

House Bill 4053

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Business and Labor)

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**.

Expands permissible activities for brewery licensee. Limits number of locations at which brewery licensee, or certain persons connected with licensee, may sell malt beverages at retail regardless of licenses held.

A BILL FOR AN ACT

1
2 Relating to brewery licensees; creating new provisions; amending ORS 471.392, 471.402 and 471.501;
3 and repealing ORS 471.220.

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

5 **SECTION 1. Section 2 of this 2016 Act is added to and made a part of ORS chapter 471.**

6 **SECTION 2. (1) As used in this section, "common control" means:**

7 (a) **That a manufacturer, or any officer, director, substantial stockholder or other sub-**
8 **stantial equity holder in the manufacturer:**

9 (A) **Directly or indirectly holds 50 percent or more interest in the brewery licensee; or**

10 (B) **Has authority to direct the management of the brewery licensee; or**

11 (b) **That a brewery licensee, or any officer, director, substantial stockholder or other**
12 **substantial equity holder in the brewery licensee:**

13 (A) **Directly or indirectly holds 50 percent or more interest in another manufacturer; or**

14 (B) **Has authority to direct the management of another manufacturer.**

15 (2) **A brewery license authorizes the licensee to:**

16 (a) **Manufacture malt beverages on the licensed premises.**

17 (b) **Sell to wholesale malt beverage and wine licensees, import, store, transport or export:**

18 (A) **Malt beverages produced on the licensed premises; or**

19 (B) **Malt beverages of a brand produced by a manufacturer that is under common control**
20 **with the brewery licensee.**

21 (c) **Sell wine, malt beverages or cider on the licensed premises at retail for consumption**
22 **on or off the licensed premises.**

23 (d) **Sell, in securely covered containers supplied by the consumer and having a capacity**
24 **of not more than two gallons each, wine, malt beverages or cider for off-premises consump-**
25 **tion.**

26 (e) **Obtain a special events brewery license that entitles the holder to conduct the activ-**
27 **ities allowed under paragraphs (c) and (d) of this subsection at a designated location other**
28 **than the one set forth in the brewery license for a period not exceeding five days.**

29 (f) **Notwithstanding ORS 471.392 to 471.400, subject to ORS 471.175, hold a full on-premises**
30 **sales license.**

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 (g) Conduct any activities authorized under paragraph (c), (d) or (f) of this subsection at
 2 up to two additional locations approved by the commission.

3 (3) Subject to ORS 471.235, a brewery licensee may hold a wholesale malt beverage and
 4 wine license. A brewery licensee must hold a wholesale malt beverage and wine license if the
 5 brewery licensee:

6 (a) Imports, stores, transports or exports malt beverages of brands that are not produced
 7 by the licensee or a manufacturer under common control with the licensee; or

8 (b) Except as provided in this paragraph, sells or distributes malt beverages. This para-
 9 graph does not apply to malt beverages described in subsection (2)(a) or (b) of this section
 10 sold at a licensed premises described in subsection (2)(a) of this section.

11 (4) A brewery licensee and a winery licensee may not be under common control unless
 12 the winery licensee:

13 (a) Uses its premises to produce wine or cider; and

14 (b) Holds a valid producer and blender basic permit issued by the federal Alcohol and
 15 Tobacco Tax and Trade Bureau.

16 (5) Notwithstanding any other provision of this chapter, a brewery licensee, a manufac-
 17 turer that is under common control with the brewery licensee or any officer, director, sub-
 18 stantial stockholder or other substantial equity holder in the brewery licensee or in a
 19 manufacturer that is under common control with the brewery licensee may not sell malt
 20 beverages at retail at more than three locations in this state regardless of the number or
 21 type of licenses held by the licensee, manufacturer, officer, director, stockholder or equity
 22 holder.

23 **SECTION 3.** ORS 471.392 is amended to read:

24 471.392. For the purposes of ORS 471.392 to 471.400:

25 (1) "Manufacturer or wholesaler" means:

26 (a) A person holding a brewery license issued under [ORS 471.220] **section 2 of this 2016 Act**,
 27 a winery license issued under ORS 471.223, a grower sales privilege license issued under ORS
 28 471.227, a distillery license issued under ORS 471.230, a wholesale malt beverage and wine license
 29 issued under ORS 471.235 or a warehouse license issued under ORS 471.242.

30 (b) Any manufacturer of alcoholic liquors whose products are sold in the State of Oregon.

31 (2) "Retail licensee" means the holder of a full or limited on-premises sales license, an off-
 32 premises sales license or a temporary sales license. "Retail licensee" does not include a bona fide
 33 trade association that represents retail licensees and that is open to all persons licensed under at
 34 least one type of retail license.

35 **SECTION 4.** ORS 471.402 is amended to read:

36 471.402. The holder of a brewery license issued under [ORS 471.220] **section 2 of this 2016**
 37 **Act**, a winery license issued under ORS 471.223, a grower sales privilege license issued under ORS
 38 471.227, a brewery-public house license issued under ORS 471.200, a warehouse license issued under
 39 ORS 471.242 or a manufacturer certificate of approval issued under ORS 471.244 may provide or pay
 40 for sample tastings of wine, cider or malt beverages for the public on premises licensed under a full
 41 or limited on-premises sales license or under an off-premises sales license.

42 **SECTION 5.** ORS 471.501 is amended to read:

43 471.501. Nothing in this chapter prevents a brewery licensed under [ORS 471.220] **section 2 of**
 44 **this 2016 Act** or a brewery-public house licensed under ORS 471.200 from establishing a refund
 45 value for malt beverage containers under the provisions of ORS 459A.705 that is in excess of five

1 cents, or in excess of 10 cents as described in ORS 459A.705 (2), per container for the purpose of
2 encouraging purchasers to return the containers directly to the brewery or brewery-public house.
3 A refund value in excess of five cents, or in excess of 10 cents as described in ORS 459A.705 (2),
4 per container may be paid under this section only to persons who are not licensed under this
5 chapter and who return the containers directly to the brewery or brewery-public house.

6 **SECTION 6. (1) ORS 471.220 is repealed.**

7 **(2) Notwithstanding subsection (1) of this section, any brewery license issued under ORS**
8 **471.220 that is in effect immediately prior to the effective date of this 2016 Act is considered**
9 **a brewery license issued under section 2 of this 2016 Act.**

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