

D R A F T

SUMMARY

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

Relating to beverage containers; amending ORS 459A.717.

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

SECTION 1. ORS 459A.717 is amended to read:

459A.717. (1) The Oregon Liquor Control Commission may impose a civil penalty of at least \$50, but not more than \$500, for a violation of any provision of ORS 459A.700 to 459A.740. Each day a violation occurs constitutes a separate violation. The authority to impose a civil penalty under this section is in addition to and not in lieu of the revocation and suspension authority under ORS 459.992 (4) and the criminal penalty authorized by ORS 459.992.

(2) Notwithstanding subsection (1) of this section, if a dealer, as defined in ORS 459A.700, violates a provision of ORS 459A.738, the commission shall provide the dealer with written notice informing the dealer of the violation and stating that the dealer may avoid civil penalty for the violation by curing the violation within 60 days after issuance of the notice. If the dealer fails to cure the violation within 60 days after issuance of the notice, the commission shall impose a civil penalty of at least \$200 for the violation. Each day after the 60-day period that the dealer continues to violate a provision of ORS 459A.738 is a separate offense subject to a separate civil pen-

1 alty. The commission is not required to provide the dealer with an
2 opportunity to cure a continuing violation before imposing a civil penalty
3 for the continuing violation.

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

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

14 [(3)] (4) Civil penalties under this section shall be imposed as provided
15 in ORS 183.745.

16 [(4)] (5) All penalties recovered under this section shall be paid into the
17 State Treasury and credited to the General Fund and are available for gen-
18 eral governmental expenses.

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