

# House Bill 2030

Sponsored by Representative PILUSO (at the request of Kathy Ruthruff)

## 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**.

Increases refund value of beverage containers to 10 cents. Provides that refund value of beverage containers increases to 20 cents if certain conditions are met.

Requires distributor cooperative, distributor or importer to remit to Department of Revenue amount equal to total refund value of beverage containers sold by distributor cooperative, distributor or importer less total amount refunded to dealers each calendar year. Requires that distributor cooperative, distributor or importer make certain reports to department.

Requires Department of Revenue to deposit moneys remitted to department in Common School Fund.

Punishes failure to remit unclaimed refunds by maximum of one year's imprisonment, \$6,250 fine, or both.

## A BILL FOR AN ACT

1  
2 Relating to refund value of beverage containers; amending ORS 459.992, 459A.705, 459A.718 and  
3 471.501; and providing for revenue raising that requires approval by a three-fifths majority.

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

5 **SECTION 1.** ORS 459A.705 is amended to read:

6 459A.705. (1) Except as provided in subsections (2) and (3) of this section, every beverage con-  
7 tainer sold or offered for sale in this state shall have a refund value of not less than [*five*] **10** cents.

8 (2)(a) Every beverage container sold or offered for sale in this state shall have a refund value  
9 of not less than [*10*] **20** cents, beginning on the later of:

10 (A) Eight months after the Oregon Liquor Control Commission determines that, in each of the  
11 two previous calendar years, the number of beverage containers returned for the refund value  
12 specified in this section was less than 80 percent of the total number of beverage containers that  
13 were sold in this state; or

14 (B) January 1 of the calendar year following the determination by the commission described in  
15 subparagraph (A) of this paragraph.

16 (b) The commission may not make a determination under this subsection before January 1, 2016.

17 (c) In making a determination under this subsection, the commission may not include the  
18 beverage containers and beverages described in ORS 459A.702 (2)(b) before January 1, 2021.

19 (3) Every beverage container certified as provided in ORS 459A.725, sold or offered for sale in  
20 this state, shall have a refund value of not less than two cents.

21 **SECTION 2.** ORS 471.501 is amended to read:

22 471.501. Nothing in this chapter prevents a brewery licensed under ORS 471.220 or a brewery-  
23 public house licensed under ORS 471.200 from establishing a refund value for malt beverage con-  
24 tainers under the provisions of ORS 459A.705 that is in excess of [*five*] **10** cents, or in excess of  
25 [*10*] **20** cents as described in ORS 459A.705 (2), per container for the purpose of encouraging pur-  
26 chasers to return the containers directly to the brewery or brewery-public house. A refund value in  
27 excess of [*five*] **10** cents, or in excess of [*10*] **20** cents as described in ORS 459A.705 (2), per container

**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 may be paid under this section only to persons who are not licensed under this chapter and who  
 2 return the containers directly to the brewery or brewery-public house.

3 **SECTION 3.** ORS 459A.718 is amended to read:

4 459A.718. (1) Two or more distributors or importers may establish a distributor cooperative for  
 5 the purposes of:

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

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

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

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

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

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

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

28 (b) By July 1 of each calendar year, a distributor cooperative shall provide the Oregon Liquor  
 29 Control Commission **and the Department of Revenue** with a report that lists, in aggregate form  
 30 for all distributors and importers that participate in the distributor cooperative, the previous cal-  
 31 endar year's beverage container return data, calculated separately for glass, metal and plastic  
 32 beverage containers.

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

37 **(6) In each calendar year, at the same time the distributor cooperative, distributor or**  
 38 **importer provides the commission and the department with the report required under sub-**  
 39 **section (5)(b) or (c) of this section, the distributor cooperative, distributor or importer shall**  
 40 **remit to the department an amount equal to the total refund value of the beverage contain-**  
 41 **ers sold by the distributor cooperative, distributor or importer less the total amount the**  
 42 **distributor cooperative, distributor or importer refunded to dealers in the calendar year for**  
 43 **which the report is prepared. Moneys received by the department under this subsection shall**  
 44 **be paid into the State Treasury and deposited in the Common School Fund after the de-**  
 45 **duction of moneys paid to the commission, or retained by the department, for any expenses**

1 **in administering the provisions of this section.**

2 [(6)(a)] (7)(a) By August 1 of each calendar year, using the beverage container return data  
 3 provided in subsection (5)(b) of this section, the [Oregon Liquor Control] commission shall calculate  
 4 the previous calendar year's percentage of beverage containers returned for the refund value spec-  
 5 ified in ORS 459A.705 for each distributor cooperative. The commission shall carry out the calcu-  
 6 lation separately for glass, metal and plastic beverage containers and shall post the percentages on  
 7 the commission's website.

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

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

20 (d) Except for the percentages described in paragraphs (a) to (c) of this subsection or in a pro-  
 21 ceeding under ORS 459A.717 for a violation of subsection (5) **or** (6) of this section, the commission  
 22 may not disclose any information provided by a distributor, an importer or a distributor cooperative  
 23 under subsection (5) **or** (6) of this section.

24 **(e) Except for the percentages described in paragraphs (a) to (c) of this subsection, or**  
 25 **as necessary to inform the commission of a violation of subsection (5) or (6) of this section,**  
 26 **the department may not disclose any information provided by a distributor, an importer or**  
 27 **a distributor cooperative under subsection (5) or (6) of this section.**

28 [(7)(a)] (8)(a) In order to determine compliance with the provisions of [subsection (5)] **sub-**  
 29 **sections (5) and (6)** of this section, within six months of the date that the commission receives a  
 30 report described in subsection (5)(b) [and] **or** (c) of this section, the commission may review or audit  
 31 the records of each reporting distributor cooperative, or each reporting distributor or importer that  
 32 does not participate in a distributor cooperative.

33 (b)(A) If in the course of a review described in paragraph (a) of this subsection the commission  
 34 determines that an audit of a distributor cooperative, distributor or importer is necessary, the  
 35 commission shall require the distributor cooperative, distributor or importer to retain an independ-  
 36 ent financial audit firm to determine the accuracy of information contained in the report. The dis-  
 37 tributor cooperative, distributor or importer that is the subject of review shall pay the costs of the  
 38 audit. The audit must be limited to the records described in paragraph (a) of this subsection.

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

40 **SECTION 4.** ORS 459.992 is amended to read:

41 459.992. (1) The following are Class A misdemeanors:

- 42 (a) Violation of rules or ordinances adopted under ORS 459.005 to 459.105 and 459.205 to 459.385.
- 43 (b) Violation of ORS 459.205.
- 44 (c) Violation of ORS 459.270.
- 45 (d) Violation of ORS 459A.080.

1 (e) Violation of ORS 459.272.

2 (2) Each day a violation referred to by subsection (1) of this section continues constitutes a  
3 separate offense. Such separate offenses may be joined in one indictment or complaint or information  
4 in several counts.

5 (3) Violation of ORS 459A.705, 459A.710, 459A.718 (5) **or (6)** or 459A.720 is a Class A  
6 misdemeanor.

7 (4) In addition to the penalty prescribed by subsection (3) of this section, the Oregon Liquor  
8 Control Commission or the State Department of Agriculture may revoke or suspend the license of  
9 any person who willfully violates ORS 459A.705, 459A.710, 459A.718 (5) **or (6)** or 459A.720, who is  
10 required by ORS chapter 471 or 635, respectively, to have a license.

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