

# House Bill 3145

Sponsored by Representatives BERGER, CANNON

## 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**.

Changes definition of "beverage."

Allows beverage distributors or importers to establish distributor cooperative for certain purposes. Provides that dealer that uses distributor cooperative is not required to return beverage containers to distributor or importer that does not participate in distributor cooperative. Requires distributor cooperative and distributors and importers that do not participate in distributor cooperative to provide Oregon Liquor Control Commission with report on beverage container return rate each calendar year.

Increases refund value for beverage containers.

Requires local governments to allow siting of redemption center in certain cases.

## A BILL FOR AN ACT

Relating to beverage containers; creating new provisions; and amending ORS 459A.700, 459A.705 and 471.501.

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

## BEVERAGE CONTAINERS

**SECTION 1.** ORS 459A.700 is amended to read:

459A.700. As used in ORS 459.992 (3) and (4) and 459A.700 to 459A.740, unless the context requires otherwise:

(1) "Beverage" means **any of the following in liquid form and intended for human consumption:**

(a) Water and flavored water[,];

(b) Beer or other malt beverages [*and*];

(c) Mineral waters, soda water and similar carbonated soft drinks [*in liquid form and intended for human consumption*]; **and**

(d) **Sports drinks, energy drinks, coffee, tea, juice and similar noncarbonated drinks.**

(2)(a) "Beverage container" means an individual, separate, sealed glass, metal or plastic bottle or can containing a beverage in a quantity less than or equal to three fluid liters.

(b) "Beverage container" does not include cartons, foil pouches and drink boxes.

(3) "Commission" means the Oregon Liquor Control Commission.

(4) "Consumer" means every person who purchases a beverage in a beverage container for use or consumption.

(5) "Dealer" means every person in this state who engages in the sale of beverages in beverage containers to a consumer, or means a redemption center certified under ORS 459A.735.

(6) "Distributor" means every person who engages in the sale of beverages in beverage containers to a dealer in this state including any manufacturer who engages in such sales.

**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 (7) "Importer" means any dealer or manufacturer who directly imports beverage containers into  
2 this state.

3 (8) "In this state" means within the exterior limits of the State of Oregon and includes all ter-  
4 ritory within these limits owned by or ceded to the United States of America.

5 (9) "Manufacturer" means every person bottling, canning or otherwise filling beverage contain-  
6 ers for sale to distributors, importers or dealers.

7 (10) "Place of business of a dealer" means the location at which a dealer sells or offers for sale  
8 beverages in beverage containers to consumers.

9 (11) "Use or consumption" includes the exercise of any right or power over a beverage incident  
10 to the ownership thereof, other than the sale or the keeping or retention of a beverage for the  
11 purposes of sale.

12 (12) "Water and flavored water" means any beverage identified through the use of letters, words  
13 or symbols on its product label as a type of water.

14 **SECTION 2. The amendments to ORS 459A.700 by section 1 of this 2011 Act become op-**  
15 **erative January 1, 2014.**

16  
17 **DISTRIBUTOR COOPERATIVES**  
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19 **SECTION 3. Section 4 of this 2011 Act is added to and made a part of ORS 459A.700 to**  
20 **459A.740.**

21 **SECTION 4. (1) Two or more distributors or importers may establish a distributor coop-**  
22 **erative for the purposes of:**

23 (a) **Collecting the refund value of beverage containers as established by ORS 459A.705**  
24 **from distributors or importers and refunding to dealers the amount the dealers paid for the**  
25 **refund value of empty beverage containers;**

26 (b) **Paying the refund value as established by ORS 459A.705 for beverage containers sold**  
27 **in this state; and**

28 (c) **Processing beverage containers sold in this state.**

29 (2) **A distributor cooperative established under this section must service a majority of**  
30 **the dealers in this state.**

31 (3) **If a distributor cooperative is established, a dealer that uses the distributor cooper-**  
32 **ative to redeem and process beverage containers sold in this state is not required to return**  
33 **beverage containers to a distributor or importer that does not participate in the distributor**  
34 **cooperative, provided that the dealer or the distributor cooperative provides an accounting**  
35 **to the distributor or importer of the beverage containers by brand and kind that were dis-**  
36 **tributed by the distributor or importer and subsequently redeemed by the dealer or distrib-**  
37 **utor cooperative.**

38 (4) **Upon receipt of the accounting required by subsection (3) of this section, a distributor**  
39 **or importer that does not participate in the distributor cooperative must pay the refund**  
40 **value of the redeemed beverage containers specified in the accounting to the dealer or dis-**  
41 **tributor cooperative that provided the accounting.**

42 (5)(a) **For purposes of this subsection, beverage container return rate is calculated by**  
43 **dividing the number of beverage containers returned in Oregon during the calendar year by**  
44 **the number of beverage containers sold for a refund value during the calendar year.**

45 (b) **By July 1 of each calendar year, a distributor cooperative shall provide the Oregon**

1 **Liquor Control Commission with a report that lists, in aggregate form for all distributors**  
 2 **and importers that participate in the distributor cooperative, the previous calendar year's**  
 3 **beverage container return rate, calculated separately for aluminum, glass and plastic con-**  
 4 **tainers.**

5 **(c) By July 1 of each calendar year, a distributor or importer that does not participate**  
 6 **in a distributor cooperative shall provide the commission with a report that lists the**  
 7 **distributor's or the importer's beverage container return rate for the previous calendar year,**  
 8 **calculated separately for aluminum, glass and plastic containers.**

9 **SECTION 5. The first reports to the Oregon Liquor Control Commission under section 4**  
 10 **(5) of this 2011 Act must be filed no later than July 1, 2012, for calendar year 2011.**

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 12 **10-CENT REFUND VALUE**

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 14 **SECTION 6. ORS 459A.705 is amended to read:**

15 459A.705. (1) Except as provided in subsection (2) of this section, every beverage container sold  
 16 or offered for sale in this state shall have a refund value of not less than [five] 10 cents.

17 (2) Every beverage container certified as provided in ORS 459A.725, sold or offered for sale in  
 18 this state, shall have a refund value of not less than two cents.

19 **SECTION 7. ORS 471.501 is amended to read:**

20 471.501. Nothing in this chapter prevents a brewery licensed under ORS 471.220 or a brewery-  
 21 public house licensed under ORS 471.200 from establishing a refund value for malt beverage con-  
 22 tainers under the provisions of ORS 459A.705 that is in excess of [five] 10 cents per container for  
 23 the purpose of encouraging purchasers to return the containers directly to the brewery or  
 24 brewery-public house. A refund value in excess of [five] 10 cents per container may be paid under  
 25 this section only to persons who are not licensed under this chapter and who return the containers  
 26 directly to the brewery or brewery-public house.

27 **SECTION 8. The amendments to ORS 459A.705 and 471.501 by sections 6 and 7 of this 2011**  
 28 **Act become operative January 1, 2015.**

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 30 **LAND USE**

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 32 **SECTION 9. Section 10 of this 2011 Act is added to and made a part of ORS chapter 197.**

33 **SECTION 10. A redemption center certified under ORS 459A.735 is a commercial use. A**  
 34 **local government shall allow the siting of a redemption center on the same or substantially**  
 35 **similar basis in areas planned or zoned for commercial use as the local government allows**  
 36 **a place of business of a dealer of similar size.**

37 **SECTION 11. A local government shall adopt changes, if necessary, to the acknowledged**  
 38 **comprehensive plan or land use regulations to implement section 10 of this 2011 Act within**  
 39 **six months after the effective date of this 2011 Act.**

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 41 **UNIT CAPTIONS**

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 43 **SECTION 12. The unit captions used in this 2011 Act are provided only for the conven-**  
 44 **ience of the reader and do not become part of the statutory law of this state or express any**  
 45 **legislative intent in the enactment of this 2011 Act.**

