

House Bill 3443

Sponsored by Representative SMITH WARNER

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**.

Requires Oregon Liquor Control Commission to calculate and post on commission's website previous calendar year's number of beverage containers that carry refund value sold in Oregon during calendar year for all distributors and importers in Oregon.

Removes prohibition on disclosure by commission of beverage container return data submitted to commission by distributor, importer or distributor cooperative.

A BILL FOR AN ACT

1
2 Relating to beverage containers; creating new provisions; and amending ORS 459A.718.

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

4 **SECTION 1.** ORS 459A.718 is amended to read:

5 459A.718. (1) Two or more distributors or importers may establish a distributor cooperative for
6 the purposes of:

7 (a) Collecting the refund value of beverage containers specified in ORS 459A.705 from distribu-
8 tors or importers and refunding to dealers the amount the dealers paid for the refund value of empty
9 beverage containers;

10 (b) Paying the refund value specified in ORS 459A.705 for beverage containers sold in this state;
11 and

12 (c) Processing beverage containers sold in this state.

13 (2) A distributor cooperative established under this section must service a majority of the deal-
14 ers in this state.

15 (3) If a distributor cooperative is established, a dealer that uses the distributor cooperative to
16 redeem and process beverage containers sold in this state is not required to return beverage con-
17 tainers to a distributor or importer that does not participate in the distributor cooperative, provided
18 that the dealer or the distributor cooperative provides an accounting to the distributor or importer
19 of the beverage containers by brand and kind that were distributed by the distributor or importer
20 and subsequently redeemed by the dealer or distributor cooperative.

21 (4) Upon receipt of the accounting required by subsection (3) of this section, a distributor or
22 importer that does not participate in the distributor cooperative must pay the refund value of the
23 redeemed beverage containers specified in the accounting to the dealer or distributor cooperative
24 that provided the accounting.

25 (5)(a) For purposes of this subsection, beverage container return data is the number of beverage
26 containers returned for the refund value specified in ORS 459A.705 in Oregon during the calendar
27 year and the number of beverage containers that carry a refund value specified in ORS 459A.705
28 sold in Oregon during the calendar year, calculated separately.

29 (b) By July 1 of each calendar year, a distributor cooperative shall provide the Oregon Liquor
30 Control Commission with a report that lists, in aggregate form for all distributors and importers that

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 participate in the distributor cooperative, the previous calendar year's beverage container return
 2 data, calculated separately for glass, metal and plastic beverage containers.

3 (c) By July 1 of each calendar year, a distributor or importer that does not participate in a
 4 distributor cooperative shall provide the commission with a report that lists the distributor's or the
 5 importer's beverage container return data for the previous calendar year, calculated separately for
 6 glass, metal and plastic beverage containers.

7 (6)(a) By August 1 of each calendar year, using the beverage container return data provided in
 8 subsection (5)(b) of this section, the Oregon Liquor Control Commission shall calculate the previous
 9 calendar year's percentage of beverage containers returned for the refund value specified in ORS
 10 459A.705 for each distributor cooperative. The commission shall carry out the calculation separately
 11 for glass, metal and plastic beverage containers and shall post the percentages on the commission's
 12 website.

13 (b) By August 1 of each calendar year, using the beverage container return data provided in
 14 subsection (5)(c) of this section, the commission shall calculate the previous calendar year's per-
 15 centage of beverage containers returned for the refund value specified in ORS 459A.705 for each
 16 distributor or importer that does not participate in a distributor cooperative. The commission shall
 17 carry out the calculation separately for glass, metal and plastic beverage containers and shall post
 18 the percentages on the commission's website.

19 (c)(A) By August 1 of each calendar year, using the beverage container return data provided in
 20 subsection (5)(b) and (c) of this section, the commission shall:

21 (i) Calculate the previous calendar year's percentage of beverage containers returned for the
 22 refund value specified in ORS 459A.705 for all distributors and importers in Oregon; **and**

23 (ii) **Calculate the previous calendar year's number of beverage containers that carry a**
 24 **refund value specified in ORS 459A.705 sold in Oregon during the calendar year for all dis-**
 25 **tributors and importers in Oregon.**

26 (B) The commission shall carry out the [calculation] **calculations required under this para-**
 27 **graph** for all beverage containers, and separately for glass, metal and plastic beverage containers,
 28 and shall post the [percentages] **results of the calculations** on the commission's website.

29 *[(d) Except for the percentages described in paragraphs (a) to (c) of this subsection or in a pro-*
 30 *ceeding under ORS 459A.717 for a violation of subsection (5) of this section, the commission may not*
 31 *disclose any information provided by a distributor, an importer or a distributor cooperative under*
 32 *subsection (5) of this section.]*

33 (7)(a) In order to determine compliance with the provisions of subsection (5) of this section,
 34 within six months of the date that the commission receives a report described in subsection (5)(b)
 35 and (c) of this section, the commission may review or audit the records of each reporting distributor
 36 cooperative, or each reporting distributor or importer that does not participate in a distributor co-
 37 operative.

38 (b)(A) If in the course of a review described in paragraph (a) of this subsection the commission
 39 determines that an audit of a distributor cooperative, distributor or importer is necessary, the
 40 commission shall require the distributor cooperative, distributor or importer to retain an independ-
 41 ent financial audit firm to determine the accuracy of information contained in the report. The dis-
 42 tributor cooperative, distributor or importer that is the subject of review shall pay the costs of the
 43 audit. The audit must be limited to the records described in paragraph (a) of this subsection.

44 (B) The commission shall adopt rules to carry out the provisions of this paragraph.

45 **SECTION 2. The amendments to ORS 459A.718 by section 1 of this 2017 Act first apply**

1 to calculations based on beverage container return data submitted to the Oregon Liquor
2 Control Commission under ORS 459A.718 (5) for the 2017 calendar year.
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