

# D R A F T

## SUMMARY

Requires manufacturer, distributor or importer of beverage sold in this state to ensure that beverage containers are collected from small dealer no later than 30 days after dealer redeems beverage containers. Requires manufacturer, distributor or importer that fails to collect beverage containers within time period specified to pay small dealer double unpaid refund value for beverage containers not collected as required.

Establishes defense, for certain small dealers charged with civil penalty for refusing to accept and pay refund value of empty beverage containers, that dealer was unable to comply with law because dealer's storage space for empty beverage containers was at capacity at time violation occurred.

## A BILL FOR AN ACT

1  
2 Relating to beverage containers; amending ORS 459A.710, 459A.712 and  
3 459A.717.

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

5 **SECTION 1.** ORS 459A.710 is amended to read:

6 459A.710. Except as provided in ORS 459A.715:

7 (1)(a) Except as provided in paragraph (b) of this subsection, a dealer may  
8 not refuse to accept from any person any empty beverage containers that  
9 contained the kind of beverage sold by the dealer, or refuse to pay to that  
10 person the refund value of a beverage container as established by ORS  
11 459A.705.

12 (b) A dealer that occupies a space of less than 5,000 square feet in a single  
13 area may refuse to accept from any person any empty beverage containers  
14 of the kind, size and brand that the dealer does not sell.

15 (2) A distributor or importer may not refuse to accept from a dealer any

1 empty beverage containers of the kind, size and brand sold by the distributor  
2 or importer, or refuse to pay the dealer the refund value of a beverage con-  
3 tainer as established by ORS 459A.705.

4 (3) The manufacturer, distributor or importer of any beverage sold in this  
5 state shall ensure that:

6 (a) All dealers or redemption centers in this state that redeem beverage  
7 containers are paid the refund value for those beverage containers; and

8 (b) [*that those*] **Redeemed** beverage containers are collected from the  
9 dealer or redemption center in a timely manner.

10 (4) **For purposes of meeting the requirements of subsection (3)(b)**  
11 **of this section, a manufacturer, distributor or importer shall collect**  
12 **redeemed beverage containers from a dealer that occupies less than**  
13 **5,000 square feet in a single area no later than 30 days after the date**  
14 **the dealer redeems the beverage containers.**

15 **SECTION 2.** ORS 459A.712 is amended to read:

16 459A.712. (1) Any manufacturer, distributor or importer that fails to pay  
17 to a dealer or redemption center the refund value of beverage containers and  
18 to collect beverage containers as required by ORS 459A.710 (3) is liable to  
19 the dealer or redemption center for treble the unpaid refund value and treble  
20 the collection costs incurred by the dealer or redemption center for any  
21 beverage containers that were not collected as required.

22 (2) **In addition to and not in lieu of any liability imposed by sub-**  
23 **section (1) of this section, any manufacturer, distributor or importer**  
24 **that fails to collect beverage containers within the time period re-**  
25 **quired by ORS 459A.710 (4) shall pay to the dealer that redeemed the**  
26 **beverage containers double the unpaid refund value for any beverage**  
27 **containers that were not collected as required.**

28 **SECTION 3.** ORS 459A.717 is amended to read:

29 459A.717. (1) The Oregon Liquor Control Commission may impose a civil  
30 penalty of at least \$50, but not more than \$500, for a violation of any pro-  
31 vision of ORS 459A.700 to 459A.740. Each day a violation occurs constitutes

1 a separate violation. The authority to impose a civil penalty under this sec-  
2 tion is in addition to and not in lieu of the revocation and suspension au-  
3 thority under ORS 459.992 (4) and the criminal penalty authorized by ORS  
4 459.992.

5 (2) Notwithstanding subsection (1) of this section, if a dealer, as defined  
6 in ORS 459A.700, violates a provision of ORS 459A.738, the commission shall  
7 provide the dealer with written notice informing the dealer of the violation  
8 and stating that the dealer may avoid civil penalty for the violation by cur-  
9 ing the violation within 60 days after issuance of the notice. If the dealer  
10 fails to cure the violation within 60 days after issuance of the notice, the  
11 commission shall impose a civil penalty of at least \$200 for the violation.  
12 Each day after the 60-day period that the dealer continues to violate a pro-  
13 vision of ORS 459A.738 is a separate offense subject to a separate civil pen-  
14 alty. The commission is not required to provide the dealer with an  
15 opportunity to cure a continuing violation before imposing a civil penalty  
16 for the continuing violation.

17 **(3)(a) It shall be a defense for a dealer charged with a civil penalty**  
18 **for refusing to accept and pay the refund value of empty beverage**  
19 **containers in violation of ORS 459A.710 or 459A.715 that the dealer was**  
20 **unable to comply with ORS 459A.710 or ORS 459A.715 because the**  
21 **dealer's storage space for empty beverage containers was at capacity**  
22 **at the time the violation occurred.**

23 **(b) This subsection applies only to a dealer that occupies a space**  
24 **of less than 5,000 square feet in a single area and that is not located**  
25 **within a convenience zone served by a redemption center approved**  
26 **under ORS 459A.735.**

27 [(3)] (4) Civil penalties under this section shall be imposed as provided  
28 in ORS 183.745.

29 [(4)] (5) All penalties recovered under this section shall be paid into the  
30 State Treasury and credited to the General Fund and are available for gen-  
31 eral governmental expenses.

