



THEODORE R. KULONGOSKI  
Governor

September 2, 2005

The Honorable Bill Bradbury  
Secretary of State  
900 Court Street NE – Room 136  
Salem OR 97301

Dear Secretary Bradbury:

I am returning Enrolled House Bill 2056 unsigned and disapproved.

HB 2056 was filed, with my support, on behalf of the Oregon Liquor Control Commission (OLCC) prior to the legislative session. The original bill would have increased OLCC's administrative capacity and streamlined its regulatory processes in the area of liquor license issuance and renewal. However, due to an amendment added at the request of the Oregon Restaurant Association (ORA) and adopted in the session's closing hours, HB 2056 now infringes upon local governments' ability to adopt reasonable "time, place and manner" restrictions intended to regulate the nuisance aspects of establishments that serve alcoholic beverages. I do not support limiting local governments in this way; accordingly, I have vetoed HB 2056.

The Oregon Liquor Control Act provides that the OLCC is the primary regulator of liquor licensees. However, the Act also provides local governments with the limited ability "to adopt reasonable time, place and manner regulations of the nuisance aspects of establishments that offer entertainment or serve alcoholic beverages if the city or county makes specific findings that the establishment would cause adverse effects to occur." Reasonable questions have been raised about the appropriate scope and application of local ordinances adopted pursuant to this limited authority. I agree that local governments must proceed with extreme caution when attempting to hold businesses accountable for the behavior of patrons outside their premises and can only proceed within the confines of the limited authority granted by the Liquor Control Act. However, the ORA's amendment – which would significantly narrow the statute and prevent cities and counties from considering links between business practices and patrons' off-site behavior as part of their regulation of community establishments - is not the answer.

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I am concerned that the ongoing conflict over the enforcement of Portland's "time, place and manner" ordinance indicates a lack of effective collaboration and communication between the city, OLCC, law enforcement and business owners. The regulation of establishments that serve alcohol must strike a balance that protects public safety and enables businesses to succeed – and this balance cannot be achieved without the joint participation of all stakeholders. I have asked the OLCC to work with the City of Portland, the League of Oregon Cities, law enforcement, community members, ORA and business representatives to examine the current system for licensing and regulating businesses that serve alcohol. If administrative or legislative changes are necessary to improve the ability of state and local entities to work together to enforce the state's liquor regulations and keep communities safe, I expect the group to bring them forward and to pursue them together.

Some of the positive aspects of the original HB 2056 can be salvaged notwithstanding my veto of the bill. With a steady increase in the number of license applications they receive and process, OLCC has a demonstrated need for the 3 additional license investigator positions that would have been funded by HB 2056's new initial license fee. The authority for these positions does not hinge on the enactment of HB 2056. I expect OLCC to move forward with their plan to seek position authority and expenditure limitation for these three positions from the Emergency Board. In addition, OLCC has some limited ability under HB 2094, a regulatory streamlining bill that I already signed into law, to allow for extended license renewal terms of up to 5 years. I intend to bring the remaining regulatory streamlining changes back to the next legislative session.

Sincerely,

A handwritten signature in black ink, appearing to read "Theodore R. Kulongoski". The signature is fluid and cursive, with a large initial "T" and "K".

THEODORE R. KULONGOSKI  
Governor

TRK:DCR:lmh