

Enrolled
Senate Bill 141

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Business and Transportation)

CHAPTER

AN ACT

Relating to compensation for business loss incurred by liquor store operators; and declaring an emergency.

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

SECTION 1. Section 2 of this 2015 Act is added to and made a part of ORS chapter 471.

SECTION 2. (1) A person appointed to operate a store established by the Oregon Liquor Control Commission under ORS 471.750 qualifies for the payment of business loss compensation under this section if:

(a) The system for selling containers of distilled liquor at retail in this state changes after the person assumes operation of the store; and

(b) The system change results from a law that prohibits the commission from purchasing or selling distilled liquor.

(2) The purpose of business loss compensation is to offset the actual or presumed sales reduction and actual or perceived devaluation of a liquor store business following a system change described in subsection (1) of this section. The commission shall pay a person qualifying under this section business loss compensation equal to four percent of the average annual gross distilled liquor sales made by the store during the five years that preceded the system change, whether or not the person was the store operator during the entire five-year period. If the store has operated less than five years prior to the system change, the commission shall pay compensation equal to four percent of the average annual gross distilled liquor sales made by the store prior to the system change.

(3)(a) The commission shall pay any business loss compensation due under this section from the suspense account described in ORS 471.805. Except as otherwise required by federal or state law or by contract, the commission shall give the payment of business loss compensation priority over the payment of other debts from the suspense account.

(b) Notwithstanding ORS 279A.250 to 279A.290 or the revolving fund balance limit established in ORS 471.805, if a change in the system for selling containers of distilled liquor at retail in this state results in business loss compensation being payable under this section, and the commission declares within five years after the system change that a warehouse established by the commission under ORS 471.750 or the inventory of the commission is surplus property, the net proceeds from sale of the warehouse or inventory remaining after deduction of sales costs shall be deposited to the suspense account described in ORS 471.805. All moneys deposited under this paragraph shall be kept in a subaccount within the suspense

account that indicates the source of the moneys. Notwithstanding ORS 471.805, moneys deposited to the suspense account under this paragraph may not be transferred to the Oregon Liquor Control Commission Account if any business loss compensation is owed and remains unpaid. This paragraph does not restrict the source for paying business loss compensation from the suspense account or alter the priority of business loss compensation payment established in paragraph (a) of this subsection.

(4) If a person that receives business loss compensation under this section brings any action against the commission for damages resulting from a change in the system for selling containers of distilled liquor at retail in this state, the business loss compensation received by the person as a result of that system change shall be an offset against any damages awarded the person in the action. This subsection does not create any new cause of action.

(5) Business loss compensation received by a person under this section does not affect the claiming of any tax deduction by the person for depreciation of equipment, fixtures or other property improvements, but is ordinary business income of the person, taxable as provided by law.

SECTION 3. This 2015 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect on its passage.

Passed by Senate April 7, 2015

.....
Lori L. Brocker, Secretary of Senate

.....
Peter Courtney, President of Senate

Passed by House May 21, 2015

.....
Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2015

Approved:

.....M.,....., 2015

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2015

.....
Jeanne P. Atkins, Secretary of State