

A-Engrossed House Bill 2443

Ordered by the House March 1
Including House Amendments dated March 1

Sponsored by Representatives THOMPSON, HOLVEY; Representatives BAILEY, BARNHART, BUCKLEY, CAMERON, CLEM, ESQUIVEL, FREEMAN, GARRETT, GILLIAM, HUFFMAN, JOHNSON, KENNEMER, READ, Senators BEYER, BOQUIST, COURTNEY, PROZANSKI, THOMSEN, WINTERS (at the request of Oregon Winegrowers Association) (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.

Allows licensees of Oregon Liquor Control Commission to sell **malt beverages**, wine and cider in certain containers supplied by consumers. **Makes service permit requirement applicable to person dispensing malt beverages, wine or cider into container supplied by consumer.**
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to the sale of alcoholic beverages in containers supplied by the consumer; amending ORS
3 471.175, 471.178, 471.186, 471.200, 471.223, 471.227, 471.282 and 471.360; and declaring an emer-
4 gency.

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

6 **SECTION 1.** ORS 471.175 is amended to read:

7 471.175. (1) The holder of a full on-premises sales license may sell by the drink at retail wine,
8 malt beverages, cider and distilled liquor. Except as provided in this section, all alcoholic beverages
9 sold under a full on-premises sales license must be consumed on the licensed premises.

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

11 (a) A nonprofit private club, as described in subsection (8) of this section.

12 (b) A public passenger carrier as provided in ORS 471.182.

13 (c) A commercial establishment, as defined in ORS 471.001 (2).

14 (d) A public location that does not qualify for licensing under paragraphs (a) to (c) of this sub-
15 section if:

16 (A) Food is cooked and served at the location;

17 (B) The predominant business activity at the location is other than the preparation or serving
18 of food or the serving of alcohol; and

19 (C) The location meets any minimum food service requirements established by Oregon Liquor
20 Control Commission rule.

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

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

25 (4) The holder of a full on-premises sales license is entitled to purchase any distilled liquor from

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 an agent of the commission appointed pursuant to ORS 471.750 at a discount of not more than five
 2 percent off the regular listed price fixed by the commission, together with all taxes, in a manner
 3 prescribed by commission rule. For purposes of compensation by the commission, the appointed
 4 agent shall be credited with such sales at full retail cost. The commission may not require the
 5 licensee to purchase more than one container of distilled liquor at a time if the distilled liquor:

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

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

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

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

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

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

21 (7) The holder of a full on-premises sales license may sell [*malt beverages*] for consumption off
 22 the licensed premises **malt beverages, wines and cider** in securely covered containers provided
 23 by the [*purchaser. Containers that hold beverages sold under this subsection may not hold*] **consumer**
 24 **and having capacities of not** more than two gallons **each**.

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

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

33 **SECTION 2.** ORS 471.178 is amended to read:

34 471.178. (1) The holder of a limited on-premises sales license may sell by the drink at retail wine,
 35 malt beverages and cider. Except as provided in this section, all alcoholic beverages sold under a
 36 limited on-premises sales license must be consumed on the licensed premises.

37 (2) The holder of a limited on-premises sales license may sell malt beverages in factory-sealed
 38 containers for consumption off the licensed premises. Containers sold under this subsection may not
 39 hold less than seven gallons per container.

40 (3) The holder of a limited on-premises sales license may sell [*malt beverages*] for consumption
 41 off the licensed premises **malt beverages, wines and cider** in securely covered containers provided
 42 by the [*purchaser. Containers that hold beverages sold under this subsection may not hold*] **consumer**
 43 **and having capacities of not** more than two gallons **each**.

44 (4) The holder of a limited on-premises sales license shall allow a patron to remove a partially
 45 consumed bottle of wine from the licensed premises if the wine is served in conjunction with the

1 patron's meal, the patron is not a minor and the patron is not visibly intoxicated.

2 (5) Sales of alcoholic beverages under a limited on-premises sales license must consist princi-
3 pally of sales by the drink for consumption on the licensed premises.

4 **SECTION 3.** ORS 471.186 is amended to read:

5 471.186. (1) The holder of an off-premises sales license may sell factory-sealed containers of wine,
6 malt beverages and cider. **Factory-sealed** containers of malt beverages sold under the license may
7 not hold more than two and one-quarter gallons.

8 **(2) The holder of an off-premises sales license may sell for consumption off the licensed**
9 **premises malt beverages, wines and cider in securely covered containers supplied by the**
10 **consumer and having capacities of not more than two gallons each.**

11 [(2)] **(3)** The holder of an off-premises sales license may provide sample tasting of alcoholic
12 beverages on the licensed premises if the licensee makes written application to the Oregon Liquor
13 Control Commission and receives approval from the commission to conduct tastings on the premises.
14 Tastings must be limited to the alcoholic beverages that may be sold under the privileges of the li-
15 cense.

16 [(3)] **(4)** An off-premises sales license may not be issued for use at a premises that is mobile.

17 [(4)] **(5)** Except as provided in ORS 471.402, a manufacturer or wholesaler may not provide or
18 pay for sample tastings of alcoholic beverages for the public on premises licensed under an off-
19 premises sales license.

20 [(5)] **(6)** The holder of an off-premises sales license may deliver wine or cider that is sold under
21 the privileges of the license to retail customers in this state without a direct shipper permit issued
22 under ORS 471.282. Any deliveries by the holder of an off-premises sales license are subject to any
23 rules adopted by the commission relating to deliveries made under this subsection. Deliveries under
24 this subsection:

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

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

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

30 [(6)] **(7)** The holder of an off-premises sales license that makes deliveries of wine or cider under
31 subsection [(5)] **(6)** of this section must take all actions necessary to ensure that a carrier used by
32 the licensee does not deliver any wine or cider unless the carrier:

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

34 (b) Verifies by inspecting government-issued photo identification that the recipient is at least
35 21 years of age; and

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

37 [(7)] **(8)** Any person who knowingly or negligently delivers wine or cider under the provisions
38 of this section to a person under 21 years of age, or who knowingly or negligently delivers wine or
39 cider under the provisions of this section to a visibly intoxicated person, violates ORS 471.410.

40 [(8)] **(9)** If a court determines that deliveries of wine or cider under subsection [(5)] **(6)** of this
41 section cannot be restricted to holders of off-premises sales licenses, and the decision is a final
42 judgment that is no longer subject to appeal, the holder of an off-premises sales license may not
43 make deliveries of wine or cider under the provisions of subsection [(5)] **(6)** of this section after
44 entry of the final judgment.

45 **SECTION 4.** ORS 471.200 is amended to read:

1 471.200. (1) A brewery-public house license allows the licensee:

2 (a) To manufacture on the licensed premises, store, transport, sell to wholesale malt beverage
3 and wine licensees of the Oregon Liquor Control Commission and export malt beverages;

4 (b) To sell malt beverages manufactured on or off the licensed premises at retail for consumption
5 on or off the premises;

6 (c) To sell malt beverages in brewery-sealed packages at retail directly to the consumer for
7 consumption off the premises;

8 (d) To sell on the licensed premises at retail malt beverages manufactured on or off the licensed
9 premises in unpasteurized or pasteurized form directly to the consumer for consumption off the
10 premises, delivery of which may be made in a securely covered container supplied by the consumer;

11 (e) To sell wine and cider at retail for consumption on or off the premises;

12 **(f) To sell for consumption off the premises wines and cider in securely covered con-**
13 **tainers supplied by the consumer and having capacities of not more than two gallons each;**

14 [(f)] (g) To conduct the activities described in paragraphs (b) to [(e)] (f) of this subsection at one
15 location other than the premises where the manufacturing occurs; and

16 [(g)] (h) To obtain a special events brewery-public house license entitling the holder to conduct
17 the activities allowed under paragraphs (b), (c) and (e) of this subsection at a designated location
18 other than the location set forth in the brewery-public house license for a period not exceeding five
19 days.

20 (2) In addition to the privileges specified in subsection (1) of this section, in any calendar year
21 a brewery-public house licensee may sell at wholesale to licensees of the commission malt beverages
22 produced by the brewery-public house licensee if the brewery-public house licensee produced 5,000
23 barrels or less of malt beverages in the immediately preceding calendar year.

24 (3) A brewery-public house licensee, or any person having an interest in the licensee, is a retail
25 licensee for the purposes of ORS 471.394 and, except as otherwise provided by this section and ORS
26 471.396, may not acquire or hold any right, title, lien, claim or other interest, financial or otherwise,
27 in, upon or to the premises, equipment, business or merchandise of any manufacturer or wholesaler,
28 as defined in ORS 471.392. A brewery-public house licensee, or any person having an interest in the
29 licensee, is also a manufacturer for the purposes of ORS 471.398 and, except as otherwise provided
30 by this section and ORS 471.400, may not acquire or hold any right, title, lien, claim or other in-
31 terest, financial or otherwise, in, upon or to the premises, equipment, business or merchandise of
32 any other retail licensee, as defined in ORS 471.392.

33 (4) A brewery-public house licensee, or any person having an interest in the licensee, is a retail
34 licensee for the purposes of ORS 471.398 and, except as otherwise provided by this section and ORS
35 471.400, may not accept directly or indirectly any financial assistance described in ORS 471.398 from
36 any manufacturer or wholesaler, as defined in ORS 471.392. A brewery-public house licensee, or any
37 person having an interest in the licensee, is also a manufacturer for the purposes of ORS 471.398
38 and, except as otherwise provided by this section and ORS 471.400, may not provide directly or in-
39 directly any financial assistance described in ORS 471.398 to any retail licensee, as defined in ORS
40 471.392. The prohibitions on financial assistance in ORS 471.398 do not apply to financial assistance
41 between manufacturing and retail businesses licensed to the same person under the provisions of
42 this section.

43 (5) Notwithstanding subsection (3) of this section, a brewery-public house licensee, or any person
44 having an interest in the licensee, may also hold a winery license authorized by ORS 471.223. A
45 brewery-public house licensee, or any person having an interest in the licensee, may also hold a

1 warehouse license authorized by ORS 471.242.

2 (6) Notwithstanding subsection (3) of this section, a brewery-public house licensee is eligible for
3 limited on-premises sales licenses and temporary sales licenses.

4 (7)(a) Notwithstanding subsection (3) of this section, and except as provided in this subsection,
5 a brewery-public house licensee, or any person having an interest in the licensee, may also hold a
6 full on-premises sales license. If a person holds both a brewery-public house license and a full on-
7 premises sales license, nothing in this chapter shall prevent the sale by the licensee of both distilled
8 liquor and malt beverages manufactured under the brewery-public house license.

9 (b) The commission may not issue a full on-premises sales license to a brewery-public house
10 licensee under the provisions of this subsection if the brewery-public house licensee, or any person
11 having an interest in the licensee or exercising control over the licensee, is a brewery that brews
12 more than 200,000 barrels of malt beverages annually or a winery that produces more than 200,000
13 gallons of wine annually.

14 (8) Notwithstanding any other provision of this chapter, a brewery-public house licensee, or any
15 person having an interest in the licensee, may also hold a distillery license. No provision of this
16 chapter prevents a brewery-public house licensee that also holds a distillery license from being ap-
17 pointed by the commission as the distillery's retail outlet agent for the purpose of selling distilled
18 liquors under ORS 471.230.

19 (9) Notwithstanding subsection (3) of this section, the commission by rule may authorize a
20 brewery-public house licensee to coproduce special events with other manufacturers.

21 (10)(a) Notwithstanding subsection (3) of this section, a brewery-public house licensee may hold,
22 directly or indirectly, an interest in a manufacturer or wholesaler, provided that the interest does
23 not result in exercise of control over, or participation in the management of, the manufacturer's or
24 wholesaler's business or business decisions and does not result in exclusion of any competitor's
25 brand of alcoholic liquor.

26 (b) Notwithstanding subsection (3) of this section, a manufacturer or wholesaler, and any officer,
27 director or substantial stockholder of any corporate manufacturer or wholesaler, may hold, directly
28 or indirectly, an interest in a brewery-public house licensee, provided that the interest does not re-
29 sult in exercise of control over, or participation in the management of, the licensee's business or
30 business decisions and does not result in exclusion of any competitor's brand of alcoholic liquor.

31 (11) For purposes of ORS chapter 473, a brewery-public house licensee shall be considered to
32 be a manufacturer.

33 **SECTION 5.** ORS 471.223 is amended to read:

34 471.223. (1) A winery license shall allow the licensee:

35 (a) To import, bottle, produce, blend, store, transport or export wines or cider.

36 (b) To sell wines or cider at wholesale to the Oregon Liquor Control Commission or to licensees
37 of the commission.

38 (c) To sell wines or cider at retail directly to the consumer for consumption on or off the li-
39 censed premises.

40 (d) To sell malt beverages at retail for consumption on or off the licensed premises.

41 **(e) To sell for consumption off the premises malt beverages, wines and cider in securely**
42 **covered containers supplied by the consumer and having capacities of not more than two**
43 **gallons each.**

44 [(e)] **(f)** To conduct the activities allowed under [paragraph (a), (b), (c) or (d), or all,] **paragraphs**
45 **(a) to (e)** of this subsection at a second or third premises as may be designated by the commission.

1 [(f)] (g) To purchase from or through the commission brandy or other distilled liquors for forti-
2 fying wines.

3 [(g)] (h) To obtain a special events winery license that shall entitle the holder to conduct the
4 activities allowed under paragraphs (c) and (d) of this subsection at a designated location other than
5 the one set forth in the winery license for a period not to exceed five days.

6 (2) In order to hold a winery license the licensee shall principally produce wine or cider in this
7 state.

8 (3) [On and after July 1, 1990,] A winery licensee is not authorized to import wine or cider in
9 bottles unless the brand of wine or cider is owned by the licensee.

10 (4) A winery licensee may sell and ship wine or cider directly to a resident of this state only
11 if the licensee has a direct shipper permit issued under ORS 471.282.

12 (5)(a) Except as provided in paragraph (b) of this subsection, a winery licensee, or any person
13 having an interest in the licensee, may also hold a full on-premises sales license. If a person holds
14 both a winery license and a full on-premises sales license, nothing in this chapter shall prevent the
15 sale by the licensee of both distilled liquor and wine or cider bottled and produced under the winery
16 license.

17 (b) The commission may not issue a full on-premises sales license to a winery licensee under the
18 provisions of this subsection if the winery licensee, or any person having an interest in the licensee
19 or exercising control over the licensee, is a brewery that brews more than 200,000 barrels of malt
20 beverages annually or a winery that produces more than 200,000 gallons of wine or cider annually.

21 (6) More than one winery licensee may exercise the privileges of a winery license at a single
22 location. The commission may not refuse to issue a winery license to a person for the production
23 of wine or cider on specified premises based on the fact that other winery licensees also produce
24 wine or cider on those premises.

25 **SECTION 6.** ORS 471.223, as amended by section 1, chapter 364, Oregon Laws 2011, is amended
26 to read:

27 471.223. (1) As used in this section, "control" means that the licensee:

28 (a) Owns the brand under which the wine or cider is labeled; or

29 (b) Performs or has the legal right to perform all of the acts common to a brand owner under
30 the terms of a trademark license or similar agreement that for the brand under which the wine or
31 cider is labeled has a term of at least three years.

32 (2) A winery license shall allow the licensee:

33 (a) To import wine or cider in containers that have a capacity of more than four liters.

34 (b) To import wine or cider in containers that have a capacity of four liters or less if the brand
35 of wine or cider is under the control of the licensee.

36 (c) To bottle, produce, blend, store, transport or export wines or cider.

37 (d) To sell wines or cider at wholesale to the Oregon Liquor Control Commission or to licensees
38 of the commission.

39 (e) To sell wines or cider at retail directly to the consumer for consumption on or off the li-
40 censed premises.

41 (f) To sell malt beverages at retail for consumption on or off the licensed premises.

42 **(g) To sell for consumption off the premises malt beverages, wines and cider in securely**
43 **covered containers supplied by the consumer and having capacities of not more than two**
44 **gallons each.**

45 [(g)] (h) To conduct any activities described in paragraphs (a) to [(f)] (g) of this subsection at

1 a second or third premises as may be designated by the commission.

2 [(h)] (i) To purchase from or through the commission brandy or other distilled liquors for forti-
3 fying wines.

4 [(i)] (j) To obtain a special events winery license that shall entitle the holder to conduct the
5 activities allowed under paragraphs (e) and (f) of this subsection at a designated location other than
6 the one set forth in the winery license for a period not to exceed five days.

7 (3) In order to hold a winery license the licensee shall:

8 (a) Possess at a bonded premises within Oregon a valid producer and blender basic permit issued
9 by the federal Alcohol and Tobacco Tax and Trade Bureau; or

10 (b) Possess a valid wine blender or valid wholesaler basic permit issued by the federal Alcohol
11 and Tobacco Tax and Trade Bureau and have a written contract with a winery licensed under par-
12 agraph (a) of this subsection that authorizes the winery to produce for the licensee a brand of wine
13 or cider that is under the control of the licensee.

14 (4) A winery licensee may sell and ship wine or cider directly to a resident of this state only
15 if the licensee has a direct shipper permit issued under ORS 471.282.

16 (5)(a) Except as provided in paragraph (b) of this subsection, a winery licensee, or any person
17 having an interest in the licensee, may also hold a full on-premises sales license. If a person holds
18 both a winery license and a full on-premises sales license, nothing in this chapter shall prevent the
19 sale by the licensee of both distilled liquor and wine or cider bottled and produced under the winery
20 license.

21 (b) The commission may not issue a full on-premises sales license to a winery licensee under the
22 provisions of this subsection if the winery licensee, or any person having an interest in the licensee
23 or exercising control over the licensee, is a brewery that brews more than 200,000 barrels of malt
24 beverages annually or a winery that produces more than 200,000 gallons of wine or cider annually.

25 (6) More than one winery licensee may exercise the privileges of a winery license at a single
26 location. The commission may not refuse to issue a winery license to a person for the production
27 of wine or cider on specified premises based on the fact that other winery licensees also produce
28 wine or cider on those premises.

29 (7) If a winery licensee does not possess at a bonded premises within Oregon a valid producer
30 and blender basic permit issued by the federal Alcohol and Tobacco Tax and Trade Bureau, the
31 licensee may exercise the privileges described in this section only for wine and cider brands that
32 are under the control of the licensee.

33 **SECTION 7.** ORS 471.227 is amended to read:

34 471.227. (1) A grower sales privilege license shall allow the licensee to perform the following
35 activities only for fruit or grape wine or cider where all of the fruit or grapes used to make the
36 wine or cider are grown in Oregon under the control of the licensee:

37 (a) To import, store, transport or export such wines or cider.

38 (b) To sell such wines or cider at wholesale to the Oregon Liquor Control Commission or
39 licensees of the commission.

40 (c) To sell such wines or cider at retail directly to the consumer for consumption on or off the
41 licensed premises.

42 **(d) To sell at retail for consumption off the licensed premises malt beverages and such**
43 **wines and cider in securely covered containers provided by the consumer and having capac-**
44 **ities of not more than two gallons each.**

45 [(d)] (e) To conduct **some or all of** the activities allowed under [paragraph (a), (b) or (c), or

1 *all,]* **paragraphs (a) to (d)** of this subsection at a second or third premises as may be designated
2 by the commission.

3 [(e)] **(f)** To obtain a special events grower sales privilege license which shall entitle the holder
4 to conduct the activities allowed under paragraph (c) of this subsection at a designated location
5 other than the one set forth in the grower sales privilege license for a period not to exceed five
6 days.

7 (2) For purposes of ORS 471.392 to 471.400, a grower sales privilege licensee shall be considered
8 a manufacturer.

9 (3) A person holding a winery license in another state is not eligible for a license under this
10 section.

11 (4) A person licensed under this section is not eligible for a limited on-premises sales license
12 or an off-premises sales license.

13 (5) As used in this section, “control” means the grower either owns the land upon which the
14 fruit or grapes are grown or has a legal right to perform or does perform all of the acts common
15 to fruit farming or viticulture under terms of a lease or similar agreement of at least three years’
16 duration.

17 (6) For the purposes of tax reporting, payment and record keeping, the provisions of law that
18 shall apply to a manufacturer under ORS chapter 473 shall apply to a grower sales privilege
19 licensee, but such a licensee is not a manufacturer for purposes of ORS 473.050 (5).

20 **SECTION 8.** ORS 471.282 is amended to read:

21 471.282. (1) Notwithstanding any other provision of this chapter and except as provided by ORS
22 471.186 [(5)] **(6)**, a person may sell and ship wine or cider directly to a resident of Oregon only if
23 the person holds a direct shipper permit. The Oregon Liquor Control Commission shall issue a direct
24 shipper permit only to:

25 (a) A person that holds a license issued by this state or another state that authorizes the man-
26 ufacture of wine or cider;

27 (b) A person that holds a license issued by this state or another state that authorizes the sale
28 of wine or cider produced only from grapes or other fruit grown under the control of the person;

29 (c) A person that holds a license authorizing the sale of wine or cider at retail; or

30 (d) A nonprofit trade association that holds a temporary sales license under ORS 471.190 and
31 that has a membership primarily composed of persons holding winery licenses issued under ORS
32 471.223 or grower sales privilege licenses issued under ORS 471.227.

33 (2)(a) A person may apply for a direct shipper permit by filing an application with the commis-
34 sion. The application must be made in such form as may be prescribed by the commission.

35 (b) If the application is based on a license issued by this state, the person must include in the
36 application the number of the license issued to the person.

37 (c) If the application is based on a license issued by another state, the person must include in
38 the application a true copy of the license issued to the person by the other state or include sufficient
39 information to allow verification of the license by electronic means or other means acceptable to the
40 commission.

41 (d) If the application is based on a license issued by another state, or the application is by a
42 nonprofit trade association described in subsection (1)(d) of this section, the person or association
43 must pay a \$50 registration fee and maintain a bond or other security described in ORS 471.155 in
44 the minimum amount of \$1,000.

45 (3) Sales and shipments under a direct shipper permit:

- 1 (a) May be made only to a person who is at least 21 years of age;
- 2 (b) May be made only for personal use and not for the purpose of resale; and
- 3 (c) May not exceed two cases, containing not more than nine liters per case, to any resident per
- 4 month.
- 5 (4) Sales and shipments under a direct shipper permit must be made directly to a resident of this
- 6 state in containers that are conspicuously labeled with the words: "CONTAINS ALCOHOL: SIG-
- 7 NATURE OF PERSON AGE 21 YEARS OR OLDER REQUIRED FOR DELIVERY."
- 8 (5) A person holding a direct shipper permit must take all actions necessary to ensure that a
- 9 carrier used by the permit holder does not deliver any wine or cider unless the carrier:
- 10 (a) Obtains the signature of the recipient of the wine or cider upon delivery;
- 11 (b) Verifies by inspecting government-issued photo identification that the recipient is at least
- 12 21 years of age; and
- 13 (c) Determines that the recipient is not visibly intoxicated at the time of delivery.
- 14 (6)(a) A person holding a direct shipper permit must report to the commission all shipments of
- 15 wine or cider made to Oregon residents under the permit as required by ORS chapter 473. The re-
- 16 port must be made in a form prescribed by the commission.
- 17 (b) A person holding a direct shipper permit must allow the commission to audit the permit
- 18 holder's records upon request and shall make those records available to the commission in this state.
- 19 (c) A person holding a direct shipper permit consents to the jurisdiction of the commission and
- 20 the courts of this state for the purpose of enforcing the provisions of this section and any related
- 21 laws or rules.
- 22 (7)(a) A person holding a direct shipper permit must timely pay to the commission all taxes im-
- 23 posed under ORS chapter 473 on wine and cider sold and shipped under the permit. For the purpose
- 24 of the privilege tax imposed under ORS chapter 473, all wine or cider sold and shipped pursuant to
- 25 a direct shipper permit is sold in this state.
- 26 (b) A person holding a direct shipper permit based on a license issued by another state must
- 27 timely pay to the commission all taxes imposed under ORS chapter 473 on all wine or cider sold and
- 28 shipped directly to Oregon residents under the permit. The permit holder, not the purchaser, is re-
- 29 sponsible for the tax.
- 30 (8) A direct shipper permit must be renewed annually. If the person holds the permit based on
- 31 an annual license issued by another state, the person may renew the permit by paying a \$50 renewal
- 32 fee and providing the commission with a true copy of a current license issued to the person by the
- 33 other state or with sufficient information to allow verification of the license by electronic means
- 34 or other means acceptable to the commission. If the person holds the permit based on an annual li-
- 35 cense issued by this state, the person may renew the permit at the same time that the person renews
- 36 the license.
- 37 (9) The commission may refuse to issue or may suspend or revoke a direct shipper permit if the
- 38 permit holder fails to comply with the provisions of this section. A person may sell and ship wine
- 39 or cider under a direct shipper permit only for as long as the person has the license issued by this
- 40 state or another state that authorizes the person to hold a direct shipper permit.
- 41 (10) 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 (11) A person may not make sales and shipments of wine or cider directly to Oregon residents
- 45 unless the person holds a direct shipper permit issued under this section. Any person who knowingly

1 makes, participates in, transports, imports or receives a shipment of wine or cider that is in vio-
2 lation of this section commits a misdemeanor as provided in ORS 471.990 (1).

3 **SECTION 9.** ORS 471.360, as amended by section 2, chapter 54, Oregon Laws 2012, is amended
4 to read:

5 471.360. (1) Except as otherwise provided in ORS 471.375:

6 (a) Any person employed by a licensee of the Oregon Liquor Control Commission [*who*] **must**
7 **have a valid service permit issued by the commission if the person:**

8 (A) Participates in any manner in the mixing, selling or service of alcoholic liquor for con-
9 sumption on the premises where served or sold [*shall have a valid service permit issued by the com-*
10 *mission.*]; **or**

11 (B) **Participates in the dispensing of malt beverages, wines or cider sold in securely cov-**
12 **ered containers provided by the consumer.**

13 (b) A licensee of the commission may not permit any person **who lacks a service permit re-**
14 **quired of the person under paragraph (a) of this subsection:**

15 (A) To mix, sell or serve any alcoholic liquor for consumption on licensed premises [*unless the*
16 *person has a valid service permit issued by the commission.*]; **or**

17 (B) **To dispense malt beverages, wines or cider sold in securely covered containers pro-**
18 **vided by the consumer.**

19 (c) A permittee shall make the service permit available at any time while on duty for immediate
20 inspection by any liquor enforcement inspector or by any other peace officer.

21 (2) The commission may waive the requirement for a service permit for an employee of a
22 licensee whose primary function is not the sale of alcoholic liquor or food, including but not limited
23 to public passenger carriers, hospitals, or convalescent, nursing or retirement homes.

24 **SECTION 10. This 2013 Act being necessary for the immediate preservation of the public**
25 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
26 **on its passage.**

27