

# Senate Bill 451

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 **as introduced**.

Allows distillery licensee to sell wine, malt beverages, cider and distilled liquor by the drink. Provides that sales may be made only on licensed premises and on one other premises approved by 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.

## A BILL FOR AN ACT

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

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

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

4 471.230. (1) A distillery license shall allow the holder thereof to import, manufacture, distill,  
5 rectify, blend, denature and store spirits of an alcoholic content greater than 17 percent alcohol by  
6 weight, to sell the same to the Oregon Liquor Control Commission[,] and to transport the same out  
7 of this state for sale outside this state. Distillery licensees shall be permitted to purchase from and  
8 through the commission alcoholic beverages for blending and manufacturing purposes upon such  
9 terms and conditions as the commission may provide. No such licensee shall sell any alcoholic  
10 beverage within this state except to the commission or as provided in [subsection (2) of] this section.  
11 However, any agricultural producer or association of agricultural producers or legal agents thereof  
12 who manufacture and convert agricultural surpluses, by-products and wastes into denatured ethyl  
13 and industrial alcohol for use in the arts and industry shall not be required to obtain a license from  
14 the commission.  
15

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) A distillery licensee may sell by the drink at retail wine, malt beverages, cider and**  
25 **distilled liquor. Except as provided in this section, all alcoholic beverages sold under a**  
26 **distillery license must be consumed on the premises. Sales by a distillery licensee under this**  
27 **section may be made only on the licensed premises and on one other premises approved by**  
28 **the commission.**

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

30 471.396. (1) The prohibitions of ORS 471.394 (1) do not apply to persons holding winery licenses,

**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 grower sales privilege licenses, brewery-public house licenses, **distillery licenses** or brewery li-  
2 censes, to the extent that retail sales are authorized by the statutes establishing the privileges of  
3 each license.

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

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

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

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

18 (b) The license authorizing sale of alcoholic liquor at wholesale was first issued before January  
19 1, 1965, and has been held continuously since that date;

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

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

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

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

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

39 (7) Notwithstanding ORS 471.394, an institutional investor with a financial interest in a whole-  
40 saler or manufacturer may hold, directly or indirectly, an interest in a retail licensee unless the  
41 institutional investor controls, is controlled by, or is under common control with, a wholesaler or  
42 manufacturer. Notwithstanding ORS 471.394, an institutional investor with a financial interest in  
43 a retail licensee may hold, directly or indirectly, an interest in a wholesaler or manufacturer unless  
44 the institutional investor controls, is controlled by, or is under common control with, a retail  
45 licensee. The provisions of this subsection apply only to an institutional investor that is a state or

1 federally chartered bank, a state or federally chartered mutual savings bank, a mutual fund or  
2 pension fund, or a private investment firm. The principal business activity of the institutional in-  
3 vestor must be the investment of capital provided by depositors, participants or investors. The in-  
4 stitutional investor must maintain a diversified portfolio of investments. The majority of the  
5 institutional investor's investments may not be in businesses that manufacture, distribute or other-  
6 wise sell alcoholic beverages. The institutional investor, and the officers, directors, substantial  
7 shareholders, partners, employees and agents of the institutional investor, may not participate in  
8 management decisions relating to the sale or purchase of alcoholic beverages made by a licensee in  
9 which the institutional investor holds an interest.

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

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

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

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

19 (d) The sale of goods and services other than alcoholic beverages by the retail licensee exceeds  
20 50 percent of the gross receipts of the business conducted by the retail licensee on the licensed  
21 premises.

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

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