

Senate Bill 768

Sponsored by Senator DINGFELDER; Senators MORRISETTE, ROSENBAUM, Representatives CANNON, DEMBROW, GREENLICK

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**.

Authorizes counties to impose malt beverage cost recovery fee through adoption of ordinance imposing fee. Directs Oregon Liquor Control Commission to collect fees. Distributes fee revenues to counties imposing fee, for specified purposes relating to alcohol or drug addiction.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to malt beverage cost recovery fees; appropriating money; and prescribing an effective date.

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

SECTION 1. Sections 2 to 4 of this 2009 Act are added to and made a part of ORS chapter 473.

SECTION 2. (1) In order to recover a portion of the government costs incurred as a result of the consumption of malt beverages, the governing body of each county in this state may impose a malt beverage cost recovery fee that is measured by malt beverages sold at retail in the county. The governing body may impose the fee by enacting a nonemergency ordinance. The fee shall be in the amount of:

(a) Ten cents per 12 ounces of malt beverage; or

(b) Five cents per 12 ounces of malt beverage, in the case of a manufacturer of malt beverages that produces less than 200,000 barrels of malt beverages annually or an importing distributor who exclusively imports from one or more manufacturers that each produce less than 200,000 barrels annually.

(2) If authorized by the governing body of the county, the fee may be imposed only as prescribed in this section.

(3) The fee shall be imposed on manufacturers or importing distributors of malt beverage based on quantities of retail sales reported as required under section 3 of this 2009 Act.

(4) Each county governing body enacting an ordinance described in this section shall send a copy of the ordinance to the Oregon Liquor Control Commission. The ordinance shall become operative on the first day of the first month that begins more than 91 days following the date of enactment of the ordinance.

(5)(a) The cost recovery fee under subsection (1) of this section shall be adjusted annually for cost-of-living changes, by increasing the fee under subsection (1) of this section by the percentage by which the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar year exceeds the monthly averaged index for the calendar year 2008. The fee shall be applied on the basis of a 31-gallon barrel of malt beverage.

(b) As used in this subsection, "U.S. City Average Consumer Price Index" means the U.S.

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 City Average Consumer Price Index for All Urban Consumers (All Items) as published by the
2 Bureau of Labor Statistics of the United States Department of Labor.

3 (6) The fee authorized under this section is not subject to approval as provided in ORS
4 203.055.

5 **SECTION 3.** (1) Each person that sells malt beverages at retail in a county that has en-
6 acted a malt beverage cost recovery fee authorized under section 2 of this 2009 Act shall
7 report on the monthly sales of malt beverages by the person in the county to the Oregon
8 Liquor Control Commission at the time and in the form prescribed by the commission. The
9 report shall contain any information required by the commission, including the quantity of
10 monthly retail sales of malt beverages for each manufacturer or importing distributor of the
11 malt beverages whose product is sold by the person in the county.

12 (2) Based on the sales data reported under subsection (1) of this section or as otherwise
13 determined by the commission, the commission shall prepare billing statements for each
14 manufacturer or importing distributor of malt beverages that reflect the distribution of malt
15 beverages to counties that have enacted the malt beverage cost recovery fee authorized un-
16 der section 2 of this 2009 Act.

17 (3) The commission shall send billing statements to each manufacturer or importing
18 distributor of malt beverages each calendar quarter. A manufacturer or importing distribu-
19 tor shall pay the cost recovery fees billed to the manufacturer or importing distributor
20 within 20 days of the date of billing. Payment shall be made to the commission in the form
21 and manner prescribed by the commission.

22 (4) The commission shall deposit fees collected under this section in the Malt Beverage
23 Cost Recovery Fee Fund.

24 (5) For all purposes of collection and enforcement, claims for refunds, penalties, interest,
25 record keeping, inspection of records, appeals, confidentiality and disclosure of information,
26 the cost recovery fee shall be considered to be a privilege tax imposed under ORS 473.030.

27 **SECTION 4.** (1) The Malt Beverage Cost Recovery Fee Fund is established in the State
28 Treasury, separate and distinct from the General Fund.

29 (2) Moneys in the Malt Beverage Cost Recovery Fee Fund are continuously appropriated
30 to the Oregon Liquor Control Commission for the purpose of making the following distrib-
31 utions:

32 (a) Amounts necessary to reimburse the commission for the expenses incurred in ad-
33 ministering sections 2 to 4 of this 2009 Act, not to exceed _____ of the fund balance prior
34 to distribution, shall be distributed to the commission; and

35 (b) The balance of the account shall be distributed to the counties of this state that have
36 imposed malt beverage cost recovery fees pursuant to section 2 of this 2009 Act, with each
37 county's share proportionate to the amount of malt beverage cost recovery fee revenues that
38 are allocable to retail sales of malt beverages in that county.

39 **SECTION 5.** (1) Revenue received by a county from a malt beverage cost recovery fee
40 imposed by the county under sections 2 to 4 of this 2009 Act may be used only for the fol-
41 lowing purposes:

- 42 (a) Alcohol or drug addiction prevention;
- 43 (b) Alcohol or drug addiction treatment;
- 44 (c) Law enforcement programs that apply to persons with alcohol or drug addiction; and
- 45 (d) Criminal justice programs that are utilized either by courts or by corrections de-

1 **partments and that are used for alcohol or drug addiction prevention or treatment.**

2 **(2) The use of revenues received from a malt beverage cost recovery fee imposed by the**
3 **county under sections 2 to 4 of this 2009 Act shall be determined by the county governing**
4 **body based on local community needs, except that the county governing body may not allo-**
5 **cate less than 15 percent or more than 35 percent of the total amount of funds to be allo-**
6 **cated annually to any one category of authorized uses under subsection (1) of this section.**

7 **(3) The governing body of a county receiving malt beverage cost recovery fee revenues**
8 **under this section shall cause an annual independent audit on the use of the revenues.**

9 **SECTION 6. This 2009 Act takes effect on the 91st day after the date on which the reg-**
10 **ular session of the Seventy-fifth Legislative Assembly adjourns sine die.**

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