

Enrolled Senate Bill 406

Sponsored by Senators PROZANSKI, BEYER, Representative HOLVEY, Senator HANSELL, Representative NOBLE; Senators KENNEMER, MANNING JR, STEINER HAYWARD, THOMSEN, Representatives FAHEY, LEIF, MORGAN, NOSSE, SMITH DB, WILDE (at the request of Oregon Winegrowers Association, Oregon Wine Council) (Presession filed.)

CHAPTER

AN ACT

Relating to shipment of alcoholic beverages; amending ORS 471.282; and declaring an emergency.

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

SECTION 1. ORS 471.282 is amended to read:

471.282. (1) Notwithstanding any other provision of this chapter and except as provided by ORS 471.186 (6), a person may sell and ship malt beverages, wine or cider directly to a resident of Oregon only if the person holds a direct shipper permit. The Oregon Liquor Control Commission shall issue a direct shipper permit only to:

- (a) A person that holds a license issued by this state or another state that authorizes the manufacture of malt beverages, wine or cider;
 - (b) A person that holds a license issued by this state or another state that authorizes the sale of wine or cider produced only from grapes or other fruit grown under the control of the person;
 - (c) A person that holds a license authorizing the sale of malt beverages, wine or cider at retail;
- or
- (d) A nonprofit trade association that holds a temporary sales license under ORS 471.190 and that has a membership primarily composed of persons holding winery licenses issued under ORS 471.223 or grower sales privilege licenses issued under ORS 471.227.

(2) The holder of a direct shipper permit that is a licensee of another state may deliver malt beverages under the permit only if that other state makes direct shipper permits, or the equivalent, available for the delivery of malt beverages by persons holding a license issued by the commission authorizing the manufacture or retail sale of malt beverages.

(3)(a) A person may apply for a direct shipper permit by filing an application with the commission[. *The application must be made in such form as may be*] **in a form and manner** prescribed by the commission.

(b) If the application is based on a license issued by this state, the person [*must*] **shall** include in the application the number of the license issued to the person.

(c) If the application is based on a license issued by another state, the person [*must*] **shall** include in the application a true copy of the license issued to the person by the other state or include sufficient information to allow verification of the license by electronic means or other means acceptable to the commission.

(d) If the application is based on a license issued by another state, or the application is by a nonprofit trade association described in subsection (1)(d) of this section, the person or association

[*must*] **shall** pay a \$100 registration fee and maintain a bond or other security described in ORS 471.155 in the minimum amount of \$1,000.

(4) Sales and shipments under a direct shipper permit:

(a) May be made only to a person who is at least 21 years of age;

(b) May be made only for personal use and not for the purpose of resale; and

(c) May not exceed:

(A) Two cases[, *containing*] **of cider or malt beverages that contain** not more than nine liters per case[,] to any resident per month; **or**

(B) **Five cases of wine that contain not more than nine liters per case to any resident per month.**

(5) Sales and shipments under a direct shipper permit must be made directly to a resident of this state in containers that are conspicuously labeled with the words: "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 YEARS OR OLDER REQUIRED FOR DELIVERY."

(6) A person holding a direct shipper permit [*must*] **shall** take all actions necessary to ensure that a carrier used by the permit holder does not deliver any malt beverages, wine or cider unless the carrier:

(a) Obtains the signature of the recipient of the malt beverages, wine or cider upon delivery;

(b) Verifies by inspecting government-issued photo identification that the recipient is at least 21 years of age; and

(c) Determines that the recipient is not visibly intoxicated at the time of delivery.

(7)(a) A person holding a direct shipper permit [*must*] **shall** report to the commission on a quarterly basis all shipments of malt beverages, wine or cider made to Oregon residents under the permit. The report must be made in a form prescribed by the commission.

(b) A person holding a direct shipper permit [*must*] **shall** allow the commission to audit the permit holder's records upon request and shall make those records available to the commission in this state.

(c) A person holding a direct shipper permit consents to the jurisdiction of the commission and the courts of this state for the purpose of enforcing the provisions of this section and any related laws or rules.

(8)(a) A person holding a direct shipper permit [*must*] **shall** timely pay to the commission all taxes imposed under ORS chapter 473 on malt beverages, wine and cider sold and shipped under the permit. For the purpose of the privilege tax imposed under ORS chapter 473, all malt beverages, wine or cider sold and shipped pursuant to a direct shipper permit is sold in this state.

(b) A person holding a direct shipper permit based on a license issued by another state [*must*] **shall** timely pay to the commission all taxes imposed under ORS chapter 473 on all malt beverages, wine or cider sold and shipped directly to Oregon residents under the permit. The permit holder, not the purchaser, is responsible for the tax.

(9) A direct shipper permit must be renewed annually.

(a) If the person holds the permit based on an annual license issued by another state, the person may renew the permit by paying a \$100 renewal fee and providing the commission with a true copy of a current license issued to the person by the other state or with sufficient information to allow verification of the license by electronic means or other means acceptable to the commission.

(b) If the person holds the permit based on an annual license issued by this state, the person may renew the permit at the same time that the person renews the license.

(10) The commission may refuse to issue or may suspend or revoke a direct shipper permit if the permit holder fails to comply with the provisions of this section. A person may sell and ship malt beverages, wine or cider under a direct shipper permit only for as long as the person has the license issued by this state or another state that authorizes the person to hold a direct shipper permit. A direct shipper permit does not authorize the shipment of malt beverages by a permit holder described in subsection (1)(b) of this section or lacking authority as provided under subsection (2) of this section.

(11) Any person who knowingly or negligently delivers malt beverages, wine or cider under the provisions of this section to a person under 21 years of age, or who knowingly or negligently delivers malt beverages, wine or cider under the provisions of this section to a visibly intoxicated person, violates ORS 471.410.

(12) A person may not make sales and shipments of malt beverages, wine or cider directly to Oregon residents unless the person holds a direct shipper permit issued under this section. Any person who knowingly makes, participates in, transports, imports or receives a shipment of malt beverages, wine or cider that is in violation of this section commits a misdemeanor as provided in ORS 471.990 (1).

SECTION 2. This 2021 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect on its passage.

Passed by Senate March 18, 2021

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House May 12, 2021

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Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2021

Approved:

.....M.,....., 2021

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2021

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Shemia Fagan, Secretary of State