

**PROPOSED AMENDMENTS TO
HOUSE BILL 3180**

1 On page 1 of the printed bill, line 2, after the first semicolon delete the
2 rest of the line and lines 3 and 4 and insert “amending ORS 471.168, 471.200,
3 471.220, 471.242, 471.272, 471.311, 471.485, 471.490 and 471.495.”.

4 Delete lines 6 through 28 and delete pages 2 through 11 and insert:

5 **“SECTION 1. ORS 471.168 is amended to read:**

6 “471.168. (1) For the purpose of providing coverage for injuries suffered
7 by persons by reason of the conduct of intoxicated persons who were served
8 alcoholic beverages on licensed premises while visibly intoxicated, all per-
9 sons holding a license described in this section must either:

10 “(a) Maintain liquor liability insurance of not less than \$300,000; or

11 “(b) Maintain a bond with a corporate surety authorized to transact
12 business in this state in the amount of not less than \$300,000.

13 “(2) The Oregon Liquor Control Commission may by rule require liquor
14 liability insurance or bond in an amount larger than the minimum amount
15 provided for in subsection (1) of this section.

16 “(3) The requirements of this section apply to full on-premises sales li-
17 censes, limited on-premises sales licenses and brewery-public house licenses.
18 The requirements of this section apply to temporary sales licenses, special
19 events winery licenses, special events grower sales privilege licenses, special
20 events brewery-public house licenses, **special events brewery licenses** and
21 special events distillery licenses if the event that is licensed is open to the
22 public and attendance at the event is anticipated to exceed 300 individuals

1 per day.

2 “(4) The requirements of this section apply to winery licenses, brewery
3 licenses and grower sales privilege licenses unless an applicant for issuance
4 of the license or renewal of the license submits with the application for is-
5 suance or renewal of the license an affidavit that states that the licensee
6 will not allow consumption of alcoholic beverages on the premises.

7 “(5) All licensees subject to the requirements of this section must supply
8 proof of compliance at the time the license is issued or renewed. The com-
9 mission by rule shall determine the manner in which proof of compliance
10 may be made under the provisions of this subsection. The commission may
11 require a licensee to present proof of compliance with liquor liability insur-
12 ance and bond requirements at any time upon request of the commission.

13 “(6) Failure of a licensee to comply with liquor liability insurance or bond
14 requirements imposed under this section constitutes a serious threat to pub-
15 lic health and safety. In addition to any action available to the commission
16 under ORS 471.313 or 471.315, the commission may immediately suspend or
17 refuse renewal of a license as provided under ORS 183.430 (2) if the licensee
18 fails to comply with those insurance or bond requirements.

19 “(7) If a licensee fails to provide proof of compliance with liquor liability
20 insurance or bond requirements imposed under this section at the time of
21 license renewal or when requested by the commission, the failure is suffi-
22 cient reason for the commission to find for purposes of ORS 183.430 (2) that
23 the licensee has failed to comply with the insurance or bond requirements.

24 **“SECTION 2.** ORS 471.200 is amended to read:

25 “471.200. (1) A brewery-public house license allows the licensee:

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

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

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

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

7 “(e) To sell wine and cider at retail for consumption on or off the prem-
8 ises;

9 “(f) To conduct the activities described in paragraphs (b) to (e) of this
10 subsection at [*one location other than the premises where the manufacturing*
11 *occurs*] **a second location as may be designated by the commission;**
12 [*and*]

13 “(g) **To receive at the licensed premises for sale, storage, transport**
14 **or export malt beverages that have been manufactured or stored at**
15 **another licensed brewery-public house premises owned by the licensee;**
16 **and**

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

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

27 “(3) A brewery-public house licensee, or any person having an interest in
28 the licensee, is a retail licensee for the purposes of ORS 471.394 and, except
29 as otherwise provided by this section and ORS 471.396, may not acquire or
30 hold any right, title, lien, claim or other interest, financial or otherwise, in,

1 upon or to the premises, equipment, business or merchandise of any man-
2 ufacturer or wholesaler, as defined in ORS 471.392. A brewery-public house
3 licensee, or any person having an interest in the licensee, is also a man-
4 ufacturer for the purposes of ORS 471.398 and, except as otherwise provided
5 by this section and ORS 471.400, may not acquire or hold any right, title,
6 lien, claim or other interest, financial or otherwise, in, upon or to the
7 premises, equipment, business or merchandise of any other retail licensee,
8 as defined in ORS 471.392.

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

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

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

29 “(7)(a) Notwithstanding subsection (3) of this section, and except as pro-
30 vided in this subsection, a brewery-public house licensee, or any person

1 having an interest in the licensee, may also hold a full on-premises sales li-
2 cense. If a person holds both a brewery-public house license and a full on-
3 premises sales license, nothing in this chapter shall prevent the sale by the
4 licensee of both distilled liquor and malt beverages manufactured under the
5 brewery-public house license.

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

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

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

21 “(10)(a) Notwithstanding subsection (3) of this section, a brewery-public
22 house licensee may hold, directly or indirectly, an interest in a manufacturer
23 or wholesaler, provided that the interest does not result in exercise of con-
24 trol over, or participation in the management of, the manufacturer’s or
25 wholesaler’s business or business decisions and does not result in exclusion
26 of any competitor’s brand of alcoholic liquor.

27 “(b) Notwithstanding subsection (3) of this section, a manufacturer or
28 wholesaler, and any officer, director or substantial stockholder of any cor-
29 porate manufacturer or wholesaler, may hold, directly or indirectly, an in-
30 terest in a brewery-public house licensee, provided that the interest does not

1 result in exercise of control over, or participation in the management of, the
2 licensee's business or business decisions and does not result in exclusion of
3 any competitor's brand of alcoholic liquor.

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

6 "**SECTION 3.** ORS 471.220 is amended to read:

7 "471.220. (1) A brewery license shall allow the manufacture, importation,
8 storage, transportation, wholesale sale and distribution to licensees of the
9 Oregon Liquor Control Commission, and the export of malt beverages. [A
10 brewery licensee may not sell within the State of Oregon any beer containing
11 more than six percent alcohol by volume. Except as provided in subsection (2)
12 of this section, a brewery licensee may not sell malt beverages for consumption
13 on the licensed premises.]

14 "(2) **In addition to the privileges described in subsection (1) of this**
15 **section**, a brewery licensee may:

16 "(a) **Sell malt beverages brewed on the licensed premises at whole-**
17 **sale to the commission or licensees of the commission;**

18 "[*(a)*] (b) Sell malt beverages [*brewed on the licensed premises*] for con-
19 sumption on **or off** the licensed premises; [*and*]

20 "(c) **Sell wine and cider for consumption on the licensed premises;**

21 "(d) **Sell for consumption off the licensed premises malt beverages**
22 **brewed on the licensed premises at retail in pasteurized or**
23 **unpasteurized form in securely covered containers supplied by the**
24 **consumer and having a capacity of not more than two gallons each;**

25 "(e) **Conduct activities described in paragraphs (a) to (d) of this**
26 **subsection at a second location as may be designated by the commis-**
27 **sion;**

28 "(f) **Obtain a special events brewery license to conduct activities**
29 **described in paragraphs (b), (c) and (d) of this subsection at a desig-**
30 **nated temporary location for a period not exceeding five days; and**

1 “[(b)] (g) Sell malt beverages brewed on the licensed premises, in quanti-
2 ties of not less than four gallons, to an unlicensed organization, lodge, picnic
3 party or private gathering.

4 “(3) An unlicensed organization, lodge, picnic party or private gathering
5 may not resell the malt beverages that a brewery licensee sells under [*this*
6 *paragraph*] **subsection (2)(g) of this section.**

7 “**SECTION 4.** ORS 471.242 is amended to read:

8 “471.242. (1) A warehouse license shall allow the licensee to store, import,
9 bottle, produce, blend, transport and export nontax paid, bonded wine or
10 wine on which the tax is paid and to store, import and export nontax paid
11 malt beverages and cider, or malt beverages and cider on which the tax is
12 paid. Wine, cider and malt beverages may be removed from the licensed
13 premises only for:

14 “(a) Sale for export;

15 “(b) Sale or shipment to a wholesale malt beverage and wine licensee;

16 “(c) Sale or shipment to another warehouse licensee;

17 “(d) Sale or shipment to a winery licensee;

18 “(e) Shipment [*of wine or cider produced by a winery licensee*] to a licensee
19 of the Oregon Liquor Control Commission authorized to sell [*wine or cider*
20 *at retail if the shipment is made*] **wine, cider or malt beverages at retail**
21 pursuant to a sale to the retail licensee by the holder of a **brewery-public**
22 **house license issued under ORS 471.200, a brewery license issued under**
23 **ORS 471.220, a winery license issued under ORS 471.223, a grower sales**
24 **privilege license issued under ORS 471.227 or a wholesale malt beverage and**
25 **wine license issued under ORS 471.235; [or]**

26 “(f) **Sale for delivery and receipt at the premises of the wholesale**
27 **seller to a licensee of the commission authorized to sell wine, cider**
28 **or malt beverages at retail pursuant to a sale to the retail licensee by**
29 **the holder of a brewery-public house license issued under ORS 471.200,**
30 **a brewery license issued under ORS 471.220, a winery license issued**

1 **under ORS 471.223, a grower sales privilege license issued under ORS**
2 **471.227 or a wholesale malt beverage and wine license issued under**
3 **ORS 471.235; or**

4 “[~~f~~] (g) Shipment of wine or cider to a person for personal use, as de-
5 scribed in subsection [~~7~~] (6) of this section.

6 “(2) A license applicant must hold an approved registration for a bonded
7 wine cellar or winery under federal law.

8 “(3) For the purposes of tax reporting, payment and record keeping, the
9 provisions that shall apply to a manufacturer under ORS chapter 473 shall
10 apply to a warehouse licensee.

11 “[~~4~~] *A warehouse must be physically secure in an area zoned for the in-*
12 *tended use and be physically separated from any other use.]*

13 “[~~5~~] (4) For purposes of ORS 471.392 to 471.400, a warehouse licensee
14 shall be considered a manufacturer.

15 “[~~6~~] (5) For purposes of ORS 473.045, a warehouse licensee shall be
16 considered a winery licensee.

17 “[~~7~~] (6) Wine or cider may be removed from the premises licensed under
18 this section for shipment pursuant to a sale under ORS 471.282. The ware-
19 house licensee shall take reasonable steps to ensure that shipments are made
20 in containers that are conspicuously labeled with the words: ‘CONTAINS
21 ALCOHOL: SIGNATURE OF PERSON AGE 21 YEARS OR OLDER RE-
22 QUIRED FOR DELIVERY.’ In addition, the warehouse licensee shall take
23 reasonable steps to ensure that any carrier used by the licensee does not
24 deliver any wine or cider unless the carrier:

25 “(a) Obtains the signature of the recipient of the wine or cider upon de-
26 livery;

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

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

1 **“SECTION 5.** ORS 471.272 is amended to read:

2 “471.272. (1) *[Wine or cider may be shipped or transported by a licensee or*
3 *permit holder described in subsection (2) of this section only by employees of*
4 *the licensee or permit holder, or by a common carrier using a commission-*
5 *approved delivery plan.]* The holder of a **brewery-public house, brewery,**
6 **winery, grower sales privilege, wholesale malt beverage and wine, or**
7 **warehouse license or a** wine self-distribution permit that uses a common
8 carrier to ship or transport wine, *[or] cider or malt beverages* shall take
9 reasonable steps to ensure that the wine, *[or] cider or malt beverages are*
10 *[is]* sold and transported only to licensees that are authorized **under this**
11 **chapter** to receive the wine, *[or] cider [under ORS 471.274] or malt*
12 **beverages.**

13 “*[(2) The provisions of this section apply to persons holding wine self-*
14 *distribution permits and the holders of winery licenses, grower sales privilege*
15 *licenses, wholesale malt beverage and wine licenses and warehouse licenses*
16 *issued by the commission.]*

17 “(2) **A brewery-public house, brewery, winery, wholesale malt**
18 **beverage and wine, or warehouse licensee may allow a full or limited**
19 **on-premises sales licensee or off-premises sales licensee the option of**
20 **receiving delivery of wine, cider or malt beverages at the premises of**
21 **the brewery-public house, brewery, winery, wholesale malt beverage**
22 **and wine, or warehouse licensee, or at another location designated for**
23 **sales activities of the licensee by the Oregon Liquor Control Commis-**
24 **sion, instead of receiving delivery at the premises of the full or limited**
25 **on-premises sales licensee or off-premises sales licensee.**

26 **“SECTION 6.** ORS 471.311 is amended to read:

27 “471.311. (1) Any person desiring a license or renewal of a license under
28 this chapter shall make application to the Oregon Liquor Control Commis-
29 sion upon forms to be furnished by the commission showing the name and
30 address of the applicant, location of the place of business that is to be op-

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

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

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

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

26 “(5) The license fee is nonrefundable and [shall] **must** be paid by each
27 applicant upon the granting or committing of a license. Subject to ORS
28 471.155 and 473.065, the annual or daily license fee and the minimum bond
29 required of each class of license under this chapter are as follows:

30 “

		Minimum	
	License	Fee	Bond
3	Brewery, including Certificate		
4	of Approval	\$ 500	\$ 1,000
5	Winery	\$ 250	\$ 1,000
6	Distillery	\$ 100	None
7	Wholesale Malt Beverage		
8	and Wine	\$ 275	\$ 1,000
9	Warehouse	\$ 100	\$ 1,000
10	Special events winery		
11	license	\$ 10 per day	
12	Brewery-Public House,		
13	including Certificate		
14	of Approval	\$ 250	\$ 1,000
15	Limited On-Premises Sales	\$ 200	None
16	Off-Premises Sales	\$ 100	None
17	Temporary Sales	\$ 50 per day	
18	Grower sales privilege		
19	license	\$ 250	\$ 1,000
20	Special events grower		
21	sales privilege		
22	license	\$ 10 per day	
23	Special events		
24	brewery license	\$ 10 per day	
25	Special events		
26	brewery-public house		
27	license	\$ 10 per day	
28	Special events		
29	distillery		
30	license	\$ 10 per day	

1 “

2 “(6) The fee for a certificate of approval or special certificate of approval
3 granted under ORS 471.244 is nonrefundable and must be paid by each ap-
4 plicant upon the granting or committing of a certificate of approval or spe-
5 cial certificate of approval. No bond is required for the granting of a
6 certificate of approval or special certificate of approval. Certificates of ap-
7 proval are valid for a period commencing on the date of issuance and ending
8 on December 31 of the fifth calendar year following the calendar year of is-
9 suance. The fee for a certificate of approval is \$175. Special certificates of
10 approval are valid for a period of 30 days. The fee for a special certificate
11 of approval is \$10.

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

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

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

20 “**SECTION 7.** ORS 471.485 is amended to read:

21 “471.485. [*No wholesale licensee or agent or employee thereof shall sell or*
22 *deliver, nor shall any retail licensee]* **A licensee or the agent or employee**
23 **of a licensee may not sell or deliver, and a retail licensee may not**
24 purchase or receive any malt beverages, cider or wine for currency on de-
25 livery.[, *but such*] Malt beverages, cider or wine [*shall*] **must** be paid for
26 prior to delivery [*thereof*], by electronic fund transfer initiated on or before
27 the date of delivery, or by valid check, order, negotiable instrument or
28 voucher payable on the date of delivery. [*The wholesale licensee*] **A licensee**
29 **or an agent or employee of a licensee** may accept cash at the time of de-
30 livery if [*such*] acceptance does not create or increase the licensee’s, or the

1 agents' or employees' of the licensee, exposure to or risk of being victimized
2 by criminal activity.

3 **“SECTION 8.** ORS 471.490 is amended to read:

4 “471.490. [No] **A** retail licensee [*shall*] **may not** deliver any check, order,
5 negotiable instrument or voucher in payment for **wine, cider or** malt
6 beverages, [*cider or wine,*] knowing at the time of such delivery that the
7 maker or drawer has not sufficient funds in the bank or depository to pay
8 the instrument on presentation.[, *nor shall any wholesale licensee accept any*
9 *such instrument knowing that said instrument*] **A licensee or an agent or**
10 **employee of a licensee may not accept a check, order, negotiable in-**
11 **strument or voucher in payment for wine, cider or malt beverages,**
12 **knowing at the time that the check, order, negotiable instrument or**
13 **voucher** is not payable according to its terms, or that there are not suffi-
14 cient funds to pay [*such instrument*] **the check, order, negotiable instru-**
15 **ment or voucher** on presentation. Any extension or acceptance of credit
16 under this section shall constitute a violation of ORS 471.398.

17 **“SECTION 9.** ORS 471.495 is amended to read:

18 “471.495. Any [*wholesale licensee who receives*] **licensee that receives**
19 **from a full or limited on-premises sales licensee or an off-premises**
20 **sales licensee** a check, order, negotiable instrument or voucher in payment
21 for **wine, cider or** malt beverages[*, cider or wine, who receives an instrument*
22 *from a retail licensee which,*] **that,** upon presentation, is not paid by the
23 party on whom it is drawn, shall report [*such fact forthwith*] **the payment**
24 **refusal** to the Oregon Liquor Control Commission.”.

25