

House Bill 2262

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of former Representative Chuck Riley)

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**.

Expands exemption of homemade beer, wine and fermented fruit juice from Liquor Control Act. Allows noncommercial consumption in private residences or at fairs or other organized events. Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to alcoholic beverages; creating new provisions; amending ORS 471.403 and 471.440; and
3 declaring an emergency.

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

5 **SECTION 1. Section 2 of this 2011 Act is added to and made a part of ORS chapter 471.**

6 **SECTION 2. (1) As used in this section:**

7 (a)(A) **“Financial consideration,” except as provided in subparagraph (B) of this para-**
8 **graph, means value that is given or received directly or indirectly through sales, barter,**
9 **trade, fees, charges, dues, contributions or donations.**

10 (B) **“Financial consideration” does not mean a prize awarded at a state or county fair**
11 **or other organized judging, tasting, exhibition, contest or competition at which consumption**
12 **of a submitted beer, wine or fermented fruit juice is without charge.**

13 (b) **“Homemade” means made at a private residence for noncommercial purposes by a**
14 **person living at the residence.**

15 (c) **“Noncommercial” means not dependent or conditioned upon financial consideration.**

16 (2) **Except as provided in subsection (3) of this section, the Liquor Control Act does not**
17 **apply to:**

18 (a) **The making of homemade beer, wine or fermented fruit juice;**

19 (b) **The keeping or transportation of homemade beer, wine or fermented fruit juice;**

20 (c) **The possession of mash, wort or wash, for the purpose of making homemade beer,**
21 **wine or fermented fruit juice; or**

22 (d) **The noncommercial consumption of homemade beer, wine or fermented fruit juice:**

23 (A) **In any private residence, whether or not the residence in which the beer, wine or**
24 **fermented fruit juice was made; or**

25 (B) **As part of a state or county fair or other organized judging, tasting, exhibition, con-**
26 **test or competition.**

27 (3) **Subsection (2) of this section does not exempt any person from ORS 471.410, 471.430**
28 **or 471.432.**

29 **SECTION 3. ORS 471.403 is amended to read:**

30 471.403. (1) [*No person shall*] **Except as provided in this section, a person may not brew,**

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 ferment, distill, blend or rectify any alcoholic liquor unless licensed so to do by the Oregon Liquor
 2 Control Commission. *[However, the Liquor Control Act does not apply to the making or keeping of*
 3 *naturally fermented wines and fruit juices or beer in the home, for home consumption and not for*
 4 *sale.]*

5 (2) *[Notwithstanding subsection (1) of this section,]* The holder of a brewery-public house license
 6 or a brewery license may allow patrons to brew malt beverages not to exceed 14 percent alcoholic
 7 content by volume if the brewing is conducted under the direct supervision of the licensee or em-
 8 ployees of the licensee. Malt beverages produced under this subsection may not be sold by the pa-
 9 tron or consumed on the licensed premises.

10 (3) *[Notwithstanding subsection (1) of this section,]* The holder of a winery license may allow pa-
 11 trons to make wine if the winemaking is conducted under the direct supervision of the licensee or
 12 employees of the licensee. Wine produced under this subsection may not be sold by the patron or
 13 consumed on the licensed premises.

14 (4) **A person may make homemade beer, wine and fermented fruit juice as authorized**
 15 **under section 2 of this 2011 Act. A person may provide assistance to another in making the**
 16 **homemade beer, wine or fermented fruit juice, if the person does not receive financial con-**
 17 **sideration as defined in section 2 of this 2011 Act for providing the assistance.**

18 **SECTION 4.** ORS 471.440 is amended to read:

19 471.440. (1) *[No]* **Except as provided in ORS 471.403 and section 2 of this 2011 Act,** mash,
 20 wort or wash fit for distillation or for the manufacture of spirituous alcoholic liquors, *[shall]* **may**
 21 **not** be made, fermented or possessed within this state by any person *[who]* **that** does not at the time
 22 own a distillery license under the Liquor Control Act. *[This section does not prevent the possession*
 23 *of mash for the purpose of manufacturing wine, cider or beer for home consumption as provided for in*
 24 *ORS 471.403.]*

25 (2) *[No distillery shall]* **A distillery may not** be set up or operated in this state for the purpose
 26 of manufacturing alcoholic liquor for beverage purposes except by a person duly licensed under the
 27 Liquor Control Act to operate a distillery. Any device or process *[which]* **that** separates alcoholic
 28 spirits from any fermented substance shall be regarded as a distillery. A distillery is set up *[when]*
 29 **if** the still is in position over a furnace, or is connected with a boiler, so that heat may be applied,
 30 although the worm or worm tank is not in position.

31 (3) The finding of any mash, wort, wash or distillery in any house, on any premises or within
 32 any enclosure, is prima facie evidence that it was made and fermented by, or set up by, and the
 33 property of, the person who is in possession of *[such]* **the** house, premises or enclosure.

34 **SECTION 5.** **Section 2 of this 2011 Act and the amendments to ORS 471.403 and 471.440**
 35 **by sections 3 and 4 of this 2011 Act apply to beer, wine and fermented fruit juice made before,**
 36 **on or after the effective date of this 2011 Act.**

37 **SECTION 6.** **This 2011 Act being necessary for the immediate preservation of the public**
 38 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
 39 **on its passage.**

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