

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)

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**.

Provides for Oregon Liquor Control Commission to pay business loss compensation to liquor store operator for diminishment in sales resulting from change in system for 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 qualifies for the payment of business loss compensation under this sec-**
8 **tion if:**

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

11 (b) **The system change diminishes the average annual gross distilled liquor sales by the**
12 **store; and**

13 (c) **The person files an application for the compensation with the commission no later**
14 **than three years after the system change occurs.**

15 (2) **Except as provided in subsection (3) of this section, a system change is considered to**
16 **have diminished the average annual gross distilled liquor sales by a store if the average an-**
17 **ual gross distilled liquor sales made by the store during the one-year period following the**
18 **system change is less than the average annual gross distilled liquor sales made by the store**
19 **in the five years that preceded the system change.**

20 (3) **If a store has operated for less than five years prior to the system change, the com-**
21 **mission may use annual gross distilled liquor sales figures from comparable stores to the**
22 **extent necessary to simulate a five-year sales history for the store. If a store ceases opera-**
23 **tion during the one-year period following a system change, the commission shall use the**
24 **gross distilled liquor sales made at the store after the system change and prior to closure**
25 **as the annual gross distilled liquor sales made by the store during the one-year period fol-**
26 **lowing the system change.**

27 (4) **The commission shall pay a person qualifying under this section business loss com-**
28 **penetration equal to four percent of the total gross distilled liquor sales made by the store**
29 **during the five years that preceded the system change, whether or not the person was the**
30 **store operator for the entire five-year period. If the store has operated less than five years**

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 prior to the system change, the commission shall pay compensation equal to four percent
2 of the total gross distilled liquor sales made by the store prior to the system change.

3 (5) If a person qualifying for business loss compensation under this section transfers
4 operation of the store to another person during the one-year period following a system
5 change, the business loss compensation shall be apportioned between the person and the new
6 operator of the store as provided by the commission by rule.

7 (6) The commission shall pay business loss compensation under this section from the
8 suspense account described in ORS 471.805.

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

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

18 **SECTION 3.** Section 2 of this 2015 Act applies to persons operating stores that have di-
19 minished average annual gross distilled liquor sales due to changes made on or after No-
20 vember 1, 2015, to the system for selling containers of distilled liquor at retail in this state.

21 **SECTION 4.** This 2015 Act being necessary for the immediate preservation of the public
22 peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect
23 on its passage.
24
