

Enrolled
Senate Bill 1801

Sponsored by Senator COURTNEY (at the request of Joint Committee on the Third Special Session of 2020)

CHAPTER

AN ACT

Relating to consumable items; and declaring an emergency.

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

SECTION 1. Section 2 of this 2020 third special session Act is added to and made a part of ORS chapter 471.

SECTION 2. (1) As used in this section:

(a) **“Mixed drink”** means a beverage that is a combination of wine or distilled liquor and one or more mixers that is combined on a licensed premises and sold in a sealed container for consumption off the licensed premises.

(b) **“Sealed container”** means a container:

(A) With a secure cap or lid that indicates whether the container has been opened; and

(B) That is further defined by the Oregon Liquor Control Commission by rule.

(c) **“Third-party food platform”** means a website, mobile application or other electronic service that:

(A) Facilitates the order of food and beverages for sale to a consumer by a licensee; and

(B)(i) Delivers, or arranges for the delivery of, the order to the consumer; or

(ii) Arranges for the pickup of the order by the consumer from the licensee.

(2)(a) Notwithstanding ORS 471.175, the holder of a full on-premises sales license may:

(A) Sell for off-premises consumption mixed drinks and single servings of wine if the mixed drink or single serving of wine is sold in a sealed container that meets the requirements of subsection (3) of this section; and

(B) Deliver mixed drinks and single servings of wine to consumers in this state if the mixed drink or single serving of wine is delivered in a sealed container that meets the requirements of subsection (3) of this section. Notwithstanding ORS 471.405 (3) and 471.406, a delivery may be made by a third-party food platform on behalf of the holder of a full on-premises sales license.

(b) The retail sale or delivery of a mixed drink or single serving of wine under this subsection, including a delivery carried out by the licensee through a third-party food platform, is subject to rules adopted by the commission.

(3) The cap or lid, and any seal, of the sealed container must be affixed to the container in a manner that makes it obvious when the cap or lid, and any seal, has been removed or broken. The cap or lid, and any seal, may be affixed with the use of tape or other adhesive.

(4)(a) The commission shall adopt rules to carry out this section. The rules adopted under this subsection:

(A) Must provide that not more than a total of two beverages may be ordered per substantial food item ordered.

(B) May:

(i) Define “substantial food item.”

(ii) Establish additional requirements for the retail sale and delivery of mixed drinks and single servings of wine for off-premises consumption.

(b) The commission shall adopt the rules described in this subsection not later than 30 days after the effective date of this 2020 third special session Act.

(c) As used in this subsection, “beverage” means a mixed drink or single serving of wine.

SECTION 3. (1) As used in this section:

(a)(A) “Purchase price” means the menu price of an item displayed for an online or telephone order.

(B) “Purchase price” does not include taxes, gratuities or other fees that make up the total cost of an item to a consumer.

(b) “Restaurant” has the meaning given that term in ORS 624.010.

(c) “Third-party food platform” means a website, mobile application or other electronic service that:

(A) Facilitates the order of food and beverages for sale to a consumer by a restaurant; and

(B)(i) Delivers, or arranges for the delivery of, the order to the consumer; or

(ii) Arranges for the pickup of the order by the consumer from the restaurant.

(2)(a) If a restaurant that uses a third-party food platform to facilitate orders of food and beverages for sale to consumers includes with an order the option of delivery of the order by the third-party food platform, the third-party food platform may not charge the restaurant total fees in excess of 15 percent of the purchase price of the order for use of the third-party food platform’s services.

(b) If a restaurant described in paragraph (a) of this subsection does not offer the option of delivery of the order by the third-party food platform, the third-party food platform may not charge the restaurant total fees in excess of five percent of the purchase price of the order for the use of the third-party food platform’s services.

(c) A third-party food platform may not reduce the rate of compensation paid to, or garnish the gratuities of, an individual who makes deliveries of orders to consumers on behalf of the third-party food platform as a result of the requirements of this subsection.

(3) An individual who makes deliveries of orders to consumers on behalf of a third-party food platform may bring an action against the third-party food platform for a violation of subsection (2)(c) of this section and may recover damages in the amount of \$500 for each violation.

(4) Subsection (2) of this section does not apply to a restaurant located in an area subject to the jurisdiction of a local governing body that, on or before December 18, 2020, adopted an ordinance limiting the fees described in subsection (2) of this section.

SECTION 4. A third-party food platform, as defined in section 3 of this 2020 third special session Act, shall meet the requirements established in section 3 (2) of this 2020 third special session Act not later than seven days after the effective date specified in section 6 of this 2020 third special session Act.

SECTION 5. Sections 2 to 4 of this 2020 third special session Act are repealed 60 days after the date on which the declaration of a state of emergency issued by the Governor on March 8, 2020, and any extension of the declaration, is no longer in effect.

SECTION 6. This 2020 third special session Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2020 third special session Act takes effect on its passage.

Passed by Senate December 21, 2020

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House December 21, 2020

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Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2020

Approved:

.....M,....., 2020

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2020

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Bev Clarno, Secretary of State