

Enrolled
House Bill 2147

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor John A. Kitzhaber for Oregon Liquor Control Commission)

CHAPTER

AN ACT

Relating to the verification of license information by the Oregon Liquor Control Commission; creating new provisions; amending ORS 471.274 and 471.282; and declaring an emergency.

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

SECTION 1. ORS 471.274 is amended to read:

471.274. (1) The Oregon Liquor Control Commission may issue a wine self-distribution permit to a United States manufacturer of wine or cider. The commission may issue a wine self-distribution permit only to a manufacturer of wine or cider that:

- (a) Holds a license issued by another state that authorizes the manufacture of wine or cider; and
- (b) Holds a certificate of approval issued under ORS 471.244.

(2) The holder of a wine self-distribution permit may sell at wholesale and transport wine or cider that the manufacturer produces directly to the commission, or to retail licensees in the manner provided by this section. A wine self-distribution permit allows the holder to sell wine or cider that the holder produces only to retail licensees who hold a valid endorsement issued by the commission authorizing receipt of wine or cider from the holder of a wine self-distribution permit.

(3) In addition to the information required by ORS 471.311 for licenses, an applicant for a wine self-distribution permit shall provide the commission with a copy of the license held by the applicant *[and]* **or with sufficient information to allow verification of the license by electronic means or other means acceptable to the commission. The applicant also shall provide the commission with** any information required by the commission to establish that the license held by the applicant authorizes the manufacture of wine or cider.

(4) A person holding a wine self-distribution permit is responsible for paying all taxes imposed under ORS chapter 473, and for complying with all reporting requirements imposed by ORS chapter 473, for all wine and cider sold and transported to retail licensees in this state. The commission may revoke, or refuse to issue, a wine self-distribution permit if the holder of a permit fails to pay taxes or make reports as required by ORS chapter 473.

(5) A retail licensee may receive wine or cider from the holder of a wine self-distribution permit only if the licensee has received prior authorization from the commission. Prior authorization under this subsection must be made by an endorsement to the license for the premises where the wine or cider will be received. The commission may not charge or collect a fee for an endorsement under this subsection.

(6)(a) Except as provided in paragraph (b) of this subsection, a retail licensee that receives wine or cider from holders of wine self-distribution permits must make a monthly report to the commission, using a form prescribed by the commission, listing the amount of all wine or cider received

from permit holders in the previous month, and the names of the permit holders from whom the wine or cider was received. Retail licensees shall retain such purchase records for products received from permit holders as may be required by the commission.

(b) The holder of a full or limited on-premises sales license is not required to file a report under this subsection for any month in which the licensee receives two or fewer cases of wine from holders of wine self-distribution permits.

(7) A manufacturer that is not licensed by the commission may sell and transport wine or cider directly to a retail licensee, and a retail licensee may receive wine or cider directly from a manufacturer that is not licensed by the commission, only if the manufacturer holds a wine self-distribution permit issued under this section.

(8) The holder of a wine self-distribution permit consents to the jurisdiction of the commission and the courts of this state for the purpose of enforcing the provisions of this chapter, ORS chapter 473 and any related laws or rules.

(9) The holder of a wine self-distribution permit must post a bond or other security, as described in ORS 471.155.

(10) The commission may revoke, or refuse to issue, a wine self-distribution permit if the holder of a permit fails to comply with any provision of this section.

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) 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.

(b) If the application is based on a license issued by this state, the person must include in the application the number of the license issued to the person. [by the commission, or]

(c) If the application is based on a license issued by another state, the person must include in the application a true copy of the license issued to the person by [another] the other state or include sufficient information to allow verification of the license by electronic means or other means acceptable to the commission.

(d) 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 **person may renew 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 **or with sufficient information to allow verification of the license by electronic means or other means acceptable to the commission**. If the person holds the permit based on an annual license issued by this state, the **person may renew the permit** [*may be renewed*] at the same time that **the person renews 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. The amendments to ORS 471.274 and 471.282 by sections 1 and 2 of this 2011 Act apply to application or renewal information that the Oregon Liquor Control Commission receives on or after the effective date of this 2011 Act.

SECTION 4. This 2011 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect on its passage.

Passed by House February 16, 2011

Repassed by House May 19, 2011

.....
Ramona Kenady Line, Chief Clerk of House

.....
Bruce Hanna, Speaker of House

.....
Arnie Roblan, Speaker of House

Passed by Senate May 17, 2011

.....
Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2011

Approved:

.....M,....., 2011

.....
John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2011

.....
Kate Brown, Secretary of State