

Senate Bill 296

Sponsored by Senator JOHNSON (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 **as introduced**.

Authorizes holder of off-premises sales license, under certain conditions, to store wine at licensed premises for transport to other licensed premises for sale at retail. Authorizes sale of wine transported to receiving premises on behalf of transporting holder.

Creates central warehouse license. Authorizes central warehouse licensee, under certain circumstances, to store wine at central warehouse for transport to premises in which licensee holds qualifying interest. Authorizes member of cooperative that is central warehouse licensee, under certain circumstances, to store wine at central warehouse for transport to premises in which member holds qualifying interest.

Makes central warehouse licensee responsible, under certain circumstances, for payment of taxes on wine received from winery licensee or manufacturer holding wine self-distribution permit. Allows central warehouse operated by cooperative to take title to wine and transfer title to members of cooperative under certain conditions.

A BILL FOR AN ACT

1
2 Relating to wine traveling in commerce for use by off-premises sales licensees; creating new provisions; and amending ORS 471.186, 471.274, 471.311 and 473.065.

3
4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Sections 2 to 5 of this 2013 Act are added to and made a part of ORS chapter**
6 **471.**

7 **SECTION 2. (1) The holder of an off-premises sales license may store wine at the licensed**
8 **premises and cause the wine to be transported to another premises that is licensed for off-**
9 **premises sales if the holder:**

10 (a) Takes title to the wine no later than when the wine is delivered to the licensed
11 premises at which the holder will store the wine before transportation;

12 (b) Retains title to the wine until the wine is sold at retail;

13 (c) Owns, leases or subleases the premises receiving wine transported from the licensed
14 premises of the holder; and

15 (d) Ensures that wine transported from the licensed premises of the holder to another
16 premises licensed for off-premises sales is transported to the receiving premises:

17 (A) On a vehicle owned or operated by the holder;

18 (B) On a vehicle owned by a licensed wholesaler; or

19 (C) On a common carrier.

20 (2) Notwithstanding ORS 471.305, if the holder of an off-premises sales license causes
21 wine to be transported under this section to another premises that is licensed for off-
22 premises sales, the operator of the receiving premises may sell the wine on behalf of the
23 holder at retail at the receiving premises.

24 **SECTION 3. (1) A central warehouse license allows the licensee to:**

25 (a) Subject to subsection (4) of this section, receive wine directly from a licensed whole-

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 saler or winery licensee or from a manufacturer of wine that holds a wine self-distribution
2 permit issued under ORS 471.274;

3 (b) Hold wine described in this subsection in storage; and

4 (c) Release the wine for transport to a licensed premises described in section 4 (3) or 5
5 (3) of this 2013 Act.

6 (2) A central warehouse licensee may receive wine only if the wine is transported to the
7 central warehouse:

8 (a) On a vehicle owned or operated by the central warehouse licensee;

9 (b) On a vehicle owned or operated by the member having or taking title to the wine if
10 the central warehouse is licensed under section 5 of this 2013 Act;

11 (c) On a vehicle owned by the licensed wholesaler;

12 (d) On a vehicle owned by the winery licensee;

13 (e) On a vehicle owned by the manufacturer of wine holding the wine self-distribution
14 permit; or

15 (f) On a common carrier.

16 (3) Holding a central warehouse license does not qualify the central warehouse licensee
17 as a manufacturer or wholesaler for purposes of ORS 471.392 to 471.400.

18 (4) A central warehouse licensee may receive wine from a wholesaler only if the whole-
19 saler has paid the taxes on the wine. A central warehouse licensee that receives wine from
20 a winery licensee or from a manufacturer of wine that holds a wine self-distribution permit
21 must pay the taxes imposed under ORS chapter 473 and comply with reporting requirements
22 imposed by ORS chapter 473 unless:

23 (a) The winery licensee or the manufacturer of wine that holds a wine self-distribution
24 permit has paid the taxes and complied with the reporting requirements;

25 (b) The central warehouse is licensed under section 5 of this 2013 Act and a member of
26 the cooperative operating the warehouse takes title to the wine and pays the taxes and
27 complies with the reporting requirements; or

28 (c) The wine is exempted from taxation under ORS 473.050 (5).

29 (5) Notwithstanding ORS 471.392 to 471.400:

30 (a) If a central warehouse is licensed under section 5 of this 2013 Act, the cooperative
31 operating the warehouse may take title to wine received at the warehouse.

32 (b) Title to wine described in this subsection must be transferred from the cooperative
33 to a member of the cooperative prior to removal of the wine from the central warehouse and
34 upon reimbursement by the member of any taxes paid on the wine by the cooperative. The
35 cooperative shall report the transfer of title to the Oregon Liquor Control Commission.

36 **SECTION 4.** (1) The Oregon Liquor Control Commission may issue a central warehouse
37 license to a person for the purpose of supplying wine to licensed premises described in sub-
38 section (3) of this section.

39 (2) The central warehouse licensee may store wine at the central warehouse and may
40 cause the wine to be transported to a premises licensed for off-premises sales if the central
41 warehouse licensee:

42 (a) Takes title to the wine no later than when the wine is delivered to the central ware-
43 house;

44 (b) Retains title to the wine until the wine is sold at retail; and

45 (c) Causes the wine to be transported from the central warehouse only to a licensed

1 **premises in which the central warehouse licensee has an interest described in subsection (3)**
 2 **of this section.**

3 **(3) A premises licensed for off-premises sales may receive wine from a central warehouse**
 4 **licensed under this section if the central warehouse licensee is named on the off-premises**
 5 **sales license and the premises is:**

6 **(a) Wholly owned by the central warehouse licensee;**

7 **(b) Owned in part by the central warehouse licensee and sells wine at retail under a trade**
 8 **name of the central warehouse licensee; or**

9 **(c) Operated under a contract with the central warehouse licensee and sells wine at retail**
 10 **under a trade name of the central warehouse licensee.**

11 **(4) Subsections (1) to (3) of this section do not apply to a central warehouse or central**
 12 **warehouse licensee described in section 5 of this 2013 Act.**

13 **SECTION 5. (1) The Oregon Liquor Control Commission may issue a central warehouse**
 14 **license to a cooperative if each member is a holder of an off-premises sales license.**

15 **(2) A member of the cooperative may store wine at the central warehouse of the coop-**
 16 **erative and may cause the wine to be transported to a premises of the member that is li-**
 17 **icensed for off-premises sales if:**

18 **(a) The member or the cooperative takes title to the wine no later than when the wine**
 19 **is delivered to the central warehouse;**

20 **(b) Title to the wine is held by the member or the cooperative until the wine is removed**
 21 **from the central warehouse;**

22 **(c) Title to the wine is held by the member from the time the wine is removed from the**
 23 **central warehouse until the wine is sold at retail; and**

24 **(d) The member causes the wine to be transported from the central warehouse only to**
 25 **a licensed premises in which the member has an interest described in subsection (3) of this**
 26 **section.**

27 **(3) A premises licensed for off-premises sales in this state may receive wine from a**
 28 **central warehouse that is owned by a cooperative described in this section if a member of**
 29 **the cooperative is named on the off-premises sales license and the premises is:**

30 **(a) Wholly owned by the member;**

31 **(b) Owned in part by the member and sells wine at retail under a trade name of the**
 32 **member; or**

33 **(c) Operated under a contract with the member and sells wine at retail under a trade**
 34 **name of the member.**

35 **SECTION 6. ORS 471.186 is amended to read:**

36 **471.186. (1) The holder of an off-premises sales license may sell factory-sealed containers of wine,**
 37 **malt beverages and cider. Containers of malt beverages sold under the license may not hold more**
 38 **than two and one-quarter gallons.**

39 **(2) The holder of an off-premises sales license may provide sample tasting of alcoholic beverages**
 40 **on the licensed premises if the licensee makes written application to the Oregon Liquor Control**
 41 **Commission and receives approval from the commission to conduct tastings on the premises.**
 42 **Tastings must be limited to the alcoholic beverages that may be sold under the privileges of the li-**
 43 **cence.**

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

45 **(4) Except as provided in ORS 471.402, a manufacturer or wholesaler may not provide or pay for**

1 sample tastings of alcoholic beverages for the public on premises licensed under an off-premises
2 sales license.

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

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

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

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

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

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

17 (b) Verifies by inspecting government-issued photo identification that the recipient is at least
18 21 years of age; and

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

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

23 (8) If a court determines that deliveries of wine or cider under subsection (5) of this section
24 cannot be restricted to holders of off-premises sales licenses, and the decision is a final judgment
25 that is no longer subject to appeal, the holder of an off-premises sales license may not make deliv-
26 eries of wine or cider under the provisions of subsection (5) of this section after entry of the final
27 judgment.

28 **(9) The holder of an off-premises sales license may cause wine to be transported from the**
29 **licensed premises to another premises that is licensed for off-premises sales if the holder**
30 **complies with section 2 of this 2013 Act. The holder of an off-premises sales license may**
31 **cause wine to be transported from a central warehouse to a premises licensed for off-**
32 **premises sales if the holder complies with section 4 or 5 of this 2013 Act.**

33 **SECTION 7.** ORS 471.274 is amended to read:

34 471.274. (1) The Oregon Liquor Control Commission may issue a wine self-distribution permit to
35 a United States manufacturer of wine or cider. The commission may issue a wine self-distribution
36 permit only to a manufacturer of wine or cider that:

37 (a) Holds a license issued by another state that authorizes the manufacture of wine or cider; and

38 (b) Holds a certificate of approval issued under ORS 471.244.

39 (2) The holder of a wine self-distribution permit may sell at wholesale and transport wine or
40 cider that the manufacturer produces directly to the commission, or to retail licensees in the manner
41 provided by this section. A wine self-distribution permit allows the holder to sell wine or cider that
42 the holder produces only to retail licensees who hold a valid endorsement issued by the commission
43 authorizing receipt of wine or cider from the holder of a wine self-distribution permit.

44 (3) In addition to the information required by ORS 471.311 for licenses, an applicant for a wine
45 self-distribution permit shall provide the commission with a copy of the license held by the applicant

1 or with sufficient information to allow verification of the license by electronic means or other means
2 acceptable to the commission. The applicant also shall provide the commission with any information
3 required by the commission to establish that the license held by the applicant authorizes the man-
4 ufacture of wine or cider.

5 (4) **Except as provided in this subsection**, a person holding a wine self-distribution permit is
6 responsible for paying all taxes imposed under ORS chapter 473, and for complying with all report-
7 ing requirements imposed by ORS chapter 473, for all wine and cider sold and transported to retail
8 licensees in this state. **If a person holding a wine self-distribution permit delivers wine to a**
9 **central warehouse and fails to pay taxes imposed under ORS chapter 473 or to comply with**
10 **reporting requirements imposed by ORS chapter 473, the licensee taking title to the wine is**
11 **responsible for the unpaid taxes imposed under ORS chapter 473 and for complying with re-**
12 **porting requirements imposed by ORS chapter 473.** The commission may revoke, or refuse to
13 issue, a wine self-distribution permit if the holder of a permit fails to pay taxes or make reports as
14 required by ORS chapter 473. **A retail licensee that is required under this subsection to comply**
15 **with reporting requirements is exempt from the reporting requirement imposed by sub-**
16 **section (6) of this section.**

17 (5) A retail licensee may receive wine or cider from the holder of a wine self-distribution permit
18 only if the licensee has received prior authorization from the commission. Prior authorization under
19 this subsection must be made by an endorsement to the license for the premises where the wine or
20 cider will be received. The commission may not charge or collect a fee for an endorsement under
21 this subsection.

22 (6)(a) Except as provided in **subsection (4) of this section** or paragraph (b) of this subsection,
23 a retail licensee that receives wine or cider from holders of wine self-distribution permits must make
24 a monthly report to the commission, using a form prescribed by the commission, listing the amount
25 of all wine or cider received from permit holders in the previous month, and the names of the permit
26 holders from whom the wine or cider was received. Retail licensees shall retain such purchase re-
27 cords for products received from permit holders as may be required by the commission.

28 (b) The holder of a full or limited on-premises sales license is not required to file a report under
29 this subsection for any month in which the licensee receives two or fewer cases of wine from holders
30 of wine self-distribution permits.

31 (7) A manufacturer that is not licensed by the commission may sell and transport wine or cider
32 directly to a retail licensee, and a retail licensee may receive wine or cider directly from a man-
33 ufacturer that is not licensed by the commission, only if the manufacturer holds a wine self-
34 distribution permit issued under this section.

35 (8) The holder of a wine self-distribution permit consents to the jurisdiction of the commission
36 and the courts of this state for the purpose of enforcing the provisions of this chapter, ORS chapter
37 473 and any related laws or rules.

38 (9) The holder of a wine self-distribution permit must post a bond or other security, as described
39 in ORS 471.155.

40 (10) The commission may revoke, or refuse to issue, a wine self-distribution permit if the holder
41 of a permit fails to comply with any provision of this section.

42 **SECTION 8.** ORS 471.311 is amended to read:

43 471.311. (1) Any person desiring a license or renewal of a license under this chapter shall make
44 application to the Oregon Liquor Control Commission upon forms to be furnished by the commission
45 showing the name and address of the applicant, location of the place of business that is to be op-

erated under the license, and such other pertinent information as the commission may require. [No] A license [shall] **may not** be granted or renewed until the applicant has complied with the provisions of this chapter and the rules of the commission.

(2) The commission may reject any application that is not submitted in the form required by rule. The commission shall give applicants an opportunity to be heard if an application is rejected. A hearing under this subsection is not subject to the requirements for contested case proceedings under ORS chapter 183.

(3) Subject to subsection (4) of this section, the commission shall assess a nonrefundable fee for processing a renewal application for any license authorized by this chapter only if the renewal application is received by the commission less than 20 days before expiration of the license. If the renewal application is received prior to expiration of the license but less than 20 days prior to expiration, [this] **the** fee shall be 25 percent of the annual license fee. If a renewal application is received by the commission after expiration of the license but no more than 30 days after expiration, [this] **the** fee shall be 40 percent of the annual license fee. This subsection does not apply to a certificate of approval, a brewery-public house license or any license that is issued for a period of less than 30 days.

(4) The commission may waive the fee imposed under subsection (3) of this section if [it] **the commission** finds that failure to submit a timely application was due to unforeseen circumstances or to a delay in processing the application by the local governing authority that is no fault of the licensee.

(5) The license fee is nonrefundable and [shall] **must** be paid by each applicant upon the granting or committing of a license. Subject to ORS 471.155 and 473.065, the annual or daily license fee and the minimum bond required of each class of license under this chapter are as follows:

License	Minimum Fee	Bond
Brewery, including Certificate of Approval	\$ 500	\$ 1,000
Winery	\$ 250	\$ 1,000
Distillery	\$ 100	None
Wholesale Malt Beverage and Wine	\$ 275	\$ 1,000
Warehouse	\$ 100	\$ 1,000
Central Warehouse	\$ 1,000	\$ 1,000
Special events winery license	\$ 10 per day	
Brewery-Public House, including Certificate of Approval	\$ 250	\$ 1,000
Limited On-Premises Sales	\$ 200	None
Off-Premises Sales	\$ 100	None
Temporary Sales	\$ 50 per day	
Grower sales privilege license	\$ 250	\$ 1,000

1	Special events grower	
2	sales privilege	
3	license	\$ 10 per day
4	Special events	
5	brewery-public house	
6	license	\$ 10 per day
7	Special events	
8	distillery	
9	license	\$ 10 per day

11

12 (6) The fee for a certificate of approval or special certificate of approval granted under ORS
13 471.244 is nonrefundable and must be paid by each applicant upon the granting or committing of a
14 certificate of approval or special certificate of approval. No bond is required for the granting of a
15 certificate of approval or special certificate of approval. Certificates of approval are valid for a pe-
16 riod commencing on the date of issuance and ending on December 31 of the fifth calendar year fol-
17 lowing the calendar year of issuance. The fee for a certificate of approval is \$175. Special
18 certificates of approval are valid for a period of 30 days. The fee for a special certificate of approval
19 is \$10.

20 (7) Except as provided in subsection (8) of this section, the annual license fee for a full on-
21 premises sales license is \$400. No bond is required for any full on-premises sales license.

22 (8) The annual license fee for a full on-premises sales license held by a nonprofit private club
23 as described in ORS 471.175 (8), or held by a nonprofit or charitable organization that is registered
24 with the state, is \$200.

25 (9) The annual fee for a wine self-distribution permit is \$100, and the minimum bond is \$1,000.

26 **SECTION 9.** ORS 473.065 is amended to read:

27 473.065. (1) If a manufacturer's total tax liability under ORS 473.030 (1) in the previous calendar
28 year was less than \$1,000, the manufacturer may deposit with the Oregon Liquor Control Commis-
29 sion an amount in cash equal to the manufacturer's total tax liability under ORS 473.030 (1) for the
30 previous calendar year in lieu of the bond required by ORS 471.155 (1).

31 (2) If a manufacturer's actual tax liability under ORS 473.030 (1) is less than the amount de-
32 posited under subsection (1) of this section, the manufacturer may request that the commission re-
33 fund the excess funds or may apply those funds toward the manufacturer's tax liability under ORS
34 473.030 (1) for the next calendar year.

35 (3) If a manufacturer's actual tax liability under ORS 473.030 (1) is greater than the amount
36 deposited under subsection (1) of this section, the manufacturer shall pay to the commission the
37 additional amount owed in the manner required under ORS 473.060.

38 (4) Unless the commission determines that a winery, grower sales privilege, **central warehouse**
39 or warehouse licensee or direct shipper or wine self-distribution permit holder presents an unusual
40 risk for nonpayment of any license fees, privilege taxes, agricultural products taxes or other tax,
41 penalty or interest imposed under this chapter or ORS chapter 471, the commission shall waive the
42 bond required under ORS 471.155 (1) for the licensee or permit holder if:

43 (a) The licensee or permit holder was not liable for a privilege tax under this chapter in the
44 immediately preceding calendar year and does not expect to be liable for a privilege tax under this
45 chapter in the current calendar year; or

1 (b) The licensee or permit holder of a business established during the current calendar year does
2 not expect to be liable for a privilege tax under this chapter in the current calendar year. As used
3 in this paragraph, “business” means:

4 (A) A winery.

5 **(B) A central warehouse.**

6 **(C) A warehouse.**

7 [(B)] **(D)** A business operated pursuant to a license issued under ORS 471.227.

8 [(C) A warehouse.]

9 [(D)] **(E)** A business operated pursuant to a permit issued under ORS 471.274.

10 [(E)] **(F)** A business operated pursuant to a permit issued under ORS 471.282.

11 **SECTION 10. Section 2 of this 2013 Act applies to the transportation, storage and sale**
12 **of wine occurring before, on or after the effective date of this 2013 Act.**

13
