

B-Engrossed Senate Bill 795

Ordered by the House May 31
Including Senate Amendments dated April 15 and House Amendments
dated May 31

Sponsored by Senator PROZANSKI, Representatives WEIDNER, HOLVEY

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.

Permits brewery-public house licensee to store, transport and sell malt beverages at one location other than where manufacturing occurs. Deletes reference to repealed legislation.

Allows temporary sales licensee to sell wine, malt beverages and cider in consumer-supplied containers for off-premises consumption. Allows brewery-public house, winery or grower sales privilege licensee to sell wine, malt beverages and cider at special event location in consumer-supplied containers for off-premises consumption. Allows applicant for service permit to participate in dispensing of wine, malt beverages and cider sold in consumer-supplied containers.

Requires winery or grower sales privilege licensee to allow patron to remove partially consumed bottle of wine from premises if patron is not visibly intoxicated.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to alcoholic beverages; amending ORS 471.157, 471.190, 471.200, 471.223, 471.227, 471.375
3 and 471.401; and declaring an emergency.

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

5 **SECTION 1.** ORS 471.157 is amended to read:

6 471.157. The licenses described in this chapter may be issued by the Oregon Liquor Control
7 Commission, subject to its regulations and restrictions and the provisions of the Liquor Control Act
8 [*and the Oregon Distilled Liquor Control Act*].

9 **SECTION 2.** ORS 471.190 is amended to read:

10 471.190. (1) The holder of a temporary sales license may:

11 (a) Sell at retail by the drink wine, malt beverages, cider and distilled liquor.

12 (b) **Sell for consumption off the licensed premises wine, malt beverages and cider in
13 factory-sealed containers.**

14 (c) **Sell for consumption off the licensed premises wine, malt beverages and cider in
15 securely covered containers supplied by the consumer and having capacities of not more than
16 two gallons each.**

17 (2) Distilled liquor served by the holder of a temporary sales license must be purchased from a
18 retail sales agent of the Oregon Liquor Control Commission. The holder of a temporary sales license
19 must provide food service as required by commission rule.

20 [(2)] (3) A temporary sales license may be issued only to:

21 (a) Nonprofit or charitable organizations that are registered with the state.

22 (b) A political committee that has filed a statement of organization under ORS 260.039 or

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.

1 260.042.

2 (c) State agencies.

3 (d) Local governments, and agencies and departments of local governments.

4 (e) Persons not otherwise described in this subsection, as long as the applicant submits a plan
5 that is approved by the commission detailing how minors will be prevented from gaining access to
6 alcoholic beverages and how minors will be prevented from gaining access to any portion of the li-
7 censed premises prohibited to minors under ORS 471.430 (3) or any rule adopted by the commission.

8 *[(3) The holder of a temporary sales license may sell wine, malt beverages or cider in factory-sealed
9 containers for consumption off the licensed premises.]*

10 (4) The commission may by rule establish additional eligibility requirements for temporary sales
11 licenses.

12 (5) Subject to such qualifications as the commission may establish by rule, persons who hold a
13 full or limited on-premises sales license are eligible for temporary sales licenses.

14 (6) A person holding a temporary sales license is not required to obtain an intermittent tempo-
15 rary restaurant, seasonal temporary restaurant, single-event temporary restaurant license or mobile
16 unit license under ORS chapter 624 if only wine, malt beverages and cider in single-service con-
17 tainers are served and only nonperishable food items that are exempted from licensure by the
18 Oregon Health Authority are served.

19 (7) Employees and volunteers serving alcoholic beverages for a nonprofit or charitable organ-
20 ization licensed under this section are not required to have service permits or to complete an alco-
21 hol server education program and examination under ORS 471.542. The commission by rule may
22 establish education requirements for servers described in this subsection.

23 (8) Notwithstanding ORS 471.392 to 471.400, a temporary sales license may be issued to a
24 nonprofit trade association that has a membership primarily composed of persons that hold winery
25 licenses issued under ORS 471.223 or grower sales privilege licenses issued under ORS 471.227.

26 **SECTION 3.** ORS 471.200, as amended by section 4, chapter 32, Oregon Laws 2013, is amended
27 to read:

28 471.200. (1) A brewery-public house license allows the licensee:

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

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

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

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

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

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

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

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

1 days.

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

6 (3) A brewery-public house licensee, or any person having an interest in the licensee, is a retail
7 licensee for the purposes of ORS 471.394 and, except as otherwise provided by this section and ORS
8 471.396, may not acquire or hold any right, title, lien, claim or other interest, financial or otherwise,
9 in, upon or to the premises, equipment, business or merchandise of any manufacturer or wholesaler,
10 as defined in ORS 471.392. A brewery-public house licensee, or any person having an interest in the
11 licensee, is also a manufacturer for the purposes of ORS 471.398 and, except as otherwise provided
12 by this section and ORS 471.400, may not acquire or hold any right, title, lien, claim or other in-
13 terest, financial or otherwise, in, upon or to the premises, equipment, business or merchandise of
14 any other retail licensee, as defined in ORS 471.392.

15 (4) A brewery-public house licensee, or any person having an interest in the licensee, is a retail
16 licensee for the purposes of ORS 471.398 and, except as otherwise provided by this section and ORS
17 471.400, may not accept directly or indirectly any financial assistance described in ORS 471.398 from
18 any manufacturer or wholesaler, as defined in ORS 471.392. A brewery-public house licensee, or any
19 person having an interest in the licensee, is also a manufacturer for the purposes of ORS 471.398
20 and, except as otherwise provided by this section and ORS 471.400, may not provide directly or in-
21 directly any financial assistance described in ORS 471.398 to any retail licensee, as defined in ORS
22 471.392. The prohibitions on financial assistance in ORS 471.398 do not apply to financial assistance
23 between manufacturing and retail businesses licensed to the same person under the provisions of
24 this section.

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

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

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

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

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

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

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

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

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

15 **SECTION 4.** ORS 471.223, as amended by section 5, chapter 32, Oregon Laws 2013, is amended
16 to read:

17 471.223. (1) A winery license shall allow the licensee:

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

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

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

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

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

26 (f) To conduct the activities allowed under paragraphs (a) to (e) of this subsection at a second
27 or third premises as may be designated by the commission.

28 (g) To purchase from or through the commission brandy or other distilled liquors for fortifying
29 wines.

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

33 **(2) A winery licensee shall allow a patron to remove a partially consumed bottle of wine**
34 **from the licensed premises if the patron is not a minor and the patron is not visibly**
35 **intoxicated.**

36 [(2)] (3) In order to hold a winery license the licensee shall principally produce wine or cider
37 in this state.

38 [(3)] (4) A winery licensee is not authorized to import wine or cider in bottles unless the brand
39 of wine or cider is owned by the licensee.

40 [(4)] (5) A winery licensee may sell and ship wine or cider directly to a resident of this state
41 only if the licensee has a direct shipper permit issued under ORS 471.282.

42 [(5)(a)] (6)(a) Except as provided in paragraph (b) of this subsection, a winery licensee, or any
43 person having an interest in the licensee, may also hold a full on-premises sales license. If a person
44 holds both a winery license and a full on-premises sales license, nothing in this chapter shall prevent
45 the sale by the licensee of both distilled liquor and wine or cider bottled and produced under the

1 winery license.

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

6 [(6)] (7) More than one winery licensee may exercise the privileges of a winery license at a
7 single location. The commission may not refuse to issue a winery license to a person for the pro-
8 duction of wine or cider on specified premises based on the fact that other winery licensees also
9 produce wine or cider on those premises.

10 **SECTION 5.** ORS 471.223, as amended by section 1, chapter 364, Oregon Laws 2011, and section
11 6, chapter 32, Oregon Laws 2013, is amended to read:

12 471.223. (1) As used in this section, "control" means that the licensee:

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

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

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

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

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

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

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

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

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

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

29 (h) To conduct any activities described in paragraphs (a) to (g) of this subsection at a second
30 or third premises as may be designated by the commission.

31 (i) To purchase from or through the commission brandy or other distilled liquors for fortifying
32 wines.

33 (j) To obtain a special events winery license that shall entitle the holder to conduct the activ-
34 ities allowed under paragraphs (e) [and (f)] to (g) of this subsection at a designated location other
35 than the one set forth in the winery license for a period not to exceed five days.

36 **(3) A winery licensee shall allow a patron to remove a partially consumed bottle of wine**
37 **from the licensed premises if the patron is not a minor and the patron is not visibly**
38 **intoxicated.**

39 [(3)] (4) In order to hold a winery license the licensee shall:

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

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

1 [(4)] (5) A winery licensee may sell and ship wine or cider directly to a resident of this state
2 only if the licensee has a direct shipper permit issued under ORS 471.282.

3 [(5)(a)] (6)(a) Except as provided in paragraph (b) of this subsection, a winery licensee, or any
4 person having an interest in the licensee, may also hold a full on-premises sales license. If a person
5 holds both a winery license and a full on-premises sales license, nothing in this chapter shall prevent
6 the sale by the licensee of both distilled liquor and wine or cider bottled and produced under the
7 winery license.

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

12 [(6)] (7) More than one winery licensee may exercise the privileges of a winery license at a
13 single location. The commission may not refuse to issue a winery license to a person for the pro-
14 duction of wine or cider on specified premises based on the fact that other winery licensees also
15 produce wine or cider on those premises.

16 [(7)] (8) If a winery licensee does not possess at a bonded premises within Oregon a valid pro-
17 ducer and blender basic permit issued by the federal Alcohol and Tobacco Tax and Trade Bureau,
18 the licensee may exercise the privileges described in this section only for wine and cider brands that
19 are under the control of the licensee.

20 **SECTION 6.** ORS 471.227, as amended by section 7, chapter 32, Oregon Laws 2013, is amended
21 to read:

22 471.227. (1) A grower sales privilege license shall allow the licensee to perform the following
23 activities only for fruit or grape wine or cider where all of the fruit or grapes used to make the
24 wine or cider are grown in Oregon under the control of the licensee:

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

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

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

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

33 (e) To conduct some or all of the activities allowed under paragraphs (a) to (d) of this subsection
34 at a second or third premises as may be designated by the commission.

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

39 **(2) A grower sales privilege licensee shall allow a patron to remove a partially consumed**
40 **bottle of wine from the licensed premises if the patron is not a minor and the patron is not**
41 **visibly intoxicated.**

42 [(2)] (3) For purposes of ORS 471.392 to 471.400, a grower sales privilege licensee shall be con-
43 sidered a manufacturer.

44 [(3)] (4) A person holding a winery license [in another state] is not eligible for a license under
45 this section.

1 [(4)] (5) A person licensed under this section is not eligible for a limited on-premises sales li-
2 cense or an off-premises sales license.

3 [(5)] (6) As used in this section, “control” means the grower either owns the land upon which
4 the fruit or grapes are grown or has a legal right to perform or does perform all of the acts common
5 to fruit farming or viticulture under terms of a lease or similar agreement of at least three years’
6 duration.

7 [(6)] (7) For the purposes of tax reporting, payment and record keeping, the provisions of law
8 that shall apply to a manufacturer under ORS chapter 473 shall apply to a grower sales privilege
9 licensee, but such a licensee is not a manufacturer for purposes of ORS 473.050 (5).

10 **SECTION 7.** ORS 471.375, as amended by section 3, chapter 54, Oregon Laws 2012, is amended
11 to read:

12 471.375. (1) Any person who has not had a permit refused or revoked or whose permit is not
13 under suspension may mix, sell or serve alcoholic beverages [*for consumption on licensed premises*]
14 **as provided under subsection (4) of this section** if the person prepares in duplicate an application
15 for a service permit prior to mixing, selling or serving any alcoholic beverage for consumption on
16 licensed premises and the application is indorsed as required under subsection (2) of this section.
17 A copy of the indorsed application must be kept on the licensed premises by any licensee for whom
18 the person mixes, sells or serves alcoholic beverages and must be made available for immediate in-
19 spection by any liquor enforcement inspector or by any other peace officer until the applicant re-
20 ceives the service permit.

21 (2) An application for a service permit under subsection (1) of this section must be indorsed by
22 one of the following persons:

23 (a) The licensee under whose license the applicant will mix, sell or serve alcoholic beverages.
24 If a licensee indorses an application, the licensee must immediately transmit the application to the
25 commission with the fee required by subsection (3) of this section.

26 (b) An officer or employee of a company that provides servers to licensees on a temporary basis.
27 The commission must give a company written approval to indorse service permit applications before
28 an application may be indorsed under this paragraph.

29 (c) An employee of the commission designated by the commission to accept and indorse appli-
30 cations under this section. The applicant must personally appear before the employee of the com-
31 mission and provide identification as may be required by commission rule.

32 (d) An employee of an alcohol server education course provider that has been certified by the
33 commission under ORS 471.542 (8). The employee must be specifically designated by the provider to
34 indorse applications under this section.

35 (3) An applicant for a service permit must be 18 years of age or over. Application for a service
36 permit shall be made on a form supplied by the commission. The applicant shall truly answer all
37 questions, provide any further information required, and pay a fee not to exceed \$10. The commis-
38 sion shall either set the fee to cover only the administrative costs of the service permit program,
39 or apply any excess to the Alcohol Education Program established under ORS 471.541.

40 **(4) An applicant for a service permit whose application has been indorsed as provided**
41 **under this section may:**

42 (a) **Participate in the mixing, selling or service of alcoholic beverages for consumption**
43 **on the premises where served or sold; and**

44 (b) **Participate in the dispensing of malt beverages, wine or cider sold in securely covered**
45 **containers provided by the consumer.**

1 **SECTION 8.** ORS 471.401 is amended to read:

2 471.401. (1) Notwithstanding any other provision of this chapter, a manufacturer or wholesaler
3 of alcoholic liquor may purchase advertising space or time from a licensee authorized to sell alco-
4 holic liquors at retail if the retail licensee:

5 (a) Holds a full or limited on-premises sales license and has on the licensed premises at least
6 one room or area for which the maximum occupancy approved by the State Fire Marshal or a gov-
7 ernmental subdivision granted an exemption under ORS 476.030 is 3,000 or more persons;

8 (b) Holds a full or limited on-premises sales license and the licensed premises is owned by the
9 United States Government or a public body as defined in ORS 174.109;

10 (c) Holds a full or limited on-premises sales license and is a foreign corporation or nonprofit
11 corporation, both as defined in ORS 65.001, that possesses a certificate of authorization or certificate
12 of existence issued under ORS 65.027; or

13 (d) Holds a temporary sales license and is an entity described in ORS 471.190 [(2)(a)] **(3)(a)**, (c)
14 or (d).

15 (2) A manufacturer or wholesaler may purchase advertising space or time under this section
16 only in connection with events to be held on the licensed premises.

17 (3) A retail licensee that sells advertising space or time under this section must serve other
18 brands of distilled liquors, malt beverages, cider or wine in addition to the brand manufactured or
19 sold by the manufacturer or wholesaler purchasing advertising space or time.

20 (4) A purchase of advertising space or time under the provisions of this section must be made
21 by written agreement.

22 **SECTION 9. This 2013 Act being necessary for the immediate preservation of the public**
23 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
24 **on its passage.**

25