

Enrolled
Senate Bill 248

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CHAPTER

AN ACT

Relating to Oregon Liquor Control Commission fees; creating new provisions; amending ORS 471.282 and 471.311; and declaring an emergency.

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

SECTION 1. ORS 471.282 is amended to read:

471.282. (1) Notwithstanding any other provision of this chapter and except as provided by ORS 471.186 (6), a person may sell and ship malt beverages, wine or cider directly to a resident of Oregon only if the person holds a direct shipper permit. The Oregon Liquor Control Commission shall issue a direct shipper permit only to:

(a) A person that holds a license issued by this state or another state that authorizes the manufacture of malt beverages, wine or cider;

(b) A person that holds a license issued by this state or another state that authorizes the sale of wine or cider produced only from grapes or other fruit grown under the control of the person;

(c) A person that holds a license authorizing the sale of malt beverages, wine or cider at retail; or

(d) A nonprofit trade association that holds a temporary sales license under ORS 471.190 and that has a membership primarily composed of persons holding winery licenses issued under ORS 471.223 or grower sales privilege licenses issued under ORS 471.227.

(2) The holder of a direct shipper permit that is a licensee of another state may deliver malt beverages under the permit only if that other state makes direct shipper permits, or the equivalent, available for the delivery of malt beverages by persons holding a license issued by the commission authorizing the manufacture or retail sale of malt beverages.

(3)(a) A person may apply for a direct shipper permit by filing an application with the commission. The application must be made in such form as may be prescribed by the commission.

(b) If the application is based on a license issued by this state, the person must include in the application the number of the license issued to the person.

(c) If the application is based on a license issued by another state, the person must include in the application a true copy of the license issued to the person by the other state or include sufficient information to allow verification of the license by electronic means or other means acceptable to the commission.

(d) If the application is based on a license issued by another state, or the application is by a nonprofit trade association described in subsection (1)(d) of this section, the person or association

must pay a [~~\$50~~] **\$100** registration fee and maintain a bond or other security described in ORS 471.155 in the minimum amount of \$1,000.

(4) Sales and shipments under a direct shipper permit:

(a) May be made only to a person who is at least 21 years of age;

(b) May be made only for personal use and not for the purpose of resale; and

(c) May not exceed two cases, containing not more than nine liters per case, to any resident per month.

(5) Sales and shipments under a direct shipper permit must be made directly to a resident of this state in containers that are conspicuously labeled with the words: "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 YEARS OR OLDER REQUIRED FOR DELIVERY."

(6) A person holding a direct shipper permit must take all actions necessary to ensure that a carrier used by the permit holder does not deliver any malt beverages, wine or cider unless the carrier:

(a) Obtains the signature of the recipient of the malt beverages, wine or cider upon delivery;

(b) Verifies by inspecting government-issued photo identification that the recipient is at least 21 years of age; and

(c) Determines that the recipient is not visibly intoxicated at the time of delivery.

(7)(a) A person holding a direct shipper permit must report to the commission on a quarterly basis all shipments of malt beverages, wine or cider made to Oregon residents under the permit. The report must be made in a form prescribed by the commission.

(b) A person holding a direct shipper permit must allow the commission to audit the permit holder's records upon request and shall make those records available to the commission in this state.

(c) A person holding a direct shipper permit consents to the jurisdiction of the commission and the courts of this state for the purpose of enforcing the provisions of this section and any related laws or rules.

(8)(a) A person holding a direct shipper permit must timely pay to the commission all taxes imposed under ORS chapter 473 on malt beverages, wine and cider sold and shipped under the permit. For the purpose of the privilege tax imposed under ORS chapter 473, all malt beverages, wine or cider sold and shipped pursuant to a direct shipper permit is sold in this state.

(b) A person holding a direct shipper permit based on a license issued by another state must timely pay to the commission all taxes imposed under ORS chapter 473 on all malt beverages, wine or cider sold and shipped directly to Oregon residents under the permit. The permit holder, not the purchaser, is responsible for the tax.

(9) A direct shipper permit must be renewed annually. If the person holds the permit based on an annual license issued by another state, the person may renew the permit by paying a [~~\$50~~] **\$100** renewal fee and providing the commission with a true copy of a current license issued to the person by the other state or with sufficient information to allow verification of the license by electronic means or other means acceptable to the commission. If the person holds the permit based on an annual license issued by this state, the person may renew the permit at the same time that the person renews the license.

(10) The commission may refuse to issue or may suspend or revoke a direct shipper permit if the permit holder fails to comply with the provisions of this section. A person may sell and ship malt beverages, wine or cider under a direct shipper permit only for as long as the person has the license issued by this state or another state that authorizes the person to hold a direct shipper permit. A direct shipper permit does not authorize the shipment of malt beverages by a permit holder described in subsection (1)(b) of this section or lacking authority as provided under subsection (2) of this section.

(11) Any person who knowingly or negligently delivers malt beverages, wine or cider under the provisions of this section to a person under 21 years of age, or who knowingly or negligently delivers malt beverages, wine or cider under the provisions of this section to a visibly intoxicated person, violates ORS 471.410.

(12) A person may not make sales and shipments of malt beverages, wine or cider directly to Oregon residents unless the person holds a direct shipper permit issued under this section. Any person who knowingly makes, participates in, transports, imports or receives a shipment of malt beverages, wine or cider that is in violation of this section commits a misdemeanor as provided in ORS 471.990 (1).

SECTION 2. ORS 471.311 is amended to read:

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

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

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

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

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

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

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

License	Minimum Fee	Bond
Brewery, including Certificate of Approval	[\$500] \$ 1,000	\$ 1,000
Winery	[\$250] \$ 500	\$ 1,000
Distillery	[\$100] \$ 200	None
Wholesale Malt Beverage and Wine	[\$275] \$ 550	\$ 1,000
Warehouse	[\$100] \$ 200	\$ 1,000
Brewery-Public House,		

including Certificate of Approval	[\$250] \$ 500	\$ 1,000
Limited On-Premises Sales	[\$200] \$ 400	None
Off-Premises Sales	[\$100] \$ 200	None
Temporary Sales	\$ 50 per day	
Grower sales privilege license	[\$250] \$ 500	\$ 1,000
Special events brewery license	\$ 10 per day	
Special events winery license	\$ 10 per day	
Special events grower sales privilege license	\$ 10 per day	
Special events brewery-public house license	\$ 10 per day	
Special events distillery license	\$ 10 per day	

(7) The fee for a certificate of approval or special certificate of approval granted under ORS 471.244 is nonrefundable and must be paid by each applicant upon the granting or committing of a certificate of approval or special certificate of approval. No bond is required for the granting of a certificate of approval or special certificate of approval. Certificates of approval are valid for a period commencing on the date of issuance and ending on December 31 of the fifth calendar year following the calendar year of issuance. The fee for a certificate of approval is ~~[\$175]~~ **\$350**. Special certificates of approval are valid for a period of 30 days. The fee for a special certificate of approval is \$10.

(8) Except as provided in subsection (9) of this section, the annual license fee for a full on-premises sales license is ~~[\$400]~~ **\$800**. No bond is required for any full on-premises sales license.

(9) The annual license fee for a full on-premises sales license held by a nonprofit private club as described in ORS 471.175 (8), or held by a nonprofit or charitable organization that is registered with the state, is ~~[\$200]~~ **\$400**.

(10) The fee for temporary use of an annual license is \$10 per day.

~~[(10)]~~ (11) The annual fee for a wine self-distribution permit is ~~[\$100]~~ **\$200**, and the minimum bond is \$1,000.

SECTION 3. If this 2019 Act becomes law after July 1, 2019, the amendments to ORS 471.282 and 471.311 by sections 1 and 2 of this 2019 Act apply retroactively to July 1, 2019, for fees charged by the Oregon Liquor Control Commission under ORS 471.282 and 471.311 for periods that begin on or after July 1, 2019.

SECTION 4. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect July 1, 2019.

Passed by Senate May 23, 2019

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 6, 2019

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Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2019

Approved:

.....M,....., 2019

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2019

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Bev Clarno, Secretary of State