

A-Engrossed
Senate Bill 438

Ordered by the Senate April 28
Including Senate Amendments dated April 28

Sponsored by Senator ATKINSON (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.

Authorizes holder of off-premises sales license, under certain conditions, to store wine at licensed premises for transport to other licensed premises for sale at retail.

Authorizes sale of transported wine at receiving premises on behalf of transporting holder.

Creates central warehouse license. Authorizes central warehouse licensee, under certain circumstances, to store wine at central warehouse for delivery to premises in which licensee holds qualifying interest. Authorizes member of cooperative that is central warehouse licensee, under certain circumstances, to store wine at central warehouse for delivery to premises in which member holds qualifying interest.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to the transportation of wine by holders of off-premises sales licenses; creating new provisions; amending ORS 471.186 and 471.311; and declaring an emergency.

3
4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Sections 2 to 5 of this 2011 Act are added to and made a part of ORS chapter**
6 **471.**

7 **SECTION 2. (1) The holder of an off-premises sales license may store wine at the licensed**
8 **premises and cause the wine to be transported to another premises that is licensed for off-**
9 **premises sales if the holder:**

10 (a) Takes title to the wine no later than when the wine is delivered to the licensed
11 premises at which the holder will store the wine before transportation;

12 (b) Retains title to the wine until the wine is sold at retail;

13 (c) Owns, leases or subleases the premises receiving wine transported from the licensed
14 premises of the holder; and

15 (d) Ensures that wine transported from the licensed premises of the holder to another
16 premises licensed for off-premises sales is transported to the receiving premises:

17 (A) On a vehicle owned or operated by the holder;

18 (B) On a vehicle owned by a licensed wholesaler; or

19 (C) On a common carrier.

20 (2) Notwithstanding ORS 471.305, if the holder of an off-premises sales license causes
21 wine to be transported under this section to another premises that is licensed for off-
22 premises sales, the operator of the receiving premises may sell the transported wine on be-
23 half of the holder at retail at the receiving premises.

24 **SECTION 3. (1) A central warehouse license allows the licensee to:**

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) Receive directly from a licensed wholesaler, or from a winery licensee, wine on which
2 taxes have been paid;

3 (b) Hold wine described in paragraph (a) of this subsection in storage; and

4 (c) Release the wine for transport to a licensed premises described in section 4 (3) or 5
5 (3) of this 2011 Act.

6 (2) A central warehouse may receive only wine that is transported to the central ware-
7 house:

8 (a) On a vehicle owned or operated by the central warehouse licensee;

9 (b) If the central warehouse is licensed under section 5 of this 2011 Act, on a vehicle
10 owned or operated by the member having or taking title to the wine;

11 (c) On a vehicle owned by the licensed wholesaler;

12 (d) On a vehicle owned by a winery licensee; or

13 (e) On a common carrier.

14 (3) Holding a central warehouse license does not qualify the licensee as a manufacturer
15 or wholesaler for purposes of ORS 471.392 to 471.400.

16 **SECTION 4.** (1) The Oregon Liquor Control Commission may issue a central warehouse
17 license to a person for the purpose of supplying wine to 10 or more licensed premises de-
18 scribed in subsection (3) of this section.

19 (2) The licensee may store wine at the central warehouse of the licensee, and may cause
20 the wine to be transported to a premises licensed for off-premises sales, if the central
21 warehouse licensee:

22 (a) Takes title to the wine no later than when the wine is delivered to the central ware-
23 house;

24 (b) Retains title to the wine until the wine is sold at retail; and

25 (c) Causes the wine to be transported from the central warehouse only to a licensed
26 premises in which the holder has an interest described in subsection (3) of this section.

27 (3) A premises licensed for off-premises sales may receive wine from a central warehouse
28 described in this section if the central warehouse licensee is named on the off-premises sales
29 license and the premises is:

30 (a) Wholly owned by the central warehouse licensee;

31 (b) Owned in part by the central warehouse licensee and sells wine at retail under a trade
32 name of the central warehouse licensee; or

33 (c) Operated under a contract with the central warehouse licensee and sells wine at retail
34 under a trade name of the central warehouse licensee.

35 (4) Subsections (1) to (3) of this section do not apply to a central warehouse or central
36 warehouse licensee described in section 5 of this 2011 Act.

37 **SECTION 5.** (1) The Oregon Liquor Control Commission may issue a central warehouse
38 license to a cooperative composed of 10 or more members if each member is a holder of an
39 off-premises sales license.

40 (2) A member of the cooperative may store wine at the central warehouse of the coop-
41 erative, and may cause the wine to be transported to a premises that is licensed for off-
42 premises sales if the member:

43 (a) Takes title to the wine no later than when the wine is delivered to the central ware-
44 house;

45 (b) Retains title to the wine until the wine is sold at retail; and

1 (c) Causes the wine to be transported from the central warehouse only to a licensed
2 premises in which the member has an interest described in subsection (3) of this section.

3 (3) A premises licensed for off-premises sales in this state may receive wine from a
4 central warehouse that is owned by a cooperative described in this section if a member of
5 the cooperative is named on the off-premises sales license and the premises is:

6 (a) Wholly owned by the member;

7 (b) Owned in part by the member and sells wine at retail under a trade name of the
8 member; or

9 (c) Operated under a contract with the member and sells wine at retail under a trade
10 name of the member.

11 **SECTION 6.** ORS 471.186 is amended to read:

12 471.186. (1) The holder of an off-premises sales license may sell factory-sealed containers of wine,
13 malt beverages and cider. Containers of malt beverages sold under the license may not hold more
14 than two and one-quarter gallons.

15 (2) The holder of an off-premises sales license may provide sample tasting of alcoholic beverages
16 on the licensed premises if the licensee makes written application to the Oregon Liquor Control
17 Commission and receives approval from the commission to conduct tastings on the premises.
18 Tastings must be limited to the alcoholic beverages that may be sold under the privileges of the li-
19 cense.

20 (3) An off-premises sales license may not be issued for use at a premises that is mobile.

21 (4) Except as provided in ORS 471.402, a manufacturer or wholesaler may not provide or pay for
22 sample tastings of alcoholic beverages for the public on premises licensed under an off-premises
23 sales license.

24 (5) The holder of an off-premises sales license may deliver wine or cider that is sold under the
25 privileges of the license to retail customers in this state without a direct shipper permit issued un-
26 der ORS 471.282. Any deliveries by the holder of an off-premises sales license are subject to any
27 rules adopted by the commission relating to deliveries made under this subsection. Deliveries under
28 this subsection:

29 (a) May be made only to a person who is at least 21 years of age;

30 (b) May be made only for personal use and not for the purpose of resale; and

31 (c) Must be made in containers that are conspicuously labeled with the words: "CONTAINS
32 ALCOHOL: SIGNATURE OF PERSON AGE 21 YEARS OR OLDER REQUIRED FOR
33 DELIVERY."

34 (6) The holder of an off-premises sales license that makes deliveries of wine or cider under
35 subsection (5) of this section must take all actions necessary to ensure that a carrier used by the
36 licensee does not deliver any wine or cider unless the carrier:

37 (a) Obtains the signature of the recipient of the wine or cider upon delivery;

38 (b) Verifies by inspecting government-issued photo identification that the recipient is at least
39 21 years of age; and

40 (c) Determines that the recipient is not visibly intoxicated at the time of delivery.

41 (7) Any person who knowingly or negligently delivers wine or cider under the provisions of this
42 section to a person under 21 years of age, or who knowingly or negligently delivers wine or cider
43 under the provisions of this section to a visibly intoxicated person, violates ORS 471.410.

44 (8) If a court determines that deliveries of wine or cider under subsection (5) of this section
45 cannot be restricted to holders of off-premises sales licenses, and the decision is a final judgment

1 that is no longer subject to appeal, the holder of an off-premises sales license may not make deliv-
 2 eries of wine or cider under the provisions of subsection (5) of this section after entry of the final
 3 judgment.

4 **(9) The holder of an off-premises sales license may cause the transportation of wine from**
 5 **the licensed premises to another premises that is licensed for off-premises sales if the holder**
 6 **complies with section 2 of this 2011 Act. The holder of an off-premises sales license may**
 7 **cause the transportation of wine from a central warehouse to a premises licensed for off-**
 8 **premises sales if the holder complies with section 4 or 5 of this 2011 Act.**

9 **SECTION 7.** ORS 471.311, as amended by section 4, chapter 33, Oregon Laws 2010, is amended
 10 to read:

11 471.311. (1) Any person desiring a license or renewal of a license under this chapter shall make
 12 application to the Oregon Liquor Control Commission upon forms to be furnished by the commission
 13 showing the name and address of the applicant, location of the place of business that is to be op-
 14 erated under the license, and such other pertinent information as the commission may require. No
 15 license shall be granted or renewed until the applicant has complied with the provisions of this
 16 chapter and the rules of the commission.

17 (2) The commission may reject any application that is not submitted in the form required by
 18 rule. The commission shall give applicants an opportunity to be heard if an application is rejected.
 19 A hearing under this subsection is not subject to the requirements for contested case proceedings
 20 under ORS chapter 183.

21 (3) Subject to subsection (4) of this section, the commission shall assess a nonrefundable fee for
 22 processing a renewal application for any license authorized by this chapter only if the renewal ap-
 23 plication is received by the commission less than 20 days before expiration of the license. If the
 24 renewal application is received prior to expiration of the license but less than 20 days prior to ex-
 25 piration, this fee shall be 25 percent of the annual license fee. If a renewal application is received
 26 by the commission after expiration of the license but no more than 30 days after expiration, this fee
 27 shall be 40 percent of the annual license fee. This subsection does not apply to a certificate of ap-
 28 proval, a brewery-public house license or any license that is issued for a period of less than 30 days.

29 (4) The commission may waive the fee imposed under subsection (3) of this section if it finds that
 30 failure to submit a timely application was due to unforeseen circumstances or to a delay in pro-
 31 cessing the application by the local governing authority that is no fault of the licensee.

32 (5) The license fee is nonrefundable and shall be paid by each applicant upon the granting or
 33 committing of a license. Subject to ORS 471.155 and 473.065, the annual or daily license fee and the
 34 minimum bond required of each class of license under this chapter are as follows:

License	Minimum		
	Fee	Bond	
Brewery, including Certificate			
of Approval	\$ 500	\$ 1,000	
Winery	250	1,000	
Distillery	100	None	
Wholesale Malt Beverage			
and Wine	275	1,000	
Warehouse	100	1,000	

1	Central Warehouse	_____	_____
2	Special events winery		
3	license	\$ 10 per day	
4	Brewery-Public House,		
5	including Certificate		
6	of Approval	\$ 250	\$ 1,000
7	Limited On-Premises Sales	\$ 200	None
8	Off-Premises Sales	\$ 100	None
9	Temporary Sales	\$ 50 per day	
10	Grower sales privilege		
11	license	\$ 250	\$ 1,000
12	Special events grower		
13	sales privilege		
14	license	\$ 10 per day	
15	Special events		
16	brewery-public house		
17	license	\$ 10 per day	
18	Special events		
19	distillery		
20	license	\$ 10 per day	

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23 (6) The fee for a certificate of approval or special certificate of approval granted under ORS
24 471.244 is nonrefundable and must be paid by each applicant upon the granting or committing of a
25 certificate of approval or special certificate of approval. No bond is required for the granting of a
26 certificate of approval or special certificate of approval. Certificates of approval are valid for a pe-
27 riod commencing on the date of issuance and ending on December 31 of the fifth calendar year fol-
28 lowing the calendar year of issuance. The fee for a certificate of approval is \$175. Special
29 certificates of approval are valid for a period of 30 days. The fee for a special certificate of approval
30 is \$10.

31 (7) Except as provided in subsection (8) of this section, the annual license fee for a full on-
32 premises sales license is \$400. No bond is required for any full on-premises sales license.

33 (8) The annual license fee for a full on-premises sales license held by a nonprofit private club
34 as described in ORS 471.175 (8), or held by a nonprofit or charitable organization that is registered
35 with the state, is \$200.

36 (9) The annual fee for a wine self-distribution permit is \$100, and the minimum bond is \$1,000.

37 **SECTION 8. Section 2 of this 2011 Act applies to the transportation, storage and sale of**
38 **wine before, on or after the effective date of this 2011 Act.**

39 **SECTION 9. This 2011 Act being necessary for the immediate preservation of the public**
40 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
41 **on its passage.**
