

House Bill 3270

Sponsored by Representative HELM

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**.

Establishes Oregon Conservation and Recreation Fund. Continuously appropriates moneys in fund to State Fish and Wildlife Commission for wildlife resource conservation purposes.

Imposes tax on certain beverages sold at wholesale in this state. Provides that wholesale beverage tax is liability of distributor. Authorizes distributor to collect tax from purchaser. Requires moneys received by Department of Revenue pursuant to tax to be transferred to Oregon Conservation and Recreation Fund.

Applies to beverages sold on or after January 1, 2019.

Refers Act to people for their approval or rejection at next regular general election.

A BILL FOR AN ACT

1
2 Relating to the taxation of beverages to fund state wildlife resource conservation; providing for re-
3 venue raising that requires approval by a three-fifths majority; and providing that this Act be
4 referred to the people for their approval or rejection.

5 Whereas Oregon residents have a strong and growing interest in healthy populations of native
6 flora and fauna and the habitat that sustains them; and

7 Whereas it is in the state's interest to conserve the natural resources under its jurisdiction and
8 connect this state's diverse residents to those natural resources through education and outdoor re-
9 creation opportunities; and

10 Whereas these efforts currently rely heavily on revenue from the sale of fishing and hunting li-
11 censes and related federal excise taxes; and

12 Whereas House Bill 2402 (chapter 712, Oregon Laws 2015) recognized that it is in the state's
13 interest to diversify and broaden this revenue stream in order to support the actions needed to
14 protect and enhance Oregon's fish and wildlife and their habitats for the use and enjoyment by
15 present and future generations; and

16 Whereas a task force, created pursuant to House Bill 2402, recommends the creation of the
17 Oregon Conservation and Recreation Fund to be administered by the State Fish and Wildlife Com-
18 mission for activities that protect, maintain and enhance the native fish and wildlife of the state;
19 and

20 Whereas the task force recommended that moneys in the new fund specifically be used to en-
21 hance the conservation and management of the native fish and wildlife of this state, improve hunting
22 and fishing opportunities, reduce hunting and fishing license fees, and connect Oregonians with the
23 outdoors; and

24 Whereas the task force identified a funding mechanism, consisting of a wholesale tax on
25 beverages subject to the Oregon Bottle Bill; and

26 Whereas the Legislative Assembly intends to refer this issue to Oregon voters; now, therefore,

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

28 **SECTION 1. (1) The Oregon Conservation and Recreation Fund is established in the State**

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 Treasury, separate and distinct from the General Fund. Interest earned by the Oregon Con-
 2 servation and Recreation Fund shall be credited to the fund.

3 (2) Moneys in the fund are continuously appropriated to the State Fish and Wildlife
 4 Commission to carry out conservation, wildlife management and habitat improvement activ-
 5 ities, and other activities under the wildlife laws that serve to protect, maintain or enhance
 6 wildlife resources in the State of Oregon.

7 (3) The fund shall consist of:

8 (a) Moneys transferred to the fund under section 9 of this 2017 Act;

9 (b) Moneys appropriated or otherwise transferred to the fund; and

10 (c) Gifts, grants, contributions or other donations received by the commission from any
 11 public or private source.

12 **SECTION 2.** (1) As used in sections 1 to 10 of this 2017 Act:

13 (a) "Beverage" means a beverage listed in ORS 459A.702 (1).

14 (b) "Distributor" has the meaning given that term in ORS 459A.700.

15 (c) "Wholesale beverage tax" means the tax imposed under this section.

16 (2)(a) A tax is imposed on the sale at wholesale of beverages in this state.

17 (b) The tax is imposed at the rate of 2.34 percent of the total wholesale price of a
 18 beverage.

19 (3) A distributor may collect the tax imposed under this section from the purchaser at
 20 wholesale of the beverage. The amount of the tax must be stated separately on the invoice
 21 or receipt given to the purchaser for the sale to which the tax relates.

22 (4) Notwithstanding subsection (3) of this section, the wholesale beverage tax is a liability
 23 of the distributor.

24 **SECTION 3.** Every distributor shall:

25 (1) Keep records and render statements sufficient to show whether there is a wholesale
 26 beverage tax liability.

27 (2) Comply with rules adopted by the Department of Revenue with respect to the whole-
 28 sale beverage tax.

29 **SECTION 4.** (1) Every distributor is liable for the wholesale beverage tax and shall file a
 30 return with the Department of Revenue, on or before the last day of the month following the
 31 end of each calendar quarter, reporting the amount of wholesale beverage tax due during the
 32 quarter. The department shall prescribe the form of the return required by this section. The
 33 rules of the department shall require that returns be made under penalties for false swear-
 34 ing.

35 (2) The distributor may withhold an administrative reimbursement charge of five percent
 36 of the wholesale beverage tax due under this section.

37 (3) When a return is required under subsection (1) of this section, the distributor re-
 38 quired to make the return shall remit the wholesale beverage tax due to the department at
 39 the time fixed for filing the return.

40 **SECTION 5.** If the amount paid by a distributor to the Department of Revenue under
 41 section 4 of this 2017 Act exceeds the amount of wholesale beverage tax payable, the de-
 42 partment shall refund the amount of the excess with interest at the rate established under
 43 ORS 305.220 for each month or fraction of a month from the date of payment of the excess
 44 until the date of the refund. A refund may not be made to a distributor that fails to claim
 45 the refund within two years after the due date for filing the return to which the claim for

1 refund relates.

2 **SECTION 6.** (1) Every distributor is deemed to hold the amount of wholesale beverage
3 taxes due under section 4 of this 2017 Act in trust for the State of Oregon and for payment
4 to the Department of Revenue in the manner and at the time provided under section 4 of this
5 2017 Act.

6 (2) At any time the distributor fails to remit any amount of wholesale beverage taxes
7 deemed to be held in trust for the State of Oregon, the department may enforce collection
8 by the issuance of a distraint warrant for the collection of the delinquent amount and all
9 penalties, interest and collection charges accrued on the delinquent amount. The warrant
10 shall be issued, docketed and proceeded upon in the same manner and shall have the same
11 force and effect as warrants for the collection of delinquent income taxes.

12 **SECTION 7.** Unless the context requires otherwise, the provisions of ORS chapters 305,
13 314 and 316 governing the audit and examination of reports and returns, confidentiality of
14 reports and returns, determination of deficiencies, assessments, claims for refunds, penal-
15 ties, interest, jeopardy assessments, warrants, conferences and appeals to the Oregon Tax
16 Court, and related procedures, apply to sections 1 to 10 of this 2017 Act as if the wholesale
17 beverage tax were a tax imposed upon or measured by net income.

18 **SECTION 8.** (1) Public records of moneys received by the Department of Revenue pur-
19 suant to sections 1 to 10 of this 2017 Act are exempt from disclosure under ORS 192.410 to
20 192.505. Nothing in this section shall limit the use that can be made of such information for
21 regulatory purposes or its use and admissibility in any enforcement proceedings.

22 (2) If a conflict is found to exist between subsection (1) of this section and ORS 314.835,
23 ORS 314.835 controls.

24 **SECTION 9.** (1) All moneys received by the Department of Revenue pursuant to sections
25 1 to 10 of this 2017 Act and interest on the moneys shall be paid to the State Treasurer to
26 be held in a suspense account established under ORS 293.445.

27 (2) After the payment of refunds under section 5 of this 2017 Act:

28 (a) Moneys necessary to reimburse the Department of Revenue for the actual costs in-
29 curred by the department in administering the wholesale beverage tax, not to exceed two
30 percent of wholesale beverage tax collections, are continuously appropriated to the depart-
31 ment; and

32 (b) The balance of the moneys received shall be transferred to the Oregon Conservation
33 and Recreation Fund established in section 1 of this 2017 Act.

34 **SECTION 10.** (1) The State Fish and Wildlife Commission shall keep a record of all mon-
35 eys deposited in the Oregon Conservation and Recreation Fund.

36 (2) The record shall indicate by separate cumulative accounts the source from which the
37 moneys are derived and the individual activity or program against which each withdrawal is
38 charged.

39 (3) Notwithstanding the confidentiality provisions of section 7 of this 2017 Act, the com-
40 mission shall use the record created under this section to report, in the budget documents
41 of the commission submitted to the Legislative Assembly, on the use of these funds for the
42 benefit and conservation of the native fish and wildlife of this state. The report may not
43 contain information from which information about a particular taxpayer may be determined.

44 **SECTION 11.** Section 2 of this 2017 Act applies to beverages sold by a distributor to a
45 purchaser at wholesale on or after January 1, 2019.

1 **SECTION 12.** This 2017 Act shall be submitted to the people for their approval or re-
2 **jection at the next regular general election held throughout this state.**
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