

**A-Engrossed**  
**Senate Bill 707**

Ordered by the Senate April 18  
Including Senate Amendments dated April 18

Sponsored by Senators VERGER, COURTNEY, AVAKIAN, Representatives BERGER, MERKLEY, DINGFELDER

**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.

*[Requires Department of Environmental Quality to develop plan related to beverage containers. Authorizes department to adopt rules.]*

**Modifies definition of "beverage" for purposes of beverage container refunds to include water and flavored water.**

**Provides that certain dealers may refuse to accept empty beverage containers that held beverage of brand dealer does not sell and may refuse to accept more than 50 containers returned by one person in one day.**

**Establishes liability of manufacturers, distributors and importers who fail to pay refund value and collect containers.**

**Creates Bottle Bill Task Force to study beverage container collection and refund matters and to report to certain interim legislative committees on or before November 1, 2008.**

**Declares emergency, effective on passage.**

**A BILL FOR AN ACT**

1  
2 Relating to beverage containers; creating new provisions; amending ORS 459A.700, 459A.710,  
3 459A.715 and 459A.735; and declaring an emergency.

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

5 **SECTION 1.** ORS 459A.700 is amended to read:

6 459A.700. As used in ORS 459.992 (3) and (4) and 459A.700 to 459A.740, unless the context re-  
7 quires otherwise:

8 (1) "Beverage" means **water and flavored water**, beer or other malt beverages and mineral  
9 waters, soda water and similar carbonated soft drinks in liquid form and intended for human con-  
10 sumption.

11 (2)(a) "Beverage container" means *[the]* **an** individual, separate, sealed glass, metal or *[plastic]*  
12 *bottle, can, jar, or carton* **polyethylene terephthalate bottle or can** containing a beverage **in a**  
13 **quantity less than or equal to three fluid liters.**

14 (b) **"Beverage container" does not include cartons, foil pouches and drink boxes.**

15 (3) "Commission" means the Oregon Liquor Control Commission.

16 (4) "Consumer" means every person who purchases a beverage in a beverage container for use  
17 or consumption.

18 (5) "Dealer" means every person in this state who engages in the sale of beverages in beverage  
19 containers to a consumer, or means a redemption center certified under ORS 459A.735.

20 (6) "Distributor" means every person who engages in the sale of beverages in beverage con-  
21 tainers to a dealer in this state including any manufacturer who engages in such sales.

22 (7) **"Importer" means any dealer or manufacturer who directly imports beverage con-**

**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 **tainers into this state.**

2 [(7)] (8) "In this state" means within the exterior limits of the State of Oregon and includes all  
3 territory within these limits owned by or ceded to the United States of America.

4 [(8)] (9) "Manufacturer" means every person bottling, canning or otherwise filling beverage  
5 containers for sale to distributors, **importers** or dealers.

6 [(9)] (10) "Place of business of a dealer" means the location at which a dealer sells or offers for  
7 sale beverages in beverage containers to consumers.

8 (11) "**Polyethylene terephthalate**" means that **polyethylene terephthalate required to be**  
9 **labeled under ORS 459A.680.**

10 [(10)] (12) "Use or consumption" includes the exercise of any right or power over a beverage  
11 incident to the ownership thereof, other than the sale or the keeping or retention of a beverage for  
12 the purposes of sale.

13 **SECTION 2.** ORS 459A.710 is amended to read:

14 459A.710. Except as provided in ORS 459A.715:

15 (1)(a) **Except as provided in paragraph (b) of this subsection,** a dealer [shall] **may** not refuse  
16 to accept from any person any empty beverage containers of the kind[, *size and brand*] sold by the  
17 dealer, or refuse to pay to that person the refund value of a beverage container as established by  
18 ORS 459A.705.

19 (b) **A dealer that occupies a space of less than 5,000 square feet in a single area may re-**  
20 **fuse to accept any empty beverage containers that held a beverage of a brand that the dealer**  
21 **does not sell.**

22 (2) A distributor [shall] **or importer may** not refuse to accept from a dealer any empty beverage  
23 containers of the kind, size and brand sold by the distributor **or importer,** or refuse to pay the  
24 dealer the refund value of a beverage container as established by ORS 459A.705.

25 (3) **The manufacturer, distributor or importer of any beverage sold in this state shall**  
26 **ensure that all dealers in this state that sell those beverages are paid the refund value for**  
27 **their beverage containers and that those beverage containers are collected from the dealer**  
28 **or redemption premises or redemption center in a timely manner.**

29 **SECTION 3.** ORS 459A.715 is amended to read:

30 459A.715. (1) A dealer may refuse to accept from any person, and a distributor may refuse to  
31 accept from a dealer, any empty beverage container that does not state thereon a refund value as  
32 established by ORS 459A.705.

33 (2) A dealer may refuse to accept and to pay the refund value of:

34 (a) Empty beverage containers if the place of business of the dealer and the kind [*and brand*]  
35 of empty beverage containers are included in an order of the Oregon Liquor Control Commission  
36 approving a redemption center under ORS 459A.735.

37 (b) Any beverage container visibly containing or contaminated by a substance other than water,  
38 residue of the original contents or ordinary dust.

39 (c)(A) More than 144 individual beverage containers returned by any one person during one  
40 day, **if the dealer occupies a space of 5,000 or more square feet in a single area.**

41 (B) **More than 50 individual beverage containers returned by any one person during one**  
42 **day, if the dealer occupies a space of less than 5,000 square feet in a single area.**

43 (d) Any beverage container that is damaged to the extent that the brand appearing on the con-  
44 tainer cannot be identified.

45 (3)(a) In order to refuse containers under subsection (2)(b), (c)(A) or (d) of this section, **if a**

1 **dealer occupies a space of 5,000 or more square feet in a single area**, the dealer must post in  
2 each area where containers are received a clearly visible and legible sign containing the following  
3 information:

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6 NOTICE:

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8 Oregon Law allows a dealer to refuse to accept:

- 9 1. Beverage containers visibly containing or contaminated by a substance other than water,  
10 residue of the original contents or ordinary dust;
- 11 2. More than 144 individual beverage containers from any one person during one day; or
- 12 3. Beverage containers that are damaged to the extent that the brand appearing on the con-  
13 tainer cannot be identified.

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16 **(b) In order to refuse containers under subsection (2)(b), (c)(B) or (d) of this section, if**  
17 **a dealer occupies a space of less than 5,000 square feet in a single area, the dealer must post**  
18 **in each area where containers are received a clearly visible and legible sign containing the**  
19 **following information:**

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22 NOTICE:

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24 Oregon Law allows a dealer to refuse to accept:

- 25 1. Beverage containers visibly containing or contaminated by a substance other than  
26 water, residue of the original contents or ordinary dust;
- 27 2. More than 50 individual beverage containers from any one person during one day; or
- 28 3. Beverage containers that are damaged to the extent that the brand appearing on the  
29 container cannot be identified.

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32 **SECTION 4.** ORS 459A.715, as amended by section 3 of this 2007 Act, is amended to read:

33 459A.715. (1) A dealer may refuse to accept from any person, and a distributor **or importer** may  
34 refuse to accept from a dealer, any empty beverage container that does not state thereon a refund  
35 value as established by ORS 459A.705.

36 (2) A dealer may refuse to accept and to pay the refund value of:

37 (a) Empty beverage containers if the place of business of the dealer and the kind of empty  
38 beverage containers are included in an order of the Oregon Liquor Control Commission approving  
39 a redemption center under ORS 459A.735.

40 (b) Any beverage container visibly containing or contaminated by a substance other than water,  
41 residue of the original contents or ordinary dust.

42 (c)(A) More than 144 individual beverage containers returned by any one person during one day,  
43 if the dealer occupies a space of 5,000 or more square feet in a single area.

44 (B) More than 50 individual beverage containers returned by any one person during one day, if  
45 the dealer occupies a space of less than 5,000 square feet in a single area.

1 (d) Any beverage container that is damaged to the extent that the brand appearing on the con-  
2 tainer cannot be identified.

3 (3)(a) In order to refuse containers under subsection (2)(b), (c)(A) or (d) of this section, if a dealer  
4 occupies a space of 5,000 or more square feet in a single area, the dealer must post in each area  
5 where containers are received a clearly visible and legible sign containing the following information:  
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8 NOTICE:  
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10 Oregon Law allows a dealer to refuse to accept:

- 11 1. Beverage containers visibly containing or contaminated by a substance other than water,  
12 residue of the original contents or ordinary dust;
- 13 2. More than 144 individual beverage containers from any one person during one day; or
- 14 3. Beverage containers that are damaged to the extent that the brand appearing on the con-  
15 tainer cannot be identified.

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17 (b) In order to refuse containers under subsection (2)(b), (c)(B) or (d) of this section, if a dealer  
18 occupies a space of less than 5,000 square feet in a single area, the dealer must post in each area  
19 where containers are received a clearly visible and legible sign containing the following information:  
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23 NOTICE:  
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25 Oregon Law allows a dealer to refuse to accept:

- 26 1. Beverage containers visibly containing or contaminated by a substance other than water,  
27 residue of the original contents or ordinary dust;
- 28 2. More than 50 individual beverage containers from any one person during one day; or
- 29 3. Beverage containers that are damaged to the extent that the brand appearing on the con-  
30 tainer cannot be identified.

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33 **SECTION 5.** ORS 459A.735 is amended to read:

34 459A.735. (1) To facilitate the return of empty beverage containers and to serve dealers of  
35 beverages, any person may establish a redemption center, subject to the approval of the Oregon  
36 Liquor Control Commission, at which any person may return empty beverage containers and receive  
37 payment of the refund value of such beverage containers.

38 (2) Application for approval of a redemption center shall be filed with the commission. The ap-  
39 plication shall state the name and address of the person responsible for the establishment and op-  
40 eration of the redemption center, the kind *[and brand names of the]* **of** beverage containers *[which]*  
41 **that** will be accepted at the redemption center and the names and addresses of the dealers to be  
42 served by the redemption center. The application shall include such additional information as the  
43 commission may require.

44 (3) The commission shall approve a redemption center if it finds the redemption center will  
45 provide a convenient service to persons for the return of empty beverage containers. The order of

1 the commission approving a redemption center shall state the dealers to be served by the redemption  
2 center and the kind [*and brand names*] of empty beverage containers [*which*] **that** the redemption  
3 center must accept. The order may contain such other provisions to [*insure*] **ensure** the redemption  
4 center will provide a convenient service to the public as the commission may determine.

5 (4) The commission may review at any time approval of a redemption center. After written no-  
6 tice to the person responsible for the establishment and operation of the redemption center, and to  
7 the dealers served by the redemption center, the commission may, after hearing, withdraw approval  
8 of a redemption center if the commission finds there has not been compliance with its order ap-  
9 proving the redemption center, or if the redemption center no longer provides a convenient service  
10 to the public.

11 **SECTION 6. Section 7 of this 2007 Act is added to and made a part of ORS 459A.700 to**  
12 **459A.740.**

13 **SECTION 7. Any manufacturer, distributor or importer that fails to pay the refund value**  
14 **and collect containers as required pursuant to ORS 459A.710 (3) is liable to the person injured**  
15 **thereby for treble the refund value of beverage containers that was not paid and for costs**  
16 **of collecting any beverage containers that were not collected. The court may award reason-**  
17 **able attorney fees to the prevailing party in a civil action under this section.**

18 **SECTION 8. (1) There is created the Bottle Bill Task Force, consisting of nine members**  
19 **appointed as follows:**

20 (a) **The President of the Senate shall appoint two members from among members of the**  
21 **Senate.**

22 (b) **The Speaker of the House of Representatives shall appoint two members from among**  
23 **members of the House of Representatives.**

24 (c) **The Governor, upon recommendation by the Director of the Department of Environ-**  
25 **mental Quality, shall appoint five members representative of diverse interests, which may**  
26 **include but are not limited to consumers, dealers, distributors, labor organizations, man-**  
27 **ufacturers, nonprofit organizations, recyclers, representatives of local government and solid**  
28 **waste professionals.**

29 (2) **The task force shall study beverage container collection and refund matters, including**  
30 **but not limited to alternative collection methods to increase the recycling of beverage con-**  
31 **tainers while maintaining consumer convenience.**

32 (3) **A majority of the members of the task force constitutes a quorum for the transaction**  
33 **of business.**

34 (4) **Official action by the task force requires the approval of a majority of the members**  
35 **of the task force.**

36 (5) **The task force shall elect one of its members to serve as chairperson.**

37 (6) **If there is a vacancy for any cause, the appointing authority shall make an appoint-**  
38 **ment to become immediately effective.**

39 (7) **The task force shall meet at times and places specified by the call of the chairperson**  
40 **or of a majority of the members of the task force.**

41 (8) **The task force may adopt rules necessary for the operation of the task force.**

42 (9) **The task force shall submit a report, and shall include recommendations for legis-**  
43 **lation, to the interim legislative committees on environment and natural resources on or**  
44 **before November 1, 2008.**

45 (10) **The Legislative Administrator shall provide staff support to the task force, with the**

1 support of the Department of Environmental Quality.

2 (11) Members of the task force are not entitled to compensation or reimbursement for  
3 expenses and serve as volunteers on the task force.

4 (12) All agencies of state government, as defined in ORS 174.111, are directed to assist  
5 the task force in the performance of its duties and, to the extent permitted by laws relating  
6 to confidentiality, to furnish such information and advice as the members of the task force  
7 consider necessary to perform their duties.

8 (13) For the purposes of this section, “beverage container,” “consumer,” “dealer,” “dis-  
9 tributor” and “manufacturer” have the meanings given those terms in ORS 459A.700.

10 **SECTION 9.** Section 8 of this 2007 Act is repealed on the date of the convening of the next  
11 regular biennial legislative session.

12 **SECTION 10.** Sections 6 and 7 of this 2007 Act and the amendments to ORS 459A.700,  
13 459A.710, 459A.715 and 459A.735 by sections 1, 2, 4 and 5 of this 2007 Act become operative  
14 January 1, 2009.

15 **SECTION 11.** This 2007 Act being necessary for the immediate preservation of the public  
16 peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect  
17 on its passage.

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