

# House Bill 3565

Sponsored by Representative ESQUIVEL, Senators METSGER, MONROE, WESTLUND; Representatives BARKER, BOONE, BUCKLEY, CANNON, DINGFELDER, HUNT, KOTEK, RILEY, ROSENBAUM, TOMEI, WITT, Senators AVAKIAN, BATES, G GEORGE, JOHNSON, 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 tax on distribution of malt beverages at rate of \$16.50 per barrel of 31 gallons.

Establishes Public Health and Safety Account. Provides that revenues from tax on distribution of malt beverages be deposited in account. Provides that, after specified withholding, 70 percent of amount in account be distributed to Oregon State Police Patrol Division Fund, five percent be distributed to cities and 25 percent be distributed to counties. Specifies allowed uses of moneys distributed from account.

Establishes Oregon State Police Patrol Division Fund. Directs that 28 percent of moneys deposited in Oregon Liquor Control Commission Account, after specified withholding, be distributed to fund. Continuously appropriates moneys in fund to Department of State Police for costs of patrol division functions and related administrative costs.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to alcoholic beverages; creating new provisions; amending ORS 190.530, 190.540, 190.620,  
3 199.755, 471.805, 471.810, 473.015, 473.060, 473.070, 473.080, 473.090, 473.100, 473.110, 473.120,  
4 473.130, 473.140, 473.150 and 473.170; appropriating money; prescribing an effective date; and  
5 providing for revenue raising that requires approval by a three-fifths majority.

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

## MALT BEVERAGE DISTRIBUTION TAX

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8  
9  
10 **SECTION 1.** Section 2 of this 2007 Act is added to and made a part of ORS chapter 473.

11 **SECTION 2.** (1) Every wholesale malt beverage distributor shall collect a tax upon dis-  
12 tribution of malt beverages at the rate of \$16.50 per barrel of 31 gallons.

13 (2) The tax imposed by this section applies proportionately to quantities in containers of  
14 less than 31 gallons.

15 (3) The tax imposed by this section shall be collected from licensees of the Oregon Liquor  
16 Control Commission when malt beverages are delivered by a wholesale malt beverage dis-  
17 tributor to the licensee for the purpose of retail sale by the licensee. The tax imposed by  
18 this section is measured by the volume of malt beverages delivered by the wholesale malt  
19 beverage distributor to the licensee.

20 (4) Before paying amounts collected as tax under this section to the commission, a  
21 wholesale malt beverage distributor shall deduct from the amounts collected an amount  
22 equal to one percent of the taxes collected for the purpose of paying the costs incurred by  
23 the distributor in collecting taxes under this section. The wholesale malt beverage distribu-  
24 tor shall report all amounts deducted under this subsection in the statements required by  
25 **ORS 473.070.**

**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 (5) Any malt beverage for which a tax has been paid under this section is not subject to  
 2 tax upon a subsequent distribution of the malt beverage.

3 (6) All amounts collected under the tax imposed by this section shall be deposited by the  
 4 commission in the Public Health and Safety Account established under section 4 of this 2007  
 5 Act.

6 **SECTION 3.** Section 2 of this 2007 Act applies to all deliveries of malt beverages by a  
 7 wholesale malt beverage distributor made on or after January 1, 2008.

8 **SECTION 4.** (1) The Public Health and Safety Account is established in the State Treas-  
 9 ury, separate and distinct from the General Fund. Interest earned by the account shall be  
 10 credited to the account. Moneys in the account shall be distributed by the Oregon Liquor  
 11 Control Commission as required by this section.

12 (2) Before any other distribution from the account, the commission shall deduct from the  
 13 amounts deposited in the account the administrative expenses incurred by the commission  
 14 in administering this section and section 2 of this 2007 Act. The amount that may be de-  
 15 ducted by the commission under this subsection may not exceed one percent of the amounts  
 16 deposited in the account. Amounts deducted by the commission under this subsection are  
 17 continuously appropriated to the commission for the purpose of paying the administrative  
 18 expenses incurred by the commission in administering this section and section 2 of this 2007  
 19 Act.

20 (3) After making the deduction required by subsection (2) of this section, the commission  
 21 shall set aside 2.78 percent of the amounts deposited in the account for the purpose of off-  
 22 setting loss of revenues to cities and counties under the distribution provided for in ORS  
 23 471.810. The commission shall distribute the amounts set aside under this subsection to cities  
 24 and counties in the proportions specified in ORS 471.810 (2).

25 (4) After making the deduction required by subsection (2) of this section and setting aside  
 26 amounts under subsection (3) of this section, the balance of amounts deposited in the ac-  
 27 count shall be distributed as follows:

28 (a) 70 percent shall be deposited in the Oregon State Police Patrol Division Fund estab-  
 29 lished under section 5 of this 2007 Act.

30 (b) 5 percent shall be distributed to the cities of the state in such shares as the popu-  
 31 lation of each city bears to the population of the cities of the state, as determined by the  
 32 State Board of Higher Education in the year preceding the distribution, under ORS 190.510  
 33 to 190.610. Amounts distributed to cities under this paragraph may be used by cities only for  
 34 the purpose of funding public safety operations.

35 (c) 25 percent shall be distributed to counties in such shares as their respective popu-  
 36 lations bear to the total population of the state, as estimated by the board. Amounts dis-  
 37 tributed to counties under this paragraph may be used by counties only for the purpose of  
 38 funding public safety operations and alcohol and drug abuse programs.

39 **SECTION 5.** The Oregon State Police Patrol Division Fund is established in the State  
 40 Treasury, separate and distinct from the General Fund. Interest earned by the Oregon State  
 41 Police Patrol Division Fund shall be credited to the fund. Moneys in the fund are contin-  
 42 uously appropriated to the Department of State Police to be expended for carrying out the  
 43 patrol division functions of the Oregon State Police and for related administrative costs.

44  
 45 **DISTRIBUTION OF LIQUOR REVENUES**

**SECTION 6.** ORS 471.810 is amended to read:

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

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

**(1) At the end of each month, the Oregon Liquor Control Commission shall certify the amount of funds available in the Oregon Liquor Control Commission Account. The commission shall then withhold the amounts the commission determines to be necessary to pay the commission's outstanding obligations.**

**(2) After withholding the amounts specified in subsection (1) of this section, the commission shall distribute the remaining funds as follows:**

**(a) 28 percent shall be deposited in the General Fund. Amounts deposited in the General Fund under this paragraph are available for general governmental purposes and shall be considered revenue received during the quarter preceding the date of deposit.**

**(b) 28 percent shall be deposited in the Oregon State Police Patrol Division Fund established under section 5 of this 2007 Act.**

*[(b)] (c) [Twenty] 20 percent shall be distributed to the cities of the state in such shares as the population of each city bears to the population of the cities of the state, as determined by the State Board of Higher Education [last preceding such apportionment,] under ORS 190.510 to 190.610[;] in the year preceding the distribution.*

*[(c)] (d) [Ten] 10 percent shall be distributed to counties in such shares as their respective populations bear to the total population of the state, as estimated [from time to time by the State Board of Higher Education; and] by the board.*

*[(d)] (e) [Fourteen] 14 percent shall be distributed to the cities of the state [to be distributed] as provided in ORS 221.770 [and this section].*

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

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

*[(4) Notwithstanding subsection (1) of this section, no city or county shall receive for any fiscal year an amount less than the amount distributed to the city or county in accordance with ORS 471.350 (1965 Replacement Part), 471.810, 473.190 and 473.210 (1965 Replacement Part) during the 1966-1967 fiscal year unless the city or county had a decline in population as shown by its census. If the population*

1 *declined, the per capita distribution to the city or county shall be not less than the total per capita*  
 2 *distribution during the 1966-1967 fiscal year. Any additional funds required to maintain the level of*  
 3 *distribution under this subsection shall be paid from funds credited under subsection (1)(a) of this*  
 4 *section.]*

5 **(4) If the amount of revenues received from the taxes imposed by ORS 473.030 for the**  
 6 **preceding month is reduced as a result of credits claimed under ORS 473.047, the commission**  
 7 **shall compute, for the amount distributed for the month to cities and counties under sub-**  
 8 **section (2) of this section and for the amount transferred for the month to the Mental Health**  
 9 **Alcoholism and Drug Services Account under subsection (3) of this section, the difference**  
 10 **between the amount actually distributed or transferred and the amount that would have**  
 11 **been distributed or transferred under this section if the credits had not been claimed. The**  
 12 **commission shall direct the Oregon Department of Administrative Services to pay to the**  
 13 **cities and counties, and to transfer to the Mental Health Alcoholism and Drug Services Ac-**  
 14 **count, amounts from the General Fund equal to the difference between the amounts so de-**  
 15 **termined.**

16 **(5) The commission shall make the distributions and transfers required by subsections**  
 17 **(2) and (3) of this section not later than 35 days after the end of the month for which the**  
 18 **funds have been certified to be available.**

19 **SECTION 7. The amendments to ORS 471.810 by section 6 of this 2007 Act apply to dis-**  
 20 **tributions and transfers made from the Oregon Liquor Control Commission Account on or**  
 21 **after the effective date of this 2007 Act.**

22  
 23 **CONFORMING AMENDMENTS**  
 24

25 **SECTION 8.** ORS 471.805 is amended to read:

26 471.805. (1) Except as otherwise provided in ORS 471.810 [(2)] (3), all [money] **moneys** collected  
 27 by the Oregon Liquor Control Commission under this chapter and ORS chapter 473 and [privilege]  
 28 taxes **collected under ORS chapter 473** shall be remitted to the State Treasurer who shall credit  
 29 [it] **the moneys and taxes** to a suspense account of the commission. Whenever the commission de-  
 30 termines that moneys have been received by it in excess of the amount legally due and payable to  
 31 the commission or that [it] **the commission** has received [money] **moneys** to which [it] **the com-**  
 32 **mission** has no legal interest, or that any license fee or deposit is properly refundable, the com-  
 33 mission is authorized and directed to refund such [money] **moneys** by check drawn upon the State  
 34 Treasurer and charged to the suspense account of the commission. After withholding refundable li-  
 35 cense fees and such sum, not to exceed \$250,000, as [it] **the commission** considers necessary as a  
 36 revolving fund for a working cash balance for the purpose of paying travel expenses, advances, other  
 37 miscellaneous bills and extraordinary items which are payable in cash immediately upon presenta-  
 38 tion, the commission shall direct the State Treasurer to transfer the [money] **moneys** remaining in  
 39 the suspense account to the Oregon Liquor Control Commission Account in the General Fund.  
 40 Moneys in the Oregon Liquor Control Commission Account are continuously appropriated to the  
 41 commission to be distributed and used as required or allowed by law.

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

1 Oregon Department of Administrative Services, pursuant to claims duly approved by the commission.

2 **SECTION 9.** ORS 473.015 is amended to read:

3 473.015. For the purposes of this chapter[,]:

4 (1) "Cider" means an alcoholic beverage made from the fermentation of the juice of apples or  
5 pears that contains not less than one-half of one percent and not more than seven percent of alcohol  
6 by volume, including, but not limited to, flavored, sparkling or carbonated cider.

7 (2) "**Wholesale malt beverage distributor**" means any person that holds a license issued  
8 by the Oregon Liquor Control Commission that authorizes wholesale sale of malt beverages.

9 **SECTION 10.** ORS 473.060 is amended to read:

10 473.060. (1) The [*privilege*] taxes imposed by ORS 473.030, 473.035 and 473.040 **and section 2 of**  
11 **this 2007 Act** shall be paid to the Oregon Liquor Control Commission. The taxes covering the pe-  
12 riods for which statements are required to be rendered by ORS 473.070 shall be paid before the time  
13 for filing such statements expires or, as concerns wines, on or before the 20th day of the month after  
14 such wines have been withdrawn from federal bond. If not so paid, a penalty of 10 percent and in-  
15 terest at the rate of one percent a month or fraction of a month shall be added and collected. The  
16 commission may refund any tax payment imposed upon or paid in error by any licensee, and may  
17 waive the collection or refund the payment of any tax imposed and collected on wine, cider or malt  
18 beverages subsequently exported from this state, sold to a federal instrumentality or to the com-  
19 mission, or determined by the commission to be unfit for human consumption or unsalable.

20 (2) The commission may waive any interest or penalty assessed to a manufacturer **or wholesale**  
21 **malt beverage distributor** subject to the [*tax*] **taxes** imposed under ORS 473.030, 473.035 or 473.040  
22 **or section 2 of this 2007 Act** if the commission, in its discretion, determines that the manufacturer  
23 **or wholesale malt beverage distributor** has made a good faith attempt to comply with the re-  
24 quirements of this chapter.

25 (3) Except in the case of fraud, the commission may not assess any interest or penalty on any  
26 tax due under ORS 473.030, 473.035 or 473.040 **or section 2 of this 2007 Act** following the expira-  
27 tion of 36 months from the date on which was filed the statement required under ORS 473.070 re-  
28 porting the quantity of wine, cider or malt beverages upon which the tax is due.

29 (4) A manufacturer **or wholesale malt beverage distributor** may appeal a tax imposed under  
30 ORS 473.030, 473.035 or 473.040 **or section 2 of this 2007 Act** in the manner of a contested case  
31 under ORS chapter 183.

32 **SECTION 11.** ORS 473.070 is amended to read:

33 473.070. (1) On or before the 20th day of each month, every manufacturer **and wholesale malt**  
34 **beverage distributor** shall file with the Oregon Liquor Control Commission a statement of the  
35 quantity of wine, cider and malt beverages produced, purchased, [*or*] received **or delivered** by the  
36 manufacturer **or wholesale malt beverage distributor** during the preceding calendar month.

37 (2) Notwithstanding subsection (1) of this section, a manufacturer of wine that was not liable for  
38 a privilege tax under this chapter in the prior calendar year and that does not expect to be liable  
39 for a privilege tax under this chapter in the current calendar year, or a manufacturer of wine that  
40 is newly established during the current calendar year and that does not expect to be liable for a  
41 privilege tax under this chapter in the current calendar year, may file a single annual statement of  
42 the quantity of wine produced, purchased or received by the manufacturer during the current cal-  
43 endar year. The annual statement shall be filed with the commission on or before January 20 of the  
44 following year.

45 **SECTION 12.** ORS 473.080 is amended to read:

1 473.080. If any manufacturer **or wholesale malt beverage distributor** fails, neglects or refuses  
 2 to file a statement required by ORS 473.070 or files a false statement, the Oregon Liquor Control  
 3 Commission shall estimate the amount of wine, cider and malt beverages produced, purchased, [or]  
 4 received **or delivered** by the manufacturer **or the wholesale malt beverage distributor** and assess  
 5 the [privilege] tax thereon. The manufacturer **or wholesale malt beverage distributor** shall be  
 6 estopped from complaining of the amount so estimated.

7 **SECTION 13.** ORS 473.090 is amended to read:

8 473.090. [The privilege] **A** tax required to be paid [by] **under** ORS 473.030, 473.035 [and] **or**  
 9 473.040 **or section 2 of this 2007 Act** constitutes a lien upon, and has the effect of an execution  
 10 duly levied against, any and all property of the manufacturer **or wholesale malt beverage dis-**  
 11 **tributor**, attaching at the time the beverages subject to the tax were produced, purchased, [or]  
 12 received[,] **or delivered**, as the case may be, and remaining until the tax is paid or the property sold  
 13 in payment thereof. The lien created by this section is paramount to all private liens or  
 14 encumbrances.

15 **SECTION 14.** ORS 473.100 is amended to read:

16 473.100. (1) Whenever any manufacturer **or wholesale malt beverage distributor** is delinquent  
 17 in the payment of the [privilege] tax provided for in ORS 473.030, 473.035 [and] **or 473.040 or section**  
 18 **2 of this 2007 Act**, the Oregon Liquor Control Commission or its duly authorized representative  
 19 shall seize any property subject to the tax and sell, at public auction, property so seized, or a suf-  
 20 ficient portion thereof to pay the [privilege] tax due, together with any penalties imposed under ORS  
 21 473.060 for such delinquency and all costs incurred on account of the seizure and sale.

22 (2) Written notice of the intended sale and the time and place thereof, shall be given to such  
 23 delinquent manufacturer **or wholesale malt beverage distributor** and to all persons appearing of  
 24 record to have an interest in the property, at least 10 days before the date set for the sale. The  
 25 notice shall be enclosed in an envelope addressed to the manufacturer **or wholesale malt beverage**  
 26 **distributor** at the last-known residence or place of business of the manufacturer **or wholesale malt**  
 27 **beverage distributor** in this state, if any; and in the case of any person appearing of record to have  
 28 an interest in such property, addressed to such person at the last-known place of residence of the  
 29 person, if any. The envelope shall be deposited in the United States mail, postage prepaid. In addi-  
 30 tion, notice shall be published for at least 10 days before the date set for such sale, in a newspaper  
 31 of general circulation published in the county in which the property seized is to be sold. If there is  
 32 no newspaper of general circulation in such county, the notice shall be posted in three public places  
 33 in such county for the 10-day period. The notice shall contain a description of the property to be  
 34 sold, a statement of the amount of the [privilege] taxes, penalties and costs, the name of the man-  
 35 ufacturer **or wholesale malt beverage distributor**, and the further statement that, unless the  
 36 [privilege] taxes, penalties and costs are paid on or before the time fixed in the notice for the sale,  
 37 the property, or so much thereof as may be necessary, will be sold in accordance with law and the  
 38 notice.

39 **SECTION 15.** ORS 473.110 is amended to read:

40 473.110. At the sale, the property shall be sold by the Oregon Liquor Control Commission or by  
 41 its duly authorized agent in accordance with law and the notice. The commission shall deliver to the  
 42 purchaser a bill of sale for the personal property, and a deed for any real property so sold. The bill  
 43 of sale or deed vests title in the purchaser. The unsold portion of any property seized under ORS  
 44 473.100 may be left at the place of sale at the risk of the manufacturer **or wholesale malt beverage**  
 45 **distributor**. If upon any such sale, the money received exceeds the amount of all [privilege] taxes,

1 penalties and costs due the state from the manufacturer **or wholesale malt beverage distributor**,  
 2 the excess shall be returned to the manufacturer **or wholesale malt beverage distributor**, and a  
 3 receipt therefor obtained. However, if any person having an interest in or lien upon the property  
 4 has filed with the commission, prior to the sale, notice of interest or lien, the commission shall  
 5 withhold any such excess pending a determination of the rights of the respective parties thereto by  
 6 a court of competent jurisdiction. If the receipt of the manufacturer **or wholesale malt beverage**  
 7 **distributor** is not available, the commission shall deposit such excess money with the State Treas-  
 8 urer, as trustee for the owner, subject to the order of the manufacturer **or wholesale malt**  
 9 **beverage distributor, or of** the heirs, successors or assigns of the manufacturer **or wholesale malt**  
 10 **beverage distributor**.

11 **SECTION 16.** ORS 473.120 is amended to read:

12 473.120. (1) The Oregon Liquor Control Commission shall immediately transmit notice of the  
 13 delinquency mentioned in ORS 473.100 to the Attorney General. The Attorney General shall at once  
 14 proceed to collect all sums due to the state from the manufacturer **or wholesale malt beverage**  
 15 **distributor** under this chapter by bringing suit against the necessary parties to effect forfeiture of  
 16 the bonds of the manufacturer **or wholesale malt beverage distributor**, reducing any deficiency  
 17 to judgment against the manufacturer **or wholesale malt beverage distributor**.

18 (2) The remedies of the state provided in ORS 473.090 to 473.120 are cumulative and no action  
 19 taken by the commission or Attorney General constitutes an election on the part of the state or any  
 20 of its officers to pursue one remedy to the exclusion of any other remedy provided in this chapter.

21 **SECTION 17.** ORS 473.130 is amended to read:

22 473.130. In any suit brought to enforce the rights of the state, the assessment made by the  
 23 Oregon Liquor Control Commission under ORS 473.080, or a copy of so much thereof as is applicable  
 24 in such suit, duly certified by the commission and showing unpaid [*privilege*] taxes assessed against  
 25 any manufacturer **or wholesale malt beverage distributor**, is prima facie evidence:

- 26 (1) Of the assessment of the [*privilege*] tax and the delinquency thereof.
- 27 (2) Of the amount of the [*privilege*] tax, interest, penalties and costs due and unpaid to the state.
- 28 (3) That the manufacturer **or wholesale malt beverage distributor** is indebted to this state in  
 29 the amount of such [*privilege*] tax, interest and penalties therein appearing unpaid.
- 30 (4) That the law relating to assessment and levy of such [*privilege*] tax has been fully complied  
 31 with by all persons required to perform administrative duties under this chapter.

32 **SECTION 18.** ORS 473.140 is amended to read:

33 473.140. Every manufacturer **and wholesale malt beverage distributor** shall keep a complete  
 34 and accurate record of all sales **and deliveries** of wine, cider and malt beverages, a complete and  
 35 accurate record of the number of gallons imported, produced, purchased, manufactured, brewed or  
 36 fermented, and the date of importation, production, purchase, manufacturing, brewing or  
 37 fermentation. The records shall be in such form and contain such other information as the Oregon  
 38 Liquor Control Commission may prescribe. The commission, by rule or regulation, may require the  
 39 delivery of statements by distributors to purchasers, with wine, cider and malt beverages, and pre-  
 40 scribe the matters to be contained therein. Such records and statements shall be preserved by the  
 41 distributor and the purchaser respectively, for a period of two years, and shall be offered for in-  
 42 spection at any time upon oral or written demand by the commission or its duly authorized agents.

43 **SECTION 19.** ORS 473.150 is amended to read:

44 473.150. (1) The Oregon Liquor Control Commission may, at any time, examine the books and  
 45 records of any manufacturer of wine, cider or malt beverages **or of any wholesale malt beverage**

1 **distributor**, and may appoint such auditors, investigators and other employees as it deems neces-  
2 sary to enforce its powers and perform its duties under this section.

3 (2) Every manufacturer **and wholesale malt beverage distributor** shall maintain and keep,  
4 within this state for two years, all records, books and accounts required by this chapter.

5 **SECTION 20.** ORS 473.170 is amended to read:

6 473.170. (1) No manufacturer **or wholesale malt beverage distributor** shall:

7 (a) Fail to pay [*the privilege*] a tax prescribed in ORS 473.030, 473.035 [*and*] **or 473.040 or sec-**  
8 **tion 2 of this 2007 Act** when it is due; or

9 (b) Falsify the statement required by ORS 473.070.

10 (2) No person shall:

11 (a) Refuse to permit the Oregon Liquor Control Commission or any of its representatives to  
12 make an inspection of the books and records authorized by ORS 473.140 to 473.160;

13 (b) Fail to keep books of account prescribed by the commission or required by this chapter;

14 (c) Fail to preserve the books for two years for inspection of the commission; or

15 (d) Alter, cancel or obliterate entries in the books of account for the purpose of falsifying any  
16 record required by this chapter to be made, maintained or preserved.

17 **SECTION 21.** ORS 190.530 is amended to read:

18 190.530. Upon petition from a city, county, political subdivision, public corporation or state  
19 agency for reconsideration, or upon its own motion, the State Board of Higher Education may revise  
20 its determination of the population of a city, county or other area. Payment of funds to a city,  
21 county or other area under ORS 323.455, 366.785 to 366.820 or 471.810 **or section 2 of this 2007**  
22 **Act** shall be affected by a subsequent filing of a corrected certificate under this section in the  
23 manner provided by ORS 190.620.

24 **SECTION 22.** ORS 190.540 is amended to read:

25 190.540. (1) The population shown in the certificate of population of the State Board of Higher  
26 Education filed pursuant to ORS 190.520 or 190.530 shall be the official population of the city,  
27 county or other area covered by the certificate until a later certificate covering such city, county  
28 or other area is filed by the board.

29 (2) After a certificate of population is filed pursuant to ORS 190.520 or 190.530, the population  
30 of a city, county or other area as shown in the certificate shall be the official and exclusive basis  
31 for determining per capita allocation and payment of funds to such city, county or other area under  
32 ORS 366.785 to 366.820 and 471.810 **and section 2 of this 2007 Act** until the filing by the board of  
33 a later certificate for such city, county or other area.

34 **SECTION 23.** ORS 190.620 is amended to read:

35 190.620. (1) Whenever a corrected certificate of census is filed and the correction is such that  
36 payment of funds under ORS 323.455, 366.785 to 366.820 or 471.810 **or section 2 of this 2007 Act**  
37 was more or less than the city, county or other area would have been entitled, the payment shall  
38 be corrected in the distribution of funds next following the erroneous distribution. In computing the  
39 corrected distribution, the amount due any city or county or other area under the corrected certif-  
40 icate shall be distributed first, and the amounts payable that would otherwise be distributed shall  
41 be adjusted accordingly.

42 (2) The provisions of subsection (1) of this section shall apply to all distributions made after  
43 December 31, 1970, if a corrected certificate has been filed prior to the distribution next following  
44 the erroneous distribution. If the corrected certificate is not filed before the distribution next fol-  
45 lowing the erroneous distribution, no adjustments are required and the corrected certificate shall



1 affect only those distributions made after the corrected certificate is filed.

2 **SECTION 24.** ORS 199.755 is amended to read:

3 199.755. (1) A city-county shall receive a share of the revenues allocated to counties under ORS  
4 323.455, 366.762 and 471.810 **and section 2 of this 2007 Act.** Subject to subsections (2) and (3) of  
5 this section, it shall also receive a share allocated under ORS 323.455, 366.800 and 471.810 to cities.

6 (2) Starting with the first full calendar month after the effective date of the consolidation, a  
7 city-county shall receive a share of such revenues allocated to cities on the same basis as a city.  
8 In computing such share, population shall be determined as provided by subsection (3) of this sec-  
9 tion.

10 (3) For the purposes of this section, population of a city-county shall be determined:

11 (a) For the calendar year in which the consolidation becomes effective, at 87 percent of the  
12 population of the city-county as determined under ORS 190.510 to 190.590;

13 (b) For the first calendar year following the calendar year in which the consolidation becomes  
14 effective, at 88 percent of the population of the city-county as determined under ORS 190.510 to  
15 190.590; and

16 (c) For the second calendar year following the calendar year in which the consolidation becomes  
17 effective, at 89 percent; for the third, at 91 percent; for the fourth, at 92 percent; for the fifth, at  
18 94 percent; for the sixth, at 95 percent; for the seventh, at 97 percent; for the eighth, at 98 percent;  
19 for the ninth, at 99 percent; and for the 10th and each succeeding calendar year following the cal-  
20 endar year in which the consolidation becomes effective, at 100 percent of the population of the  
21 consolidated city-county as determined under ORS 190.510 to 190.590.

22  
23 **CAPTIONS**

24  
25 **SECTION 25.** **The unit captions used in this 2007 Act are provided only for the conven-**  
26 **ience of the reader and do not become part of the statutory law of this state or express any**  
27 **legislative intent in the enactment of this 2007 Act.**

28  
29 **EFFECTIVE DATE**

30  
31 **SECTION 26.** **This 2007 Act takes effect on the 91st day after the date on which the**  
32 **regular session of the Seventy-fourth Legislative Assembly adjourns sine die.**  
33