

(To Resolve Conflicts)

B-Engrossed House Bill 2677

Ordered by the Senate June 7
Including House Amendments dated May 14 and Senate Amendments
dated June 7 to resolve conflicts

Sponsored by Representative SCHAUFLEER

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.

Authorizes Oregon Liquor Control Commission to issue wine self-distribution permit to United States manufacturer of wine or cider. Provides that permit may be issued only to manufacturer that holds certificate of approval and license issued by another state that authorizes manufacture of wine or cider.

Provides that wine self-distribution permit authorizes holder to sell and transport wine or cider that holder produces directly to commission or certain retail licensees in Oregon.

Requires retail licensee to report to commission regarding purchase of wine or cider from permit holders.

Requires wine or cider shipped or transported by persons holding wine self-distribution permits and holders of winery licenses, grower sales privilege licenses, wholesale malt beverage and wine licenses and warehouse licenses to be shipped or transported only by employees of licensee or permit holder or by common carrier using commission-approved delivery plan.

A BILL FOR AN ACT

1
2 Relating to wine self-distribution permits; creating new provisions; and amending ORS 471.155,
3 471.311, 471.404 and 473.150.

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

5 **SECTION 1. Section 2 of this 2007 Act is added to and made a part of ORS chapter 471.**

6 **SECTION 2. (1) The Oregon Liquor Control Commission may issue a wine self-**
7 **distribution permit to a United States manufacturer of wine or cider. The commission may**
8 **issue a wine self-distribution permit only to a manufacturer of wine or cider that:**

9 (a) **Holds a license issued by another state that authorizes the manufacture of wine or**
10 **cider; and**

11 (b) **Holds a certificate of approval issued under ORS 471.289.**

12 (2) **The holder of a wine self-distribution permit may sell at wholesale and transport wine**
13 **or cider that the manufacturer produces directly to the commission, or to retail licensees in**
14 **the manner provided by this section. A wine self-distribution permit allows the holder to sell**
15 **wine or cider that the holder produces only to retail licensees who hold a valid endorsement**
16 **issued by the commission authorizing receipt of wine or cider from the holder of a wine**
17 **self-distribution permit.**

18 (3) **In addition to the information required by ORS 471.311 for licenses, an applicant for**
19 **a wine self-distribution permit shall provide the commission with a copy of the license held**
20 **by the applicant and any information required by the commission to establish that the li-**

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 cense held by the applicant authorizes the manufacture of wine or cider.

2 (4) A person holding a wine self-distribution permit is responsible for paying all taxes
3 imposed under ORS chapter 473, and for complying with all reporting requirements imposed
4 by ORS chapter 473, for all wine and cider sold and transported to retail licensees in this
5 state. The commission may revoke, or refuse to issue, a wine self-distribution permit if the
6 holder of a permit fails to pay taxes or make reports as required by ORS chapter 473.

7 (5) A retail licensee may receive wine or cider from the holder of a wine self-distribution
8 permit only if the licensee has received prior authorization from the commission. Prior au-
9 thorization under this subsection must be made by an endorsement to the license for the
10 premises where the wine or cider will be received. The commission may not charge or collect
11 a fee for an endorsement under this subsection.

12 (6)(a) Except as provided in paragraph (b) of this subsection, a retail licensee that re-
13 ceives wine or cider from holders of wine self-distribution permits must make a monthly
14 report to the commission, using a form prescribed by the commission, listing the amount
15 of all wine or cider received from permit holders in the previous month, and the names of
16 the permit holders from whom the wine or cider was received. Retail licensees shall retain
17 such purchase records for products received from permit holders as may be required by the
18 commission.

19 (b) The holder of a full or limited on-premises sales license is not required to file a report
20 under this subsection for any month in which the licensee receives two or fewer cases of
21 wine from holders of wine self-distribution permits.

22 (7) A manufacturer that is not licensed by the commission may sell and transport wine
23 or cider directly to a retail licensee, and a retail licensee may receive wine or cider directly
24 from a manufacturer that is not licensed by the commission, only if the manufacturer holds
25 a wine self-distribution permit issued under this section.

26 (8) The holder of a wine self-distribution permit consents to the jurisdiction of the com-
27 mission and the courts of this state for the purpose of enforcing the provisions of this
28 chapter, ORS chapter 473 and any related laws or rules.

29 (9) The holder of a wine self-distribution permit must post a bond or other security, as
30 described in ORS 471.155.

31 (10) The commission may revoke, or refuse to issue, a wine self-distribution permit if the
32 holder of a permit fails to comply with any provision of this section.

33 **SECTION 2a.** Section 2b of this 2007 Act is added to and made a part of ORS chapter 471.

34 **SECTION 2b.** (1) Wine or cider may be shipped or transported by a licensee or permit
35 holder described in subsection (2) of this section only by employees of the licensee or permit
36 holder, or by a common carrier using a commission-approved delivery plan. The holder of a
37 wine self-distribution permit that uses a common carrier to ship or transport wine or cider
38 shall take reasonable steps to ensure that the wine or cider is sold and transported only to
39 licensees that are authorized to receive the wine or cider under section 2 of this 2007 Act.

40 (2) The provisions of this section apply to persons holding wine self-distribution permits
41 and the holders of winery licenses, grower sales privilege licenses, wholesale malt beverage
42 and wine licenses and warehouse licenses issued by the commission.

43 **SECTION 3.** ORS 471.311 is amended to read:

44 471.311. (1) Any person desiring a license or renewal of a license under this chapter shall make
45 application to the Oregon Liquor Control Commission upon forms to be furnished by the commission

1 showing the name and address of the applicant, location of the place of business that is to be op-
 2 erated under the license, and such other pertinent information as the commission may require. No
 3 license shall be granted or renewed until the applicant has complied with the provisions of the Li-
 4 quor Control Act, the provisions of the Oregon Distilled Liquor Control Act and the rules of the
 5 commission.

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

10 (3) Subject to subsection (4) of this section, the commission shall assess a nonrefundable fee for
 11 processing a renewal application for any license authorized by this chapter only if the renewal ap-
 12 plication is received by the commission less than 20 days before expiration of the license. If the
 13 renewal application is received prior to expiration of the license but less than 20 days prior to ex-
 14 piration, this fee shall be 25 percent of the annual license fee. If a renewal application is received
 15 by the commission after expiration of the license but no more than 30 days after expiration, this fee
 16 shall be 40 percent of the annual license fee. This subsection does not apply to a certificate of ap-
 17 proval, a brewery-public house license or any license that is issued for a period of less than 30 days.

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

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

License	Minimum Fee	Minimum Bond
Brewery, including		
Certificate of Approval	\$ 500	\$ 1,000
Winery	250	1,000
Distillery	100	None
Wholesale Malt		
Beverage and Wine	275	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	

1		or less and	
2		\$25 for each	
3		additional period	
4		of five hours	
5		or less	
6	Grower sales privilege		
7	license	\$ 250	\$ 1,000
8	Special events grower		
9	sales privilege		
10	license	\$ 10 per day	

13 (6) The fee for a certificate of approval or special certificate of approval granted under ORS
 14 471.289 is nonrefundable and must be paid by each applicant upon the granting or committing of a
 15 certificate of approval or special certificate of approval. No bond is required for the granting of a
 16 certificate of approval or special certificate of approval. Certificates of approval are valid for a pe-
 17 riod commencing on the date of issuance and ending on December 31 of the fifth calendar year fol-
 18 lowing the calendar year of issuance. The fee for a certificate of approval is \$175. Special
 19 certificates of approval are valid for a period of 30 days. The fee for a special certificate of approval
 20 is \$10.

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

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

26 **(9) The annual fee for a wine self-distribution permit is \$100, and the minimum bond is**
 27 **\$1,000.**

28 **SECTION 4.** ORS 473.150 is amended to read:

29 473.150. (1) The Oregon Liquor Control Commission may, at any time, examine the books and
 30 records of **a holder of a wine self-distribution permit or of** any manufacturer of wine, cider or
 31 malt beverages, and may appoint [*such*] auditors, investigators and other employees [*as it deems*]
 32 **that the commission considers** necessary to enforce its powers and perform its duties under this
 33 section.

34 (2) Every **holder of a wine self-distribution permit and every** manufacturer shall maintain
 35 and keep[, *within this state*] for two years[,] all records, books and accounts required by this chapter
 36 **and shall provide copies of those records, books and accounts to the commission when re-**
 37 **quested by the commission.**

38 **SECTION 5.** ORS 471.155 is amended to read:

39 471.155. (1) The Oregon Liquor Control Commission shall provide for the licensing of persons
 40 and cities within the state to manufacture, distribute, take orders for and sell spirits, wines, beer
 41 and other alcoholic liquors. Except as provided in subsection (2) of this section, [*every licensee or*
 42 *applicant for a*] **the holder of a** brewery, winery, wholesale, warehouse, grower sales privilege or
 43 brewery-public house license **or the holder of a wine self-distribution permit** shall give, and at
 44 all times maintain on file with the commission, a bond with a corporate surety authorized to trans-
 45 act business in this state. The bond shall be in form and amount acceptable to the commission, shall

1 be payable to the commission and conditioned that [*such*] **the** licensee or [*applicant*] **permittee** will
 2 pay any fine imposed for any violation of any provision of the Liquor Control Act and that the
 3 licensee or [*applicant*] **permittee** will pay all license fees, privilege taxes[,] **and** taxes on alcoholic
 4 liquors, together with penalties and interest thereon, levied or assessed against the licensee or [*ap-*
 5 *plicant*] **permittee** under statutes relating to the importation, manufacture, distribution, sale or
 6 taxation of alcoholic liquors in the State of Oregon.

7 (2) Under such conditions as the commission may prescribe, [*a*] **the holder of a** brewery, winery,
 8 wholesale, warehouse, grower sales privilege or brewery-public house [*licensee or applicant*] **license**
 9 **or the holder of a wine self-distribution permit** may deposit, in lieu of the bond required by
 10 subsection (1) of this section, the equivalent value in cash, bank letters of credit recognized by the
 11 State Treasurer or negotiable securities of a character approved by the State Treasurer. The deposit
 12 is to be made in a bank or trust company for the benefit of the commission. Interest on deposited
 13 funds or securities shall accrue to the depositor.

14 **SECTION 5a. If House Bill 2486 becomes law, section 5 of this 2007 Act (amending ORS**
 15 **471.155) is repealed and ORS 471.155, as amended by section 1, chapter __, Oregon Laws 2007**
 16 **(Enrolled House Bill 2486), is amended to read:**

17 471.155. (1) The Oregon Liquor Control Commission shall provide for the licensing of persons
 18 and cities within the state to manufacture, distribute, take orders for and sell spirits, wines, beer
 19 and other alcoholic liquors. Except as provided in subsection (2) of this section, [*every licensee or*
 20 *applicant for a*] **the holder of a** brewery, winery, wholesale, warehouse, grower sales privilege or
 21 brewery-public house license **or the holder of a wine self-distribution permit** shall give, and at
 22 all times maintain on file with the commission, a bond with a corporate surety authorized to trans-
 23 act business in this state. The bond shall be in form and amount acceptable to the commission, shall
 24 be payable to the commission and conditioned that [*such*] **the** licensee or [*applicant*] **permittee** will
 25 pay any fine imposed for any violation of any provision of the Liquor Control Act and that the
 26 licensee or [*applicant*] **permittee** will pay all license fees, privilege taxes, taxes imposed under ORS
 27 473.045 and other taxes on alcoholic liquors, together with penalties and interest thereon, levied or
 28 assessed against the licensee or [*applicant*] **permittee** under statutes relating to the importation,
 29 manufacture, distribution, sale or taxation of alcoholic liquors in the State of Oregon.

30 (2) Under such conditions as the commission may prescribe, [*a*] **the holder of a** brewery, winery,
 31 wholesale, warehouse, grower sales privilege or brewery-public house [*licensee or applicant*] **license**
 32 **or the holder of a wine self-distribution permit** may deposit, in lieu of the bond required by
 33 subsection (1) of this section, the equivalent value in cash, bank letters of credit recognized by the
 34 State Treasurer or negotiable securities of a character approved by the State Treasurer. The deposit
 35 is to be made in a bank or trust company for the benefit of the commission. Interest on deposited
 36 funds or securities shall accrue to the depositor.

37 **SECTION 6.** ORS 471.404 is amended to read:

38 471.404. (1) No alcoholic liquor shall be imported into this state by any person not holding a
 39 brewery, winery, distillery or wholesaler's license, except as follows:

- 40 (a) Alcoholic liquor ordered by and en route to the Oregon Liquor Control Commission.
- 41 (b) Wines for sacramental purposes according to rules adopted by the commission.
- 42 (c) Alcoholic liquor that is in transit on a common carrier to a destination outside Oregon.
- 43 (d) Alcoholic liquor coming into Oregon on a common carrier according to orders placed by a
 44 licensed brewery, winery or wholesaler.
- 45 (e) Imported alcoholic liquor pursuant to a permit issued under subsection (2) of this section.

1 **(f) Wine or cider that is sold and transported by the holder of a wine self-distribution**
2 **permit to a retail licensee that has the endorsement described in section 2 (5) of this 2007**
3 **Act.**

4 (2) The commission may require importers of alcoholic liquor to secure a permit for each
5 importation and may charge a reasonable fee based on quantity and type for the permit.

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