

Requested by Representative MORGAN

**PROPOSED AMENDMENTS TO
HOUSE BILL 3308**

1 On page 1 of the printed bill, line 2, after “ORS” insert “471.175, 471.178,
2 471.186, 471.190, 471.200, 471.221, 471.223, 471.227, 471.282.”.

3 Delete lines 5 through 22 and delete pages 2 through 9 and insert:

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

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

7 **“(1) ‘Deliver’ means to transfer alcoholic beverages from a delivery
8 person to a final consumer at a delivery address.**

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

13 **“(3) ‘Delivery person’ means an employee, agent or contractor of a
14 third-party delivery facilitator who delivers alcoholic beverages to the
15 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;**

19 **“(c) An off-premises sales license issued under ORS 471.186;**

20 **“(d) A temporary sales license issued under ORS 471.190;**

21 **“(e) A brewery-public house license issued under ORS 471.200;**

1 “(f) A brewery license issued under ORS 471.221;

2 “(g) A winery license issued under ORS 471.223;

3 “(h) A grower sales privilege license issued under ORS 471.227;

4 “(i) A direct shipper permit issued under ORS 471.282; or

5 “(j) Any other authorization, as determined by the commission by
6 rule.

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

10 “(6)(a) ‘Third-party delivery facilitator’ means an individual, person
11 or company that:

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

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

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

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

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

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

26 “(2) Prior to making any deliveries of alcoholic beverages, a delivery
27 person shall first complete the training program and be issued a cer-
28 tificate of completion, as described in section 4 of this 2023 Act.

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

1 “(4) A delivery person may charge an eligible business a fee for de-
2 livering alcoholic beverages on behalf of the eligible business.

3 “(5) A violation of subsection (1) of this section:

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

5 “(b) Upon a second or subsequent conviction, is a Class A
6 misdemeanor.

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

9 “(a) Forms of identification required by ORS 471.130 and methods
10 for identifying, inspecting, accepting or rejecting identification;

11 “(b) Signs of visible intoxication and methods for recognizing these
12 signs and for refusing to deliver alcoholic beverages to a final con-
13 sumer; and

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

16 “(2) The commission may adopt rules regarding the approval of
17 training programs described in subsection (1) of this section.

18 “(3) In conjunction with an application for a permit under section
19 6 of this 2023 Act, a third-party delivery facilitator shall submit to the
20 commission a copy of the third-party delivery facilitator’s training
21 program for approval by the commission.

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

27 “(b) In order to provide the training program described in sub-
28 section (1) of this section, a third-party delivery facilitator may offer
29 a training program internally or may contract with another party that
30 offers a training program that is approved by the commission.

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

4 “(5) A delivery person may not engage in the delivery of alcoholic
5 beverages unless the delivery person first completes the training pro-
6 gram described in subsection (1) of this section and holds a certificate
7 of completion described in subsection (4) of this section. A delivery
8 person who delivers alcoholic beverages on behalf of more than one
9 third-party delivery facilitator must complete the training program,
10 and hold a certificate of completion, from each third-party delivery
11 facilitator on whose behalf the delivery person delivers alcoholic
12 beverages.

13 “(6) The commission may adopt rules to carry out this section, in-
14 cluding rules to establish a fee for review and approval of a training
15 program described in subsection (1) of this section.

16 “SECTION 5. The Oregon Liquor and Cannabis Commission may
17 adopt rules to regulate the delivery of alcoholic beverages by parties
18 including, but not limited to, eligible businesses, delivery persons and
19 third-party delivery facilitators.

20 “SECTION 6. (1) In order to engage in the delivery of alcoholic
21 beverages, a third-party delivery facilitator must hold a permit issued
22 by the Oregon Liquor and Cannabis Commission and must comply with
23 applicable requirements under this chapter.

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

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

29 “(B) A third-party delivery facilitator provided material false or
30 misleading information to the commission or omitted information that

1 should have been provided to the commission; or

2 “(C) Subject to paragraph (b) of this subsection, a third-party de-
3 livery facilitator, or any person used by or acting on behalf or at the
4 direction of the third-party delivery facilitator, does not have a good
5 record of compliance under this chapter, as assessed upon initial ap-
6 plication for a permit under this section and annually upon application
7 for renewal of a permit issued under this section.

8 “(b) The commission shall establish by rule a process through which
9 the commission shall notify a third-party delivery facilitator of a
10 compliance issue as described under paragraph (a)(A) of this sub-
11 section and allow the third-party delivery facilitator an opportunity
12 to cure the issue prior to the commission’s refusal to issue or renew
13 the third-party delivery facilitator’s permit under this section.

14 “(3) A retail licensee, as defined in ORS 471.392, is eligible to qualify
15 as a third-party delivery facilitator. A retail licensee that is also a
16 third-party delivery facilitator may exercise any privilege granted by
17 the retail license.

18 “(4)(a) A third-party delivery facilitator acting on behalf of an eli-
19 gible business may:

20 “(A) Deliver, or cause to be delivered, alcoholic beverages to the
21 physical possession of a final consumer on behalf of an eligible busi-
22 ness;

23 “(B) Advertise alcoholic beverages available for retail sale;

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

26 “(D) Receive payment for alcoholic beverages ordered by final con-
27 sumers.

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

1 “(c) A third-party delivery facilitator may use only a delivery per-
2 son who meets the requirements of section 3 of this 2023 Act to deliver
3 alcoholic beverages to a final consumer.

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

7 “(5) A third-party delivery facilitator may charge an eligible busi-
8 ness a fee for delivering alcoholic beverages on behalf of the eligible
9 business.

10 “(6) A third-party delivery facilitator shall maintain and make
11 available records to the commission as required by the commission by
12 rule.

13 “(7) The commission may adopt rules as necessary to regulate
14 third-party delivery facilitators.

15 “(8)(a) An eligible business may use a third-party delivery facilitator
16 to carry out, on behalf of the eligible business, deliveries of alcoholic
17 beverages to final consumers that the eligible business is authorized
18 to make. In carrying out a delivery described in this subsection, a
19 third-party delivery facilitator shall ensure that the delivery is made
20 in compliance with any requirements applicable to the delivery.

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

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

28 “SECTION 7. (1) It is a Class A misdemeanor for a person that is
29 not a third-party delivery facilitator that holds a permit issued under
30 section 6 of this 2023 Act to engage in any activity for which a permit

1 is required unless the person is a licensee, permittee or agent ap-
2 pointed by the Oregon Liquor and Cannabis Commission, or is an em-
3 ployee or agent of a licensee, permittee or agent acting on behalf of
4 the licensee, permittee or agent, and the activity is allowed by the
5 privileges of the license, permit or appointment.

6 “(2)(a) The commission may assess a civil penalty against a third-
7 party delivery facilitator for a violation of this chapter or rules
8 adopted by the commission under this chapter if the violation is com-
9 mitted by the third-party delivery facilitator or a delivery person act-
10 ing on behalf of the third-party delivery facilitator.

11 “(b) The civil penalty assessed under paragraph (a) of this sub-
12 section must be at least \$500 per violation and may not be more than
13 \$4,000 per violation.

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

16 “SECTION 8. ORS 471.175 is amended to read:

17 “471.175. (1) The holder of a full on-premises sales license may sell by the
18 drink at retail wine, malt beverages, cider and distilled liquor. Except as
19 provided in this section and ORS 471.176, all alcoholic beverages sold under
20 a full on-premises sales license must be consumed on the licensed premises.

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

22 “(a) A nonprofit private club, as described in subsection (9) of this sec-
23 tion.

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

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

26 “(d) A public location that does not qualify for licensing under para-
27 graphs (a) to (c) of this subsection if:

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

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

1 “(C) The location meets any minimum food service requirements estab-
2 lished by Oregon Liquor and Cannabis Commission rule.

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

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

8 “(4) The holder of a full on-premises sales license may purchase any dis-
9 tilled liquor from an agent of the commission appointed pursuant to ORS
10 471.750 at a discount of not more than five percent off the regular listed price
11 fixed by the commission, together with all taxes, in a manner prescribed by
12 commission rule. For purposes of compensation by the commission, the ap-
13 pointed agent shall be credited with such sales at full retail cost. The com-
14 mission may not require the licensee to purchase more than one container
15 of distilled liquor at a time if the distilled liquor:

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

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

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

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

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

27 “(6) The holder of a full on-premises sales license may sell for consump-
28 tion off the licensed premises malt beverages, wine and cider in securely
29 covered containers provided by the consumer that have capacities of not
30 more than two gallons each.

1 “(7) The holder of a full on-premises sales license may sell for consump-
2 tion off the licensed premises malt beverages, wine and cider in factory-
3 sealed containers.

4 “(8)(a) The holder of a full on-premises sales license may deliver malt
5 beverages, wine and cider that are sold for off-premises consumption under
6 the privileges of the license to retail customers in this state without a direct
7 shipper permit issued under ORS 471.282. Any deliveries by the licensee are
8 subject to any rules adopted by the commission relating to deliveries made
9 under this subsection.

10 “(b) **The holder of a full on-premises sales license that uses a**
11 **third-party delivery facilitator to make deliveries under this sub-**
12 **section is not responsible for ensuring that the deliveries made by the**
13 **third-party delivery facilitator meet any requirements applicable to**
14 **the deliveries.**

15 “(9) A nonprofit private club, including but not limited to a fraternal or
16 veterans organization, may qualify for a full on-premises sales license under
17 this section only if the club meets any minimum membership, nonprofit sta-
18 tus and food service requirements established by commission rule.

19 “(10) Beginning January 1, 2017, the commission may annually adjust the
20 price threshold established in subsection (4)(a) of this section by a percent-
21 age equal to the percentage change in the Consumer Price Index for All
22 Urban Consumers, West Region (All Items), as published by the Bureau of
23 Labor Statistics of the United States Department of Labor. However, the
24 commission may not adjust the price threshold to be less than \$30.

25 “**SECTION 9.** ORS 471.178 is amended to read:

26 “471.178. (1) The holder of a limited on-premises sales license may sell by
27 the drink at retail wine, malt beverages and cider. Except as provided in this
28 section, all alcoholic beverages sold under a limited on-premises sales license
29 must be consumed on the licensed premises.

30 “(2) The holder of a limited on-premises sales license may sell malt

1 beverages, wine and cider in factory-sealed containers for consumption off
2 the licensed premises.

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

7 “(4)(a) The holder of a limited on-premises sales license may deliver malt
8 beverages, wine and cider that are sold for off-premises consumption under
9 the privileges of the license to retail customers in this state without a direct
10 shipper permit issued under ORS 471.282. Any deliveries by the holder of a
11 limited on-premises sales license are subject to any rules adopted by the
12 commission relating to deliveries made under this subsection.

13 **“(b) The holder of a limited on-premises sales license that uses a**
14 **third-party delivery facilitator to make deliveries under this sub-**
15 **section is not responsible for ensuring that the deliveries made by the**
16 **third-party delivery facilitator meet any requirements applicable to**
17 **the deliveries.**

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

22 **“SECTION 10.** ORS 471.186 is amended to read:

23 “471.186. (1) The holder of an off-premises sales license may sell factory-
24 sealed containers of malt beverages, wine and cider for consumption off the
25 licensed premises.

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

30 “(3) The holder of an off-premises sales license may provide sample tasting

1 of alcoholic beverages on the licensed premises if the licensee applies in
2 writing to the Oregon Liquor and Cannabis Commission and receives written
3 approval from the commission to conduct tastings on the premises. Tastings
4 must be limited to the alcoholic beverages that may be sold under the priv-
5 ileges of the license.

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

8 “(5) Except as provided in ORS 471.402, a manufacturer or wholesaler may
9 not provide or pay for sample tastings of alcoholic beverages for the public
10 on premises licensed under an off-premises sales license.

11 “(6)(a) The holder of an off-premises sales license may deliver malt
12 beverages, wine or cider that is sold under the privileges of the license to
13 retail customers in this state without a direct shipper permit issued under
14 ORS 471.282. **The holder of an off-premises sales license may use a**
15 **contractor, an agent or employee of the holder, or may use a delivery**
16 **person or a third-party delivery facilitator, to make the deliveries de-**
17 **scribed in this subsection.** Any deliveries by the holder of an off-premises
18 sales license are subject to any rules adopted by the commission relating to
19 deliveries made under this subsection.

20 “(b) **The holder of an off-premises sales license shall ensure that**
21 **deliveries under this subsection made by a contractor or an agent or**
22 **employee of the holder:**

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

25 “[b] (B) [*May be*] **Are** made only for personal use and not for the pur-
26 pose of resale; [*and*]

27 “[c] (C) [*Must be*] **Are** made in containers that are conspicuously labeled
28 with the words: ‘CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE
29 21 YEARS OR OLDER REQUIRED FOR DELIVERY[.]’; **and**

30 “[7] *The holder of an off-premises sales license that makes deliveries of*

1 *malt beverages, wine or cider under subsection (6) of this section shall take*
2 *all actions necessary to ensure that a carrier used by the licensee does not*
3 *deliver any malt beverages, wine or cider unless the carrier:]*

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

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

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

10 “[*c*] (iii) Determines that the recipient is not visibly intoxicated at the
11 time of delivery.

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

16 “[*8*] (7) Any person who knowingly or negligently delivers malt
17 beverages, wine or cider under the provisions of this section to a person
18 under 21 years of age, or who knowingly or negligently delivers malt
19 beverages, wine or cider under the provisions of this section to a visibly
20 intoxicated person, violates ORS 471.410.

21 “[*9*] (8) If a court determines that deliveries of malt beverages, wine or
22 cider under subsection (6) of this section cannot be restricted to holders of
23 off-premises sales licenses, and the decision is a final judgment that is no
24 longer subject to appeal, the holder of an off-premises sales license may not
25 make deliveries of malt beverages, wine or cider under the provisions of
26 subsection (6) of this section after entry of the final judgment.

27 “[*10*] (9) The [*Oregon Liquor and Cannabis*] commission may adopt rules
28 to carry out this section.

29 **“SECTION 11. ORS 471.190 is amended to read:**

30 **“471.190. (1) The holder of a temporary sales license may:**

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

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

5 “(c) Sell for consumption off the licensed premises wine, malt beverages
6 and cider in securely covered containers supplied by the consumer and hav-
7 ing capacities of not more than two gallons each.

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

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

13 “(a) Nonprofit or charitable organizations that are registered with the
14 state.

15 “(b) A political committee that has filed a statement of organization un-
16 der ORS 260.039 or 260.042.

17 “(c) State agencies.

18 “(d) Local governments, and agencies and departments of local govern-
19 ments.

20 “(e) Persons not otherwise described in this subsection, as long as the
21 applicant submits a plan that is approved by the commission detailing how
22 minors will be prevented from gaining access to alcoholic beverages and how
23 minors will be prevented from gaining access to any portion of the licensed
24 premises prohibited to minors under ORS 471.430 (3) or any rule adopted by
25 the commission.

26 “(4) The commission may by rule establish additional eligibility require-
27 ments for temporary sales licenses.

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

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

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

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

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

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

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

16 “(8) A person holding a temporary sales license is not required to obtain
17 an intermittent temporary restaurant, seasonal temporary restaurant,
18 single-event temporary restaurant license or mobile unit license under ORS
19 chapter 624 if only wine, malt beverages and cider in single-service contain-
20 ers are served and only nonperishable food items that are exempted from
21 licensure by the Oregon Health Authority are served.

22 “(9) Employees and volunteers serving alcoholic beverages for a nonprofit
23 or charitable organization licensed under this section are not required to
24 have service permits or to complete an alcohol server education program and
25 examination under ORS 471.542. The commission by rule may establish edu-
26 cation requirements for servers described in this subsection.

27 “(10) Notwithstanding ORS 471.392 to 471.400, a temporary sales license
28 may be issued to a nonprofit trade association that has a membership pri-
29 marily composed of persons that hold winery licenses issued under ORS
30 471.223 or grower sales privilege licenses issued under ORS 471.227.

1 **“(11) The holder of a temporary sales license that uses a third-party**
2 **delivery facilitator to make deliveries on behalf of the holder is not**
3 **responsible for ensuring that deliveries made by the third-party deliv-**
4 **ery facilitator meet any requirements applicable to the deliveries.**

5 **“SECTION 12.** ORS 471.200 is amended to read:

6 “471.200. (1) A brewery-public house license allows the licensee to:

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

10 “(b) [To] Sell malt beverages manufactured on or off the licensed premises
11 at retail for consumption on or off the premises;

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

14 “(d) [To] Sell on the licensed premises at retail malt beverages manufac-
15 tured on or off the licensed premises in unpasteurized or pasteurized form
16 directly to the consumer for consumption off the premises, delivery of which
17 may be made in a securely covered container supplied by the consumer;

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

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

23 “(g) [To] Conduct the activities, except manufacturing, described in par-
24 agraphs (a) to (f) of this subsection at two locations other than the premises
25 where the manufacturing occurs;

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

30 “(i) [To] Distribute malt beverages manufactured at the licensed premises

1 to any other premises licensed to the same licensee, whether a manufacturer,
2 wholesaler or retail premises; and

3 “(j) [To] Distribute for export, in any amount, malt beverages manufac-
4 tured at the licensed premises.

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

9 “(3) A brewery-public house licensee, or any person having an interest in
10 the licensee, is a retail licensee for the purposes of ORS 471.394 and, except
11 as otherwise provided by this section and ORS 471.396, may not acquire or
12 hold any right, title, lien, claim or other interest, financial or otherwise, in,
13 upon or to the premises, equipment, business or merchandise of any man-
14 ufacturer or wholesaler, as defined in ORS 471.392. A brewery-public house
15 licensee, or any person having an interest in the licensee, is also a man-
16 ufacturer for the purposes of ORS 471.394 and, except as otherwise provided
17 by this section and ORS 471.396, may not acquire or hold any right, title,
18 lien, claim or other interest, financial or otherwise, in, upon or to the
19 premises, equipment, business or merchandise of any other retail licensee,
20 as defined in ORS 471.392.

21 “(4)(a) Except as provided in this subsection, a brewery-public house
22 licensee, or any person having an interest in the licensee, is a retail licensee
23 for the purposes of ORS 471.398 and, except as otherwise provided by this
24 section and ORS 471.400, may not accept directly or indirectly any financial
25 assistance described in ORS 471.398 from any manufacturer or wholesaler,
26 as defined in ORS 471.392. A brewery-public house licensee, or any person
27 having an interest in the licensee, is also a manufacturer for the purposes
28 of ORS 471.398 and, except as otherwise provided by this section and ORS
29 471.400, may not provide directly or indirectly any financial assistance de-
30 scribed in ORS 471.398 to any retail licensee, as defined in ORS 471.392. The

1 prohibitions on financial assistance in ORS 471.398 do not apply to financial
2 assistance between manufacturing and retail businesses licensed to the same
3 person under the provisions of this section.

4 “(b) The commission may issue more than one brewery-public house li-
5 cense at a single premises if each licensee:

6 “(A) Has a valid Brewer’s Notice issued by the federal Alcohol and To-
7 bacco Tax and Trade Bureau at the premises address; and

8 “(B) Otherwise complies with ORS 471.398.

9 “(c) A brewery-public house licensee may produce malt beverages for an-
10 other brewery-public house licensee under a custom order agreement. The
11 commission may adopt rules regarding the contents of custom order agree-
12 ments.

13 “(5) Notwithstanding subsection (3) of this section, a brewery-public house
14 licensee, or any person having an interest in the licensee, may also hold a
15 winery license authorized by ORS 471.223. A brewery-public house licensee,
16 or any person having an interest in the licensee, may also hold a warehouse
17 license authorized by ORS 471.242.

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

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

27 “(8) Notwithstanding any other provision of this chapter, a brewery-public
28 house licensee, or any person having an interest in the licensee, may also
29 hold a distillery license. No provision of this chapter prevents a brewery-
30 public house licensee that also holds a distillery license from being appointed

1 by the commission as the distillery's retail outlet agent for the purpose of
2 selling distilled liquors under ORS 471.230.

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

6 “(10)(a) Notwithstanding subsection (3) of this section, a brewery-public
7 house licensee may hold, directly or indirectly, an interest in a manufacturer
8 or wholesaler, provided that the interest does not result in exercise of con-
9 trol over, or participation in the management of, the manufacturer's or
10 wholesaler's business or business decisions and does not result in exclusion
11 of any competitor's brand of alcoholic liquor.

12 “(b) Notwithstanding subsection (3) of this section, a manufacturer or
13 wholesaler, and any officer, director or substantial stockholder of any cor-
14 porate manufacturer or wholesaler, may hold, directly or indirectly, an in-
15 terest in a brewery-public house licensee, provided that the interest does not
16 result in exercise of control over, or participation in the management of, the
17 licensee's business or business decisions and does not result in exclusion of
18 any competitor's brand of alcoholic liquor.

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

21 “(12) **The holder of a brewery-public house license that uses a**
22 **third-party delivery facilitator to make deliveries on behalf of the**
23 **holder is not responsible for ensuring that deliveries made by the**
24 **third-party delivery facilitator meet any requirements applicable to**
25 **the deliveries.**

26 “**SECTION 13.** ORS 471.221 is amended to read:

27 “471.221. (1) As used in this section, ‘common control’ means:

28 “(a) That a manufacturer, or any officer, director, substantial stockholder
29 or other substantial equity holder in the manufacturer:

30 “(A) Directly or indirectly holds 50 percent or more interest in the

1 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 stock-

4 holder or other substantial equity holder in the brewery licensee:

5 “(A) Directly or indirectly holds 50 percent or more interest in another

6 manufacturer; or

7 “(B) Has authority to direct the management of another manufacturer.

8 “(2) A brewery license authorizes the licensee to:

9 “(a) Manufacture malt beverages on the licensed premises.

10 “(b) Sell to wholesale malt beverage and wine licensees, import, store,

11 transport or export:

12 “(A) Malt beverages produced on the licensed premises; or

13 “(B) Malt beverages of a brand produced by a manufacturer that is under

14 common control with the brewery licensee.

15 “(c) Sell wine, malt beverages or cider on the licensed premises at retail

16 for consumption on or off the licensed premises.

17 “(d) Sell, in securely covered containers supplied by the consumer and

18 having a capacity of not more than two gallons each, wine, malt beverages

19 or cider for off-premises consumption.

20 “(e) Obtain a special events brewery license that entitles the holder to

21 conduct the activities allowed under paragraphs (c) and (d) of this subsection

22 at a designated location other than the one set forth in the brewery license

23 for a period not exceeding five days.

24 “(f) Notwithstanding ORS 471.392 to 471.400, subject to ORS 471.175, hold

25 a full on-premises sales license.

26 “(g) Conduct any activities authorized under paragraph (c), (d) or (f) of

27 this subsection at up to two additional locations approved by the Oregon

28 Liquor and Cannabis Commission.

29 “(3) Subject to ORS 471.235, a brewery licensee may hold a wholesale malt

30 beverage and wine license. A brewery licensee must hold a wholesale malt

1 beverage and wine license if the brewery licensee:

2 “(a) Imports, stores, transports or exports malt beverages of brands that
3 are not produced by the licensee or a manufacturer under common control
4 with the licensee; or

5 “(b) Except as provided in this paragraph, sells or distributes malt
6 beverages. This paragraph does not apply to malt beverages described in
7 subsection (2)(a) or (b) of this section sold at a licensed premises described
8 in subsection (2)(a) of this section.

9 “(4) A brewery licensee and a winery licensee may not be under common
10 control unless the winery licensee:

11 “(a) Uses its premises to produce wine or cider; and

12 “(b) Holds a valid producer and blender basic permit issued by the federal
13 Alcohol and Tobacco Tax and Trade Bureau.

14 “(5) Notwithstanding any other provision of this chapter, a brewery
15 licensee, a manufacturer that is under common control with the brewery
16 licensee or any officer, director, substantial stockholder or other substantial
17 equity holder in the brewery licensee or in a manufacturer that is under
18 common control with the brewery licensee may not sell malt beverages at
19 retail at more than three locations in this state regardless of the number or
20 type of licenses held by the licensee, manufacturer, officer, director, stock-
21 holder or equity holder.

22 “(6) A brewery licensee may produce malt beverages for a brewery-public
23 house licensee under a custom order agreement. The commission may adopt
24 rules regarding the contents of custom order agreements.

25 “(7) **A brewery licensee that uses a third-party delivery facilitator**
26 **to make deliveries on behalf of the licensee is not responsible for en-**
27 **sureing that deliveries made by the third-party delivery facilitator meet**
28 **any requirements applicable to the deliveries.**

29 “**SECTION 14.** ORS 471.223 is amended to read:

30 “471.223. (1) As used in this section, ‘control’ means that the licensee:

1 “(a) Owns the brand under which the wine or cider is labeled; or
2 “(b) Performs or has the legal right to perform all of the acts common to
3 a brand owner under the terms of a trademark license or similar agreement
4 that for the brand under which the wine or cider is labeled has a term of
5 at least three years.
6 “(2) The holder of a winery license may:
7 “(a) Import wine or cider in containers that have a capacity of more than
8 four liters.
9 “(b) Import wine or cider in containers that have a capacity of four liters
10 or less if the brand of wine or cider is under the control of the licensee.
11 “(c) Bottle, produce, blend, store, transport or export wines or cider.
12 “(d) Sell wines or cider at wholesale to the Oregon Liquor and Cannabis
13 Commission or to licensees of the commission.
14 “(e) Sell wines or cider at retail directly to the consumer for consumption
15 on or off the licensed premises.
16 “(f) Sell malt beverages at retail for consumption on or off the licensed
17 premises.
18 “(g) Sell for consumption off the premises malt beverages, wines and cider
19 in securely covered containers that are supplied by the consumer and have
20 capacities of not more than two gallons each.
21 “(h) Conduct under the winery license any activities described in para-
22 graphs (a) to (g) of this subsection at five or fewer premises designated by
23 the commission.
24 “(i) Purchase from or through the commission brandy or other distilled
25 liquors for fortifying wines or cider.
26 “(j) Obtain a special events winery license that entitles the holder to
27 conduct the activities allowed under paragraphs (e) to (g) of this subsection
28 at a designated location other than the one set forth in the winery license
29 for a period not to exceed five days.
30 “(3) A winery licensee shall allow a patron to remove a partially con-

1 sumed bottle of wine from the licensed premises if the patron is not a minor
2 and the patron is not visibly intoxicated.

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

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

8 “(b) Possess a valid wine blender or valid wholesaler basic permit issued
9 by the federal Alcohol and Tobacco Tax and Trade Bureau and have a writ-
10 ten contract with a winery licensed under paragraph (a) of this subsection
11 that authorizes the winery to produce for the licensee a brand of wine or
12 cider that is under the control of the licensee.

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

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

18 “(7) A winery licensee, or any person having an interest in the licensee,
19 may also hold a full on-premises sales license. If a winery licensee, or a
20 person having an interest in the licensee, also holds a full on-premises sales
21 license, the provisions of this chapter do not prevent the licensee or person
22 from both selling wine or cider bottled and produced under the winery li-
23 cense and selling alcoholic liquor as authorized under the full on-premises
24 sales license.

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

30 “(9) If a winery licensee does not possess at a bonded premises within

1 Oregon a valid producer and blender basic permit issued by the federal Al-
2cohol and Tobacco Tax and Trade Bureau, the licensee may exercise the
3 privileges described in this section only for wine and cider brands that are
4 under the control of the licensee.

5 **“(10) The holder of a winery license that uses a third-party delivery**
6 **facilitator to make deliveries on behalf of the winery licensee is not**
7 **responsible for ensuring that deliveries made by the third-party deliv-**
8 **ery facilitator meet any requirements applicable to the deliveries.**

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

10 “471.227. (1) A grower sales privilege license shall allow the licensee to
11 perform the following activities only for fruit or grape wine or cider where
12 all of the fruit or grapes used to make the wine or cider are grown in Oregon
13 under the control of the licensee **to:**

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

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

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

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

22 “(e) [To] Conduct some or all of the activities allowed under paragraphs
23 (a) to (d) of this subsection at a second or third premises as may be desig-
24 nated by the commission.

25 “(f) [To] Obtain a special events grower sales privilege license which shall
26 entitle the holder to conduct the activities allowed under paragraphs (c) and
27 (d) of this subsection at a designated location other than the one set forth
28 in the grower sales privilege license for a period not to exceed five days.

29 “(2) A grower sales privilege licensee shall allow a patron to remove a
30 partially consumed bottle of wine from the licensed premises if the patron

1 is not a minor and the patron is not visibly intoxicated.

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

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

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

8 “(6) As used in this section, ‘control’ means the grower either owns the
9 land upon which the fruit or grapes are grown or has a legal right to perform
10 or does perform all of the acts common to fruit farming or viticulture under
11 terms of a lease or similar agreement of at least three years’ duration.

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

16 “(8) **A grower sales privilege licensee that uses a third-party deliv-**
17 **ery facilitator to make deliveries on behalf of the licensee is not re-**
18 **sponsible for ensuring that deliveries made by the third-party delivery**
19 **facilitator meet any requirements applicable to the deliveries.**

20 “**SECTION 16.** ORS 471.282 is amended to read:

21 “471.282. (1) Notwithstanding any other provision of this chapter and ex-
22 cept as provided by ORS 471.175, 471.178 and 471.186, a person may sell and
23 ship malt beverages, wine or cider directly to a resident of Oregon only if
24 the person holds a direct shipper permit. The Oregon Liquor and Cannabis
25 Commission shall issue a direct shipper permit only to:

26 “(a) A person that holds a license issued by this state or another state
27 that authorizes the manufacture of malt beverages, wine or cider;

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

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

3 “(d) A person that holds a temporary sales license under ORS 471.190, if
4 the shipments of malt beverages, wine or cider made by the person are de-
5 livered only during the term of validity of the temporary sales license.

6 “(2) The holder of a direct shipper permit that is a licensee of another
7 state may deliver malt beverages under the permit only if that other state
8 makes direct shipper permits, or the equivalent, available for the delivery
9 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 appli-
12 cation with the commission in a form and manner prescribed by the com-
13 mission.

14 “(b) If the application is based on a license issued by this state, the per-
15 son shall include in the application the number of the license issued to the
16 person.

17 “(c) If the application is based on a license issued by another state, the
18 person shall include in the application a true copy of the license issued to
19 the person by the other state or include sufficient information to allow ver-
20 ification of the license by electronic means or other means acceptable to the
21 commission.

22 “(d) If the application is based on a license issued by another state, or the
23 application is by a person described in subsection (1)(d) of this section, the
24 person shall pay a \$100 registration fee and maintain a bond or other secu-
25 rity described in ORS 471.155 in the minimum amount of \$1,000.

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

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

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

30 “(c) May not exceed:

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

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

5 “(5) Sales and shipments under a direct shipper permit must be made di-
6 rectly to a resident of this state in containers that are conspicuously labeled
7 with the words: ‘CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE
8 21 YEARS OR OLDER REQUIRED FOR DELIVERY.’

9 “(6) A person holding a direct shipper permit shall take all actions nec-
10 essary to ensure that a carrier used by the permit holder does not deliver
11 any malt beverages, wine or cider unless the carrier:

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

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

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

18 “(7) **The holder of a direct shipper permit that uses a third-party**
19 **delivery facilitator to make deliveries on behalf of the permit holder**
20 **is not responsible for ensuring that deliveries made by the third-party**
21 **delivery facilitator meet any requirements applicable to the deliveries.**

22 “[7](a)] (8)(a) A person holding a direct shipper permit shall report to
23 the commission on a quarterly basis all shipments of malt beverages, wine
24 or cider made to Oregon residents under the permit. The report must be made
25 in a form prescribed by the commission.

26 “(b) A person holding a direct shipper permit shall allow the commission
27 to audit the permit holder’s records upon request and shall make those re-
28 cords available to the commission in this state.

29 “(c) A person holding a direct shipper permit consents to the jurisdiction
30 of the commission and the courts of this state for the purpose of enforcing

1 the provisions of this section and any related laws or rules.

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

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

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

14 “(b) If the person holds the permit based on an annual license issued by
15 another state, the person may renew the permit by paying a \$100 renewal fee
16 and providing the commission with a true copy of a current license issued
17 to the person by the other state or with sufficient information to allow ver-
18 ification of the license by electronic means or other means acceptable to the
19 commission.

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

23 “[~~(10)~~] **(11)** The commission may refuse to issue or may suspend or revoke
24 a direct shipper permit if the permit holder fails to comply with the pro-
25 visions of this section. A person may sell and ship malt beverages, wine or
26 cider under a direct shipper permit only for as long as the person has the
27 license issued by this state or another state that authorizes the person to
28 hold a direct shipper permit. A direct shipper permit does not authorize the
29 shipment of malt beverages by a permit holder described in subsection (1)(b)
30 of this section or lacking authority as provided under subsection (2) of this

1 section.

2 “[~~(11)~~] (12) Any person who knowingly or negligently delivers malt
3 beverages, wine or cider under the provisions of this section to a person
4 under 21 years of age, or who knowingly or negligently delivers malt
5 beverages, wine or cider under the provisions of this section to a visibly
6 intoxicated person, violates ORS 471.410.

7 “[~~(12)~~] (13) A person may not make sales and shipments of malt beverages,
8 wine or cider directly to Oregon residents unless the person holds a direct
9 shipper permit issued under this section. Any person who knowingly makes,
10 participates in, transports, imports or receives a shipment of malt beverages,
11 wine or cider that is in violation of this section commits a misdemeanor as
12 provided in ORS 471.990 (1).

13 **“SECTION 17.** ORS 471.346 is amended to read:

14 “471.346. (1)(a) The Oregon Liquor and Cannabis Commission shall by
15 rule develop uniform standards for minor decoy operations used to investi-
16 gate licensees, **permittees**, [*and agents operating stores on behalf of the*
17 *commission under ORS 471.750*] **agents appointed by the commission,**
18 **third-party delivery facilitators and any person delivering alcoholic**
19 **beverages to final consumers in this state** for violations of the laws of
20 this state prohibiting sales **and deliveries** of alcoholic beverages to minors.

21 “(b) Uniform standards established by the commission under this section
22 apply to all investigations conducted by the commission that use minor
23 decoys. The commission shall encourage all law enforcement agencies of this
24 state to use the uniform standards established under this section for minor
25 decoy operations conducted by the law enforcement agencies.

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

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

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

3 “(3)(a) The uniform standards established by the commission under this
4 section [shall] **for investigating sales by licensees occurring on licensed**
5 **premises and in-store sales by agents appointed by the commission**
6 **must** provide that:

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

9 “(B) Random minor decoy operations [shall] **must** cover a range of li-
10 **censed premises and** retail outlets. **For the purpose of implementing**
11 **standards for random minor decoy operations under this subpara-**
12 **graph, the commission shall by rule adopt a methodology that**
13 **produces, to the greatest extent possible, an equal chance that any**
14 **licensee or agent will be subject to a minor decoy operation.**

15 “(C) Targeted minor decoy operations may be conducted for a single
16 licensee or agent, but may be used only if there is a documented compliance
17 problem with the specific licensee or agent that is the target of the **minor**
18 **decoy** operation. [*For the purpose of implementing standards for random mi-*
19 *nor decoy operations under this subsection, the commission shall by rule adopt*
20 *a methodology that produces, to the greatest extent possible, an equal chance*
21 *that any licensee or agent will be subject to a minor decoy operation.*]

22 “(b) **Investigations of deliveries of alcoholic beverages to final con-**
23 **sumers in this state are exempt from the requirements for random and**
24 **targeted minor decoy operations under paragraph (a) of this sub-**
25 **section.**

26 “(4) Except as provided in subsection (5) of this section, the failure of the
27 commission or of a law enforcement agency to follow uniform standards es-
28 tablished by the commission under this section is not grounds for challenging
29 any complaint, citation or conviction for violation of the laws prohibiting
30 the sale **or delivery** of alcoholic beverages to minors.

1 “(5) In determining whether to impose sanctions based on multiple vio-
2 lations of the laws of this state prohibiting sales **or deliveries** of alcoholic
3 beverages to minors, the commission may not consider any complaint filed
4 against, **citation issued to or conviction of** a licensee, **permittee, agent**
5 **appointed by the commission, third-party delivery facilitator or a per-**
6 **son delivering alcoholic beverages to final consumers** for selling **or de-**
7 **livering** alcoholic beverages to a minor[, *citation issued to a licensee for*
8 *selling alcoholic beverages to a minor or conviction of a licensee for selling*
9 *alcoholic beverages to a minor*] if the complaint, citation or conviction arose
10 out of a minor decoy operation that was not conducted pursuant to the uni-
11 form standards established by the commission under this section.

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

16 “(a) Imposing any civil penalty against a licensee, **permittee, agent**
17 **appointed by the commission, third-party delivery facilitator or a per-**
18 **son delivering alcoholic beverages to final consumers;**

19 “(b) Making a decision on the renewal, suspension or cancellation of a
20 license, **permit, appointment or third-party delivery facilitator permit**
21 **issued under this chapter or rules adopted under this chapter; or**

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

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

29 “**SECTION 18.** ORS 471.410 is amended to read:

30 “471.410. (1) A person may not sell, give or otherwise make available any

1 alcoholic liquor to any person who is visibly intoxicated.

2 “(2) [No one] **A person** other than the person’s parent or guardian may
3 **not** sell, give or otherwise make available any alcoholic liquor to a person
4 under the age of 21 years. A parent or guardian may give or otherwise make
5 alcoholic liquor available to a person under the age of 21 years only if the
6 person is in a private residence and is accompanied by the parent or guard-
7 ian. A person violates this subsection [*who*] **if the person** sells, gives or
8 otherwise makes available alcoholic liquor to a person with the knowledge
9 that the person to whom the liquor is made available will violate this sub-
10 section.

11 “(3)(a) A person who exercises control over private real property may not
12 knowingly allow any other person under the age of 21 years who is not a
13 child or minor ward of the person to consume alcoholic liquor on the prop-
14 erty, or allow any other person under the age of 21 years who is not a child
15 or minor ward of the person to remain on the property if the person under
16 the age of 21 years consumes alcoholic liquor on the property.

17 “(b) This subsection:

18 “(A) Applies only to a person who is present and in control of the lo-
19 cation at the time the consumption occurs;

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

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

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

28 “(5) Except as provided in [*subsections (6) and (7)*] **subsection (6)** of this
29 section, a person who violates subsection (1) or (2) of this section commits
30 a Class A misdemeanor. Upon violation of subsection (2) of this section, the

1 court shall impose at least a mandatory minimum sentence as follows:

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

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

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

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

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

10 “(B) Is an employee **or agent** of a person licensed or appointed under this
11 chapter and [*holds a valid service permit or has attended a program approved*
12 *by the Oregon Liquor and Cannabis Commission that provides training to*
13 *avoid violations of this section.*] **the employee or agent violates subsection**
14 **(2) of this section while acting on behalf or at the direction of the**
15 **licensee or person appointed under this chapter; or**

16 “(C) **Is a delivery person as defined in section 2 of this 2023 Act and**
17 **was delivering alcoholic beverages to a final consumer.**

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

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

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

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

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

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

30 “[*(8)*] **(7)** The court may waive an amount that is at least \$200 but not

1 more than one-third of the fine imposed under subsection (5) of this section,
2 if the violator performs at least 30 hours of community service.

3 “[9] (8) Except as provided in subsection [(8)] (7) of this section, the
4 court may not waive or suspend imposition or execution of the mandatory
5 minimum sentence required by subsection (5) or (6) of this section. In addi-
6 tion to the mandatory sentence, the court may require the violator to make
7 restitution for any damages to property where the alcoholic liquor was ille-
8 gally consumed or may require participation in volunteer service to a com-
9 munity service agency.

10 “[10](a) (9)(a) Except as provided in paragraph (b) of this subsection, a
11 person who violates subsection (3) of this section commits a Class A vio-
12 lation.

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

15 “[11] (10) Nothing in this section prohibits any licensee under this
16 chapter from allowing a person who is visibly intoxicated to remain on the
17 licensed premises so long as the person is not sold or served any alcoholic
18 liquor.

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

20 “471.430. (1) A person under 21 years of age may not attempt to purchase,
21 purchase or acquire alcoholic beverages. Except when [*such*] a minor is in
22 a private residence accompanied by the parent or guardian of the minor and
23 with [*such*] **the** parent’s or guardian’s consent, a person under 21 years of
24 age may not have personal possession of alcoholic beverages.

25 “(2) For the purposes of this section, personal possession of alcoholic
26 beverages includes the acceptance or consumption of a bottle of [*such*] **al-**
27 **coholic** beverages, or any portion [*thereof*] or a drink of [*such*] **alcoholic**
28 beverages. However, this section does not prohibit the acceptance or con-
29 sumption by any person of sacramental wine as part of a religious rite or
30 service.

1 “(3) Except as authorized by rule or as necessitated in an emergency, a
2 person under 21 years of age may not enter or attempt to enter any portion
3 of a licensed premises that is posted or otherwise identified as being pro-
4 hibited to the use of minors.

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

7 “(b) A person commits a Class A violation if the person violates sub-
8 section (1) of this section by reason of personal possession of alcoholic
9 beverages while the person is operating a motor vehicle as defined in ORS
10 801.360.

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

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

15 “(a) The court may order a person who violates subsection (1) of this
16 section through misrepresentation of age to perform community service; and

17 “(b) The court shall order, when a person violates subsection (1) of this
18 section, that the person’s driving privileges and right to apply for driving
19 privileges be suspended pursuant to ORS 809.260 and 809.280. The court no-
20 tification made to the Department of Transportation under this paragraph
21 may include a recommendation that the person be granted a hardship permit
22 under ORS 807.240 if the person is otherwise eligible for the permit.

23 “(6) If a person cited under this section is at least 13 years of age but less
24 than 21 years of age at the time the person is found in default under ORS
25 153.102 or 419C.472 for failure to appear, in addition to and not in lieu of
26 any other penalty established by law, the court shall issue notice under ORS
27 809.220 to the department for the department to suspend the person’s driving
28 privileges under ORS 809.280 (4).

29 “(7) In addition to and not in lieu of any penalty established by law, the
30 court may order a person who violates this section to undergo assessment

1 and treatment as provided in ORS 471.432. The court shall order a person to
2 undergo assessment and treatment as provided in ORS 471.432 if the person
3 has previously been found to have violated this section.

4 “(8) The prohibitions of this section do not apply to a person under 21
5 years of age who is acting under the direction of the Oregon Liquor and
6 Cannabis Commission or under the direction of state or local law enforce-
7 ment agencies for the purpose of investigating possible violations of laws
8 prohibiting sales of alcoholic beverages to persons who are under 21 years
9 of age.

10 “(9) The prohibitions of this section do not apply to a person under 21
11 years of age who is acting under the direction of a licensee, **an eligible**
12 **business, as defined in section 2 of this 2023 Act, or a third-party de-**
13 **livery facilitator, as defined in section 2 of this 2023 Act,** for the purpose
14 of investigating possible violations by employees **or agents** of the licensee,
15 **eligible business or third-party delivery facilitator** of laws prohibiting
16 sales **or deliveries** of alcoholic beverages to persons who are under 21 years
17 of age.

18 “(10)(a) A person under 21 years of age is not in violation of, and is im-
19 mune from prosecution under, this section if:

20 “(A) The person contacted emergency medical services or a law enforce-
21 ment agency in order to obtain medical assistance for another person who
22 was in need of medical assistance due to alcohol consumption and the evi-
23 dence 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 con-
26 sumption and the evidence of the violation was obtained as a result of the
27 person’s having sought or obtained the medical assistance.

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

1 **“SECTION 20. (1) Sections 2 to 7 of this 2023 Act and the amend-**
2 **ments to ORS 471.175, 471.178, 471.186, 471.190, 471.200, 471.221, 471.223,**
3 **471.227, 471.282, 471.346, 471.410 and 471.430 by sections 8 to 19 of this**
4 **2023 Act become operative on January 1, 2024.**

5 **“(2) The Oregon Liquor and Cannabis Commission may take any**
6 **action before the operative date specified in subsection (1) of this sec-**
7 **tion that is necessary to enable the commission to exercise, on and**
8 **after the operative date specified in subsection (1) of this section, all**
9 **of the duties, functions and powers conferred on the commission by**
10 **sections 2 to 7 of this 2023 Act and the amendments to ORS 471.175,**
11 **471.178, 471.186, 471.190, 471.200, 471.221, 471.223, 471.227, 471.282, 471.346,**
12 **471.410 and 471.430 by sections 8 to 19 of this 2023 Act.**

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

16
