

A-Engrossed Senate Bill 108

Ordered by the Senate April 9
Including Senate Amendments dated April 9

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Business and Transportation)

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.

Directs Oregon Liquor Control Commission to [*study liquor agent compensation for distillery tasting rooms and to report recommendations to Legislative Assembly by September 1, 2020.*] **establish separate compensation schedules for distillery retail outlet agents and for liquor store agents. Directs commission to designate separate expenditure limitations for each compensation schedule in commission's biennial agency request budget. Requires commission to set wholesale prices at which alcoholic liquors containing over five percent alcohol by volume may be supplied to agents. Limits retail prices agents may fix to no more than specified percentage of wholesale price.**

Provides that wholesale and retail price provisions of Act become operative July 1, 2021.

A BILL FOR AN ACT

1
2 Relating to compensation for sales of distilled spirits; creating new provisions; and amending ORS
3 471.730, 471.745, 471.805 and 471.990.

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

5 **SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS chapter 471.**

6 **SECTION 2. (1) The Oregon Liquor Control Commission shall establish separately:**

7 (a) **A compensation schedule for distillery retail outlet agents appointed under ORS**
8 **471.230.**

9 (b) **A compensation schedule for agents appointed under ORS 471.750.**

10 (2) **The compensation schedule for distillery retail outlet agents established under sub-**
11 **section (1)(a) of this section shall provide for compensation that is a graduated percentage**
12 **of the sales of distilled liquors that is inversely related to the amount of gross sales of dis-**
13 **tilled liquors on a periodic basis.**

14 **SECTION 3. (1) In each biennium, the Oregon Liquor Control Commission shall, in its**
15 **agency request budget filed under ORS 291.208, designate separate expenditure limitations for**
16 **each compensation schedule established under section 2 of this 2019 Act.**

17 (2) **The commission's proposed expenditure limitation for the compensation schedule for**
18 **distillery retail outlet agents appointed under ORS 471.230 must be based on forecasted**
19 **biennial sales. If actual sales exceed forecasted sales, the commission shall report to the**
20 **Legislative Fiscal Office the need for an increase in expenditure limitation.**

21 **SECTION 4. ORS 471.730 is amended to read:**

22 471.730. The function, duties and powers of the Oregon Liquor Control Commission include the
23 following:

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 (1) To control the manufacture, possession, sale, purchase, transportation, importation and de-
2 livery of alcoholic liquor in accordance with the provisions of this chapter and ORS 474.105 and
3 474.115.

4 (2) To grant, refuse, suspend or cancel licenses and permits for the sale or manufacture of al-
5 coholic liquor, or other licenses and permits in regard thereto, and to permit, in its discretion, the
6 transfer of a license of any person.

7 **(3) To set wholesale prices at which alcoholic liquors containing over five percent alcohol**
8 **by volume may be supplied to agents appointed under this chapter.**

9 [(3)] (4) To collect the taxes and duties imposed by statutes relating to alcoholic liquors, and to
10 issue, and provide for cancellation, stamps and other devices as evidence of payment of such taxes
11 or duties.

12 [(4)] (5) To investigate and aid in the prosecution of every violation of statutes relating to al-
13 coholic liquors, to seize alcoholic liquor manufactured, sold, kept, imported or transported in
14 contravention of this chapter and ORS 474.105 and 474.115, and apply for the confiscation thereof,
15 whenever required by statute, and cooperate in the prosecution of offenders before any court of
16 competent jurisdiction.

17 [(5)] (6) To adopt such regulations as are necessary and feasible for carrying out the provisions
18 of this chapter and ORS 474.105 and 474.115 and to amend or repeal such regulations. When such
19 regulations are adopted they shall have the full force and effect of law.

20 [(6)] (7) To exercise all powers incidental, convenient or necessary to enable it to administer
21 or carry out any of the provisions of this chapter and ORS 474.105 and 474.115.

22 [(7)] (8) To control, regulate and prohibit any advertising by manufacturers, wholesalers or
23 retailers of alcoholic liquor by the medium of newspapers, letters, billboards, radio or otherwise.

24 [(8)] (9) To sell, license, regulate and control the use of alcohol for scientific, pharmaceutical,
25 manufacturing, mechanical, industrial and other purposes, and to provide by regulation for the sale
26 thereof for such uses.

27 **SECTION 5.** ORS 471.745 is amended to read:

28 471.745. (1)(a) The Oregon Liquor Control Commission shall fix the **wholesale** prices at which
29 alcoholic liquors containing over five percent alcohol by volume may be [*purchased from it, and*]
30 **supplied from the commission to an agent appointed under ORS 471.750 or to a distillery re-**
31 **tail outlet agent appointed under ORS 471.230.**

32 **(b) The agent may fix the retail prices of the alcoholic liquors supplied from the com-**
33 **mission at retail prices that are no more than ____ percent of the wholesale prices fixed by**
34 **the commission.**

35 **(c) The agent shall retain the difference between the retail prices and the wholesale**
36 **prices of the daily gross receipts from retail sales of alcoholic liquors by the agent.**

37 **(2) The commission** has power to bottle, blend, rectify, manufacture or sell alcoholic liquors
38 for itself, or for or to any person or commission within or without this state.

39 **SECTION 6.** ORS 471.805 is amended to read:

40 471.805. (1) Except as otherwise provided in subsection (3) of this section and ORS 471.810 (2),
41 all money collected by the Oregon Liquor Control Commission under this chapter and ORS chapter
42 473 and privilege taxes shall be remitted to the State Treasurer who shall credit it to a suspense
43 account of the commission. Whenever the commission determines that moneys have been received
44 by it in excess of the amount legally due and payable to the commission or that it has received
45 money to which it has no legal interest, or that any license fee or deposit is properly refundable,

1 the commission is authorized and directed to refund such money by check drawn upon the State
 2 Treasurer and charged to the suspense account of the commission. After withholding refundable li-
 3 cense fees and such sum, not to exceed \$250,000, as it considers necessary as a revolving fund for
 4 a working cash balance for the purpose of paying travel expenses, advances, other miscellaneous
 5 bills and extraordinary items which are payable in cash immediately upon presentation, the com-
 6 mission shall direct the State Treasurer to transfer the money remaining in the suspense account
 7 to the Oregon Liquor Control Commission Account in the General Fund. Moneys in the Oregon Li-
 8 quor Control Commission Account are continuously appropriated to the commission to be distributed
 9 and used as required or allowed by law.

10 (2) All necessary expenditures of the commission incurred in carrying out the purposes required
 11 of the commission by law, including the salaries of its employees, purchases made by the commission
 12 and such sums necessary to reimburse the \$250,000 revolving fund, shall be audited and paid from
 13 the Oregon Liquor Control Commission Account in the General Fund, upon warrants drawn by the
 14 Oregon Department of Administrative Services, pursuant to claims duly approved by the commission.

15 (3) Moneys from the retail sale of distilled liquor that are being held by an agent appointed
 16 under ORS 471.750 or by a distillery retail outlet agent appointed under ORS 471.230 are not subject
 17 to ORS 295.001 to 295.108 if the agent has on deposit with the commission an amount equaling or
 18 exceeding an amount the commission, in its discretion, deems to be reasonable and sufficient and to
 19 be not less than **the wholesale share of** the average daily gross receipts from retail sales of dis-
 20 tilled liquor by the agent. The commission shall remit moneys deposited with the commission under
 21 this subsection to the State Treasurer for deposit to a separate reserve account of the commission.
 22 Moneys in the reserve account are not revenue of the commission for purposes of ORS 221.770. The
 23 commission shall return the deposit, and any interest earned on the deposit, if the appointment of
 24 the agent terminates and the agent has forwarded to the commission all moneys owed the commis-
 25 sion from retail sales of distilled liquor by the agent.

26 **SECTION 7.** ORS 471.990 is amended to read:

27 471.990. (1) Except where other punishment is specifically provided for, violation of any pro-
 28 vision of this chapter and ORS 474.105 and 474.115 is a Class A misdemeanor.

29 (2) A second or subsequent violation of ORS 471.440 is a Class C felony.

30 (3) Subject to ORS 153.022, violation of any regulation promulgated under ORS 471.730 [(5)] (6)
 31 is a Class C violation.

32 **SECTION 8.** The amendments to ORS 471.730, 471.745, 471.805 and 471.990 by sections 4
 33 to 7 of this 2019 Act become operative on July 1, 2021.

34 **SECTION 9.** The Oregon Liquor Control Commission may take any action before the op-
 35 erative date specified in section 8 of this 2019 Act that is necessary for the commission to
 36 exercise, on or after the operative date specified in section 8 of this 2019 Act, all of the du-
 37 ties, functions and powers conferred on the commission by the amendments to ORS 471.730,
 38 471.745, 471.805 and 471.990 by sections 4 to 7 of this 2019 Act.

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