

HB 2264 A STAFF MEASURE SUMMARY**Carrier:** Sen. Burdick**Senate Committee On Finance and Revenue****Action Date:** 05/11/21**Action:** Do pass the A-Eng bill.**Vote:** 5-0-0-0**Yeas:** 5 - Boquist, Burdick, Findley, Riley, Wagner**Fiscal:** Fiscal impact issued**Revenue:** No revenue impact, statement issued (Indeterminate Impact)**Prepared By:** Mazen Malik, Senior Economist**Meeting Dates:** 5/4, 5/11**WHAT THE MEASURE DOES:**

Defines "malt beverage" as beer, ale, porter, stout, and other similarly fermented beverages containing at least 0.5 percent of alcohol by volume. Changes the threshold from 14 percent to 16 percent alcohol by volume to where an additional 10 cents tax is imposed on manufacturer or importing distributor of wines. Requires holder of wine self-distribution permit and manufacturer of wine to retain records for three years and provide records to the Oregon Liquor Control Commission (OLCC) upon request. Authorizes OLCC to negotiate price in the sale of distilled liquor to Indian tribes and commercial airlines that hold full on-premises sales licenses. Adds identification issued by a territory or province of Canada to the list of acceptable forms of identification to purchase alcoholic beverages. Authorizes nonprofits and charitable organizations registered in the state to sell alcoholic beverages for up to 45 days in a calendar year without a license. Authorizes certain license holders to sell or deliver factory-sealed containers of malt beverages, wine, and cider without requiring a direct shipper permit. Allows manufacturer or wholesaler to lease or furnish equipment for no more than 14 days or a reasonable period for the equipment to be set up or removed. Declares emergency, effective upon passage.

ISSUES DISCUSSED:

- The different technical fixes needed
- Alignment with Federal definitions
- uniformity and consistency with different states and federal governments to be licensed
- Oregon having a unique and vague definition for Malt
- wineries and breweries in Oregon and their need for clarity
- Ease in accepting Canadian ID
- Different treatments mean different taxation levels
- Reformulation of the products
- Revenue implications of adopting the federal definitions

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

The Oregon Liquor Control Commission (OLCC) oversees the sale of alcoholic beverages and recreational marijuana to allow access to responsible adults while protecting Oregon's public health, safety, and community livability. The OLCC advocates responsible alcohol consumption by managing and distributing distilled spirits, licensing and regulating businesses that sell and serve alcohol, and training and issuing permits for alcohol servers.

Beer and Wine are defined and taxed differently. Under current law Beer is defined as: Malt beverage means an alcoholic beverage obtained by the fermentation of grain that contains not more than 14 percent alcohol by volume. This definition includes: 1. Beer, ale, porter, stout and similar alcoholic beverages containing not more

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than 14 percent alcohol by volume. 2. Malt beverages containing six percent or less alcohol by volume and that contain at least 51 percent alcohol by volume obtained by the fermentation of grain, as long as not more than 49 percent of the beverage's overall alcohol content is obtained from flavors and other added non-beverage ingredients containing alcohol; and 3. Malt beverages containing more than six percent alcohol by volume that derive not more than 1.5 percent of the beverage's overall alcohol content by volume from flavors and other added non-beverage ingredients containing alcohol. "Malt beverage" does not include cider or an alcoholic beverage obtained primarily by fermentation of rice, such as sake.

This measure changes the definition (section 4) of a 'malt beverage' to mean beer, ale, porter, stout and other similar fermented beverages that contain one-half one percent and not more than 16 percent alcohol by volume and that are brewed or produced from malt, wholly or in part, or from a substitute for malt, wholly or in part, or from rice, grain, bran, glucose, sugar or molasses as a substitute for malt.

The changed definition might include a class of flavored carbonated alcoholic beverages that may currently be classified as wines under Oregon law (hard seltzers). The change in definition of malt beverage expands the class of beverages that are subject to the malt beverage privilege tax rate of \$2.6 per 31 gallon barrel (\$.08 per gallon). This change in definition would include products that would otherwise be defines as wine and taxed at the wine higher tax level.

Wines are defines as: any fermented vinous liquor or fruit juice, or other fermented beverage fit for beverage purposes that is not a malt beverage, containing more than one-half of one percent of alcohol by volume and not more than 21 percent of alcohol by volume. "Wine" includes fortified wine. "Wine" does not include cider. Wine is subject to a privilege tax of \$.67 gallon, and the measure doesn't change the definition. However, dessert wine is defined as wines containing more than 14 percent alcohol by volume, and is taxed an additional \$0.10 per gallon. This measure changes the threshold of ABV for dessert wines (section 16) where an addition 10 cents tax is imposed on a manufacturer or importing distributor of wines. The new ABV for dessert wines will be wines containing more than 16 percent alcohol by volume.

The measure requires the holder of wine self-distribution permit or manufacturer of wine to retain records for three years and provide records to the OLCC upon request. The measure authorizes the OLCC to negotiate price with Indian tribes and commercial airlines in the sale of distilled liquor, while clarifying that Indian tribes and commercial airlines must hold full on-premises sales licenses as defined by statute.

The measure adds identification issued by a territory or province of Canada to the list of acceptable forms of identification to purchase alcoholic beverages, and specifies that such identification must be in the form of a motor vehicle license or other identification bearing the person's name, picture, date of birth, and physical description, while also authorizing the OLCC to define, by rule, other acceptable forms of identification for the purchase of alcoholic beverages.

The measure authorizes nonprofits and charitable organizations registered in the state to sell alcoholic beverages for up to 45 days in a calendar year without a license. The measure also authorizes certain license holders to sell or deliver factory-sealed containers of malt beverages, wine, and cider without requiring a direct shipper permit.

Finally, the measure allows a manufacturer or wholesaler to lease or furnish equipment for no more than 14 days or a reasonable period for the equipment to be set up or removed.