

# House Bill 2913

Sponsored by Representative WINGARD (Pre-session 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 licensee to conduct organized judging, tasting, exhibition, contest or competition of home-made beer, wine or fermented fruit juice at licensed premises, subject to 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:**

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 prize awarded at a state or county fair or other organized judging, tasting, exhibi-**  
13 **tion, contest or competition at which consumption of a submitted beer, wine or fermented**  
14 **fruit juice is without charge.**

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

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

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

21 (c) **"Noncommercial" means not dependent or conditioned upon financial consideration.**

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

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

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

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

28 (d) **The noncommercial consumption at an unlicensed location of homemade beer, wine**  
29 **or fermented fruit juice; or**

30 (e) **Subject to any restrictions imposed by the Oregon Liquor Control Commission, the**

**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 **noncommercial consumption at a licensed location of homemade beer, wine or fermented**  
 2 **fruit juice as part of an organized judging, tasting, exhibition, contest or competition.**

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

5 **SECTION 3.** (1) In addition to any other privilege granted to a licensee under this chap-  
 6 **ter, a licensee may conduct an organized judging, tasting, exhibition, contest or competition**  
 7 **of homemade beers, wines or fermented fruit juices at premises described in a full or limited**  
 8 **on-premises sales license, off-premises sales license, brewery-public house license, brewery**  
 9 **license, winery license or warehouse license. However, the Oregon Liquor Control Commis-**  
 10 **sion may restrict the portion of the licensed premises that may be used for the judging,**  
 11 **tasting, exhibition, contest or competition and may restrict or prohibit sales of alcoholic**  
 12 **beverages on the portion of the premises that is being used for conducting the judging,**  
 13 **tasting, exhibition, contest or competition.**

14 (2) In addition to any restrictions imposed by the commission, homemade beer, wine or  
 15 fermented fruit juice may be consumed on a licensed premises under this section only if:

16 (a) The consumption is limited to persons 21 years of age or older who are entrants,  
 17 submitters, judges, exhibitors, contestants and competitors;

18 (b) The homemade beer, wine or fermented fruit juice is served in portions that are no  
 19 larger than six ounces; and

20 (c) The portions of homemade beer, wine and fermented fruit juice are provided without  
 21 charge.

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

23 471.403. (1) *[No person shall]* **Except as provided in this section, a person may not** brew,  
 24 ferment, distill, blend or rectify any alcoholic liquor unless licensed so to do by the Oregon Liquor  
 25 Control Commission. *[However, the Liquor Control Act does not apply to the making or keeping of*  
 26 *naturally fermented wines and fruit juices or beer in the home, for home consumption and not for*  
 27 *sale.]*

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

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

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

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

42 471.440. (1) *[No]* **Except as provided in ORS 471.403 and section 2 of this 2011 Act,** mash,  
 43 wort or wash fit for distillation or for the manufacture of spirituous alcoholic liquors, *[shall]* **may**  
 44 **not** be made, fermented or possessed within this state by any person *[who]* **that** does not at the time  
 45 own a distillery license under the Liquor Control Act. *[This section does not prevent the possession*

1 *of mash for the purpose of manufacturing wine, cider or beer for home consumption as provided for in*  
2 *ORS 471.403.]*

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

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

12 **SECTION 6. Sections 2 and 3 of this 2011 Act and the amendments to ORS 471.403 and**  
13 **471.440 by sections 4 and 5 of this 2011 Act apply to beer, wine and fermented fruit juice made**  
14 **before, on or after the effective date of this 2011 Act.**

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

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