

House Bill 2250

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Oregon Liquor Control Commission)

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 **as introduced**.

Revises wording in provision allowing brewery-public house licensee that also holds distillery license to be appointed retail agent for liquor manufactured by distillery.

Deletes prohibition against issuance of full on-premises sales license to winery licensee licensed as or owned or controlled by distillery.

Clarifies language regarding tasting locations for distillery licensee. Revises authority of distillery licensee appointed as agent for retailing distilled liquor manufactured by licensee.

Clarifies that distillery licensee appointed by Oregon Liquor Control Commission as agent for limited marketing of distillery product is not subject to prohibition against agent having financial interest in distillery.

A BILL FOR AN ACT

1
2 Relating to liquor licensees; amending ORS 471.200, 471.223, 471.230 and 471.710.

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

4 **SECTION 1.** ORS 471.200 is amended to read:

5 471.200. (1) A brewery-public house license allows the licensee:

6 (a) To manufacture on the licensed premises, store, transport, sell to wholesale malt beverage
7 and wine licensees of the Oregon Liquor Control Commission and export malt beverages;

8 (b) To sell malt beverages manufactured on or off the licensed premises at retail for consumption
9 on or off the premises;

10 (c) To sell malt beverages in brewery-sealed packages at retail directly to the consumer for
11 consumption off the premises;

12 (d) To sell on the licensed premises at retail malt beverages manufactured on or off the licensed
13 premises in unpasteurized or pasteurized form directly to the consumer for consumption off the
14 premises, delivery of which may be made in a securely covered container supplied by the consumer;

15 (e) To sell wine and cider at retail for consumption on or off the premises; and

16 (f) To conduct the activities described in paragraphs (b) to (e) of this subsection at one location
17 other than the premises where the manufacturing occurs.

18 (2) In addition to the privileges specified in subsection (1) of this section, in any calendar year
19 a brewery-public house licensee may sell at wholesale to licensees of the commission malt beverages
20 produced by the brewery-public house licensee if the brewery-public house licensee produced 1,000
21 barrels or less of malt beverages in the immediately preceding calendar year.

22 (3) A brewery-public house licensee, or any person having an interest in the licensee, is a retail
23 licensee for the purposes of ORS 471.394 and, except as otherwise provided by this section and ORS
24 471.396, may not acquire or hold any right, title, lien, claim or other interest, financial or otherwise,
25 in, upon or to the premises, equipment, business or merchandise of any manufacturer or wholesaler,
26 as defined in ORS 471.392. A brewery-public house licensee, or any person having an interest in the
27 licensee, is also a manufacturer for the purposes of ORS 471.398 and, except as otherwise provided

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 by this section and ORS 471.400, may not acquire or hold any right, title, lien, claim or other in-
2 terest, financial or otherwise, in, upon or to the premises, equipment, business or merchandise of
3 any other retail licensee, as defined in ORS 471.392.

4 (4) A brewery-public house licensee, or any person having an interest in the licensee, is a retail
5 licensee for the purposes of ORS 471.398 and, except as otherwise provided by this section and ORS
6 471.400, may not accept directly or indirectly any financial assistance described in ORS 471.398 from
7 any manufacturer or wholesaler, as defined in ORS 471.392. A brewery-public house licensee, or any
8 person having an interest in the licensee, is also a manufacturer for the purposes of ORS 471.398
9 and, except as otherwise provided by this section and ORS 471.400, may not provide directly or in-
10 directly any financial assistance described in ORS 471.398 to any retail licensee, as defined in ORS
11 471.392. The prohibitions on financial assistance in ORS 471.398 do not apply to financial assistance
12 between manufacturing and retail businesses licensed to the same person under the provisions of
13 this section.

14 (5) Notwithstanding subsection (3) of this section, a brewery-public house licensee, or any person
15 having an interest in the licensee, may also hold a winery license authorized by ORS 471.223. A
16 brewery-public house licensee, or any person having an interest in the licensee, may also hold a
17 warehouse license authorized by ORS 471.242.

18 (6) Notwithstanding subsection (3) of this section, a brewery-public house licensee is eligible for
19 limited on-premises sales licenses and temporary sales licenses.

20 (7)(a) Notwithstanding subsection (3) of this section, and except as provided in this subsection,
21 a brewery-public house licensee, or any person having an interest in the licensee, may also hold a
22 full on-premises sales license. If a person holds both a brewery-public house license and a full on-
23 premises sales license, nothing in this chapter shall prevent the sale by the licensee of both distilled
24 liquor and malt beverages manufactured under the brewery-public house license.

25 (b) The commission may not issue a full on-premises sales license to a brewery-public house
26 licensee under the provisions of this subsection if the brewery-public house licensee, or any person
27 having an interest in the licensee or exercising control over the licensee, is a brewery that brews
28 more than 200,000 barrels of malt beverages annually or a winery that produces more than 200,000
29 gallons of wine annually.

30 (8) Notwithstanding any other provision of this chapter, a brewery-public house licensee, or any
31 person having an interest in the licensee, may also hold a distillery license. No provision of this
32 chapter prevents a brewery-public house licensee *[from becoming a retail sales agent of the commis-*
33 *sion]* **that also holds a distillery license from being appointed by the commission as the**
34 **distillery's retail outlet agent** for the purpose of selling distilled liquors **under ORS 471.230.**

35 (9) Notwithstanding subsection (3) of this section, the commission by rule may authorize a
36 brewery-public house licensee to coproduce special events with other manufacturers.

37 (10)(a) Notwithstanding subsection (3) of this section, a brewery-public house licensee may hold,
38 directly or indirectly, an interest in a manufacturer or wholesaler, provided that the interest does
39 not result in exercise of control over, or participation in the management of, the manufacturer's or
40 wholesaler's business or business decisions and does not result in exclusion of any competitor's
41 brand of alcoholic liquor.

42 (b) Notwithstanding subsection (3) of this section, a manufacturer or wholesaler, and any officer,
43 director or substantial stockholder of any corporate manufacturer or wholesaler, may hold, directly
44 or indirectly, an interest in a brewery-public house licensee, provided that the interest does not re-
45 sult in exercise of control over, or participation in the management of, the licensee's business or

1 business decisions and does not result in exclusion of any competitor's brand of alcoholic liquor.

2 (11) For purposes of ORS chapter 473, a brewery-public house licensee shall be considered to
3 be a manufacturer.

4 **SECTION 2.** ORS 471.223 is amended to read:

5 471.223. (1) A winery license shall allow the licensee:

6 (a) To import, bottle, produce, blend, store, transport or export wines or cider.

7 (b) To sell wines or cider at wholesale to the Oregon Liquor Control Commission or to licensees
8 of the commission.

9 (c) To sell wines or cider at retail directly to the consumer for consumption on or off the li-
10 censed premises.

11 (d) To sell malt beverages at retail for consumption on or off the licensed premises.

12 (e) To conduct the activities allowed under paragraph (a), (b), (c) or (d), or all, of this subsection
13 at a second or third premises as may be designated by the commission.

14 (f) To purchase from or through the commission brandy or other distilled liquors for fortifying
15 wines.

16 (g) To obtain a special events winery license that shall entitle the holder to conduct the activ-
17 ities allowed under paragraphs (c) and (d) of this subsection at a designated location other than the
18 one set forth in the winery license for a period not to exceed five days.

19 (2) In order to hold a winery license the licensee shall principally produce wine or cider in this
20 state.

21 (3) On and after July 1, 1990, a winery licensee is not authorized to import wine or cider in
22 bottles unless the brand of wine or cider is owned by the licensee.

23 (4) A winery licensee may sell and ship wine or cider directly to a resident of this state only
24 if the licensee has a direct shipper permit issued under ORS 471.282.

25 (5)(a) Except as provided in paragraph (b) of this subsection, a winery licensee, or any person
26 having an interest in the licensee, may also hold a full on-premises sales license. If a person holds
27 both a winery license and a full on-premises sales license, nothing in this chapter shall prevent the
28 sale by the licensee of both distilled liquor and wine or cider bottled and produced under the winery
29 license.

30 (b) The commission may not issue a full on-premises sales license to a winery licensee under the
31 provisions of this subsection if the winery licensee, or any person having an interest in the licensee
32 or exercising control over the licensee, is [*a distillery,*] a brewery that brews more than 200,000
33 barrels of malt beverages annually or a winery that produces more than 200,000 gallons of wine or
34 cider annually.

35 (6) More than one winery licensee may exercise the privileges of a winery license at a single
36 location. The commission may not refuse to issue a winery license to a person for the production
37 of wine or cider on specified premises based on the fact that other winery licensees also produce
38 wine or cider on those premises.

39 **SECTION 3.** ORS 471.230 is amended to read:

40 471.230. (1) A distillery license shall allow the holder thereof to import, manufacture, distill,
41 rectify, blend, denature and store spirits of an alcoholic content greater than 17 percent alcohol by
42 weight, to sell the same to the Oregon Liquor Control Commission and to transport the same out
43 of this state for sale outside this state. Distillery licensees shall be permitted to purchase from and
44 through the commission alcoholic beverages for blending and manufacturing purposes upon such
45 terms and conditions as the commission may provide. No such licensee shall sell any alcoholic

1 beverage within this state except to the commission or as provided in this section. However, any
 2 agricultural producer or association of agricultural producers or legal agents thereof who manufac-
 3 ture and convert agricultural surpluses, by-products and wastes into denatured ethyl and industrial
 4 alcohol for use in the arts and industry shall not be required to obtain a license from the commis-
 5 sion.

6 (2) A distillery licensee may:

7 (a) Permit tastings of the distilled liquor manufactured by the distillery **licensee**. The tastings
 8 may be conducted on the [*premises and on at least*] **licensed premises of the distillery, on** one
 9 other premises owned or leased by the licensee, **or both**. The licensee must purchase the distilled
 10 liquor from the commission.

11 (b) Apply for appointment [*as a retail sales agent of the commission*] **by the commission as a**
 12 **distillery retail outlet agent** for purposes of retailing only distilled liquor that the licensee [*dis-*
 13 *tilled in Oregon at the two locations at which tastings are permitted pursuant to*] **manufactured in**
 14 **Oregon at locations where tastings are permitted under** paragraph (a) of this subsection.

15 (3) Notwithstanding ORS 471.392 to 471.400, a distillery licensee may also hold a full on-premises
 16 sales license for a location at the licensed premises of the distillery and a full on-premises sales li-
 17 cense for one other location. All distilled spirits sold under the full on-premises sales license must
 18 be purchased from the commission.

19 **SECTION 4.** ORS 471.710 is amended to read:

20 471.710. (1) The Governor may remove any commissioner for inefficiency, neglect of duty, or
 21 misconduct in office, giving to the commissioner a copy of the charges made and an opportunity of
 22 being publicly heard in person or by counsel, in the commissioner's own defense, upon not less than
 23 10 days' notice. If such commissioner is removed, the Governor shall file in the office of the Secre-
 24 tary of State a complete statement of all charges made against such commissioner, the findings
 25 thereon, and a complete record of the proceedings.

26 (2) No person, other than the member appointed in accordance with ORS 471.705 who is desig-
 27 nated from the food and alcoholic beverage retail industry, is eligible to hold the office of commis-
 28 sioner, or to be employed by the Oregon Liquor Control Commission if:

29 (a) The person has any financial interest in any business licensed by the commission or in any
 30 business which manufactures alcoholic beverages sold in Oregon;

31 (b) Anyone in the person's household or immediate family has a financial interest described in
 32 paragraph (a) of this subsection;

33 (c) Anyone in the person's household or immediate family is employed by a business licensed by
 34 the commission, unless the person is not in a position to take action or make decisions which could
 35 affect the licensed business; or

36 (d) The person or anyone in the person's household or immediate family has a business con-
 37 nection with any business licensed by the commission, unless the person is not in a position to take
 38 action or make decisions which could affect the licensed business.

39 [*3) No liquor store agent appointed by the commission and no person in the household or imme-*
 40 *di-ate family of a liquor store agent shall have any financial interest in or business connection with any*
 41 *person or business licensed as a distillery, dispenser or agent licensed by the commission, or with any*
 42 *distillery whose products are sold in Oregon.]*

43 **(3)(a) A retail sales agent appointed by the commission, or a person in the household or**
 44 **immediate family of a retail sales agent, may not have any financial interest in or business**
 45 **connection with:**

- 1 **(A) A person or business that is licensed as a distillery;**
- 2 **(B) A person or business that holds a full on-premises sales license; or**
- 3 **(C) A distillery whose products are sold in Oregon.**

4 **(b) Paragraph (a) of this subsection does not apply to a distillery retail outlet agent ap-**
5 **pointed by the commission under ORS 471.230.**

6 (4) Nothing in this section prohibits a person from having a financial interest resulting from
7 investments made by the Public Employees Retirement System or through mutual funds, blind trusts
8 or similar investments where the person does not exercise control over the nature, amount or timing
9 of the investment.

10 (5) The commission by rule may establish additional restrictions to prohibit potential conflicts
11 of interest. The commission by rule shall define “immediate family” and “business connection” as
12 used in this section.

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