

## Enrolled Senate Bill 93

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CHAPTER .....

AN ACT

Relating to beverage container redemption centers; creating new provisions; and amending ORS 459A.700, 459A.715, 459A.735, 459A.737 and 459A.738 and section 4, chapter 106, Oregon Laws 2013.

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

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

459A.700. As used in ORS 459.992 (3) and (4) and 459A.700 to 459A.740, unless the context requires otherwise:

- (1) "Beverage" means a fluid described in ORS 459A.702.
- (2) "Beverage container" means a container described in ORS 459A.702.
- (3) "Commission" means the Oregon Liquor Control Commission.
- (4) "Consumer" means every person who purchases a beverage in a beverage container for use or consumption.
- (5) "Dealer" means every person in this state who engages in the sale of beverages in beverage containers to a consumer, or means a **full-service** redemption center [*certified*] **approved** under ORS 459A.735.

**(6) "Dealer redemption center" means a location that meets the requirements of section 3 of this 2019 Act, at which any person may return empty beverage containers and receive payment of the refund value of the beverage containers.**

[(6)] (7) "Distributor" means every person who engages in the sale of beverages in beverage containers to a dealer in this state including any manufacturer who engages in such sales.

**(8) "Full-service redemption center" means a location that meets the requirements of ORS 459A.737, at which any person may return empty beverage containers and receive payment of the refund value of the beverage containers.**

[(7)] (9) "Importer" means any dealer or manufacturer who directly imports beverage containers into this state.

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

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

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

**(13) “Redemption center” means a full-service redemption center or a dealer redemption center.**

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

~~[(12)]~~ **(15) “Water and flavored water” means any beverage identified through the use of letters, words or symbols on its product label as a type of water.**

**SECTION 2. Section 3 of this 2019 Act and ORS 459A.738 and 459A.739 are added to and made a part of ORS 459A.700 to 459A.740.**

**SECTION 3. (1) Any person may establish a dealer redemption center to serve one or more dealers doing business in an area that is not part of a convenience zone specified by the Oregon Liquor Control Commission under ORS 459A.738.**

**(2) Notwithstanding any other provision of ORS 459A.700 to 459A.740, a dealer redemption center must:**

**(a) Provide secure drop off service at no charge for empty beverage containers to be returned by any person for the refund value established by ORS 459A.705 in a bag or other bulk return container sold for that purpose;**

**(b) Provide an accounting mechanism by which a person may redeem the refund value of beverage containers returned in bulk either immediately in cash from a dealer participating in the dealer redemption center or no later than one week after the beverage containers are dropped off;**

**(c) Be serviced by a distributor cooperative for purposes of transporting and processing redeemed beverage containers;**

**(d) Be available for persons to return beverage containers to the dealer redemption center during any time that a participating dealer is open between the hours of 8 a.m. and 8 p.m.; and**

**(e) Be of a sufficient capacity to provide convenient service to the public as the commission may determine.**

**(3) A dealer redemption center may provide services other than those specified in subsection (2) of this section as determined necessary by the person responsible for operation of the dealer redemption center.**

**(4) A distributor cooperative that services dealer redemption centers shall:**

**(a) Provide notice to the commission no later than 14 days after the date that a dealer redemption center:**

**(A) Begins providing drop off service to persons for the return of empty beverage containers; or**

**(B) Ceases operations; and**

**(b) Annually provide to the commission the names and addresses of the dealers served by all dealer redemption centers serviced by the distributor cooperative, and such additional information as the commission may require.**

**(5)(a) A dealer that participates in, is served by and pays the cost of participation in a dealer redemption center may, notwithstanding any other provision of ORS 459A.700 to 459A.740, refuse to accept and to pay the refund value of more than 24 individual empty beverage containers returned by any one person during one day.**

**(b) If a dealer redemption center is established in a city having a population of less than 10,000 people, the Oregon Liquor Control Commission shall specify a dealer redemption center convenience zone. The dealer redemption center convenience zone shall be the sector within a radius of not more than one mile around the dealer redemption center. Any dealer doing business within a dealer redemption center convenience zone may participate in, be served by and pay the cost of participation in the dealer redemption center and receive the benefit provided for in paragraph (a) of this subsection.**

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

**Sec. 4.** No later than March 1 of each odd-numbered year, the Oregon Liquor Control Commission shall submit a report to the Legislative Assembly regarding [beverage container] **full-service redemption centers approved pursuant to the provisions of ORS 459A.737 and dealer redemption centers established pursuant to section 3 of this 2019 Act.** The report must include, for the two previous calendar years:

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

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

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

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

**SECTION 5.** ORS 459A.715 is amended to read:

459A.715. (1) A dealer may refuse to accept from any person, and a distributor or importer may refuse to accept from a dealer, any empty beverage container that does not state thereon a refund value as established by ORS 459A.705.

(2) A dealer may refuse to accept and to pay the refund value of:

(a) Empty beverage containers if the place of business of the dealer and the kind of empty beverage containers are included in an order of the Oregon Liquor Control Commission approving a **full-service** redemption center under ORS 459A.735.

(b) Any beverage container visibly containing or contaminated by a substance other than water, residue of the original contents or ordinary dust.

(c)(A) More than 144 individual beverage containers returned by any one person during one day, if the dealer occupies a space of 5,000 or more square feet in a single area.

(B) More than 50 individual beverage containers returned by any one person during one day, if the dealer occupies a space of less than 5,000 square feet in a single area.

(d) Any beverage container that is damaged to the extent that the brand appearing on the container cannot be identified.

(3)(a) In order to refuse containers under subsection (2)(b), (c)(A) or (d) of this section, if a dealer occupies a space of 5,000 or more square feet in a single area, the dealer must post in each area where containers are received a clearly visible and legible sign containing the following information:

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NOTICE:

Oregon Law allows a dealer to refuse to accept:

1. Beverage containers visibly containing or contaminated by a substance other than water, residue of the original contents or ordinary dust;

2. More than 144 individual beverage containers from any one person during one day; or

3. Beverage containers that are damaged to the extent that the brand appearing on the container cannot be identified.

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(b) In order to refuse containers under subsection (2)(b), (c)(B) or (d) of this section, if a dealer occupies a space of less than 5,000 square feet in a single area, the dealer must post in each area where containers are received a clearly visible and legible sign containing the following information:

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NOTICE:

Oregon Law allows a dealer to refuse to accept:

1. Beverage containers visibly containing or contaminated by a substance other than water, residue of the original contents or ordinary dust;
2. More than 50 individual beverage containers from any one person during one day; or
3. Beverage containers that are damaged to the extent that the brand appearing on the container cannot be identified.

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**SECTION 6.** ORS 459A.735 is amended to read:

459A.735. (1) To facilitate the return of empty beverage containers and to serve dealers of beverages, any person may establish a **full-service** redemption center, subject to the approval of the Oregon Liquor Control Commission, at which any person may return empty beverage containers and receive payment of the refund value of such beverage containers.

(2) Application for approval of a **full-service** redemption center shall be filed with the commission. The application shall state the name and address of the person responsible for the establishment and operation of the **full-service** redemption center, the kind of beverage containers that will be accepted at the **full-service** redemption center, the names and addresses of the dealers to be served by the **full-service** redemption center and proposals for up to two convenience zones described in ORS 459A.738. The application shall include such additional information as the commission may require.

(3) The commission shall approve a **full-service** redemption center if it finds the redemption center will provide a convenient service to persons for the return of empty beverage containers. The order of the commission approving a **full-service** redemption center shall state:

- (a) The location of the convenience zones specified by the commission under ORS 459A.738 (1);
- (b) The dealers within the convenience zones to be served by the **full-service** redemption center;
- (c) The dealers within the convenience zones not to be served by or not participating in the **full-service** redemption center;
- (d) The services to be provided by the redemption center and the equivalent services required to be provided under ORS 459A.738 (5) by a dealer that does not participate in, and is not served by, the **full-service** redemption center;
- (e) The kind of empty beverage containers that the **full-service** redemption center must accept;

[and]

**(f) Whether the full-service redemption center will be located in an area zoned for commercial use under state statute or local ordinance or will be located in an area that will provide more convenient service given the proximity of the location to the dealers within the convenience zones to be served by the full-service redemption center; and**

[(f)] **(g)** Such other provisions to ensure [the] **that the full-service** redemption center will provide a convenient service to the public as the commission may determine.

**(4) A full-service redemption center approved by the commission under this section is not a recycling depot for purposes of ORS 90.318, 459A.007, 459A.010, 459A.050 or 459A.080.**

[(4)(a)] **(5)(a)** No later than five days after approving a **full-service** redemption center under subsection (3) of this section, the commission shall provide written notice to each dealer that is identified in the order approving the **full-service** redemption center as a dealer within the convenience zones not to be served by or not participating in the **full-service** redemption center.

(b) The notice required under this subsection shall include:

(A) All information required to be in the order approving the **full-service** redemption center under subsection (3) of this section; and

(B) Notice of the provisions of ORS 459A.738 that are applicable to the dealer receiving the notice.

[(5)] (6) The commission may review at any time approval of a **full-service** redemption center. After written notice to the person responsible for the establishment and operation of the **full-service** redemption center, and to the dealers served by the **full-service** redemption center, the commission may, after hearing, withdraw approval of a **full-service** redemption center if the commission finds there has not been compliance with its order approving the **full-service** redemption center, or if the **full-service** redemption center no longer provides a convenient service to the public.

**SECTION 7.** ORS 459A.737 is amended to read:

459A.737. (1) Pursuant to the provisions of ORS 459A.735, the Oregon Liquor Control Commission:

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

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

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

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

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

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

(d) May provide other services as determined necessary by the person responsible for the operation of the [*beverage container*] **full-service** redemption center.

(3) The commission may adopt all rules necessary to implement and administer the provisions of this section, **section 3 of this 2019 Act** and ORS 459A.738.

**SECTION 8.** ORS 459A.738 is amended to read:

459A.738. (1) For each [*beverage container*] **full-service** redemption center, the Oregon Liquor Control Commission shall specify up to two convenience zones. The first convenience zone shall be the sector within a radius of not more than two miles around the [*beverage container*] **full-service** redemption center. The second convenience zone shall be the sector beginning at the border of the first convenience zone and continuing to a radius of not more than three and one-half miles around the [*beverage container*] **full-service** redemption center. The convenience zones shall be based to the greatest extent practicable upon the proposals submitted as part of the application for approval of the **full-service** redemption center under ORS 459A.735.

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

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

(4) All dealers doing business within either convenience zone that occupy a space of less than 5,000 square feet in a single area may, notwithstanding any other provision of ORS 459A.700 to

459A.740, refuse to accept and to pay the refund value of more than 24 individual empty beverage containers returned by any one person during one day.

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

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

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

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

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

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

(i) Except as provided in subsection (6) of this section, no later than 60 days after issuance of the notice required under ORS 459A.735 [(4)] (5); and

(ii) No later than January 1 of each calendar year following the year that the notice under ORS 459A.735 [(4)] (5) was issued and for which the dealer intends to claim the exemption.

(d) The commission shall ensure compliance with this subsection by a dealer described in paragraph (a) of this subsection that is not subject to an exemption under paragraph (c) of this subsection.

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

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

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

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

(8) Not more than 60 days after issuance of notice from the commission under ORS 459A.735 [(4)] (5), a dealer shall provide the commission with written documentation confirming compliance with each of the requirements of this section that are applicable to the dealer receiving notice.

**Passed by Senate April 16, 2019**

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

**Passed by House May 29, 2019**

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Tina Kotek, Speaker of House

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**Approved:**

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Kate Brown, Governor

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Bev Clarno, Secretary of State