

House Bill 2731

Sponsored by Representative HOLVEY, Senator METSGER

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**.

Increases tax on malt beverages, wines and cider. Dedicates increased tax moneys to funding alcohol and drug abuse prevention and treatment and to funding state police.

Applies to tax reporting periods beginning on or after January 1, 2008.

A BILL FOR AN ACT

1
2 Relating to beverage taxes; creating new provisions; amending ORS 221.770, 471.805, 471.810,
3 473.030, 473.035, 473.047, 473.065 and 576.775; and providing for revenue raising that requires
4 approval by a three-fifths majority.

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

6 **SECTION 1.** ORS 473.030 is amended to read:

7 473.030. (1) A tax is imposed upon the privilege of engaging in business as a manufacturer or
8 as an importing distributor of malt beverages at the rate of \$2.60 per barrel of 31 gallons on all such
9 beverages.

10 **(2) In addition to the tax imposed by subsection (1) of this section, a manufacturer or**
11 **an importing distributor of malt beverages shall be taxed at the rate of \$_____ per barrel**
12 **of 31 gallons.**

13 [(2)] **(3)** A tax is imposed upon the privilege of engaging in business as a manufacturer or as an
14 importing distributor of wines at the rate of 65 cents per gallon on all such beverages.

15 [(3)] **(4)** In addition to the tax imposed by subsection [(2)] **(3)** of this section, a manufacturer or
16 an importing distributor of wines containing more than 14 percent alcohol by volume shall be taxed
17 at the rate of 10 cents per gallon.

18 [(4)] **(5)** In addition to the taxes imposed by subsections [(2) and (3)] **(3) and (4)** of this section,
19 a manufacturer or an importing distributor of wines shall be taxed at the rate of two cents per
20 gallon. Notwithstanding any other provision of law, all moneys collected by the Oregon Liquor
21 Control Commission pursuant to this subsection shall be paid into the account established by the
22 Oregon Wine Board under ORS 182.470.

23 **(6) In addition to the taxes imposed by subsections (3) to (5) of this section, a manufac-**
24 **turer or an importing distributor of wines shall be taxed at the rate of \$_____ per gallon.**

25 [(5)] **(7)** The rates of tax imposed by this section upon malt beverages apply proportionately to
26 quantities in containers of less capacity than those quantities specified in this section.

27 [(6)] **(8)** The taxes imposed by this section shall be measured by the volume of wine or malt
28 beverages produced, purchased or received by any manufacturer. If the wine or malt beverage re-
29 mains unsold and in the possession of the producer at the plant where it was produced, no tax im-
30 posed or levied by this section is required to be paid until the wine or malt beverage has become
31 sufficiently aged for marketing at retail, but this subsection shall not be construed so as to alter

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 or affect any provision of this chapter relating to tax liens or the filing of statements.

2 **SECTION 2.** ORS 473.035 is amended to read:

3 473.035. (1) A tax is imposed upon the privilege of engaging in business as a manufacturer or
4 as an importing distributor of cider at the rate of \$2.60 per barrel of 31 gallons on all such
5 beverages.

6 **(2) In addition to the tax imposed by subsection (1) of this section, a manufacturer or**
7 **an importing distributor of cider shall be taxed at the rate of \$_____ per barrel of 31 gal-**
8 **lons.**

9 [(2)] **(3)** Notwithstanding [*subsection (1)*] **subsections (1) and (2)** of this section or any other
10 provision of law, the taxation of the manufacturing or distribution of cider shall be at a rate that
11 is not less than the rate imposed for the privilege of manufacturing or distributing malt beverages
12 under ORS 473.030 (1) **and (2)**.

13 [(3)] **(4)** The rate of tax imposed by this section shall apply proportionately to quantities in
14 containers of less capacity than those quantities specified in this section.

15 [(4)] **(5)** The tax imposed by this section shall be measured by the volume of cider produced,
16 purchased or received by any manufacturer. If the cider remains unsold and in the possession of the
17 producer at the plant where it was produced, no tax imposed or levied by this section is required
18 to be paid until the cider has become sufficiently aged for marketing at retail, but this subsection
19 shall not be construed so as to alter or affect any provision of this chapter relating to tax liens or
20 the filing of statements.

21 **SECTION 3.** ORS 473.047 is amended to read:

22 473.047. (1) As used in this section, “qualified marketing activity” means marketing activity:

23 (a) That promotes the sale of wine or wine products;

24 (b) That does not promote specific brands of wine or wine products or exclusively promote the
25 products of any particular winery; and

26 (c) That has been approved by the Oregon Wine Board.

27 (2) A credit against the privilege tax otherwise due under ORS 473.030 [(2)] **(3)** is allowed to a
28 manufacturer or importing distributor of wine for the qualified marketing activity expenditures made
29 by the manufacturer or importing distributor in the calendar year prior to the year for which the
30 credit is claimed.

31 (3) The credit allowed under this section shall be 28 percent of the sum of the following:

32 (a) One hundred percent of the cost of qualified marketing activity to the extent that the cost
33 of the activity does not exceed the amount of taxes the manufacturer or importing distributor of
34 wine owed under ORS 473.030 [(2)] **(3)** on the first 40,000 gallons, or 151,000 liters, of wine sold an-
35 nually in Oregon; and

36 (b) Twenty-five percent of the tax owed under ORS 473.030 [(2)] **(3)** for qualified marketing ac-
37 tivity on wine sales above 40,000 gallons, or 151,000 liters, of wine sold annually in Oregon.

38 (4) The credit allowed under this section may not exceed the tax liability of the manufacturer
39 or importing distributor of wine under ORS 473.030 [(2)] **(3)** for the calendar year following the year
40 in which qualified marketing activity occurred.

41 (5) A manufacturer or importing distributor of wine that wishes to claim the credit allowed un-
42 der this section shall submit with the manufacturer’s or importing distributor’s tax return form a
43 certificate issued by the board verifying that the marketing activity was a qualified marketing ac-
44 tivity. The credit shall be claimed on the form and include the information required by the Oregon
45 Liquor Control Commission by rule.

1 (6) The credit shall be claimed against the taxes reported on the return filed under ORS 473.060
 2 for each month in the calendar year following the year in which the qualified marketing activity
 3 occurred, until the credit is completely used or the year ends, whichever occurs first.

4 (7) The board shall by rule further define, consistent with the definition in subsection (1) of this
 5 section, the marketing activities that constitute qualified marketing activity.

6 **SECTION 4.** ORS 471.805 is amended to read:

7 471.805. (1) Except as otherwise provided in ORS 471.810 (2), all [*money*] **moneys** collected by
 8 the Oregon Liquor Control Commission under this chapter and ORS chapter 473 and privilege taxes
 9 shall be remitted to the State Treasurer who shall credit it to a suspense account of the commission.
 10 Whenever the commission determines that moneys have been received by it in excess of the amount
 11 legally due and payable to the commission or that it has received [*money*] **moneys** to which it has
 12 no legal interest, or that any license fee or deposit is properly refundable, the commission is au-
 13 thorized and directed to refund [*such money*] **the moneys** by check drawn upon the State Treasurer
 14 and charged to the suspense account of the commission. After withholding refundable license fees
 15 and such sum, not to exceed \$250,000, as it considers necessary as a revolving fund for a working
 16 cash balance for the purpose of paying travel expenses, advances, other miscellaneous bills and ex-
 17 traordinary items which are payable in cash immediately upon presentation, the commission shall
 18 direct the State Treasurer to transfer the [*money*] **moneys** remaining in the suspense account [*to*]
 19 **as follows:**

20 (a) **To the Mental Health Alcoholism and Drug Services Account established under ORS**
 21 **430.380, 25 percent of the moneys collected under ORS 473.030 (2) and (6) and 473.035 (2);**

22 (b) **To the State Police Account established under ORS 181.175, 75 percent of the moneys**
 23 **collected under ORS 473.030 (2) and (6) and 473.035 (2); and**

24 (c) **To the Oregon Liquor Control Commission Account in the General Fund, the amount re-**
 25 **maining in the suspense account following the transfer of funds under paragraphs (a) and (b)**
 26 **of this subsection.** Moneys in the Oregon Liquor Control Commission Account are continuously
 27 appropriated to the commission to be distributed and used as required or allowed by law.

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

33 **SECTION 5.** ORS 471.810 is amended to read:

34 471.810. (1) At the end of each month, the Oregon Liquor Control Commission shall certify the
 35 amount of moneys available for distribution in the Oregon Liquor Control Commission Account, and
 36 after withholding such moneys as it may deem necessary to pay its outstanding obligations shall
 37 within 35 days of the month for which a distribution is made direct the State Treasurer to pay the
 38 amounts due, upon warrants drawn by the Oregon Department of Administrative Services, as fol-
 39 lows:

40 (a) Fifty-six percent, or the amount remaining after the distribution under subsection (4) of this
 41 section, credited to the General Fund available for general governmental purposes wherein it shall
 42 be considered as revenue during the quarter immediately preceding receipt;

43 (b) Twenty percent to the cities of the state in such shares as the population of each city bears
 44 to the population of the cities of the state, as determined by the State Board of Higher Education
 45 last preceding such apportionment, under ORS 190.510 to 190.610;

1 (c) Ten percent to counties in such shares as their respective populations bear to the total
 2 population of the state, as estimated from time to time by the State Board of Higher Education; and

3 (d) Fourteen percent to the cities of the state to be distributed as provided in ORS 221.770 and
 4 this section.

5 (2) The commission shall direct the Oregon Department of Administrative Services to transfer
 6 50 percent of the revenues **in the Oregon Liquor Control Commission Account** from the taxes
 7 imposed by ORS 473.030 (1), (3) and (4), 473.035 (1) and 473.040 to the Mental Health Alcoholism
 8 and Drug Services Account in the General Fund to be paid monthly as provided in ORS 430.380.

9 (3) If the amount of revenues received **in the Oregon Liquor Control Commission Account**
 10 from the taxes imposed by ORS 473.030 for the preceding month were reduced as a result of credits
 11 claimed under ORS 473.047, the commission shall compute the difference between the amounts paid
 12 or transferred as described in subsections (1)(b), (c) and (d) and (2) of this section and the amounts
 13 that would have been paid or transferred under subsections (1)(b), (c) and (d) and (2) of this section
 14 if no credits had been claimed. The commission shall direct the Oregon Department of Administra-
 15 tive Services to pay or transfer amounts equal to the differences computed for subsections (1)(b), (c)
 16 and (d) and (2) of this section from the General Fund to the recipients or accounts described in
 17 subsections (1)(b), (c) and (d) and (2) of this section.

18 (4) Notwithstanding subsection (1) of this section, no city or county shall receive for any fiscal
 19 year an amount less than the amount distributed to the city or county in accordance with ORS
 20 471.350 (1965 Replacement Part), 471.810, 473.190 and 473.210 (1965 Replacement Part) during the
 21 1966-1967 fiscal year unless the city or county had a decline in population as shown by its census.
 22 If the population declined, the per capita distribution to the city or county shall be not less than
 23 the total per capita distribution during the 1966-1967 fiscal year. Any additional funds required to
 24 maintain the level of distribution under this subsection shall be paid from funds credited under
 25 subsection (1)(a) of this section.

26 **SECTION 6.** ORS 221.770 is amended to read:

27 221.770. (1) A share of certain revenues of this state shall be apportioned among and distributed
 28 to the cities of this state for general purposes as provided in this section. A city shall not be in-
 29 cluded in apportionments or receive distributions under this section for a fiscal year commencing
 30 on July 1 unless the city:

31 (a) Elects to receive distributions under this section for the fiscal year by enactment of an or-
 32 dinance or resolution expressing that election and filing a copy of that ordinance or resolution with
 33 the Oregon Department of Administrative Services not later than July 31 of the fiscal year;

34 (b) Holds at least one public hearing, after adequate public notice, at which citizens have the
 35 opportunity to provide written and oral comment to the authority responsible for approving the
 36 proposed budget of the city for the fiscal year on the possible uses of the distributions, including
 37 offset against property tax levies by the city for the fiscal year, and certifies its compliance with
 38 this paragraph to the Oregon Department of Administrative Services not later than July 31 of the
 39 fiscal year;

40 (c) Holds at least one public hearing, after adequate public notice, at which citizens have the
 41 opportunity to provide written and oral comment to, and ask questions of, the authority responsible
 42 for adopting the budget of the city for the fiscal year on the proposed use of the distributions in
 43 relation to the entire budget of the city for the fiscal year, including possible offset of the distrib-
 44 utions against property tax levies by the city for the fiscal year, and certifies its compliance with
 45 this paragraph to the Oregon Department of Administrative Services not later than July 31 of the

1 fiscal year; and

2 (d) Levied a property tax for the year preceding the year in which revenue sharing is due under
3 ORS 471.810 and this section.

4 (2) Not later than 35 days after the last day of each calendar quarter ending March 31, June
5 30, September 30 and December 31, the Oregon Liquor Control Commission shall determine the
6 amount of the net revenue under ORS 471.805 (1)(c), received during the preceding calendar quarter
7 and shall certify that amount to the Oregon Department of Administrative Services.

8 (3) In addition to amounts otherwise apportioned to cities under ORS 471.810, not later than 20
9 days after the date the Oregon Department of Administrative Services receives a certification under
10 subsection (2) of this section, the department shall apportion among the cities of this state in the
11 manner provided in subsection (4) of this section an amount equal to 14 percent of the amount so
12 certified, and shall pay to each city the amount so apportioned to the city. Payments shall be made
13 from the Oregon Liquor Control Commission Account.

14 (4) The amount apportioned to each city under subsection (3) of this section shall be a percent-
15 age of the total amount to be apportioned among the cities determined by dividing the adjusted
16 population of the city by the sum of the adjusted populations of all cities. The adjusted population
17 of a city shall be determined by multiplying the city's population by the sum of:

18 (a) The city's local consolidated property taxes per capita divided by the average consolidated
19 property taxes per capita for all cities in the state; and

20 (b) The amount of state income per capita divided by the amount of city income per capita.

21 (5) The amount apportioned to each city shall be further limited to an amount no greater than
22 the amount of all property taxes levied by the city during the year previous to the year in which
23 distributions are made.

24 (6) For purposes of the formula set forth in subsection (4) of this section, "city population" is
25 the population of a city as last determined under ORS 190.510 to 190.590.

26 (7)(a) For purposes of the formula set forth in subsection (4) of this section, "local consolidated
27 property taxes" has the meaning given in subsection (8) of this section, for a city divided by the
28 population of the city as last determined under ORS 190.510 to 190.590.

29 (b) The Oregon Department of Administrative Services shall determine the amounts of property
30 taxes for each city during the fiscal year closing on June 30 preceding the fiscal year commencing
31 on July 1 for which calendar quarter apportionments are made, and that determination shall be used
32 for each calendar quarter apportionment for that fiscal year commencing on July 1.

33 (8) For purposes of subsection (7) of this section "consolidated property taxes" are the total of
34 all compulsory contributions in the form of ad valorem taxes on property located within a city levied
35 during a one-year period by the city, a county, any school district and any special governmental
36 district for public purposes and in amounts as compiled by the Department of Revenue on the basis
37 of application of consolidated tax rates to assessor code area valuations.

38 (9) For purposes of the formula set forth in subsection (4) of this section, "income per capita"
39 is the estimated average annual money income of residents of this state and of residents of each city
40 of this state, respectively, based upon the latest information available from the most recent federal
41 decennial census.

42 (10) A city receiving a distribution under this section may return all or any part of the distrib-
43 ution to the Oregon Department of Administrative Services, which shall deposit the returned dis-
44 tribution or part thereof in the General Fund to be available for payment of the general expenses
45 of the state.

1 **SECTION 7.** ORS 473.065 is amended to read:

2 473.065. (1) If a manufacturer's total tax liability under ORS 473.030 (1) **and (2)** in the previous
3 calendar year was less than \$1,000, the manufacturer may deposit with the Oregon Liquor Control
4 Commission an amount in cash equal to the manufacturer's total tax liability under ORS 473.030 (1)
5 **and (2)** for the previous calendar year in lieu of the bond required by ORS 471.155 (1).

6 (2) If a manufacturer's actual tax liability under ORS 473.030 (1) **and (2)** is less than the amount
7 deposited under subsection (1) of this section, the manufacturer may request that the commission
8 refund the excess funds or may apply those funds toward the manufacturer's tax liability under ORS
9 473.030 (1) **and (2)** for the next calendar year.

10 (3) If a manufacturer's actual tax liability under ORS 473.030 (1) **and (2)** is greater than the
11 amount deposited under subsection (1) of this section, the manufacturer shall pay to the commission
12 the additional amount owed in the manner required under ORS 473.060.

13 **SECTION 8.** ORS 576.775 is amended to read:

14 576.775. Moneys received on behalf of the Oregon Wine Board pursuant to ORS 473.030 [(4)] (5)
15 and 473.045 shall be deposited into the account created by the board under ORS 182.470 and are
16 continuously appropriated to the board as provided in ORS 182.470, exclusively for use by the board
17 in carrying out the provisions of ORS 576.750 to 576.775. The board shall allocate a portion of the
18 moneys received from sources other than fees toward research in enology and viticulture and toward
19 promotion of the Oregon wine grape growing and wine making industries, including administrative
20 costs associated with either category.

21 **SECTION 9.** The amendments to ORS 221.770, 471.805, 471.810, 473.030, 473.035, 473.047,
22 473.065 and 576.775 by sections 1 to 8 of this 2007 Act apply to tax reporting periods beginning
23 on or after January 1, 2008.

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