

Enrolled
Senate Bill 944

Sponsored by Senator SHIELDS; Representatives SHEEHAN, WAND

CHAPTER

AN ACT

Relating to the imposition of minimum amount requirements for liquor purchases; creating new provisions; and amending ORS 471.175 and 471.750.

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

SECTION 1. ORS 471.175, as amended by section 2, chapter 33, Oregon Laws 2010, is amended to read:

471.175. (1) The holder of a full on-premises sales license may sell by the drink at retail wine, malt beverages, cider and distilled liquor. Except as provided in this section, all alcoholic beverages sold under a full on-premises sales license must be consumed on the licensed premises.

(2) A full on-premises sales license may be issued only to:

- (a) A nonprofit private club, as described in subsection (8) of this section.
- (b) A public passenger carrier as provided in ORS 471.182.
- (c) A commercial establishment, as defined in ORS 471.001 (2).

(d) A public location that does not qualify for licensing under paragraphs (a) to (c) of this subsection if:

- (A) Food is cooked and served at the location;
- (B) The predominant business activity at the location is other than the preparation or serving of food or the serving of alcohol; and
- (C) The location meets any minimum food service requirements established by Oregon Liquor Control Commission rule.

(e) A caterer, subject to the requirements of ORS 471.184.

(3) The holder of a full on-premises sales license shall allow a patron to remove a partially consumed bottle of wine from the licensed premises if the wine is served in conjunction with the patron's meal, the patron is not a minor and the patron is not visibly intoxicated.

(4) The holder of a full on-premises sales license is entitled to purchase any distilled liquor from an agent of the commission appointed pursuant to ORS 471.750 at a discount of not more than five percent off the regular listed price fixed by the commission, together with all taxes, in a manner prescribed by commission rule. For purposes of compensation by the commission, the appointed agent shall be credited with such sales at full retail cost. **The commission may not require the licensee to purchase more than one container of distilled liquor at a time if the distilled liquor:**

(a) Except as provided in subsection (9) of this section, has a retail sales price of \$30 or more per container;

(b) Is available through a distributor in the United States that does not require the commission to acquire more than one case of the distilled liquor in a single transaction;

(c) Is not regularly stocked by the commission; and

(d) Is ordered in a 750 milliliter container size if available in that size.

(5) The holder of a full on-premises sales license may purchase distilled liquor only from a retail sales agent of the commission or from another person licensed under this section who has purchased the distilled liquor from a retail sales agent of the commission.

(6) The holder of a full on-premises sales license may sell factory-sealed containers of wine to a person who organizes a private gathering on the licensee's premises if the wine was acquired as part of a larger purchase of wine by the licensee for the purpose of the gathering and only part of the larger purchase was consumed at the gathering. Wine sold under this subsection may be sold only for an amount adequate to compensate the licensee for the amounts paid by the licensee for the wine.

(7) The holder of a full on-premises sales license may sell malt beverages for consumption off the licensed premises in securely covered containers provided by the purchaser. Containers that hold beverages sold under this subsection may not hold more than two gallons.

(8) A nonprofit private club, including but not limited to a fraternal or veterans organization, may qualify for a full on-premises sales license under this section only if the club meets any minimum membership, nonprofit status and food service requirements established by commission rule.

(9) The commission may annually adjust the price threshold established in subsection (4)(a) of this section by a percentage equal to the percentage change in the Portland-Salem, OR-WA Consumer Price Index for All Urban Consumers for All Items as published by the Bureau of Labor Statistics of the United States Department of Labor. However, the commission may not adjust the price threshold to be less than \$30.

SECTION 2. ORS 471.750 is amended to read:

471.750. (1) The Oregon Liquor Control Commission shall establish such stores and warehouses in such places in the state as in its judgment are required by public convenience or necessity, for the sale of spirituous liquors, wines and other alcoholic liquors containing over five percent alcohol by volume, in sealed containers for consumption off the premises. *[It]* **The commission** shall keep on hand in such stores or warehouses such quantities and kinds of alcoholic liquors as are reasonably required to supply the public demand.

(2) Any person qualified to purchase such liquors from the commission has the right to present to the commission, or at any of its stores, an application for any kind or brand of alcoholic liquor *[which]* **that** the person may desire and *[which]* **that** may be manufactured or obtainable in any place in the United States, and the commission shall obtain such liquor and sell it to the applicant. **The commission may not require that an application for a kind or brand of alcoholic liquor include a commitment to purchase a minimum amount of the liquor or require that a purchase be for more than one container of a kind or brand of alcoholic liquor if the liquor:**

(a) Except as provided in subsection (5) of this section, has a retail sales price of \$30 or more per container;

(b) Is available through a distributor in the United States that does not require the commission to acquire more than one case of the distilled liquor in a single transaction;

(c) Is not regularly stocked by the commission; and

(d) Is ordered in a 750 milliliter container size if available in that size.

(3) *[No such store shall be established]* **The commission may not establish a store** in any county or incorporated city of this state where a local prohibitory law is in effect. The commission shall adopt rules governing advertising by stores operated by the commission. The commission may appoint agents in the sale of said liquor under such agreement as the commission may negotiate with said agents or their representative.

[(2)] (4) Rules relating to advertising adopted by the commission under subsection *[(1)]* (3) of this section shall allow signs and displays within its stores for the purpose of supplying consumer information to customers, including but not limited to discounts, sales and other specials. Commission discretion with respect to those signs and displays shall be limited to regulation of the content, size, number per brand, type and duration of the sign or display. Signs and displays may be supplied by

manufacturers, wholesalers or distributors, and may bear the name of a particular distillery, supplier or brand of liquor. The use of signs and displays shall be optional with the agent appointed by the commission. *[In no event shall]* Signs or displays authorized by the commission **may not** be placed in positions within the store where the sign or display would be readily visible from outside of the store.

(5) The commission may annually adjust the price threshold established in subsection (2)(a) of this section by a percentage equal to the percentage change in the Portland-Salem, OR-WA Consumer Price Index for All Urban Consumers for All Items as published by the Bureau of Labor Statistics of the United States Department of Labor. However, the commission may not adjust the price threshold to be less than \$30.

SECTION 3. The amendments to ORS 471.175 and 471.750 by sections 1 and 2 of this 2011 Act apply to applications and purchases made on or after the effective date of this 2011 Act.

Passed by Senate April 20, 2011

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Robert Taylor, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House May 17, 2011

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

Received by Governor:

.....M.,....., 2011

Approved:

.....M.,....., 2011

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M.,....., 2011

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Kate Brown, Secretary of State