and not more
36 than \$2,000 per violation. ORS 471.990 does not apply to a violation that is subject to a civil
37 penalty under this section.

38 **SECTION 11.** ORS 471.282 is amended to read:

39 471.282. (1) Notwithstanding any other provision of this chapter and except as provided by ORS
40 471.186 (6), a person may sell and ship malt beverages, wine or cider directly to a resident of Oregon
41 only if the person holds a direct shipper permit. The Oregon Liquor Control Commission shall issue
42 a direct shipper permit only to:

43 (a) A person that holds a license issued by this state or another state that authorizes the man-
44 ufacture of malt beverages, wine or cider;

45 (b) A person that holds a license issued by this state or another state that authorizes the sale

1 of wine or cider produced only from grapes or other fruit grown under the control of the person;

2 (c) A person that holds a license authorizing the sale of malt beverages, wine or cider at retail;

3 or

4 (d) A nonprofit trade association that holds a temporary sales license under ORS 471.190 and
5 that has a membership primarily composed of persons holding winery licenses issued under ORS
6 471.223 or grower sales privilege licenses issued under ORS 471.227.

7 (2) The holder of a direct shipper permit that is a licensee of another state may deliver malt
8 beverages under the permit only if that other state makes direct shipper permits, or the equivalent,
9 available for the delivery of malt beverages by persons holding a license issued by the commission
10 authorizing the manufacture or retail sale of malt beverages.

11 (3)(a) A person may apply for a direct shipper permit by filing an application with the commis-
12 sion. The application must be made in such form as may be prescribed by the commission.

13 (b) If the application is based on a license issued by this state, the person must include in the
14 application the number of the license issued to the person.

15 (c) If the application is based on a license issued by another state, the person must include in
16 the application a true copy of the license issued to the person by the other state or include sufficient
17 information to allow verification of the license by electronic means or other means acceptable to the
18 commission.

19 (d) If the application is based on a license issued by another state, or the application is by a
20 nonprofit trade association described in subsection (1)(d) of this section, the person or association
21 must pay a \$100 registration fee and maintain a bond or other security described in ORS 471.155 in
22 the minimum amount of \$1,000.

23 (4) Sales and shipments under a direct shipper permit:

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

25 (b) May be made only for personal use and not for the purpose of resale; and

26 (c) May not exceed two cases, containing not more than nine liters per case, to any resident per
27 month.

28 (5) Sales and shipments under a direct shipper permit must be made directly to a resident of this
29 state in containers that are conspicuously labeled with the words: "CONTAINS ALCOHOL: SIG-
30 NATURE OF PERSON AGE 21 YEARS OR OLDER REQUIRED FOR DELIVERY."

31 *[(6) A person holding a direct shipper permit must take all actions necessary to ensure that a
32 carrier used by the permit holder does not deliver any malt beverages, wine or cider unless the
33 carrier:]*

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

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

37 *[(c) Determines that the recipient is not visibly intoxicated at the time of delivery.]*

38 **(6) Shipments to a final consumer, as defined in section 2 of this 2021 Act, made under
39 a direct shipper permit must be delivered by an individual that meets the requirements of
40 section 4 of this 2021 Act for a delivery person.**

41 (7)(a) A person holding a direct shipper permit must report to the commission on a quarterly
42 basis all shipments of malt beverages, wine or cider made to Oregon residents under the permit. The
43 report must be made in a form prescribed by the commission.

44 (b) A person holding a direct shipper permit must allow the commission to audit the permit
45 holder's records upon request and shall make those records available to the commission in this state.

1 (c) A person holding a direct shipper permit consents to the jurisdiction of the commission and
 2 the courts of this state for the purpose of enforcing the provisions of this section and any related
 3 laws or rules.

4 (8)(a) A person holding a direct shipper permit must timely pay to the commission all taxes im-
 5 posed under ORS chapter 473 on malt beverages, wine and cider sold and shipped under the permit.
 6 For the purpose of the privilege tax imposed under ORS chapter 473, all malt beverages, wine or
 7 cider sold and shipped pursuant to a direct shipper permit is sold in this state.

8 (b) A person holding a direct shipper permit based on a license issued by another state must
 9 timely pay to the commission all taxes imposed under ORS chapter 473 on all malt beverages, wine
 10 or cider sold and shipped directly to Oregon residents under the permit. The permit holder, not the
 11 purchaser, is responsible for the tax.

12 (9) A direct shipper permit must be renewed annually. If the person holds the permit based on
 13 an annual license issued by another state, the person may renew the permit by paying a \$100 re-
 14 newal fee and providing the commission with a true copy of a current license issued to the person
 15 by the other state or with sufficient information to allow verification of the license by electronic
 16 means or other means acceptable to the commission. If the person holds the permit based on an
 17 annual license issued by this state, the person may renew the permit at the same time that the
 18 person renews the license.

19 (10) The commission may refuse to issue or may suspend or revoke a direct shipper permit if the
 20 permit holder fails to comply with the provisions of this section. A person may sell and ship malt
 21 beverages, wine or cider under a direct shipper permit only for as long as the person has the license
 22 issued by this state or another state that authorizes the person to hold a direct shipper permit. A
 23 direct shipper permit does not authorize the shipment of malt beverages by a permit holder de-
 24 scribed in subsection (1)(b) of this section or lacking authority as provided under subsection (2) of
 25 this section.

26 (11) Any person who knowingly or negligently delivers malt beverages, wine or cider under the
 27 provisions of this section to a person under 21 years of age, or who knowingly or negligently de-
 28 livers malt beverages, wine or cider under the provisions of this section to a visibly intoxicated
 29 person, violates ORS 471.410.

30 (12) A person may not make sales and shipments of malt beverages, wine or cider directly to
 31 Oregon residents unless the person holds a direct shipper permit issued under this section. Any
 32 person who knowingly makes, participates in, transports, imports or receives a shipment of malt
 33 beverages, wine or cider that is in violation of this section commits a misdemeanor as provided in
 34 ORS 471.990 (1).

35 **SECTION 12.** ORS 471.311 is amended to read:

36 471.311. (1) *[Any person desiring]* **An applicant for a license or permit** or renewal of a license
 37 **or permit** under this chapter shall *[make]* **submit an** application to the Oregon Liquor Control
 38 Commission *[upon forms to be furnished]* **on a form provided** by the commission *[showing the name*
 39 *and address of the applicant, location of the place of business that is to be operated under the license,*
 40 *and such other]* **that includes any** pertinent information as the commission may require. *[A license*
 41 *may not be granted or renewed]* **The commission may not grant or renew the license or permit**
 42 until the applicant has complied with the provisions of this chapter and the rules of the commission.

43 (2) The commission may reject any application that is not submitted in the form required by
 44 rule. The commission shall give applicants an opportunity to be heard if an application is rejected.
 45 A hearing under this subsection is not subject to the requirements for contested case proceedings

1 under ORS chapter 183.

2 (3) The commission shall charge an application fee, not to exceed \$150, to process an application
 3 for the issuance of a new license under this chapter or a license following a change in ownership.
 4 The application fee applies only to an application for a class of license *[having]* **that has** an annual
 5 license fee. The application fee is nonrefundable, except that the commission shall refund the fee if
 6 the applicant completes, submits and maintains an application and the commission does not, on or
 7 before 75 days following receipt of the completed application, propose that the license be granted,
 8 granted with conditions or refused. The commission shall adopt rules to:

- 9 (a) Establish application fees by class of license; and
- 10 (b) Define a completed application for purposes of this subsection.

11 (4) Subject to subsection (5) of this section, the commission shall assess a nonrefundable fee for
 12 processing a renewal application for any license authorized by this chapter only if the renewal ap-
 13 plication is received by the commission less than 20 days before expiration of the license. If the
 14 renewal application is received prior to expiration of the license but less than 20 days prior to ex-
 15 piration, the fee shall be 25 percent of the annual license fee. If a renewal application is received
 16 by the commission after expiration of the license but no more than 30 days after expiration, the fee
 17 shall be 40 percent of the annual license fee. This subsection does not apply to a certificate of ap-
 18 proval, a brewery-public house license or any license that is issued for a period of less than 30 days.

19 (5) The commission may waive the fee imposed under subsection (4) of this section if the com-
 20 mission finds that failure to submit a timely application was due to unforeseen circumstances or to
 21 a delay in processing the application by the local governing authority that is no fault of the licensee.

22 (6) The license **or permit** fee is nonrefundable and must be paid by each applicant upon the
 23 granting or committing of a license **or permit**. Subject to ORS 471.155 and 473.065, the annual or
 24 daily license **or permit** fee and the minimum bond required of each class of license under this
 25 chapter are as follows:

License	Minimum Fee	Bond
Brewery, including Certificate		
of Approval	\$ 1,000	\$ 1,000
Winery	\$ 500	\$ 1,000
Distillery	\$ 200	None
Wholesale Malt Beverage		
and Wine	\$ 550	\$ 1,000
Warehouse	\$ 200	\$ 1,000
Brewery-Public House,		
including Certificate		
of Approval	\$ 500	\$ 1,000
Limited On-Premises Sales	\$ 400	None
Off-Premises Sales	\$ 200	None
Temporary Sales	\$ 50 per day	
Grower sales privilege		
license	\$ 500	\$ 1,000
Special events brewery		

1	license	\$ 10 per day
2	Special events winery	
3	license	\$ 10 per day
4	Special events grower	
5	sales privilege	
6	license	\$ 10 per day
7	Special events	
8	brewery-public house	
9	license	\$ 10 per day
10	Special events	
11	distillery	
12	license	\$ 10 per day

13

14
 15 (7) The fee for a certificate of approval or special certificate of approval granted under ORS
 16 471.244 is nonrefundable and must be paid by each applicant upon the granting or committing of a
 17 certificate of approval or special certificate of approval. *[No bond is]* **A bond is not** required for
 18 the granting of a certificate of approval or special certificate of approval. Certificates of approval
 19 are valid for a period commencing on the date of issuance and ending on December 31 of the fifth
 20 calendar year following the calendar year of issuance. The fee for a certificate of approval is \$350.
 21 Special certificates of approval are valid for a period of 30 days. The fee for a special certificate
 22 of approval is \$10.

23 (8) Except as provided in subsection (9) of this section, the annual license fee for a full on-
 24 premises sales license is \$800. *[No bond is]* **A bond is not** required for any full on-premises sales
 25 license.

26 (9) The annual license fee for a full on-premises sales license held by a nonprofit private club
 27 as described in ORS 471.175 (8), or held by a nonprofit or charitable organization that is registered
 28 with the state, is \$400.

29 (10) The fee for temporary use of an annual license is \$10 per day.

30 (11) The annual fee for a wine self-distribution permit is \$200, and the minimum bond is \$1,000.

31 **SECTION 13.** ORS 471.322 is amended to read:

32 471.322. (1) If a license issued under this chapter or a service permit issued under ORS 471.360
 33 is suspended for a period of 30 days or less, the Oregon Liquor Control Commission may impose
 34 against the affected licensee or permittee in lieu of or in addition to the suspension a civil penalty
 35 fixed by the commission in accordance with subsection (2) of this section if the commission is sat-
 36 isfied that such a penalty in lieu of or in addition to suspension is consistent with the purposes of
 37 the Liquor Control Act *[and the Oregon Distilled Liquor Control Act]*. Upon payment of the penalty
 38 in lieu of suspension, the commission shall cancel the suspension.

39 (2)(a) Except as provided in ORS 471.327, the penalty *[which]* **that** the commission may impose
 40 *[pursuant to]* **under** subsection (1) of this section against a licensee *[shall]* **may** not be less than \$100
 41 nor more than \$5,000 **per violation**.

42 (b) The penalty *[which]* **that** the commission may impose *[pursuant to]* **under** subsection (1) of
 43 this section against a service permittee *[shall]* **may** not be less than \$25 nor more than \$500 **per**
 44 **violation**.

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

1 **SECTION 14.** ORS 471.360 is amended to read:

2 471.360. (1) Except as otherwise provided in ORS 471.375:

3 (a) Any person employed **or used by, or acting on behalf of or at the direction of**, a licensee
4 of the Oregon Liquor Control Commission must have a valid service permit issued by the commission
5 if the person:

6 (A) Participates in any manner in the mixing, selling or service of alcoholic liquor for con-
7 sumption on the premises where served or sold; or

8 (B) Participates in the dispensing of malt beverages, wines or cider sold in securely covered
9 containers provided by the consumer.

10 (b) A licensee of the commission may not permit any person who lacks a service permit required
11 of the person under paragraph (a) of this subsection:

12 (A) To mix, sell or serve any alcoholic liquor for consumption on licensed premises; or

13 (B) To dispense malt beverages, wines or cider sold in securely covered containers provided by
14 the consumer.

15 (c) A permittee shall make the service permit available at any time while on duty for immediate
16 inspection by any regulatory specialist or by any other peace officer.

17 (2) The commission may waive the requirement for a service permit for an employee of a
18 licensee whose primary function is not the sale of alcoholic liquor or food, including but not limited
19 to public passenger carriers, hospitals, or convalescent, nursing or retirement homes.

20 (3) Violation of the requirements of this section is a Class B violation.

21 **SECTION 15.** ORS 471.430 is amended to read:

22 471.430. (1) A person under 21 years of age may not attempt to purchase, purchase or acquire
23 alcoholic beverages. Except when such minor is in a private residence accompanied by the parent
24 or guardian of the minor and with such parent's or guardian's consent, a person under 21 years of
25 age may not have personal possession of alcoholic beverages.

26 (2) For the purposes of this section, personal possession of alcoholic beverages includes the ac-
27 ceptance or consumption of a bottle of such beverages, or any portion thereof or a drink of such
28 beverages. However, this section does not prohibit the acceptance or consumption by any person
29 of sacramental wine as part of a religious rite or service.

30 (3) Except as authorized by rule or as necessitated in an emergency, a person under 21 years
31 of age may not enter or attempt to enter any portion of a licensed premises that is posted or oth-
32 erwise identified as being prohibited to the use of minors.

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

35 (b) A person commits a Class A violation if the person violates subsection (1) of this section by
36 reason of personal possession of alcoholic beverages while the person is operating a motor vehicle
37 as defined in ORS 801.360.

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

39 (a) The court may order a person who violates subsection (1) of this section through misrepre-
40 sentation of age to perform community service; and

41 (b) The court shall order, when a person violates subsection (1) of this section, that the person's
42 driving privileges and right to apply for driving privileges be suspended pursuant to ORS 809.260
43 and 809.280. The court notification made to the Department of Transportation under this paragraph
44 may include a recommendation that the person be granted a hardship permit under ORS 807.240 if
45 the person is otherwise eligible for the permit.

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

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

10 (8) The prohibitions of this section do not apply to a person under 21 years of age who is acting
 11 under the direction of the Oregon Liquor Control Commission or under the direction of state or lo-
 12 cal law enforcement agencies for the purpose of investigating possible violations of laws prohibiting
 13 sales of alcoholic beverages to persons who are under 21 years of age.

14 (9) The prohibitions of this section do not apply to a person under 21 years of age who is acting
 15 under the direction of a licensee **or retail sales agent or third party provider, as those terms**
 16 **are defined in section 2 of this 2021 Act**, for the purpose of investigating possible violations by
 17 employees **or agents** of the licensee, **retail sales agent or third party provider** of laws prohibiting
 18 sales of alcoholic beverages to persons who are under 21 years of age.

19 (10)(a) A person under 21 years of age is not in violation of, and is immune from prosecution
 20 under, this section if:

21 (A) The person contacted emergency medical services or a law enforcement agency in order to
 22 obtain medical assistance for another person who was in need of medical assistance due to alcohol
 23 consumption and the evidence of the violation was obtained as a result of the person's having con-
 24 tacted emergency medical services or a law enforcement agency; or

25 (B) The person was in need of medical assistance due to alcohol consumption and the evidence
 26 of the violation was obtained as a result of the person's having sought or obtained the medical as-
 27 sistance.

28 (b) Paragraph (a) of this subsection does not exclude the use of evidence obtained as a result
 29 of a person's having sought medical assistance in proceedings for crimes or offenses other than a
 30 violation of this section.

31 **SECTION 16.** ORS 471.542 is amended to read:

32 471.542. (1) Except as provided in subsection (2) of this section, the Oregon Liquor Control
 33 Commission shall require a person applying for issuance or renewal of a service permit or any li-
 34 cense that authorizes the sale or service of alcoholic beverages for consumption on the premises to
 35 complete an approved alcohol server education course and examination as a condition of the issu-
 36 ance or renewal of the permit or license.

37 (2) A person applying for issuance or renewal of a license that authorizes the sale or service
 38 of alcoholic beverages for consumption on the premises need not complete an approved alcohol
 39 server education course and examination as a condition of the issuance or renewal of the license if:

40 (a) The license has been restricted by the commission to prohibit sale or service of alcoholic
 41 beverages for consumption on the premises; or

42 (b) The person applying for issuance or renewal of the license submits a sworn statement to the
 43 commission stating that the person will not engage in sale or service of alcoholic beverages for
 44 consumption on the premises, will not directly supervise or manage persons who sell or serve alco-
 45 holic beverages on the premises, and will not participate in establishing policies governing the sale

1 or service of alcoholic beverages on the premises.

2 (3) The commission by rule shall establish requirements that licensees and permittees must
 3 comply with as a condition of requalifying for a license or permit. The licensee or permittee must
 4 comply with those requirements once every five years after completing the initial alcohol server
 5 education course and examination. The requirements established by the commission to requalify for
 6 a license may include retaking the alcohol server education course and examination. The require-
 7 ments established by the commission to requalify for a service permit *[shall]* **must** include retaking
 8 the alcohol server education course and examination.

9 (4) The commission may extend the time periods established by this section upon a showing of
 10 hardship. The commission by rule may exempt a licensee from the requirements of this section if the
 11 licensee does not participate in the management of the business.

12 (5) The standards and curriculum of alcohol server education courses shall include but not be
 13 limited to the following:

14 (a) Alcohol as a drug and its effects on the body and behavior, especially driving ability.

15 (b) Effects of alcohol in combination with commonly used legal, prescription or nonprescription,
 16 drugs and illegal drugs.

17 (c) Recognizing the problem drinker and community treatment programs and agencies.

18 (d) State alcohol beverage laws such as prohibition of sale to minors and sale to intoxicated
 19 persons, sale for on-premises or off-premises consumption, hours of operation and penalties for vio-
 20 lation of the laws.

21 (e) Drunk driving laws and liquor liability statutes.

22 (f) Intervention with the problem customer, including ways to cut off service, ways to deal with
 23 the belligerent customer and alternative means of transportation to get the customer safely home.

24 (g) Advertising and marketing for safe and responsible drinking patterns and standard operating
 25 procedures for dealing with customers.

26 **(h) Delivery of alcoholic beverages by a delivery person to a final consumer, as those**
 27 **terms are defined in section 2 of this 2021 Act.**

28 (6) The commission shall adopt rules to impose reasonable fees for administrative costs on al-
 29 cohol server education course instructors and providers.

30 (7) The commission shall provide alcohol server education courses and examinations through
 31 independent contractors, private persons or private or public schools certified by the commission.
 32 The commission shall adopt rules governing the manner in which alcohol server education courses
 33 and examinations are made available to persons required to take the course. In adopting rules under
 34 this subsection, the commission shall consider alternative means of providing courses, including but
 35 not limited to providing courses through audiotapes, videotapes, the Internet and other electronic
 36 media.

37 **SECTION 17.** ORS 471.750 is amended to read:

38 471.750. (1) The Oregon Liquor Control Commission shall establish *[such]* stores and warehouses
 39 in *[such]* places in *[the]* **this** state *[as in its]* **that in the commission's** judgment are required by
 40 public convenience or necessity, for the sale of *[spirituous liquors]* **distilled liquors**, wines and other
 41 alcoholic liquors containing over five percent alcohol by volume, in sealed containers for consump-
 42 tion off the premises. The commission shall keep on hand in *[such]* **the** stores or warehouses *[such]*
 43 **established under this section** quantities and kinds of alcoholic liquors as are reasonably required
 44 to supply the public demand.

45 (2) Any person qualified to purchase *[such]* **alcoholic** liquors from the commission *[has the right]*

1 *to*] **may** present to the commission, or at any of [*its stores*] **the stores established by the com-**
 2 **mission**, an application for any kind or brand of alcoholic liquor that the person may desire and
 3 that may be manufactured or obtainable in any place in the United States[, *and*]. The commission
 4 shall obtain [*such*] **the alcoholic** liquor and sell it to the applicant. The commission may not require
 5 that an application for a kind or brand of alcoholic liquor include a commitment to purchase a
 6 minimum amount of the **alcoholic** liquor or require that a purchase be for more than one container
 7 of a kind or brand of alcoholic liquor if the **alcoholic** liquor:

8 (a) Except as provided in subsection (5) of this section, has a retail sales price of \$30 or more
 9 per container;

10 (b) Is available through a distributor in the United States that does not require the commission
 11 to acquire more than one case of the distilled liquor in a single transaction;

12 (c) Is not regularly stocked by the commission; and

13 (d) Is ordered in a 750 milliliter container size if available in that size.

14 (3)(a) The commission may not establish a store in any county or incorporated city of this state
 15 where a local prohibitory law is in effect.

16 (b) The commission shall adopt rules governing advertising by stores operated by the commis-
 17 sion.

18 (c) The commission may appoint agents in the sale of [*said*] **alcoholic** liquor under [*such*] **an**
 19 agreement as the commission may negotiate with [*said*] **the** agents or their representative.

20 (4)(a) Rules relating to advertising adopted by the commission under subsection (3) of this sec-
 21 tion [*shall*] **must** allow signs and displays within [*its*] **the commission's** stores for the purpose of
 22 supplying consumer information to customers, including but not limited to discounts, sales and other
 23 specials. Commission discretion with respect to [*those*] **the** signs and displays [*shall be*] **described**
 24 **in this subsection is** limited to regulation of the content, size, number per brand, type and duration
 25 of the sign or display.

26 (b) Signs and displays may be supplied by manufacturers, wholesalers or distributors, and may
 27 bear the name of a particular distillery, supplier or brand of liquor. The use of signs and displays
 28 [*shall be*] **is** optional with the agent appointed by the commission. [*Signs or displays authorized by*
 29 *the commission may not be placed in positions within the store where the sign or display would be*
 30 *readily visible from outside of the store.*]

31 (5) **The commission may allow consumers to purchase distilled liquor from the**
 32 **commission's stores established under this section through electronic or telephonic methods**
 33 **authorized by the commission.**

34 [(5)] (6) The commission may annually adjust the price threshold established in subsection (2)(a)
 35 of this section by a percentage equal to the percentage change in the Consumer Price Index for All
 36 Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the
 37 United States Department of Labor. However, the commission may not adjust the price threshold to
 38 be less than \$30.

39 **SECTION 18. (1) Sections 2 to 10 of this 2021 Act and the amendments to ORS 471.282,**
 40 **471.311, 471.322, 471.360, 471.430, 471.542 and 471.750 by sections 11 to 17 of this 2021 Act be-**
 41 **come operative on January 1, 2022.**

42 (2) **The Oregon Liquor Control Commission may take any action before the operative date**
 43 **specified in subsection (1) of this section that is necessary to enable the commission to ex-**
 44 **ercise, on and after the operative date specified in subsection (1) of this section, all of the**
 45 **duties, functions and powers conferred on the commission by sections 2 to 10 of this 2021**

1 **Act and the amendments to ORS 471.282, 471.311, 471.322, 471.360, 471.430, 471.542 and 471.750**
2 **by sections 11 to 17 of this 2021 Act.**

3 **SECTION 19. This 2021 Act takes effect on the 91st day after the date on which the 2021**
4 **regular session of the Eighty-first Legislative Assembly adjourns sine die.**

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