

Enrolled
House Bill 3636

Sponsored by COMMITTEE ON ELECTIONS, ETHICS AND RULES (at the request of House Interim Committee on Business and Labor)

CHAPTER

AN ACT

Relating to Oregon Liquor Control Commission; amending ORS 471.186 and 471.282; and declaring an emergency.

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

SECTION 1. ORS 471.186 is amended to read:

471.186. (1) The holder of an off-premises sales license may sell factory-sealed containers of wine, malt beverages and cider. Containers of malt beverages sold under the license may not hold more than two and one-quarter gallons.

(2) The holder of an off-premises sales license may provide sample tasting of alcoholic beverages on the licensed premises if the licensee makes written application to the Oregon Liquor Control Commission and receives approval from the commission to conduct tastings on the premises. Tastings must be limited to the alcoholic beverages that may be sold under the privileges of the license.

(3) An off-premises sales license may not be issued for use at a premises that is mobile.

(4) Except as provided in ORS 471.402, a manufacturer or wholesaler may not provide or pay for sample tastings of alcoholic beverages for the public on premises licensed under an off-premises sales license.

(5) The holder of an off-premises sales license may deliver wine or cider that is sold under the privileges of the license to retail customers in this state without a direct shipper permit issued under ORS 471.282. Any deliveries by the holder of an off-premises sales license are subject to any rules adopted by the commission relating to deliveries made under this subsection. Deliveries under this subsection:

(a) May be made only to a person who is at least 21 years of age;

(b) May be made only for personal use and not for the purpose of resale; and

(c) Must be made in containers that are conspicuously labeled with the words: "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 YEARS OR OLDER REQUIRED FOR DELIVERY."

(6) The holder of an off-premises sales license that makes deliveries of wine or cider under subsection (5) of this section must take all actions necessary to ensure that a carrier used by the licensee does not deliver any wine or cider unless the carrier:

(a) Obtains the signature of the recipient of the wine or cider upon delivery;

(b) Verifies by inspecting government-issued photo identification that the recipient is at least 21 years of age; and

(c) Determines that the recipient is not visibly intoxicated at the time of delivery.

(7) Any person who knowingly or negligently delivers wine or cider under the provisions of this section to a person under 21 years of age, or who knowingly or negligently delivers wine or cider under the provisions of this section to a visibly intoxicated person, violates ORS 471.410.

(8) If a court determines that deliveries of wine or cider under subsection (5) of this section cannot be restricted to holders of off-premises sales licenses, and the decision is a final judgment that is no longer subject to appeal, the holder of an off-premises sales license may not make deliveries of wine or cider under the provisions of subsection (5) of this section after entry of the final judgment.

SECTION 2. ORS 471.282 is amended to read:

471.282. (1) Notwithstanding any other provision of this chapter[,] **and except as provided by ORS 471.186 (5)**, a person may sell and ship wine or cider directly to a resident of Oregon only if the person holds a direct shipper permit. The Oregon Liquor Control Commission shall issue a direct shipper permit only to:

(a) A person that holds a license issued by this state or another state that authorizes the manufacture of wine or cider;

(b) A person that holds a license issued by this state or another state that authorizes the sale of wine or cider produced only from grapes or other fruit grown under the control of the person;

(c) A person that holds a license authorizing the sale of wine or cider at retail; or

(d) A nonprofit trade association that holds a temporary sales license under ORS 471.190 and that has a membership primarily composed of persons holding winery licenses issued under ORS 471.223 or grower sales privilege licenses issued under ORS 471.227.

(2) A person may apply for a direct shipper permit by filing an application with the commission. The application must be made in such form as may be prescribed by the commission. The person must include in the application the number of the license issued to the person by the commission, or a true copy of the license issued to the person by another state. If the application is based on a license issued by another state, or the application is by a nonprofit trade association described in subsection (1)(d) of this section, the person or association must pay a \$50 registration fee and maintain a bond or other security described in ORS 471.155 in the minimum amount of \$1,000.

(3) Sales and shipments under a direct shipper permit:

(a) May be made only to a person who is at least 21 years of age;

(b) May be made only for personal use and not for the purpose of resale; and

(c) May not exceed two cases, containing not more than nine liters per case, to any resident per month.

(4) Sales and shipments under a direct shipper permit must be made directly to a resident of this state in containers that are conspicuously labeled with the words: "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 YEARS OR OLDER REQUIRED FOR DELIVERY."

(5) A person holding a direct shipper permit must take all actions necessary to ensure that a carrier used by the permit holder does not deliver any wine or cider unless the carrier:

(a) Obtains the signature of the recipient of the wine or cider upon delivery;

(b) Verifies by inspecting government-issued photo identification that the recipient is at least 21 years of age; and

(c) Determines that the recipient is not visibly intoxicated at the time of delivery.

(6)(a) A person holding a direct shipper permit must report to the commission all shipments of wine or cider made to Oregon residents under the permit as required by ORS chapter 473. The report must be made in a form prescribed by the commission.

(b) A person holding a direct shipper permit must allow the commission to audit the permit holder's records upon request and shall make those records available to the commission in this state.

(c) A person holding a direct shipper permit consents to the jurisdiction of the commission and the courts of this state for the purpose of enforcing the provisions of this section and any related laws or rules.

(7)(a) A person holding a direct shipper permit must timely pay to the commission all taxes imposed under ORS chapter 473 on wine and cider sold and shipped under the permit. For the purpose of the privilege tax imposed under ORS chapter 473, all wine or cider sold and shipped pursuant to a direct shipper permit is sold in this state.

(b) A person holding a direct shipper permit based on a license issued by another state must timely pay to the commission all taxes imposed under ORS chapter 473 on all wine or cider sold and shipped directly to Oregon residents under the permit. The permit holder, not the purchaser, is responsible for the tax.

(8) A direct shipper permit must be renewed annually. If the person holds the permit based on an annual license issued by another state, the permit may be renewed by paying a \$50 renewal fee and providing the commission with a true copy of a current license issued to the person by the other state. If the person holds the permit based on an annual license issued by this state, the permit may be renewed at the same time that the license is renewed.

(9) The commission may refuse to issue or may suspend or revoke a direct shipper permit if the permit holder fails to comply with the provisions of this section. A person may sell and ship wine or cider under a direct shipper permit only for as long as the person has the license issued by this state or another state that authorizes the person to hold a direct shipper permit.

(10) Any person who knowingly or negligently delivers wine or cider under the provisions of this section to a person under 21 years of age, or who knowingly or negligently delivers wine or cider under the provisions of this section to a visibly intoxicated person, violates ORS 471.410.

(11) A person may not make sales and shipments of wine or cider directly to Oregon residents unless the person holds a direct shipper permit issued under this section. Any person who knowingly makes, participates in, transports, imports or receives a shipment of wine or cider that is in violation of this section commits a misdemeanor as provided in ORS 471.990 (1).

SECTION 3. This 2008 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2008 Act takes effect on its passage.

Passed by House February 14, 2008

Received by Governor:

Repassed by House February 22, 2008

.....M.,....., 2008

Approved:

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Chief Clerk of House

.....M.,....., 2008

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Speaker of House

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Governor

Passed by Senate February 21, 2008

Filed in Office of Secretary of State:

.....M.,....., 2008

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President of Senate

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Secretary of State