

B-Engrossed
House Bill 3636

Ordered by the Senate February 19
Including House Amendments dated February 12 and Senate Amendments
dated February 19

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

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.

Allows holder of off-premises sales license to deliver wine or cider to retail customers in Oregon without direct shipper permit. Specifies requirements for deliveries by licensee.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to Oregon Liquor Control Commission; amending ORS 471.186 and 471.282; and declaring
3 an emergency.

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

5 **SECTION 1.** ORS 471.186 is amended to read:

6 471.186. (1) The holder of an off-premises sales license may sell factory-sealed containers of wine,
7 malt beverages and cider. Containers of malt beverages sold under the license may not hold more
8 than two and one-quarter gallons.

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

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

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

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

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

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

25 **(c) Must be made in containers that are conspicuously labeled with the words: "CON-**
26 **TAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 YEARS OR OLDER REQUIRED FOR**

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 **DELIVERY.”**

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

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

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

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

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

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

18 **SECTION 2.** ORS 471.282 is amended to read:

19 471.282. (1) Notwithstanding any other provision of this chapter[,] **and except as provided by**
20 **ORS 471.186 (5),** a person may sell and ship wine or cider directly to a resident of Oregon only if
21 the person holds a direct shipper permit. The Oregon Liquor Control Commission shall issue a direct
22 shipper permit only to:

23 (a) A person that holds a license issued by this state or another state that authorizes the man-
24 ufacture of wine or cider;

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

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

28 (d) A nonprofit trade association that holds a temporary sales license under ORS 471.190 and
29 that has a membership primarily composed of persons holding winery licenses issued under ORS
30 471.223 or grower sales privilege licenses issued under ORS 471.227.

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

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

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

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

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

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

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

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

4 (b) Verifies by inspecting government-issued photo identification that the recipient is at least
5 21 years of age; and

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

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

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

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

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

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

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

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

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

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

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

42