

Requested by SENATE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

**PROPOSED AMENDMENTS TO
SENATE BILL 590**

1 On page 1 of the printed bill, delete lines 5 through 29 and delete pages
2 2 through 4 and insert:

3 **“SECTION 1. Section 2 of this 2019 Act is added to and made a part**
4 **of ORS 459A.700 to 459A.740.**

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

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

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

10 **“(3) The nonretail space is used in whole or in part for the manu-**
11 **facturing of beverages.**

12 **“SECTION 3. ORS 471.200 is amended to read:**

13 **“471.200. (1) A brewery-public house license allows the licensee:**

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

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

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

21 **“(d) To sell on the licensed premises at retail malt beverages manufac-**

1 tured on or off the licensed premises in unpasteurized or pasteurized form
2 directly to the consumer for consumption off the premises, delivery of which
3 may be made in a securely covered container supplied by the consumer;

4 “(e) To sell wine and cider at retail for consumption on or off the prem-
5 ises;

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

9 “(g) To conduct the activities, except manufacturing, described in para-
10 graphs (a) to (f) of this subsection at two locations other than the premises
11 where the manufacturing occurs;

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

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

19 “(j) To distribute for export, in any amount, malt beverages manufactured
20 at the licensed premises.

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

25 “(3) A brewery-public house licensee, or any person having an interest in
26 the licensee, is a retail licensee for the purposes of ORS 471.394 and, except
27 as otherwise provided by this section and ORS 471.396, may not acquire or
28 hold any right, title, lien, claim or other interest, financial or otherwise, in,
29 upon or to the premises, equipment, business or merchandise of any man-
30 ufacturer or wholesaler, as defined in ORS 471.392. A brewery-public house

1 licensee, or any person having an interest in the licensee, is also a man-
2 ufacturer for the purposes of ORS [471.398] **471.394** and, except as otherwise
3 provided by this section and ORS [471.400] **471.398**, may not acquire or hold
4 any right, title, lien, claim or other interest, financial or otherwise, in, upon
5 or to the premises, equipment, business or merchandise of any other retail
6 licensee, as defined in ORS 471.392.

7 **“(4)(a) Except as provided in this subsection,** a brewery-public house
8 licensee, or any person having an interest in the licensee, is a retail licensee
9 for the purposes of ORS 471.398 and, except as otherwise provided by this
10 section and ORS 471.400, may not accept directly or indirectly any financial
11 assistance described in ORS 471.398 from any manufacturer or wholesaler,
12 as defined in ORS 471.392. A brewery-public house licensee, or any person
13 having an interest in the licensee, is also a manufacturer for the purposes
14 of ORS 471.398 and, except as otherwise provided by this section and ORS
15 471.400, may not provide directly or indirectly any financial assistance de-
16 scribed in ORS 471.398 to any retail licensee, as defined in ORS 471.392. The
17 prohibitions on financial assistance in ORS 471.398 do not apply to financial
18 assistance between manufacturing and retail businesses licensed to the same
19 person under the provisions of this section.

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

22 **“(A) Has a valid Brewer’s Notice issued by the federal Alcohol and**
23 **Tobacco Tax and Trade Bureau; and**

24 **“(B) Otherwise complies with ORS 471.398.**

25 **“(c) A brewery-public house licensee may produce malt beverages**
26 **for another brewery-public house licensee under a custom order**
27 **agreement. The commission may adopt rules regarding the contents**
28 **of custom order agreements.**

29 **“(5) Notwithstanding subsection (3) of this section,** a brewery-public house
30 licensee, or any person having an interest in the licensee, may also hold a

1 winery license authorized by ORS 471.223. A brewery-public house licensee,
2 or any person having an interest in the licensee, may also hold a warehouse
3 license authorized by ORS 471.242.

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

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

13 “(8) Notwithstanding any other provision of this chapter, a brewery-public
14 house licensee, or any person having an interest in the licensee, may also
15 hold a distillery license. No provision of this chapter prevents a brewery-
16 public house licensee that also holds a distillery license from being appointed
17 by the commission as the distillery’s retail outlet agent for the purpose of
18 selling distilled liquors under ORS 471.230.

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

22 “(10)(a) Notwithstanding subsection (3) of this section, a brewery-public
23 house licensee may hold, directly or indirectly, an interest in a manufacturer
24 or wholesaler, provided that the interest does not result in exercise of con-
25 trol over, or participation in the management of, the manufacturer’s or
26 wholesaler’s business or business decisions and does not result in exclusion
27 of any competitor’s brand of alcoholic liquor.

28 “(b) Notwithstanding subsection (3) of this section, a manufacturer or
29 wholesaler, and any officer, director or substantial stockholder of any cor-
30 porate manufacturer or wholesaler, may hold, directly or indirectly, an in-

1 terest in a brewery-public house licensee, provided that the interest does not
2 result in exercise of control over, or participation in the management of, the
3 licensee’s business or business decisions and does not result in exclusion of
4 any competitor’s brand of alcoholic liquor.

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

7 **“SECTION 4.** ORS 471.221 is amended to read:

8 “471.221. (1) As used in this section, ‘common control’ means:

9 “(a) That a manufacturer, or any officer, director, substantial stockholder
10 or other substantial equity holder in the manufacturer:

11 “(A) Directly or indirectly holds 50 percent or more interest in the
12 brewery licensee; or

13 “(B) Has authority to direct the management of the brewery licensee; or

14 “(b) That a brewery licensee, or any officer, director, substantial stock-
15 holder or other substantial equity holder in the brewery licensee:

16 “(A) Directly or indirectly holds 50 percent or more interest in another
17 manufacturer; or

18 “(B) Has authority to direct the management of another manufacturer.

19 “(2) A brewery license authorizes the licensee to:

20 “(a) Manufacture malt beverages on the licensed premises.

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

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

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

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

28 “(d) Sell, in securely covered containers supplied by the consumer and
29 having a capacity of not more than two gallons each, wine, malt beverages
30 or cider for off-premises consumption.

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

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

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

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

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

16 “(b) Except as provided in this paragraph, sells or distributes malt
17 beverages. This paragraph does not apply to malt beverages described in
18 subsection (2)(a) or (b) of this section sold at a licensed premises described
19 in subsection (2)(a) of this section.

20 “(4) A brewery licensee and a winery licensee may not be under common
21 control unless the winery licensee:

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

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

25 “(5) Notwithstanding any other provision of this chapter, a brewery
26 licensee, a manufacturer that is under common control with the brewery
27 licensee or any officer, director, substantial stockholder or other substantial
28 equity holder in the brewery licensee or in a manufacturer that is under
29 common control with the brewery licensee may not sell malt beverages at
30 retail at more than three locations in this state regardless of the number or

1 type of licenses held by the licensee, manufacturer, officer, director, stock-
2 holder or equity holder.

3 **“(6) A brewery licensee may produce malt beverages for a brewery-**
4 **public house licensee under a custom order agreement. The commis-**
5 **sion may adopt rules regarding the contents of custom order**
6 **agreements.**

7 **“SECTION 5. ORS 471.448 is repealed.”.**

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