

House Bill 3386

Sponsored by Representative DOHERTY

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**.

Identifies types of businesses eligible to deliver distilled liquor, malt beverages, wine or cider to person taking possession for personal or social use. Creates for-hire carrier permit. Authorizes permit holder to provide Internet or mobile applications for use by eligible business to sell alcoholic beverages to person for personal or social use. Authorizes permit holder to deliver alcoholic beverages from eligible business to person taking possession for personal or social use.

A BILL FOR AN ACT

Relating to alcoholic beverages; creating new provisions; and amending ORS 471.311 and 471.322.

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

SECTION 1. Sections 2 to 4 of this 2019 Act are added to and made a part of ORS chapter 471.

SECTION 2. As used in sections 2 to 4 of this 2019 Act:

(1) **"Eligible business" means the holder of:**

(a) **An off-premises sales license issued under ORS 471.186;**

(b) **A brewery-public house license issued under ORS 471.200;**

(c) **A brewery license issued under ORS 471.221;**

(d) **A winery license issued under ORS 471.223;**

(e) **A grower sales privilege license issued under ORS 471.227; or**

(f) **A direct shipper permit issued under ORS 471.282.**

(2) **"Final consumer" means a person taking possession of alcoholic beverages for personal or social use, and not for resale.**

(3) **"Liquor store agent" means an Oregon Liquor Control Commission agent appointed under ORS 471.750 to operate a store.**

(4) **"Noncommercial provider" means a person that delivers alcoholic beverages to a final consumer at a residential address without receiving any direct or indirect financial consideration for the alcoholic beverages or delivery of the alcoholic beverages.**

(5) **"Residential address" means a place:**

(a) **That has a street address; and**

(b) **That is used as a residence or for carrying on a business that is not regulated under this chapter.**

SECTION 3. (1) Distilled liquor may be delivered to a final consumer at a residential address in this state only by a liquor store agent, the holder of a for-hire carrier permit or a noncommercial provider.

(2) Malt beverages, wine and cider may be delivered to a final consumer at a residential address only by an eligible business, the holder of a for-hire carrier permit or a noncommercial provider.

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 (3) Subsections (1) and (2) of this section do not authorize any delivery in violation of a
 2 condition, restriction or prohibition imposed under the Liquor Control Act or Oregon Liquor
 3 Control Commission rules.

4 **SECTION 4.** (1) Notwithstanding ORS 471.405, a for-hire carrier permit authorizes the
 5 holder to:

6 (a) Use the Internet or mobile applications to allow eligible businesses and final con-
 7 sumers to facilitate the sale of alcoholic beverages by the eligible business for delivery to the
 8 final consumer at a residential address; and

9 (b) Deliver alcoholic beverages as provided under this section to a final consumer at a
 10 residential address.

11 (2) The Oregon Liquor Control Commission may not issue a for-hire carrier permit to a
 12 manufacturer or wholesaler as defined in ORS 471.392.

13 (3) A for-hire carrier permit must identify the premises at which the for-hire carrier
 14 operates the business. The premises must be located within this state. The premises of the
 15 for-hire carrier may not be located at the same street address as a liquor store, a premises
 16 licensed under this chapter or a place used for the activities of a business licensed under
 17 ORS 475B.070, 475B.090, 475B.100 or 475B.105. A for-hire carrier must obtain a separate per-
 18 mit for each premises at which the for-hire carrier operates the business.

19 (4)(a) A for-hire carrier may take physical possession of distilled liquor at the liquor store
 20 that is selling the distilled liquor to the final consumer, or at the premises of the for-hire
 21 carrier, in factory-sealed containers for delivery to the final consumer at a residential ad-
 22 dress.

23 (b) A for-hire carrier may take physical possession of malt beverages, wine or cider at
 24 a licensed premises of an eligible business that is selling the malt beverages, wine or cider
 25 to the final consumer, or at the premises of the for-hire carrier, in a container sealed by the
 26 manufacturer or the eligible business for delivery to the final consumer at a residential ad-
 27 dress.

28 (5) Prior to accepting physical possession of malt beverages, wine or cider from a man-
 29 ufacturer located outside of this state, the for-hire carrier shall verify that the manufacturer
 30 holds a direct shipper permit issued under ORS 471.282. For purposes of ORS 471.405, a
 31 manufacturer located outside of this state that holds a direct shipper permit is the importer
 32 of malt beverages, wine or cider that a for-hire carrier accepts from the manufacturer under
 33 this subsection.

34 (6) The commission shall adopt rules under ORS 471.115 to limit the amount of alcoholic
 35 beverages that a for-hire carrier delivers at the same residential address on the day that the
 36 alcoholic beverages are purchased or on the next business day. A for-hire carrier may not
 37 warehouse alcoholic beverages. The commission may adopt rules to regulate the storage of
 38 alcoholic beverages by a for-hire carrier pending delivery to the final consumer.

39 (7) A for-hire carrier may charge a liquor store agent, eligible business or final consumer
 40 a fee for delivering alcoholic beverages. Except as provided under this subsection, a for-hire
 41 carrier may not sell alcoholic beverages. This subsection does not prohibit a retail licensee
 42 as defined in ORS 471.392 that holds an interest in a for-hire carrier from selling alcoholic
 43 beverages as authorized by that retail license.

44 (8) A for-hire carrier permit does not make the permit holder a manufacturer, wholesaler
 45 or retail licensee for purposes of ORS 471.392 to 471.400. However, if a retail licensee holds

1 **an interest in a for-hire carrier, the prohibitions in ORS 471.398 apply with regard to the**
 2 **for-hire carrier in the same manner as for the retail licensee.**

3 **(9) If a for-hire carrier commits a violation of this chapter in delivering alcoholic**
 4 **beverages to a final consumer, in addition to any sanction imposed on the permit holder, the**
 5 **commission may impose sanctions under ORS 471.315, 471.322 or 471.327 for the delivery vio-**
 6 **lation on the eligible business or liquor store agent using the for-hire carrier to make the**
 7 **delivery.**

8 **SECTION 5.** ORS 471.311 is amended to read:

9 471.311. (1) Any person desiring a license or renewal of a license under this chapter shall make
 10 application to the Oregon Liquor Control Commission upon forms to be furnished by the commission
 11 showing the name and address of the applicant, location of the place of business that is to be op-
 12 erated under the license, and such other pertinent information as the commission may require. A
 13 license may not be granted or renewed until the applicant has complied with the provisions of this
 14 chapter and the rules of the commission.

15 (2) The commission may reject any application that is not submitted in the form required by
 16 rule. The commission shall give applicants an opportunity to be heard if an application is rejected.
 17 A hearing under this subsection is not subject to the requirements for contested case proceedings
 18 under ORS chapter 183.

19 (3) The commission shall charge an application fee, not to exceed \$150, to process an application
 20 for the issuance of a new license under this chapter or a license following a change in ownership.
 21 The application fee applies only to an application for a class of license having an annual license fee.
 22 The application fee is nonrefundable, except that the commission shall refund the fee if the applicant
 23 completes, submits and maintains an application and the commission does not, on or before 75 days
 24 following receipt of the completed application, propose that the license be granted, granted with
 25 conditions or refused. The commission shall adopt rules to:

- 26 (a) Establish application fees by class of license; and
- 27 (b) Define a completed application for purposes of this subsection.

28 (4) Subject to subsection (5) of this section, the commission shall assess a nonrefundable fee for
 29 processing a renewal application for any license authorized by this chapter only if the renewal ap-
 30 plication is received by the commission less than 20 days before expiration of the license. If the
 31 renewal application is received prior to expiration of the license but less than 20 days prior to ex-
 32 piration, the fee shall be 25 percent of the annual license fee. If a renewal application is received
 33 by the commission after expiration of the license but no more than 30 days after expiration, the fee
 34 shall be 40 percent of the annual license fee. This subsection does not apply to a certificate of ap-
 35 proval, a brewery-public house license or any license that is issued for a period of less than 30 days.

36 (5) The commission may waive the fee imposed under subsection (4) of this section if the com-
 37 mission finds that failure to submit a timely application was due to unforeseen circumstances or to
 38 a delay in processing the application by the local governing authority that is no fault of the licensee.

39 (6) The license fee is nonrefundable and must be paid by each applicant upon the granting or
 40 committing of a license. Subject to ORS 471.155 and 473.065, the annual or daily license fee and the
 41 minimum bond required of each class of license under this chapter are as follows:

	Minimum	
License	Fee	Bond

1	Brewery, including Certificate			
2	of Approval	\$	500	\$ 1,000
3	Winery	\$	250	\$ 1,000
4	Distillery	\$	100	None
5	Wholesale Malt Beverage			
6	and Wine	\$	275	\$ 1,000
7	Warehouse	\$	100	\$ 1,000
8	Brewery-Public House,			
9	including Certificate			
10	of Approval	\$	250	\$ 1,000
11	Limited On-Premises Sales	\$	200	None
12	Off-Premises Sales	\$	100	None
13	Temporary Sales	\$	50 per day	
14	Grower sales privilege			
15	license	\$	250	\$ 1,000
16	Special events brewery			
17	license	\$	10 per day	
18	Special events winery			
19	license	\$	10 per day	
20	Special events grower			
21	sales privilege			
22	license	\$	10 per day	
23	Special events			
24	brewery-public house			
25	license	\$	10 per day	
26	Special events			
27	distillery			
28	license	\$	10 per day	

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31 (7) The fee for a certificate of approval or special certificate of approval granted under ORS
32 471.244 is nonrefundable and must be paid by each applicant upon the granting or committing of a
33 certificate of approval or special certificate of approval. No bond is required for the granting of a
34 certificate of approval or special certificate of approval. Certificates of approval are valid for a pe-
35 riod commencing on the date of issuance and ending on December 31 of the fifth calendar year fol-
36 lowing the calendar year of issuance. The fee for a certificate of approval is \$175. Special
37 certificates of approval are valid for a period of 30 days. The fee for a special certificate of approval
38 is \$10.

39 (8) Except as provided in subsection (9) of this section, the annual license fee for a full on-
40 premises sales license is \$400. No bond is required for any full on-premises sales license.

41 (9) The annual license fee for a full on-premises sales license held by a nonprofit private club
42 as described in ORS 471.175 (8), or held by a nonprofit or charitable organization that is registered
43 with the state, is \$200.

44 (10) The annual fee for a wine self-distribution permit is \$100, and the minimum bond is \$1,000.

45 **(11) The annual fee for a for-hire carrier permit is \$500. No bond is required for a for-hire**

1 **carrier.**

2 **SECTION 6.** ORS 471.322 is amended to read:

3 471.322. (1) If a license **or a for-hire carrier permit** issued under this chapter or a service
4 permit issued under ORS 471.360 is suspended for a period of 30 days or less, the Oregon Liquor
5 Control Commission may impose against the affected licensee or permittee in lieu of or in addition
6 to the suspension a civil penalty fixed by the commission in accordance with subsection (2) of this
7 section if the commission is satisfied that such a penalty in lieu of or in addition to suspension is
8 consistent with the purposes of the Liquor Control Act and the Oregon Distilled Liquor Control Act.
9 Upon payment of the penalty in lieu of suspension, the commission shall cancel the suspension.

10 (2) Except as provided in ORS 471.327, the penalty which the commission may impose pursuant
11 to subsection (1) of this section against a licensee **or for-hire carrier** shall not be less than \$100
12 nor more than \$5,000. The penalty which the commission may impose pursuant to subsection (1) of
13 this section against a service permittee shall not be less than \$25 nor more than \$500.

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

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