

# D R A F T

## SUMMARY

Increases taxes on malt beverages, wine and cider. Applies to beverages sold or distributed on or after January 1, 2014.

Requires distributor cooperatives, and distributors and importers that do not participate in distributor cooperatives, to remit to Department of Revenue amount equal to one-half of total refund value of beverage containers sold, less amount actually refunded to dealers each quarter. Requires that distributor cooperatives, and distributors and importers that do not participate in distributor cooperatives, keep certain records and make reports to department. Requires that distributor cooperatives, and distributors and importers that do not participate in distributor cooperatives, make certain records available to department. Provides civil penalties for failure to keep accurate records or provide reports.

Directs that all moneys received be deposited into Oregon Student Assistance Fund for purpose of funding Oregon Opportunity Grant program.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to funding of educational grants; creating new provisions; amending  
3 ORS 348.570, 471.805, 471.810, 473.030 and 473.035; prescribing an effective  
4 date; and providing for revenue raising that requires approval by a  
5 three-fifths majority.

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

## BEVERAGE TAXES

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10 **SECTION 1.** ORS 473.030 is amended to read:

11 473.030. (1) A tax is imposed upon the privilege of engaging in business  
12 as a manufacturer or as an importing distributor of malt beverages at the

1 rate of \$2.60 per barrel of 31 gallons on all such beverages.

2 (2) A tax is imposed upon the privilege of engaging in business as a  
3 manufacturer or as an importing distributor of wines at the rate of 65 cents  
4 per gallon on all such beverages.

5 (3) In addition to the tax imposed by subsection (2) of this section, a  
6 manufacturer or an importing distributor of wines containing more than 14  
7 percent alcohol by volume shall be taxed at the rate of 10 cents per gallon.

8 (4) In addition to the taxes imposed by subsections (2) and (3) of this  
9 section, a manufacturer or an importing distributor of wines shall be taxed  
10 at the rate of two cents per gallon. Notwithstanding any other provision  
11 of law, all moneys collected by the Oregon Liquor Control Commission pur-  
12 suant to this subsection shall be paid into the account established by the  
13 Oregon Wine Board under ORS 182.470.

14 **(5) In addition to the taxes imposed by subsection (1) of this section,**  
15 **a manufacturer or an importing distributor of malt beverages shall**  
16 **be subject to a tax of \$1.00 per barrel of 31 gallons of malt beverage**  
17 **that the manufacturer or importing distributor sells or distributes.**

18 **(6) In addition to the taxes imposed by subsections (2) to (4) of this**  
19 **section, a manufacturer or an importing distributor of wines shall be**  
20 **subject to a tax of \$1.00 per gallon of wine that the manufacturer or**  
21 **importing distributor sells or distributes.**

22 [(5)] (7) The rates of tax imposed by this section upon malt beverages  
23 apply proportionately to quantities in containers of less capacity than those  
24 quantities specified in this section.

25 [(6)] (8) The taxes imposed by this section shall be measured by the vol-  
26 ume of wine or malt beverages produced, purchased or received by any  
27 manufacturer. If the wine or malt beverage remains unsold and in the pos-  
28 session of the producer at the plant where it was produced, no tax imposed  
29 or levied by this section is required to be paid until the wine or malt  
30 beverage has become sufficiently aged for marketing at retail, but this sub-  
31 section shall not be construed so as to alter or affect any provision of this

1 chapter relating to tax liens or the filing of statements.

2 **SECTION 2.** ORS 473.035 is amended to read:

3 473.035. (1) A tax is imposed upon the privilege of engaging in business  
4 as a manufacturer or as an importing distributor of cider at the rate of \$2.60  
5 per barrel of 31 gallons on all such beverages.

6 **(2) In addition to the taxes imposed by subsection (1) of this section,**  
7 **a manufacturer or an importing distributor of cider shall be subject**  
8 **to a tax of \$1.00 per barrel of 31 gallons of cider that the manufacturer**  
9 **or importing distributor sells or distributes.**

10 [(2)] **(3)** Notwithstanding [*subsection (1)*] **subsections (1) and (2)** of this  
11 section or any other provision of law, the taxation of the manufacturing or  
12 distribution of cider shall be at a rate that is not less than the rate imposed  
13 for the privilege of manufacturing or distributing malt beverages under ORS  
14 473.030 (1) **and (5).**

15 [(3)] **(4)** The rate of tax imposed by this section shall apply proportion-  
16 ately to quantities in containers of less capacity than those quantities spec-  
17 ified in this section.

18 [(4)] **(5)** The tax imposed by this section shall be measured by the volume  
19 of cider produced, purchased or received by any manufacturer. If the cider  
20 remains unsold and in the possession of the producer at the plant where it  
21 was produced, no tax imposed or levied by this section is required to be paid  
22 until the cider has become sufficiently aged for marketing at retail, but this  
23 subsection shall not be construed so as to alter or affect any provision of this  
24 chapter relating to tax liens or the filing of statements.

25 **SECTION 3.** ORS 471.810 is amended to read:

26 471.810. (1) At the end of each month, the Oregon Liquor Control Com-  
27 mission shall certify the amount of moneys available for distribution in the  
28 Oregon Liquor Control Commission Account and, after withholding such  
29 moneys as it may deem necessary to pay its outstanding obligations, shall  
30 within 35 days of the month for which a distribution is made direct the State  
31 Treasurer to pay the amounts due, upon warrants drawn by the Oregon De-

1 partment of Administrative Services, as follows:

2 (a) Fifty-six percent, or the amount remaining after the distribution under  
3 subsection [(4)] (5) of this section, credited to the General Fund available for  
4 general governmental purposes wherein it shall be considered as revenue  
5 during the quarter immediately preceding receipt;

6 (b) Twenty percent to the cities of the state in such shares as the popu-  
7 lation of each city bears to the population of the cities of the state, as de-  
8 termined by the State Board of Higher Education last preceding such  
9 apportionment, under ORS 190.510 to 190.610;

10 (c) Ten percent to counties in such shares as their respective populations  
11 bear to the total population of the state, as estimated from time to time by  
12 the State Board of Higher Education; and

13 (d) Fourteen percent to the cities of the state to be distributed as provided  
14 in ORS 221.770 and this section.

15 (2) The commission shall direct the Oregon Department of Administrative  
16 Services to transfer 50 percent of the revenues from the taxes imposed by  
17 ORS 473.030 (1) to (4) and 473.035 (1) to the Mental Health Alcoholism and  
18 Drug Services Account in the General Fund to be paid monthly as provided  
19 in ORS 430.380.

20 **(3) The commission shall direct the Oregon Department of Admin-**  
21 **istrative Services to transfer all revenues from taxes imposed by ORS**  
22 **473.030 (5) and (6) and 473.035 (2) to the Oregon Student Assistance**  
23 **Fund established in ORS 348.570 for the purpose of funding grants**  
24 **through the Oregon Opportunity Grant program under ORS 348.260.**

25 [(3)] (4) If the amount of revenues received from the taxes imposed by  
26 ORS 473.030 (1) to (4) for the preceding month was reduced as a result of  
27 credits claimed under ORS 473.047, the commission shall compute the differ-  
28 ence between the amounts paid or transferred as described in subsections  
29 (1)(b), (c) and (d) and (2) of this section and the amounts that would have  
30 been paid or transferred under subsections (1)(b), (c) and (d) and (2) of this  
31 section if no credits had been claimed. The commission shall direct the

1 Oregon Department of Administrative Services to pay or transfer amounts  
2 equal to the differences computed for subsections (1)(b), (c) and (d) and (2)  
3 of this section from the General Fund to the recipients or accounts described  
4 in subsections (1)(b), (c) and (d) and (2) of this section.

5 [(4)] (5) Notwithstanding subsection (1) of this section, no city or county  
6 shall receive for any fiscal year an amount less than the amount distributed  
7 to the city or county in accordance with ORS 471.350 (1965 Replacement  
8 Part), 471.810, 473.190 and 473.210 (1965 Replacement Part) during the  
9 1966-1967 fiscal year unless the city or county had a decline in population  
10 as shown by its census. If the population declined, the per capita distribution  
11 to the city or county shall be not less than the total per capita distribution  
12 during the 1966-1967 fiscal year. Any additional funds required to maintain  
13 the level of distribution under this subsection shall be paid from funds  
14 credited under subsection (1)(a) of this section.

15 **SECTION 4.** ORS 471.805 is amended to read:

16 471.805. (1) Except as otherwise provided in ORS 471.810 (2) **and (3)**, all  
17 money collected by the Oregon Liquor Control Commission under this chap-  
18 ter and ORS chapter 473 and privilege taxes shall be remitted to the State  
19 Treasurer who shall credit it to a suspense account of the commission.  
20 Whenever the commission determines that moneys have been received by it  
21 in excess of the amount legally due and payable to the commission or that  
22 it has received money to which it has no legal interest, or that any license  
23 fee or deposit is properly refundable, the commission is authorized and di-  
24 rected to refund such money by check drawn upon the State Treasurer and  
25 charged to the suspense account of the commission. After withholding  
26 refundable license fees and such sum, not to exceed \$250,000, as it considers  
27 necessary as a revolving fund for a working cash balance for the purpose of  
28 paying travel expenses, advances, other miscellaneous bills and extraordinary  
29 items which are payable in cash immediately upon presentation, the com-  
30 mission shall direct the State Treasurer to transfer the money remaining in  
31 the suspense account to the Oregon Liquor Control Commission Account in

1 the General Fund. Moneys in the Oregon Liquor Control Commission Ac-  
2 count are continuously appropriated to the commission to be distributed and  
3 used as required or allowed by law.

4 (2) All necessary expenditures of the commission incurred in carrying out  
5 the purposes required of the commission by law, including the salaries of its  
6 employees, purchases made by the commission and such sums necessary to  
7 reimburse the \$250,000 revolving fund, shall be audited and paid from the  
8 Oregon Liquor Control Commission Account in the General Fund, upon  
9 warrants drawn by the Oregon Department of Administrative Services, pur-  
10 suant to claims duly approved by the commission.

11 **SECTION 5. The amendments to ORS 471.805, 471.810, 473.030 and**  
12 **473.035 by sections 1 to 4 of this 2013 Act apply to beverages sold or**  
13 **distributed on or after January 1, 2014.**

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## BEVERAGE CONTAINERS

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17 **SECTION 6. Section 7 of this 2013 Act is added to and made a part**  
18 **of ORS 459A.700 to 459A.740.**

19 **SECTION 7. (1) As used in this section, “distributor cooperative”**  
20 **means a distributor cooperative established under section 2, chapter**  
21 **100, Oregon Laws 2012.**

22 **(2)(a) Each distributor cooperative shall remit to the Department**  
23 **of Revenue an amount equal to one-half of the total refund value of**  
24 **the beverage containers sold by the distributors or importers that**  
25 **participate in the distributor cooperative, less the amount actually**  
26 **refunded to dealers each calendar quarter. The remittance must be**  
27 **made to the department within 10 days of the end of each quarter.**  
28 **After the deduction of expenses of the department in administering**  
29 **the provisions of this section, moneys received by the department un-**  
30 **der this paragraph shall be deposited in the Oregon Student Assistance**  
31 **Fund established in ORS 348.570 for the purpose of funding grants**

1 through the Oregon Opportunity Grant program under ORS 348.260.  
2 Any deduction for expenses of the department under this paragraph  
3 may not exceed five percent of the moneys remitted to the department  
4 under this section.

5 (b) Each distributor or importer that does not participate in a dis-  
6 tributor cooperative shall remit to the Department of Revenue an  
7 amount equal to one-half of the total refund value of the beverage  
8 containers sold by the distributor or importer, less the amount actu-  
9 ally refunded to dealers each calendar quarter. The remittance must  
10 be made to the department within 10 days of the end of each quarter.  
11 After the deduction of expenses of the department in administering  
12 the provisions of this section, moneys received by the department un-  
13 der this paragraph shall be deposited in the Oregon Student Assistance  
14 Fund established in ORS 348.570 for the purpose of funding grants  
15 through the Oregon Opportunity Grant program under ORS 348.260.  
16 Any deduction for expenses of the department under this paragraph  
17 may not exceed five percent of the moneys remitted to the department  
18 under this section.

19 (3)(a) Each distributor cooperative, and each distributor or importer  
20 that does not participate in a distributor cooperative, shall keep ac-  
21 curate records reflecting the number of beverage containers sold, the  
22 number of beverage containers returned and the total amount of re-  
23 fund payments made to dealers during each quarter.

24 (b) At the same time a distributor cooperative, or a distributor or  
25 importer that does not participate in a distributor cooperative, makes  
26 the quarterly payment required by subsection (2) of this section, the  
27 distributor cooperative, or the distributor or importer that does not  
28 participate in a distributor cooperative, shall also submit a report to  
29 the department detailing the information specified in paragraph (a)  
30 of this subsection.

31 (4) The department may not disclose records of a distributor coop-

1 erative, or a distributor or importer that does not participate in a  
2 distributor cooperative, obtained by the department pursuant to this  
3 section. The department may disclose information contained in re-  
4 cords obtained by the department pursuant to this section in aggregate  
5 form, as long as the department does not identify individual distribu-  
6 tor cooperatives, distributors or importers.

7 (5) Each distributor cooperative, and each distributor or importer  
8 that does not participate in a distributor cooperative, shall make the  
9 records specified in this section available to the department upon a  
10 request for inspection and audit.

11 (6)(a) Each distributor cooperative, and each distributor or importer  
12 that does not participate in a distributor cooperative, that fails to keep  
13 accurate records or provide the reports required by this section shall  
14 be liable for a civil penalty of \_\_\_\_\_ per occurrence.

15 (b) Civil penalties described in this section shall be imposed in the  
16 manner provided in ORS 183.745.

17 (c) All penalties recovered under this subsection shall be paid into  
18 the Oregon Student Assistance Fund established in ORS 348.570 for the  
19 purpose of funding grants through the Oregon Opportunity Grant  
20 program under ORS 348.260.

21  
22 MISCELLANEOUS

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24 **SECTION 8.** The first remittances and reports to the Department  
25 of Revenue required under section 7 of this 2013 Act are due no later  
26 than April 10, 2014, for the first quarter of calendar year 2014.

27 **SECTION 9.** ORS 348.570 is amended to read:

28 348.570. (1) There is established in the State Treasury a fund, separate and  
29 distinct from the General Fund, to be known as the Oregon Student Assist-  
30 ance Fund for investment as provided by ORS 293.701 to 293.820 and for the  
31 payment of the expenses of the Oregon Student Access Commission in car-



1 rying out the purposes of ORS 348.210 to 348.250, **348.260**, 348.285, 348.505 to  
2 348.615, 348.696 and 348.992. Interest earned by the fund shall be credited to  
3 the fund.

4 (2) There is established in the State Treasury a fund, separate and distinct  
5 from the General Fund, to be known as the Alternative Student Loan Pro-  
6 gram Fund for investment as provided by ORS 293.701 to 293.820 and for the  
7 payment of expenses of the commission in carrying out the purposes of ORS  
8 348.625 to 348.695. This fund, including the interest earnings on the fund,  
9 if any, is continuously appropriated to the commission for those purposes for  
10 which such funds were provided to, received or collected by the commission.

11 (3)(a) There is established in the General Fund an account to be known  
12 as the Nursing Services Account. Funds in the account shall be used for the  
13 payment of expenses of the Nursing Services Program created in ORS  
14 442.540.

15 (b) The account shall consist of:

16 (A) Funds appropriated to the Oregon Student Access Commission for  
17 deposit into the account;

18 (B) Collections and penalties received by the commission under ORS  
19 442.545; and

20 (C) Any donations or grants received by the commission for purposes of  
21 the Nursing Services Program.

22 (c) Any funds in the account that are not expended in any biennium shall  
23 be retained in the account and may be expended in subsequent biennia.

24 (4) There is established in the State Treasury a fund, separate and distinct  
25 from the General Fund, to be known as the Foster Youth Scholarship Fund.  
26 Moneys received from appropriations, donations and grants shall be credited  
27 to the fund. Moneys in the fund are continuously appropriated to the Oregon  
28 Student Access Commission for the purposes of investment, as provided by  
29 ORS 293.701 to 293.820, and for carrying out the provisions of ORS 348.270  
30 (1)(b). Interest earned by the fund shall be credited to the fund.

31 (5) There is established in the State Treasury a fund, separate and distinct

1 from the General Fund, to be known as the ASPIRE Program Fund. Moneys  
2 received from donations and grants shall be credited to the ASPIRE Program  
3 Fund. Moneys in the fund are continuously appropriated to the Oregon Stu-  
4 dent Access Commission for the purposes of investment, as provided by ORS  
5 293.701 to 293.820, and for carrying out the provisions of ORS 348.500. Inter-  
6 est earned by the fund shall be credited to the fund.

7 (6)(a) There is established in the State Treasury the Nursing Faculty  
8 Loan Repayment Fund, separate and distinct from the General Fund. Interest  
9 earned on the Nursing Faculty Loan Repayment Fund shall be credited to  
10 the fund. Moneys in the fund are continuously appropriated to the Oregon  
11 Student Access Commission for carrying out ORS 348.440 to 348.448. The  
12 Nursing Faculty Loan Repayment Fund consists of:

13 (A) Moneys appropriated to the commission for the Nursing Faculty Loan  
14 Repayment Program created in ORS 348.444; and

15 (B) Grants, gifts or donations received by the commission for the program.

16 (b) Any unexpended funds in the fund at the end of a biennium shall be  
17 retained in the fund and may be expended in subsequent biennia.

18 **SECTION 10. The unit captions used in this 2013 Act are provided**  
19 **only for the convenience of the reader and do not become part of the**  
20 **statutory law of this state or express any legislative intent in the**  
21 **enactment of this 2013 Act.**

22 **SECTION 11. This 2013 Act takes effect on the 91st day after the**  
23 **date on which the 2013 regular session of the Seventy-seventh Legis-**  
24 **lative Assembly adjourns sine die.**

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