

A-Engrossed
Senate Bill 590

Ordered by the Senate April 5
Including Senate Amendments dated April 5

Sponsored by Senator PROZANSKI, Representative HOLVEY (at the request of Oregon Brewers Guild) (Pre-session filed.)

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.

Conditionally limits space considered to be occupied by dealer for purposes of obligation to redeem beverage containers.

[Clarifies that brewery licensee and brewery-public house licensee may deliver malt beverages, wine or cider directly to consumer only if holding direct shipper permit.]

Repeals alcohol percentage limit for malt beverage labeled or otherwise designated as beer.

Allows Oregon Liquor Control Commission to allow multiple brewery-public house licensees to operate at single premises. Allows brewery-public house licensee to produce malt beverages for other brewery-public house licensee under custom order agreement.

A BILL FOR AN ACT

1
2 Relating to beverages; creating new provisions; amending ORS 471.200 and 471.221; and repealing
3 ORS 471.448.

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 459A.700 to**
6 **459A.740.**

7 **SECTION 2. For purposes of ORS 459A.710 and 459A.715, the space that a dealer occupies**
8 **equals the retail space if:**

9 (1) **The retail space is less than 5,000 square feet;**

10 (2) **The retail space occupies less than 50 percent of the leased or owned space where**
11 **retail operations are located; and**

12 (3) **The nonretail space is used in whole or in part for the manufacturing of beverages.**

13 **SECTION 3. ORS 471.200 is amended to read:**

14 471.200. (1) A brewery-public house license allows the licensee:

15 (a) To manufacture on the licensed premises, store, transport, sell to wholesale malt beverage
16 and wine licensees of the Oregon Liquor Control Commission and export malt beverages;

17 (b) To sell malt beverages manufactured on or off the licensed premises at retail for consumption
18 on or off the premises;

19 (c) To sell malt beverages in brewery-sealed packages at retail directly to the consumer for
20 consumption off the premises;

21 (d) To sell on the licensed premises at retail malt beverages manufactured on or off the licensed
22 premises in unpasteurized or pasteurized form directly to the consumer for consumption off the
23 premises, delivery of which may be made in a securely covered container supplied by the consumer;

24 (e) To sell wine and cider at retail for consumption on or off the premises;

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 (f) To sell for consumption off the premises wines and cider in securely covered containers
2 supplied by the consumer and having capacities of not more than two gallons each;

3 (g) To conduct the activities, except manufacturing, described in paragraphs (a) to (f) of this
4 subsection at two locations other than the premises where the manufacturing occurs;

5 (h) To obtain a special events brewery-public house license entitling the holder to conduct the
6 activities allowed under paragraphs (b) to (f) of this subsection at a designated location other than
7 the location set forth in the brewery-public house license for a period not exceeding five days;

8 (i) To distribute malt beverages manufactured at the licensed premises to any other premises
9 licensed to the same licensee, whether a manufacturer, wholesaler or retail premises; and

10 (j) To distribute for export, in any amount, malt beverages manufactured at the licensed prem-
11 ises.

12 (2) In addition to the privileges specified in subsection (1) of this section, in any calendar year
13 a brewery-public house licensee may sell at wholesale and distribute to licensees of the commission
14 no more than 7,500 barrels of malt beverages produced by the brewery-public house licensee.

15 (3) A brewery-public house licensee, or any person having an interest in the licensee, is a retail
16 licensee for the purposes of ORS 471.394 and, except as otherwise provided by this section and ORS
17 471.396, may not acquire or hold any right, title, lien, claim or other interest, financial or otherwise,
18 in, upon or to the premises, equipment, business or merchandise of any manufacturer or wholesaler,
19 as defined in ORS 471.392. A brewery-public house licensee, or any person having an interest in the
20 licensee, is also a manufacturer for the purposes of ORS [471.398] **471.394** and, except as otherwise
21 provided by this section and ORS [471.400] **471.398**, may not acquire or hold any right, title, lien,
22 claim or other interest, financial or otherwise, in, upon or to the premises, equipment, business or
23 merchandise of any other retail licensee, as defined in ORS 471.392.

24 (4)(a) **Except as provided in this subsection**, a brewery-public house licensee, or any person
25 having an interest in the licensee, is a retail licensee for the purposes of ORS 471.398 and, except
26 as otherwise provided by this section and ORS 471.400, may not accept directly or indirectly any
27 financial assistance described in ORS 471.398 from any manufacturer or wholesaler, as defined in
28 ORS 471.392. A brewery-public house licensee, or any person having an interest in the licensee, is
29 also a manufacturer for the purposes of ORS 471.398 and, except as otherwise provided by this sec-
30 tion and ORS 471.400, may not provide directly or indirectly any financial assistance described in
31 ORS 471.398 to any retail licensee, as defined in ORS 471.392. The prohibitions on financial assist-
32 ance in ORS 471.398 do not apply to financial assistance between manufacturing and retail busi-
33 nesses licensed to the same person under the provisions of this section.

34 (b) **The commission may issue more than one brewery-public house license at a single**
35 **premises if each licensee:**

36 (A) **Has a valid Brewer's Notice issued by the federal Alcohol and Tobacco Tax and Trade**
37 **Bureau; and**

38 (B) **Otherwise complies with ORS 471.398.**

39 (c) **A brewery-public house licensee may produce malt beverages for another brewery-**
40 **public house licensee under a custom order agreement. The commission may adopt rules**
41 **regarding the contents of custom order agreements.**

42 (5) Notwithstanding subsection (3) of this section, a brewery-public house licensee, or any person
43 having an interest in the licensee, may also hold a winery license authorized by ORS 471.223. A
44 brewery-public house licensee, or any person having an interest in the licensee, may also hold a
45 warehouse license authorized by ORS 471.242.

1 (6) Notwithstanding subsection (3) of this section, a brewery-public house licensee is eligible for
2 limited on-premises sales licenses and temporary sales licenses.

3 (7) Notwithstanding subsection (3) of this section, a brewery-public house licensee, or any person
4 having an interest in the licensee, may also hold a full on-premises sales license. If a person holds
5 both a brewery-public house license and a full on-premises sales license, nothing in this chapter shall
6 prevent the sale by the licensee of both distilled liquor and malt beverages manufactured under the
7 brewery-public house license.

8 (8) Notwithstanding any other provision of this chapter, a brewery-public house licensee, or any
9 person having an interest in the licensee, may also hold a distillery license. No provision of this
10 chapter prevents a brewery-public house licensee that also holds a distillery license from being ap-
11 pointed by the commission as the distillery's retail outlet agent for the purpose of selling distilled
12 liquors under ORS 471.230.

13 (9) Notwithstanding subsection (3) of this section, the commission by rule may authorize a
14 brewery-public house licensee to coproduce special events with other manufacturers.

15 (10)(a) Notwithstanding subsection (3) of this section, a brewery-public house licensee may hold,
16 directly or indirectly, an interest in a manufacturer or wholesaler, provided that the interest does
17 not result in exercise of control over, or participation in the management of, the manufacturer's or
18 wholesaler's business or business decisions and does not result in exclusion of any competitor's
19 brand of alcoholic liquor.

20 (b) Notwithstanding subsection (3) of this section, a manufacturer or wholesaler, and any officer,
21 director or substantial stockholder of any corporate manufacturer or wholesaler, may hold, directly
22 or indirectly, an interest in a brewery-public house licensee, provided that the interest does not re-
23 sult in exercise of control over, or participation in the management of, the licensee's business or
24 business decisions and does not result in exclusion of any competitor's brand of alcoholic liquor.

25 (11) For purposes of ORS chapter 473, a brewery-public house licensee shall be considered to
26 be a manufacturer.

27 **SECTION 4.** ORS 471.221 is amended to read:

28 471.221. (1) As used in this section, "common control" means:

29 (a) That a manufacturer, or any officer, director, substantial stockholder or other substantial
30 equity holder in the manufacturer:

- 31 (A) Directly or indirectly holds 50 percent or more interest in the brewery licensee; or
- 32 (B) Has authority to direct the management of the brewery licensee; or

33 (b) That a brewery licensee, or any officer, director, substantial stockholder or other substantial
34 equity holder in the brewery licensee:

- 35 (A) Directly or indirectly holds 50 percent or more interest in another manufacturer; or
- 36 (B) Has authority to direct the management of another manufacturer.

37 (2) A brewery license authorizes the licensee to:

38 (a) Manufacture malt beverages on the licensed premises.

39 (b) Sell to wholesale malt beverage and wine licensees, import, store, transport or export:

40 (A) Malt beverages produced on the licensed premises; or

41 (B) Malt beverages of a brand produced by a manufacturer that is under common control with
42 the brewery licensee.

43 (c) Sell wine, malt beverages or cider on the licensed premises at retail for consumption on or
44 off the licensed premises.

45 (d) Sell, in securely covered containers supplied by the consumer and having a capacity of not

1 more than two gallons each, wine, malt beverages or cider for off-premises consumption.

2 (e) Obtain a special events brewery license that entitles the holder to conduct the activities al-
3 lowed under paragraphs (c) and (d) of this subsection at a designated location other than the one
4 set forth in the brewery license for a period not exceeding five days.

5 (f) Notwithstanding ORS 471.392 to 471.400, subject to ORS 471.175, hold a full on-premises sales
6 license.

7 (g) Conduct any activities authorized under paragraph (c), (d) or (f) of this subsection at up to
8 two additional locations approved by the **Oregon Liquor Control** Commission.

9 (3) Subject to ORS 471.235, a brewery licensee may hold a wholesale malt beverage and wine
10 license. A brewery licensee must hold a wholesale malt beverage and wine license if the brewery
11 licensee:

12 (a) Imports, stores, transports or exports malt beverages of brands that are not produced by the
13 licensee or a manufacturer under common control with the licensee; or

14 (b) Except as provided in this paragraph, sells or distributes malt beverages. This paragraph
15 does not apply to malt beverages described in subsection (2)(a) or (b) of this section sold at a li-
16 censed premises described in subsection (2)(a) of this section.

17 (4) A brewery licensee and a winery licensee may not be under common control unless the
18 winery licensee:

19 (a) Uses its premises to produce wine or cider; and

20 (b) Holds a valid producer and blender basic permit issued by the federal Alcohol and Tobacco
21 Tax and Trade Bureau.

22 (5) Notwithstanding any other provision of this chapter, a brewery licensee, a manufacturer that
23 is under common control with the brewery licensee or any officer, director, substantial stockholder
24 or other substantial equity holder in the brewery licensee or in a manufacturer that is under com-
25 mon control with the brewery licensee may not sell malt beverages at retail at more than three lo-
26 cations in this state regardless of the number or type of licenses held by the licensee, manufacturer,
27 officer, director, stockholder or equity holder.

28 **(6) A brewery licensee may produce malt beverages for a brewery-public house licensee**
29 **under a custom order agreement. The commission may adopt rules regarding the contents**
30 **of custom order agreements.**

31 **SECTION 5. ORS 471.448 is repealed.**

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