

SENATE AMENDMENTS TO SENATE BILL 1520

By COMMITTEE ON ENERGY AND ENVIRONMENT

February 9

1 On page 1 of the printed bill, line 3, delete “459A.700,”.

2 Delete lines 6 through 25 and delete pages 2 through 9 and insert:

3 **“SECTION 1. Sections 2 and 3 of this 2022 Act are added to and made a part of ORS**
4 **459A.700 to 459A.744.**

5 **“SECTION 2. (1) The requirements of subsections (2) and (3) of this section apply to a**
6 **distributor if:**

7 **“(a) The distributor does not participate in a distributor cooperative; and**

8 **“(b) The distributor sold more than 500,000 beverages in beverage containers in this state**
9 **in the previous calendar year.**

10 **“(2) A distributor described in subsection (1) of this section shall establish a program to**
11 **provide redemption services in the distributor’s distribution area that are comparable to**
12 **services provided by a distributor cooperative in this state. Redemption services may in-**
13 **clude, but need not be limited to:**

14 **“(a) Operation of full-service redemption centers;**

15 **“(b) Drop-off service for beverage containers;**

16 **“(c) Retail pick-up service; and**

17 **“(d) Any other services required by the Oregon Liquor and Cannabis Commission by rule.**

18 **“(3)(a) A distributor described in subsection (1) of this section shall pay annually to the**
19 **commission a fee in an amount equal to \$3,000 multiplied by the number of full-service re-**
20 **demption centers operated in this state, regardless of the person that operates the full-**
21 **service redemption center.**

22 **“(b) If the distributor operates a full-service redemption center, the distributor may**
23 **satisfy its obligation to pay the annual registration fee described in ORS 459A.737 by paying**
24 **the fee described in paragraph (a) of this subsection.**

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

27 **“SECTION 3. (1) A distributor described in subsection (2) of this section that does not**
28 **participate in a distributor cooperative shall pay to the Oregon Liquor and Cannabis Com-**
29 **mission the fee described in subsection (2) of this section for each calendar year, or part**
30 **thereof, that the distributor sells beverages in beverage containers in this state. A distribu-**
31 **tor shall pay the fee no later than January 1 of the year following the year for which the fee**
32 **applies.**

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

34 **“(a) \$25,000, for a distributor that sells at least 15,000 but not more than 500,000**
35 **beverages in beverage containers in this state during the calendar year.**

1 **“(b) \$5,000, for a distributor that sells fewer than 15,000 beverages in beverage containers**
2 **in this state during the calendar year.**

3 **“(3) Notwithstanding subsections (1) and (2) of this section, a distributor is not required**
4 **to pay the fee described in subsection (2) of this section if, before December 31 of the year**
5 **for which the fee applies, the distributor becomes a participant in a distributor cooperative.**

6 **“(4) A distributor cooperative shall pay to the commission a fee in an amount equal to**
7 **\$3,000 multiplied by the number of full-service redemption centers operated in this state by**
8 **any person other than the distributor cooperative.**

9 **“(5) Fees collected by the commission under this section shall be deposited in the Bottle**
10 **Bill Fund established under ORS 459A.744.**

11 **“SECTION 4. ORS 459A.717 is amended to read:**

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

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

29 **“(3)(a) Notwithstanding subsection (1) of this section, if a distributor violates the pro-**
30 **visions of section 2 (2) of this 2022 Act, the commission shall provide the distributor with**
31 **written notice informing the distributor of the violation and stating that the distributor may**
32 **avoid civil penalty for the violation by curing the violation within 60 days after issuance of**
33 **the notice. A distributor may cure the violation by becoming a participant in a distributor**
34 **cooperative or by providing the services described in section 2 (2) of this 2022 Act. If the**
35 **distributor fails to cure the violation, the commission shall impose a civil penalty in the**
36 **amount described in paragraph (b) of this subsection for each day that the violation contin-**
37 **ues.**

38 **“(b)(A) For each day after the 60-day period beginning with the issuance of the notice**
39 **under paragraph (a) of this subsection, the commission shall impose a civil penalty of at least**
40 **\$200 per day.**

41 **“(B) For each day after the 100-day period beginning with the issuance of the notice un-**
42 **der paragraph (a) of this subsection, the commission shall impose a civil penalty of at least**
43 **\$400 per day.**

44 **“(C) For each day after the 200-day period beginning with the issuance of the notice un-**
45 **der paragraph (a) of this subsection, the commission shall impose a civil penalty of at least:**

1 the following information for each beverage container:

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

4 “(b) The type of beverage contained in the beverage container using an appropriate categori-
5 zation method for beverages as determined by the distributor cooperative;

6 “(c) The size of the beverage container;

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

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

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

14 “(b) By July 1 of each calendar year, a distributor cooperative shall provide the Oregon Liquor
15 and Cannabis Commission with a report that lists, in aggregate form:

16 “(A) For all distributors and importers that participate in the distributor cooperative, the pre-
17 vious calendar year’s beverage container return data, calculated separately for glass, metal and
18 plastic beverage containers; and

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

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

25 “(8)(a) By August 1 of each calendar year, using the beverage container return data provided
26 in subsection (7)(b) of this section, the Oregon Liquor and Cannabis Commission shall calculate the
27 previous calendar year’s percentage of beverage containers returned for the refund value specified
28 in ORS 459A.705 for each distributor cooperative. The commission shall carry out the calculation
29 separately for glass, metal and plastic beverage containers and shall post the percentages on the
30 commission’s website.

31 “(b) By August 1 of each calendar year, using the beverage container return data provided in
32 subsection (7)(c) of this section, the commission shall calculate the previous calendar year’s per-
33 centage of beverage containers returned for the refund value specified in ORS 459A.705 for each
34 distributor or importer that does not participate in a distributor cooperative. The commission shall
35 carry out the calculation separately for glass, metal and plastic beverage containers and shall post
36 the percentages on the commission’s website.

37 “(c) By August 1 of each calendar year, using the beverage container return data provided in
38 subsection (7)(b) and (c) of this section, the commission shall calculate the previous calendar year’s
39 percentage of beverage containers returned for the refund value specified in ORS 459A.705 for all
40 distributors and importers in Oregon. The commission shall carry out the calculation for all
41 beverage containers, and separately for glass, metal and plastic beverage containers, and shall post
42 the percentages on the commission’s website.

43 “(d) Except for the percentages described in paragraphs (a) to (c) of this subsection or in a
44 proceeding under ORS 459A.717 for a violation of subsection (7) of this section, the commission may
45 not disclose any information provided by a distributor, an importer or a distributor cooperative un-

1 der subsection (7) of this section.

2 “(9)(a) In order to determine compliance with the provisions of subsection (7) of this section,
3 within six months of the date that the commission receives a report described in subsection (7)(b)
4 and (c) of this section, the commission may review or audit the records of each reporting distributor
5 cooperative, or each reporting distributor or importer that does not participate in a distributor co-
6 operative.

7 “(b)(A) If in the course of a review described in paragraph (a) of this subsection the commission
8 determines that an audit of a distributor cooperative, distributor or importer is necessary, the
9 commission shall require the distributor cooperative, distributor or importer to retain an independ-
10 ent financial audit firm to determine the accuracy of information contained in the report. The dis-
11 tributor cooperative, distributor or importer that is the subject of review shall pay the costs of the
12 audit. The audit must be limited to the records described in paragraph (a) of this subsection.

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

14 “(10) **No later than February 15 of each year, a distributor cooperative shall submit to**
15 **the commission, and to the appropriate committees of the Legislative Assembly in the man-**
16 **ner provided under ORS 192.245, a report that describes sites, options and access points**
17 **added during the previous calendar year and expansion priorities for the current calendar**
18 **year. The report must include a description of the distributor cooperative’s efforts to expand**
19 **and enhance alternative redemption access opportunities for individuals who redeem con-**
20 **tainers on a daily or near daily basis.**

21 “**SECTION 7. (1) Sections 2 and 3 of this 2022 Act and the amendments to ORS 459A.715,**
22 **459A.717 and 459A.718 by sections 4 to 6 of this 2022 Act become operative on January 1, 2023.**

23 “**(2) The Oregon Liquor and Cannabis Commission may adopt rules and take any action**
24 **before the operative date specified in subsection (1) of this section that is necessary to enable**
25 **the commission, on and after the operative date specified in subsection (1) of this section,**
26 **to exercise all of the duties, powers and functions conferred on the commission by sections**
27 **2 and 3 of this 2022 Act and the amendments to ORS 459A.715, 459A.717 and 459A.718 by**
28 **sections 4 to 6 of this 2022 Act.**

29 “**SECTION 8.** ORS 459A.702 is amended to read:

30 “459A.702. ORS 459A.700 to 459A.744 apply to:

31 “(1) Any individual, separate, sealed glass, metal or plastic bottle or can, except for a carton,
32 foil pouch, drink box or metal container that requires a tool to be opened, that contains any one
33 of the following beverages, intended for human consumption and in a quantity less than or equal to
34 three liters:

35 “(a) Water or flavored water;

36 “(b) Beer or another malt beverage;

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

38 “(d) Kombucha; or

39 “(e) Hard seltzer.

40 “**(2) Wine in a can.**

41 “[2] **(3) Any beverage other than those specified in [subsection (1)] subsections (1) and (2) of**
42 **this section that is intended for human consumption and is in a quantity more than or equal to four**
43 **fluid ounces and less than or equal to one and one-half liters, except distilled liquor, wine in a**
44 **container other than a can, dairy or plant-based milks, infant formula and any other exemptions**
45 **set forth in rule by the Oregon Liquor and Cannabis Commission.**

1 “**SECTION 9.** ORS 459A.705 is amended to read:

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

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

6 “(A) Eight months after the Oregon Liquor and Cannabis Commission determines that, in each
7 of the two previous calendar years, the number of beverage containers returned for the refund value
8 specified in this section was less than 80 percent of the total number of beverage containers that
9 were sold in this state; or

10 “(B) January 1 of the calendar year following the determination by the commission described in
11 subparagraph (A) of this paragraph.

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

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

16 “**SECTION 10.** (1) **The amendments to ORS 459A.702 and 459A.705 by sections 8 and 9 of**
17 **this 2022 Act become operative on July 1, 2025.**

18 “(2) **The Oregon Liquor and Cannabis Commission may adopt rules and take any action**
19 **before the operative date specified in subsection (1) of this section that is necessary to enable**
20 **the commission, on and after the operative date specified in subsection (1) of this section,**
21 **to exercise all of the duties, powers and functions conferred on the commission by the**
22 **amendments to ORS 459A.702 and 459A.705 by sections 8 and 9 of this 2022 Act.**

23 “**SECTION 11.** **On and after the operative date specified in section 10 of this 2022 Act and**
24 **until October 1, 2026:**

25 “(1) **The refund value paid for a can that contains wine as described in ORS 459A.702 shall**
26 **be not less than 10 cents, regardless of the refund value, or lack of a refund value, indicated**
27 **on the beverage container.**

28 “(2) **A can that contains wine may be sold or offered for sale in this state regardless of**
29 **the refund value, or lack of a refund value, indicated on the beverage container,**
30 **notwithstanding ORS 459A.720 (1).**

31 “**SECTION 12.** **This 2022 Act takes effect on the 91st day after the date on which the 2022**
32 **regular session of the Eighty-first Legislative Assembly adjourns sine die.”.**

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