

D R A F T

SUMMARY

Modifies definition of “dealer” and defines “direct distributor” for purposes of Bottle Bill. Establishes fees for distributors not participating in distributor cooperative. Requires distributors, other than direct distributors, to establish program for processing and paying refund value for beverage containers.

Modifies requirements for notices displayed by dealers.

Modifies civil penalties for distributors for violations of certain provisions of Bottle Bill.

Requires distributor cooperative to report to Legislative Assembly no later than February 15 of each year regarding expansion activities for previous calendar year and expansion priorities for current year.

Requires payment of refund value for wine in cans beginning January 1, 2024.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to Oregon’s program for redemption of beverage container refund
3 values; creating new provisions; amending ORS 459A.700, 459A.702,
4 459A.705, 459A.715, 459A.717 and 459A.718; and prescribing an effective
5 date.

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

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

8 459A.700. As used in ORS [*459.992 (3) and (4) and*] 459A.700 to 459A.744,
9 unless the context requires otherwise:

10 (1) “Beverage” means a fluid described in ORS 459A.702.

11 (2) “Beverage container” means a container described in ORS 459A.702.

12 (3) “Commission” means the Oregon Liquor and Cannabis Commission.

13 (4) “Consumer” means every person who purchases a beverage in a

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 beverage container for use or consumption.

2 (5)(a) “Dealer” means every person in this state who engages in the sale
3 of beverages in beverage containers to a consumer, or means a full-service
4 redemption center approved under ORS 459A.735.

5 (b) “Dealer” does not include a person that is exempt from the re-
6 quirements of ORS 459A.700 to 459A.744 pertaining to dealers, as es-
7 tablished by the commission by rule.

8 (6) “Dealer redemption center” means a location that meets the require-
9 ments of ORS 459A.741, at which any person may return empty beverage
10 containers and receive payment of the refund value of the beverage con-
11 tainers.

12 (7) “Direct distributor” means a manufacturer that:

13 (a) Sells directly, to one or more dealers in this state, beverages in
14 beverage containers filled by the manufacturer; and

15 (b) Does not sell to dealers beverages manufactured by others.

16 [(7)] (8) “Distributor” means every person who engages in the sale of
17 beverages in beverage containers to a dealer in this state, including [*any*
18 *manufacturer who engages in such sales*] **direct distributors.**

19 [(8)] (9) “Full-service redemption center” means a location that meets the
20 requirements of ORS 459A.737, at which any person may return empty
21 beverage containers and receive payment of the refund value of the beverage
22 containers.

23 [(9)] (10) “Hard seltzer” means any sugar-based alcoholic beverage that
24 contains carbonated water or any malt-based alcoholic beverage that con-
25 tains carbonated water and is not a malt beverage, as defined in ORS 471.001.

26 [(10)] (11) “Importer” means any dealer or manufacturer who directly im-
27 ports beverage containers into this state.

28 [(11)] (12) “In this state” means within the exterior limits of the State of
29 Oregon and includes all territory within these limits owned by or ceded to
30 the United States of America.

31 [(12)] (13) “Kombucha” means a fermented beverage that is made from tea

1 and contains not more than 21 percent of alcohol by volume.

2 [(13)] (14) “Manufacturer” means every person bottling, canning or oth-
3 erwise filling beverage containers for sale to distributors, importers or deal-
4 ers.

5 [(14)] (15) “Place of business of a dealer” means the location at which a
6 dealer sells or offers for sale beverages in beverage containers to consumers.

7 [(15)] (16) “Redemption center” means a full-service redemption center or
8 a dealer redemption center.

9 [(16)] (17) “Use or consumption” includes the exercise of any right or
10 power over a beverage incident to the ownership thereof, other than the sale
11 or the keeping or retention of a beverage for the purposes of sale.

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

15 [(18)] (19) “Wine” has the meaning given that term in ORS 471.001, except
16 that “wine” does not mean hard seltzer or kombucha.

17 **SECTION 2. Sections 3 and 4 of this 2022 Act are added to and made**
18 **a part of ORS 459A.700 to 459A.744.**

19 **SECTION 3. (1) A direct distributor that does not participate in a**
20 **distributor cooperative under ORS 459A.718 shall pay to the Oregon**
21 **Liquor and Cannabis Commission the fee described in subsection (2)**
22 **of this section for each calendar year, or part thereof, that the direct**
23 **distributor operates in this state. A direct distributor shall pay the fee**
24 **no later than January 1 of each year for which the fee applies.**

25 **(2) The fee required under subsection (1) of this section is:**

26 **(a) \$25,000 for a direct distributor that sells in total to one or more**
27 **dealers, or to consumers for off-premises consumption, fewer than two**
28 **million individual beverage containers in the preceding calendar year.**

29 **(b) \$150,000 for a direct distributor that sells in total to one or more**
30 **dealers, or to consumers for off-premises consumption, two million or**
31 **more individual beverage containers in the preceding calendar year.**

1 (3) Notwithstanding subsections (1) and (2) of this section, a direct
2 distributor that receives notice from the commission that the direct
3 distributor is in violation of this section may cure the violation by
4 paying the fee or participating in a distributor cooperative under ORS
5 459A.718 within:

6 (a) 30 days from the date of the notice, if the direct distributor sold
7 in total to one or more dealers, or to consumers for off-premise con-
8 sumption, 15,000 or more individual beverage containers in the pre-
9 ceding calendar year; or

10 (b) One year from the date of the notice, if the direct distributor
11 sold in total to a dealer, or to consumers for off-premises consump-
12 tion, fewer than 15,000 individual beverage containers in the preceding
13 calendar year.

14 (4) Fees collected by the commission under this section shall be
15 deposited in the Bottle Bill Fund established under ORS 459A.744.

16 SECTION 4. (1) A distributor, other than a direct distributor, that
17 does not participate in a distributor cooperative under ORS 459A.718
18 shall establish a program for:

19 (a) Paying the refund value specified in ORS 459A.705 for beverage
20 containers sold in this state; and

21 (b) Processing beverage containers sold in this state.

22 (2) The program established under this section must provide a level
23 of redemption services in the distributor's distribution area that is
24 comparable to services provided by the dealer cooperative under ORS
25 459A.718. Redemption services must include:

26 (a) Operation of a redemption center;

27 (b) Drop off service for beverage containers;

28 (c) Retail pick-up service; and

29 (d) Any other services required by the Oregon Liquor and Cannabis
30 Commission by rule.

31 (3) A distributor, other than a direct distributor, that does not

1 **participate in a distributor cooperative under ORS 459A.718 shall pay**
2 **to the commission a fee in an amount equal to \$3,000 for each re-**
3 **demption center operated in this state, regardless of the person that**
4 **operates the redemption center. Fees collected by the commission un-**
5 **der this subsection shall be deposited in the Bottle Bill Fund estab-**
6 **lished under ORS 459A.744.**

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

8 459A.717. (1) The Oregon Liquor and Cannabis Commission may impose
9 a civil penalty of at least \$50, but not more than \$500, for a violation of any
10 provision of ORS 459A.700 to 459A.744. Each day a violation occurs consti-
11 tutes a separate violation. The authority to impose a civil penalty under this
12 section is in addition to and not in lieu of the revocation and suspension
13 authority under ORS 459.992 (5) and the criminal penalty authorized by ORS
14 459.992.

15 (2) Notwithstanding subsection (1) of this section, if a dealer violates a
16 provision of ORS 459A.738, or if a distributor or importer violates a provision
17 of ORS 459A.718, the commission shall provide the dealer, distributor or
18 importer with written notice informing the dealer, distributor or importer
19 of the violation and stating that the dealer, distributor or importer may
20 avoid civil penalty for the violation by curing the violation within 60 days
21 after issuance of the notice. If the dealer, distributor or importer fails to
22 cure the violation within 60 days after issuance of the notice, the commission
23 shall impose a civil penalty of at least \$200 for the violation. Each day after
24 the 60-day period that the dealer continues to violate a provision of ORS
25 459A.738, or that the distributor or importer continues to violate a provision
26 of ORS 459A.718, is a separate offense subject to a separate civil penalty.
27 The commission is not required to provide the dealer, distributor or importer
28 with an opportunity to cure a continuing violation before imposing a civil
29 penalty for the continuing violation.

30 **(3) Notwithstanding subsection (1) of this section, if a direct dis-**
31 **tributor violates a provision of ORS 458A.700 to 459A.744, the commis-**

1 sion shall provide the direct distributor with written notice informing
2 the direct distributor of the violation and stating that the direct dis-
3 tributor may avoid civil penalty for the violation by curing the vio-
4 lation within 30 days after issuance of the notice. If the direct
5 distributor fails to cure the violation within 30 days after issuance of
6 the notice, the commission shall impose a civil penalty as provided in
7 subsection (1) of this section.

8 (4)(a) Notwithstanding subsection (1) of this section, if a distributor
9 violates the provisions of section 4 of this 2022 Act, the commission
10 shall provide the distributor with written notice informing the dis-
11 tributor of the violation and stating that the distributor may avoid
12 civil penalty for the violation by curing the violation within:

13 (A) 60 days after issuance of the notice, the commission shall im-
14 pose a civil penalty of at least \$200 for the violation.

15 (B) 160 days after issuance of the notice, the commission shall im-
16 pose a civil penalty of at least \$400 for the violation.

17 (C) 260 days after issuance of the notice, the commission shall im-
18 pose a civil penalty of at least \$1,000 for the violation.

19 (b) Each day after the 60-day period following the issuance of a
20 notice under paragraph (a) of this subsection that the distributor
21 continues to violate a provision of section 4 of this 2022 Act is a sepa-
22 rate offense subject to a separate civil penalty. The commission is not
23 required to provide the distributor with an opportunity to cure a con-
24 tinuing violation before imposing a civil penalty for the continuing
25 violation.

26 [(3)] (5) Civil penalties under this section shall be imposed as provided
27 in ORS 183.745.

28 [(4)] (6) All penalties recovered under this section shall be paid into the
29 State Treasury and credited to the General Fund and are available for gen-
30 eral governmental expenses.

31 **SECTION 6.** ORS 459A.715 is amended to read:

1 459A.715. (1) A dealer may refuse to accept from any person, and a dis-
2 tributor or importer may refuse to accept from a dealer, any empty beverage
3 container that does not state thereon a refund value as established by ORS
4 459A.705.

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

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

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

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

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

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

20 **(3) The commission shall develop and provide to dealers notices that**
21 **describe the reasons a dealer may refuse to accept and issue the refund**
22 **value for empty beverage containers under subsection (2) of this sec-**
23 **tion. The notices may contain additional information as determined**
24 **by the commission.**

25 **(4) A dealer must post in each area where beverage containers are**
26 **received a notice provided to the dealer under subsection (3) of this**
27 **section.**

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

1 [_____]

2 *NOTICE:*

3

4 *Oregon Law allows a dealer to refuse to accept:*

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

7 *2. More than 144 individual beverage containers from any one person dur-*
8 *ing one day; or*

9 *3. Beverage containers that are damaged to the extent that the brand ap-*
10 *pearing on the container cannot be identified.*

11 [_____]

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

16 [_____]

17 *NOTICE:*

18

19 *Oregon Law allows a dealer to refuse to accept:*

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

22 *2. More than 50 individual beverage containers from any one person during*
23 *one day; or*

24 *3. Beverage containers that are damaged to the extent that the brand ap-*
25 *pearing on the container cannot be identified.*

26 [_____]

27 **SECTION 7.** ORS 459A.718 is amended to read:

28 459A.718. (1) Two or more distributors or importers may establish a dis-
29 tributor cooperative for the purposes of:

30 (a) Collecting the refund value of beverage containers specified in ORS
31 459A.705 from distributors or importers and refunding to dealers the amount

1 the dealers paid for the refund value of empty beverage containers;

2 (b) Paying the refund value specified in ORS 459A.705 for beverage con-
3 tainers sold in this state;

4 (c) Processing beverage containers sold in this state; and

5 (d) Maintaining a registry of all beverage containers sold and redeemed
6 in this state.

7 (2) A distributor cooperative established under this section must service
8 a majority of the dealers in this state.

9 (3) If a distributor cooperative is established, a dealer that uses the dis-
10 tributor cooperative to redeem and process beverage containers sold in this
11 state is not required to return beverage containers to a distributor or
12 importer that does not participate in the distributor cooperative, provided
13 that the dealer or the distributor cooperative provides an accounting to the
14 distributor or importer of the beverage containers by brand and kind that
15 were distributed by the distributor or importer and subsequently redeemed
16 by the dealer or distributor cooperative.

17 (4) Upon receipt of the accounting required by subsection (3) of this sec-
18 tion, a distributor or importer that does not participate in the distributor
19 cooperative must pay the refund value of the redeemed beverage containers
20 specified in the accounting to the dealer or distributor cooperative that
21 provided the accounting.

22 (5) A distributor or importer that does not participate in a distributor
23 cooperative to redeem and process beverage containers shall register with
24 the distributor cooperative as a nonparticipating distributor or importer and
25 shall report, in a form and manner as required by the distributor cooperative,
26 information necessary for the distributor cooperative to maintain the
27 beverage container registry described in subsection (6) of this section.

28 (6) A distributor cooperative shall maintain a registry of all types of
29 beverage containers sold and redeemed in this state for all registered entities
30 that describes the beverage containers using the following information for
31 each beverage container:

1 (a) The name of the beverage contained in the beverage container as
2 identified through the use of letters, words or symbols on the product label
3 affixed to the beverage container;

4 (b) The type of beverage contained in the beverage container using an
5 appropriate categorization method for beverages as determined by the dis-
6 tributor cooperative;

7 (c) The size of the beverage container;

8 (d) Whether the beverage container is glass, metal or plastic; and

9 (e) If applicable, the universal product code or European article number
10 on the product label affixed to the beverage container.

11 (7)(a) For purposes of this subsection, beverage container return data is
12 the number of beverage containers returned for the refund value specified in
13 ORS 459A.705 in Oregon during the calendar year and the number of
14 beverage containers that carry a refund value specified in ORS 459A.705 sold
15 in Oregon during the calendar year, calculated separately.

16 (b) By July 1 of each calendar year, a distributor cooperative shall pro-
17 vide the Oregon Liquor and Cannabis Commission with a report that lists,
18 in aggregate form:

19 (A) For all distributors and importers that participate in the distributor
20 cooperative, the previous calendar year's beverage container return data,
21 calculated separately for glass, metal and plastic beverage containers; and

22 (B) The registry of all beverage containers sold and redeemed in this state
23 during the previous calendar year.

24 (c) By July 1 of each calendar year, a distributor or importer that does
25 not participate in a distributor cooperative shall provide the commission
26 with a report that lists the distributor's or the importer's beverage container
27 return data for the previous calendar year, calculated separately for glass,
28 metal and plastic beverage containers.

29 (8)(a) By August 1 of each calendar year, using the beverage container
30 return data provided in subsection (7)(b) of this section, the Oregon Liquor
31 and Cannabis Commission shall calculate the previous calendar year's per-

1 centage of beverage containers returned for the refund value specified in
2 ORS 459A.705 for each distributor cooperative. The commission shall carry
3 out the calculation separately for glass, metal and plastic beverage contain-
4 ers and shall post the percentages on the commission's website.

5 (b) By August 1 of each calendar year, using the beverage container re-
6 turn data provided in subsection (7)(c) of this section, the commission shall
7 calculate the previous calendar year's percentage of beverage containers re-
8 turned for the refund value specified in ORS 459A.705 for each distributor
9 or importer that does not participate in a distributor cooperative. The com-
10 mission shall carry out the calculation separately for glass, metal and plastic
11 beverage containers and shall post the percentages on the commission's
12 website.

13 (c) By August 1 of each calendar year, using the beverage container re-
14 turn data provided in subsection (7)(b) and (c) of this section, the commission
15 shall calculate the previous calendar year's percentage of beverage contain-
16 ers returned for the refund value specified in ORS 459A.705 for all distribu-
17 tors and importers in Oregon. The commission shall carry out the calculation
18 for all beverage containers, and separately for glass, metal and plastic
19 beverage containers, and shall post the percentages on the commission's
20 website.

21 (d) Except for the percentages described in paragraphs (a) to (c) of this
22 subsection or in a proceeding under ORS 459A.717 for a violation of sub-
23 section (7) of this section, the commission may not disclose any information
24 provided by a distributor, an importer or a distributor cooperative under
25 subsection (7) of this section.

26 (9)(a) In order to determine compliance with the provisions of subsection
27 (7) of this section, within six months of the date that the commission re-
28 ceives a report described in subsection (7)(b) and (c) of this section, the
29 commission may review or audit the records of each reporting distributor
30 cooperative, or each reporting distributor or importer that does not partic-
31 ipate in a distributor cooperative.

1 (b)(A) If in the course of a review described in paragraph (a) of this sub-
2 section the commission determines that an audit of a distributor cooperative,
3 distributor or importer is necessary, the commission shall require the dis-
4 tributor cooperative, distributor or importer to retain an independent finan-
5 cial audit firm to determine the accuracy of information contained in the
6 report. The distributor cooperative, distributor or importer that is the sub-
7 ject of review shall pay the costs of the audit. The audit must be limited to
8 the records described in paragraph (a) of this subsection.

9 (B) The commission shall adopt rules to carry out the provisions of this
10 paragraph.

11 **(10) No later than February 15 of each year, the distributor coop-**
12 **erative shall submit to the commission, and to the appropriate com-**
13 **mittees of the Legislative Assembly in the manner provided under ORS**
14 **192.245, a report that describes sites, options and access points added**
15 **during the previous calendar year and expansion priorities for the**
16 **current calendar year. The report must include a description of the**
17 **cooperative's efforts to expand and enhance alternative redemption**
18 **access opportunities for individuals who redeem containers on a daily**
19 **or near daily basis.**

20 **SECTION 8. (1) Sections 3 and 4 of this 2022 Act and the amend-**
21 **ments to ORS 459A.700, 459A.715, 459A.717 and 459A.718 by sections 1**
22 **and 5 to 7 of this 2022 Act become operative January 1, 2023.**

23 **(2) The Oregon Liquor and Cannabis Commission may adopt rules**
24 **and take any action before the operative date specified in subsection**
25 **(1) of this section that is necessary to enable the commission, on and**
26 **after the operative date specified in subsection (1) of this section, to**
27 **exercise all of the duties, powers and functions conferred on the**
28 **commission by sections 3 and 4 of this 2022 Act and the amendments**
29 **to ORS 459A.700, 459A.715, 459A.717 and 459A.718 by sections 1 and 5 to**
30 **7 of this 2022 Act.**

31 **SECTION 9. ORS 459A.702 is amended to read:**

1 459A.702. ORS 459A.700 to 459A.744 apply to:

2 (1) Any individual, separate, sealed glass, metal or plastic bottle or can,
3 except for a carton, foil pouch, drink box or metal container that requires
4 a tool to be opened, that contains any one of the following beverages, in-
5 tended for human consumption and in a quantity less than or equal to three
6 liters:

7 (a) Water or flavored water;

8 (b) Beer or another malt beverage;

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

10 (d) Kombucha; or

11 (e) Hard seltzer.

12 **(2) Wine in a can.**

13 ~~[(2)]~~ **(3)** Any beverage other than those specified in *[subsection (1)]* **sub-**
14 **sections (1) and (2)** of this section that is intended for human consumption
15 and is in a quantity more than or equal to four fluid ounces and less than
16 or equal to one and one-half liters, except distilled liquor, wine **in a con-**
17 **tainer other than a can**, dairy or plant-based milks, infant formula and any
18 other exemptions set forth in rule by the Oregon Liquor and Cannabis
19 Commission.

20 **SECTION 10.** ORS 459A.705 is amended to read:

21 459A.705. (1) Except as provided in subsections (2) and (3) of this section,
22 every beverage container sold or offered for sale in this state shall have a
23 refund value of not less than five cents.

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

26 (A) Eight months after the Oregon Liquor and Cannabis Commission de-
27 termines that, in each of the two previous calendar years, the number of
28 beverage containers returned for the refund value specified in this section
29 was less than 80 percent of the total number of beverage containers that
30 were sold in this state; or

31 (B) January 1 of the calendar year following the determination by the

1 commission described in subparagraph (A) of this paragraph.

2 (b) In making a determination under this subsection, the commission may
3 not include the beverages described in ORS 459A.702 [(2)] (3) before January
4 1, 2021.

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

8 **SECTION 11. (1) The amendments to ORS 459A.702 and 459A.705 by**
9 **sections 9 and 10 of this 2022 Act become operative January 1, 2024.**

10 **(2) The Oregon Liquor and Cannabis Commission may adopt rules**
11 **and take any action before the operative date specified in subsection**
12 **(1) of this section that is necessary to enable the commission, on and**
13 **after the operative date specified in subsection (1) of this section, to**
14 **exercise all of the duties, powers and functions conferred on the**
15 **commission by the amendments to ORS 459A.702 and 459A.705 by**
16 **sections 9 and 10 of this 2022 Act.**

17 **SECTION 12. On and after the operative date specified in section**
18 **11 of this 2022 Act and until April 1, 2025:**

19 **(1) The refund value paid for a can that contains wine as described**
20 **in ORS 459A.702 shall be not less than 10 cents, regardless of the re-**
21 **fund value, or lack of a refund value, indicated on the beverage con-**
22 **tainer.**

23 **(2) A can that contains wine may be sold or offered for sale in this**
24 **state regardless of the refund value, or lack of a refund value, indi-**
25 **cated on the beverage container, notwithstanding ORS 459A.720 (1).**

26 **SECTION 13. This 2022 Act takes effect on the 91st day after the**
27 **date on which the 2022 regular session of the Eighty-first Legislative**
28 **Assembly adjourns sine die.**

29
