

House Bill 3375

Sponsored by COMMITTEE ON REVENUE

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**.

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

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

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

BEVERAGE TAXES

SECTION 1. ORS 473.030 is amended to read:

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

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

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

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

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

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

4 [(5)] (7) The rates of tax imposed by this section upon malt beverages apply proportionately to
 5 quantities in containers of less capacity than those quantities specified in this section.

6 [(6)] (8) The taxes imposed by this section shall be measured by the volume of wine or malt
 7 beverages produced, purchased or received by any manufacturer. If the wine or malt beverage re-
 8 mains unsold and in the possession of the producer at the plant where it was produced, no tax im-
 9 posed or levied by this section is required to be paid until the wine or malt beverage has become
 10 sufficiently aged for marketing at retail, but this subsection shall not be construed so as to alter
 11 or affect any provision of this chapter relating to tax liens or the filing of statements.

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

13 473.035. (1) A tax is imposed upon the privilege of engaging in business as a manufacturer or
 14 as an importing distributor of cider at the rate of \$2.60 per barrel of 31 gallons on all such
 15 beverages.

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

19 [(2)] (3) Notwithstanding [subsection (1)] **subsections (1) and (2)** of this section or any other
 20 provision of law, the taxation of the manufacturing or distribution of cider shall be at a rate that
 21 is not less than the rate imposed for the privilege of manufacturing or distributing malt beverages
 22 under ORS 473.030 (1) **and (5)**.

23 [(3)] (4) The rate of tax imposed by this section shall apply proportionately to quantities in
 24 containers of less capacity than those quantities specified in this section.

25 [(4)] (5) The tax imposed by this section shall be measured by the volume of cider produced,
 26 purchased or received by any manufacturer. If the cider remains unsold and in the possession of the
 27 producer at the plant where it was produced, no tax imposed or levied by this section is required
 28 to be paid until the cider has become sufficiently aged for marketing at retail, but this subsection
 29 shall not be construed so as to alter or affect any provision of this chapter relating to tax liens or
 30 the filing of statements.

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

32 471.810. (1) At the end of each month, the Oregon Liquor Control Commission shall certify the
 33 amount of moneys available for distribution in the Oregon Liquor Control Commission Account and,
 34 after withholding such moneys as it may deem necessary to pay its outstanding obligations, shall
 35 within 35 days of the month for which a distribution is made direct the State Treasurer to pay the
 36 amounts due, upon warrants drawn by the Oregon Department of Administrative Services, as fol-
 37 lows:

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

41 (b) Twenty percent to the cities of the state in such shares as the population of each city bears
 42 to the population of the cities of the state, as determined by the State Board of Higher Education
 43 last preceding such apportionment, under ORS 190.510 to 190.610;

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

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

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

7 **(3) The commission shall direct the Oregon Department of Administrative Services to**
 8 **transfer all revenues from taxes imposed by ORS 473.030 (5) and (6) and 473.035 (2) to the**
 9 **Oregon Student Assistance Fund established in ORS 348.570 for the purpose of funding grants**
 10 **through the Oregon Opportunity Grant program under ORS 348.260.**

11 [(3)] (4) If the amount of revenues received from the taxes imposed by ORS 473.030 (1) to (4) for
 12 the preceding month was reduced as a result of credits claimed under ORS 473.047, the commission
 13 shall compute the difference between the amounts paid or transferred as described in subsections
 14 (1)(b), (c) and (d) and (2) of this section and the amounts that would have been paid or transferred
 15 under subsections (1)(b), (c) and (d) and (2) of this section if no credits had been claimed. The com-
 16 mission shall direct the Oregon Department of Administrative Services to pay or transfer amounts
 17 equal to the differences computed for subsections (1)(b), (c) and (d) and (2) of this section from the
 18 General Fund to the recipients or accounts described in subsections (1)(b), (c) and (d) and (2) of this
 19 section.

20 [(4)] (5) Notwithstanding subsection (1) of this section, no city or county shall receive for any
 21 fiscal year an amount less than the amount distributed to the city or county in accordance with ORS
 22 471.350 (1965 Replacement Part), 471.810, 473.190 and 473.210 (1965 Replacement Part) during the
 23 1966-1967 fiscal year unless the city or county had a decline in population as shown by its census.
 24 If the population declined, the per capita distribution to the city or county shall be not less than
 25 the total per capita distribution during the 1966-1967 fiscal year. Any additional funds required to
 26 maintain the level of distribution under this subsection shall be paid from funds credited under
 27 subsection (1)(a) of this section.

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

29 471.805. (1) Except as otherwise provided in ORS 471.810 (2) **and (3)**, all money collected by the
 30 Oregon Liquor Control Commission under this chapter and ORS chapter 473 and privilege taxes
 31 shall be remitted to the State Treasurer who shall credit it to a suspense account of the commission.
 32 Whenever the commission determines that moneys have been received by it in excess of the amount
 33 legally due and payable to the commission or that it has received money to which it has no legal
 34 interest, or that any license fee or deposit is properly refundable, the commission is authorized and
 35 directed to refund such money by check drawn upon the State Treasurer and charged to the sus-
 36 pense account of the commission. After withholding refundable license fees and such sum, not to
 37 exceed \$250,000, as it considers necessary as a revolving fund for a working cash balance for the
 38 purpose of paying travel expenses, advances, other miscellaneous bills and extraordinary items
 39 which are payable in cash immediately upon presentation, the commission shall direct the State
 40 Treasurer to transfer the money remaining in the suspense account to the Oregon Liquor Control
 41 Commission Account in the General Fund. Moneys in the Oregon Liquor Control Commission Ac-
 42 count are continuously appropriated to the commission to be distributed and used as required or
 43 allowed by law.

44 (2) All necessary expenditures of the commission incurred in carrying out the purposes required
 45 of the commission by law, including the salaries of its employees, purchases made by the commission

1 and such sums necessary to reimburse the \$250,000 revolving fund, shall be audited and paid from
 2 the Oregon Liquor Control Commission Account in the General Fund, upon warrants drawn by the
 3 Oregon Department of Administrative Services, pursuant to claims duly approved by the commission.

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

6
 7 **BEVERAGE CONTAINERS**

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 9 **SECTION 6.** Section 7 of this 2013 Act is added to and made a part of ORS 459A.700 to
 10 459A.740.

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

13 (2)(a) Each distributor cooperative shall remit to the Department of Revenue an amount
 14 equal to one-half of the total refund value of the beverage containers sold by the distributors
 15 or importers that participate in the distributor cooperative, less the amount actually re-
 16 funded to dealers each calendar quarter. The remittance must be made to the department
 17 within 10 days of the end of each quarter. After the deduction of expenses of the department
 18 in administering the provisions of this section, moneys received by the department under
 19 this paragraph shall be deposited in the Oregon Student Assistance Fund established in ORS
 20 348.570 for the purpose of funding grants through the Oregon Opportunity Grant program
 21 under ORS 348.260. Any deduction for expenses of the department under this paragraph may
 22 not exceed five percent of the moneys remitted to the department under this section.

23 (b) Each distributor or importer that does not participate in a distributor cooperative
 24 shall remit to the Department of Revenue an amount equal to one-half of the total refund
 25 value of the beverage containers sold by the distributor or importer, less the amount actually
 26 refunded to dealers each calendar quarter. The remittance must be made to the department
 27 within 10 days of the end of each quarter. After the deduction of expenses of the department
 28 in administering the provisions of this section, moneys received by the department under
 29 this paragraph shall be deposited in the Oregon Student Assistance Fund established in ORS
 30 348.570 for the purpose of funding grants through the Oregon Opportunity Grant program
 31 under ORS 348.260. Any deduction for expenses of the department under this paragraph may
 32 not exceed five percent of the moneys remitted to the department under this section.

33 (3)(a) Each distributor cooperative, and each distributor or importer that does not par-
 34 ticipate in a distributor cooperative, shall keep accurate records reflecting the number of
 35 beverage containers sold, the number of beverage containers returned and the total amount
 36 of refund payments made to dealers during each quarter.

37 (b) At the same time a distributor cooperative, or a distributor or importer that does not
 38 participate in a distributor cooperative, makes the quarterly payment required by subsection
 39 (2) of this section, the distributor cooperative, or the distributor or importer that does not
 40 participate in a distributor cooperative, shall also submit a report to the department detail-
 41 ing the information specified in paragraph (a) of this subsection.

42 (4) The department may not disclose records of a distributor cooperative, or a distributor
 43 or importer that does not participate in a distributor cooperative, obtained by the depart-
 44 ment pursuant to this section. The department may disclose information contained in re-
 45 cords obtained by the department pursuant to this section in aggregate form, as long as the

1 department does not identify individual distributor cooperatives, distributors or importers.

2 (5) Each distributor cooperative, and each distributor or importer that does not partic-
 3 ipate in a distributor cooperative, shall make the records specified in this section available
 4 to the department upon a request for inspection and audit.

5 (6)(a) Each distributor cooperative, and each distributor or importer that does not par-
 6 ticipate in a distributor cooperative, that fails to keep accurate records or provide the re-
 7 ports required by this section shall be liable for a civil penalty of _____ per occurrence.

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

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

13
 14 **MISCELLANEOUS**

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

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

20 348.570. (1) There is established in the State Treasury a fund, separate and distinct from the
 21 General Fund, to be known as the Oregon Student Assistance Fund for investment as provided by
 22 ORS 293.701 to 293.820 and for the payment of the expenses of the Oregon Student Access Com-
 23 mission in carrying out the purposes of ORS 348.210 to 348.250, **348.260**, 348.285, 348.505 to 348.615,
 24 348.696 and 348.992. Interest earned by the fund shall be credited to the fund.

25 (2) There is established in the State Treasury a fund, separate and distinct from the General
 26 Fund, to be known as the Alternative Student Loan Program Fund for investment as provided by
 27 ORS 293.701 to 293.820 and for the payment of expenses of the commission in carrying out the pur-
 28 poses of ORS 348.625 to 348.695. This fund, including the interest earnings on the fund, if any, is
 29 continuously appropriated to the commission for those purposes for which such funds were provided
 30 to, received or collected by the commission.

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

34 (b) The account shall consist of:

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

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

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

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

41 (4) There is established in the State Treasury a fund, separate and distinct from the General
 42 Fund, to be known as the Foster Youth Scholarship Fund. Moneys received from appropriations,
 43 donations and grants shall be credited to the fund. Moneys in the fund are continuously appropri-
 44 ated to the Oregon Student Access Commission for the purposes of investment, as provided by ORS
 45 293.701 to 293.820, and for carrying out the provisions of ORS 348.270 (1)(b). Interest earned by the

1 fund shall be credited to the fund.

2 (5) There is established in the State Treasury a fund, separate and distinct from the General
3 Fund, to be known as the ASPIRE Program Fund. Moneys received from donations and grants shall
4 be credited to the ASPIRE Program Fund. Moneys in the fund are continuously appropriated to the
5 Oregon Student Access Commission for the purposes of investment, as provided by ORS 293.701 to
6 293.820, and for carrying out the provisions of ORS 348.500. Interest earned by the fund shall be
7 credited to the fund.

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

13 (A) Moneys appropriated to the commission for the Nursing Faculty Loan Repayment Program
14 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 retained in the fund and
17 may be expended in subsequent biennia.

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

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

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