

SENATE AMENDMENTS TO SENATE BILL 707

By COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

April 18

1 In line 2 of the printed bill, after “containers” insert “; creating new provisions; amending ORS
2 459A.700, 459A.710, 459A.715 and 459A.735; and declaring an emergency”.

3 Delete lines 4 through 9 and insert:

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

5 “459A.700. As used in ORS 459.992 (3) and (4) and 459A.700 to 459A.740, unless the context re-
6 quires otherwise:

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

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

13 “(b) ‘Beverage container’ **does not include cartons, foil pouches and drink boxes.**

14 “(3) ‘Commission’ means the Oregon Liquor Control Commission.

15 “(4) ‘Consumer’ means every person who purchases a beverage in a beverage container for use
16 or consumption.

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

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

21 “(7) ‘**Importer**’ means **any dealer or manufacturer who directly imports beverage con-**
22 **tainers into this state.**

23 “[7] (8) ‘In this state’ means within the exterior limits of the State of Oregon and includes all
24 territory within these limits owned by or ceded to the United States of America.

25 “[8] (9) ‘Manufacturer’ means every person bottling, canning or otherwise filling beverage
26 containers for sale to distributors, **importers** or dealers.

27 “[9] (10) ‘Place of business of a dealer’ means the location at which a dealer sells or offers for
28 sale beverages in beverage containers to consumers.

29 “(11) ‘**Polyethylene terephthalate**’ means **that polyethylene terephthalate required to be**
30 **labeled under ORS 459A.680.**

31 “[10] (12) ‘Use or consumption’ includes the exercise of any right or power over a beverage
32 incident to the ownership thereof, other than the sale or the keeping or retention of a beverage for
33 the purposes of sale.

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

35 “459A.710. Except as provided in ORS 459A.715:

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

5 “(b) **A dealer that occupies a space of less than 5,000 square feet in a single area may**
6 **refuse to accept any empty beverage containers that held a beverage of a brand that the**
7 **dealer does not sell.**

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

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

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

16 “459A.715. (1) A dealer may refuse to accept from any person, and a distributor may refuse to
17 accept from a dealer, any empty beverage container that does not state thereon a refund value as
18 established by ORS 459A.705.

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

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

23 “(b) Any beverage container visibly containing or contaminated by a substance other than wa-
24 ter, residue of the original contents or ordinary dust.

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

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

29 “(d) Any beverage container that is damaged to the extent that the brand appearing on the
30 container cannot be identified.

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

35 “ _____

37 NOTICE:

38
39 Oregon Law allows a dealer to refuse to accept:

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

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

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

45 “ _____

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

3 “ _____
4

5 “(b) In order to refuse containers under subsection (2)(b), (c)(B) or (d) of this section, if a dealer
6 occupies a space of less than 5,000 square feet in a single area, the dealer must post in each area
7 where containers are received a clearly visible and legible sign containing the following information:
8

9 “ _____
10

11 NOTICE:

12 Oregon Law allows a dealer to refuse to accept:

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

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

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

18 “ _____
19

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

21 “459A.735. (1) To facilitate the return of empty beverage containers and to serve dealers of
22 beverages, any person may establish a redemption center, subject to the approval of the Oregon
23 Liquor Control Commission, at which any person may return empty beverage containers and receive
24 payment of the refund value of such beverage containers.

25 “(2) Application for approval of a redemption center shall be filed with the commission. The
26 application shall state the name and address of the person responsible for the establishment and
27 operation of the redemption center, the kind [*and brand names of the*] **of** beverage containers
28 [*which*] **that** will be accepted at the redemption center and the names and addresses of the dealers
29 to be served by the redemption center. The application shall include such additional information as
30 the commission may require.

31 “(3) The commission shall approve a redemption center if it finds the redemption center will
32 provide a convenient service to persons for the return of empty beverage containers. The order of
33 the commission approving a redemption center shall state the dealers to be served by the redemption
34 center and the kind [*and brand names*] of empty beverage containers [*which*] **that** the redemption
35 center must accept. The order may contain such other provisions to [*insure*] **ensure** the redemption
36 center will provide a convenient service to the public as the commission may determine.

37 “(4) The commission may review at any time approval of a redemption center. After written
38 notice to the person responsible for the establishment and operation of the redemption center, and
39 to the dealers served by the redemption center, the commission may, after hearing, withdraw ap-
40 proval of a redemption center if the commission finds there has not been compliance with its order
41 approving the redemption center, or if the redemption center no longer provides a convenient ser-
42 vice to the public.

43 “**SECTION 6. Section 7 of this 2007 Act is added to and made a part of ORS 459A.700 to**
44 **459A.740.**

45 “**SECTION 7. Any manufacturer, distributor or importer that fails to pay the refund**

1 value and collect containers as required pursuant to ORS 459A.710 (3) is liable to the person
2 injured thereby for treble the refund value of beverage containers that was not paid and for
3 costs of collecting any beverage containers that were not collected. The court may award
4 reasonable attorney fees to the prevailing party in a civil action under this section.

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

7 **“(a)** The President of the Senate shall appoint two members from among members of the
8 Senate.

9 **“(b)** The Speaker of the House of Representatives shall appoint two members from among
10 members of the House of Representatives.

11 **“(c)** The Governor, upon recommendation by the Director of the Department of Envi-
12 ronmental Quality, shall appoint five members representative of diverse interests, which may
13 include but are not limited to consumers, dealers, distributors, labor organizations, man-
14 ufacturers, nonprofit organizations, recyclers, representatives of local government and solid
15 waste professionals.

16 **“(2)** The task force shall study beverage container collection and refund matters, in-
17 cluding but not limited to alternative collection methods to increase the recycling of
18 beverage containers while maintaining consumer convenience.

19 **“(3)** A majority of the members of the task force constitutes a quorum for the trans-
20 action of business.

21 **“(4)** Official action by the task force requires the approval of a majority of the members
22 of the task force.

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

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

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

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

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

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

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

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

40 **“(13)** For the purposes of this section, ‘beverage container,’ ‘consumer,’ ‘dealer,’ ‘dis-
41 tributor’ and ‘manufacturer’ have the meanings given those terms in ORS 459A.700.

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

44 **“SECTION 10.** Sections 6 and 7 of this 2007 Act and the amendments to ORS 459A.700,
45 459A.710, 459A.715 and 459A.735 by sections 1, 2, 4 and 5 of this 2007 Act become operative

1 **January 1, 2009.**

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

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