

(Including Amendments to Resolve Conflicts)

## B-Engrossed Senate Bill 247

Ordered by the House May 23  
Including Senate Amendments dated April 16 and House Amendments  
dated May 23

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 Governor Kate Brown for Oregon Liquor Control Commission)

### 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.

Adds containers that contain **hard seltzer and containers that contain kombucha** to types of beverage containers covered by provisions of Bottle Bill. **Requires payment of refund value of 10 cents for hard seltzer and kombucha containers on and after effective date of Act and until January 1, 2021, regardless of refund value indicated on beverage container. Allows sale of hard seltzer and kombucha containers that do not indicate proper refund value on and after effective date of Act and until January 1, 2021.**

**Modifies applicability of civil penalty provisions to distributors and importers for violation of provisions for establishing distributor cooperatives.**

Requires persons responsible for operation of beverage container redemption centers to annually register with Oregon Liquor Control Commission and pay registration fee. **Exempts operation of certain redemption centers from registration fee.** Requires fees collected by commission to be deposited in Bottle Bill Fund.

Establishes Bottle Bill Fund. Continuously appropriates moneys in fund to pay costs of commission in carrying out commission's duties under Bottle Bill provisions.

**Takes effect on 91st day following adjournment sine die.**

### A BILL FOR AN ACT

1  
2 Relating to beverage containers; creating new provisions; amending ORS 459A.700, 459A.702,  
3 459A.705, 459A.717, 459A.737 and 459A.738 and section 4, chapter 106, Oregon Laws 2013; and  
4 prescribing an effective date.

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

6 **SECTION 1.** ORS 459A.700 is amended to read:

7 459A.700. As used in ORS 459.992 (3) and (4) and 459A.700 to 459A.740, unless the context re-  
8 quires otherwise:

9 (1) "Beverage" means a fluid described in ORS 459A.702.

10 (2) "Beverage container" means a container described in ORS 459A.702.

11 (3) "Commission" means the Oregon Liquor Control Commission.

12 (4) "Consumer" means every person who purchases a beverage in a beverage container for use  
13 or consumption.

14 (5) "Dealer" means every person in this state who engages in the sale of beverages in beverage  
15 containers to a consumer, or means a redemption center certified under ORS 459A.735.

16 (6) "Distributor" means every person who engages in the sale of beverages in beverage con-  
17 tainers to a dealer in this state including any manufacturer who engages in such sales.

**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       (7) **“Hard seltzer” means any sugar-based alcoholic beverage that contains carbonated**  
2 **water or any malt-based alcoholic beverage that contains carbonated water and is not a malt**  
3 **beverage, as defined in ORS 471.001.**

4       [(7)] (8) “Importer” means any dealer or manufacturer who directly imports beverage containers  
5 into this state.

6       [(8)] (9) “In this state” means within the exterior limits of the State of Oregon and includes all  
7 territory within these limits owned by or ceded to the United States of America.

8       (10) **“Kombucha” means a fermented beverage that is made from tea and contains not**  
9 **more than 21 percent of alcohol by volume.**

10       [(9)] (11) “Manufacturer” means every person bottling, canning or otherwise filling beverage  
11 containers for sale to distributors, importers or dealers.

12       [(10)] (12) “Place of business of a dealer” means the location at which a dealer sells or offers  
13 for sale beverages in beverage containers to consumers.

14       [(11)] (13) “Use or consumption” includes the exercise of any right or power over a beverage  
15 incident to the ownership thereof, other than the sale or the keeping or retention of a beverage for  
16 the purposes of sale.

17       [(12)] (14) “Water and flavored water” means any beverage identified through the use of letters,  
18 words or symbols on its product label as a type of water.

19       (15) **“Wine” has the meaning given that term in ORS 471.001, except that “wine” does not**  
20 **mean hard seltzer or kombucha.**

21       **SECTION 2.** ORS 459A.702 is amended to read:

22       459A.702. [(1) *Except as provided in subsection (2) of this section, ORS 459A.700 to 459A.740 apply*  
23 *to any individual, separate, sealed glass, metal or plastic bottle or can, except for cartons, foil pouches*  
24 *and drink boxes, that contains the following beverages, intended for human consumption and in a*  
25 *quantity less than or equal to three liters:]*

26       [(a) *Water and flavored water;*]

27       [(b) *Beer or other malt beverages; and]*

28       [(c) *Mineral waters, soda water and similar carbonated soft drinks.*]

29       [(2) *One year after the date on which the Oregon Liquor Control Commission determines that at*  
30 *least 60 percent of the beverage containers returned for the refund value specified in ORS 459A.705*  
31 *are returned statewide to redemption centers approved under ORS 459A.735, or on January 1, 2018,*  
32 *whichever comes first,]*

 ORS 459A.700 to 459A.740 apply to:

33       (1) Any individual, separate, sealed glass, metal or plastic bottle or can, except for [*cartons, foil*  
34 *pouches, drink boxes and metal containers that require a tool to be opened*] **a carton, foil pouch,**  
35 **drink box or metal container that requires a tool to be opened,** that contains[:]

36       [(a)] **any one of** the following beverages, intended for human consumption and in a quantity less  
37 than or equal to three liters:

38       [(A) *Water and flavored water;*]

39       [(B) *Beer or other malt beverages; and]*

40       [(C) *Mineral waters, soda water and similar carbonated soft drinks.*]

41       **(a) Water or flavored water;**

42       **(b) Beer or another malt beverage;**

43       **(c) Mineral water, soda water or a similar carbonated soft drink;**

44       **(d) Kombucha; or**

45       **(e) Hard seltzer.**

1        *[(b)]* **(2)** Any beverage other than those specified in *[paragraph (a) of this]* subsection **(1) of this**  
2 **section** that is intended for human consumption and is in a quantity more than or equal to four fluid  
3 ounces and less than or equal to one and one-half liters, except distilled liquor, wine, dairy or  
4 plant-based milks, infant formula and any other exemptions set forth in rule *[of]* **by** the Oregon Li-  
5 quor Control Commission.

6        **SECTION 3.** ORS 459A.705 is amended to read:

7        459A.705. (1) Except as provided in subsections (2) and (3) of this section, every beverage con-  
8 tainer sold or offered for sale in this state shall have a refund value of not less than five cents.

9        (2)(a) Every beverage container sold or offered for sale in this state shall have a refund value  
10 of not less than 10 cents, beginning on the later of:

11        (A) Eight months after the Oregon Liquor Control Commission determines that, in each of the  
12 two previous calendar years, the number of beverage containers returned for the refund value  
13 specified in this section was less than 80 percent of the total number of beverage containers that  
14 were sold in this state; or

15        (B) January 1 of the calendar year following the determination by the commission described in  
16 subparagraph (A) of this paragraph.

17        *[(b) The commission may not make a determination under this subsection before January 1, 2016.]*

18        *[(c)]* **(b)** In making a determination under this subsection, the commission may not include the  
19 *[beverage containers and]* beverages described in ORS 459A.702 *[(2)(b)]* **(2)** before January 1, 2021.

20        (3) Every beverage container certified as provided in ORS 459A.725, sold or offered for sale in  
21 this state, shall have a refund value of not less than two cents.

22        **SECTION 4. On and after the effective date of this 2019 Act and until January 1, 2021:**

23        **(1) The refund value paid for a beverage container that contained hard seltzer or**  
24 **kombucha, as those terms are defined in ORS 459A.700, shall be not less than 10 cents, re-**  
25 **gardless of the refund value, or lack of a refund value, indicated on the beverage container.**

26        **(2) A beverage container that contains hard seltzer or kombucha, as those terms are**  
27 **defined in ORS 459A.700, may be sold or offered for sale in this state regardless of the refund**  
28 **value, or lack of a refund value, indicated on the beverage container, notwithstanding ORS**  
29 **459A.720 (1).**

30        **SECTION 5.** ORS 459A.717 is amended to read:

31        459A.717. (1) The Oregon Liquor Control Commission may impose a civil penalty of at least \$50,  
32 but not more than \$500, for a violation of any provision of ORS 459A.700 to 459A.740. Each day a  
33 violation occurs constitutes a separate violation. The authority to impose a civil penalty under this  
34 section is in addition to and not in lieu of the revocation and suspension authority under ORS  
35 459.992 (4) and the criminal penalty authorized by ORS 459.992.

36        (2) Notwithstanding subsection (1) of this section, if a dealer<sup>1</sup>, *as defined in ORS 459A.700,* vi-  
37 olates a provision of ORS 459A.738, **or if a distributor or importer violates a provision of ORS**  
38 **459A.718**, the commission shall provide the dealer, **distributor or importer** with written notice  
39 informing the dealer, **distributor or importer** of the violation and stating that the dealer, **dis-**  
40 **tributor or importer** may avoid civil penalty for the violation by curing the violation within 60  
41 days after issuance of the notice. If the dealer, **distributor or importer** fails to cure the violation  
42 within 60 days after issuance of the notice, the commission shall impose a civil penalty of at least  
43 \$200 for the violation. Each day after the 60-day period that the dealer continues to violate a pro-  
44 vision of ORS 459A.738, **or that the distributor or importer continues to violate a provision**  
45 **of ORS 459A.718**, is a separate offense subject to a separate civil penalty. The commission is not

1 required to provide the dealer, **distributor or importer** with an opportunity to cure a continuing  
2 violation before imposing a civil penalty for the continuing violation.

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

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

6 **SECTION 6.** ORS 459A.737 is amended to read:

7 459A.737. (1) Pursuant to the provisions of ORS 459A.735, the Oregon Liquor Control Commis-  
8 sion:

9 (a) Shall approve one [*beverage container*] redemption center in a city having a population of less  
10 than 300,000, operated by a distributor cooperative serving a majority of the dealers in this state;  
11 and

12 (b) May approve one or more additional [*beverage container*] redemption centers.

13 (2) Notwithstanding any other provision of ORS 459A.700 to 459A.740, a [*beverage container*]  
14 redemption center:

15 (a) May not refuse to accept and to pay the refund value of up to 350 individual empty beverage  
16 containers, as established by ORS 459A.705, returned by any one person during one day;

17 (b) Must provide hand counting of up to 50 individual empty beverage containers returned by  
18 any one person during one day for the refund value established by ORS 459A.705;

19 (c) May provide drop off service for at least 125 individual empty beverage containers returned  
20 by any one person during one day for the refund value established by ORS 459A.705, and may pro-  
21 vide an accounting mechanism by which the person may redeem the refund value of the beverage  
22 containers at a later date; and

23 (d) May provide other services as determined necessary by the person responsible for the oper-  
24 ation of the [*beverage container*] redemption center.

25 **(3)(a) By July 1 of each calendar year, a person responsible for the operation of one or  
26 more redemption centers shall register with the commission, for a period to cover the up-  
27 coming year, on a form provided by the commission. The registration shall include:**

28 **(A) A list of each redemption center that the person is responsible for operating during  
29 the upcoming year and the address of each redemption center; and**

30 **(B) Any other information required by the commission to process the registration.**

31 **(b)(A) Each person responsible for the operation of one or more redemption centers shall  
32 pay an annual registration fee to the commission. The fee shall be paid at the time of reg-  
33 istration under paragraph (a) of this subsection. The registration fee shall be \$3,000 for each  
34 redemption center that the person is responsible for operating.**

35 **(B) The registration fee established by subparagraph (A) of this paragraph does not apply  
36 to the operation of a BottleDrop Express or a similar redemption center.**

37 **(c) Fees collected by the commission under this subsection shall be deposited in the  
38 Bottle Bill Fund established under section 8 of this 2019 Act.**

39 [(3)] (4) The commission may adopt all rules necessary to implement and administer the pro-  
40 visions of this section and ORS 459A.738.

41 **SECTION 6a.** If Senate Bill 93 becomes law, ORS 459A.737, as amended by section 7, chapter  
42 \_\_\_\_, Oregon Laws 2019 (Enrolled Senate Bill 93), and section 6 of this 2019 Act, is amended to read:

43 459A.737. (1) Pursuant to the provisions of ORS 459A.735, the Oregon Liquor Control Commis-  
44 sion:

45 (a) Shall approve one full-service redemption center in a city having a population of less than

1 300,000, operated by a distributor cooperative serving a majority of the dealers in this state; and

2 (b) May approve one or more additional full-service redemption centers.

3 (2) Notwithstanding any other provision of ORS 459A.700 to 459A.740, a full-service redemption  
4 center:

5 (a) May not refuse to accept and to pay the refund value of up to 350 individual empty beverage  
6 containers, as established by ORS 459A.705, returned by any one person during one day;

7 (b) Must provide hand counting of up to 50 individual empty beverage containers returned by  
8 any one person during one day for the refund value established by ORS 459A.705;

9 (c) May provide drop off service for at least 125 individual empty beverage containers returned  
10 by any one person during one day for the refund value established by ORS 459A.705, and may pro-  
11 vide an accounting mechanism by which the person may redeem the refund value of the beverage  
12 containers at a later date; and

13 (d) May provide other services as determined necessary by the person responsible for the oper-  
14 ation of the full-service redemption center.

15 (3)(a) By July 1 of each calendar year, a person responsible for the operation of one or more  
16 **full-service** redemption centers shall register with the commission, for a period to cover the up-  
17 coming year, on a form provided by the commission. The registration shall include:

18 (A) A list of each **full-service** redemption center that the person is responsible for operating  
19 during the upcoming year and the address of each **full-service** redemption center; and

20 (B) Any other information required by the commission to process the registration.

21 (b)(A) Each person responsible for the operation of one or more **full-service** redemption centers  
22 shall pay an annual registration fee to the commission. The fee shall be paid at the time of regis-  
23 tration under paragraph (a) of this subsection. The registration fee shall be \$3,000 for each **full-**  
24 **service** redemption center that the person is responsible for operating.

25 (B) The registration fee established by subparagraph (A) of this paragraph does not apply to the  
26 operation of a [*BottleDrop Express or a similar*] **dealer** redemption center.

27 (c) Fees collected by the commission under this subsection shall be deposited in the Bottle Bill  
28 Fund established under section 8 of this 2019 Act.

29 (4) The commission may adopt all rules necessary to implement and administer the provisions  
30 of this section, section 3 [*of this 2019 Act*], **chapter \_\_, Oregon Laws 2019 (Enrolled Senate Bill**  
31 **93)**, and ORS 459A.738.

32 **SECTION 6b. The amendments to ORS 459A.737 by section 6a of this 2019 Act become**  
33 **operative on the effective date of chapter \_\_, Oregon Laws 2019 (Enrolled Senate Bill 93).**

34 **SECTION 7. Section 8 of this 2019 Act is added to and made a part of ORS 459A.700 to**  
35 **459A.740.**

36 **SECTION 8. The Bottle Bill Fund is established in the State Treasury, separate and dis-**  
37 **tinguish from the General Fund. Interest earned by the Bottle Bill Fund shall be credited to the**  
38 **fund. Moneys in the fund are continuously appropriated to the Oregon Liquor Control**  
39 **Commission and may be used to pay the costs of the commission in carrying out the duties**  
40 **of the commission under ORS 459A.700 to 459A.740.**

41 **SECTION 9.** ORS 459A.738 is amended to read:

42 459A.738. (1) For each [*beverage container*] redemption center, the Oregon Liquor Control Com-  
43 mission shall specify up to two convenience zones. The first convenience zone shall be the sector  
44 within a radius of not more than two miles around the [*beverage container*] redemption center. The  
45 second convenience zone shall be the sector beginning at the border of the first convenience zone

1 and continuing to a radius of not more than three and one-half miles around the [*beverage*  
2 *container*] redemption center. The convenience zones shall be based to the greatest extent practica-  
3 ble upon the proposals submitted as part of the application for approval of the redemption center  
4 under ORS 459A.735.

5 (2) All dealers doing business within the first convenience zone that occupy a space of 5,000 or  
6 more square feet in a single area may participate in, be served by and be charged the cost of par-  
7 ticipation in the [*beverage container*] redemption center and, if such a dealer participates in, is  
8 served by and pays the cost of participation in the redemption center, the dealer may,  
9 notwithstanding any other provision of ORS 459A.700 to 459A.740, refuse to accept and to pay the  
10 refund value of empty beverage containers.

11 (3) All dealers doing business within the second convenience zone that occupy a space of 5,000  
12 or more square feet in a single area may participate in, be served by and be charged the cost of  
13 participation in the [*beverage container*] redemption center and, if such a dealer participates in, is  
14 served by and pays the cost of participation in the redemption center, the dealer may,  
15 notwithstanding any other provision of ORS 459A.700 to 459A.740, refuse to accept and to pay the  
16 refund value of more than 24 individual empty beverage containers returned by any one person  
17 during one day.

18 (4) All dealers doing business within either convenience zone that occupy a space of less than  
19 5,000 square feet in a single area may, notwithstanding any other provision of ORS 459A.700 to  
20 459A.740, refuse to accept and to pay the refund value of more than 24 individual empty beverage  
21 containers returned by any one person during one day.

22 (5)(a) Any dealer doing business [*in*] **within** either convenience zone that occupies a space of  
23 5,000 or more square feet in a single area that does not participate in, and is not served by, the  
24 [*beverage container*] redemption center may not refuse to accept and to pay the refund value of up  
25 to 350 individual empty beverage containers, as established by ORS 459A.705, returned by any one  
26 person during one day and must, beginning on the date that the redemption center begins accepting  
27 beverage containers, provide services equivalent to those provided by the redemption center under  
28 ORS 459A.737 (2), including hand counting and drop off service.

29 (b) In addition to complying with the requirements specified in paragraph (a) of this subsection,  
30 a dealer described in paragraph (a) of this subsection must:

31 (A) Post in each area where beverage containers are received a clearly visible and legible sign  
32 that contains the list of services that must be provided by the dealer; and

33 (B) Provide two automated reverse vending machines capable of processing metal, plastic and  
34 glass beverage containers, or one automated reverse vending machine capable of processing metal,  
35 plastic and glass beverage containers for each 500,000 beverage containers sold by the dealer in the  
36 previous calendar year, whichever is greater.

37 (c)(A) The provisions of paragraphs (a) and (b) of this subsection do not apply to a dealer de-  
38 scribed in paragraph (a) of this subsection if the dealer sold fewer than 100,000 beverage containers  
39 in the previous calendar year. To be eligible for the exemption under this paragraph, a dealer de-  
40 scribed in paragraph (a) of this subsection must report to the commission the number of beverage  
41 containers sold by the dealer in the previous calendar year.

42 (B) The report required under this paragraph must be submitted by a dealer:

43 (i) Except as provided in subsection (6) of this section, no later than 60 days after issuance of  
44 the notice required under ORS 459A.735 (4); and

45 (ii) No later than January 1 of each calendar year following the year that the notice under ORS

1 459A.735 (4) was issued and for which the dealer intends to claim the exemption.

2 (d) The commission shall ensure compliance with this subsection by a dealer described in para-  
3 graph (a) of this subsection that is not subject to an exemption under paragraph (c) of this sub-  
4 section.

5 (6) A dealer that plans to begin doing business [*in*] **within** either convenience zone after the  
6 date that the [*beverage container*] redemption center associated with the convenience zone begins  
7 accepting beverage containers shall, not less than 60 days prior to the date that the dealer begins  
8 doing business:

9 (a) Provide notice to the commission explaining whether the dealer will or will not participate  
10 in, be served by and pay the cost of participation in the redemption center; and

11 (b) If the dealer will not participate in the redemption center and will claim an exemption under  
12 subsection (5)(c) of this section, provide documentation of compliance with the requirements for  
13 nonparticipating dealers under this section and an estimate of the number of beverage containers  
14 that the dealer expects to sell during the first calendar year that the dealer does business [*in*]  
15 **within** the convenience zone.

16 (7) The provisions of subsections (2) to (6) of this section do not apply to any dealer for which  
17 the driving distance from the place of business of the dealer to the [*beverage container*] redemption  
18 center, calculated using the shortest route, is more than two times the radius specified for the sec-  
19 ond convenience zone or, if only one convenience zone is specified by the commission, two times the  
20 radius specified for that convenience zone.

21 (8) Not more than 60 days after issuance of notice from the commission under ORS 459A.735 (4),  
22 a dealer shall provide the commission with written documentation confirming compliance with each  
23 of the requirements of this section that are applicable to the dealer receiving notice.

24 **SECTION 10.** Section 4, chapter 106, Oregon Laws 2013, is amended to read:

25 **Sec. 4.** No later than March 1 of each odd-numbered year, the Oregon Liquor Control Commis-  
26 sion shall submit a report to the Legislative Assembly regarding [*beverage container*] redemption  
27 centers approved pursuant to the provisions of ORS 459A.737. The report must include, for the two  
28 previous calendar years:

29 (1) The number of beverage containers that are returned for refund value as a percentage of the  
30 total number of beverage containers sold in this state.

31 (2) The number of [*beverage container*] redemption centers operating in this state and the number  
32 of redemption centers for which applications are pending with the commission.

33 (3) The number of beverage containers that are returned for refund value in areas designated  
34 by the commission and the number of beverage containers returned for refund value in each area  
35 in the year before the [*beverage container*] redemption center began operation.

36 (4) The number of beverage containers that are returned for refund value to [*beverage*  
37 *container*] redemption centers in this state and the number of beverage containers that are returned  
38 for refund value to dealers in this state.

39 **SECTION 11.** This 2019 Act takes effect on the 91st day after the date on which the 2019  
40 regular session of the Eightieth Legislative Assembly adjourns sine die.