

B-Engrossed Senate Bill 707

Ordered by the House May 18
Including Senate Amendments dated April 18 and House Amendments
dated May 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.

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

Provides that certain dealers may refuse to accept empty beverage containers that held beverage of **kind, size and** 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*] **bottle or can** containing a beverage **in a quantity less than or equal**
13 **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-**
23 **tainers into this state.**

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

3 [(8)] **(9)** “Manufacturer” means every person bottling, canning or otherwise filling beverage
4 containers for sale to distributors, **importers** or dealers.

5 [(9)] **(10)** “Place of business of a dealer” means the location at which a dealer sells or offers for
6 sale beverages in beverage containers to consumers.

7 [(10)] **(11)** “Use or consumption” includes the exercise of any right or power over a beverage
8 incident to the ownership thereof, other than the sale or the keeping or retention of a beverage for
9 the purposes of sale.

10 **(12) “Water and flavored water” means any beverage identified through the use of let-**
11 **ters, words or symbols on its product label as a type of water.**

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

13 459A.710. Except as provided in ORS 459A.715:

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

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

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

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

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

29 459A.715. (1) A dealer may refuse to accept from any person, and a distributor may refuse to
30 accept from a dealer, any empty beverage container that does not state thereon a refund value as
31 established by ORS 459A.705.

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

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

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

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

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

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

44 (3)(a) In order to refuse containers under subsection (2)(b), (c)(A) or (d) of this section, **if a**
45 **dealer occupies a space of 5,000 or more square feet in a single area,** the dealer must post in

1 each area where containers are received a clearly visible and legible sign containing the following
2 information:

5 NOTICE:

7 Oregon Law allows a dealer to refuse to accept:

8 1. Beverage containers visibly containing or contaminated by a substance other than water,
9 residue of the original contents or ordinary dust;

10 2. More than 144 individual beverage containers from any one person during one day; or

11 3. Beverage containers that are damaged to the extent that the brand appearing on the con-
12 tainer cannot be identified.

14
15 **(b) In order to refuse containers under subsection (2)(b), (c)(B) or (d) of this section, if**
16 **a dealer occupies a space of less than 5,000 square feet in a single area, the dealer must post**
17 **in each area where containers are received a clearly visible and legible sign containing the**
18 **following information:**

21 NOTICE:

23 Oregon Law allows a dealer to refuse to accept:

24 1. Beverage containers visibly containing or contaminated by a substance other than
25 water, residue of the original contents or ordinary dust;

26 2. More than 50 individual beverage containers from any one person during one day; or

27 3. Beverage containers that are damaged to the extent that the brand appearing on the
28 container cannot be identified.

30
31 **SECTION 4.** ORS 459A.715, as amended by section 3 of this 2007 Act, is amended to read:

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

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

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

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

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

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

45 (d) Any beverage container that is damaged to the extent that the brand appearing on the con-

1 tainer cannot be identified.

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

5 _____

6
7 NOTICE:

8
9 Oregon Law allows a dealer to refuse to accept:

10 1. Beverage containers visibly containing or contaminated by a substance other than water,
11 residue of the original contents or ordinary dust;

12 2. More than 144 individual beverage containers from any one person during one day; or

13 3. Beverage containers that are damaged to the extent that the brand appearing on the con-
14 tainer cannot be identified.

15 _____

16
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:

20 _____

21
22 NOTICE:

23
24 Oregon Law allows a dealer to refuse to accept:

25 1. Beverage containers visibly containing or contaminated by a substance other than water,
26 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 con-
29 tainer cannot be identified.

30 _____

31
32 **SECTION 5.** ORS 459A.735 is amended to read:

33 459A.735. (1) To facilitate the return of empty beverage containers and to serve dealers of
34 beverages, any person may establish a redemption center, subject to the approval of the Oregon
35 Liquor Control Commission, at which any person may return empty beverage containers and receive
36 payment of the refund value of such beverage containers.

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

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

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

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

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

12 **SECTION 7.** Any manufacturer, distributor or importer that fails to pay to a dealer or
13 redemption center the refund value of beverage containers and to collect beverage containers
14 as required by ORS 459A.710 (3) is liable to the dealer or redemption center for treble the
15 unpaid refund value and treble the collection costs incurred by the dealer or redemption
16 center for any beverage containers that were not collected as required.

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

19 (a) The President of the Senate shall appoint one member from among members of the
20 Senate.

21 (b) The Speaker of the House of Representatives shall appoint one member from among
22 members of the House of Representatives.

23 (c) The Governor shall appoint seven members based upon their ability to represent the
24 best interests of Oregon as a whole. No more than three members of the task force ap-
25 pointed by the Governor may receive or have previously received a substantial portion of
26 their own income or their family's income from the beverage container industry.

27 (2) The task force shall study and make recommendations on beverage container col-
28 lection and refund matters, including but not limited to:

29 (a) Establishing and paying for redemption centers to redeem beverage containers;

30 (b) Expanding the list of beverages to be included in the definition of "beverage" in ORS
31 459A.700;

32 (c) Increasing the refund value to be paid when redeeming beverage containers;

33 (d) Limiting the redemption of beverage containers that are purchased out of state; and

34 (e) Collecting and utilizing the refund value of unredeemed beverage containers.

35 (3) A majority of the members of the task force constitutes a quorum for the transaction
36 of business.

37 (4) Official action by the task force requires the approval of a majority of the members
38 of the task force.

39 (5) The Governor shall designate one member of the Bottle Bill Task Force to serve as
40 chairperson, who shall serve as chairperson at the pleasure of the Governor.

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

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

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

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

4 **(10) The Legislative Administrator shall provide staff support to the task force, with the**
5 **support of the Department of Environmental Quality.**

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

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

12 **(13) For the purposes of this section, “beverage” and “beverage container” have the**
13 **meanings given those terms in ORS 459A.700.**

14 **SECTION 9.** Section 8 of this 2007 Act is repealed on July 1, 2009.

15 **SECTION 10.** Sections 6 and 7 of this 2007 Act and the amendments to ORS 459A.700,
16 459A.710, 459A.715 and 459A.735 by sections 1, 2, 4 and 5 of this 2007 Act become operative
17 January 1, 2009.

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