

Enrolled House Bill 2443

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

CHAPTER

AN ACT

Relating to the sale of alcoholic beverages in containers supplied by the consumer; amending ORS 471.175, 471.178, 471.186, 471.200, 471.223, 471.227, 471.282 and 471.360; and declaring an emergency.

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

SECTION 1. ORS 471.175 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 **malt beverages, wines and cider** in securely covered containers provided by the *[purchaser. Containers that hold beverages sold under this subsection may not hold]* **consumer and having capacities of not more than two gallons each.**

(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 471.178 is amended to read:

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

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

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

(4) The holder of a limited 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.

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

SECTION 3. ORS 471.186 is amended to read:

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

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

[2] (3) 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.

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

[(4)] (5) 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.

[(5)] (6) 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:

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

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

(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."

[(6)] (7) The holder of an off-premises sales license that makes deliveries of wine or cider under subsection [(5)] (6) 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:

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

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

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

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

[(8)] (9) If a court determines that deliveries of wine or cider under subsection [(5)] (6) 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)] (6) of this section after entry of the final judgment.

SECTION 4. ORS 471.200 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

(5) Notwithstanding subsection (3) of this section, a brewery-public house licensee, or any person having an interest in the licensee, may also hold a winery license authorized by ORS 471.223. A brewery-public house licensee, or any person having an interest in the licensee, may also hold a warehouse license authorized by ORS 471.242.

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

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

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

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

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

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

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

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

SECTION 5. ORS 471.223 is amended to read:

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

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

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

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

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

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

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

~~[(f)]~~ **(g)** To purchase from or through the commission brandy or other distilled liquors for fortifying wines.

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

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

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

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

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

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

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

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

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

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

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

(2) A winery license shall allow the licensee:

- (a) To import wine or cider in containers that have a capacity of more than four liters.
 - (b) To import wine or cider in containers that have a capacity of four liters or less if the brand of wine or cider is under the control of the licensee.
 - (c) To bottle, produce, blend, store, transport or export wines or cider.
 - (d) To sell wines or cider at wholesale to the Oregon Liquor Control Commission or to licensees of the commission.
 - (e) To sell wines or cider at retail directly to the consumer for consumption on or off the licensed premises.
 - (f) To sell malt beverages at retail for consumption on or off the licensed premises.
 - (g) To sell for consumption off the premises malt beverages, wines and cider in securely covered containers supplied by the consumer and having capacities of not more than two gallons each.**
 - ~~[(g)]~~ **(h)** To conduct any activities described in paragraphs (a) to ~~[(f)]~~ **(g)** of this subsection at a second or third premises as may be designated by the commission.
 - ~~[(h)]~~ **(i)** To purchase from or through the commission brandy or other distilled liquors for fortifying wines.
 - ~~[(i)]~~ **(j)** To obtain a special events winery license that shall entitle the holder to conduct the activities allowed under paragraphs (e) and (f) of this subsection at a designated location other than the one set forth in the winery license for a period not to exceed five days.
- (3) In order to hold a winery license the licensee shall:
- (a) Possess at a bonded premises within Oregon a valid producer and blender basic permit issued by the federal Alcohol and Tobacco Tax and Trade Bureau; or
 - (b) Possess a valid wine blender or valid wholesaler basic permit issued by the federal Alcohol and Tobacco Tax and Trade Bureau and have a written contract with a winery licensed under paragraph (a) of this subsection that authorizes the winery to produce for the licensee a brand of wine or cider that is under the control of the licensee.
- (4) A winery licensee may sell and ship wine or cider directly to a resident of this state only if the licensee has a direct shipper permit issued under ORS 471.282.
- (5)(a) Except as provided in paragraph (b) of this subsection, a winery licensee, or any person having an interest in the licensee, may also hold a full on-premises sales license. If a person holds both a winery license and a full on-premises sales license, nothing in this chapter shall prevent the sale by the licensee of both distilled liquor and wine or cider bottled and produced under the winery license.
- (b) The commission may not issue a full on-premises sales license to a winery licensee under the provisions of this subsection if the winery licensee, or any person having an interest in the licensee or exercising control over the licensee, is a brewery that brews more than 200,000 barrels of malt beverages annually or a winery that produces more than 200,000 gallons of wine or cider annually.
- (6) More than one winery licensee may exercise the privileges of a winery license at a single location. The commission may not refuse to issue a winery license to a person for the production of wine or cider on specified premises based on the fact that other winery licensees also produce wine or cider on those premises.
- (7) If a winery licensee does not possess at a bonded premises within Oregon a valid producer and blender basic permit issued by the federal Alcohol and Tobacco Tax and Trade Bureau, the licensee may exercise the privileges described in this section only for wine and cider brands that are under the control of the licensee.

SECTION 7. ORS 471.227 is amended to read:

- 471.227. (1) A grower sales privilege license shall allow the licensee to perform the following activities only for fruit or grape wine or cider where all of the fruit or grapes used to make the wine or cider are grown in Oregon under the control of the licensee:
- (a) To import, store, transport or export such wines or cider.
 - (b) To sell such wines or cider at wholesale to the Oregon Liquor Control Commission or licensees of the commission.

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

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

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

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

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

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

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

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

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

SECTION 8. ORS 471.282 is amended to read:

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

(a) A person that holds a license issued by this state or another state that authorizes the manufacture of wine or cider;

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

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

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

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

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

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

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

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

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

(b) May be made only for personal use and not for the purpose of resale; and
(c) May not exceed two cases, containing not more than nine liters per case, to any resident per month.

(4) Sales and shipments under a direct shipper permit must be made directly to a resident of this state in containers that are conspicuously labeled with the words: "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 YEARS OR OLDER REQUIRED FOR DELIVERY."

(5) A person holding a direct shipper permit must take all actions necessary to ensure that a carrier used by the permit holder does not deliver any wine or cider unless the carrier:

(a) Obtains the signature of the recipient of the wine or cider upon delivery;
(b) Verifies by inspecting government-issued photo identification that the recipient is at least 21 years of age; and

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

(6)(a) A person holding a direct shipper permit must report to the commission all shipments of wine or cider made to Oregon residents under the permit as required by ORS chapter 473. The report must be made in a form prescribed by the commission.

(b) A person holding a direct shipper permit must allow the commission to audit the permit holder's records upon request and shall make those records available to the commission in this state.

(c) A person holding a direct shipper permit consents to the jurisdiction of the commission and the courts of this state for the purpose of enforcing the provisions of this section and any related laws or rules.

(7)(a) A person holding a direct shipper permit must timely pay to the commission all taxes imposed under ORS chapter 473 on wine and cider sold and shipped under the permit. For the purpose of the privilege tax imposed under ORS chapter 473, all wine or cider sold and shipped pursuant to a direct shipper permit is sold in this state.

(b) A person holding a direct shipper permit based on a license issued by another state must timely pay to the commission all taxes imposed under ORS chapter 473 on all wine or cider sold and shipped directly to Oregon residents under the permit. The permit holder, not the purchaser, is responsible for the tax.

(8) A direct shipper permit must be renewed annually. If the person holds the permit based on an annual license issued by another state, the person may renew the permit by paying a \$50 renewal fee and providing the commission with a true copy of a current license issued to the person by the other state or with sufficient information to allow verification of the license by electronic means or other means acceptable to the commission. If the person holds the permit based on an annual license issued by this state, the person may renew the permit at the same time that the person renews the license.

(9) The commission may refuse to issue or may suspend or revoke a direct shipper permit if the permit holder fails to comply with the provisions of this section. A person may sell and ship wine or cider under a direct shipper permit only for as long as the person has the license issued by this state or another state that authorizes the person to hold a direct shipper permit.

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

(11) A person may not make sales and shipments of wine or cider directly to Oregon residents unless the person holds a direct shipper permit issued under this section. Any person who knowingly makes, participates in, transports, imports or receives a shipment of wine or cider that is in violation of this section commits a misdemeanor as provided in ORS 471.990 (1).

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

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

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

(A) Participates in any manner in the mixing, selling or service of alcoholic liquor for consumption on the premises where served or sold [*shall have a valid service permit issued by the commission.*]; **or**

(B) Participates in the dispensing of malt beverages, wines or cider sold in securely covered containers provided by the consumer.

(b) A licensee of the commission may not permit any person **who lacks a service permit required of the person under paragraph (a) of this subsection:**

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

(B) To dispense malt beverages, wines or cider sold in securely covered containers provided by the consumer.

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

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

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

Passed by House March 6, 2013

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Ramona J. Line, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate March 28, 2013

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2013

Approved:

.....M.,....., 2013

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M.,....., 2013

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Kate Brown, Secretary of State