

HB 3308 A STAFF MEASURE SUMMARY**House Committee On Rules****Action Date:** 05/11/23**Action:** Do pass with amendments and be referred to Ways and Means. (Printed A-Eng.)**Vote:** 6-0-1-0**Yeas:** 6 - Breese-Iverson, Fahey, Kropf, Nosse, Valderrama, Wallan**Exc:** 1 - Scharf**Fiscal:** Fiscal impact issued**Revenue:** Revenue impact issued**Prepared By:** Erin Seiler**Meeting Dates:** 5/4, 5/11**WHAT THE MEASURE DOES:**

Authorizes Oregon Liquor and Cannabis Commission (OLCC) to issue delivery permit to qualified third-party facilitator to deliver alcoholic beverages, on behalf of an eligible business, to final consumers; advertise alcoholic beverages available for retail sale; solicit, receive, and accept orders for alcoholic beverages; and receive payment for alcoholic beverages ordered by final consumer. Permits third-party delivery facilitator to charge eligible business fee for delivering alcoholic beverages on behalf of eligible business. Requires third-party delivery facilitator to maintain and make available records to OLCC. Prohibits person without permit from engaging in activity that requires registration as third-party delivery facilitator. Establishes violation of prohibition as Class A misdemeanor. Permits OLCC to assess civil penalty against third-party delivery facilitator or delivery person acting on behalf of the third-party delivery facilitator, of at least \$500, but not more than \$4,000, per violation of this Act or rules adopted by OLCC under this Act. Permits third-party delivery facilitator or eligible business to use delivery person to deliver alcoholic beverages to final consumer. Requires delivery person to be at least 18 years old, and have valid driver license or state-issued identification. Requires delivery person to complete training course and obtain certificate of completion, prior to making any deliveries. Permits delivery person to charge eligible business fee. Establishes that first conviction for violation of requirements by a delivery person is a Class A violation and second or any subsequent conviction is a Class A misdemeanor. Requires third-party delivery facilitator to develop alcohol delivery training program that includes at minimum training on: forms of identification required for age verification and methods for identifying, inspecting, accepting, or rejecting identification; signs of visible intoxication, methods for recognizing signs, and methods for refusing to deliver alcoholic beverages to a final consumer; and rules adopted by OLCC relating to delivery of alcoholic beverages to final consumer. Requires third-party delivery facilitator to submit copy of training program to OLCC for approval. Requires third-party delivery facilitator to provide training and issue certificate of completion to any delivery person employed by or contracted with third-party delivery facilitator. Requires delivery person to complete training program and have certificates for all third-party facilitators who they deliver alcoholic beverages on behalf of. Provides that eligible business is not responsible for ensuring that deliveries, made by third-party delivery facilitator or delivery person employed by, or contracted with, third-party delivery facilitator, comply with requirements of this Act or rules adopted by OLCC in accordance with this Act. Requires OLCC to develop uniform standards for minor decoy operations to investigate third-party delivery facilitators and any person delivering alcoholic beverages to final consumers for violations of laws prohibiting deliveries to minors. Prohibits OLCC from imposing civil penalty, taking licensure action, or sanctioning licensee if complaint was result of minor decoy operation not conducted in accordance with the uniform standards. Expands categories of persons prohibited from selling, giving, or otherwise making available alcoholic liquor to person under 21 years of age. Provides OLCC rulemaking authority to implement provisions of Act. Defines terms. Becomes operative January 1, 2024. Takes effect on 91st day

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following adjournment sine die.

ISSUES DISCUSSED:

- Balance regulation, public safety, and business in third-party delivery system
- Compromise amendment
- Permit and training requirements for third-party delivery facilitators and delivery persons

EFFECT OF AMENDMENT:

Replaces the measure.

BACKGROUND:

In 2021, the Legislative Assembly passed Senate Bill 317 to allow a full on-premises sales licensee to sell and deliver mixed drinks and single servings of wine in a sealed container for off-premises consumption beginning January 1, 2022. Sales must be made directly to the consumer, although delivery may be made through a third party.

The Oregon Liquor and Cannabis Commission (OLCC) adopted rules related to the ability of a licensee to use a for-hire carrier, including rules regarding a requirement that the for-hire carrier have an OLCC-approved plan for the delivery of malt beverages, wine, cider, or distilled spirits. A for-hire carriers delivery plan must ensure that: only persons age 18 or over will be used to deliver the alcohol to the resident; person delivering the alcohol verifies that the person receiving the alcohol is at least 21 years of age by inspecting government-issued photo identification; the person used to deliver the alcohol will determine that the person receiving the alcohol is not visibly intoxicated; deliveries of alcohol will be completed in accordance with the hours and allowable delivery locations in the direct delivery of malt beverages, wine, and cider to a resident of Oregon; any package containing alcohol is conspicuously labeled with the words "Contains alcohol: signature of person age 21 years or older required for delivery" or similar language approved by the OLCC; and information is collected that must be retained by the for-hire carrier for a minimum of eighteen months from the date of delivering the alcohol. The information may be collected and retained electronically (if the carrier so chooses) and must include: date and time the alcohol was delivered to the resident; name or information that can be used to determine the name of the person delivering the alcohol to the resident; and name, signature, and delivery address of the person receiving the alcohol.

Following the passage of SB 317, the OLCC completed a study of alcohol delivery by third-party carriers in Oregon. The study asked the question whether unlicensed third parties have safe alcohol delivery policies that keep alcohol out of the hands of minors. The OLCC learned that there was need for improvement regarding ID checking compliance by third-party carriers. Possible improvements could include better education, consistent ID checking policies and practices, and increased oversight to establish effective approaches to improving compliance with ID checking requirements.

House Bill 3308 A authorizes OLCC to establish a system to issue permits to third-party facilitators to deliver alcoholic beverages, on behalf of an eligible business, to final consumers. The measure permits a third-party facilitator or an eligible business to hire a delivery person provided that person is at least 18 years old, has a valid driver license or state-issued identification, and has completed a required training course. In addition, HB 3308 A requires OLCC to develop uniform standards for minor decoy operations to investigate third-party delivery facilitators, and any person delivering alcoholic beverages, for violations of laws prohibiting deliveries to minors.