

A-Engrossed
House Bill 3308

Ordered by the House May 17
Including House Amendments dated May 17

Sponsored by Representative HOLVEY (at the request of Governor Tina Kotek)

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.

Authorizes Oregon Liquor and Cannabis Commission to issue delivery permit to qualified applicant to deliver alcoholic beverages to final consumers. Requires third-party delivery facilitators to *[be registered with]* **hold permit issued by** commission in order to facilitate sales and deliveries of alcoholic beverages. Imposes requirements for delivery persons and third-party delivery facilitators, **including training requirements. Specifies liability of third-party delivery facilitator and eligible business.**

[Prohibits delivery of alcoholic beverages without valid service or delivery permit. Punishes first offense by maximum of \$2,000 fine. Punishes second or subsequent offense by maximum of 364 days' imprisonment, \$6,250 fine, or both.]

Prohibits person *[not registered as]* **that does not hold** third-party delivery facilitator **permit** from engaging in activity that requires *[registration as]* third-party delivery facilitator **permit**. Punishes by maximum of 364 days' imprisonment, \$6,250 fine, or both.

Authorizes commission to impose civil penalty against third-party delivery facilitator for violation committed by facilitator or delivery person on behalf of facilitator.

Requires commission to develop uniform standards for minor decoy operations to investigate deliveries of alcoholic beverages to final consumers for violations of laws prohibiting deliveries to minors. Expands categories of persons prohibited from selling, giving or otherwise making available alcoholic liquor to person under 21 years of age.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to alcohol; creating new provisions; amending ORS 471.175, 471.178, 471.186, 471.190,
3 471.200, 471.221, 471.223, 471.227, 471.282, 471.346, 471.410 and 471.430; and prescribing an ef-
4 fective date.

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

6 **SECTION 1. Sections 2 to 7 of this 2023 Act are added to and made a part of ORS chapter**
7 **471.**

8 **SECTION 2. As used in sections 2 to 7 of this 2023 Act:**

9 (1) **"Deliver"** means to transfer alcoholic beverages from a delivery person to a final
10 consumer at a delivery address.

11 (2) **"Delivery address"** means a location with a permanent street address in Oregon that
12 is not licensed by the Oregon Liquor and Cannabis Commission under this chapter or ORS
13 475C.005 to 475C.525 or 475C.548.

14 (3) **"Delivery person"** means an employee, agent or contractor of a third-party delivery
15 facilitator who delivers alcoholic beverages to the physical possession of a final consumer.

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

17 (a) **A full on-premises sales license issued under ORS 471.175;**

18 (b) **A limited on-premises sales license issued under ORS 471.178;**

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) An off-premises sales license issued under ORS 471.186;
- 2 (d) A temporary sales license issued under ORS 471.190;
- 3 (e) A brewery-public house license issued under ORS 471.200;
- 4 (f) A brewery license issued under ORS 471.221;
- 5 (g) A winery license issued under ORS 471.223;
- 6 (h) A grower sales privilege license issued under ORS 471.227;
- 7 (i) A direct shipper permit issued under ORS 471.282; or
- 8 (j) Any other authorization, as determined by the commission by rule.

9 (5) "Final consumer" means an individual who takes possession of alcoholic beverages
10 at a delivery address for personal or social use, and not for resale.

11 (6)(a) "Third-party delivery facilitator" means an individual, person or company that:

12 (A) Delivers, or holds itself out as willing to deliver, alcoholic beverages from an eligible
13 business to a final consumer; or

14 (B) Facilitates, or holds itself out as willing to facilitate, the sale and delivery of alcoholic
15 beverages by an eligible business to a final consumer.

16 (b) "Third-party delivery facilitator" does not include a motor carrier as defined in 49
17 U.S.C. 13102, a freight forwarder as defined in 49 U.S.C. 13102 or an air carrier as defined in
18 49 U.S.C. 40102.

19 **SECTION 3.** (1) An eligible business or third-party delivery facilitator may employ or
20 contract with a delivery person to deliver alcoholic beverages to the physical possession of
21 a final consumer at a delivery address only if the individual:

22 (a) Is at least 18 years of age; and

23 (b) Has a valid driver license or other state-issued identification.

24 (2) Prior to making any deliveries of alcoholic beverages, a delivery person shall first
25 complete the training program and be issued a certificate of completion, as described in
26 section 4 of this 2023 Act.

27 (3) A delivery person may also be a third-party delivery facilitator that holds a permit
28 issued under section 6 of this 2023 Act.

29 (4) A delivery person may charge an eligible business a fee for delivering alcoholic
30 beverages on behalf of the eligible business.

31 (5) A violation of subsection (1) of this section:

32 (a) Upon a first conviction, is a Class A violation.

33 (b) Upon a second or subsequent conviction, is a Class A misdemeanor.

34 **SECTION 4.** (1) A third-party delivery facilitator shall develop an alcohol delivery training
35 program that includes training on at least:

36 (a) Forms of identification required by ORS 471.130 and methods for identifying, inspect-
37 ing, accepting or rejecting identification;

38 (b) Signs of visible intoxication and methods for recognizing these signs and for refusing
39 to deliver alcoholic beverages to a final consumer; and

40 (c) Rules adopted by the Oregon Liquor and Cannabis Commission relating to the delivery
41 of alcoholic beverages to a final consumer.

42 (2) The commission may adopt rules regarding the approval of training programs de-
43 scribed in subsection (1) of this section.

44 (3) In conjunction with an application for a permit under section 6 of this 2023 Act, a
45 third-party delivery facilitator shall submit to the commission a copy of the third-party de-

1 livery facilitator's training program for approval by the commission.

2 (4)(a) A third-party delivery facilitator shall provide the training program described in
3 subsection (1) of this section to delivery persons employed by or contracted with the third-
4 party delivery facilitator, and shall issue to delivery persons who successfully complete the
5 training program a certificate of completion.

6 (b) In order to provide the training program described in subsection (1) of this section,
7 a third-party delivery facilitator may offer a training program internally or may contract
8 with another party that offers a training program that is approved by the commission.

9 (c) A third-party delivery facilitator may offer a training program described in subsection
10 (1) of this section only if the training program is approved by the commission.

11 (5) A delivery person may not engage in the delivery of alcoholic beverages unless the
12 delivery person first completes the training program described in subsection (1) of this sec-
13 tion and holds a certificate of completion described in subsection (4) of this section. A de-
14 livery person who delivers alcoholic beverages on behalf of more than one third-party
15 delivery facilitator must complete the training program, and hold a certificate of completion,
16 from each third-party delivery facilitator on whose behalf the delivery person delivers alco-
17 holic beverages.

18 (6) The commission may adopt rules to carry out this section, including rules to establish
19 a fee for review and approval of a training program described in subsection (1) of this sec-
20 tion.

21 **SECTION 5.** The Oregon Liquor and Cannabis Commission may adopt rules to regulate
22 the delivery of alcoholic beverages by parties including, but not limited to, eligible businesses,
23 delivery persons and third-party delivery facilitators.

24 **SECTION 6.** (1) In order to engage in the delivery of alcoholic beverages, a third-party
25 delivery facilitator must hold a permit issued by the Oregon Liquor and Cannabis Commis-
26 sion and must comply with applicable requirements under this chapter.

27 (2)(a) The commission may refuse to issue a permit, and may suspend or revoke a permit,
28 if the commission finds or has reasonable grounds to believe that:

29 (A) A third-party delivery facilitator is, or has a financial interest in, a manufacturer;

30 (B) A third-party delivery facilitator provided material false or misleading information
31 to the commission or omitted information that should have been provided to the commission;
32 or

33 (C) Subject to paragraph (b) of this subsection, a third-party delivery facilitator, or any
34 person used by or acting on behalf or at the direction of the third-party delivery facilitator,
35 does not have a good record of compliance under this chapter, as assessed upon initial ap-
36 plication for a permit under this section and annually upon application for renewal of a per-
37 mit issued under this section.

38 (b) The commission shall establish by rule a process through which the commission shall
39 notify a third-party delivery facilitator of a compliance issue as described under paragraph
40 (a)(A) of this subsection and allow the third-party delivery facilitator an opportunity to cure
41 the issue prior to the commission's refusal to issue or renew the third-party delivery
42 facilitator's permit under this section.

43 (3) A retail licensee, as defined in ORS 471.392, is eligible to qualify as a third-party de-
44 livery facilitator. A retail licensee that is also a third-party delivery facilitator may exercise
45 any privilege granted by the retail license.

1 (4)(a) A third-party delivery facilitator acting on behalf of an eligible business may:

2 (A) Deliver, or cause to be delivered, alcoholic beverages to the physical possession of a
3 final consumer on behalf of an eligible business;

4 (B) Advertise alcoholic beverages available for retail sale;

5 (C) Solicit, receive and accept orders for alcoholic beverages from final consumers; and

6 (D) Receive payment for alcoholic beverages ordered by final consumers.

7 (b) A third-party delivery facilitator may engage in an activity described in this section
8 only when the third-party delivery facilitator is acting on behalf of an eligible business.

9 (c) A third-party delivery facilitator may use only a delivery person who meets the re-
10 quirements of section 3 of this 2023 Act to deliver alcoholic beverages to a final consumer.

11 (d) A third-party delivery facilitator that is an individual who is a delivery person must
12 meet the requirements of section 3 of this 2023 Act, including the requirement to hold a valid
13 driver license.

14 (5) A third-party delivery facilitator may charge an eligible business a fee for delivering
15 alcoholic beverages on behalf of the eligible business.

16 (6) A third-party delivery facilitator shall maintain and make available records to the
17 commission as required by the commission by rule.

18 (7) The commission may adopt rules as necessary to regulate third-party delivery
19 facilitators.

20 (8)(a) An eligible business may use a third-party delivery facilitator to carry out, on be-
21 half of the eligible business, deliveries of alcoholic beverages to final consumers that the el-
22 igible business is authorized to make. In carrying out a delivery described in this subsection,
23 a third-party delivery facilitator shall ensure that the delivery is made in compliance with
24 any requirements applicable to the delivery.

25 (b) The commission shall adopt rules to carry out this subsection.

26 (9) An eligible business that uses a third-party delivery facilitator to deliver alcoholic
27 beverages on behalf of the eligible business is not responsible for any failure of the third-
28 party delivery facilitator, or a delivery person employed by or contracted with the third-party
29 delivery facilitator, to comply with the requirements of sections 2 to 7 of this 2023 Act or
30 rules adopted under sections 2 to 7 of this 2023 Act.

31 **SECTION 7.** (1) It is a Class A misdemeanor for a person that is not a third-party deliv-
32 ery facilitator that holds a permit issued under section 6 of this 2023 Act to engage in any
33 activity for which a permit is required unless the person is a licensee, permittee or agent
34 appointed by the Oregon Liquor and Cannabis Commission, or is an employee or agent of a
35 licensee, permittee or agent acting on behalf of the licensee, permittee or agent, and the
36 activity is allowed by the privileges of the license, permit or appointment.

37 (2)(a) The commission may assess a civil penalty against a third-party delivery facilitator
38 for a violation of this chapter or rules adopted by the commission under this chapter if the
39 violation is committed by the third-party delivery facilitator or a delivery person acting on
40 behalf of the third-party delivery facilitator.

41 (b) The civil penalty assessed under paragraph (a) of this subsection must be at least \$500
42 per violation and may not be more than \$4,000 per violation.

43 (c) ORS 471.990 does not apply to a violation for which a civil penalty may be issued under
44 this subsection.

45 **SECTION 8.** ORS 471.175 is amended to read:

1 471.175. (1) The holder of a full on-premises sales license may sell by the drink at retail wine,
2 malt beverages, cider and distilled liquor. Except as provided in this section and ORS 471.176, all
3 alcoholic beverages sold under a full on-premises sales license must be consumed on the licensed
4 premises.

5 (2) A full on-premises sales license may be issued only to:

6 (a) A nonprofit private club, as described in subsection (9) of this section.

7 (b) A public passenger carrier as provided in ORS 471.182.

8 (c) A commercial establishment, as defined in ORS 471.001 (2).

9 (d) A public location that does not qualify for licensing under paragraphs (a) to (c) of this sub-
10 section if:

11 (A) Food is cooked and served at the location;

12 (B) The predominant business activity at the location is other than the preparation or serving
13 of food or the serving of alcohol; and

14 (C) The location meets any minimum food service requirements established by Oregon Liquor
15 and Cannabis Commission rule.

16 (e) A caterer, subject to the requirements of ORS 471.184.

17 (3) The holder of a full on-premises sales license shall allow a patron to remove a partially
18 consumed bottle of wine from the licensed premises if the wine is served in conjunction with the
19 patron's meal, the patron is not a minor and the patron is not visibly intoxicated.

20 (4) The holder of a full on-premises sales license may purchase any distilled liquor from an agent
21 of the commission appointed pursuant to ORS 471.750 at a discount of not more than five percent
22 off the regular listed price fixed by the commission, together with all taxes, in a manner prescribed
23 by commission rule. For purposes of compensation by the commission, the appointed agent shall be
24 credited with such sales at full retail cost. The commission may not require the licensee to purchase
25 more than one container of distilled liquor at a time if the distilled liquor:

26 (a) Except as provided in subsection (10) of this section, has a retail sales price of \$30 or more
27 per container;

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

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

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

32 (5) The holder of a full on-premises sales license may purchase distilled liquor only from a retail
33 sales agent of the commission or from another person licensed under this section who has purchased
34 the distilled liquor from a retail sales agent of the commission.

35 (6) The holder of a full on-premises sales license may sell for consumption off the licensed
36 premises malt beverages, wine and cider in securely covered containers provided by the consumer
37 that have capacities of not more than two gallons each.

38 (7) The holder of a full on-premises sales license may sell for consumption off the licensed
39 premises malt beverages, wine and cider in factory-sealed containers.

40 (8)(a) The holder of a full on-premises sales license may deliver malt beverages, wine and cider
41 that are sold for off-premises consumption under the privileges of the license to retail customers in
42 this state without a direct shipper permit issued under ORS 471.282. Any deliveries by the licensee
43 are subject to any rules adopted by the commission relating to deliveries made under this sub-
44 section.

45 **(b) The holder of a full on-premises sales license that uses a third-party delivery**

1 **facilitator to make deliveries under this subsection is not responsible for ensuring that the**
2 **deliveries made by the third-party delivery facilitator meet any requirements applicable to**
3 **the deliveries.**

4 (9) A nonprofit private club, including but not limited to a fraternal or veterans organization,
5 may qualify for a full on-premises sales license under this section only if the club meets any mini-
6 mum membership, nonprofit status and food service requirements established by commission rule.

7 (10) Beginning January 1, 2017, the commission may annually adjust the price threshold estab-
8 lished in subsection (4)(a) of this section by a percentage equal to the percentage change in the
9 Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bu-
10 reau of Labor Statistics of the United States Department of Labor. However, the commission may
11 not adjust the price threshold to be less than \$30.

12 **SECTION 9.** ORS 471.178 is amended to read:

13 471.178. (1) The holder of a limited on-premises sales license may sell by the drink at retail wine,
14 malt beverages and cider. Except as provided in this section, all alcoholic beverages sold under a
15 limited on-premises sales license must be consumed on the licensed premises.

16 (2) The holder of a limited on-premises sales license may sell malt beverages, wine and cider in
17 factory-sealed containers for consumption off the licensed premises.

18 (3) The holder of a limited on-premises sales license may sell for consumption off the licensed
19 premises malt beverages, wine and cider in securely covered containers provided by the consumer
20 and that have capacities of not more than two gallons each.

21 (4)(a) The holder of a limited on-premises sales license may deliver malt beverages, wine and
22 cider that are sold for off-premises consumption under the privileges of the license to retail cus-
23 tomers in this state without a direct shipper permit issued under ORS 471.282. Any deliveries by the
24 holder of a limited on-premises sales license are subject to any rules adopted by the commission
25 relating to deliveries made under this subsection.

26 **(b) The holder of a limited on-premises sales license that uses a third-party delivery**
27 **facilitator to make deliveries under this subsection is not responsible for ensuring that the**
28 **deliveries made by the third-party delivery facilitator meet any requirements applicable to**
29 **the deliveries.**

30 (5) The holder of a limited on-premises sales license shall allow a patron to remove a partially
31 consumed bottle of wine from the licensed premises if the wine is served in conjunction with the
32 patron's meal, the patron is not a minor and the patron is not visibly intoxicated.

33 **SECTION 10.** ORS 471.186 is amended to read:

34 471.186. (1) The holder of an off-premises sales license may sell factory-sealed containers of malt
35 beverages, wine and cider for consumption off the licensed premises.

36 (2) The holder of an off-premises sales license may sell for consumption off the licensed premises
37 malt beverages, wine and cider in securely covered containers supplied by the consumer and that
38 have capacities of not more than two gallons each.

39 (3) The holder of an off-premises sales license may provide sample tasting of alcoholic beverages
40 on the licensed premises if the licensee applies in writing to the Oregon Liquor and Cannabis
41 Commission and receives written approval from the commission to conduct tastings on the premises.
42 Tastings must be limited to the alcoholic beverages that may be sold under the privileges of the li-
43 cense.

44 (4) An off-premises sales license may not be issued for use at a premises that is mobile.

45 (5) Except as provided in ORS 471.402, a manufacturer or wholesaler may not provide or pay for

1 sample tastings of alcoholic beverages for the public on premises licensed under an off-premises
2 sales license.

3 (6)(a) The holder of an off-premises sales license may deliver malt beverages, wine or cider that
4 is sold under the privileges of the license to retail customers in this state without a direct shipper
5 permit issued under ORS 471.282. **The holder of an off-premises sales license may use a con-**
6 **tractor, an agent or employee of the holder, or may use a delivery person or a third-party**
7 **delivery facilitator, to make the deliveries described in this subsection.** Any deliveries by the
8 holder of an off-premises sales license are subject to any rules adopted by the commission relating
9 to deliveries made under this subsection.

10 (b) **The holder of an off-premises sales license shall ensure that** deliveries under this sub-
11 section **made by a contractor or an agent or employee of the holder:**

12 [(a)] (A) [May be] **Are** made only to a person who is at least 21 years of age;

13 [(b)] (B) [May be] **Are** made only for personal use and not for the purpose of resale; [and]

14 [(c)] (C) [Must be] **Are** made in containers that are conspicuously labeled with the words:
15 “CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 YEARS OR OLDER REQUIRED FOR
16 DELIVERY[.]”; **and**

17 [(7) *The holder of an off-premises sales license that makes deliveries of malt beverages, wine or*
18 *cider under subsection (6) of this section shall take all actions necessary to ensure that a carrier used*
19 *by the licensee does not deliver any malt beverages, wine or cider unless the carrier:]*

20 (D) **Are not completed unless the contractor, agent or employee making the delivery:**

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

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

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

25 (c) **The holder of an off-premises sales license that uses a third-party delivery facilitator**
26 **to make deliveries under this subsection is not responsible for ensuring that deliveries made**
27 **by the third-party delivery facilitator meet the requirements of this subsection.**

28 [(8)] (7) Any person who knowingly or negligently delivers malt beverages, wine or cider under
29 the provisions of this section to a person under 21 years of age, or who knowingly or negligently
30 delivers malt beverages, wine or cider under the provisions of this section to a visibly intoxicated
31 person, violates ORS 471.410.

32 [(9)] (8) If a court determines that deliveries of malt beverages, wine or cider under subsection
33 (6) of this section cannot be restricted to holders of off-premises sales licenses, and the decision is
34 a final judgment that is no longer subject to appeal, the holder of an off-premises sales license may
35 not make deliveries of malt beverages, wine or cider under the provisions of subsection (6) of this
36 section after entry of the final judgment.

37 [(10)] (9) The [Oregon Liquor and Cannabis] commission may adopt rules to carry out this sec-
38 tion.

39 **SECTION 11.** ORS 471.190 is amended to read:

40 471.190. (1) The holder of a temporary sales license may:

41 (a) Sell at retail by the drink wine, malt beverages, cider and distilled liquor.

42 (b) Sell for consumption off the licensed premises wine, malt beverages and cider in factory-
43 sealed containers.

44 (c) Sell for consumption off the licensed premises wine, malt beverages and cider in securely
45 covered containers supplied by the consumer and having capacities of not more than two gallons

1 each.

2 (2) Distilled liquor served by the holder of a temporary sales license must be purchased from a
3 retail sales agent of the Oregon Liquor and Cannabis Commission. The holder of a temporary sales
4 license must provide food service as required by commission rule.

5 (3) A temporary sales license may be issued only to:

6 (a) Nonprofit or charitable organizations that are registered with the state.

7 (b) A political committee that has filed a statement of organization under ORS 260.039 or
8 260.042.

9 (c) State agencies.

10 (d) Local governments, and agencies and departments of local governments.

11 (e) Persons not otherwise described in this subsection, as long as the applicant submits a plan
12 that is approved by the commission detailing how minors will be prevented from gaining access to
13 alcoholic beverages and how minors will be prevented from gaining access to any portion of the li-
14 censed premises prohibited to minors under ORS 471.430 (3) or any rule adopted by the commission.

15 (4) The commission may by rule establish additional eligibility requirements for temporary sales
16 licenses.

17 (5) Subject to such qualifications as the commission may establish by rule, persons who hold a
18 full or limited on-premises sales license are eligible for temporary sales licenses.

19 (6) A temporary sales license issued to a person described in subsection (3)(a), (c) or (d) of this
20 section authorizes the holder of the temporary sales license to:

21 (a)(A)(i) Have on a single licensed premises more than one location at which wine, malt
22 beverages or cider is sold at retail by the drink or for consumption off the licensed premises; and

23 (ii) Have on a single licensed premises more than one location at which wine, malt beverages,
24 cider or distilled liquor is sold at retail by the drink; or

25 (B) Have up to three separate premises in this state licensed under the temporary sales license
26 at which wine, malt beverages or cider is sold for consumption off the licensed premises; and

27 (b) Operate for up to 30 days, whether or not the days are consecutive.

28 (7) The commission may adopt rules to carry out subsection (6) of this section.

29 (8) A person holding a temporary sales license is not required to obtain an intermittent tempo-
30 rary restaurant, seasonal temporary restaurant, single-event temporary restaurant license or mobile
31 unit license under ORS chapter 624 if only wine, malt beverages and cider in single-service con-
32 tainers are served and only nonperishable food items that are exempted from licensure by the
33 Oregon Health Authority are served.

34 (9) Employees and volunteers serving alcoholic beverages for a nonprofit or charitable organ-
35 ization licensed under this section are not required to have service permits or to complete an alco-
36 hol server education program and examination under ORS 471.542. The commission by rule may
37 establish education requirements for servers described in this subsection.

38 (10) Notwithstanding ORS 471.392 to 471.400, a temporary sales license may be issued to a
39 nonprofit trade association that has a membership primarily composed of persons that hold winery
40 licenses issued under ORS 471.223 or grower sales privilege licenses issued under ORS 471.227.

41 **(11) The holder of a temporary sales license that uses a third-party delivery facilitator**
42 **to make deliveries on behalf of the holder is not responsible for ensuring that deliveries made**
43 **by the third-party delivery facilitator meet any requirements applicable to the deliveries.**

44 **SECTION 12.** ORS 471.200 is amended to read:

45 471.200. (1) A brewery-public house license allows the licensee to:

1 (a) [To] Manufacture on the licensed premises, store, transport, sell to wholesale malt beverage
2 and wine licensees of the Oregon Liquor and Cannabis Commission and export malt beverages;

3 (b) [To] Sell malt beverages manufactured on or off the licensed premises at retail for con-
4 sumption on or off the premises;

5 (c) [To] Sell malt beverages in brewery-sealed packages at retail directly to the consumer for
6 consumption off the premises;

7 (d) [To] Sell on the licensed premises at retail malt beverages manufactured on or off the li-
8 censed premises in unpasteurized or pasteurized form directly to the consumer for consumption off
9 the premises, delivery of which may be made in a securely covered container supplied by the con-
10 sumer;

11 (e) [To] Sell wine and cider at retail for consumption on or off the premises;

12 (f) [To] Sell for consumption off the premises wines and cider in securely covered containers
13 supplied by the consumer and having capacities of not more than two gallons each;

14 (g) [To] Conduct the activities, except manufacturing, described in paragraphs (a) to (f) of this
15 subsection at two locations other than the premises where the manufacturing occurs;

16 (h) [To] Obtain a special events brewery-public house license entitling the holder to conduct the
17 activities allowed under paragraphs (b) to (f) of this subsection at a designated location other than
18 the location set forth in the brewery-public house license for a period not exceeding five days;

19 (i) [To] Distribute malt beverages manufactured at the licensed premises to any other premises
20 licensed to the same licensee, whether a manufacturer, wholesaler or retail premises; and

21 (j) [To] Distribute for export, in any amount, malt beverages manufactured at the licensed
22 premises.

23 (2) In addition to the privileges specified in subsection (1) of this section, in any calendar year
24 a brewery-public house licensee may sell at wholesale and distribute to licensees of the commission
25 no more than 7,500 barrels of malt beverages produced by the brewery-public house licensee.

26 (3) A brewery-public house licensee, or any person having an interest in the licensee, is a retail
27 licensee for the purposes of ORS 471.394 and, except as otherwise provided by this section and ORS
28 471.396, may not acquire or hold any right, title, lien, claim or other interest, financial or otherwise,
29 in, upon or to the premises, equipment, business or merchandise of any manufacturer or wholesaler,
30 as defined in ORS 471.392. A brewery-public house licensee, or any person having an interest in the
31 licensee, is also a manufacturer for the purposes of ORS 471.394 and, except as otherwise provided
32 by this section and ORS 471.396, may not acquire or hold any right, title, lien, claim or other in-
33 terest, financial or otherwise, in, upon or to the premises, equipment, business or merchandise of
34 any other retail licensee, as defined in ORS 471.392.

35 (4)(a) Except as provided in this subsection, a brewery-public house licensee, or any person
36 having an interest in the licensee, is a retail licensee for the purposes of ORS 471.398 and, except
37 as otherwise provided by this section and ORS 471.400, may not accept directly or indirectly any
38 financial assistance described in ORS 471.398 from any manufacturer or wholesaler, as defined in
39 ORS 471.392. A brewery-public house licensee, or any person having an interest in the licensee, is
40 also a manufacturer for the purposes of ORS 471.398 and, except as otherwise provided by this sec-
41 tion and ORS 471.400, may not provide directly or indirectly any financial assistance described in
42 ORS 471.398 to any retail licensee, as defined in ORS 471.392. The prohibitions on financial assist-
43 ance in ORS 471.398 do not apply to financial assistance between manufacturing and retail busi-
44 nesses licensed to the same person under the provisions of this section.

45 (b) The commission may issue more than one brewery-public house license at a single premises

1 if each licensee:

2 (A) Has a valid Brewer's Notice issued by the federal Alcohol and Tobacco Tax and Trade Bu-
3 reau at the premises address; and

4 (B) Otherwise complies with ORS 471.398.

5 (c) A brewery-public house licensee may produce malt beverages for another brewery-public
6 house licensee under a custom order agreement. The commission may adopt rules regarding the
7 contents of custom order agreements.

8 (5) Notwithstanding subsection (3) of this section, a brewery-public house licensee, or any person
9 having an interest in the licensee, may also hold a winery license authorized by ORS 471.223. A
10 brewery-public house licensee, or any person having an interest in the licensee, may also hold a
11 warehouse license authorized by ORS 471.242.

12 (6) Notwithstanding subsection (3) of this section, a brewery-public house licensee is eligible for
13 limited on-premises sales licenses and temporary sales licenses.

14 (7) Notwithstanding subsection (3) of this section, a brewery-public house licensee, or any person
15 having an interest in the licensee, may also hold a full on-premises sales license. If a person holds
16 both a brewery-public house license and a full on-premises sales license, nothing in this chapter shall
17 prevent the sale by the licensee of both distilled liquor and malt beverages manufactured under the
18 brewery-public house license.

19 (8) Notwithstanding any other provision of this chapter, a brewery-public house licensee, or any
20 person having an interest in the licensee, may also hold a distillery license. No provision of this
21 chapter prevents a brewery-public house licensee that also holds a distillery license from being ap-
22 pointed by the commission as the distillery's retail outlet agent for the purpose of selling distilled
23 liquors under ORS 471.230.

24 (9) Notwithstanding subsection (3) of this section, the commission by rule may authorize a
25 brewery-public house licensee to coproduce special events with other manufacturers.

26 (10)(a) Notwithstanding subsection (3) of this section, a brewery-public house licensee may hold,
27 directly or indirectly, an interest in a manufacturer or wholesaler, provided that the interest does
28 not result in exercise of control over, or participation in the management of, the manufacturer's or
29 wholesaler's business or business decisions and does not result in exclusion of any competitor's
30 brand of alcoholic liquor.

31 (b) Notwithstanding subsection (3) of this section, a manufacturer or wholesaler, and any officer,
32 director or substantial stockholder of any corporate manufacturer or wholesaler, may hold, directly
33 or indirectly, an interest in a brewery-public house licensee, provided that the interest does not re-
34 sult in exercise of control over, or participation in the management of, the licensee's business or
35 business decisions and does not result in exclusion of any competitor's brand of alcoholic liquor.

36 (11) For purposes of ORS chapter 473, a brewery-public house licensee shall be considered to
37 be a manufacturer.

38 **(12) The holder of a brewery-public house license that uses a third-party delivery**
39 **facilitator to make deliveries on behalf of the holder is not responsible for ensuring that**
40 **deliveries made by the third-party delivery facilitator meet any requirements applicable to**
41 **the deliveries.**

42 **SECTION 13.** ORS 471.221 is amended to read:

43 471.221. (1) As used in this section, "common control" means:

44 (a) That a manufacturer, or any officer, director, substantial stockholder or other substantial
45 equity holder in the manufacturer:

- 1 (A) Directly or indirectly holds 50 percent or more interest in the brewery licensee; or
2 (B) Has authority to direct the management of the brewery licensee; or
3 (b) That a brewery licensee, or any officer, director, substantial stockholder or other substantial
4 equity holder in the brewery licensee:
5 (A) Directly or indirectly holds 50 percent or more interest in another manufacturer; or
6 (B) Has authority to direct the management of another manufacturer.
7 (2) A brewery license authorizes the licensee to:
8 (a) Manufacture malt beverages on the licensed premises.
9 (b) Sell to wholesale malt beverage and wine licensees, import, store, transport or export:
10 (A) Malt beverages produced on the licensed premises; or
11 (B) Malt beverages of a brand produced by a manufacturer that is under common control with
12 the brewery licensee.
13 (c) Sell wine, malt beverages or cider on the licensed premises at retail for consumption on or
14 off the licensed premises.
15 (d) Sell, in securely covered containers supplied by the consumer and having a capacity of not
16 more than two gallons each, wine, malt beverages or cider for off-premises consumption.
17 (e) Obtain a special events brewery license that entitles the holder to conduct the activities al-
18 lowed under paragraphs (c) and (d) of this subsection at a designated location other than the one
19 set forth in the brewery license for a period not exceeding five days.
20 (f) Notwithstanding ORS 471.392 to 471.400, subject to ORS 471.175, hold a full on-premises sales
21 license.
22 (g) Conduct any activities authorized under paragraph (c), (d) or (f) of this subsection at up to
23 two additional locations approved by the Oregon Liquor and Cannabis Commission.
24 (3) Subject to ORS 471.235, a brewery licensee may hold a wholesale malt beverage and wine
25 license. A brewery licensee must hold a wholesale malt beverage and wine license if the brewery
26 licensee:
27 (a) Imports, stores, transports or exports malt beverages of brands that are not produced by the
28 licensee or a manufacturer under common control with the licensee; or
29 (b) Except as provided in this paragraph, sells or distributes malt beverages. This paragraph
30 does not apply to malt beverages described in subsection (2)(a) or (b) of this section sold at a li-
31 censed premises described in subsection (2)(a) of this section.
32 (4) A brewery licensee and a winery licensee may not be under common control unless the
33 winery licensee:
34 (a) Uses its premises to produce wine or cider; and
35 (b) Holds a valid producer and blender basic permit issued by the federal Alcohol and Tobacco
36 Tax and Trade Bureau.
37 (5) Notwithstanding any other provision of this chapter, a brewery licensee, a manufacturer that
38 is under common control with the brewery licensee or any officer, director, substantial stockholder
39 or other substantial equity holder in the brewery licensee or in a manufacturer that is under com-
40 mon control with the brewery licensee may not sell malt beverages at retail at more than three lo-
41 cations in this state regardless of the number or type of licenses held by the licensee, manufacturer,
42 officer, director, stockholder or equity holder.
43 (6) A brewery licensee may produce malt beverages for a brewery-public house licensee under
44 a custom order agreement. The commission may adopt rules regarding the contents of custom order
45 agreements.

1 **(7) A brewery licensee that uses a third-party delivery facilitator to make deliveries on**
2 **behalf of the licensee is not responsible for ensuring that deliveries made by the third-party**
3 **delivery facilitator meet any requirements applicable to the deliveries.**

4 **SECTION 14.** ORS 471.223 is amended to read:

5 471.223. (1) As used in this section, “control” means that the licensee:

6 (a) Owns the brand under which the wine or cider is labeled; or

7 (b) Performs or has the legal right to perform all of the acts common to a brand owner under
8 the terms of a trademark license or similar agreement that for the brand under which the wine or
9 cider is labeled has a term of at least three years.

10 (2) The holder of a winery license may:

11 (a) Import wine or cider in containers that have a capacity of more than four liters.

12 (b) Import wine or cider in containers that have a capacity of four liters or less if the brand of
13 wine or cider is under the control of the licensee.

14 (c) Bottle, produce, blend, store, transport or export wines or cider.

15 (d) Sell wines or cider at wholesale to the Oregon Liquor and Cannabis Commission or to
16 licensees of the commission.

17 (e) Sell wines or cider at retail directly to the consumer for consumption on or off the licensed
18 premises.

19 (f) Sell malt beverages at retail for consumption on or off the licensed premises.

20 (g) Sell for consumption off the premises malt beverages, wines and cider in securely covered
21 containers that are supplied by the consumer and have capacities of not more than two gallons each.

22 (h) Conduct under the winery license any activities described in paragraphs (a) to (g) of this
23 subsection at five or fewer premises designated by the commission.

24 (i) Purchase from or through the commission brandy or other distilled liquors for fortifying
25 wines or cider.

26 (j) Obtain a special events winery license that entitles the holder to conduct the activities al-
27 lowed under paragraphs (e) to (g) of this subsection at a designated location other than the one set
28 forth in the winery license for a period not to exceed five days.

29 (3) A winery licensee shall allow a patron to remove a partially consumed bottle of wine from
30 the licensed premises if the patron is not a minor and the patron is not visibly intoxicated.

31 (4) Except as provided in subsection (5) of this section, in order to hold a winery license the
32 licensee shall:

33 (a) Possess at a bonded premises within Oregon a valid producer and blender basic permit issued
34 by the federal Alcohol and Tobacco Tax and Trade Bureau; or

35 (b) Possess a valid wine blender or valid wholesaler basic permit issued by the federal Alcohol
36 and Tobacco Tax and Trade Bureau and have a written contract with a winery licensed under par-
37 agraph (a) of this subsection that authorizes the winery to produce for the licensee a brand of wine
38 or cider that is under the control of the licensee.

39 (5) Subsection (4) of this section does not apply if a licensee produces only cider under the
40 winery license.

41 (6) A winery licensee may sell and ship malt beverages, wine or cider directly to a resident of
42 this state only if the licensee has a direct shipper permit issued under ORS 471.282.

43 (7) A winery licensee, or any person having an interest in the licensee, may also hold a full
44 on-premises sales license. If a winery licensee, or a person having an interest in the licensee, also
45 holds a full on-premises sales license, the provisions of this chapter do not prevent the licensee or

1 person from both selling wine or cider bottled and produced under the winery license and selling
2 alcoholic liquor as authorized under the full on-premises sales license.

3 (8) More than one winery licensee may exercise the privileges of a winery license at a single
4 location. The commission may not refuse to issue a winery license to a person for the production
5 of wine or cider on specified premises based on the fact that other winery licensees also produce
6 wine or cider on those premises.

7 (9) If a winery licensee does not possess at a bonded premises within Oregon a valid producer
8 and blender basic permit issued by the federal Alcohol and Tobacco Tax and Trade Bureau, the
9 licensee may exercise the privileges described in this section only for wine and cider brands that
10 are under the control of the licensee.

11 **(10) The holder of a winery license that uses a third-party delivery facilitator to make**
12 **deliveries on behalf of the winery licensee is not responsible for ensuring that deliveries**
13 **made by the third-party delivery facilitator meet any requirements applicable to the deliv-**
14 **eries.**

15 **SECTION 15.** ORS 471.227 is amended to read:

16 471.227. (1) A grower sales privilege license shall allow the licensee to perform the following
17 activities only for fruit or grape wine or cider where all of the fruit or grapes used to make the
18 wine or cider are grown in Oregon under the control of the licensee to:

19 (a) [To] Import, store, transport or export such wines or cider.

20 (b) [To] Sell such wines or cider at wholesale to the Oregon Liquor and Cannabis Commission
21 or licensees of the commission.

22 (c) [To] Sell such wines or cider at retail directly to the consumer for consumption on or off the
23 licensed premises.

24 (d) [To] Sell at retail for consumption off the licensed premises malt beverages and such wines
25 and cider in securely covered containers provided by the consumer and having capacities of not
26 more than two gallons each.

27 (e) [To] Conduct some or all of the activities allowed under paragraphs (a) to (d) of this sub-
28 section at a second or third premises as may be designated by the commission.

29 (f) [To] Obtain a special events grower sales privilege license which shall entitle the holder to
30 conduct the activities allowed under paragraphs (c) and (d) of this subsection at a designated lo-
31 cation other than the one set forth in the grower sales privilege license for a period not to exceed
32 five days.

33 (2) A grower sales privilege licensee shall allow a patron to remove a partially consumed bottle
34 of wine from the licensed premises if the patron is not a minor and the patron is not visibly
35 intoxicated.

36 (3) For purposes of ORS 471.392 to 471.400, a grower sales privilege licensee shall be considered
37 a manufacturer.

38 (4) A person holding a winery license in another state is not eligible for a license under this
39 section.

40 (5) A person licensed under this section is not eligible for a limited on-premises sales license
41 or an off-premises sales license.

42 (6) As used in this section, "control" means the grower either owns the land upon which the
43 fruit or grapes are grown or has a legal right to perform or does perform all of the acts common
44 to fruit farming or viticulture under terms of a lease or similar agreement of at least three years'
45 duration.

1 (7) For the purposes of tax reporting, payment and record keeping, the provisions of law that
2 shall apply to a manufacturer under ORS chapter 473 shall apply to a grower sales privilege
3 licensee, but such a licensee is not a manufacturer for purposes of ORS 473.050 (5).

4 **(8) A grower sales privilege licensee that uses a third-party delivery facilitator to make**
5 **deliveries on behalf of the licensee is not responsible for ensuring that deliveries made by the**
6 **third-party delivery facilitator meet any requirements applicable to the deliveries.**

7 **SECTION 16.** ORS 471.282 is amended to read:

8 471.282. (1) Notwithstanding any other provision of this chapter and except as provided by ORS
9 471.175, 471.178 and 471.186, a person may sell and ship malt beverages, wine or cider directly to a
10 resident of Oregon only if the person holds a direct shipper permit. The Oregon Liquor and Cannabis
11 Commission shall issue a direct shipper permit only to:

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

14 (b) A person that holds a license issued by this state or another state that authorizes the sale
15 of wine or cider produced only from grapes or other fruit grown under the control of the person;

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

18 (d) A person that holds a temporary sales license under ORS 471.190, if the shipments of malt
19 beverages, wine or cider made by the person are delivered only during the term of validity of the
20 temporary sales license.

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

25 (3)(a) A person may apply for a direct shipper permit by filing an application with the commis-
26 sion in a form and manner prescribed by the commission.

27 (b) If the application is based on a license issued by this state, the person shall include in the
28 application the number of the license issued to the person.

29 (c) If the application is based on a license issued by another state, the person shall include in
30 the application a true copy of the license issued to the person by the other state or include sufficient
31 information to allow verification of the license by electronic means or other means acceptable to the
32 commission.

33 (d) If the application is based on a license issued by another state, or the application is by a
34 person described in subsection (1)(d) of this section, the person shall pay a \$100 registration fee and
35 maintain a bond or other security described in ORS 471.155 in the minimum amount of \$1,000.

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

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

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

39 (c) May not exceed:

40 (A) Two cases of cider or malt beverages that contain not more than nine liters per case to any
41 resident per month; or

42 (B) Five cases of wine that contain not more than nine liters per case to any resident per month.

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

1 (6) A person holding a direct shipper permit shall take all actions necessary to ensure that a
2 carrier used by the permit holder does not deliver any malt beverages, wine or cider unless the
3 carrier:

4 (a) Obtains the signature of the recipient of the malt beverages, wine or cider upon delivery;

5 (b) Verifies by inspecting government-issued photo identification that the recipient is at least
6 21 years of age; and

7 (c) Determines that the recipient is not visibly intoxicated at the time of delivery.

8 **(7) The holder of a direct shipper permit that uses a third-party delivery facilitator to**
9 **make deliveries on behalf of the permit holder is not responsible for ensuring that deliveries**
10 **made by the third-party delivery facilitator meet any requirements applicable to the deliv-**
11 **eries.**

12 [(7)(a)] **(8)(a)** A person holding a direct shipper permit shall report to the commission on a
13 quarterly basis all shipments of malt beverages, wine or cider made to Oregon residents under the
14 permit. The report must be made in a form prescribed by the commission.

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

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

20 [(8)(a)] **(9)(a)** A person holding a direct shipper permit shall timely pay to the commission all
21 taxes imposed under ORS chapter 473 on malt beverages, wine and cider sold and shipped under the
22 permit. For the purpose of the privilege tax imposed under ORS chapter 473, all malt beverages,
23 wine or cider sold and shipped pursuant to a direct shipper permit is sold in this state.

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

28 [(9)(a)] **(10)(a)** A direct shipper permit must be renewed annually.

29 (b) If the person holds the permit based on an annual license issued by another state, the person
30 may renew the permit by paying a \$100 renewal fee and providing the commission with a true copy
31 of a current license issued to the person by the other state or with sufficient information to allow
32 verification of the license by electronic means or other means acceptable to the commission.

33 (c) If the person holds the permit based on an annual license issued by this state, the person
34 may renew the permit at the same time that the person renews the license.

35 [(10)] **(11)** The commission may refuse to issue or may suspend or revoke a direct shipper permit
36 if the permit holder fails to comply with the provisions of this section. A person may sell and ship
37 malt beverages, wine or cider under a direct shipper permit only for as long as the person has the
38 license issued by this state or another state that authorizes the person to hold a direct shipper
39 permit. A direct shipper permit does not authorize the shipment of malt beverages by a permit
40 holder described in subsection (1)(b) of this section or lacking authority as provided under sub-
41 section (2) of this section.

42 [(11)] **(12)** Any person who knowingly or negligently delivers malt beverages, wine or cider un-
43 der the provisions of this section to a person under 21 years of age, or who knowingly or negligently
44 delivers malt beverages, wine or cider under the provisions of this section to a visibly intoxicated
45 person, violates ORS 471.410.

1 [(12)] (13) A person may not make sales and shipments of malt beverages, wine or cider directly
 2 to Oregon residents unless the person holds a direct shipper permit issued under this section. Any
 3 person who knowingly makes, participates in, transports, imports or receives a shipment of malt
 4 beverages, wine or cider that is in violation of this section commits a misdemeanor as provided in
 5 ORS 471.990 (1).

6 **SECTION 17.** ORS 471.346 is amended to read:

7 471.346. (1)(a) The Oregon Liquor and Cannabis Commission shall by rule develop uniform
 8 standards for minor decoy operations used to investigate licensees, **permittees**, [*and agents operat-*
 9 *ing stores on behalf of the commission under ORS 471.750*] **agents appointed by the commission,**
 10 **third-party delivery facilitators and any person delivering alcoholic beverages to final con-**
 11 **sumers in this state** for violations of the laws of this state prohibiting sales **and deliveries** of al-
 12 coholic beverages to minors.

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

17 (2) To the greatest extent possible, the uniform standards established by the commission under
 18 this section **must**:

19 (a) [*Shall*] Be the same for minor decoy operations conducted by the commission and for minor
 20 decoy operations conducted by law enforcement agencies of this state; and

21 (b) [*Shall*] Provide for coordination between the commission and law enforcement agencies of
 22 this state in conducting minor decoy operations.

23 (3)(a) The uniform standards established by the commission under this section [*shall*] **for in-**
 24 **vestigating sales by licensees occurring on licensed premises and in-store sales by agents**
 25 **appointed by the commission must** provide that:

26 (A) Minor decoy operations must be conducted on either a random or a targeted basis in cities
 27 with populations of 20,000 or more.

28 (B) Random minor decoy operations [*shall*] **must** cover a range of **licensed premises and** retail
 29 outlets. **For the purpose of implementing standards for random minor decoy operations under**
 30 **this subparagraph, the commission shall by rule adopt a methodology that produces, to the**
 31 **greatest extent possible, an equal chance that any licensee or agent will be subject to a mi-**
 32 **nor decoy operation.**

33 (C) Targeted minor decoy operations may be conducted for a single licensee or agent, but may
 34 be used only if there is a documented compliance problem with the specific licensee or agent that
 35 is the target of the **minor decoy** operation. [*For the purpose of implementing standards for random*
 36 *minor decoy operations under this subsection, the commission shall by rule adopt a methodology that*
 37 *produces, to the greatest extent possible, an equal chance that any licensee or agent will be subject to*
 38 *a minor decoy operation.*]

39 (b) **Investigations of deliveries of alcoholic beverages to final consumers in this state are**
 40 **exempt from the requirements for random and targeted minor decoy operations under par-**
 41 **agraph (a) of this subsection.**

42 (4) Except as provided in subsection (5) of this section, the failure of the commission or of a law
 43 enforcement agency to follow uniform standards established by the commission under this section
 44 is not grounds for challenging any complaint, citation or conviction for violation of the laws pro-
 45 hibiting the sale **or delivery** of alcoholic beverages to minors.

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

10 (6) Notwithstanding any other provision of this chapter, the commission may not consider any
 11 sale **or delivery** of alcoholic beverages to a minor that results from a minor decoy operation that
 12 is not conducted in compliance with the standards established under this section for the purpose
 13 of:

14 (a) Imposing any civil penalty against a licensee, **permittee, agent appointed by the com-**
 15 **mission, third-party delivery facilitator or a person delivering alcoholic beverages to final**
 16 **consumers;**

17 (b) Making a decision on the renewal, suspension or cancellation of a license, **permit, ap-**
 18 **pointment or third-party delivery facilitator permit** issued under this chapter or **rules adopted**
 19 **under this chapter; or**

20 (c) Otherwise sanctioning a licensee, **permittee, agent appointed by the commission, third-**
 21 **party delivery facilitator or a person delivering alcoholic beverages to final consumers** for the
 22 sale **or delivery** of alcoholic beverages to a minor.

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

25 **SECTION 18.** ORS 471.410 is amended to read:

26 471.410. (1) A person may not sell, give or otherwise make available any alcoholic liquor to any
 27 person who is visibly intoxicated.

28 (2) [*No one*] **A person** other than the person's parent or guardian may **not** sell, give or other-
 29 wise make available any alcoholic liquor to a person under the age of 21 years. A parent or guard-
 30 ian may give or otherwise make alcoholic liquor available to a person under the age of 21 years only
 31 if the person is in a private residence and is accompanied by the parent or guardian. A person vio-
 32 lates this subsection [*who*] **if the person** sells, gives or otherwise makes available alcoholic liquor
 33 to a person with the knowledge that the person to whom the liquor is made available will violate
 34 this subsection.

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

40 (b) This subsection:

41 (A) Applies only to a person who is present and in control of the location at the time the con-
 42 sumption occurs;

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

45 (C) Does not apply to a person who exercises control over a private residence if the liquor

1 consumed by the person under the age of 21 years is supplied only by an accompanying parent or
2 guardian.

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

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

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

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

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

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

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

16 (B) Is an employee **or agent** of a person licensed or appointed under this chapter and [*holds a*
17 *valid service permit or has attended a program approved by the Oregon Liquor and Cannabis Com-*
18 *mission that provides training to avoid violations of this section.*] **the employee or agent violates**
19 **subsection (2) of this section while acting on behalf or at the direction of the licensee or**
20 **person appointed under this chapter; or**

21 **(C) Is a delivery person as defined in section 2 of this 2023 Act and was delivering alco-**
22 **holic beverages to a final consumer.**

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

24 (A) A first conviction is a Class A violation.

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

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

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

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

35 [(8)] (7) The court may waive an amount that is at least \$200 but not more than one-third of the
36 fine imposed under subsection (5) of this section, if the violator performs at least 30 hours of com-
37 munity service.

38 [(9)] (8) Except as provided in subsection [(8)] (7) of this section, the court may not waive or
39 suspend imposition or execution of the mandatory minimum sentence required by subsection (5) or
40 (6) of this section. In addition to the mandatory sentence, the court may require the violator to make
41 restitution for any damages to property where the alcoholic liquor was illegally consumed or may
42 require participation in volunteer service to a community service agency.

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

45 (b) A second or subsequent violation of subsection (3) of this section is a specific fine violation,

1 and the presumptive fine for the violation is \$1,000.

2 [(11)] (10) Nothing in this section prohibits any licensee under this chapter from allowing a
3 person who is visibly intoxicated to remain on the licensed premises so long as the person is not
4 sold or served any alcoholic liquor.

5 **SECTION 19.** ORS 471.430 is amended to read:

6 471.430. (1) A person under 21 years of age may not attempt to purchase, purchase or acquire
7 alcoholic beverages. Except when [such] a minor is in a private residence accompanied by the parent
8 or guardian of the minor and with [such] the parent's or guardian's consent, a person under 21 years
9 of age may not have personal possession of alcoholic beverages.

10 (2) For the purposes of this section, personal possession of alcoholic beverages includes the ac-
11 ceptance or consumption of a bottle of [such] **alcoholic** beverages, or any portion [thereof] or a drink
12 of [such] **alcoholic** beverages. However, this section does not prohibit the acceptance or consump-
13 tion by any person of sacramental wine as part of a religious rite or service.

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

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

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

22 (c) Notwithstanding ORS 153.018, if a person who violates subsection (1) or (3) of this section
23 was under 18 years of age at the time of the violation, the court may not impose any fine for the
24 violation.

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

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

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

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

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

42 (8) The prohibitions of this section do not apply to a person under 21 years of age who is acting
43 under the direction of the Oregon Liquor and Cannabis Commission or under the direction of state
44 or local law enforcement agencies for the purpose of investigating possible violations of laws pro-
45 hibiting sales of alcoholic beverages to persons who are under 21 years of age.

1 (9) The prohibitions of this section do not apply to a person under 21 years of age who is acting
2 under the direction of a licensee, **an eligible business, as defined in section 2 of this 2023 Act,**
3 **or a third-party delivery facilitator, as defined in section 2 of this 2023 Act,** for the purpose
4 of investigating possible violations by employees **or agents** of the licensee, **eligible business or**
5 **third-party delivery facilitator** of laws prohibiting sales **or deliveries** of alcoholic beverages to
6 persons who are under 21 years of age.

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

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

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

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

19 **SECTION 20. (1) Sections 2 to 7 of this 2023 Act and the amendments to ORS 471.175,**
20 **471.178, 471.186, 471.190, 471.200, 471.221, 471.223, 471.227, 471.282, 471.346, 471.410 and 471.430**
21 **by sections 8 to 19 of this 2023 Act become operative on January 1, 2024.**

22 **(2) The Oregon Liquor and Cannabis Commission may take any action before the opera-**
23 **tive date specified in subsection (1) of this section that is necessary to enable the commission**
24 **to exercise, on and after the operative date specified in subsection (1) of this section, all of**
25 **the duties, functions and powers conferred on the commission by sections 2 to 7 of this 2023**
26 **Act and the amendments to ORS 471.175, 471.178, 471.186, 471.190, 471.200, 471.221, 471.223,**
27 **471.227, 471.282, 471.346, 471.410 and 471.430 by sections 8 to 19 of this 2023 Act.**

28 **SECTION 21. This 2023 Act takes effect on the 91st day after the date on which the 2023**
29 **regular session of the Eighty-second Legislative Assembly adjourns sine die.**

30