

Senate Bill 438

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 **as introduced**.

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.

Declares emergency, effective on passage.

A BILL FOR AN ACT

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

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

5 **SECTION 1.** ORS 471.186 is amended to read:

6 471.186. (1) The holder of an off-premises sales license may sell factory-sealed containers of wine, malt beverages and cider. Containers of malt beverages sold under the license may not hold more than two and one-quarter gallons.

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

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

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

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

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

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

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

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

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

2 (b) Verifies by inspecting government-issued photo identification that the recipient is at least
3 21 years of age; and

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

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

8 (8) If a court determines that deliveries of wine or cider under subsection (5) of this section
9 cannot be restricted to holders of off-premises sales licenses, and the decision is a final judgment
10 that is no longer subject to appeal, the holder of an off-premises sales license may not make deliv-
11 eries of wine or cider under the provisions of subsection (5) of this section after entry of the final
12 judgment.

13 **(9) The holder of an off-premises sales license may store wine at the licensed premises
14 and cause the wine to be transported to another premises that is licensed for off-premises
15 sales if:**

16 **(a) The operator of the premises receiving the transported wine is not the holder who
17 causes the wine to be transported;**

18 **(b) The premises receiving the transported wine is operated under a contract with the
19 holder who causes the wine to be transported;**

20 **(c) The holder who causes the wine to be transported takes title to the wine no later than
21 when the wine is delivered to the licensed premises at which the holder will store the wine
22 before transportation;**

23 **(d) The holder who causes the wine to be transported retains title to the wine until the
24 wine is sold at retail;**

25 **(e) The holder who causes the wine to be transported has an ownership or leasehold in-
26 terest in the premises receiving the wine; and**

27 **(f) The holder causes the wine to be transported to the receiving premises:**

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

29 **(B) On a common carrier.**

30 **(10) Notwithstanding ORS 471.305, if the holder of an off-premises sales license causes
31 wine to be transported to another premises as provided under subsection (9) of this section,
32 the operator of the receiving premises may sell the transported wine on behalf of the holder
33 at retail at the receiving premises.**

34 **SECTION 2. The amendments to ORS 471.186 by section 1 of this 2011 Act apply to the
35 transportation and sale of wine before, on or after the effective date of this 2011 Act.**

36 **SECTION 3. This 2011 Act being necessary for the immediate preservation of the public
37 peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect
38 on its passage.**

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