

A-Engrossed
Senate Bill 141

Ordered by the Senate April 1
Including Senate Amendments dated April 1

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)

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.

Provides for Oregon Liquor Control Commission to pay business loss compensation to liquor store operator [*for diminishment in sales resulting from*] **if** change in system for selling distilled liquor **prohibits commission from purchasing or selling distilled liquor.**

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to compensation for business loss incurred by liquor store operators; and declaring an
3 emergency.

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

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

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

9 (a) **The system for selling containers of distilled liquor at retail in this state changes af-**
10 **ter the person assumes operation of the store; and**

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

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

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

26 (b) **Notwithstanding ORS 279A.250 to 279A.290 or the revolving fund balance limit estab-**

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 lished in ORS 471.805, if a change in the system for selling containers of distilled liquor at
2 retail in this state results in business loss compensation being payable under this section,
3 and the commission declares within five years after the system change that a warehouse
4 established by the commission under ORS 471.750 or the inventory of the commission is
5 surplus property, the net proceeds from sale of the warehouse or inventory remaining after
6 deduction of sales costs shall be deposited to the suspense account described in ORS 471.805.
7 All moneys deposited under this paragraph shall be kept in a subaccount within the suspense
8 account that indicates the source of the moneys. Notwithstanding ORS 471.805, moneys de-
9 posited to the suspense account under this paragraph may not be transferred to the Oregon
10 Liquor Control Commission Account if any business loss compensation is owed and remains
11 unpaid. This paragraph does not restrict the source for paying business loss compensation
12 from the suspense account or alter the priority of business loss compensation payment es-
13 tablished in paragraph (a) of this subsection.

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

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

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