

A-Engrossed
Senate Bill 112

Ordered by the Senate April 5
Including Senate Amendments dated April 5

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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 Oregon Liquor Control Commission to impose civil penalty for violations related to beverage containers. Allows commission to **review or** audit certain records of distributor cooperatives.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to enforcement of laws regarding beverage containers; creating new provisions; amending
3 section 2, chapter 100, Oregon Laws 2012; and declaring an emergency.

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

5 **SECTION 1. Section 2 of this 2013 Act is added to and made a part of ORS 459A.700 to**
6 **459A.740.**

7 **SECTION 2. (1) The Oregon Liquor Control Commission may impose a civil penalty of at**
8 **least \$50, but not more than \$500, for a violation of any provision of ORS 459A.700 to**
9 **459A.740. Each day a violation occurs constitutes a separate violation. The authority to im-**
10 **pose a civil penalty under this section is in addition to and not in lieu of the revocation and**
11 **suspension authority under ORS 459.992 (4) and the criminal penalty authorized by ORS**
12 **459.992.**

13 **(2) Civil penalties under this section shall be imposed as provided in ORS 183.745.**

14 **(3) All penalties recovered under this section shall be paid into the State Treasury and**
15 **credited to the General Fund and are available for general governmental expenses.**

16 **SECTION 3. Section 2 of this 2013 Act applies only to violations of ORS 459A.700 to**
17 **459A.740 occurring on or after the effective date of this 2013 Act.**

18 **SECTION 4. Section 2, chapter 100, Oregon Laws 2012, is amended to read:**

19 **Sec. 2. (1) Two or more distributors or importers may establish a distributor cooperative for the**
20 **purposes of:**

21 (a) Collecting the refund value of beverage containers specified in ORS 459A.705 from distribu-
22 tors or importers and refunding to dealers the amount the dealers paid for the refund value of empty
23 beverage containers;

24 (b) Paying the refund value specified in ORS 459A.705 for beverage containers sold in this state;
25 and

26 (c) Processing beverage containers sold in this state.

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 (2) A distributor cooperative established under this section must service a majority of the deal-
2 ers in this state.

3 (3) If a distributor cooperative is established, a dealer that uses the distributor cooperative to
4 redeem and process beverage containers sold in this state is not required to return beverage con-
5 tainers to a distributor or importer that does not participate in the distributor cooperative, provided
6 that the dealer or the distributor cooperative provides an accounting to the distributor or importer
7 of the beverage containers by brand and kind that were distributed by the distributor or importer
8 and subsequently redeemed by the dealer or distributor cooperative.

9 (4) Upon receipt of the accounting required by subsection (3) of this section, a distributor or
10 importer that does not participate in the distributor cooperative must pay the refund value of the
11 redeemed beverage containers specified in the accounting to the dealer or distributor cooperative
12 that provided the accounting.

13 (5)(a) For purposes of this subsection, beverage container return data is the number of beverage
14 containers returned for the refund value specified in ORS 459A.705 in Oregon during the calendar
15 year and the number of beverage containers that carry a refund value specified in ORS 459A.705
16 sold in Oregon during the calendar year, calculated separately.

17 (b) By July 1 of each calendar year, a distributor cooperative shall provide the Oregon Liquor
18 Control Commission with a report that lists, in aggregate form for all distributors and importers that
19 participate in the distributor cooperative, the previous calendar year's beverage container return
20 data, calculated separately for glass, metal and plastic beverage containers.

21 (c) By July 1 of each calendar year, a distributor or importer that does not participate in a
22 distributor cooperative shall provide the commission with a report that lists the distributor's or the
23 importer's beverage container return data for the previous calendar year, calculated separately for
24 glass, metal and plastic beverage containers.

25 (6)(a) By August 1 of each calendar year, using the beverage container return data provided in
26 subsection (5)(b) of this section, the Oregon Liquor Control Commission shall calculate the previous
27 calendar year's percentage of beverage containers returned for the refund value specified in ORS
28 459A.705 for each distributor cooperative. The commission shall carry out the calculation separately
29 for glass, metal and plastic beverage containers and shall post the percentages on the commission's
30 website.

31 (b) By August 1 of each calendar year, using the beverage container return data provided in
32 subsection (5)(c) of this section, the commission shall calculate the previous calendar year's per-
33 centage of beverage containers returned for the refund value specified in ORS 459A.705 for each
34 distributor or importer that does not participate in a distributor cooperative. The commission shall
35 carry out the calculation separately for glass, metal and plastic beverage containers and shall post
36 the percentages on the commission's website.

37 (c) By August 1 of each calendar year, using the beverage container return data provided in
38 subsection (5)(b) and (c) of this section, the commission shall calculate the previous calendar year's
39 percentage of beverage containers returned for the refund value specified in ORS 459A.705 for all
40 distributors and importers in Oregon. The commission shall carry out the calculation for all
41 beverage containers, and separately for glass, metal and plastic beverage containers, and shall post
42 the percentages on the commission's website.

43 (d) Except for the percentages described in paragraphs (a) to (c) of this subsection **or in a**
44 **proceeding under section 2 of this 2013 Act for a violation of subsection (5) of this section,**
45 the commission may not disclose any information provided by a distributor, an importer or a dis-

1 tributor cooperative under subsection (5) of this section.

2 **(7)(a) In order to determine compliance with the provisions of subsection (5) of this sec-**
3 **tion, within six months of the date that the commission receives a report described in sub-**
4 **section (5)(b) and (c) of this section, the commission may review or audit the records of each**
5 **reporting distributor cooperative, or each reporting distributor or importer that does not**
6 **participate in a distributor cooperative.**

7 **(b)(A) If in the course of a review described in paragraph (a) of this subsection the**
8 **commission determines that an audit of a distributor cooperative, distributor or importer is**
9 **necessary, the commission shall require the distributor cooperative, distributor or importer**
10 **to retain an independent financial audit firm to determine the accuracy of information con-**
11 **tained in the report. The distributor cooperative, distributor or importer that is the subject**
12 **of review shall pay the costs of the audit. The audit must be limited to the records described**
13 **in paragraph (a) of this subsection.**

14 **(B) The commission shall adopt rules to carry out the provisions of this paragraph.**

15 **SECTION 5. This 2013 Act being necessary for the immediate preservation of the public**
16 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
17 **on its passage.**

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