

# House Bill 2535

Sponsored by Representative DINGFELDER, Senator MORRISSETTE

## 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**.

Imposes malt beverage cost recovery fee on malt beverages. Establishes Alcohol Impact Remediation Fund. Continuously appropriates moneys in fund to Department of Human Services. Distributes moneys to cities and counties for alcohol and drug abuse and mental health preventive, early intervention and treatment services, public health services, law enforcement purposes related to mental health and addiction activities, drug-free housing efforts and drug court program funding.

Applies to malt beverage cost recovery fee reporting periods beginning on or after effective date of Act.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to malt beverage cost recovery fees; creating new provisions; amending ORS 471.805; ap-  
3 propriating money; prescribing an effective date; and providing for revenue raising that requires  
4 approval by a three-fifths majority.

5 Whereas Oregon has one of the lowest taxes on malt beverages in the nation; and

6 Whereas Oregon's current wholesale malt beverage tax has not been raised for 30 years; and

7 Whereas Oregon collects only \$1 of alcohol tax for every estimated \$39 of alcohol-related health  
8 care costs; and

9 Whereas underage drinking cost the citizens of Oregon an estimated \$724 million in 2005; and

10 Whereas alcohol abuse and alcoholism cost each Oregonian an estimated \$683 annually; and

11 Whereas Oregon eighth graders' use of alcohol is an estimated 80.5 percent higher than the  
12 national average; and

13 Whereas underage drinkers consumed an estimated 15.3 percent of all alcohol sold in Oregon in  
14 2005, totaling an estimated \$278 million in sales and estimated profits of \$135 million to the alcohol  
15 industry; and

16 Whereas increasing alcohol taxes has been shown to reduce underage drinking; and

17 Whereas the Governor's Task Group on Underage Drinking in Oregon concluded that "raising  
18 the price of alcohol would do more to combat youth use of alcohol than any other strategy"; and

19 Whereas the report of the Institute of Medicine and the National Research Council on reducing  
20 underage drinking specifically recommended that "Congress and state legislatures should raise ex-  
21 cise taxes to reduce underage consumption and to raise additional revenues for this purpose"; and

22 Whereas top priority should be given to raising malt beverage taxes and indexing those taxes  
23 to the Consumer Price Index so that the taxes keep pace with inflation without the necessity of  
24 further legislative action; and

25 Whereas four out of five Oregonians polled are in favor of increasing an alcohol tax; now,  
26 therefore,

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

28 **SECTION 1. Section 2 of this 2007 Act is added to and made a part of ORS chapter 473.**

**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       **SECTION 2.** (1) In addition to and not in lieu of any charge imposed under ORS 473.030  
 2 or other law, in order to recover a portion of the government costs incurred as a result of  
 3 the consumption of malt beverages, a manufacturer or an importing distributor of malt  
 4 beverages shall be subject to a malt beverage cost recovery fee of \$32 per barrel of 31 gallons  
 5 of malt beverage.

6       (2) A manufacturer of malt beverages that annually produces less than 125,000 barrels  
 7 of malt beverages subject to the tax in ORS 473.030 (1) is exempt from the malt beverage cost  
 8 recovery fee described in subsection (1) of this section. An importing distributor of malt  
 9 beverages from manufacturers that annually produce less than 125,000 barrels of malt  
 10 beverages subject to the tax in ORS 473.030 (1) is exempt from the malt beverage cost re-  
 11 covery fee described in subsection (1) of this section on the products of those manufacturers.

12       (3) The malt beverage cost recovery fee shall be applied proportionally to quantities in  
 13 containers of different capacity than the quantity specified in this section.

14       (4) The malt beverage cost recovery fee shall be paid to the Oregon Liquor Control  
 15 Commission at the same time that privilege taxes are paid to the commission.

16       (5) For all purposes of collection and enforcement, reporting, claims for refunds, penal-  
 17 ties, interest, record keeping, inspection of records, appeals, confidentiality and disclosure  
 18 of information, the malt beverage cost recovery fee shall be considered to be a privilege tax  
 19 imposed under ORS 473.030.

20       **SECTION 3.** ORS 471.805 is amended to read:

21       471.805. (1) Except as otherwise provided in ORS 471.810 (2), all money collected by the Oregon  
 22 Liquor Control Commission under this chapter and ORS chapter 473 and privilege taxes shall be  
 23 remitted to the State Treasurer who shall credit it to a suspense account of the commission.  
 24 Whenever the commission determines that moneys have been received by it in excess of the amount  
 25 legally due and payable to the commission or that it has received money to which it has no legal  
 26 interest, or that any license fee or deposit is properly refundable, the commission is authorized and  
 27 directed to refund such money by check drawn upon the State Treasurer and charged to the sus-  
 28 pense account of the commission. After withholding refundable license fees and such sum, not to  
 29 exceed \$250,000, as it considers necessary as a revolving fund for a working cash balance for the  
 30 purpose of paying travel expenses, advances, other miscellaneous bills and extraordinary items  
 31 which are payable in cash immediately upon presentation, the commission shall direct the State  
 32 Treasurer to transfer the money remaining in the suspense account [to] as follows:

33       (a) Amounts collected under section 2 of this 2007 Act shall be transferred to the Alcohol  
 34 Impact Remediation Fund created under section 4 of this 2007 Act; and

35       (b) The balance of the suspense account following the transfer of funds under paragraph  
 36 (a) of this subsection shall be transferred to the Oregon Liquor Control Commission Account in  
 37 the General Fund. Moneys in the Oregon Liquor Control Commission Account are continuously ap-  
 38 propriated to the commission to be distributed and used as required or allowed by law.

39       (2) All necessary expenditures of the commission incurred in carrying out the purposes required  
 40 of the commission by law, including the salaries of its employees, purchases made by the commission  
 41 and such sums necessary to reimburse the \$250,000 revolving fund, shall be audited and paid from  
 42 the Oregon Liquor Control Commission Account in the General Fund, upon warrants drawn by the  
 43 Oregon Department of Administrative Services, pursuant to claims duly approved by the commission.

44       **SECTION 4.** (1) The Alcohol Impact Remediation Fund is created, separate and distinct  
 45 from the General Fund. Interest earned by the Alcohol Impact Remediation Fund shall be

1 credited to the Alcohol Impact Remediation Fund.

2 (2) Moneys in the Alcohol Impact Remediation Fund are continuously appropriated to the  
3 Department of Human Services to be distributed in each calendar quarter as follows:

4 (a) 10 percent of the balance in the fund shall be distributed in equal shares to each local  
5 mental health authority for addiction prevention and treatment.

6 (b) The remaining balance shall be distributed as follows and for the following purposes:

7 (A) 7.7 percent of the remaining balance to the Housing and Community Services De-  
8 partment for the purpose of establishing, maintaining and ensuring drug-free housing;

9 (B) 7.7 percent of the remaining balance to the Judicial Department for the purpose of  
10 funding drug court programs established under ORS 3.450;

11 (C) 7.7 percent of the remaining balance to the Department of Human Services for the  
12 purpose of funding mental health and chemical dependency residential treatment;

13 (D) 7.7 percent of the remaining balance to counties for law enforcement purposes that  
14 are related to mental health and addiction activities, including but not limited to community  
15 corrections, physician holds, enforcement of laws relating to driving while under the influ-  
16 ence of intoxicants or enforcement of laws relating to alcoholic beverage purchaser and sales  
17 requirements;

18 (E) 7.7 percent of the remaining balance to cities for law enforcement purposes that are  
19 related to mental health and addiction activities, including but not limited to community  
20 corrections, physician holds, enforcement of laws relating to driving while under the influ-  
21 ence of intoxicants or enforcement of laws relating to alcoholic beverage purchaser and sales  
22 requirements;

23 (F) 7.7 percent of the remaining balance to counties for public health authority programs  
24 related to alcohol and drug abuse prevention and treatment;

25 (G) 7.7 percent of the remaining balance to a single statewide entity, to be identified by  
26 the Department of Human Services, for the purpose of alcohol and other drug abuse pre-  
27 vention activities, including but not limited to underage drinking and addiction issues related  
28 to children and families;

29 (H) 7.7 percent of the remaining balance to local mental health authorities for the pur-  
30 pose of alcohol and other drug abuse prevention activities, including but not limited to  
31 underage drinking and addiction issues related to children and families; and

32 (I) 38.4 percent of the remaining balance to local mental health authorities for the pur-  
33 pose of addiction prevention, treatment and post-treatment care.

34 (3)(a) The distributions to each county described in subsection (2)(b)(D) and (F) of this  
35 section shall be in the same proportion to the total amount distributed under subsection  
36 (2)(b)(D) and (F) of this section as the population of the county bears to the total state pop-  
37 ulation.

38 (b) The distribution to each city described in subsection (2)(b)(E) of this section shall be  
39 in the same proportion to the total amount distributed under subsection (2)(b)(E) of this  
40 section as the population of the city bears to the total population of all cities in this state.

41 (c) The distributions to each local mental health authority described in subsection  
42 (2)(b)(H) and (I) of this section shall be in the same proportion to the total amount distrib-  
43 uted under subsection (2)(b)(H) and (I) of this section as the population of the county the  
44 local mental health authority represents bears to the total state population. For purposes  
45 of this paragraph, a tribe whose tribal council has elected to provide mental health services

1 as described in ORS 430.630 (10)(a)(B) shall be considered a county.

2 (d) The distributions to the single statewide entity described in subsection (2)(b)(G) of  
 3 this section shall be used by the entity to provide prevention training and technical assist-  
 4 ance, coordinate prevention programs throughout this state and conduct statewide surveys  
 5 to collect data to be used for assessing the effectiveness of prevention programs.

6 (e)(A) Moneys distributed to a local mental health authority under subsection (2)(b)(H)  
 7 of this section may be further allocated by the authority only with the approval of the local  
 8 alcoholism planning committee. Up to 18 percent of the amount distributed to an authority  
 9 under subsection (2)(b)(H) of this section may be used for a county alcohol and drug abuse  
 10 prevention coordinator and administrative support for the coordinator, but only if the local  
 11 alcoholism planning committee determines that a coordinator is needed. At least 82 percent  
 12 of the amount distributed under subsection (2)(b)(H) of this section shall be further allocated  
 13 to community-based alcohol and drug abuse prevention organizations that have a docu-  
 14 mented history of community-based prevention work.

15 (B) For purposes of this paragraph, “community-based prevention work” includes but is  
 16 not limited to underage drinking prevention, parent involvement, workplace initiatives,  
 17 community mobilization, youth-led prevention, community service initiatives and public  
 18 communications and media initiatives that are designed to educate the general public about  
 19 preventing underage use of alcohol or illicit use of drugs.

20 (4)(a) Except as provided in subsection (3)(e)(A) of this section, any recipient of funds  
 21 under this section may not use more than eight percent of the funds received for adminis-  
 22 trative purposes.

23 (b) If requested by the Department of Human Services, a recipient of funds under this  
 24 section shall cause an independent audit of the expenditure of these funds to be performed  
 25 to ensure that the expenditure of the funds is for the purposes designated. The recipient  
 26 shall submit a report of the audit to the department.

27 (c) The Department of Human Services may not be charged and is not liable for the costs  
 28 of an audit described in this subsection.

29 (5) As used in this section:

30 (a) “Local alcoholism planning committee” means a local alcoholism planning committee  
 31 described in ORS 430.342.

32 (b) “Local mental health authority” has the meaning given that term in ORS 430.630  
 33 (10)(a).

34 **SECTION 5.** Section 2 of this 2007 Act applies to malt beverage cost recovery fee re-  
 35 porting periods beginning on or after the effective date of this 2007 Act.

36 **SECTION 6.** The amendments to ORS 471.805 by section 3 of this 2007 Act become oper-  
 37 ative 60 days after the effective date of this 2007 Act.

38 **SECTION 7.** This 2007 Act takes effect on the 91st day after the date on which the reg-  
 39 ular session of the Seventy-fourth Legislative Assembly adjourns sine die.