

# House Bill 3421

Sponsored by Representatives ESQUIVEL, BUCKLEY; Representatives BARKER, BOQUIST, GREENLICK, HOLVEY, KRIEGER, ROBLAN, ROSENBAUM, TOMEI, WITT, Senator G GEORGE

## 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 over five-year period. Dedicates revenues to Department of State Police and county alcohol rehabilitation and detoxification programs.

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

## A BILL FOR AN ACT

1  
2 Relating to malt beverage taxes; creating new provisions; amending ORS 430.380, 471.810, 473.030,  
3 473.047, 473.065 and 576.775; appropriating money; and providing for revenue raising that re-  
4 quires 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 following rate per barrel of**  
12 **31 gallons for each of the following tax reporting periods:**

13 **(a) \$1.96 per barrel for tax reporting periods beginning on or after January 1, 2008, and**  
14 **ending on or before December 31, 2008.**

15 **(b) \$3.92 per barrel for tax reporting periods beginning on or after January 1, 2009, and**  
16 **ending on or before December 31, 2009.**

17 **(c) \$5.88 per barrel for tax reporting periods beginning on or after January 1, 2010, and**  
18 **ending on or before December 31, 2010.**

19 **(d) \$7.84 per barrel for tax reporting periods beginning on or after January 1, 2011, and**  
20 **ending on or before December 31, 2011.**

21 **(e) \$9.80 per barrel for tax reporting periods beginning on or after January 1, 2012.**

22 [(2)] **(3)** A tax is imposed upon the privilege of engaging in business as a manufacturer or as an  
23 importing distributor of wines at the rate of 65 cents per gallon on all such beverages.

24 [(3)] **(4)** In addition to the tax imposed by subsection [(2)] **(3)** of this section, a manufacturer or  
25 an importing distributor of wines containing more than 14 percent alcohol by volume shall be taxed  
26 at the rate of 10 cents per gallon.

27 [(4)] **(5)** In addition to the taxes imposed by subsections [(2) and (3)] **(3) and (4)** of this section,  
28 a manufacturer or an importing distributor of wines shall be taxed at the rate of two cents per  
29 gallon. Notwithstanding any other provision of law, all moneys collected by the Oregon Liquor  
30 Control Commission pursuant to this subsection shall be paid into the account established by the

**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 Oregon Wine Board under ORS 182.470.

2 [(5)] (6) The rates of tax imposed by this section upon malt beverages apply proportionately to  
 3 quantities in containers of less capacity than those quantities specified in this section.

4 [(6)] (7) The taxes imposed by this section shall be measured by the volume of wine or malt  
 5 beverages produced, purchased or received by any manufacturer. If the wine or malt beverage re-  
 6 mains unsold and in the possession of the producer at the plant where it was produced, no tax im-  
 7 posed or levied by this section is required to be paid until the wine or malt beverage has become  
 8 sufficiently aged for marketing at retail, but this subsection shall not be construed so as to alter  
 9 or affect any provision of this chapter relating to tax liens or the filing of statements.

10 **SECTION 2.** ORS 471.810 is amended to read:

11 471.810. (1) At the end of each month, the Oregon Liquor Control Commission shall certify the  
 12 amount of moneys available for distribution in the Oregon Liquor Control Commission Account, and  
 13 after withholding such moneys as it may deem necessary to pay its outstanding obligations shall  
 14 within 35 days of the month for which a distribution is made direct the State Treasurer to pay the  
 15 amounts due, upon warrants drawn by the Oregon Department of Administrative Services, as fol-  
 16 lows:

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

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

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

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

27 (2) The commission shall direct the Oregon Department of Administrative Services to:

28 (a) Transfer 50 percent of the revenues from the taxes imposed by ORS 473.030 (1), (3) and  
 29 (4), 473.035 and 473.040 to the Mental Health Alcoholism and Drug Services Account in the General  
 30 Fund to be paid monthly as provided in ORS 430.380;

31 (b) **Transfer 20 percent of the revenues generated from the tax imposed by ORS 473.030**  
 32 **(2) to the Mental Health Alcoholism and Drug Services Account in the General Fund to be**  
 33 **paid monthly as provided in ORS 430.380; and**

34 (c) **Transfer 80 percent of the revenues generated from the tax imposed by ORS 473.030**  
 35 **(2) to the State Police Account established under ORS 181.175.**

36 (3) If the amount of revenues received from the taxes imposed by ORS 473.030 for the preceding  
 37 month were reduced as a result of credits claimed under ORS 473.047, the commission shall compute  
 38 the difference between the amounts paid or transferred as described in subsections (1)(b), (c) and (d)  
 39 and (2) of this section and the amounts that would have been paid or transferred under subsections  
 40 (1)(b), (c) and (d) and (2) of this section if no credits had been claimed. The commission shall direct  
 41 the Oregon Department of Administrative Services to pay or transfer amounts equal to the differ-  
 42 ences computed for subsections (1)(b), (c) and (d) and (2) of this section from the General Fund to  
 43 the recipients or accounts described in subsections (1)(b), (c) and (d) and (2) of this section.

44 (4) Notwithstanding subsection (1) of this section, no city or county shall receive for any fiscal  
 45 year an amount less than the amount distributed to the city or county in accordance with ORS

1 471.350 (1965 Replacement Part), 471.810, 473.190 and 473.210 (1965 Replacement Part) during the  
 2 1966-1967 fiscal year unless the city or county had a decline in population as shown by its census.  
 3 If the population declined, the per capita distribution to the city or county shall be not less than  
 4 the total per capita distribution during the 1966-1967 fiscal year. Any additional funds required to  
 5 maintain the level of distribution under this subsection shall be paid from funds credited under  
 6 subsection (1)(a) of this section.

7 **SECTION 3.** ORS 430.380 is amended to read:

8 430.380. (1) There is established in the General Fund of the State Treasury an account to be  
 9 known as the Mental Health Alcoholism and Drug Services Account. Moneys deposited in the ac-  
 10 count are continuously appropriated for the purposes of ORS 430.345 to 430.380. Moneys deposited  
 11 in the account may be invested in the manner prescribed in ORS 293.701 to 293.820.

12 (2) Forty percent of the moneys **deposited** in the Mental Health Alcoholism and Drug Services  
 13 Account *[shall be]* **under ORS 471.810 (2)(a) is** continuously appropriated to the **Department of**  
 14 **Human Services for distribution to the** counties on the basis of population. The counties must  
 15 use the moneys for the establishment, operation and maintenance of alcohol and drug abuse pre-  
 16 vention, early intervention and treatment services and for local matching funds under ORS 430.345  
 17 to 430.380.

18 (3) Forty percent of the moneys *[shall be]* **deposited in the account under ORS 471.810 (2)(a)**  
 19 **is** continuously appropriated to the Department of Human Services to be used for state matching  
 20 funds to counties for alcohol and drug abuse prevention, early intervention and treatment services  
 21 pursuant to ORS 430.345 to 430.380.

22 (4) Twenty percent of the moneys *[shall be]* **deposited in the account under ORS 471.810 (2)(a)**  
 23 **is** continuously appropriated to the Department of Human Services to be used for alcohol and drug  
 24 abuse prevention, early intervention and treatment services for inmates of correctional and penal  
 25 institutions and for parolees therefrom and for probationers as provided pursuant to rules of the  
 26 department. *[However, prior to expenditure of moneys under this subsection, the department must*  
 27 *present its program plans for approval to the appropriate legislative body which is either the Joint*  
 28 *Ways and Means Committee during a session of the Legislative Assembly or the Emergency Board*  
 29 *during the interim between sessions.]*

30 (5) **All of the moneys deposited in the account under ORS 471.810 (2)(b) are continuously**  
 31 **appropriated to the Department of Human Services for distribution to the counties on the**  
 32 **basis of population. The counties must use the moneys for the establishment, operation and**  
 33 **maintenance of alcohol rehabilitation and detoxification programs.**

34 **SECTION 4.** ORS 473.047 is amended to read:

35 473.047. (1) As used in this section, “qualified marketing activity” means marketing activity:

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

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

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

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

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

45 (a) One hundred percent of the cost of qualified marketing activity to the extent that the cost

1 of the activity does not exceed the amount of taxes the manufacturer or importing distributor of  
 2 wine owed under ORS 473.030 [(2)] (3) on the first 40,000 gallons, or 151,000 liters, of wine sold an-  
 3 nually in Oregon; and

4 (b) Twenty-five percent of the tax owed under ORS 473.030 (2) for qualified marketing activity  
 5 on wine sales above 40,000 gallons, or 151,000 liters, of wine sold annually in Oregon.

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

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

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

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

19 **SECTION 5.** ORS 473.065 is amended to read:

20 473.065. (1) If a manufacturer's total tax liability under ORS 473.030 (1) **and** (2) in the previous  
 21 calendar year was less than \$1,000, the manufacturer may deposit with the Oregon Liquor Control  
 22 Commission an amount in cash equal to the manufacturer's total tax liability under ORS 473.030 (1)  
 23 **and** (2) for the previous calendar year in lieu of the bond required by ORS 471.155 (1).

24 (2) If a manufacturer's actual tax liability under ORS 473.030 (1) **and** (2) is less than the amount  
 25 deposited under subsection (1) of this section, the manufacturer may request that the commission  
 26 refund the excess funds or may apply those funds toward the manufacturer's tax liability under ORS  
 27 473.030 (1) **and** (2) for the next calendar year.

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

31 **SECTION 6.** ORS 576.775 is amended to read:

32 576.775. Moneys received on behalf of the Oregon Wine Board pursuant to ORS 473.030 [(4)] (5)  
 33 and 473.045 shall be deposited into the account created by the board under ORS 182.470 and are  
 34 continuously appropriated to the board as provided in ORS 182.470, exclusively for use by the board  
 35 in carrying out the provisions of ORS 576.750 to 576.775. The board shall allocate a portion of the  
 36 moneys received from sources other than fees toward research in enology and viticulture and toward  
 37 promotion of the Oregon wine grape growing and wine making industries, including administrative  
 38 costs associated with either category.

39 **SECTION 7. The amendments to ORS 473.030, 473.047, 473.065 and 576.775 by sections 1,**  
 40 **4, 5 and 6 of this 2007 Act apply to tax reporting periods beginning on or after January 1,**  
 41 **2008.**