

SENATE AMENDMENTS TO SENATE BILL 806

By COMMITTEE ON FINANCE AND REVENUE

June 10

1 On page 1 of the printed bill, line 2, after “ORS” delete the rest of the line and delete line 3
2 and insert “471.023, 471.223, 471.282, 471.310, 471.311 and 473.015; repealing section 4, chapter __,
3 Oregon Laws 2021 (Enrolled Senate Bill 317); and declaring an emergency.”.

4 Delete lines 5 through 28 and delete pages 2 and 3 and insert:

5 “**SECTION 1.** ORS 471.023 is amended to read:

6 “471.023. For the purposes of this chapter, ‘cider’ means an alcoholic beverage made from the
7 fermentation of the juice of apples or pears that contains not more than 8.5 percent of alcohol by
8 volume, including, but not limited to, flavored, sparkling [*or*], carbonated **or fortified** cider.

9 “**SECTION 2.** ORS 471.223 is amended to read:

10 “471.223. (1) As used in this section, ‘control’ means that the licensee:

11 “(a) Owns the brand under which the wine or cider is labeled; or

12 “(b) Performs or has the legal right to perform all of the acts common to a brand owner under
13 the terms of a trademark license or similar agreement that for the brand under which the wine or
14 cider is labeled has a term of at least three years.

15 “(2) [*A winery license shall allow the licensee*] **The holder of a winery license may:**

16 “(a) [*To*] Import wine or cider in containers that have a capacity of more than four liters.

17 “(b) [*To*] Import wine or cider in containers that have a capacity of four liters or less if the
18 brand of wine or cider is under the control of the licensee.

19 “(c) [*To*] Bottle, produce, blend, store, transport or export wines or cider.

20 “(d) [*To*] Sell wines or cider at wholesale to the Oregon Liquor Control Commission or to
21 licensees of the commission.

22 “(e) [*To*] Sell wines or cider at retail directly to the consumer for consumption on or off the li-
23 censed premises.

24 “(f) [*To*] Sell malt beverages at retail for consumption on or off the licensed premises.

25 “(g) [*To*] Sell for consumption off the premises malt beverages, wines and cider in securely
26 covered containers **that are** supplied by the consumer and [*having*] **have** capacities of not more
27 than two gallons each.

28 “(h) [*To*] Conduct under [*that*] **the winery** license any activities described in paragraphs (a) to
29 (g) of this subsection at five or fewer premises designated by the commission.

30 “(i) [*To*] Purchase from or through the commission brandy or other distilled liquors for fortifying
31 wines **or cider**.

32 “(j) [*To*] Obtain a special events winery license that [*shall entitle*] **entitles** the holder to conduct
33 the activities allowed under paragraphs (e) to (g) of this subsection at a designated location other
34 than the one set forth in the winery license for a period not to exceed five days.

35 “(3) A winery licensee shall allow a patron to remove a partially consumed bottle of wine from

1 the licensed premises if the patron is not a minor and the patron is not visibly intoxicated.

2 “(4) Except as provided in subsection (5) of this section, in order to hold a winery license the
3 licensee shall:

4 “(a) Possess at a bonded premises within Oregon a valid producer and blender basic permit is-
5 sued by the federal Alcohol and Tobacco Tax and Trade Bureau; or

6 “(b) Possess a valid wine blender or valid wholesaler basic permit issued by the federal Alcohol
7 and Tobacco Tax and Trade Bureau and have a written contract with a winery licensed under par-
8 agraph (a) of this subsection that authorizes the winery to produce for the licensee a brand of wine
9 or cider that is under the control of the licensee.

10 “(5) Subsection (4) of this section does not apply if a licensee produces only cider under the
11 winery license.

12 “(6) A winery licensee may sell and ship malt beverages, wine or cider directly to a resident of
13 this state only if the licensee has a direct shipper permit issued under ORS 471.282.

14 “(7) A winery licensee, or any person having an interest in the licensee, may also hold a full
15 on-premises sales license. If a winery licensee, or a person having an interest in the licensee, also
16 holds a full on-premises sales license, the provisions of this chapter do not prevent the licensee or
17 person from both selling wine or cider bottled and produced under the winery license and selling
18 alcoholic liquor as authorized under the full on-premises sales license.

19 “(8) More than one winery licensee may exercise the privileges of a winery license at a single
20 location. The commission may not refuse to issue a winery license to a person for the production
21 of wine or cider on specified premises based on the fact that other winery licensees also produce
22 wine or cider on those premises.

23 “(9) If a winery licensee does not possess at a bonded premises within Oregon a valid producer
24 and blender basic permit issued by the federal Alcohol and Tobacco Tax and Trade Bureau, the
25 licensee may exercise the privileges described in this section only for wine and cider brands that
26 are under the control of the licensee.

27 “**SECTION 3.** ORS 471.282 is amended to read:

28 “471.282. (1) Notwithstanding any other provision of this chapter and except as provided by ORS
29 471.186 (6), a person may sell and ship malt beverages, wine or cider directly to a resident of Oregon
30 only if the person holds a direct shipper permit. The Oregon Liquor Control Commission shall issue
31 a direct shipper permit only to:

32 “(a) A person that holds a license issued by this state or another state that authorizes the
33 manufacture of malt beverages, wine or cider;

34 “(b) A person that holds a license issued by this state or another state that authorizes the sale
35 of wine or cider produced only from grapes or other fruit grown under the control of the person;

36 “(c) A person that holds a license authorizing the sale of malt beverages, wine or cider at retail;
37 or

38 “(d) A nonprofit trade association that holds a temporary sales license under ORS 471.190 and
39 that has a membership primarily composed of persons holding winery licenses issued under ORS
40 471.223 or grower sales privilege licenses issued under ORS 471.227.

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

45 “(3)(a) A person may apply for a direct shipper permit by filing an application with the

1 commission[. *The application must be made in such form as may be*] **in a manner** prescribed by the
2 commission.

3 “(b) If the application is based on a license issued by this state, the person must include in the
4 application the number of the license issued to the person.

5 “(c) If the application is based on a license issued by another state, the person must include in
6 the application a true copy of the license issued to the person by the other state or include sufficient
7 information to allow verification of the license by electronic means or other means acceptable to the
8 commission.

9 “(d) If the application is based on a license issued by another state, or the application is by a
10 nonprofit trade association described in subsection (1)(d) of this section, the person or association
11 must pay a \$100 registration fee and maintain a bond or other security described in ORS 471.155 in
12 the minimum amount of \$1,000.

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

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

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

16 “(c) May not exceed [*two*] **five** cases, containing not more than nine liters per case, to any res-
17 ident per month.

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

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

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

25 “(b) Verifies by inspecting government-issued photo identification that the recipient is at least
26 21 years of age; and

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

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

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

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

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

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

45 “(9) A direct shipper permit must be renewed annually. If the person holds the permit based on

1 an annual license issued by another state, the person may renew the permit by paying a \$100 re-
2 newal fee and providing the commission with a true copy of a current license issued to the person
3 by the other state or with sufficient information to allow verification of the license by electronic
4 means or other means acceptable to the commission. If the person holds the permit based on an
5 annual license issued by this state, the person may renew the permit at the same time that the
6 person renews the license.

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

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

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

23 “**SECTION 4.** ORS 471.310 is amended to read:

24 “471.310. Any city **or county** may, without further charter authority, become a licensee under
25 this chapter.

26 “**SECTION 5.** ORS 471.311 is amended to read:

27 “471.311. (1) *[Any person desiring]* **An applicant for** a license or renewal of a license under this
28 chapter shall *[make]* **submit an** application to the Oregon Liquor Control Commission *[upon forms*
29 *to be furnished]* **on a form provided** by the commission *[showing]* **that includes** the name and ad-
30 dress of the applicant, location of the place of business that is to be operated under the license, and
31 *[such]* **any** other pertinent information *[as]* the commission may require. *[A license may not be*
32 *granted or renewed]* **The commission may not grant or renew a license** until the applicant has
33 complied with the provisions of this chapter and the rules of the commission.

34 “(2) The commission may reject any application that is not submitted in the form required by
35 rule. The commission shall give applicants an opportunity to be heard if an application is rejected.
36 A hearing under this subsection is not subject to the requirements for contested case proceedings
37 under ORS chapter 183.

38 “[*(3) The commission shall charge an application fee, not to exceed \$150, to process an application*
39 *for the issuance of a new license under this chapter or a license following a change in ownership. The*
40 *application fee applies only to an application for a class of license having an annual license fee. The*
41 *application fee is nonrefundable, except that the commission shall refund the fee if the applicant com-*
42 *pletes, submits and maintains an application and the commission does not, on or before 75 days fol-*
43 *lowing receipt of the completed application, propose that the license be granted, granted with conditions*
44 *or refused. The commission shall adopt rules to:]*

45 “[*(a) Establish application fees by class of license; and]*”

1 “[(b) Define a completed application for purposes of this subsection.]

2 “[(4)] (3) Subject to subsection [(5)] (4) of this section, the commission shall assess a
3 nonrefundable fee for processing a renewal application for any license authorized by this chapter
4 only if the renewal application is received by the commission less than 20 days before expiration
5 of the license. If the renewal application is received prior to expiration of the license but less than
6 20 days prior to expiration, the fee shall be 25 percent of the annual license fee. If a renewal ap-
7 plication is received by the commission after expiration of the license but no more than 30 days
8 after expiration, the fee shall be 40 percent of the annual license fee. This subsection does not apply
9 to a certificate of approval, a brewery-public house license or any license that is issued for a period
10 of less than 30 days.

11 “[(5)] (4) The commission may waive the fee imposed under subsection [(4)] (3) of this section
12 if the commission finds that failure to submit a timely application was due to unforeseen circum-
13 stances or to a delay in processing the application by the local governing authority that is no fault
14 of the licensee.

15 “[(6)] (5) The license fee is nonrefundable and, **except as provided in subsection (6) of this**
16 **section**, must be paid by each applicant upon the granting or committing of a license. Subject to
17 ORS 471.155 and 473.065, the annual or daily license fee and the minimum bond required of each
18 class of license under this chapter are as follows:

19 “

	Minimum	
License	Fee	Bond
Brewery, including Certificate		
of Approval	\$ 1,000	\$ 1,000
Winery	\$ 500	\$ 1,000
Distillery	\$ 200	None
Wholesale Malt Beverage		
and Wine	\$ 550	\$ 1,000
Warehouse	\$ 200	\$ 1,000
Brewery-Public House,		
including Certificate		
of Approval	\$ 500	\$ 1,000
Limited On-Premises Sales	\$ 400	None
Off-Premises Sales	\$ 200	None
Temporary Sales	\$ 50 per day	
Grower sales privilege		
license	\$ 500	\$ 1,000
Special events brewery		
license	\$ 10 per day	
Special events winery		
license	\$ 10 per day	
Special events grower		
sales privilege		
license	\$ 10 per day	
Special events		

1 brewery-public house
2 license \$ 10 per day
3 Special events
4 distillery
5 license \$ 10 per day
6 “

7
8 “(6) The commission may allow an applicant to defer payment, or may waive payment,
9 of an annual license fee imposed under subsection (5) of this section, if the Governor declares
10 a state of emergency under ORS 401.165 or a state of public health emergency under ORS
11 433.441. The commission may by rule establish requirements for an applicant to qualify for
12 deferral or waiver of an annual license fee.

13 “(7) The fee for a certificate of approval or special certificate of approval granted under ORS
14 471.244 is nonrefundable and must be paid by each applicant upon the granting or committing of a
15 certificate of approval or special certificate of approval. [No bond is] A bond is not required for
16 the granting of a certificate of approval or special certificate of approval. Certificates of approval
17 are valid for a period commencing on the date of issuance and ending on December 31 of the fifth
18 calendar year following the calendar year of issuance. The fee for a certificate of approval is \$350.
19 Special certificates of approval are valid for a period of 30 days. The fee for a special certificate
20 of approval is \$10.

21 “(8) Except as provided in subsection (9) of this section, the annual license fee for a full on-
22 premises sales license is \$800. [No bond is] A bond is not required for any full on-premises sales
23 license.

24 “(9) The annual license fee for a full on-premises sales license held by a nonprofit private club
25 as described in ORS 471.175 (8), or held by a nonprofit or charitable organization that is registered
26 with the state, is \$400.

27 “(10) The fee for temporary use of an annual license is \$10 per day.

28 “(11) The annual fee for a wine self-distribution permit is \$200, and the minimum bond is \$1,000.

29 “**SECTION 6.** ORS 473.015 is amended to read:

30 “473.015. For the purposes of this chapter, ‘cider’ means an alcoholic beverage made from the
31 fermentation of the juice of apples or pears that contains not less than one-half of one percent and
32 not more than 8.5 percent of alcohol by volume, including, but not limited to, flavored, sparkling
33 [or], carbonated or fortified cider.

34 “**SECTION 7.** The amendments to ORS 471.023, 471.223, 471.282 and 473.015 by sections 1,
35 2, 3 and 6 of this 2021 Act apply to the manufacture or distribution of alcoholic beverages
36 occurring on or after January 1, 2022.

37 “**SECTION 8.** Section 4, chapter __, Oregon Laws 2021 (Enrolled Senate Bill 317), is re-
38 pealed.

39 “**SECTION 9.** This 2021 Act being necessary for the immediate preservation of the public
40 peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect
41 on its passage.”
42
