

# House Bill 2642

Sponsored by Representative SCHAUFLER (Presession filed.)

## 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 storage at licensed premises of malt beverages and wine made on premises by unlicensed person and storage of homemade beer, wine and fermented fruit juice. Allows licensee to conduct organized judging, tasting, exhibition, contest or competition of unlicensed malt beverages and wine or homemade beer, wine or fermented fruit juice at licensed premises subject to Oregon Liquor Control Commission restrictions.

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. Sections 2 and 3 of this 2011 Act are added to and made a part of ORS**  
6 **chapter 471.**

7 **SECTION 2. (1) As used in this section and section 3 of this 2011 Act:**

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

11 (B) **"Financial consideration" does not mean any of the following:**

12 (i) **A tax deduction or credit for donating beer, wine or fermented fruit juice to a**  
13 **nonprofit organization.**

14 (ii) **An event admission charge or club or organization dues, if the amount of the admis-**  
15 **sion charge or dues is independent of the amount of alcoholic beverages to be provided or**  
16 **consumed at the event or through club or organization activities.**

17 (iii) **A prize awarded at a state or county fair or other organized judging, tasting, exhi-**  
18 **bition, contest or competition at which consumption of a submitted beer, wine or fermented**  
19 **fruit juice is without charge and only by the entrants, submitters, judges, exhibitors,**  
20 **contestants or competitors.**

21 (iv) **Homemade beers, wines or fermented fruit juices made by other persons.**

22 (v) **Beer, wine or fermented fruit juice ingredients.**

23 (b) **"Homemade" means made at a private residence for noncommercial purposes by a**  
24 **person living at the residence.**

25 (c) **"Noncommercial" means not dependent or conditioned upon the provision or receipt**  
26 **of financial consideration.**

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

**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 (a) The making of homemade beer, wine or fermented fruit juice, if the total of beer, wine  
2 and fermented fruit juice produced during a calendar year does not exceed:

3 (A) One hundred gallons in a household having one person who is 21 years of age or older;  
4 or

5 (B) Two hundred gallons in a household having two or more persons who are 21 years  
6 of age or older.

7 (b) The keeping, storage or transportation of homemade beer, wine or fermented fruit  
8 juice.

9 (c) The possession of mash, wort or wash, for the purpose of making homemade beer,  
10 wine or fermented fruit juice.

11 (d) Except as provided in section 3 of this 2011 Act, the noncommercial consumption at  
12 any location of homemade beer, wine or fermented fruit juice.

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

15 **SECTION 3.** (1) In addition to any other privilege granted to a licensee under this chap-  
16 ter, a licensee may conduct an organized judging, tasting, exhibition, contest or competition  
17 of malt beverages and wines produced under ORS 471.403 (2) and (3) or homemade beers,  
18 wines and fermented fruit juices at the premises described in a full or limited on-premises  
19 sales license, off-premises sales license, brewery-public house license, brewery license,  
20 winery license or warehouse license of the licensee. However, the Oregon Liquor Control  
21 Commission may restrict the portion of the licensed premises that may be used for the  
22 judging, tasting, exhibition, contest or competition and may restrict or prohibit sales of al-  
23 coholic beverages on the portion of the premises that is being used for conducting the judg-  
24 ing, tasting, exhibition, contest or competition.

25 (2) In addition to any other privilege granted to a licensee under this chapter, a licensee  
26 may allow malt beverages and wines produced under ORS 471.403 (2) and (3) or homemade  
27 beers, wines and fermented fruit juices to be stored at the premises described in a full or  
28 limited on-premises sales license, off-premises sales license, brewery-public house license,  
29 brewery license, winery license or warehouse license of the licensee. The malt beverages or  
30 wines and the homemade beers, wines or fermented fruit juices must be clearly identified  
31 by owner and kept separate from the alcoholic beverage stock of the licensee.

32 (3) A licensee may not acquire any ownership interest in malt beverages and wines  
33 produced under ORS 471.403 (2) and (3) or homemade beers, wines or fermented fruit juices  
34 stored under this section. However, this subsection does not prohibit a licensee from using  
35 malt beverages and wines produced under ORS 471.403 (2) and (3) or homemade beers, wines  
36 or fermented fruit juices in conducting an organized judging, tasting, exhibition, contest or  
37 competition of the malt beverages and wines or homemade beers, wines or fermented fruit  
38 juices if the malt beverages and wines or the homemade beers, wines or fermented fruit  
39 juices are stored with the licensee for that purpose.

40 **SECTION 4.** ORS 471.403 is amended to read:

41 471.403. (1) *[No person shall]* **Except as provided in this section, a person may not** brew,  
42 ferment, distill, blend or rectify any alcoholic liquor unless licensed so to do by the Oregon Liquor  
43 Control Commission. *[However, the Liquor Control Act does not apply to the making or keeping of*  
44 *naturally fermented wines and fruit juices or beer in the home, for home consumption and not for*  
45 *sale.]*

1 (2) *[Notwithstanding subsection (1) of this section,]* The holder of a brewery-public house license  
 2 or a brewery license may allow patrons to brew malt beverages not to exceed 14 percent alcoholic  
 3 content by volume if the brewing is conducted under the direct supervision of the licensee or em-  
 4 ployees of the licensee. Malt beverages produced under this subsection may not be sold by the pa-  
 5 tron *[or consumed on the licensed premises]*. **Malt beverages produced under this subsection may**  
 6 **not be consumed on the licensed premises except when submitted as an entry in an organized**  
 7 **judging, tasting, exhibition, contest or competition authorized under section 3 of this 2011**  
 8 **Act.**

9 (3) *[Notwithstanding subsection (1) of this section,]* The holder of a winery license may allow pa-  
 10 trons to make wine if the winemaking is conducted under the direct supervision of the licensee or  
 11 employees of the licensee. Wine produced under this subsection may not be sold by the patron *[or*  
 12 *consumed on the licensed premises]*. **Wine produced under this subsection may not be consumed**  
 13 **on the licensed premises except when submitted as an entry in an organized judging, tasting,**  
 14 **exhibition, contest or competition authorized under section 3 of this 2011 Act.**

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

19 **SECTION 5.** ORS 471.440 is amended to read:

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

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

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

35 **SECTION 6. Sections 2 and 3 of this 2011 Act and the amendments to ORS 471.403 and**  
 36 **471.440 by sections 4 and 5 of this 2011 Act apply to malt beverages, beers, wines and**  
 37 **fermented fruit juices made before, on or after the effective date of this 2011 Act.**

38 **SECTION 7. This 2011 Act being necessary for the immediate preservation of the public**  
 39 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**  
 40 **on its passage.**