

House Bill 2803

Sponsored by Representative HOYLE

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**.

Requires Oregon Liquor Control Commission to include certain information in orders approving beverage container redemption centers. Requires commission to provide certain notices to dealers within convenience zones for beverage container redemption centers.

Requires dealers that are within convenience zones for beverage container redemption centers but that do not participate in redemption centers to meet certain requirements. Requires commission to inspect premises of certain dealers to ensure compliance.

Punishes noncompliance with provisions applying to dealers that do not participate in redemption centers with temporary suspension of liquor license.

A BILL FOR AN ACT

1
2 Relating to beverage containers; creating new provisions; and amending ORS 459.992, 459A.735 and
3 459A.737.

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

5 **SECTION 1.** ORS 459A.735 is amended to read:

6 459A.735. (1) To facilitate the return of empty beverage containers and to serve dealers of
7 beverages, any person may establish a redemption center, subject to the approval of the Oregon
8 Liquor Control Commission, at which any person may return empty beverage containers and receive
9 payment of the refund value of such beverage containers.

10 (2) Application for approval of a redemption center shall be filed with the commission. The ap-
11 plication shall state the name and address of the person responsible for the establishment and op-
12 eration of the redemption center, the kind of beverage containers that will be accepted at the
13 redemption center, the names and addresses of the dealers to be served by the redemption center
14 and proposals for up to two convenience zones described in [ORS 459A.737] **section 3 of this 2015**
15 **Act**. The application shall include such additional information as the commission may require.

16 (3) The commission shall approve a redemption center if it finds the redemption center will
17 provide a convenient service to persons for the return of empty beverage containers. The order of
18 the commission approving a redemption center shall state:

19 (a) The dealers to be served by the redemption center;

20 (b) [*and*] The kind of empty beverage containers that the redemption center must accept[.];

21 (c) **The services to be provided by the redemption center and the equivalent services re-**
22 **quired to be provided under section 3 (5) of this 2015 Act by a dealer that does not participate**
23 **in, and is not served by, the redemption center;**

24 (d) **The up to two convenience zones specified by the commission under section 3 (1) of**
25 **this 2015 Act; and**

26 (e) [*The order may contain*] Such other provisions to ensure the redemption center will provide
27 a convenient service to the public as the commission may determine.

28 (4)(a) **No later than five days after approving a redemption center under subsection (3)**

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 **of this section, the commission shall provide written notice to each dealer that is:**

2 **(A) Not included in the order approving the redemption center under subsection (3)(a)**
 3 **of this section as a dealer to be served by the redemption center; and**

4 **(B) Doing business within either convenience zone.**

5 **(b) The notice required under this subsection shall include:**

6 **(A) All information required to be in the order approving the redemption center under**
 7 **subsection (3) of this section; and**

8 **(B) Notice of the provisions of section 3 of this 2015 Act that are applicable to the dealer**
 9 **receiving the notice.**

10 [(4)] (5) The commission may review at any time approval of a redemption center. After written
 11 notice to the person responsible for the establishment and operation of the redemption center, and
 12 to the dealers served by the redemption center, the commission may, after hearing, withdraw ap-
 13 proval of a redemption center if the commission finds there has not been compliance with its order
 14 approving the redemption center, or if the redemption center no longer provides a convenient ser-
 15 vice to the public.

16 **SECTION 2.** ORS 459A.737 is amended to read:

17 459A.737. (1)[(a)] Pursuant to the provisions of ORS 459A.735, the Oregon Liquor Control Com-
 18 mission:

19 [(A)] (a) Shall approve one beverage container redemption center in a city having a population
 20 of less than 300,000, operated by a distributor cooperative serving a majority of the dealers in this
 21 state; and

22 [(B)] (b) May approve one or more additional beverage container redemption centers.

23 [(b)] (2) Notwithstanding any other provision of ORS 459A.700 to 459A.740, a beverage container
 24 redemption center:

25 [(A)] (a) May not refuse to accept and to pay the refund value of up to 350 individual empty
 26 beverage containers, as established by ORS 459A.705, returned by any one person during one day;

27 [(B)] (b) Must provide hand counting of up to 50 individual empty beverage containers returned
 28 by any one person during one day for the refund value established by ORS 459A.705;

29 [(C)] (c) May provide drop off service for at least 125 individual empty beverage containers re-
 30 turned by any one person during one day for the refund value established by ORS 459A.705, and
 31 may provide an accounting mechanism by which the person may redeem the refund value of the
 32 beverage containers at a later date; and

33 [(D)] (d) May provide other services as determined necessary by the person responsible for the
 34 operation of the beverage container redemption center.

35 [(2)(a)] *For each beverage container redemption center, the commission shall specify up to two con-*
 36 *venience zones. The first convenience zone shall be the sector within a radius of not more than two*
 37 *miles around the beverage container redemption center. The second convenience zone shall be the*
 38 *sector beginning at the border of the first convenience zone and continuing to a radius of not more than*
 39 *three and one-half miles around the beverage container redemption center. The convenience zones shall*
 40 *be based to the greatest extent practicable upon the proposals submitted as part of the application for*
 41 *approval of the redemption center under ORS 459A.735.]*

42 [(b)] *All dealers doing business within the first convenience zone that occupy a space of 5,000 or*
 43 *more square feet in a single area may participate in, be served by and be charged the cost of partic-*
 44 *ipation in the beverage container redemption center and, if such a dealer participates in, is served by*
 45 *and pays the cost of participation in the redemption center, the dealer may, notwithstanding any other*

1 provision of ORS 459A.700 to 459A.740, refuse to accept and to pay the refund value of empty beverage
2 containers.]

3 [(c) All dealers doing business within the second convenience zone that occupy a space of 5,000 or
4 more square feet in a single area may participate in, be served by and be charged the cost of partic-
5 ipation in the beverage container redemption center and, if such a dealer participates in, is served by
6 and pays the cost of participation in the redemption center, the dealer may, notwithstanding any other
7 provision of ORS 459A.700 to 459A.740, refuse to accept and to pay the refund value of more than 24
8 individual empty beverage containers returned by any one person during one day.]

9 [(d) All dealers doing business within either convenience zone that occupy a space of less than
10 5,000 square feet in a single area may, notwithstanding any other provision of ORS 459A.700 to
11 459A.740, refuse to accept and to pay the refund value of more than 24 individual empty beverage
12 containers returned by any one person during one day.]

13 [(e)(A) Any dealer doing business in either convenience zone that occupies a space of 5,000 or more
14 square feet in a single area that does not participate in, and is not served by, the beverage container
15 redemption center may not refuse to accept and to pay the refund value of up to 350 individual empty
16 beverage containers, as established by ORS 459A.705, returned by any one person during one day and
17 must provide services equivalent to those provided by the redemption center under subsection (1)(b) of
18 this section, including hand counting and drop off service.]

19 [(B) In addition to complying with the requirements specified in subparagraph (A) of this para-
20 graph, a dealer described in subparagraph (A) of this paragraph must:]

21 [(i) Post in each area where beverage containers are received a clearly visible and legible sign that
22 contains the list of services that must be provided by the dealer; and]

23 [(ii) Provide two automated reverse vending machines capable of processing metal, plastic and glass
24 beverage containers, or one automated reverse vending machine capable of processing metal, plastic and
25 glass beverage containers for each 500,000 beverage containers sold by the dealer in the previous cal-
26 endar year, whichever is greater.]

27 [(C) The provisions of subparagraphs (A) and (B) of this paragraph do not apply to a dealer de-
28 scribed in subparagraph (A) of this paragraph if the dealer sold fewer than 100,000 beverage containers
29 in the previous calendar year.]

30 [(3) The provisions of subsection (2) of this section do not apply to any dealer for which the driving
31 distance from the place of business of the dealer to the beverage container redemption center, calculated
32 using the shortest route, is more than two times the radius specified for the second convenience zone
33 or, if only one convenience zone is specified by the commission, two times the radius specified for that
34 convenience zone.]

35 [(4)] (3) The commission may adopt all rules necessary to implement and administer the pro-
36 visions of this section **and section 3 of this 2015 Act.**

37 **SECTION 3. (1) For each beverage container redemption center, the commission shall**
38 **specify up to two convenience zones. The first convenience zone shall be the sector within**
39 **a radius of not more than two miles around the beverage container redemption center. The**
40 **second convenience zone shall be the sector beginning at the border of the first convenience**
41 **zone and continuing to a radius of not more than three and one-half miles around the**
42 **beverage container redemption center. The convenience zones shall be based to the greatest**
43 **extent practicable upon the proposals submitted as part of the application for approval of the**
44 **redemption center under ORS 459A.735.**

45 (2) All dealers doing business within the first convenience zone that occupy a space of

1 5,000 or more square feet in a single area may participate in, be served by and be charged
 2 the cost of participation in the beverage container redemption center and, if such a dealer
 3 participates in, is served by and pays the cost of participation in the redemption center, the
 4 dealer may, notwithstanding any other provision of ORS 459A.700 to 459A.740, refuse to ac-
 5 cept and to pay the refund value of empty beverage containers.

6 (3) All dealers doing business within the second convenience zone that occupy a space
 7 of 5,000 or more square feet in a single area may participate in, be served by and be charged
 8 the cost of participation in the beverage container redemption center and, if such a dealer
 9 participates in, is served by and pays the cost of participation in the redemption center, the
 10 dealer may, notwithstanding any other provision of ORS 459A.700 to 459A.740, refuse to ac-
 11 cept and to pay the refund value of more than 24 individual empty beverage containers re-
 12 turned by any one person during one day.

13 (4) All dealers doing business within either convenience zone that occupy a space of less
 14 than 5,000 square feet in a single area may, notwithstanding any other provision of ORS
 15 459A.700 to 459A.740, refuse to accept and to pay the refund value of more than 24 individual
 16 empty beverage containers returned by any one person during one day.

17 (5)(a) Any dealer doing business in either convenience zone that occupies a space of 5,000
 18 or more square feet in a single area that does not participate in, and is not served by, the
 19 beverage container redemption center may not refuse to accept and to pay the refund value
 20 of up to 350 individual empty beverage containers, as established by ORS 459A.705, returned
 21 by any one person during one day and must, beginning on the date that the redemption
 22 center begins accepting beverage containers, provide services equivalent to those provided
 23 by the redemption center under ORS 459A.737 (2), including hand counting and drop off ser-
 24 vice.

25 (b) In addition to complying with the requirements specified in paragraph (a) of this
 26 subsection, a dealer described in paragraph (a) of this subsection must:

27 (A) Post in each area where beverage containers are received a clearly visible and legible
 28 sign that contains the list of services that must be provided by the dealer; and

29 (B) Provide two automated reverse vending machines capable of processing metal, plastic
 30 and glass beverage containers, or one automated reverse vending machine capable of pro-
 31 cessing metal, plastic and glass beverage containers for each 500,000 beverage containers sold
 32 by the dealer in the previous calendar year, whichever is greater.

33 (c)(A) The provisions of paragraphs (a) and (b) of this subsection do not apply to a dealer
 34 described in paragraph (a) of this subsection if the dealer sold fewer than 100,000 beverage
 35 containers in the previous calendar year. To be eligible for the exemption under this para-
 36 graph, a dealer described in paragraph (a) of this subsection must report to the commission
 37 the number of beverage containers sold by the dealer in the previous calendar year.

38 (B) The report required under this paragraph must be submitted by a dealer:

39 (i) Except as provided in subsection (6) of this section, no later than 30 days after receipt
 40 of the notice required under ORS 459A.735 (4); and

41 (ii) No later than January 1 of each calendar year following the year that the notice un-
 42 der ORS 459A.735 (4) was received and for which the dealer intends to claim the exemption.

43 (d) The commission shall inspect the premises of a dealer described in paragraph (a) of
 44 this subsection that is not subject to an exemption under paragraph (c) of this subsection
 45 to ensure compliance with this subsection:

1 (A) No later than 30 days after the date that the beverage container redemption center
 2 associated with the convenience zone in which the dealer does business begins accepting
 3 beverage containers; or

4 (B) No later than 30 days after the date that the commission receives a complaint that
 5 the dealer is not in compliance.

6 (6) A dealer that plans to begin doing business in either convenience zone after the date
 7 that the beverage container redemption center associated with the convenience zone begins
 8 accepting beverage containers shall, prior to the date that the dealer begins doing business:

9 (a) Provide notice to the commission explaining whether the dealer will or will not par-
 10 ticipate in, be served by and pay the cost of participation in the redemption center; and

11 (b) If the dealer will not participate in the redemption center and will claim an exemption
 12 under subsection (5)(c) of this section, an estimate of the number of beverage containers
 13 that the dealer expects to sell during the first calendar year that the dealer does business
 14 in the convenience zone.

15 (7) The provisions of subsections (2) to (6) of this section do not apply to any dealer for
 16 which the driving distance from the place of business of the dealer to the beverage container
 17 redemption center, calculated using the shortest route, is more than two times the radius
 18 specified for the second convenience zone or, if only one convenience zone is specified by the
 19 commission, two times the radius specified for that convenience zone.

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

21 459.992. (1) The following are Class A misdemeanors:

22 (a) Violation of rules or ordinances adopted under ORS 459.005 to 459.105 and 459.205 to 459.385.

23 (b) Violation of ORS 459.205.

24 (c) Violation of ORS 459.270.

25 (d) Violation of ORS 459A.080.

26 (e) Violation of ORS 459.272.

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

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

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

35 (5) The commission shall suspend the license of any person required by ORS chapter 471
 36 to have a license who, upon inspection, is found to be in violation of section 3 of this 2015
 37 Act. The period for a suspension under this subsection shall be:

38 (a) No longer than 10 days for a first violation; and

39 (b) At least 20 days or until the violation is cured, whatever period is longer, for a second
 40 and subsequent violations.