

House Bill 2167

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Oregon Liquor Control Commission)

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**.

Creates salesperson license and distillery representative license to be issued by Oregon Liquor Control Commission. Prescribes activities authorized by licenses, license terms and license fees.

Increases annual license fee for distillery licenses and wholesale malt beverage and wine licenses to \$500.

A BILL FOR AN ACT

1
2 Relating to licenses issued by the Oregon Liquor Control Commission; creating new provisions; and
3 amending ORS 471.162, 471.294, 471.311 and 471.392.

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

5 **SECTION 1. Sections 2 and 3 of this 2007 Act are added to and made a part of ORS**
6 **chapter 471.**

7 **SECTION 2. (1) A salesperson license allows the holder to:**

8 (a) **Sell to, offer to sell to or solicit orders from retail licensees for malt beverages, wine**
9 **or cider on behalf of specific manufacturers or wholesalers; and**

10 (b) **Engage in promotional activities directed to retail licensees or their customers de-**
11 **signed to encourage the sale of malt beverages, wine or cider produced by specific manufac-**
12 **turers or wholesalers. Promotional activities under a salesperson license may not violate the**
13 **prohibitions of ORS 471.392 to 471.400.**

14 (2) **A salesperson license may be issued only to a person who works for or represents a**
15 **manufacturer or wholesaler of malt beverages, wine or cider. A person who works for or**
16 **represents a manufacturer or wholesaler of malt beverages, wine or cider may engage in the**
17 **activities described in subsection (1) of this section only if the person holds a salesperson**
18 **license issued under this section.**

19 (3) **Notwithstanding ORS 471.392 to 471.400, a person who holds a salesperson license may**
20 **hold a service permit issued under ORS 471.360 to 471.390. A person who holds a salesperson**
21 **license may serve malt beverages, wine and cider for on-premises consumption only if:**

22 (a) **The person holds a service permit;**

23 (b) **The person is employed by or represents a specific manufacturer or wholesaler of**
24 **malt beverages, wine or cider at the time the beverages are served; and**

25 (c) **The service of the alcoholic beverages for on-premises consumption is authorized**
26 **under the license held by the manufacturer or wholesaler.**

27 (4) **For the purposes of this section, "manufacturer or wholesaler" means:**

28 (a) **A person who holds a brewery-public house license issued under ORS 471.200, a**
29 **brewery license issued under ORS 471.220, a winery license issued under ORS 471.223, a**
30 **grower sales privilege license issued under ORS 471.227, a wholesale malt beverage and wine**

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 license issued under ORS 471.235 or a warehouse license issued under ORS 471.242.

2 (b) Any manufacturer of alcoholic liquors whose products are sold in the State of Oregon.

3 **SECTION 3.** (1) A distillery representative license allows the holder to:

4 (a) Sell to, offer to sell to or solicit orders for distilled liquors from the Oregon Liquor
5 Control Commission on behalf of specific manufacturers or wholesalers; and

6 (b) Engage in promotional activities directed to retail licensees or their customers de-
7 signed to encourage the sale of distilled liquors produced by specific manufacturers or
8 wholesalers. Promotional activities under a distillery representative license may not violate
9 the prohibitions of ORS 471.392 to 471.400.

10 (2) A distillery representative license may be issued only to a person who works for or
11 represents a manufacturer or wholesaler of distilled liquor. A person who works for or re-
12 presents a manufacturer or wholesaler of distilled liquor may engage in the activities de-
13 scribed in subsection (1) of this section only if the person holds a distillery representative
14 license issued under this section.

15 (3) Notwithstanding ORS 471.392 to 471.400, a person who holds a distillery representative
16 license may hold a service permit issued under ORS 471.360 to 471.390. A person who holds
17 a distillery representative license may serve distilled liquor for on-premises consumption
18 only if:

19 (a) The person holds a service permit;

20 (b) The person is employed by or represents a specific manufacturer or wholesaler of
21 distilled liquor at the time the beverages are served; and

22 (c) The service of the distilled liquor for on-premises consumption is authorized under
23 the license held by the manufacturer or wholesaler.

24 **SECTION 4.** ORS 471.162 is amended to read:

25 471.162. (1) Hospitals, sanitariums, convalescent homes, rest homes, retirement homes and facil-
26 ities for the care of the elderly that have been licensed or registered by the state may sell and serve
27 alcoholic beverages to patients, inmates and residents, and to bona fide visitors and guests of pa-
28 tients, inmates and residents, without a license issued under this chapter. Facilities authorized to
29 sell and serve alcoholic beverages without a license under this subsection may not sell or serve al-
30 coholic beverages after 10 p.m. except upon a physician's prescription.

31 (2) A person who operates a private residence that is not a boarding house but that accommo-
32 dates transient guests for a limited duration may sell and serve wine, malt beverages and cider to
33 registered overnight guests without a license. Facilities authorized to sell and serve alcoholic
34 beverages without a license under this subsection must have six or fewer guest units.

35 *[(3) A person who is an employee or agent of the holder of a license issued under this chapter that
36 authorizes wholesale distribution of alcoholic beverages may, on behalf of the licensee, sell alcoholic
37 beverages in factory-sealed containers to retail licensees and wholesalers.]*

38 *[(4)]* (3) A pharmacist licensed under the laws of this state may sell alcoholic beverages without
39 a license. Pharmacists may only sell alcoholic beverages under the provisions of this section if the
40 alcoholic beverages are drugs as defined in ORS 689.005. A pharmacist may sell alcoholic beverages
41 under the provisions of this subsection pursuant to a prescription, in containers of not more than
42 one quart capacity.

43 *[(5)]* (4) A wine collector, or the agent of a wine collector, may sell wine in factory-sealed con-
44 tainers at auction without a license. Any wine sold under this subsection must have been held by
45 the collector for at least a six-month period. A wine collector must receive written approval from

1 the Oregon Liquor Control Commission before conducting a sale under this subsection. No more
 2 than one sale in a 12-month period may be conducted by a wine collector under the provisions of
 3 this subsection.

4 [(6)] (5) A nonprofit or charitable organization registered with the state may sell wine and malt
 5 beverages in factory-sealed containers at auction without a license. The organization must receive
 6 written approval from the commission before conducting a sale under this subsection. No more than
 7 one sale in a 12-month period may be conducted by an organization under the provisions of this
 8 subsection.

9 [(7)] (6) A manufacturer may sell proprietary or patent medicines, perfumes, lotions, flavoring
 10 extracts, medicinal tinctures and other preparations unfit for beverage purposes without a license.

11 **SECTION 5.** ORS 471.294 is amended to read:

12 471.294. (1) Except as otherwise provided in this section, all licenses under this chapter and
 13 renewals thereof [*shall be*] **are** issued for a period of one year [*which shall*] **and** expire at 12 mid-
 14 night on March 31, June 30, September 30 or December 31 of each year.

15 (2) Notwithstanding subsection (1) of this section, a license issued for the first time to an ap-
 16 plicant may be issued for less than a year. The license fee for the first license issued to an applicant,
 17 if the license is issued for a fraction of a year, shall be proportionate to the annual license computed
 18 on a quarterly basis, counting a major fraction of a quarter as a whole quarter.

19 (3) The term of a temporary letter of authority or license issued under ORS 471.302 or any
 20 temporary sales license is the period fixed by the Oregon Liquor Control Commission when the let-
 21 ter or license is issued.

22 (4) **Salesperson licenses under section 2 of this 2007 Act and distillery representative li-**
 23 **licenses under section 3 of this 2007 Act are issued for a period not to exceed two years,**
 24 **commencing on the date of issuance and ending on December 31 of the calendar year next**
 25 **following the year of issuance. Renewals of salesperson licenses and distillery licenses are for**
 26 **a period of two years.**

27 **SECTION 6.** ORS 471.311 is amended to read:

28 471.311. (1) Any person desiring a license or renewal of a license under this chapter shall make
 29 application to the Oregon Liquor Control Commission upon forms to be furnished by the commission
 30 showing the name and address of the applicant, location of the place of business that is to be op-
 31 erated under the license, and such other pertinent information as the commission may require. No
 32 license shall be granted or renewed until the applicant has complied with the provisions of [*the Li-*
 33 *quor Control Act, the provisions of the Oregon Distilled Liquor Control Act*] **this chapter** and the
 34 rules of the commission.

35 (2) The commission may reject any application that is not submitted in the form required by
 36 rule. The commission shall give applicants an opportunity to be heard if an application is rejected.
 37 A hearing under this subsection is not subject to the requirements for contested case proceedings
 38 under ORS chapter 183.

39 (3) Subject to subsection (4) of this section, the commission shall assess a nonrefundable fee for
 40 processing a renewal application for any license authorized by this chapter only if the renewal ap-
 41 plication is received by the commission less than 20 days before expiration of the license. If the
 42 renewal application is received prior to expiration of the license but less than 20 days prior to ex-
 43 piration, this fee shall be 25 percent of the annual license fee. If a renewal application is received
 44 by the commission after expiration of the license but no more than 30 days after expiration, this fee
 45 shall be 40 percent of the annual license fee. This subsection does not apply to a certificate of ap-

1 proval, a brewery-public house license or any license that is issued for a period of less than 30 days.

2 (4) The commission may waive the fee imposed under subsection (3) of this section if it finds that
 3 failure to submit a timely application was due to unforeseen circumstances or to a delay in pro-
 4 cessing the application by the local governing authority that is no fault of the licensee.

5 (5) The annual license fee is nonrefundable and shall be paid by each applicant upon the
 6 granting or committing of a license. Subject to ORS 471.155 and 473.065, the annual license fee and
 7 the minimum bond required of each class of license under this chapter are as follows:

License	Minimum Fee	Bond
Brewery, including		
Certificate of Approval	\$ 500	\$ 1,000
Winery	250	1,000
Distillery	[100] 500	None
Wholesale Malt		
Beverage and Wine	[275] 500	1,000
Warehouse	100	1,000
Special events winery license may be issued to a winery licensee at	\$ 10 per day	
Brewery-Public House, including Certificate of Approval	\$ 250	\$ 1,000
Limited On-Premises Sales	\$ 200	None
Off-Premises Sales	\$ 100	None
Temporary Sales	\$ 25 for events lasting five hours or less and \$25 for each additional period of five hours or less	
Grower sales privilege license	\$ 250	\$ 1,000
Special events grower sales privilege license	\$ 10 per day	

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 42 (6) The fee for a certificate of approval or special certificate of approval granted under ORS
 43 471.289 is nonrefundable and must be paid by each applicant upon the granting or committing of a
 44 certificate of approval or special certificate of approval. No bond is required for the granting of a
 45 certificate of approval or special certificate of approval. Certificates of approval are valid for a pe-

1 rioid commencing on the date of issuance and ending on December 31 of the fifth calendar year fol-
2 lowing the calendar year of issuance. The fee for a certificate of approval is \$175. Special
3 certificates of approval are valid for a period of 30 days. The fee for a special certificate of approval
4 is \$10.

5 (7) Except as provided in subsection (8) of this section, the annual license fee for a full on-
6 premises sales license is \$400. No bond is required for any full on-premises sales license.

7 (8) The annual license fee for a full on-premises sales license held by a private club as described
8 in ORS 471.175 (8), or held by a nonprofit or charitable organization that is registered with the state,
9 is \$200.

10 **(9) The license fee for issuance or renewal of a salesperson license or a distillery repre-**
11 **sentative license is \$200. The license is valid for the period described in ORS 471.294 (4). No**
12 **bond is required for a salesperson license or a distillery representative license.**

13 **SECTION 7.** ORS 471.392 is amended to read:

14 471.392. For the purposes of ORS 471.392 to 471.400:

15 (1) "Manufacturer or wholesaler" means:

16 (a) A person holding a brewery license issued under ORS 471.220, a winery license issued under
17 ORS 471.223, a grower sales privilege license issued under ORS 471.227, a distillery license issued
18 under ORS 471.230, a wholesale malt beverage and wine license issued under ORS 471.235, [or] a
19 warehouse license issued under ORS 471.242, **a salesperson license issued under section 2 of this**
20 **2007 Act or a distillery representative license issued under section 3 of this 2007 Act.**

21 (b) Any manufacturer of alcoholic liquors whose products are sold in the State of Oregon.

22 (2) "Retail licensee" means the holder of a full or limited on-premises sales license, an off-
23 premises sales license or a temporary sales license. "Retail licensee" does not include a bona fide
24 trade association that represents retail licensees and that is open to all persons licensed under at
25 least one type of retail license.

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