

House Bill 3448

Sponsored by Representative NOBLE, Senator HASS, Representative HELM; Representatives BARRETO, BOLES, BOSHART DAVIS, GOMBERG, KENY-GUYER, LEWIS, MCLAIN, NEARMAN, NERON, NOSSE, POST, PRUSAK, SPRENGER, WILDE, Senators BEYER, BOQUIST, BURDICK, FAGAN, FREDERICK, GIROD, OLSEN, PROZANSKI, RILEY, ROBLAN, TAYLOR, THATCHER, THOMSEN, WAGNER

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires that, to extent provided by Oregon Liquor Control Commission rules, if wine labeled with American viticultural area in Oregon is labeled with single grape variety as type designation, wine must meet specified content requirements. Requires commission to make requirements applicable to wine with labels identifying Willamette Valley viticultural area and American viticultural areas wholly or partly within Willamette Valley viticultural area. Creates exception.

Requires commission to classify certain grape varieties as exempt from content requirements. Authorizes commission to exempt additional grape varieties by rule. Prohibits identifying Pinot noir as exempt grape variety. Establishes content requirement for wine from exempt grape varieties. Establishes default content requirement for wines not subject to other content requirements.

Makes content requirements applicable to wine labeled on or after January 1, 2023. Imposes revised content requirements for wine bottled on or after January 1, 2030.

Authorizes commission to require that wine using American viticultural area in this state as appellation of origin be produced entirely from grapes grown in that American viticultural area. Makes authority operative January 1, 2035.

Requires commission to appoint advisory committee. Sunsets advisory committee January 2, 2023.

Requires commission to adopt rules establishing penalty schedule for labeling requirement. Creates exception to civil penalty. Requires adoption of initial rules in time to take effect January 1, 2023. Repeals rule adoption requirement January 2, 2024.

Requires commission to report to interim committee of Legislative Assembly no later than September 15, 2020, regarding advisory committee recommendations and status of commission rule adoption proceedings.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to wine labeling; and prescribing an effective date.

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

SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS chapter 471.

SECTION 2. (1) As used in this section, "American viticultural area" means a delimited grape growing region approved under 27 C.F.R. part 9.

(2) If a wine label bears the name of an American viticultural area that is located in this state and uses a single grape variety as a type designation, except as provided in subsection (4) of this section, the Oregon Liquor Control Commission may require that:

(a) At least 95 percent of the wine, by volume, be derived from the grape variety that is used on the label as the type designation; and

(b) The name of each grape variety used be listed on the label as provided under 27 C.F.R. part 4.

(3) The commission shall adopt rules identifying American viticultural areas for which the labeling requirements described in subsection (2) of this section apply. The commission shall, at a minimum, adopt rules to make the labeling requirements applicable to wines bearing the name of the Willamette Valley viticultural area or of an American viticultural

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 area wholly or partially within the Willamette Valley American viticultural area. For all
2 other American viticultural areas, the commission shall solicit and consider recommen-
3 dations by Oregon winemaking industry associations associated with an American
4 viticultural area before determining whether to identify the area by rule under this sub-
5 section.

6 (4)(a) Except as provided in this subsection, the commission may classify one or more
7 grape varieties used as a type designation on a wine label as an exempt variety. The com-
8 mission may not classify Pinot noir as an exempt grape variety. If the commission designates
9 a grape variety as exempt, a wine that bears the exempt grape variety as a type designation
10 is subject to the derivation requirement in paragraph (b) of this subsection. The classifica-
11 tion of a grape variety as exempt shall apply statewide. The commission shall, at a mini-
12 mum, classify the following as exempt grape varieties:

13 (A) Cabernet franc;

14 (B) Cabernet Sauvignon;

15 (C) Carmenère;

16 (D) Durif, also referred to as Petite Sirah;

17 (E) Grenache, also referred to as Garnacha;

18 (F) Malbec;

19 (G) Marsanne;

20 (H) Merlot;

21 (I) Mourvèdre;

22 (J) Petit Verdot;

23 (K) Roussanne;

24 (L) Sangiovese;

25 (M) Sauvignon blanc, also referred to as Fumé blanc;

26 (N) Sémillon;

27 (O) Syrah;

28 (P) Tannat;

29 (Q) Tempranillo; and

30 (R) Zinfandel.

31 (b) If a wine label uses an exempt variety as a type designation on its label, at least 75
32 percent of the wine, by volume, must be derived from the exempt variety of grape as pro-
33 vided under 27 C.F.R. part 4. The commission shall solicit and consider recommendations by
34 Oregon winemaking industry associations regarding whether a grape variety should be clas-
35 sified as an exempt variety.

36 (5) Except as provided under subsections (2) to (4) of this section, if a wine label bears
37 the name of an American viticultural area that is located in this state and uses a single
38 grape variety as a type designation, at least 90 percent of the wine, by volume, must be de-
39 rived from the grape variety used as the type designation.

40 (6)(a) The commission may adopt rules allowing a variance or exemption from labeling
41 requirements under subsection (2) of this section to allow a winemaker to make use of an
42 existing stock of labels.

43 (b) The commission may not assess a penalty for failure to list a wine variety on a label
44 under subsection (2) of this section if the unlisted grape variety is less than one percent of
45 the wine.

1 (7) Notwithstanding subsections (2) and (3) of this section, except as provided in sub-
 2 section (4) of this section, wine produced in an American viticultural area that the commis-
 3 sion identifies under subsection (3) of this section is subject to the content requirement in
 4 subsection (5) of this section if:

5 (a) The brand name of the wine uses the name of the American viticultural area;

6 (b) The wine has used the brand name continuously since December 31, 1990;

7 (c) The name of the American viticultural area appears on the wine label only in the
 8 brand name;

9 (d) The wine does not state or imply any other American viticultural area; and

10 (e) The wine label uses “Oregon” as the appellation of origin.

11 **SECTION 3.** Section 2 of this 2019 Act applies to labels on wine bottled on or after Jan-
 12 uary 1, 2023.

13 **SECTION 4.** Section 2 of this 2019 Act is amended to read:

14 **Sec. 2.** (1) As used in this section, “American viticultural area” means a delimited grape grow-
 15 ing region approved under 27 C.F.R. part 9.

16 (2) If a wine label bears the name of an American viticultural area that is located in this state
 17 and uses a single grape variety as a type designation, except as provided in [subsection (4)] sub-
 18 sections (4) and (5) of this section, the Oregon Liquor Control Commission may require that **the**
 19 **wine be made entirely from the grape variety that is used on the label as the type desig-**
 20 **nation.**[:]

21 *[(a) At least 95 percent of the wine, by volume, be derived from the grape variety that is used on*
 22 *the label as the type designation; and]*

23 *[(b) The name of each grape variety used be listed on the label as provided under 27 C.F.R. part*
 24 *4.]*

25 (3) The commission shall adopt rules identifying American viticultural areas for which the la-
 26 beling requirements described in subsection (2) of this section apply. The commission shall, at a
 27 minimum, adopt rules to make the labeling requirements applicable to wines bearing the name of the
 28 Willamette Valley viticultural area or of an American viticultural area wholly or partially within
 29 the Willamette Valley American viticultural area. For all other American viticultural areas, the
 30 commission shall solicit and consider recommendations by Oregon winemaking industry associations
 31 associated with an American viticultural area before determining whether to identify the area by
 32 rule under this subsection.

33 (4)(a) Except as provided in this subsection, the commission may classify one or more grape
 34 varieties used as a type designation on a wine label as an exempt variety. The commission may not
 35 classify Pinot noir as an exempt grape variety. If the commission designates a grape variety as ex-
 36 empt, a wine that bears the exempt grape variety as a type designation is subject to the derivation
 37 requirement in paragraph (b) of this subsection. The classification of a grape variety as exempt shall
 38 apply statewide. The commission shall, at a minimum, classify the following as exempt grape vari-
 39 eties:

40 (A) Cabernet franc;

41 (B) Cabernet Sauvignon;

42 (C) Carmenère;

43 (D) Durif, also referred to as Petite Sirah;

44 (E) Grenache, also referred to as Garnacha;

45 (F) Malbec;

- 1 (G) Marsanne;
- 2 (H) Merlot;
- 3 (I) Mourvèdre;
- 4 (J) Petit Verdot;
- 5 (K) Roussanne;
- 6 (L) Sangiovese;
- 7 (M) Sauvignon blanc, also referred to as Fumé blanc;
- 8 (N) Sémillon;
- 9 (O) Syrah;
- 10 (P) Tannat;
- 11 (Q) Tempranillo; and
- 12 (R) Zinfandel.

13 (b) If a wine label uses an exempt variety as a type designation on its label, at least 75 percent
 14 of the wine, by volume, must be derived from the exempt variety of grape as provided under 27
 15 C.F.R. part 4. The commission shall solicit and consider recommendations by Oregon winemaking
 16 industry associations regarding whether a grape variety should be classified as an exempt variety.

17 **(5) Except as provided in this subsection, the commission may classify one or more grape**
 18 **varieties used as a type designation on a wine label as a nonexclusive grape variety. The**
 19 **commission may not classify Pinot noir grapes as a nonexclusive variety. The commission**
 20 **shall, at a minimum, classify Pinot gris as a nonexclusive grape variety. The classification**
 21 **of a grape variety as nonexclusive shall apply statewide. If the commission designates a wine**
 22 **grape variety as a nonexclusive grape variety, at least 95 percent of the wine, by volume,**
 23 **must be derived from the nonexclusive grape variety as provided under 27 C.F.R. part 4. The**
 24 **name of each grape variety used must be listed on the label as provided under 27 C.F.R. part**
 25 **4. The commission shall solicit and consider recommendations by Oregon winemaking in-**
 26 **dustry associations regarding whether a grape variety should be classified as a nonexclusive**
 27 **variety.**

28 [(5)] (6) Except as provided under subsections (2) to [(4)] (5) of this section, if a wine label bears
 29 the name of an American viticultural area that is located in this state and uses a single grape va-
 30 riety as a type designation, at least 90 percent of the wine, by volume, must be derived from the
 31 grape variety used as the type designation.

32 [(6)(a)] (7)(a) The commission may adopt rules allowing a variance or exemption from labeling
 33 requirements under subsection (2) of this section to allow a winemaker to make use of an existing
 34 stock of labels.

35 [(b) *The commission may not assess a penalty for failure to list a wine variety on a label under*
 36 *subsection (2) of this section if the unlisted grape variety is less than one percent of the wine.*]

37 **(b) The commission may not assess a civil penalty for a violation of subsection (2) of this**
 38 **section if the violation results from the presence of rogue vines in a vineyard and less than**
 39 **one percent of the wine produced from grapes grown in that vineyard is from the grape va-**
 40 **riety other than the variety used as the type designation.**

41 [(7)] (8) Notwithstanding subsections (2), [and] (3) and (5) of this section, except as provided in
 42 subsection (4) of this section, wine produced in an American viticultural area that the commission
 43 identifies under subsection (3) of this section is subject to the content requirement in subsection
 44 [(5)] (6) of this section if:

- 45 (a) The brand name of the wine uses the name of the American viticultural area;

1 (b) The wine has used the brand name continuously since December 31, 1990;

2 (c) The name of the American viticultural area appears on the wine label only in the brand
3 name;

4 (d) The wine does not state or imply any other American viticultural area; and

5 (e) The wine label uses "Oregon" as the sole appellation of origin.

6 **SECTION 5. The amendments to section 2 of this 2019 Act by section 4 of this 2019 Act**
7 **become operative January 1, 2030, and apply to labels on wine bottled on or after that date.**

8 **SECTION 6. (1)(a) The Oregon Liquor Control Commission shall appoint an advisory**
9 **committee to assist the commission in developing rules to carry out section 2 of this 2019**
10 **Act. The commission shall appoint an odd number of members to the advisory committee.**
11 **The commission shall ensure that members of the advisory committee are persons having**
12 **expertise in the production and labeling of Oregon wines.**

13 (b) To the extent practicable, the commission shall appoint advisory committee members
14 from the various wine growing areas of this state in proportion to the relative acreage in
15 those areas used for wine grape production. However, the commission shall appoint at least
16 one advisory committee member from each of the following American viticultural areas:

17 (A) Columbia Gorge.

18 (B) Rogue Valley.

19 (C) Umpqua Valley.

20 (c) In making appointments to the advisory committee, the commission shall consider
21 nominees of Oregon winemaking industry associations or other organizations related to the
22 winemaking industry.

23 (2) The duties of the advisory committee shall include, at a minimum, developing rec-
24 ommendations to the commission regarding:

25 (a) Standards for a winery to request, and for the commission to approve, the use of
26 existing stocks of labels;

27 (b) Subject to subsection (3) of this section, American viticultural areas for which the
28 label requirements of section 2 (2) of this 2019 Act should apply, including but not limited to
29 recommendations regarding any American viticultural areas that extend across state lines;

30 (c) Which grape varieties should receive classification under section 2 of this 2019 Act
31 as exempt varieties;

32 (d) Which grape varieties should, when the classification becomes available, receive
33 classification under section 2 of this 2019 Act as nonexclusive varieties; and

34 (e) A penalty schedule for violations of section 2 of this 2019 Act.

35 (3) The advisory committee shall solicit and consider recommendations by Oregon
36 winemaking industry associations associated with an American viticultural area before the
37 advisory committee may recommend to the commission that an area be subject to the la-
38 beling requirements described in section 2 (2) of this 2019 Act.

39 **SECTION 7. If a wine label uses an American viticultural area located in this state as**
40 **an appellation of origin, the Oregon Liquor Control Commission may require that the wine**
41 **be produced entirely from grapes grown within that American viticultural area.**

42 **SECTION 8. Section 7 of this 2019 Act becomes operative January 1, 2035.**

43 **SECTION 9. The Oregon Liquor Control Commission shall adopt rules establishing a**
44 **penalty schedule for violations of section 2 of this 2019 Act. The commission shall complete**
45 **the adoption of an initial penalty schedule under this section in time for the penalties to take**

1 effect January 1, 2023.

2 **SECTION 10.** The Oregon Liquor Control Commission shall report to an interim com-
3 mittee of the Legislative Assembly relating to business in the manner provided under ORS
4 192.245 no later than September 15, 2020, regarding the recommendations made by the advi-
5 sory committee described in section 6 of this 2019 Act and the status of commission rule
6 adoption proceedings under sections 2 and 9 of this 2019 Act.

7 **SECTION 11.** Section 6 of this 2019 Act is repealed on January 2, 2023.

8 **SECTION 12.** Section 9 of this 2019 Act is repealed on January 2, 2024. The repeal of
9 section 9 of this 2019 Act by this section does not affect the validity of any rules adopted
10 under section 9 of this 2019 Act.

11 **SECTION 13.** This 2019 Act takes effect on the 91st day after the date on which the 2019
12 regular session of the Eightieth Legislative Assembly adjourns sine die.
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