

# Senate Bill 1501

Sponsored by Senators ATKINSON, JOHNSON (Presession 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 wine transported to 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 transport 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 transport to premises in which member holds qualifying interest.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to wine traveling in commerce for use by off-premises sales licensees; creating new pro-  
3 visions; amending ORS 471.186 and 471.311; and declaring an emergency.

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

5 **SECTION 1. Sections 2 to 5 of this 2012 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 wine on behalf of the  
23 holder at retail at the receiving premises.

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

25 (a) Receive directly from a licensed wholesaler or winery licensee, or from a manufac-  
26 turer of wine holding a wine self-distribution permit issued under ORS 471.274, wine on which  
27 taxes have been paid;

**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       **(b) Hold wine described in this subsection in storage; and**
- 2       **(c) Release the wine for transport to a licensed premises described in section 4 (3) or 5**
- 3 **(3) of this 2012 Act.**

4       **(2) A central warehouse licensee may receive wine only if the wine is transported to the**  
5 **central warehouse:**

- 6       **(a) On a vehicle owned or operated by the central warehouse licensee;**
- 7       **(b) On a vehicle owned or operated by the member having or taking title to the wine if**
- 8 **the central warehouse is licensed under section 5 of this 2012 Act;**
- 9       **(c) On a vehicle owned by the licensed wholesaler;**
- 10       **(d) On a vehicle owned by the winery licensee;**
- 11       **(e) On a vehicle owned by the manufacturer of wine holding the wine self-distribution**
- 12 **permit; or**
- 13       **(f) On a common carrier.**

14       **(3) Holding a central warehouse license does not qualify the central warehouse licensee**  
15 **as a manufacturer 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 central warehouse licensee may store wine at the central warehouse and may**  
20 **cause 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 central warehouse licensee has an interest described in subsection (3)**
- 27 **of this section.**

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

- 31       **(a) Wholly owned by the central warehouse licensee;**
- 32       **(b) Owned in part by the central warehouse licensee and sells wine at retail under a trade**
- 33 **name of the central warehouse licensee; or**
- 34       **(c) Operated under a contract with the central warehouse licensee and sells wine at retail**
- 35 **under a trade name of the central warehouse licensee.**

36       **(4) Subsections (1) to (3) of this section do not apply to a central warehouse or central**  
37 **warehouse licensee described in section 5 of this 2012 Act.**

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

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

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

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

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

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

7       **(a) Wholly owned by the member;**

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

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

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

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

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

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

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

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

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

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

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

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

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

39       (b) Verifies by inspecting government-issued photo identification that the recipient is at least  
 40 21 years of age; and

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

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

45       (8) If a court determines that deliveries of wine or cider under subsection (5) of this section

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

**(9) The holder of an off-premises sales license may cause wine to be transported from the licensed premises to another premises that is licensed for off-premises sales if the holder complies with section 2 of this 2012 Act. The holder of an off-premises sales license may cause wine to be transported from a central warehouse to a premises licensed for off-premises sales if the holder complies with section 4 or 5 of this 2012 Act.**

**SECTION 7.** ORS 471.311 is amended to read:

471.311. (1) Any person desiring a license or renewal of a license under this chapter shall make application to the Oregon Liquor Control Commission upon forms to be furnished by the commission showing the name and address of the applicant, location of the place of business that is to be operated under the license, and such other pertinent information as the commission may require. *[No]* **A** license *[shall]* **may not** be granted or renewed until the applicant has complied with the provisions of this chapter and the rules of the commission.

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

(3) Subject to subsection (4) of this section, the commission shall assess a nonrefundable fee for processing a renewal application for any license authorized by this chapter only if the renewal application is received by the commission less than 20 days before expiration of the license. If the renewal application is received prior to expiration of the license but less than 20 days prior to expiration, *[this]* **the** fee shall be 25 percent of the annual license fee. If a renewal application is received by the commission after expiration of the license but no more than 30 days after expiration, *[this]* **the** fee shall be 40 percent of the annual license fee. This subsection does not apply to a certificate of approval, a brewery-public house license or any license that is issued for a period of less than 30 days.

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

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

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

1	and Wine	275	1,000
2	Warehouse	100	1,000
3	<b>Central Warehouse</b>	<b>1,000</b>	<b>_____</b>
4	Special events winery		
5	license	\$ 10 per day	
6	Brewery-Public House,		
7	including Certificate		
8	of Approval	\$ 250	\$ 1,000
9	Limited On-Premises Sales	\$ 200	None
10	Off-Premises Sales	\$ 100	None
11	Temporary Sales	\$ 50 per day	
12	Grower sales privilege		
13	license	\$ 250	\$ 1,000
14	Special events grower		
15	sales privilege		
16	license	\$ 10 per day	
17	Special events		
18	brewery-public house		
19	license	\$ 10 per day	
20	Special events		
21	distillery		
22	license	\$ 10 per day	

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

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

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

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

39 **SECTION 8. Section 2 of this 2012 Act applies to the transportation, storage and sale of**  
 40 **wine occurring before, on or after the effective date of this 2012 Act.**

41 **SECTION 9. This 2012 Act being necessary for the immediate preservation of the public**  
 42 **peace, health and safety, an emergency is declared to exist, and this 2012 Act takes effect**  
 43 **on its passage.**

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