

**A-Engrossed**  
**Senate Bill 451**

Ordered by the Senate February 20  
Including Senate Amendments dated February 20

Sponsored by Senator WESTLUND, Representative BURLEY

**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.

Allows distillery licensee to [*sell wine, malt beverages, cider and distilled liquor by the drink*] **hold full on-premises sales licenses**. Provides that sales may be made only on licensed premises and on one other premises [*approved by Oregon Liquor Control Commission*]. **Provides that all distilled spirits sold under full on-premises license must be purchased from Oregon Liquor Control Commission.**

Eliminates limitation on types of distilled liquor that distillery licensee may use in conducting tastings and that licensee may sell by bottle as retail sales agent of commission.

**Removes certain restrictions on privileges of brewery-public house licensees.**

**A BILL FOR AN ACT**

1  
2 Relating to distilleries; creating new provisions; and amending ORS 471.200, 471.230 and 471.396.

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

4 **SECTION 1.** ORS 471.230 is amended to read:

5 471.230. (1) A distillery license shall allow the holder thereof to import, manufacture, distill,  
6 rectify, blend, denature and store spirits of an alcoholic content greater than 17 percent alcohol by  
7 weight, to sell the same to the Oregon Liquor Control Commission[,] and to transport the same out  
8 of this state for sale outside this state. Distillery licensees shall be permitted to purchase from and  
9 through the commission alcoholic beverages for blending and manufacturing purposes upon such  
10 terms and conditions as the commission may provide. No such licensee shall sell any alcoholic  
11 beverage within this state except to the commission or as provided in [*subsection (2) of*] this section.  
12 However, any agricultural producer or association of agricultural producers or legal agents thereof  
13 who manufacture and convert agricultural surpluses, by-products and wastes into denatured ethyl  
14 and industrial alcohol for use in the arts and industry shall not be required to obtain a license from  
15 the commission.

16 (2) A distillery licensee [*that distills brandy or pot distilled liquor*] may:

17 (a) Permit tastings of [*such brandy or pot*] **the** distilled liquor [*by visitors on*] **manufactured**  
18 **by the distillery. The tastings may be conducted on** the premises and on at least one other  
19 premises owned or leased by the licensee. The licensee must purchase the [*brandy or pot*] distilled  
20 liquor from the commission.

21 (b) Apply for appointment as a retail sales agent of the commission for purposes of retailing only  
22 [*brandy or pot*] distilled liquor that the licensee distilled in Oregon at the two locations at which  
23 tastings are permitted pursuant to paragraph (a) of this subsection.

24 **(3) Notwithstanding ORS 471.392 to 471.400, a distillery licensee may also hold a full on-**  
25 **premises sales license for a location at the licensed premises of the distillery and a full on-**

**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 **premises sales license for one other location. All distilled spirits sold under the full**  
2 **on-premises sales license must be purchased from the commission.**

3 **SECTION 2.** ORS 471.396 is amended to read:

4 471.396. (1) The prohibitions of ORS 471.394 (1) do not apply to persons holding winery licenses,  
5 grower sales privilege licenses, brewery-public house licenses, **distillery licenses** or brewery li-  
6 censes, to the extent that retail sales are authorized by the statutes establishing the privileges of  
7 each license.

8 (2)(a) The prohibitions of ORS 471.394 (2) and (3) do not apply to a person who wholesales al-  
9 coholic liquor and who is not required to be licensed under the provisions of this chapter if the re-  
10 tail licensee does not sell any brand of alcoholic liquor sold or distributed by the person and does  
11 not sell any brand of alcoholic liquor produced by any manufacturer doing business with the person  
12 selling at wholesale.

13 (b) The prohibitions of ORS 471.394 (2) and (3) do not apply to a manufacturer of alcoholic liquor  
14 if the retail licensee does not sell any brand of alcoholic liquor sold, distributed or produced by the  
15 manufacturer and does not sell any brand of alcoholic liquor sold, distributed or produced by any  
16 subsidiary or other business entity that the manufacturer owns or manages, or that the manufac-  
17 turer exercises control over.

18 (3) The prohibitions of ORS 471.394 do not apply solely by reason of the family relationship of  
19 a spouse or family member to a manufacturer or wholesaler if:

20 (a) The manufacturer or wholesaler is licensed by the Oregon Liquor Control Commission to sell  
21 alcoholic liquor at wholesale;

22 (b) The license authorizing sale of alcoholic liquor at wholesale was first issued before January  
23 1, 1965, and has been held continuously since that date;

24 (c) The spouse or family member holds or seeks a license that authorizes the retail sale of al-  
25 coholic liquor for off-premises consumption only; and

26 (d) The manufacturer or wholesaler does not directly or indirectly sell alcoholic liquor to the  
27 spouse or family member.

28 (4) The prohibitions of ORS 471.394 do not apply solely by reason of the family relationship of  
29 a spouse or family member to the retail licensee if the manufacturer or wholesaler is licensed by the  
30 commission to sell alcoholic liquor at wholesale and does not directly or indirectly sell alcoholic  
31 liquor to the spouse or family member.

32 (5) Notwithstanding ORS 471.394, a manufacturer or wholesaler, and any officer, director or  
33 substantial stockholder of any corporate manufacturer or wholesaler, may hold, directly or indi-  
34 rectly, an interest in a full or limited on-premises sales licensee, provided that the interest does not  
35 result in exercise of control over, or participation in the management of, the licensee's business or  
36 business decisions, and does not result in exclusion of any competitor's brand of alcoholic liquor.

37 (6) Notwithstanding ORS 471.394, a full or limited on-premises sales licensee, and any officer,  
38 director or substantial stockholder of any corporate full or limited on-premises sales licensee, may  
39 hold, directly or indirectly, an interest in a manufacturer or wholesaler, provided that the interest  
40 does not result in exercise of control over, or participation in the management of, the manufactur-  
41 er's or wholesaler's business or business decisions, and does not result in exclusion of any compet-  
42 itor's brand of alcoholic liquor.

43 (7) Notwithstanding ORS 471.394, an institutional investor with a financial interest in a whole-  
44 saler or manufacturer may hold, directly or indirectly, an interest in a retail licensee unless the  
45 institutional investor controls, is controlled by, or is under common control with, a wholesaler or

1 manufacturer. Notwithstanding ORS 471.394, an institutional investor with a financial interest in  
2 a retail licensee may hold, directly or indirectly, an interest in a wholesaler or manufacturer unless  
3 the institutional investor controls, is controlled by, or is under common control with, a retail  
4 licensee. The provisions of this subsection apply only to an institutional investor that is a state or  
5 federally chartered bank, a state or federally chartered mutual savings bank, a mutual fund or  
6 pension fund, or a private investment firm. The principal business activity of the institutional in-  
7 vestor must be the investment of capital provided by depositors, participants or investors. The in-  
8 stitutional investor must maintain a diversified portfolio of investments. The majority of the  
9 institutional investor's investments may not be in businesses that manufacture, distribute or other-  
10 wise sell alcoholic beverages. The institutional investor, and the officers, directors, substantial  
11 shareholders, partners, employees and agents of the institutional investor, may not participate in  
12 management decisions relating to the sale or purchase of alcoholic beverages made by a licensee in  
13 which the institutional investor holds an interest.

14 (8) Notwithstanding ORS 471.394, a member of the board of directors of a parent company of a  
15 corporation that is a manufacturer may serve on the board of directors of a parent company of a  
16 corporation that is a retail licensee if:

17 (a) The manufacturer or parent company of a manufacturer is listed on a national security ex-  
18 change;

19 (b) All purchases of alcoholic beverages by the retail licensee are made from holders of whole-  
20 sale malt beverage and wine licenses, brewery licenses or winery licenses in this state;

21 (c) The interest of the member of the board of directors does not result in the exclusion of any  
22 competitor's brand of alcoholic beverages on the licensed premises of the retail licensee; and

23 (d) The sale of goods and services other than alcoholic beverages by the retail licensee exceeds  
24 50 percent of the gross receipts of the business conducted by the retail licensee on the licensed  
25 premises.

26 **SECTION 3. The amendments to ORS 471.230 and 471.396 by sections 1 and 2 of this 2007**  
27 **Act apply to all distillery licenses, whether issued before, on or after the effective date of**  
28 **this 2007 Act.**

29 **SECTION 4.** ORS 471.200 is amended to read:

30 471.200. (1) A brewery-public house license allows the licensee:

31 (a) To manufacture on the licensed premises, store, transport, sell to wholesale malt beverage  
32 and wine licensees of the Oregon Liquor Control Commission and export malt beverages;

33 (b) To sell malt beverages manufactured on or off the licensed premises at retail for consumption  
34 on or off the premises;

35 (c) To sell malt beverages in brewery-sealed packages at retail directly to the consumer for  
36 consumption off the premises;

37 (d) To sell on the licensed premises at retail malt beverages manufactured on or off the licensed  
38 premises in unpasteurized or pasteurized form directly to the consumer for consumption off the  
39 premises, delivery of which may be made in a securely covered container supplied by the consumer;

40 (e) To sell wine and cider at retail for consumption on or off the premises; and

41 (f) To conduct the activities described in paragraphs (b) to (e) of this subsection at one location  
42 other than the premises where the manufacturing occurs.

43 (2) In addition to the privileges specified in subsection (1) of this section, in any calendar year  
44 a brewery-public house licensee may sell at wholesale to licensees of the commission malt beverages  
45 produced by the brewery-public house licensee if the brewery-public house licensee produced 1,000

1 barrels or less of malt beverages in the immediately preceding calendar year.

2 (3) A brewery-public house licensee, or any person having an interest in the licensee, is a retail  
3 licensee for the purposes of ORS 471.394 and, except as otherwise provided by this section and ORS  
4 471.396, may not acquire or hold any right, title, lien, claim or other interest, financial or otherwise,  
5 in, upon or to the premises, equipment, business or merchandise of any manufacturer or wholesaler,  
6 as defined in ORS 471.392. A brewery-public house licensee, or any person having an interest in the  
7 licensee, is also a manufacturer for the purposes of ORS 471.398 and, except as otherwise provided  
8 by this section and ORS 471.400, may not acquire or hold any right, title, lien, claim or other in-  
9 terest, financial or otherwise, in, upon or to the premises, equipment, business or merchandise of  
10 any other retail licensee, as defined in ORS 471.392.

11 (4) A brewery-public house licensee, or any person having an interest in the licensee, is a retail  
12 licensee for the purposes of ORS 471.398 and, except as otherwise provided by this section and ORS  
13 471.400, may not accept directly or indirectly any financial assistance described in ORS 471.398 from  
14 any manufacturer or wholesaler, as defined in ORS 471.392. A brewery-public house licensee, or any  
15 person having an interest in the licensee, is also a manufacturer for the purposes of ORS 471.398  
16 and, except as otherwise provided by this section and ORS 471.400, may not provide directly or in-  
17 directly any financial assistance described in ORS 471.398 to any retail licensee, as defined in ORS  
18 471.392. The prohibitions on financial assistance in ORS 471.398 do not apply to financial assistance  
19 between manufacturing and retail businesses licensed to the same person under the provisions of  
20 this section.

21 (5) Notwithstanding subsection (3) of this section, a brewery-public house licensee, or any person  
22 having an interest in the licensee, may also hold a winery license authorized by ORS 471.223. A  
23 brewery-public house licensee, or any person having an interest in the licensee, may also hold a  
24 warehouse license authorized by ORS 471.242.

25 (6) Notwithstanding subsection (3) of this section, a brewery-public house licensee is eligible for  
26 limited on-premises sales licenses and temporary sales licenses.

27 (7)(a) Notwithstanding subsection (3) of this section, and except as provided in this subsection,  
28 a brewery-public house licensee, or any person having an interest in the licensee, may also hold a  
29 full on-premises sales license. If a person holds both a brewery-public house license and a full on-  
30 premises sales license, nothing in this chapter shall prevent the sale by the licensee of both distilled  
31 liquor and malt beverages manufactured under the brewery-public house license.

32 (b) The commission may not issue a full on-premises sales license to a brewery-public house  
33 licensee under the provisions of this subsection if the brewery-public house licensee, or any person  
34 having an interest in the licensee or exercising control over the licensee, is a brewery that brews  
35 more than 200,000 barrels of malt beverages annually or a winery that produces more than 200,000  
36 gallons of wine annually.

37 *[(c) The commission may not issue a full on-premises sales license to a brewery-public house*  
38 *licensee under the provisions of this subsection if the brewery-public house licensee, or any person*  
39 *having an interest in the licensee or exercising control over the licensee, is a distillery, unless the*  
40 *distillery produces only pot distilled liquor and produces no more than 12,000 gallons of pot distilled*  
41 *liquor annually.]*

42 (8) Notwithstanding any other provision of this chapter, a brewery-public house licensee, or any  
43 person having an interest in the licensee, may also hold a distillery license *[if the licensee produces*  
44 *only pot distilled liquor, and produces no more than 12,000 gallons of pot distilled liquor annually]*.  
45 No provision of this chapter prevents a brewery-public house licensee from becoming a retail sales

1 agent of the commission for the purpose of selling distilled liquors.

2 (9) Notwithstanding subsection (3) of this section, the commission by rule may authorize a  
3 brewery-public house licensee to coproduce special events with other manufacturers.

4 (10)(a) Notwithstanding subsection (3) of this section, a brewery-public house licensee may hold,  
5 directly or indirectly, an interest in a manufacturer or wholesaler, provided that the interest does  
6 not result in exercise of control over, or participation in the management of, the manufacturer's or  
7 wholesaler's business or business decisions and does not result in exclusion of any competitor's  
8 brand of alcoholic liquor.

9 (b) Notwithstanding subsection (3) of this section, a manufacturer or wholesaler, and any officer,  
10 director or substantial stockholder of any corporate manufacturer or wholesaler, may hold, directly  
11 or indirectly, an interest in a brewery-public house licensee, provided that the interest does not re-  
12 sult in exercise of control over, or participation in the management of, the licensee's business or  
13 business decisions and does not result in exclusion of any competitor's brand of alcoholic liquor.

14 (11) For purposes of ORS chapter 473, a brewery-public house licensee shall be considered to  
15 be a manufacturer.

16

---