

**PROPOSED AMENDMENTS TO
A-ENGROSSED SENATE BILL 795**

1 On page 1 of the printed A-engrossed bill, line 2, after the semicolon de-
2 lete the rest of the line and insert “creating new provisions; amending ORS
3 471.157, 471.190, 471.200, 471.223, 471.227, 471.375 and 471.401; and declaring
4 an emergency.”.

5 Delete lines 4 through 28 and delete pages 2 and 3 and insert:

6 **“SECTION 1.** ORS 471.157 is amended to read:

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

11 **“SECTION 2.** ORS 471.190 is amended to read:

12 “471.190. (1) The holder of a temporary sales license may:

13 **“(a)** Sell at retail by the drink wine, malt beverages, cider and distilled
14 liquor.

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

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

20 **“(2)** Distilled liquor served by the holder of a temporary sales license
21 must be purchased from a retail sales agent of the Oregon Liquor Control
22 Commission. The holder of a temporary sales license must provide food ser-

1 vice as required by commission rule.

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

3 “(a) Nonprofit or charitable organizations that are registered with the
4 state.

5 “(b) A political committee that has filed a statement of organization un-
6 der ORS 260.039 or 260.042.

7 “(c) State agencies.

8 “(d) Local governments, and agencies and departments of local govern-
9 ments.

10 “(e) Persons not otherwise described in this subsection, as long as the
11 applicant submits a plan that is approved by the commission detailing how
12 minors will be prevented from gaining access to alcoholic beverages and how
13 minors will be prevented from gaining access to any portion of the licensed
14 premises prohibited to minors under ORS 471.430 (3) or any rule adopted by
15 the commission.

16 “[3] *The holder of a temporary sales license may sell wine, malt beverages*
17 *or cider in factory-sealed containers for consumption off the licensed*
18 *premises.*]

19 “(4) The commission may by rule establish additional eligibility require-
20 ments for temporary sales licenses.

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

24 “(6) A person holding a temporary sales license is not required to obtain
25 an intermittent temporary restaurant, seasonal temporary restaurant,
26 single-event temporary restaurant license or mobile unit license under ORS
27 chapter 624 if only wine, malt beverages and cider in single-service contain-
28 ers are served and only nonperishable food items that are exempted from
29 licensure by the Oregon Health Authority are served.

30 “(7) Employees and volunteers serving alcoholic beverages for a nonprofit

1 or charitable organization licensed under this section are not required to
2 have service permits or to complete an alcohol server education program and
3 examination under ORS 471.542. The commission by rule may establish edu-
4 cation requirements for servers described in this subsection.

5 “(8) Notwithstanding ORS 471.392 to 471.400, a temporary sales license
6 may be issued to a nonprofit trade association that has a membership pri-
7 marily composed of persons that hold winery licenses issued under ORS
8 471.223 or grower sales privilege licenses issued under ORS 471.227.

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

11 “471.200. (1) A brewery-public house license allows the licensee:

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

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

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

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

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

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

28 “(g) To conduct the activities, **except manufacturing**, described in par-
29 agraphs [(b)] (a) to (f) of this subsection at one location other than the
30 premises where the manufacturing occurs; and

1 “(h) To obtain a special events brewery-public house license entitling the
2 holder to conduct the activities allowed under paragraphs (b)[, (c) and (e)]
3 **to (f)** of this subsection at a designated location other than the location set
4 forth in the brewery-public house license for a period not exceeding five
5 days.

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

11 “(3) A brewery-public house licensee, or any person having an interest in
12 the licensee, is a retail licensee for the purposes of ORS 471.394 and, except
13 as otherwise provided by this section and ORS 471.396, may not acquire or
14 hold any right, title, lien, claim or other interest, financial or otherwise, in,
15 upon or to the premises, equipment, business or merchandise of any man-
16 ufacturer or wholesaler, as defined in ORS 471.392. A brewery-public house
17 licensee, or any person having an interest in the licensee, is also a man-
18 ufacturer for the purposes of ORS 471.398 and, except as otherwise provided
19 by this section and ORS 471.400, may not acquire or hold any right, title,
20 lien, claim or other interest, financial or otherwise, in, upon or to the
21 premises, equipment, business or merchandise of any other retail licensee,
22 as defined in ORS 471.392.

23 “(4) A brewery-public house licensee, or any person having an interest in
24 the licensee, is a retail licensee for the purposes of ORS 471.398 and, except
25 as otherwise provided by this section and ORS 471.400, may not accept di-
26 rectly or indirectly any financial assistance described in ORS 471.398 from
27 any manufacturer or wholesaler, as defined in ORS 471.392. A brewery-public
28 house licensee, or any person having an interest in the licensee, is also a
29 manufacturer for the purposes of ORS 471.398 and, except as otherwise pro-
30 vided by this section and ORS 471.400, may not provide directly or indirectly

1 any financial assistance described in ORS 471.398 to any retail licensee, as
2 defined in ORS 471.392. The prohibitions on financial assistance in ORS
3 471.398 do not apply to financial assistance between manufacturing and retail
4 businesses licensed to the same person under the provisions of this section.

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

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

13 “(7)(a) Notwithstanding subsection (3) of this section, and except as pro-
14 vided in this subsection, a brewery-public house licensee, or any person
15 having an interest in the licensee, may also hold a full on-premises sales li-
16 cense. If a person holds both a brewery-public house license and a full on-
17 premises sales license, nothing in this chapter shall prevent the sale by the
18 licensee of both distilled liquor and malt beverages manufactured under the
19 brewery-public house license.

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

26 “(8) Notwithstanding any other provision of this chapter, a brewery-public
27 house licensee, or any person having an interest in the licensee, may also
28 hold a distillery license. No provision of this chapter prevents a brewery-
29 public house licensee that also holds a distillery license from being appointed
30 by the commission as the distillery’s retail outlet agent for the purpose of

1 selling distilled liquors under ORS 471.230.

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

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

11 “(b) Notwithstanding subsection (3) of this section, a manufacturer or
12 wholesaler, and any officer, director or substantial stockholder of any cor-
13 porate manufacturer or wholesaler, may hold, directly or indirectly, an in-
14 terest in a brewery-public house licensee, provided that the interest does not
15 result in exercise of control over, or participation in the management of, the
16 licensee’s business or business decisions and does not result in exclusion of
17 any competitor’s brand of alcoholic liquor.

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

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

22 “471.223. (1) A winery license shall allow the licensee:

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

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

27 “(c) To sell wines or cider at retail directly to the consumer for con-
28 sumption on or off the licensed premises.

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

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

4 “(f) To conduct the activities allowed under paragraphs (a) to (e) of this
5 subsection at a second or third premises as may be designated by the com-
6 mission.

7 “(g) To purchase from or through the commission brandy or other distilled
8 liquors for fortifying wines.

9 “(h) To obtain a special events winery license that shall entitle the holder
10 to conduct the activities allowed under paragraphs (c) [*and (d)*] **to (e)** of this
11 subsection at a designated location other than the one set forth in the
12 winery license for a period not to exceed five days.

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

16 “[~~(2)~~] **(3)** In order to hold a winery license the licensee shall principally
17 produce wine or cider in this state.

18 “[~~(3)~~] **(4)** A winery licensee is not authorized to import wine or cider in
19 bottles unless the brand of wine or cider is owned by the licensee.

20 “[~~(4)~~] **(5)** A winery licensee may sell and ship wine or cider directly to a
21 resident of this state only if the licensee has a direct shipper permit issued
22 under ORS 471.282.

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

29 “(b) The commission may not issue a full on-premises sales license to a
30 winery licensee under the provisions of this subsection if the winery licensee,

1 or any person having an interest in the licensee or exercising control over
2 the licensee, is a brewery that brews more than 200,000 barrels of malt
3 beverages annually or a winery that produces more than 200,000 gallons of
4 wine or cider annually.

5 “[6] (7) More than one winery licensee may exercise the privileges of a
6 winery license at a single location. The commission may not refuse to issue
7 a winery license to a person for the production of wine or cider on specified
8 premises based on the fact that other winery licensees also produce wine or
9 cider on those premises.

10 **“SECTION 5.** ORS 471.223, as amended by section 1, chapter 364, Oregon
11 Laws 2011, and section 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
15 a brand owner under the terms of a trademark license or similar agreement
16 that for the brand under which the wine or cider is labeled has a term of
17 at least three years.

18 “(2) A winery license shall allow the licensee:

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

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

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

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

27 “(e) To sell wines or cider at retail directly to the consumer for con-
28 sumption on or off the licensed premises.

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

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

4 “(h) To conduct any activities described in paragraphs (a) to (g) of this
5 subsection at a second or third premises as may be designated by the com-
6 mission.

7 “(i) To purchase from or through the commission brandy or other distilled
8 liquors for fortifying wines.

9 “(j) To obtain a special events winery license that shall entitle the holder
10 to conduct the activities allowed under paragraphs (e) [*and (f)*] **to (g)** of this
11 subsection at a designated location other than the one set forth in the
12 winery license for a period not to exceed five days.

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

16 “[~~3~~] (4) In order to hold a winery license the licensee shall:

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

20 “(b) Possess a valid wine blender or valid wholesaler basic permit issued
21 by the federal Alcohol and Tobacco Tax and Trade Bureau and have a writ-
22 ten contract with a winery licensed under paragraph (a) of this subsection
23 that authorizes the winery to produce for the licensee a brand of wine or
24 cider that is under the control of the licensee.

25 “[~~4~~] (5) A winery licensee may sell and ship wine or cider directly to a
26 resident of this state only if the licensee has a direct shipper permit issued
27 under ORS 471.282.

28 “[~~5(a)~~] (6)(a) Except as provided in paragraph (b) of this subsection, a
29 winery licensee, or any person having an interest in the licensee, may also
30 hold a full on-premises sales license. If a person holds both a winery license

1 and a full on-premises sales license, nothing in this chapter shall prevent the
2 sale by the licensee of both distilled liquor and wine or cider bottled and
3 produced under the winery license.

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

10 “[~~(6)~~] (7) More than one winery licensee may exercise the privileges of a
11 winery license at a single location. The commission may not refuse to issue
12 a winery license to a person for the production of wine or cider on specified
13 premises based on the fact that other winery licensees also produce wine or
14 cider on those premises.

15 “[~~(7)~~] (8) If a winery licensee does not possess at a bonded premises within
16 Oregon a valid producer and blender basic permit issued by the federal Al-
17 cohol and Tobacco Tax and Trade Bureau, the licensee may exercise the
18 privileges described in this section only for wine and cider brands that are
19 under the control of the licensee.

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

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

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

27 “(b) To sell such wines or cider at wholesale to the Oregon Liquor Con-
28 trol Commission or licensees of the commission.

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

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

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

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

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

15 “[~~(2)~~] **(3)** For purposes of ORS 471.392 to 471.400, a grower sales privilege
16 licensee shall be considered a manufacturer.

17 “[~~(3)~~] **(4)** A person holding a winery license in another state is not eligible
18 for a license under this section.

19 “[~~(4)~~] **(5)** A person licensed under this section is not eligible for a limited
20 on-premises sales license or an off-premises sales license.

21 “[~~(5)~~] **(6)** As used in this section, ‘control’ means the grower either owns
22 the land upon which the fruit or grapes are grown or has a legal right to
23 perform or does perform all of the acts common to fruit farming or
24 viticulture under terms of a lease or similar agreement of at least three
25 years’ duration.

26 “[~~(6)~~] **(7)** For the purposes of tax reporting, payment and record keeping,
27 the provisions of law that shall apply to a manufacturer under ORS chapter
28 473 shall apply to a grower sales privilege licensee, but such a licensee is
29 not a manufacturer for purposes of ORS 473.050 (5).

30 “**SECTION 7.** ORS 471.375, as amended by section 3, chapter 54, Oregon

1 Laws 2012, is amended to read:

2 “471.375. (1) Any person who has not had a permit refused or revoked or
3 whose permit is not under suspension may mix, sell or serve alcoholic
4 beverages [*for consumption on licensed premises*] **as provided under sub-**
5 **section (4) of this section** if the person prepares in duplicate an application
6 for a service permit prior to mixing, selling or serving any alcoholic
7 beverage for consumption on licensed premises and the application is
8 indorsed as required under subsection (2) of this section. A copy of the
9 indorsed application must be kept on the licensed premises by any licensee
10 for whom the person mixes, sells or serves alcoholic beverages and must be
11 made available for immediate inspection by any liquor enforcement inspector
12 or by any other peace officer until the applicant receives the service permit.

13 “(2) An application for a service permit under subsection (1) of this sec-
14 tion must be indorsed by one of the following persons:

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

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

23 “(c) An employee of the commission designated by the commission to ac-
24 cept and indorse applications under this section. The applicant must per-
25 sonally appear before the employee of the commission and provide
26 identification as may be required by commission rule.

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

1 “(3) An applicant for a service permit must be 18 years of age or over.
2 Application for a service permit shall be made on a form supplied by the
3 commission. The applicant shall truly answer all questions, provide any fur-
4 ther information required, and pay a fee not to exceed \$10. The commission
5 shall either set the fee to cover only the administrative costs of the service
6 permit program, or apply any excess to the Alcohol Education Program es-
7 tablished under ORS 471.541.

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

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

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

14 “**SECTION 8.** ORS 471.401 is amended to read:

15 “471.401. (1) Notwithstanding any other provision of this chapter, a man-
16 ufacturer or wholesaler of alcoholic liquor may purchase advertising space
17 or time from a licensee authorized to sell alcoholic liquors at retail if the
18 retail licensee:

19 “(a) Holds a full or limited on-premises sales license and has on the li-
20 censed premises at least one room or area for which the maximum occupancy
21 approved by the State Fire Marshal or a governmental subdivision granted
22 an exemption under ORS 476.030 is 3,000 or more persons;

23 “(b) Holds a full or limited on-premises sales license and the licensed
24 premises is owned by the United States Government or a public body as de-
25 fined in ORS 174.109;

26 “(c) Holds a full or limited on-premises sales license and is a foreign
27 corporation or nonprofit corporation, both as defined in ORS 65.001, that
28 possesses a certificate of authorization or certificate of existence issued un-
29 der ORS 65.027; or

30 “(d) Holds a temporary sales license and is an entity described in ORS

1 471.190 [(2)(a)] (3)(a), (c) or (d).

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

5 “(3) A retail licensee that sells advertising space or time under this sec-
6 tion must serve other brands of distilled liquors, malt beverages, cider or
7 wine in addition to the brand manufactured or sold by the manufacturer or
8 wholesaler purchasing advertising space or time.

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

11 **“SECTION 9. The amendments to ORS 471.157 and 471.200 by
12 sections 1 and 3 of this 2013 Act become operative on January 1, 2014.**

13 **“SECTION 10. This 2013 Act being necessary for the immediate
14 preservation of the public peace, health and safety, an emergency is
15 declared to exist, and this 2013 Act takes effect on its passage.”.**

16
