

Senate Bill 101

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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 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 459A.717.

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

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

5 459A.710. Except as provided in ORS 459A.715:

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

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

13 (2) A distributor or importer may not refuse to accept from a dealer any empty beverage con-
14 tainers of the kind, size and brand sold by the distributor or importer, or refuse to pay the dealer
15 the refund value of a beverage container as established by ORS 459A.705.

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

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

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

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

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

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 459A.712. (1) Any manufacturer, distributor or importer that fails to pay to a dealer or re-
 2 demption center the refund value of beverage containers and to collect beverage containers as re-
 3 quired by ORS 459A.710 (3) is liable to the dealer or redemption center for treble the unpaid refund
 4 value and treble the collection costs incurred by the dealer or redemption center for any beverage
 5 containers that were not collected as required.

6 **(2) In addition to and not in lieu of any liability imposed by subsection (1) of this section,**
 7 **any manufacturer, distributor or importer that fails to collect beverage containers within**
 8 **the time period required by ORS 459A.710 (4) shall pay to the dealer that redeemed the**
 9 **beverage containers double the unpaid refund value for any beverage containers that were**
 10 **not collected as required.**

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

12 459A.717. (1) The Oregon Liquor Control Commission may impose a civil penalty of at least \$50,
 13 but not more than \$500, for a violation of any provision of ORS 459A.700 to 459A.740. Each day a
 14 violation occurs constitutes a separate violation. The authority to impose a civil penalty under this
 15 section is in addition to and not in lieu of the revocation and suspension authority under ORS
 16 459.992 (4) and the criminal penalty authorized by ORS 459.992.

17 (2) Notwithstanding subsection (1) of this section, if a dealer, as defined in ORS 459A.700, vio-
 18 lates a provision of ORS 459A.738, the commission shall provide the dealer with written notice in-
 19 forming the dealer of the violation and stating that the dealer may avoid civil penalty for the
 20 violation by curing the violation within 60 days after issuance of the notice. If the dealer fails to
 21 cure the violation within 60 days after issuance of the notice, the commission shall impose a civil
 22 penalty of at least \$200 for the violation. Each day after the 60-day period that the dealer continues
 23 to violate a provision of ORS 459A.738 is a separate offense subject to a separate civil penalty. The
 24 commission is not required to provide the dealer with an opportunity to cure a continuing violation
 25 before imposing a civil penalty for the continuing violation.

26 **(3)(a) It shall be a defense for a dealer charged with a civil penalty for refusing to accept**
 27 **and pay the refund value of empty beverage containers in violation of ORS 459A.710 or**
 28 **459A.715 that the dealer was unable to comply with ORS 459A.710 or 459A.715 because the**
 29 **dealer's storage space for empty beverage containers was at capacity at the time the vio-**
 30 **lation occurred.**

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

34 [(3)] (4) Civil penalties under this section shall be imposed as provided in ORS 183.745.

35 [(4)] (5) All penalties recovered under this section shall be paid into the State Treasury and
 36 credited to the General Fund and are available for general governmental expenses.