

Requested by Senator BEYER

**PROPOSED AMENDMENTS TO
SENATE BILL 806**

1 On page 1 of the printed bill, line 2, after “ORS” delete the rest of the
2 line and delete line 3 and insert “471.023, 471.223, 471.274, 471.282, 471.311 and
3 473.015; 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
7 beverage made from the fermentation of the juice of apples or pears that
8 contains not more than 8.5 percent of alcohol by volume, including, but not
9 limited to, flavored, sparkling [*or*], carbonated **or fortified** cider.

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

11 “471.223. (1) As used in this section, ‘control’ means that the licensee:

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

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

17 “(2) A winery license shall allow the licensee:

18 “(a) To import wine or cider in containers that have a capacity of more
19 than four liters.

20 “(b) To import wine or cider in containers that have a capacity of four
21 liters or less if the brand of wine or cider is under the control of the

1 licensee.

2 “(c) To bottle, produce, blend, store, transport or export wines or cider.

3 “(d) To sell wines or cider at wholesale to the Oregon Liquor Control
4 Commission or to licensees of the commission.

5 “(e) To sell wines or cider at retail directly to the consumer for con-
6 sumption on or off the licensed premises.

7 “(f) To sell malt beverages at retail for consumption on or off the licensed
8 premises.

9 “(g) To sell for consumption off the premises malt beverages, wines and
10 cider in securely covered containers supplied by the consumer and having
11 capacities of not more than two gallons each.

12 “(h) To conduct under that license any activities described in paragraphs
13 (a) to (g) of this subsection at five or fewer premises designated by the
14 commission.

15 “(i) To purchase from or through the commission brandy or other distilled
16 liquors for fortifying wines **or cider**.

17 “(j) To obtain a special events winery license that shall entitle the holder
18 to conduct the activities allowed under paragraphs (e) to (g) of this sub-
19 section at a designated location other than the one set forth in the winery
20 license for a period not to exceed five days.

21 “(3) A winery licensee shall allow a patron to remove a partially con-
22 sumed bottle of wine from the licensed premises if the patron is not a minor
23 and the patron is not visibly intoxicated.

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

26 “(a) Possess at a bonded premises within Oregon a valid producer and
27 blender basic permit issued by the federal Alcohol and Tobacco Tax and
28 Trade Bureau; or

29 “(b) Possess a valid wine blender or valid wholesaler basic permit issued
30 by the federal Alcohol and Tobacco Tax and Trade Bureau and have a writ-

1 ten contract with a winery licensed under paragraph (a) of this subsection
2 that authorizes the winery to produce for the licensee a brand of wine or
3 cider that is under the control of the licensee.

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

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

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

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

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

26 **“SECTION 3.** ORS 471.274 is amended to read:

27 “471.274. (1) The Oregon Liquor Control Commission may issue a wine
28 self-distribution permit to a United States manufacturer of wine or cider. The
29 commission may issue a wine self-distribution permit only to a manufacturer
30 of wine or cider that[:]

1 “[(a)] holds a license issued by another state that authorizes the manu-
2 facture of wine or cider[; *and*].

3 “[(b) *Holds a certificate of approval issued under ORS 471.244.*]

4 “(2) The holder of a wine self-distribution permit may sell at wholesale
5 and transport wine or cider that the manufacturer produces directly to the
6 commission, or to retail licensees in the manner provided by this section. A
7 wine self-distribution permit allows the holder to sell wine or cider that the
8 holder produces only to retail licensees who hold a valid endorsement issued
9 by the commission authorizing receipt of wine or cider from the holder of a
10 wine self-distribution permit.

11 “(3) In addition to the information required by ORS 471.311 for licenses,
12 an applicant for a wine self-distribution permit shall provide the commission
13 with a copy of the license held by the applicant or with sufficient informa-
14 tion to allow verification of the license by electronic means or other means
15 acceptable to the commission. The applicant also shall provide the commis-
16 sion with any information required by the commission to establish that the
17 license held by the applicant authorizes the manufacture of wine or cider.

18 “(4) A person holding a wine self-distribution permit is responsible for
19 paying all taxes imposed under ORS chapter 473, and for complying with all
20 reporting requirements imposed by ORS chapter 473, for all wine and cider
21 sold and transported to retail licensees in this state. The commission may
22 revoke, or refuse to issue, a wine self-distribution permit if the holder of a
23 permit fails to pay taxes or make reports as required by ORS chapter 473.

24 “(5) A retail licensee may receive wine or cider from the holder of a wine
25 self-distribution permit only if the licensee has received prior authorization
26 from the commission. Prior authorization under this subsection must be made
27 by an endorsement to the license for the premises where the wine or cider
28 will be received. The commission may not charge or collect a fee for an
29 endorsement under this subsection.

30 “(6)(a) Except as provided in paragraph (b) of this subsection, a retail

1 licensee that receives wine or cider from holders of wine self-distribution
2 permits must make a monthly report to the commission, using a form pre-
3 scribed by the commission, listing the amount of all wine or cider received
4 from permit holders in the previous month, and the names of the permit
5 holders from whom the wine or cider was received. Retail licensees shall
6 retain such purchase records for products received from permit holders as
7 may be required by the commission.

8 “(b) The holder of a full or limited on-premises sales license is not re-
9 quired to file a report under this subsection for any month in which the
10 licensee receives two or fewer cases of wine from holders of wine self-
11 distribution permits.

12 “(7) A manufacturer that is not licensed by the commission may sell and
13 transport wine or cider directly to a retail licensee, and a retail licensee may
14 receive wine or cider directly from a manufacturer that is not licensed by
15 the commission, only if the manufacturer holds a wine self-distribution per-
16 mit issued under this section.

17 “(8) The holder of a wine self-distribution permit consents to the jurisdic-
18 tion of the commission and the courts of this state for the purpose of
19 enforcing the provisions of this chapter, ORS chapter 473 and any related
20 laws or rules.

21 “(9) The holder of a wine self-distribution permit must post a bond or
22 other security, as described in ORS 471.155.

23 “(10) The commission may revoke, or refuse to issue, a wine self-
24 distribution permit if the holder of a permit fails to comply with any pro-
25 vision of this section.

26 **“SECTION 4.** ORS 471.282 is amended to read:

27 “471.282. (1) Notwithstanding any other provision of this chapter and ex-
28 cept as provided by ORS 471.186 (6), a person may sell and ship malt
29 beverages, wine or cider directly to a resident of Oregon only if the person
30 holds a direct shipper permit. The Oregon Liquor Control Commission shall

1 issue a direct shipper permit only to:

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

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

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

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

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

18 “(3)(a) A person may apply for a direct shipper permit by filing an appli-
19 cation with the commission. The application must be made in such form as
20 may be prescribed by the commission.

21 “(b) If the application is based on a license issued by this state, the per-
22 son must include in the application the number of the license issued to the
23 person.

24 “(c) If the application is based on a license issued by another state, the
25 person must include in the application a true copy of the license issued to
26 the person by the other state or include sufficient information to allow ver-
27 ification of the license by electronic means or other means acceptable to the
28 commission.

29 “(d) If the application is based on a license issued by another state, or the
30 application is by a nonprofit trade association described in subsection (1)(d)

1 of this section, the person or association must pay a \$100 registration fee and
2 maintain a bond or other security described in ORS 471.155 in the minimum
3 amount of \$1,000.

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

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

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

8 “(c) May not exceed [*two*] **five** cases, containing not more than nine liters
9 per case, to any resident per month.

10 “(5) Sales and shipments under a direct shipper permit must be made di-
11 rectly to a resident of this state in containers that are conspicuously labeled
12 with the words: ‘CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE
13 21 YEARS OR OLDER REQUIRED FOR DELIVERY.’

14 “(6) A person holding a direct shipper permit must take all actions nec-
15 essary to ensure that a carrier used by the permit holder does not deliver
16 any malt beverages, wine or cider unless the carrier:

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

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

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

23 “(7)(a) A person holding a direct shipper permit must report to the com-
24 mission on a quarterly basis all shipments of malt beverages, wine or cider
25 made to Oregon residents under the permit. The report must be made in a
26 form prescribed by the commission.

27 “(b) A person holding a direct shipper permit must allow the commission
28 to audit the permit holder’s records upon request and shall make those re-
29 cords available to the commission in this state.

30 “(c) A person holding a direct shipper permit consents to the jurisdiction

1 of the commission and the courts of this state for the purpose of enforcing
2 the provisions of this section and any related laws or rules.

3 “(8)(a) A person holding a direct shipper permit must timely pay to the
4 commission all taxes imposed under ORS chapter 473 on malt beverages, wine
5 and cider sold and shipped under the permit. For the purpose of the privi-
6 lege tax imposed under ORS chapter 473, all malt beverages, wine or cider
7 sold and shipped pursuant to a direct shipper permit is sold in this state.

8 “(b) A person holding a direct shipper permit based on a license issued
9 by another state must timely pay to the commission all taxes imposed under
10 ORS chapter 473 on all malt beverages, wine or cider sold and shipped di-
11 rectly to Oregon residents under the permit. The permit holder, not the
12 purchaser, is responsible for the tax.

13 “(9) A direct shipper permit must be renewed annually. If the person holds
14 the permit based on an annual license issued by another state, the person
15 may renew the permit by paying a \$100 renewal fee and providing the com-
16 mission with a true copy of a current license issued to the person by the
17 other state or with sufficient information to allow verification of the license
18 by electronic means or other means acceptable to the commission. If the
19 person holds the permit based on an annual license issued by this state, the
20 person may renew the permit at the same time that the person renews the
21 license.

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

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

6 “(12) A person may not make sales and shipments of malt beverages, wine
7 or cider directly to Oregon residents unless the person holds a direct shipper
8 permit issued under this section. Any person who knowingly makes, partic-
9 ipates in, transports, imports or receives a shipment of malt beverages, wine
10 or cider that is in violation of this section commits a misdemeanor as pro-
11 vided in ORS 471.990 (1).

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

13 “471.311. (1) [*Any person desiring*] **An applicant for** a license or renewal
14 of a license under this chapter shall [*make*] **submit an** application to the
15 Oregon Liquor Control Commission [*upon forms to be furnished*] **on a form**
16 **provided** by the commission [*showing*] **that includes** the name and address
17 of the applicant, location of the place of business that is to be operated un-
18 der the license, and [*such*] **any** other pertinent information [*as*] the commis-
19 sion may require. [*A license may not be granted or renewed*] **The**
20 **commission may not grant or renew a license** until the applicant has
21 complied with the provisions of this chapter and the rules of the commission.

22 “(2) The commission may reject any application that is not submitted in
23 the form required by rule. The commission shall give applicants an opportu-
24 nity to be heard if an application is rejected. A hearing under this subsection
25 is not subject to the requirements for contested case proceedings under ORS
26 chapter 183.

27 “[*(3) The commission shall charge an application fee, not to exceed \$150,*
28 *to process an application for the issuance of a new license under this chapter*
29 *or a license following a change in ownership. The application fee applies only*
30 *to an application for a class of license having an annual license fee. The ap-*

1 *plication fee is nonrefundable, except that the commission shall refund the fee*
2 *if the applicant completes, submits and maintains an application and the*
3 *commission does not, on or before 75 days following receipt of the completed*
4 *application, propose that the license be granted, granted with conditions or*
5 *refused. The commission shall adopt rules to:]*

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

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

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

19 “[(5)] **(4)** The commission may waive the fee imposed under subsection
20 [(4)] **(3)** of this section if the commission finds that failure to submit a timely
21 application was due to unforeseen circumstances or to a delay in processing
22 the application by the local governing authority that is no fault of the
23 licensee.

24 “[(6)] **(5)** The license fee is nonrefundable and, **except as provided in**
25 **subsection (6) of this section,** must be paid by each applicant upon the
26 granting or committing of a license. Subject to ORS 471.155 and 473.065, the
27 annual or daily license fee and the minimum bond required of each class of
28 license under this chapter are as follows:

29 “ _____

30 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 brewery-public house license | \$ 10 per day | |
| Special events distillery license | \$ 10 per day | |

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

7 “(7) The fee for a certificate of approval or special certificate of approval
8 granted under ORS 471.244 is nonrefundable and must be paid by each ap-
9 plicant upon the granting or committing of a certificate of approval or spe-
10 cial certificate of approval. [*No bond is*] **A bond is not** required for the
11 granting of a certificate of approval or special certificate of approval. Cer-
12 tificates of approval are valid for a period commencing on the date of issu-
13 ance and ending on December 31 of the fifth calendar year following the
14 calendar year of issuance. The fee for a certificate of approval is \$350. Spe-
15 cial certificates of approval are valid for a period of 30 days. The fee for a
16 special certificate of approval is \$10.

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

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

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

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

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

27 “473.015. For the purposes of this chapter, ‘cider’ means an alcoholic
28 beverage made from the fermentation of the juice of apples or pears that
29 contains not less than one-half of one percent and not more than 8.5 percent
30 of alcohol by volume, including, but not limited to, flavored, sparkling [*or*],

1 carbonated or fortified cider.

2 **“SECTION 7. (1) The amendments to ORS 471.023, 471.223, 471.282**
3 **and 473.015 by sections 1, 2, 4 and 6 of this 2021 Act apply to the man-**
4 **ufacture or distribution of alcoholic beverages occurring on or after**
5 **January 1, 2022.**

6 **“(2) The amendments to ORS 471.274 by section 3 of this 2021 Act**
7 **apply to wine self-distribution permits issued on or after January 1,**
8 **2022.**

9 **“(3) The amendments to ORS 471.311 by section 5 of this 2021 Act**
10 **apply to applications for licenses submitted on or after January 1, 2022.**

11 **“SECTION 8. This 2021 Act being necessary for the immediate**
12 **preservation of the public peace, health and safety, an emergency is**
13 **declared to exist, and this 2021 Act takes effect on its passage.”.**

14
