

A-Engrossed
Senate Bill 583

Ordered by the Senate April 16
Including Senate Amendments dated April 16

Sponsored by 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.

[Allows brewery-public house licensee to also hold off-premises sales license under certain circumstances. Allows brewery-public house licensee to import malt beverages for which licensee controls brand.]

[Establishes Oregon Spirits Board. Authorizes or requires board activities for purpose of supporting Oregon distilled liquor industry. Requires board to establish state distilled liquor room for purposes of quality improvement, providing tastings to public and providing distilled liquor for state functions and official gifts. Establishes Oregon Spirits Board Fund for use by board. Directs moneys to fund from Oregon Liquor Control Commission Account.]

[Allows distillery licensee to purchase distilled liquor directly from manufacturer for purposes of blending or manufacturing. Provides that distillery licensee must hold federal distilled spirits plant basic permit to exercise certain privileges of license.]

[Authorizes appointment of distillery licensee as distillery retail outlet agent for distiller consenting to appointment. Allows distillery licensee sales of distilled liquor produced by distiller for which distillery licensee is distillery retail outlet agent. Allows agreement between distiller and distillery licensee acting as distillery retail outlet agent of distiller for resulting expenses of agent, subject to Oregon Liquor Control Commission approval and oversight.]

[Allows distillery licensee to offer tastings of distilled liquor manufactured by any distiller and to offer tastings as mixed drinks. Eliminates requirement that distilled liquor used for tastings be purchased from commission. Provides for payment of processing fee to commission if distilled liquor used for tastings is transferred by manufacturer from inventory of commission.]

[Allows distillery licensee holding special events distillery license to conduct event at distillery premises. Deletes requirement regarding licensee purchase price for distilled liquor licensee sells in factory sealed containers at special event.]

Allows brewery-public house licensee to also hold interest in off-premises sales licensee. Allows brewery-public house licensee to distribute malt beverages manufactured by licensee to other premises of same licensee. Increases yearly amount brewery-public house licensee may sell at wholesale and distribute to Oregon Liquor Control Commission licensees.

Changes frequency for holder of direct shipper permit to report wine and cider shipments made to Oregon residents.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to alcoholic beverages; amending ORS 471.200 and 471.282; and declaring an emergency.

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

4 **SECTION 1.** ORS 471.200 is amended to read:

5 471.200. (1) A brewery-public house license allows the licensee:

6 (a) To manufacture on the licensed premises, store, transport, sell to wholesale malt beverage
7 and wine licensees of the Oregon Liquor Control Commission and export malt beverages;

8 (b) To sell malt beverages manufactured on or off the licensed premises at retail for consumption
9 on or off the premises;

10 (c) To sell malt beverages in brewery-sealed packages at retail directly to the consumer for
11 consumption off the premises;

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 (d) To sell on the licensed premises at retail malt beverages manufactured on or off the licensed
2 premises in unpasteurized or pasteurized form directly to the consumer for consumption off the
3 premises, delivery of which may be made in a securely covered container supplied by the consumer;

4 (e) To sell wine and cider at retail for consumption on or off the premises;

5 (f) To sell for consumption off the premises wines and cider in securely covered containers
6 supplied by the consumer and having capacities of not more than two gallons each;

7 (g) To conduct the activities, except manufacturing, described in paragraphs (a) to (f) of this
8 subsection at one location other than the premises where the manufacturing occurs; *[and]*

9 (h) To obtain a special events brewery-public house license entitling the holder to conduct the
10 activities allowed under paragraphs (b) to (f) of this subsection at a designated location other than
11 the location set forth in the brewery-public house license for a period not exceeding five days[.]; **and**

12 **(i) To distribute malt beverages manufactured on the licensed premises to any other**
13 **premises licensed to the same licensee, whether a manufacturer, wholesaler or retail prem-**
14 **ises.**

15 (2) In addition to the privileges specified in subsection (1) of this section, in any calendar year
16 a brewery-public house licensee may sell at wholesale **and distribute** to licensees of the commission
17 **no more than 7,500 barrels of** malt beverages *[produced]* **manufactured** by the brewery-public
18 house licensee *[if the brewery-public house licensee produced 5,000 barrels or less of malt beverages*
19 *in the immediately preceding calendar year]*.

20 (3) A brewery-public house licensee, or any person having an interest in the licensee, is a retail
21 licensee for the purposes of ORS 471.394 and, except as otherwise provided by this section and ORS
22 471.396, may not acquire or hold any right, title, lien, claim or other interest, financial or otherwise,
23 in, upon or to the premises, equipment, business or merchandise of any manufacturer or wholesaler,
24 as defined in ORS 471.392. A brewery-public house licensee, or any person having an interest in the
25 licensee, is also a manufacturer for the purposes of ORS 471.398 and, except as otherwise provided
26 by this section and ORS 471.400, may not acquire or hold any right, title, lien, claim or other in-
27 terest, financial or otherwise, in, upon or to the premises, equipment, business or merchandise of
28 any other retail licensee, as defined in ORS 471.392.

29 (4) A brewery-public house licensee, or any person having an interest in the licensee, is a retail
30 licensee for the purposes of ORS 471.398 and, except as otherwise provided by this section and ORS
31 471.400, may not accept directly or indirectly any financial assistance described in ORS 471.398 from
32 any manufacturer or wholesaler, as defined in ORS 471.392. A brewery-public house licensee, or any
33 person having an interest in the licensee, is also a manufacturer for the purposes of ORS 471.398
34 and, except as otherwise provided by this section and ORS 471.400, may not provide directly or in-
35 directly any financial assistance described in ORS 471.398 to any retail licensee, as defined in ORS
36 471.392. The prohibitions on financial assistance in ORS 471.398 do not apply to financial assistance
37 between manufacturing and retail businesses licensed to the same person under the provisions of
38 this section.

39 (5) Notwithstanding subsection (3) of this section, a brewery-public house licensee, or any person
40 having an interest in the licensee, may also hold a winery license authorized by ORS 471.223. A
41 brewery-public house licensee, or any person having an interest in the licensee, may also hold a
42 warehouse license authorized by ORS 471.242.

43 (6) Notwithstanding subsection (3) of this section, a brewery-public house licensee is eligible for
44 limited on-premises sales licenses and temporary sales licenses.

45 (7)(a) Notwithstanding subsection (3) of this section, and except as provided in this subsection,

1 a brewery-public house licensee, or any person having an interest in the licensee, may also hold a
 2 full on-premises sales license. If a person holds both a brewery-public house license and a full on-
 3 premises sales license, nothing in this chapter shall prevent the sale by the licensee of both distilled
 4 liquor and malt beverages manufactured under the brewery-public house license.

5 (b) The commission may not issue a full on-premises sales license to a brewery-public house
 6 licensee under the provisions of this subsection if the brewery-public house licensee, or any person
 7 having an interest in the licensee or exercising control over the licensee, is a brewery that [*brews*]
 8 **manufactures** more than 200,000 barrels of malt beverages annually or a winery that produces
 9 more than 200,000 gallons of wine annually.

10 (8) Notwithstanding any other provision of this chapter, a brewery-public house licensee, or any
 11 person having an interest in the licensee, may also hold a distillery license. No provision of this
 12 chapter prevents a brewery-public house licensee that also holds a distillery license from being ap-
 13 pointed by the commission as the distillery's retail outlet agent for the purpose of selling distilled
 14 liquors under ORS 471.230.

15 (9) Notwithstanding subsection (3) of this section, the commission by rule may authorize a
 16 brewery-public house licensee to coproduce special events with other manufacturers.

17 (10)(a) Notwithstanding subsection (3) of this section, a brewery-public house licensee may hold,
 18 directly or indirectly, an interest in a manufacturer or wholesaler, provided that the interest does
 19 not result in exercise of control over, or participation in the management of, the manufacturer's or
 20 wholesaler's business or business decisions and does not result in exclusion of any competitor's
 21 brand of alcoholic liquor.

22 (b) Notwithstanding subsection (3) of this section, a manufacturer or wholesaler, and any officer,
 23 director or substantial stockholder of any corporate manufacturer or wholesaler, may hold, directly
 24 or indirectly, an interest in a brewery-public house licensee, provided that the interest does not re-
 25 sult in exercise of control over, or participation in the management of, the licensee's business or
 26 business decisions and does not result in exclusion of any competitor's brand of alcoholic liquor.

27 **(11) Notwithstanding any other provision of this chapter, a brewery-public house licensee**
 28 **may hold, directly or indirectly, an interest in an off-premises sales licensee.**

29 [(11)] (12) For purposes of ORS chapter 473, a brewery-public house licensee shall be considered
 30 to be a manufacturer.

31 **SECTION 2.** ORS 471.282 is amended to read:

32 471.282. (1) Notwithstanding any other provision of this chapter and except as provided by ORS
 33 471.186 (6), a person may sell and ship wine or cider directly to a resident of Oregon only if the
 34 person holds a direct shipper permit. The Oregon Liquor Control Commission shall issue a direct
 35 shipper permit only to:

36 (a) A person that holds a license issued by this state or another state that authorizes the man-
 37 ufacture of wine or cider;

38 (b) A person that holds a license issued by this state or another state that authorizes the sale
 39 of wine or cider produced only from grapes or other fruit grown under the control of the person;

40 (c) A person that holds a license authorizing the sale of wine or cider at retail; or

41 (d) A nonprofit trade association that holds a temporary sales license under ORS 471.190 and
 42 that has a membership primarily composed of persons holding winery licenses issued under ORS
 43 471.223 or grower sales privilege licenses issued under ORS 471.227.

44 (2)(a) A person may apply for a direct shipper permit by filing an application with the commis-
 45 sion. The application must be made in such form as may be prescribed by the commission.

1 (b) If the application is based on a license issued by this state, the person must include in the
2 application the number of the license issued to the person.

3 (c) If the application is based on a license issued by another state, the person must include in
4 the application a true copy of the license issued to the person by the other state or include sufficient
5 information to allow verification of the license by electronic means or other means acceptable to the
6 commission.

7 (d) If the application is based on a license issued by another state, or the application is by a
8 nonprofit trade association described in subsection (1)(d) of this section, the person or association
9 must pay a \$50 registration fee and maintain a bond or other security described in ORS 471.155 in
10 the minimum amount of \$1,000.

11 (3) Sales and shipments under a direct shipper permit:

12 (a) May be made only to a person who is at least 21 years of age;

13 (b) May be made only for personal use and not for the purpose of resale; and

14 (c) May not exceed two cases, containing not more than nine liters per case, to any resident per
15 month.

16 (4) Sales and shipments under a direct shipper permit must be made directly to a resident of this
17 state in containers that are conspicuously labeled with the words: "CONTAINS ALCOHOL: SIG-
18 NATURE OF PERSON AGE 21 YEARS OR OLDER REQUIRED FOR DELIVERY."

19 (5) A person holding a direct shipper permit must take all actions necessary to ensure that a
20 carrier used by the permit holder does not deliver any wine or cider unless the carrier:

21 (a) Obtains the signature of the recipient of the wine or cider upon delivery;

22 (b) Verifies by inspecting government-issued photo identification that the recipient is at least
23 21 years of age; and

24 (c) Determines that the recipient is not visibly intoxicated at the time of delivery.

25 (6)(a) A person holding a direct shipper permit must report to the commission all shipments of
26 wine or cider made to Oregon residents under the permit [*as required by ORS chapter 473*] **on a**
27 **quarterly basis**. The report must be made in a form prescribed by the commission.

28 (b) A person holding a direct shipper permit must allow the commission to audit the permit
29 holder's records upon request and shall make those records available to the commission in this state.

30 (c) A person holding a direct shipper permit consents to the jurisdiction of the commission and
31 the courts of this state for the purpose of enforcing the provisions of this section and any related
32 laws or rules.

33 (7)(a) A person holding a direct shipper permit must timely pay to the commission all taxes im-
34 posed under ORS chapter 473 on wine and cider sold and shipped under the permit. For the purpose
35 of the privilege tax imposed under ORS chapter 473, all wine or cider sold and shipped pursuant to
36 a direct shipper permit is sold in this state.

37 (b) A person holding a direct shipper permit based on a license issued by another state must
38 timely pay to the commission all taxes imposed under ORS chapter 473 on all wine or cider sold and
39 shipped directly to Oregon residents under the permit. The permit holder, not the purchaser, is re-
40 sponsible for the tax.

41 (8) A direct shipper permit must be renewed annually. If the person holds the permit based on
42 an annual license issued by another state, the person may renew the permit by paying a \$50 renewal
43 fee and providing the commission with a true copy of a current license issued to the person by the
44 other state or with sufficient information to allow verification of the license by electronic means
45 or other means acceptable to the commission. If the person holds the permit based on an annual li-

1 cense issued by this state, the person may renew the permit at the same time that the person renews
2 the license.

3 (9) The commission may refuse to issue or may suspend or revoke a direct shipper permit if the
4 permit holder fails to comply with the provisions of this section. A person may sell and ship wine
5 or cider under a direct shipper permit only for as long as the person has the license issued by this
6 state or another state that authorizes the person to hold a direct shipper permit.

7 (10) Any person who knowingly or negligently delivers wine or cider under the provisions of this
8 section to a person under 21 years of age, or who knowingly or negligently delivers wine or cider
9 under the provisions of this section to a visibly intoxicated person, violates ORS 471.410.

10 (11) A person may not make sales and shipments of wine or cider directly to Oregon residents
11 unless the person holds a direct shipper permit issued under this section. Any person who knowingly
12 makes, participates in, transports, imports or receives a shipment of wine or cider that is in vio-
13 lation of this section commits a misdemeanor as provided in ORS 471.990 (1).

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

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