

Requested by Representative BYNUM

**PROPOSED AMENDMENTS TO
HOUSE BILL 2013**

1 In line 2 of the printed bill, after “alcohol” insert “; creating new pro-
2 visions; amending ORS 471.155, 471.175, 471.178, 471.184, 471.186, 471.190,
3 471.200, 471.244, 471.272, 471.274, 471.282, 471.311, 471.313, 471.315, 471.327,
4 471.329, 471.331, 471.392, 471.404, 471.412, 473.030, 473.035, 473.045, 473.047,
5 473.060, 473.065, 473.070, 473.080, 473.090, 473.100, 473.110, 473.120, 473.130,
6 473.140, 473.150 and 473.170; and prescribing an effective date”.

7 Delete lines 4 through 8 and insert:
8

9 **“DIRECT TO RETAILER AND DIRECT SHIPPER PERMITS**

10
11 **“SECTION 1. ORS 471.155 is amended to read:**

12 “471.155. (1) The Oregon Liquor and Cannabis Commission shall provide
13 for the licensing of persons and cities within the state to manufacture, dis-
14 tribute, take orders for and sell spirits, wines, beer and other alcoholic li-
15 quors. Except as provided in subsection (2) of this section, the holder of a
16 brewery, winery, wholesale, warehouse, grower sales privilege or brewery-
17 public house license or the holder of a [*wine self-distribution*] **direct to**
18 **retailer** permit shall give, and at all times maintain on file with the com-
19 mission, a bond with a corporate surety authorized to transact business in
20 this state. The bond shall be in form and amount acceptable to the com-
21 mission, shall be payable to the commission and conditioned that the licensee

1 or permittee will pay any fine imposed for any violation of any provision of
2 the Liquor Control Act and that the licensee or permittee will pay all license
3 fees, privilege taxes, taxes imposed under ORS 473.045 and other taxes on
4 alcoholic liquors, together with penalties and interest thereon, levied or as-
5 sessed against the licensee or permittee under statutes relating to the
6 importation, manufacture, distribution, sale or taxation of alcoholic liquors
7 in the State of Oregon.

8 “(2) Under such conditions as the commission may prescribe, the holder
9 of a brewery, winery, wholesale, warehouse, grower sales privilege or
10 brewery-public house license or the holder of a [*wine self-distribution*] **direct**
11 **to retailer** permit may deposit, in lieu of the bond required by subsection
12 (1) of this section, the equivalent value in cash, bank letters of credit re-
13 cognized by the State Treasurer or negotiable securities of a character ap-
14 proved by the State Treasurer. The deposit is to be made in a bank or trust
15 company for the benefit of the commission. Interest on deposited funds or
16 securities shall accrue to the depositor.

17 **“SECTION 2.** ORS 471.175 is amended to read:

18 “471.175. (1) The holder of a full on-premises sales license may sell by the
19 drink at retail wine, malt beverages, cider and distilled liquor. Except as
20 provided in this section and ORS 471.176, all alcoholic beverages sold under
21 a full on-premises sales license must be consumed on the licensed premises.

22 “(2) A full on-premises sales license may be issued only to **a**:

23 “(a) [A] Nonprofit private club, as described in subsection [(9)] **(11)** of this
24 section.

25 “(b) [A] Public passenger carrier as provided in ORS 471.182.

26 “(c) [A] Commercial establishment, as defined in ORS 471.001 (2).

27 “(d) [A] Public location that does not qualify for licensing under para-
28 graphs (a) to (c) of this subsection if:

29 “(A) Food is cooked and served at the location;

30 “(B) The predominant business activity at the location is other than the

1 preparation or serving of food or the serving of alcohol; and

2 “(C) The location meets any minimum food service requirements estab-
3 lished by Oregon Liquor and Cannabis Commission rule.

4 “(e) [A] Caterer, subject to the requirements of ORS 471.184.

5 “(3) The holder of a full on-premises sales license shall allow a patron to
6 remove a partially consumed bottle of wine from the licensed premises if the
7 wine is served in conjunction with the patron’s meal, the patron is not a
8 minor and the patron is not visibly intoxicated.

9 “(4) The holder of a full on-premises sales license may purchase any dis-
10 tilled liquor from an agent of the commission appointed pursuant to ORS
11 471.750 at a discount of not more than five percent off the regular listed price
12 fixed by the commission, together with all taxes, in a manner prescribed by
13 commission rule. For purposes of compensation by the commission, the ap-
14 pointed agent shall be credited with such sales at full retail cost. The com-
15 mission may not require the licensee to purchase more than one container
16 of distilled liquor at a time if the distilled liquor:

17 “(a) Except as provided in subsection [(10)] (12) of this section, has a re-
18 tail sales price of \$30 or more per container;

19 “(b) Is available through a distributor in the United States that does not
20 require the commission to acquire more than one case of the distilled liquor
21 in a single transaction;

22 “(c) Is not regularly stocked by the commission; and

23 “(d) Is ordered in a 750 milliliter container size if available in that size.

24 “(5) The holder of a full on-premises sales license may purchase distilled
25 liquor only from a retail sales agent of the commission or from another
26 person licensed under this section who has purchased the distilled liquor
27 from a retail sales agent of the commission.

28 **“(6) The holder of a full on-premises sales license may purchase for**
29 **sale at retail malt beverages, wine and cider only from a holder of a**
30 **license or permit issued by the commission that authorizes sales of**

1 **malt beverages, wine or cider at wholesale to licensees of the com-**
2 **mission.**

3 “[6] (7) The holder of a full on-premises sales license may sell for con-
4 sumption off the licensed premises malt beverages, wine and cider in securely
5 covered containers provided by the consumer that have capacities of not
6 more than two gallons each.

7 “[7] (8) The holder of a full on-premises sales license may sell for con-
8 sumption off the licensed premises malt beverages, wine and cider in
9 factory-sealed containers.

10 “[8] (9) The holder of a full on-premises sales license may deliver malt
11 beverages, wine and cider that are sold for off-premises consumption under
12 the privileges of the license to retail customers in this state without a direct
13 shipper permit issued under ORS 471.282. Any deliveries by the licensee are
14 subject to any rules adopted by the commission relating to deliveries made
15 under this subsection.

16 **“(10) On or before the 20th day of each month, the holder of a full**
17 **on-premises sales license shall submit to the commission a report**
18 **showing the quantity of malt beverages, wine or cider received from**
19 **the holder of a direct to retailer permit issued under ORS 471.274 dur-**
20 **ing the immediately preceding calendar month, and any other infor-**
21 **mation required by the commission by rule.**

22 “[9] (11) A nonprofit private club, including but not limited to a frater-
23 nal or veterans organization, may qualify for a full on-premises sales license
24 under this section only if the club meets any minimum membership, nonprofit
25 status and food service requirements established by commission rule.

26 “[10] (12) Beginning January 1, 2017, the commission may annually ad-
27 just the price threshold established in subsection (4)(a) of this section by a
28 percentage equal to the percentage change in the Consumer Price Index for
29 All Urban Consumers, West Region (All Items), as published by the Bureau
30 of Labor Statistics of the United States Department of Labor. However, the

1 commission may not adjust the price threshold to be less than \$30.

2 **“(13) The commission may adopt rules to carry out this section.**

3 **“SECTION 3.** ORS 471.178 is amended to read:

4 “471.178. (1) The holder of a limited on-premises sales license may sell by
5 the drink at retail wine, malt beverages and cider. Except as provided in this
6 section, all alcoholic beverages sold under a limited on-premises sales license
7 must be consumed on the licensed premises.

8 “(2) The holder of a limited on-premises sales license may sell malt
9 beverages, wine and cider in factory-sealed containers for consumption off
10 the licensed premises.

11 “(3) The holder of a limited on-premises sales license may sell for con-
12 sumption off the licensed premises malt beverages, wine and cider in securely
13 covered containers provided by the consumer and that have capacities of not
14 more than two gallons each.

15 “(4) The holder of a limited on-premises sales license may deliver malt
16 beverages, wine and cider that are sold for off-premises consumption under
17 the privileges of the license to retail customers in this state without a direct
18 shipper permit issued under ORS 471.282. Any deliveries by the holder of a
19 limited on-premises sales license are subject to any rules adopted by the
20 commission relating to deliveries made under this subsection.

21 “(5) The holder of a limited on-premises sales license shall allow a patron
22 to remove a partially consumed bottle of wine from the licensed premises if
23 the wine is served in conjunction with the patron’s meal, the patron is not
24 a minor and the patron is not visibly intoxicated.

25 **“(6) The holder of a limited on-premises sales license may purchase**
26 **for sale at retail malt beverages, wine and cider only from the holder**
27 **of a license or permit issued by the commission that authorizes sales**
28 **of malt beverages, wine or cider at wholesale to licensees of the com-**
29 **mission.**

30 **“(7) On or before the 20th day of each month, the holder of a limited**

1 **on-premises sales license shall submit to the commission a report**
2 **showing the quantity of malt beverages, wine or cider received from**
3 **the holder of a direct to retailer permit issued under ORS 471.274 dur-**
4 **ing the immediately preceding calendar month, and any other infor-**
5 **mation required by the commission by rule.**

6 **“(8) The commission may adopt rules to carry out this section.**

7 **“SECTION 4.** ORS 471.184 is amended to read:

8 “471.184. (1) The holder of a full or limited on-premises sales license may
9 cater a temporary event at a location other than the licensed premises if the
10 event is not open to the general public. Catering of an event under this
11 subsection must be pursuant to a contract with a client. The contract must
12 provide that the licensee will furnish food and beverage services for no more
13 than 100 patrons. The licensee must serve food as required by rules of the
14 commission. The licensee may cater events under this subsection without
15 giving advance notice to the Oregon Liquor and Cannabis Commission if,
16 before the event occurs, the commission gives written approval to the
17 licensee authorizing catering pursuant to this subsection. Events catered
18 under the provisions of this subsection must meet all requirements for en-
19 closure of premises that may be imposed by the commission for the purposes
20 of this section. Notwithstanding ORS 471.175 (3), [(6) and (7)] **(7) and (8)** and
21 471.178 (2) to (5), the licensee may not permit patrons of the event to remove
22 any alcoholic beverages from the premises of the event.

23 “(2) In addition to catered events under subsection (1) of this section, the
24 commission may by rule allow the exercise of the privileges of a full or
25 limited on-premises sales license at temporary events held at locations other
26 than the licensed premises. The commission may:

27 “(a) Require notice to the commission before the exercise of license priv-
28 ileges at temporary events under this subsection;

29 “(b) Require that written approval by the commission be obtained before
30 the exercise of license privileges at temporary events under this subsection;

1 “(c) Establish eligibility criteria for the exercise of license privileges at
2 temporary events under this subsection; and

3 “(d) Establish fees reasonably calculated to cover administrative expenses
4 incurred by the commission in administering this subsection.

5 **“SECTION 5.** ORS 471.186 is amended to read:

6 “471.186. (1) The holder of an off-premises sales license may sell factory-
7 sealed containers of malt beverages, wine and cider for consumption off the
8 licensed premises.

9 “(2) The holder of an off-premises sales license may sell for consumption
10 off the licensed premises malt beverages, wine and cider in securely covered
11 containers supplied by the consumer and that have capacities of not more
12 than two gallons each.

13 “(3) The holder of an off-premises sales license may provide sample tasting
14 of alcoholic beverages on the licensed premises if the licensee applies in
15 writing to the Oregon Liquor and Cannabis Commission and receives written
16 approval from the commission to conduct tastings on the premises. Tastings
17 must be limited to the alcoholic beverages that may be sold under the priv-
18 ileges of the license.

19 “(4) An off-premises sales license may not be issued for use at a premises
20 that is mobile.

21 “(5) Except as provided in ORS 471.402, a manufacturer or wholesaler may
22 not provide or pay for sample tastings of alcoholic beverages for the public
23 on premises licensed under an off-premises sales license.

24 “(6) The holder of an off-premises sales license may deliver malt
25 beverages, wine or cider that is sold under the privileges of the license to
26 retail customers in this state without a direct shipper permit issued under
27 ORS 471.282. Any deliveries by the holder of an off-premises sales license are
28 subject to any rules adopted by the commission relating to deliveries made
29 under this subsection. Deliveries under this subsection:

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

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

3 “(c) Must be made in containers that are conspicuously labeled with the
4 words: ‘CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 YEARS
5 OR OLDER REQUIRED FOR DELIVERY[.]’ **or similar language adopted**
6 **by the commission by rule.**

7 “(7) The holder of an off-premises sales license that makes deliveries of
8 malt beverages, wine or cider under subsection (6) of this section shall take
9 all actions necessary to ensure that a carrier used by the licensee does not
10 deliver any malt beverages, wine or cider unless the carrier:

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

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

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

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

22 “(9) If a court determines that deliveries of malt beverages, wine or cider
23 under subsection (6) of this section cannot be restricted to holders of off-
24 premises sales licenses, and the decision is a final judgment that is no longer
25 subject to appeal, the holder of an off-premises sales license may not make
26 deliveries of malt beverages, wine or cider under the provisions of subsection
27 (6) of this section after entry of the final judgment.

28 **“(10) The holder of an off-premises sales license may purchase for**
29 **sale at retail malt beverages, wine and cider only from the holder of**
30 **a license or permit issued by the commission that authorizes sales of**

1 malt beverages, wine or cider at wholesale to licensees of the com-
2 mission.

3 “(11) On or before the 20th day of each month, the holder of an
4 off-premises sales license shall submit to the commission a report
5 showing the quantity of malt beverages, wine or cider received from
6 the holder of a direct to retailer permit issued under ORS 471.274 dur-
7 ing the immediately preceding calendar month, and any other infor-
8 mation required by the commission by rule.

9 “[~~(10)~~] (12) The [*Oregon Liquor and Cannabis*] commission may adopt
10 rules to carry out this section.

11 **“SECTION 6.** ORS 471.190 is amended to read:

12 “471.190. (1) The holder of a temporary sales license may:

13 “(a) Sell at retail by the drink wine, malt beverages, cider and distilled
14 liquor.

15 “(b) Sell for consumption off the licensed premises wine, malt beverages
16 and cider in factory-sealed containers.

17 “(c) Sell for consumption off the licensed premises wine, malt beverages
18 and cider in securely covered containers supplied by the consumer and hav-
19 ing capacities of not more than two gallons each.

20 “(2) Distilled liquor served by the holder of a temporary sales license
21 must be purchased from a retail sales agent of the Oregon Liquor and
22 Cannabis Commission. The holder of a temporary sales license must provide
23 food service as required by commission rule.

24 “(3) A temporary sales license may be issued only to:

25 “(a) Nonprofit or charitable organizations that are registered with the
26 state.

27 “(b) A political committee that has filed a statement of organization un-
28 der ORS 260.039 or 260.042.

29 “(c) State agencies.

30 “(d) Local governments, and agencies and departments of local govern-

1 ments.

2 “(e) Persons not otherwise described in this subsection, as long as the
3 applicant submits a plan that is approved by the commission detailing how
4 minors will be prevented from gaining access to alcoholic beverages and how
5 minors will be prevented from gaining access to any portion of the licensed
6 premises prohibited to minors under ORS 471.430 (3) or any rule adopted by
7 the commission.

8 “(4) The commission may by rule establish additional eligibility require-
9 ments for temporary sales licenses.

10 “(5) Subject to such qualifications as the commission may establish by
11 rule, persons who hold a full or limited on-premises sales license are eligible
12 for temporary sales licenses.

13 “(6) A temporary sales license issued to a person described in subsection
14 (3)(a), (c) or (d) of this section authorizes the holder of the temporary sales
15 license to:

16 “(a)(A)(i) Have on a single licensed premises more than one location at
17 which wine, malt beverages or cider is sold at retail by the drink or for
18 consumption off the licensed premises; and

19 “(ii) Have on a single licensed premises more than one location at which
20 wine, malt beverages, cider or distilled liquor is sold at retail by the drink;
21 or

22 “(B) Have up to three separate premises in this state licensed under the
23 temporary sales license at which wine, malt beverages or cider is sold for
24 consumption off the licensed premises; and

25 “(b) Operate for up to 30 days, whether or not the days are consecutive.

26 “(7) The commission may adopt rules to carry out subsection (6) of this
27 section.

28 “(8) A person holding a temporary sales license is not required to obtain
29 an intermittent temporary restaurant, seasonal temporary restaurant,
30 single-event temporary restaurant license or mobile unit license under ORS

1 chapter 624 if only wine, malt beverages and cider in single-service contain-
2 ers are served and only nonperishable food items that are exempted from
3 licensure by the Oregon Health Authority are served.

4 “(9) Employees and volunteers serving alcoholic beverages for a nonprofit
5 or charitable organization licensed under this section are not required to
6 have service permits or to complete an alcohol server education program and
7 examination under ORS 471.542. The commission by rule may establish edu-
8 cation requirements for servers described in this subsection.

9 “(10) Notwithstanding ORS 471.392 to 471.400, a temporary sales license
10 may be issued to a nonprofit trade association that has a membership pri-
11 marily composed of persons that hold winery licenses issued under ORS
12 471.223 or grower sales privilege licenses issued under ORS 471.227.

13 **“(11)(a) The holder of a temporary sales license may purchase for**
14 **sale at retail malt beverages, wine and cider only from the holder of**
15 **a license or permit issued by the commission that authorizes sales of**
16 **malt beverages, wine or cider at wholesale to licensees of the com-**
17 **mission.**

18 **“(b) The holder of a temporary sales license that is an entity de-**
19 **scribed in subsection (3)(a) to (d) of this section may accept donations**
20 **of malt beverages, wine or cider in accordance with rules adopted by**
21 **the commission.**

22 **“(12) On or before the 20th day of each month, the holder of a**
23 **temporary sales license shall submit to the commission a report**
24 **showing the quantity of malt beverages, wine or cider received from**
25 **the holder of a direct to retailer permit issued under ORS 471.274 dur-**
26 **ing the immediately preceding calendar month, and any other infor-**
27 **mation required by the commission by rule.**

28 **“(13) The commission may adopt rules to carry out this section.**

29 **“SECTION 7. ORS 471.200 is amended to read:**

30 **“471.200. (1) A brewery-public house license allows the licensee:**

1 “(a) To manufacture on the licensed premises, store, transport, sell to
2 wholesale malt beverage and wine licensees of the Oregon Liquor and
3 Cannabis Commission and export malt beverages;

4 “(b) To sell malt beverages manufactured on or off the licensed premises
5 at retail for consumption on or off the premises;

6 “(c) To sell malt beverages in brewery-sealed packages at retail directly
7 to the consumer for consumption off the premises;

8 “(d) To sell on the licensed premises at retail malt beverages manufac-
9 tured on or off the licensed premises in unpasteurized or pasteurized form
10 directly to the consumer for consumption off the premises, delivery of which
11 may be made in a securely covered container supplied by the consumer;

12 “(e) To sell wine and cider at retail for consumption on or off the prem-
13 ises;

14 “(f) To sell for consumption off the premises wines and cider in securely
15 covered containers supplied by the consumer and having capacities of not
16 more than two gallons each;

17 “(g) To conduct the activities, except manufacturing, described in para-
18 graphs (a) to (f) of this subsection at two locations other than the premises
19 where the manufacturing occurs;

20 “(h) To obtain a special events brewery-public house license entitling the
21 holder to conduct the activities allowed under paragraphs (b) to (f) of this
22 subsection at a designated location other than the location set forth in the
23 brewery-public house license for a period not exceeding five days;

24 “(i) To distribute malt beverages manufactured at the licensed premises
25 to any other premises licensed to the same licensee, whether a manufacturer,
26 wholesaler or retail premises; and

27 “(j) To distribute for export, in any amount, malt beverages manufactured
28 at the licensed premises.

29 “(2) In addition to the privileges specified in subsection (1) of this section,
30 in any calendar year a brewery-public house licensee may sell at wholesale

1 and distribute to licensees of the commission no more than 7,500 barrels of
2 malt beverages produced by the brewery-public house licensee.

3 “(3) A brewery-public house licensee, or any person having an interest in
4 the licensee, is a retail licensee for the purposes of ORS 471.394 and, except
5 as otherwise provided by this section and ORS 471.396, may not acquire or
6 hold any right, title, lien, claim or other interest, financial or otherwise, in,
7 upon or to the premises, equipment, business or merchandise of any man-
8 ufacturer or wholesaler, as defined in ORS 471.392. A brewery-public house
9 licensee, or any person having an interest in the licensee, is also a man-
10 ufacturer for the purposes of ORS 471.394 and, except as otherwise provided
11 by this section and ORS 471.396, may not acquire or hold any right, title,
12 lien, claim or other interest, financial or otherwise, in, upon or to the
13 premises, equipment, business or merchandise of any other retail licensee,
14 as defined in ORS 471.392.

15 “(4)(a) Except as provided in this subsection, a brewery-public house
16 licensee, or any person having an interest in the licensee, is a retail licensee
17 for the purposes of ORS 471.398 and, except as otherwise provided by this
18 section and ORS 471.400, may not accept directly or indirectly any financial
19 assistance described in ORS 471.398 from any manufacturer or wholesaler,
20 as defined in ORS 471.392. A brewery-public house licensee, or any person
21 having an interest in the licensee, is also a manufacturer for the purposes
22 of ORS 471.398 and, except as otherwise provided by this section and ORS
23 471.400, may not provide directly or indirectly any financial assistance de-
24 scribed in ORS 471.398 to any retail licensee, as defined in ORS 471.392. The
25 prohibitions on financial assistance in ORS 471.398 do not apply to financial
26 assistance between manufacturing and retail businesses licensed to the same
27 person under the provisions of this section.

28 “(b) The commission may issue more than one brewery-public house li-
29 cense at a single premises if each licensee:

30 “(A) Has a valid Brewer’s Notice issued by the federal Alcohol and To-

1 bacco Tax and Trade Bureau at the premises address; and

2 “(B) Otherwise complies with ORS 471.398.

3 “(c) A brewery-public house licensee may produce malt beverages for an-
4 other brewery-public house licensee under a custom order agreement. The
5 commission may adopt rules regarding the contents of custom order agree-
6 ments.

7 “(5) Notwithstanding subsection (3) of this section, a brewery-public house
8 licensee, or any person having an interest in the licensee, may also hold a
9 winery license authorized by ORS 471.223. A brewery-public house licensee,
10 or any person having an interest in the licensee, may also hold a warehouse
11 license authorized by ORS 471.242.

12 “(6) Notwithstanding subsection (3) of this section, a brewery-public house
13 licensee is eligible for limited on-premises sales licenses and temporary sales
14 licenses.

15 “(7) Notwithstanding subsection (3) of this section, a brewery-public house
16 licensee, or any person having an interest in the licensee, may also hold a
17 full on-premises sales license. If a person holds both a brewery-public house
18 license and a full on-premises sales license, nothing in this chapter shall
19 prevent the sale by the licensee of both distilled liquor and malt beverages
20 manufactured under the brewery-public house license.

21 “(8) Notwithstanding any other provision of this chapter, a brewery-public
22 house licensee, or any person having an interest in the licensee, may also
23 hold a distillery license. No provision of this chapter prevents a brewery-
24 public house licensee that also holds a distillery license from being appointed
25 by the commission as the distillery’s retail outlet agent for the purpose of
26 selling distilled liquors under ORS 471.230.

27 “(9) Notwithstanding subsection (3) of this section, the commission by
28 rule may authorize a brewery-public house licensee to coproduce special
29 events with other manufacturers.

30 “(10)(a) Notwithstanding subsection (3) of this section, a brewery-public

1 house licensee may hold, directly or indirectly, an interest in a manufacturer
2 or wholesaler, provided that the interest does not result in exercise of con-
3 trol over, or participation in the management of, the manufacturer's or
4 wholesaler's business or business decisions and does not result in exclusion
5 of any competitor's brand of alcoholic liquor.

6 “(b) Notwithstanding subsection (3) of this section, a manufacturer or
7 wholesaler, and any officer, director or substantial stockholder of any cor-
8 porate manufacturer or wholesaler, may hold, directly or indirectly, an in-
9 terest in a brewery-public house licensee, provided that the interest does not
10 result in exercise of control over, or participation in the management of, the
11 licensee's business or business decisions and does not result in exclusion of
12 any competitor's brand of alcoholic liquor.

13 **“(11) A brewery-public house licensee may purchase for sale at re-
14 tail:**

15 **“(a) Wine and cider only from the holder of a license or permit is-
16 sued by the commission that authorizes the sale of wine or cider at
17 wholesale to licensees of the commission; and**

18 **“(b) Malt beverages not manufactured by the brewery-public house
19 licensee only from the holder of a license or permit issued by the
20 commission that authorizes the sale of malt beverages at wholesale to
21 licensees of the commission.**

22 **“(12) On or before the 20th day of each month, a brewery-public
23 house licensee shall submit to the commission a report showing the
24 quantity of malt beverages, wine or cider received from the holder of
25 a direct to retailer permit issued under ORS 471.274 during the imme-
26 diately preceding calendar month, and any other information required
27 by the commission by rule.**

28 **“[(11)] (13) For purposes of ORS chapter 473, a brewery-public house
29 licensee shall be considered to be a manufacturer.**

30 **“(14) The commission may adopt rules to carry out this section.**

1 **“SECTION 8.** ORS 471.244 is amended to read:

2 “471.244. (1) [No] **A** licensee of the Oregon Liquor and Cannabis Com-
3 mission [shall] **may not** manufacture, import into, or purchase in [the State
4 of Oregon] **this state** for resale [therein] **in this state** any malt beverages,
5 cider or wine unless the manufacturer of [such] **the** malt beverages, cider
6 or wine has first obtained from the commission a certificate of approval,
7 except that with respect to malt beverages, cider or wine manufactured out-
8 side the United States, the certificate of approval may be obtained by the
9 person importing same into the United States.

10 “(2) [Such] **A** certificate of approval [shall] **may** be granted only to
11 manufacturers or importers [who shall have entered] **that enter** into an
12 agreement with the commission to furnish a report to the commission, on or
13 before the 20th day of each month, showing the quantity of malt beverages,
14 cider or wine delivered to each licensee of the commission during the pre-
15 ceding calendar month, and to faithfully comply with all laws of the State
16 of Oregon pertaining to traffic in malt beverages, cider or wine. [If any
17 holder of such certificate, or any officer, agent or employee of such holder,
18 shall violate any term or provision of such agreement, or submit any false or
19 fictitious report, the commission may, in its discretion, suspend or revoke such
20 certificate.]

21 “[(2)] (3) The commission may grant special certificates of approval to
22 manufacturers and importers of malt beverages, cider or wine. A special
23 certificate of approval has the effect of a certificate of approval granted
24 under [subsection (1) of] this section, but is valid only for a period of 30 days.

25 **“SECTION 9.** ORS 471.272 is amended to read:

26 “471.272. (1) **Malt beverages,** wine or cider may be shipped or transported
27 by a licensee or permit holder described in subsection (2) of this section only
28 by employees of the licensee or permit holder, or by a common carrier using
29 a commission-approved delivery plan. The holder of a [wine self-distribution]
30 **direct to retailer** permit that uses a common carrier to ship or transport

1 **malt beverages**, wine or cider shall take reasonable steps to ensure that the
2 **malt beverages**, wine or cider is sold and transported only to licensees that
3 are authorized to receive the **malt beverages**, wine or cider under ORS
4 471.274.

5 “(2) The provisions of this section apply to [*persons holding wine self-*
6 *distribution permits and*] the holders of **direct to retailer permits and**
7 winery licenses, grower sales privilege licenses, wholesale malt beverage and
8 wine licenses and warehouse licenses issued by the commission.

9 **“SECTION 10.** ORS 471.274 is amended to read:

10 “471.274. [(1) *The Oregon Liquor and Cannabis Commission may issue a*
11 *wine self-distribution permit to a United States manufacturer of wine or cider.*
12 *The commission may issue a wine self-distribution permit only to a manufac-*
13 *turer of wine or cider that:*]

14 “[*(a) Holds a license issued by another state that authorizes the manufac-*
15 *ture of wine or cider; and*]

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

17 “[*(2) The holder of a wine self-distribution permit may sell at wholesale and*
18 *transport wine or cider that the manufacturer produces directly to the com-*
19 *mission, or to retail licensees in the manner provided by this section. A wine*
20 *self-distribution permit allows the holder to sell wine or cider that the holder*
21 *produces only to retail licensees who hold a valid endorsement issued by the*
22 *commission authorizing receipt of wine or cider from the holder of a wine*
23 *self-distribution permit.*]

24 “[*(3) In addition to the information required by ORS 471.311 for licenses,*
25 *an applicant for a wine self-distribution permit shall provide the commission*
26 *with a copy of the license held by the applicant or with sufficient information*
27 *to allow verification of the license by electronic means or other means accept-*
28 *able to the commission. The applicant also shall provide the commission with*
29 *any information required by the commission to establish that the license held*
30 *by the applicant authorizes the manufacture of wine or cider.*]

1 “[(4) A person holding a wine self-distribution permit is responsible for
2 paying all taxes imposed under ORS chapter 473, and for complying with all
3 reporting requirements imposed by ORS chapter 473, for all wine and cider
4 sold and transported to retail licensees in this state. The commission may re-
5 voke, or refuse to issue, a wine self-distribution permit if the holder of a permit
6 fails to pay taxes or make reports as required by ORS chapter 473.]

7 “[(5) A retail licensee may receive wine or cider from the holder of a wine
8 self-distribution permit only if the licensee has received prior authorization
9 from the commission. Prior authorization under this subsection must be made
10 by an endorsement to the license for the premises where the wine or cider will
11 be received. The commission may not charge or collect a fee for an endorsement
12 under this subsection.]

13 “[(6)(a) Except as provided in paragraph (b) of this subsection, a retail
14 licensee that receives wine or cider from holders of wine self-distribution per-
15 mits must make a monthly report to the commission, using a form prescribed
16 by the commission, listing the amount of all wine or cider received from permit
17 holders in the previous month, and the names of the permit holders from whom
18 the wine or cider was received. Retail licensees shall retain such purchase re-
19 cords for products received from permit holders as may be required by the
20 commission.]

21 “[(b) The holder of a full or limited on-premises sales license is not required
22 to file a report under this subsection for any month in which the licensee re-
23 ceives two or fewer cases of wine from holders of wine self-distribution
24 permits.]

25 “[(7) A manufacturer that is not licensed by the commission may sell and
26 transport wine or cider directly to a retail licensee, and a retail licensee may
27 receive wine or cider directly from a manufacturer that is not licensed by the
28 commission, only if the manufacturer holds a wine self-distribution permit is-
29 sued under this section.]

30 “[(8) The holder of a wine self-distribution permit consents to the jurisdic-

1 *tion of the commission and the courts of this state for the purpose of enforcing*
2 *the provisions of this chapter, ORS chapter 473 and any related laws or*
3 *rules.]*

4 “[(9) *The holder of a wine self-distribution permit must post a bond or other*
5 *security, as described in ORS 471.155.]*

6 “[(10) *The commission may revoke, or refuse to issue, a wine self-*
7 *distribution permit if the holder of a permit fails to comply with any provision*
8 *of this section.]*

9 “(1) **The Oregon Liquor and Cannabis Commission may issue a di-**
10 **rect to retailer permit to a manufacturer of malt beverages, wine or**
11 **cider that:**

12 “(a) **Is a resident of another state or territory of the United States;**

13 “(b) **Is licensed by the other state or territory to manufacture malt**
14 **beverages, wine or cider; and**

15 “(c) **Holds a certificate of approval issued under ORS 471.244.**

16 “(2) **The holder of a direct to retailer permit may, in the manner**
17 **provided by this section, sell at wholesale and transport malt**
18 **beverages, wine or cider that the holder of the direct to retailer permit**
19 **produced, fermented, manufactured or blended directly to the com-**
20 **mission or the holder of a license issued under ORS 471.175, 471.178,**
21 **471.186, 471.190 or 471.200.**

22 “(3) **A person may apply for a direct to retailer permit by submit-**
23 **ting to the commission, in a form and manner prescribed by the**
24 **commission:**

25 “(a) **An application;**

26 “(b) **A copy of the applicant’s license described in subsection (1)(c)**
27 **of this section or information sufficient to allow the commission to**
28 **verify the license by electronic or other means; and**

29 “(c) **Any other information required by the commission to establish**
30 **that the applicant’s license authorizes the manufacture of malt**

1 beverages, wine or cider and that the applicant has a history of com-
2 pliance with the laws of the other state or territory.

3 “(4) The holder of a direct to retailer permit is responsible for pay-
4 ing all taxes imposed under ORS chapter 473 as a manufacturer or
5 importing distributor, and for complying with all reporting require-
6 ments imposed by ORS chapter 473 for all malt beverages, wine and
7 cider sold and transported to a holder of a license issued under ORS
8 471.175, 471.178, 471.186, 471.190 or 471.200.

9 “(5) The holder of a direct to retailer permit consents to the juris-
10 diction of the commission and the courts of this state for the purpose
11 of enforcing the provisions of this chapter and ORS chapter 473 and
12 ORS 459A.700 to 459A.744, 474.005 to 474.095 and 474.115 and any related
13 laws or rules.

14 “(6) The holder of a direct to retailer permit shall post a bond or
15 other security as described in ORS 471.155.

16 “(7) The holder of a direct to retailer permit may not in a calendar
17 year sell at wholesale and transport to the holder of a license issued
18 under ORS 471.175, 471.178, 471.186, 471.190 or 471.200 a combined total
19 of more than 7,500 barrels of malt beverages described in subsection
20 (2) of this section.

21 “(8) A direct to retail permit must be renewed annually. The holder
22 of a direct to retail permit may apply for renewal by submitting to the
23 commission:

24 “(a) An application in the form and manner prescribed by the
25 commission; and

26 “(b) The fee specified in ORS 471.311.

27 “(9) The holder of a direct to retailer permit is a:

28 “(a) Manufacturer or wholesaler for the purposes of ORS 471.392 to
29 471.400.

30 “(b) Wholesale distributor for the purposes of ORS 474.005 to 474.095.

1 **“SECTION 11.** ORS 471.282 is amended to read:

2 “471.282. (1) Notwithstanding any other provision of this chapter and ex-
3 cept as provided by ORS 471.175, 471.178 and 471.186, a person may sell and
4 ship malt beverages, wine or cider directly to a resident of Oregon only if
5 the person holds a direct shipper permit. The Oregon Liquor and Cannabis
6 Commission shall issue a direct shipper permit only to:

7 “(a) A person that holds a license issued by this state or another state
8 **or territory of the United States** that authorizes the manufacture of malt
9 beverages, wine or cider;

10 “(b) A person that holds a license issued by this state or another state
11 **or territory of the United States** that authorizes the sale of wine or cider
12 produced only from grapes or other fruit grown under the control of the
13 person;

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

16 “(d) A person that holds a temporary sales license under ORS 471.190, if
17 the shipments of malt beverages, wine or cider made by the person are de-
18 livered only during the term of validity of the temporary sales license.

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

24 “[(3)(a)] **(2)(a)** A person may apply for a direct shipper permit by filing
25 an application with the commission in a form and manner prescribed by the
26 commission.

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

30 “[(c)] **(b)** If the application is based on a license issued by another state

1 **or territory of the United States**, the person shall include in the applica-
2 tion a true copy of the license issued to the person by the other state or
3 include sufficient information to allow verification of the license by elec-
4 tronic means or other means acceptable to the commission.

5 “[*d*] (c) If the application is based on a license issued by another state
6 **or territory of the United States**, or the application is by a person de-
7 scribed in subsection (1)(d) of this section, the person shall pay a \$100 reg-
8 istration fee and maintain a bond or other security described in ORS 471.155
9 in the minimum amount of \$1,000.

10 “[*4*] (3)(a) Sales and shipments **of malt beverages, wine or cider** under
11 a direct shipper permit:

12 “[*a*] (A) May be made only to a person who is at least 21 years of age;

13 “[*b*] (B) May be made only for personal use and not for the purpose of
14 resale; and

15 “[*c*] (C) May not exceed:

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

18 “[*B*] (ii) Five cases of wine that contain not more than nine liters per
19 case to any resident per month.

20 **“(b) Only an individual who is at least 21 years of age may receive**
21 **malt beverages, wine or cider from the holder of a direct shipper per-**
22 **mit, for the purposes and in the amount described in paragraph (a)**
23 **of this subsection.**

24 “[*5*] (4) Sales and shipments under a direct shipper permit must be made
25 directly to a resident of this state in containers that are conspicuously la-
26 beled with the words: ‘CONTAINS ALCOHOL: SIGNATURE OF PERSON
27 AGE 21 YEARS OR OLDER REQUIRED FOR DELIVERY[.]’ **or similar**
28 **language adopted by the commission by rule.**

29 “[*6*] (5) [*A person holding*] **The holder of** a direct shipper permit shall
30 take all actions necessary to ensure that a carrier used by the permit holder

1 does not deliver any malt beverages, wine or cider unless the carrier:

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

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

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

8 “[~~(7)(a)~~] **(6)(a)** [*A person holding*] **The holder of** a direct shipper permit
9 shall report to the commission on a quarterly basis all shipments of malt
10 beverages, wine or cider made to Oregon residents under the permit. The
11 report must be made in a form prescribed by the commission.

12 “(b) [*A person holding*] **The holder of** a direct shipper permit shall allow
13 the commission to audit the permit holder’s records upon request and shall
14 make those records available to the commission in this state.

15 “(c) [*A person holding*] **The holder of** a direct shipper permit consents
16 to the jurisdiction of the commission and the courts of this state for the
17 purpose of enforcing the provisions of this section and any related laws or
18 rules.

19 “[~~(8)(a)~~] **(7)(a)** [*A person holding*] **The holder of** a direct shipper permit
20 shall **comply with all relevant reporting requirements and** timely pay
21 to the commission all taxes imposed under ORS chapter 473 on malt
22 beverages, wine and cider sold and shipped under the permit. For the purpose
23 of the privilege tax imposed under ORS chapter 473, all malt beverages, wine
24 or cider sold and shipped pursuant to a direct shipper permit is sold in this
25 state.

26 “(b) [*A person holding*] **The holder of** a direct shipper permit based on
27 a license issued by another state **or territory of the United States** shall
28 timely pay to the commission all taxes imposed under ORS chapter 473 on
29 all malt beverages, wine or cider sold and shipped directly to Oregon resi-
30 dents under the permit. The permit holder, not the purchaser, is responsible

1 for the tax.

2 “[9)(a)] **(8)(a)** A direct shipper permit must be renewed annually.

3 “(b) If the person holds the permit based on an annual license issued by
4 another state **or territory of the United States**, the person may renew the
5 permit by paying a \$100 renewal fee and providing the commission with a
6 true copy of a current license issued to the person by the other state or with
7 sufficient information to allow verification of the license by electronic means
8 or other means acceptable to the commission.

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

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

20 “[11)] **(9)** Any person who knowingly or negligently delivers malt
21 beverages, wine or cider under the provisions of this section to a person
22 under 21 years of age, or who knowingly or negligently delivers malt
23 beverages, wine or cider under the provisions of this section to a visibly
24 intoxicated person, violates ORS 471.410.

25 “[12)] **(10)** A person may not make sales and shipments of malt beverages,
26 wine or cider directly to Oregon residents unless the person holds a direct
27 shipper permit issued under this section. Any person who knowingly makes,
28 participates in, transports, imports or receives a shipment of malt beverages,
29 wine or cider that is in violation of this section commits a misdemeanor as
30 provided in ORS 471.990 (1).

1 **“(11) The holder of a direct shipper permit that is based on a license**
2 **issued by another state or territory of the United States is a man-**
3 **ufacturer or wholesaler for the purposes of ORS 471.392 to 471.400.**

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

5 “471.311. (1) An applicant for a license or renewal of a license under this
6 chapter shall submit an application to the Oregon Liquor and Cannabis
7 Commission on a form provided by the commission that includes the name
8 and address of the applicant, location of the place of business that is to be
9 operated under the license, and any other pertinent information the com-
10 mission may require. The commission may not grant or renew a license until
11 the applicant has complied with the provisions of this chapter and the rules
12 of the commission.

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

18 “(3) Subject to subsection (4) of this section, the commission shall assess
19 a nonrefundable fee for processing a renewal application for any license au-
20 thorized by this chapter only if the renewal application is received by the
21 commission less than 20 days before expiration of the license. If the renewal
22 application is received prior to expiration of the license but less than 20 days
23 prior to expiration, the fee shall be 25 percent of the annual license fee. If
24 a renewal application is received by the commission after expiration of the
25 license but no more than 30 days after expiration, the fee shall be 40 percent
26 of the annual license fee. This subsection does not apply to a certificate of
27 approval, a brewery-public house license or any license that is issued for a
28 period of less than 30 days.

29 “(4) The commission may waive the fee imposed under subsection (3) of
30 this section if the commission finds that failure to submit a timely applica-

1 tion was due to unforeseen circumstances or to a delay in processing the
2 application by the local governing authority that is no fault of the licensee.

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

8 “ _____

		Minimum	
	License	Fee	Bond
11	Brewery, including Certificate		
12	of Approval	\$ 1,000	\$ 1,000
13	Winery	\$ 500	\$ 1,000
14	Distillery	\$ 200	None
15	Wholesale Malt Beverage		
16	and Wine	\$ 550	\$ 1,000
17	Warehouse	\$ 200	\$ 1,000
18	Brewery-Public House,		
19	including Certificate		
20	of Approval	\$ 500	\$ 1,000
21	Limited On-Premises Sales	\$ 400	None
22	Off-Premises Sales	\$ 200	None
23	Temporary Sales	\$ 50 per day	
24	Grower sales privilege		
25	license	\$ 500	\$ 1,000
26	Special events brewery		
27	license	\$ 10 per day	
28	Special events winery		
29	license	\$ 10 per day	
30	Special events grower		

1 sales privilege
2 license \$ 10 per day
3 Special events
4 brewery-public house
5 license \$ 10 per day
6 Special events
7 distillery
8 license \$ 10 per day

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

16 “(7) The fee for a certificate of approval or special certificate of approval
17 granted under ORS 471.244 is nonrefundable and must be paid by each ap-
18 plicant upon the granting or committing of a certificate of approval or spe-
19 cial certificate of approval. A bond is not required for the granting of a
20 certificate of approval or special certificate of approval. Certificates of ap-
21 proval are valid for a period commencing on the date of issuance and ending
22 on December 31 of the fifth calendar year following the calendar year of is-
23 suance. The fee for a certificate of approval is \$350. Special certificates of
24 approval are valid for a period of 30 days. The fee for a special certificate
25 of approval is \$10.

26 “(8) Except as provided in subsection (9) of this section, the annual li-
27 cense fee for a full on-premises sales license is \$800. A bond is not required
28 for any full on-premises sales license.

29 “(9) The annual license fee for a full on-premises sales license held by a
30 nonprofit private club as described in ORS 471.175 [(9)] (11), or held by a

1 nonprofit or charitable organization that is registered with the state, is \$400.

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

3 “(11) The annual fee for a [*wine self-distribution*] **direct to retailer** per-
4 mit is \$200, and the minimum bond is \$1,000.

5 **“SECTION 13.** ORS 471.313 is amended to read:

6 “471.313. **(1)** The Oregon Liquor and Cannabis Commission may refuse to
7 issue a license, or may issue a restricted license, to any applicant under the
8 provisions of this chapter if the commission has reasonable ground to believe
9 any of the following to be true:

10 “[*1*] **(a)** That there are sufficient licensed premises in the locality set
11 out in the application, or that the granting of a license in the locality set
12 out in the application is not demanded by public interest or convenience. In
13 determining whether there are sufficient licensed premises in the locality,
14 the commission shall consider seasonal fluctuations in the population of the
15 locality and shall ensure that there are adequate licensed premises to serve
16 the needs of the locality during the peak seasons.

17 “[*2*] **(b)** That the applicant has not furnished an acceptable bond as re-
18 quired by ORS 471.311 or is not maintaining the insurance or bond required
19 by ORS 471.168.

20 “[*3*] **(c)** That, except as allowed by ORS 471.392 to 471.400, any applicant
21 to sell at retail for consumption on the premises has been financed or fur-
22 nished with money or property by, or has any connection with, or is a man-
23 ufacturer of, or wholesale dealer in, alcoholic liquor.

24 “[*4*] **(d)** That the applicant:

25 “[*a*] **(A)** Is in the habit of using alcoholic beverages, habit-forming drugs
26 or controlled substances to excess.

27 “[*b*] **(B)** Has made false statements to the commission.

28 “[*c*] **(C)** Is incompetent or physically unable to carry on the management
29 of the establishment proposed to be licensed.

30 “[*d*] **(D)** Has been convicted of violating a general or local law of this

1 state or another state, or of violating a federal law, if the conviction is
2 substantially related to the fitness and ability of the applicant to lawfully
3 carry out activities under the license.

4 “[*e*] (E) Has maintained an insanitary establishment.

5 “[*f*] (F) Is not of good repute and moral character.

6 “[*g*] (G) [*Did not have a good record of compliance with the alcoholic li-*
7 *quor laws of this state and the rules of the commission when previously li-*
8 *censed*] **Has failed to comply with ORS 459A.700 to 459A.744, 474.005 to**
9 **474.095, 474.115, 475C.005 to 475C.525, 475C.540 to 475C.586 or 475C.770 to**
10 **475C.919 or ORS chapter 471 or 473 or rules adopted by the commission**
11 **pursuant to ORS 459A.700 to 459A.744, 474.005 to 474.095, 474.115,**
12 **475C.005 to 475C.525, 475C.540 to 475C.586 or 475C.770 to 475C.919 or ORS**
13 **chapter 471 or 473.**

14 “[*h*] (H) Is not the legitimate owner of the business proposed to be li-
15 censed, or other persons have ownership interests in the business which have
16 not been disclosed.

17 “[*i*] (I) Is not possessed of or has not demonstrated financial responsi-
18 bility sufficient to adequately meet the requirements of the business proposed
19 to be licensed.

20 “[*j*] (J) Is unable to read or write the English language or to understand
21 the laws of Oregon relating to alcoholic liquor or the rules of the commis-
22 sion.

23 “[*5*] (e) That there is a history of serious and persistent problems in-
24 volving disturbances, lewd or unlawful activities or noise either in the
25 premises proposed to be licensed or involving patrons of the establishment
26 in the immediate vicinity of the premises if the activities in the immediate
27 vicinity of the premises are related to the sale or service of alcohol under
28 the exercise of the license privilege. Behavior [*which*] **that** is grounds for
29 refusal of a license under this section, where so related to the sale or service
30 of alcohol, includes, but is not limited to obtrusive or excessive noise, music

1 or sound vibrations; public drunkenness; fights; altercations; harassment;
2 unlawful drug sales; alcohol or related litter; trespassing on private property;
3 and public urination. Histories from premises currently or previously oper-
4 ated by the applicant may be considered when reasonable inference may be
5 made that similar activities will occur as to the premises proposed to be li-
6 censed. The applicant may overcome the history by showing that the prob-
7 lems are not serious or persistent or that the applicant demonstrates a
8 willingness and ability to control adequately the premises proposed to be li-
9 censed and patrons' behavior in the immediate vicinity of the premises
10 [which] **that** is related to the licensee's sale or service of alcohol under the
11 licensee's exercise of the license privilege.

12 **“(2) The commission may refuse to issue a certificate under ORS**
13 **471.244 or permit under ORS 471.274 or 471.282, or may issue a restricted**
14 **certificate or permit, if the commission has reasonable grounds to**
15 **believe that the applicant:**

16 **“(a) Is in the habit of using alcoholic beverages, habit-forming**
17 **drugs or controlled substances to excess.**

18 **“(b) Has made false statements to the commission.**

19 **“(c) Has been convicted of violating a general or local law of this**
20 **state or another state, or of violating a federal law, if the conviction**
21 **is substantially related to the fitness and ability of the applicant to**
22 **lawfully carry out activities related to the certificate or permit.**

23 **“(d) Has failed to comply with ORS 459A.700 to 459A.744, 474.005 to**
24 **474.095, 474.115, 475C.005 to 475C.525, 475C.540 to 475C.586 or 475C.770 to**
25 **475C.919 or ORS chapter 471 or 473 or rules adopted by the commission**
26 **pursuant to ORS 459A.700 to 459A.744, 474.005 to 474.095, 474.115,**
27 **475C.005 to 475C.525, 475C.540 to 475C.586 or 475C.770 to 475C.919 or ORS**
28 **chapter 471 or 473.**

29 **“(e) Does not have a good record of compliance with the alcoholic**
30 **liquor laws and rules of any other jurisdiction.**

1 **“SECTION 14.** ORS 471.315 is amended to read:

2 “471.315. (1) The Oregon Liquor and Cannabis Commission may cancel,
3 suspend, restrict or require mandatory training for any license issued under
4 this chapter, or impose a civil penalty in lieu of or in addition to a suspen-
5 sion as provided by ORS 471.322, if the commission finds or has reasonable
6 ground to believe any of the following to be true:

7 “(a) That the licensee:

8 “(A) Has violated any provision of this chapter or ORS 474.115 or any rule
9 of the commission adopted pursuant thereto.

10 “(B) Has made any false representation or statement to the commission
11 in order to induce or prevent action by the commission.

12 “(C) Is not maintaining an acceptable bond as required by ORS 471.311
13 or is not maintaining the insurance or bond required by ORS 471.168.

14 “(D) Has maintained an insanitary establishment.

15 “(E) Is insolvent or incompetent or physically unable to carry on the
16 management of the establishment of the licensee.

17 “(F) Is in the habit of using alcoholic liquor, habit-forming drugs or
18 controlled substances to excess.

19 “(G) Has knowingly sold alcoholic liquor to persons under 21 years of age
20 or to persons visibly intoxicated at the time of sale.

21 “(H) Has allowed the consumption of alcoholic liquor on the licensed
22 premises by a person who is visibly intoxicated at the time of consumption.

23 “(I) Has misrepresented to a customer or the public any alcoholic liquor
24 sold by the licensee.

25 “(J) Since the granting of the license, has been convicted of a felony, of
26 violating any of the liquor laws of this state, general or local, or of any
27 misdemeanor or violation of any municipal ordinance committed on the li-
28 censed premises.

29 “(b) That any person licensed to sell at retail for consumption on the
30 premises is acting as an agent of, or is a manufacturer or wholesaler of al-

1 coholic liquors, or has borrowed money or property, or has accepted
2 gratuities or rebates, or has obtained the use of equipment from any man-
3 ufacturer or wholesaler of alcoholic liquor or any agent thereof.

4 “(c) That there is a history of serious and persistent problems involving
5 disturbances, lewd or unlawful activities or noise either in the premises or
6 involving patrons of the establishment in the immediate vicinity of the
7 premises if the activities in the immediate vicinity of the premises are re-
8 lated to the sale or service of alcohol under the exercise of the license
9 privilege. Behavior that is grounds for cancellation or suspension of a license
10 under this section, where so related to the sale or service of alcohol, includes
11 but is not limited to obtrusive or excessive noise, music or sound vibrations;
12 public drunkenness; fights; altercations; harassment or unlawful drug sales;
13 alcohol or related litter; trespassing on private property; and public
14 urination. Mitigating factors include a showing by the licensee that the
15 problems are not serious or persistent or that the licensee has demonstrated
16 a willingness and ability to control adequately the licensed premises and
17 patrons’ behavior in the immediate vicinity of the premises which is related
18 to the licensee’s sale or service of alcohol under the licensee’s exercise of the
19 license privilege.

20 “(d) That there is any other reason that, in the opinion of the commission,
21 based on public convenience or necessity, warrants canceling or suspending
22 such license.

23 **“(2) The commission may cancel, suspend or restrict a certificate**
24 **issued under ORS 471.244 or permit issued under ORS 471.274 or 471.282,**
25 **or impose a civil penalty in lieu of or in addition to a suspension of a**
26 **certificate or permit as provided by ORS 471.327, if the commission has**
27 **reasonable grounds to believe that the certificate or permit holder:**

28 **“(a) Is in the habit of using alcoholic beverages, habit-forming**
29 **drugs or controlled substances to excess.**

30 **“(b) Has made false statements to the commission.**

1 “(c) Has been convicted of violating a general or local law of this
2 state or another state, or of violating a federal law, if the conviction
3 is substantially related to the fitness and ability of the applicant to
4 lawfully carry out activities related to the certificate or permit.

5 “(d) Has failed to comply with ORS 459A.700 to 459A.744, 474.005 to
6 474.095, 474.115, 475C.005 to 475C.525, 475C.540 to 475C.586 or 475C.770 to
7 475C.919 or ORS chapter 471 or 473 or rules adopted by the commission
8 pursuant to ORS 459A.700 to 459A.744, 474.005 to 474.095, 474.115,
9 475C.005 to 475C.525, 475C.540 to 475C.586 or 475C.770 to 475C.919 or ORS
10 chapter 471 or 473.

11 “(e) Does not have a good record of compliance with the alcoholic
12 liquor laws and rules of any other jurisdiction.

13 “(f) Or any officer, agent or employee of the certificate or permit
14 holder, violated any term or provision of an agreement entered into
15 pursuant to ORS 471.244 or submitted a false or fictitious report pur-
16 suant to the agreement.

17 “[(2)] (3) Civil penalties under this section shall be imposed as provided
18 in ORS 183.745.

19 “**SECTION 15.** ORS 471.327 is amended to read:

20 “471.327. (1) The Oregon Liquor and Cannabis Commission, in suspending
21 any brewery license, wholesale wine license, wholesale malt beverage license,
22 **direct shipper permit, direct to retailer permit** or certificate of approval,
23 may:

24 “(a) Further impose against the licensee or the holder of the **permit or**
25 certificate of approval a civil penalty not to exceed \$5,000[,]; or[,]

26 “(b) In [*its discretion, may impose such*] **the commission’s discretion,**
27 **impose the** civil penalty without suspending the license [*or the*], **permit**
28 **or** certificate of approval.

29 “(2) Civil penalties under this section shall be imposed as provided in
30 ORS 183.745.

1 **SECTION 16.** ORS 471.329 is amended to read:

2 “471.329. (1) For the purpose of determining whether there is a history
3 of serious and persistent problems involving noise under the provisions of
4 ORS 471.313 [(5)] and 471.315 (1)(c), or whether the licensee maintains a noisy
5 establishment in violation of the provisions of ORS 471.425:

6 “(a) Noise from the inside of a licensed premises located within the
7 boundaries of a city or county that has an ordinance regulating excessive
8 noise may be considered obtrusive or excessive only if the noise violates the
9 ordinance;

10 “(b) Noise caused by patrons outside a licensed premises located within
11 the boundaries of a city or county that has an ordinance regulating excessive
12 noise may be considered obtrusive or excessive only if the noise violates the
13 ordinance or if the noise is of a type that a reasonable person would not
14 expect to hear outside a premises licensed for the sale of alcoholic beverages;
15 and

16 “(c) Noise caused by patrons inside or outside a licensed premises located
17 within the boundaries of a city or county that does not have an ordinance
18 regulating excessive noise may be considered obtrusive or excessive only if
19 the noise is of the type that a reasonable person would not expect to hear
20 inside or outside a premises licensed for the sale of alcoholic beverages.

21 “(2) For the purpose of determining whether noise is obtrusive under the
22 provisions of ORS 471.313 [(5)] and 471.315 (1)(c), or whether the licensee
23 maintains a noisy establishment in violation of the provisions of ORS
24 471.425, the Oregon Liquor and Cannabis Commission shall consider whether
25 persons complaining about the noise have taken any action to mitigate the
26 disturbance alleged to have been caused by the noise.

27 **SECTION 17.** ORS 471.331 is amended to read:

28 “471.331. (1) Whenever the Oregon Liquor and Cannabis Commission pro-
29 poses to refuse to renew or to suspend or cancel any license issued under this
30 chapter because of adverse neighborhood impact of the licensee’s operation,

1 notwithstanding ORS 183.435, the commission shall grant the affected
2 licensee 20 days from notification of the proposed commission action to re-
3 quest a hearing.

4 “(2) Notwithstanding ORS 183.482 (3), the Oregon Liquor and Cannabis
5 Commission shall not stay any order refusing a license or suspending or
6 canceling any license if the order was entered on grounds stated in ORS
7 471.313 [(5)] or 471.315 (1)(c).

8 **“SECTION 18.** ORS 471.392 is amended to read:

9 “471.392. For the purposes of ORS 471.392 to 471.400:

10 “(1) ‘Manufacturer or wholesaler’ means:

11 “(a) A person holding a brewery license issued under ORS 471.221, a
12 winery license issued under ORS 471.223, a grower sales privilege license is-
13 sued under ORS 471.227, a distillery license issued under ORS 471.230, a
14 wholesale malt beverage and wine license issued under ORS 471.235 [or], a
15 warehouse license issued under ORS 471.242 **or a direct to retailer permit**
16 **issued under ORS 471.274.**

17 “(b) Any manufacturer of alcoholic liquors whose products are sold in the
18 State of Oregon.

19 “(2) ‘Retail licensee’ means the holder of a full or limited on-premises
20 sales license, an off-premises sales license or a temporary sales license. ‘Re-
21 tail licensee’ does not include a bona fide trade association that represents
22 retail licensees and that is open to all persons licensed under at least one
23 type of retail license.

24 **“SECTION 19.** ORS 471.404 is amended to read:

25 “471.404. (1) Alcoholic liquor may not be imported into this state by any
26 person other than a holder of a brewery, winery, distillery or wholesaler’s
27 license, except as follows:

28 “(a) Alcoholic liquor ordered by and en route to the Oregon Liquor and
29 Cannabis Commission, under a certificate of approval issued by the commis-
30 sion.

1 “(b) Wines for sacramental purposes according to rules adopted by the
2 commission.

3 “(c) Alcoholic liquor that is in transit on a common carrier to a destina-
4 tion outside Oregon.

5 “(d) Alcoholic liquor coming into Oregon on a common carrier according
6 to orders placed by a licensed brewery, winery or wholesaler.

7 “(e) Grain and ethyl alcohol for scientific, pharmaceutical, manufacturing,
8 mechanical or industrial use, under a certificate of approval issued by the
9 commission.

10 “(f) **Malt beverages**, wine or cider that is sold and transported by the
11 holder of a [*wine self-distribution permit to a retail licensee that has the*
12 *endorsement described in*] **direct to retailer permit pursuant to** ORS
13 471.274 [(5)].

14 “(g) Malt beverages, wine or cider shipped directly to a resident of this
15 state under a direct shipper permit issued pursuant to ORS 471.282.

16 “(2) The commission may require importers of alcoholic liquor to pay a
17 reasonable handling fee based on the quantity and type of alcoholic liquor
18 being imported.

19 “**SECTION 20.** ORS 471.412 is amended to read:

20 “471.412. (1) A licensee or permittee may not allow a person to consume
21 or to continue to consume alcoholic beverages on the licensed premises after
22 observing that the person is visibly intoxicated.

23 “(2) A licensee or permittee is not in violation of subsection (1) of this
24 section if the licensee or permittee makes a good faith effort to remove any
25 unconsumed alcoholic beverages from the person’s possession when the
26 licensee or permittee observes that the person is visibly intoxicated.

27 “(3) Nothing in this section applies to determining liability under ORS
28 471.565.

29 “(4) Notwithstanding any other provision of law, the Oregon Liquor and
30 Cannabis Commission shall only impose letters of reprimand for the first

1 three violations of this section within a two-year period. For license renewal
2 purposes, the first three violations of this section in a two-year period do
3 not apply in determining the past record of compliance under ORS 471.313
4 [(4)(g)] (1)(d)(G).

5 **“SECTION 21.** ORS 473.030 is amended to read:

6 **“473.030. (1) A tax at the rate of \$2.60 per barrel of 31 gallons of malt**
7 **beverages** is imposed upon the privilege of engaging in business as:

8 **“(a)** A manufacturer or [as] an importing distributor of malt beverages
9 [at the rate of \$2.60 per barrel of 31 gallons on all such beverages.];

10 **“(b) The holder of a direct to retailer permit issued under ORS**
11 **471.274, for malt beverages sold and transported to a holder of a license**
12 **issued under ORS 471.175, 471.178, 471.186, 471.190 or 471.200; or**

13 **“(c) The holder of a direct shipper permit issued under ORS 471.282,**
14 **for malt beverages sold and delivered directly to an Oregon resident.**

15 **“(2) A tax at the rate of 65 cents per gallon of wine** is imposed upon
16 the privilege of engaging in business as:

17 **“(a)** A manufacturer or [as] an importing distributor of wines [at the rate
18 of 65 cents per gallon on all such beverages.];

19 **“(b) The holder of a direct to retailer permit issued under ORS**
20 **471.274, for wines sold and transported to a holder of a license issued**
21 **under ORS 471.175, 471.178, 471.186, 471.190 or 471.200; and**

22 **“(c) The holder of a direct shipper permit issued under ORS 471.282,**
23 **for wines sold and delivered directly to an Oregon resident.**

24 **“(3) In addition to the tax imposed by subsection (2) of this section, the**
25 **following persons shall be taxed at a rate of 10 cents per gallon of wine**
26 **containing more than 16 percent alcohol by volume:**

27 **“(a)** A manufacturer or an importing distributor of wines containing more
28 than 16 percent alcohol by volume [shall be taxed at the rate of 10 cents per
29 gallon.];

30 **“(b) The holder of a direct to retailer permit issued under ORS**

1 **471.274, for wines containing more than 16 percent alcohol by volume**
2 **sold and transported to a holder of a license issued under ORS 471.175,**
3 **471.178, 471.186, 471.190 or 471.200; and**

4 **“(c) The holder of a direct shipper permit issued under ORS 471.282,**
5 **for wines containing more than 16 percent alcohol by volume sold and**
6 **delivered directly to an Oregon resident.**

7 **“(4)(a) In addition to the taxes imposed by subsections (2) and (3) of this**
8 **section, the following persons shall be taxed at a rate of two cents per**
9 **gallon of wine:**

10 **“(A) A manufacturer or an importing distributor of wines [*shall be taxed***
11 ***at the rate of two cents per gallon.*];**

12 **“(B) The holder of a direct to retailer permit issued under ORS**
13 **471.274, for wines sold and transported by the holder to a holder of a**
14 **license issued under ORS 471.175, 471.178, 471.186, 471.190 or 471.200; and**

15 **“(C) The holder of a direct shipper permit issued under ORS 471.282,**
16 **for wines sold and delivered directly to an Oregon resident.**

17 **“(b) Notwithstanding any other provision of law, all moneys collected by**
18 **the Oregon Liquor and Cannabis Commission pursuant to this subsection**
19 **shall be paid into the account established by the Oregon Wine Board under**
20 **ORS 182.470.**

21 **“(5) The rates of tax imposed by this section upon malt beverages apply**
22 **proportionately to quantities in containers of less capacity than those**
23 **quantities specified in this section.**

24 **“(6)(a) The taxes imposed by this section shall be measured by the volume**
25 **of wine or malt beverages:**

26 **“(A) Produced, purchased or received by any manufacturer[.];**

27 **“(B) Transported by the holder of a direct to retailer permit issued**
28 **under ORS 471.274 to the holder of a license issued under ORS 471.175,**
29 **471.178, 471.186, 471.190 or 471.200; or**

30 **“(C) Delivered by the holder of a direct shipper permit issued under**

1 **ORS 471.282 directly to an Oregon resident.**

2 “(b) If the wine or malt beverage remains unsold and in the possession
3 of the producer at the plant where it was produced, no tax imposed or levied
4 by this section is required to be paid until the wine or malt beverage has
5 become sufficiently aged for marketing at retail, but this subsection shall
6 not be construed so as to alter or affect any provision of this chapter relat-
7 ing to tax liens or the filing of statements.

8 **“SECTION 22.** ORS 473.035 is amended to read:

9 “473.035. (1) A tax **at the rate of \$2.60 per barrel of 31 gallons of cider**
10 is imposed upon the privilege of engaging in business as:

11 “(a) A manufacturer or as an importing distributor of cider [*at the rate*
12 *of \$2.60 per barrel of 31 gallons on all such beverages.*];

13 “(b) **The holder of a direct to retailer permit issued under ORS**
14 **471.274 for all cider sold and transported by the holder to the holder**
15 **of a license issued under ORS 471.175, 471.178, 471.186, 471.190 or 471.200;**
16 **and**

17 “(c) **The holder of a direct shipper permit issued under ORS 471.282**
18 **for all cider sold and delivered directly to an Oregon resident.**

19 “(2) Notwithstanding subsection (1) of this section or any other provision
20 of law, the taxation of the manufacturing [*or*], distribution, **transportation**
21 **or delivery** of cider shall be at a rate that is not less than the rate imposed
22 for the privilege of manufacturing [*or*], distributing, **transporting or de-**
23 **livering of** malt beverages under ORS 473.030 (1).

24 “(3) The rate of tax imposed by this section shall apply proportionately
25 to quantities in containers of less capacity than those quantities specified in
26 this section.

27 “(4)(a) The tax imposed by this section shall be measured by the volume
28 of cider:

29 “(A) Produced, purchased or received by any manufacturer[.];

30 “(B) **Transported by the holder of a direct to retailer permit issued**

1 **under ORS 471.274 to the holder of a license issued under ORS 471.175,**
2 **471.178, 471.186, 471.190 or 471.200; and**

3 **“(C) Delivered by the holder of a direct shipper permit issued under**
4 **ORS 471.282 directly to an Oregon resident.**

5 **“(b) If the cider remains unsold and in the possession of the producer at**
6 **the plant where it was produced, no tax imposed or levied by this section is**
7 **required to be paid until the cider has become sufficiently aged for marketing**
8 **at retail, but this subsection shall not be construed so as to alter or affect**
9 **any provision of this chapter relating to tax liens or the filing of statements.**

10 **“SECTION 23.** ORS 473.070 is amended to read:

11 **“473.070. (1) On or before the 20th day of each month[,]:**

12 **“(a) Every manufacturer shall file with the Oregon Liquor and Cannabis**
13 **Commission a statement of the quantity of wine, cider and malt beverages**
14 **produced, purchased or received by the manufacturer during the preceding**
15 **calendar month.**

16 **“(b) Every holder of a direct to retailer permit issued under ORS**
17 **471.274 shall file with the commission a statement of the quantity of**
18 **wine, cider and malt beverages the holder transported to the holder**
19 **of a license issued under ORS 471.175, 471.178, 471.186, 471.190 or 471.200**
20 **during the preceding calendar month.**

21 **“(c) Every holder of a direct shipper permit issued under ORS**
22 **471.282 shall file with the commission a statement of the quantity of**
23 **wine, cider and malt beverages the holder delivered directly to an**
24 **Oregon resident during the preceding three calendar months.**

25 **“(2) Notwithstanding subsection (1) of this section, a manufacturer of**
26 **wine, the holder of a direct to retailer permit or the holder of a direct**
27 **shipper permit that was not liable for a privilege tax under this chapter in**
28 **the prior calendar year and that does not expect to be liable for a privilege**
29 **tax under this chapter in the current calendar year, or a manufacturer of**
30 **wine, the holder of a direct to retailer permit or the holder of a direct**

1 **shipper permit** that is newly established during the current calendar year
2 and that does not expect to be liable for a privilege tax under this chapter
3 in the current calendar year, may file a single annual statement of the
4 quantity of wine produced, purchased or received by the manufacturer, **the**
5 **holder of a direct to retailer permit or the holder of a direct shipper**
6 **permit** during the current calendar year. The annual statement shall be filed
7 with the commission on or before January 20 of the following year.

8 “(3) The commission shall by rule establish procedures that allow man-
9 ufacturers [*or*], importing distributors, **holders of direct to retailer per-**
10 **mits and holders of direct shipper permits** to use electronic means to:

11 “(a) File statements required under this section; and

12 “(b) Pay privilege taxes imposed by ORS 473.030 and 473.035.

13

14 **“CONFORMING AMENDMENTS**

15

16 **“SECTION 24.** ORS 473.045 is amended to read:

17 “473.045. (1) A tax is hereby imposed upon the sale or use of all agricul-
18 tural products used in a winery for making wine.

19 “(2) The amount of the tax shall be \$25 per ton of grapes of the vinifera
20 varieties, whether true or hybrid.

21 “(3) An equivalent tax is imposed upon the sale or use of vinifera or hy-
22 brid grape products imported for use in a winery licensed under ORS chapter
23 471 for making wine. Such tax shall be \$25 per ton of grapes used to produce
24 the imported grape product. The tax shall be determined on the basis of one
25 ton of grapes for each 150 gallons of wine made from such vinifera or hybrid
26 grape products.

27 “(4) A tax on the sale or use of products that are not subject to subsection
28 (2) or (3) of this section that are used to make wine in this state shall be
29 imposed at a rate of \$.021 per gallon of wine made from those products.

30 “(5)(a) In the case of vinifera or hybrid grape products harvested in this

1 state, \$12.50 per ton of the tax shall be levied and assessed against the person
2 selling or providing the grape products to the winery and, except as provided
3 in ORS 473.046, \$12.50 per ton shall be levied and assessed against the winery
4 purchasing the grape products.

5 “(b) If the purchasing winery is licensed under ORS chapter 471 or holds
6 a [*wine self-distribution*] **direct to retailer** permit, direct shipper permit or
7 certificate of approval, the purchasing winery shall pay the \$25 per ton tax
8 and deduct \$12.50 per ton from the price paid to the person selling or pro-
9 viding the grape products to the winery.

10 “(c) If the purchasing winery is not licensed under ORS chapter 471 and
11 does not hold a [*wine self-distribution*] **direct to retailer** permit, direct
12 shipper permit or certificate of approval, the person selling or providing the
13 grape products to the winery shall report the sale on forms provided by the
14 Oregon Liquor and Cannabis Commission and pay \$12.50 per ton as a tax
15 directly to the commission.

16 “(6) Moneys that a winery deducts for taxes described in subsection (5)
17 of this section and forwards to the commission shall be collected by the
18 commission on behalf of the Oregon Wine Board. The commission may retain
19 an amount sufficient to cover the cost of collecting the taxes paid under
20 subsection (5) of this section and shall transfer the remainder of those taxes
21 to the board for deposit as provided in ORS 576.877. Failure to pay a tax
22 imposed under subsection (5) of this section subjects the violator to the
23 penalty provided in ORS 473.992.

24 “(7) If a winery deducts and pays the tax imposed on an item under this
25 section, resale of the item in bulk to an out-of-state buyer does not subject
26 the out-of-state buyer to the imposition of tax under this section.

27 “(8) Except for the tax specified in subsection (4) of this section the taxes
28 specified under this section shall be levied and assessed to the winery at the
29 time of purchase of the product by the winery or of importation of the
30 product, whichever is later. The tax specified in subsection (4) of this section

1 shall be levied and assessed to the licensed winery at the time the wine is
2 made.

3 “(9) The taxes imposed by this section shall be paid to and collected by
4 the commission subject to the same powers as taxes imposed and collected
5 under ORS chapter 473. The tax obligation for a calendar year shall be paid
6 in two installments. Half shall be due on December 31 of the current calen-
7 dar year. The remaining half shall be due the following June 30.

8 “(10) The commission may adopt rules for carrying out this section.

9 **“SECTION 25.** ORS 473.047 is amended to read:

10 “473.047. (1) As used in this section, ‘qualified marketing activity’ means
11 marketing activity:

12 “(a) That promotes the sale of wine or wine products;

13 “(b) That does not promote specific brands of wine or wine products or
14 exclusively promote the products of any particular winery; and

15 “(c) That has been approved by the Oregon Wine Board.

16 “(2) A credit against the privilege tax otherwise due under ORS 473.030
17 (2) is allowed to a manufacturer or importing distributor of wine, **the holder**
18 **of a direct to retailer permit issued under ORS 471.274 for wines sold**
19 **and transported to a holder of a license issued under ORS 471.175,**
20 **471.178, 471.186, 471.190 or 471.200 or the holder of a direct to shipper**
21 **permit issued under ORS 471.282 for wines sold and delivered directly**
22 **to an Oregon resident,** for the qualified marketing activity expenditures
23 made by the manufacturer [*or*], importing distributor **or permit holder** in
24 the calendar year prior to the year for which the credit is claimed.

25 “(3) The credit allowed under this section shall be 28 percent of the sum
26 of the following:

27 “(a) One hundred percent of the cost of qualified marketing activity to
28 the extent that the cost of the activity does not exceed the amount of taxes
29 the manufacturer or importing distributor of wine **or permit holder de-**
30 **scribed in subsection (2) of this section** owed under ORS 473.030 (2) on

1 the first 40,000 gallons, or 151,000 liters, of wine sold annually in Oregon;
2 and

3 “(b) Twenty-five percent of the tax owed under ORS 473.030 (2) for quali-
4 fied marketing activity on wine sales above 40,000 gallons, or 151,000 liters,
5 of wine sold annually in Oregon.

6 “(4) The credit allowed under this section may not exceed the tax liability
7 of the manufacturer or importing distributor of wine **or the permit holder**
8 **described in subsection (2) of this section** under ORS 473.030 (2) for the
9 calendar year following the year in which qualified marketing activity oc-
10 curred.

11 “(5) A manufacturer or importing distributor of wine **or permit holder**
12 **described in subsection (2) of this section** that wishes to claim the credit
13 allowed under this section shall submit with the manufacturer’s [or], im-
14 porting distributor’s **or permit holder’s** tax return form a certificate issued
15 by the board verifying that the marketing activity was a qualified marketing
16 activity. The credit shall be claimed on the form and include the information
17 required by the Oregon Liquor and Cannabis Commission by rule.

18 “(6) The credit shall be claimed against the taxes reported on the return
19 filed under ORS 473.060 for each month in the calendar year following the
20 year in which the qualified marketing activity occurred, until the credit is
21 completely used or the year ends, whichever occurs first.

22 “(7) The board shall by rule further define, consistent with the definition
23 in subsection (1) of this section, the marketing activities that constitute
24 qualified marketing activity.

25 **“SECTION 26.** ORS 473.060 is amended to read:

26 “473.060. (1) The privilege taxes imposed by ORS 473.030 and 473.035 shall
27 be paid to the Oregon Liquor and Cannabis Commission. The taxes covering
28 the periods for which statements are required to be rendered by ORS 473.070
29 shall be paid before the time for filing such statements expires or, as con-
30 cerns wines, on or before the 20th day of the month after such wines have

1 been withdrawn from federal bond. If not so paid, a penalty of 10 percent and
2 interest at the rate of one percent a month or fraction of a month shall be
3 added and collected. The commission may refund any tax payment imposed
4 upon or paid in error by any licensee **or holder of a direct to retailer**
5 **permit issued under ORS 471.274 or a direct shipper permit issued un-**
6 **der ORS 471.282**, and may waive the collection or refund the payment of any
7 tax imposed and collected on wine, cider or malt beverages subsequently ex-
8 ported from this state, sold to a federal instrumentality or to the commission,
9 or determined by the commission to be unfit for human consumption or
10 unsalable.

11 “(2) The commission may waive any interest or penalty assessed to a
12 manufacturer **or holder of a permit described in subsection (1) of this**
13 **section** subject to the tax imposed under ORS 473.030 or 473.035 if the com-
14 mission, in its discretion, determines that the manufacturer **or permit**
15 **holder** has made a good faith attempt to comply with the requirements of
16 this chapter.

17 “(3) Except in the case of fraud, the commission may not assess any in-
18 terest or penalty on any tax due under ORS 473.030 or 473.035 following the
19 expiration of 36 months from the date on which was filed the statement re-
20 quired under ORS 473.070 reporting the quantity of wine, cider or malt
21 beverages upon which the tax is due.

22 “(4) A manufacturer **or holder of a permit described in subsection (1)**
23 **of this section** may appeal a tax imposed under ORS 473.030 or 473.035 in
24 the manner of a contested case under ORS chapter 183.

25 **“SECTION 27.** ORS 473.065 is amended to read:

26 “473.065. (1) If [*a manufacturer's*] **the** total tax liability under ORS 473.030
27 **(1) of a manufacturer or holder of a direct to retailer permit issued**
28 **under ORS 471.274 or a direct shipper permit issued under ORS 471.282**
29 in the previous calendar year was less than \$1,000, the manufacturer **or**
30 **permit holder** may deposit with the Oregon Liquor and Cannabis Commis-

1 sion an amount in cash equal to the manufacturer's **or permit holder's** total
2 tax liability under ORS 473.030 (1) for the previous calendar year in lieu of
3 the bond required by ORS 471.155 (1).

4 “(2) If [*a manufacturer's*] **the** actual tax liability under ORS 473.030 (1)
5 **of a manufacturer or holder of a permit described in subsection (1) of**
6 **this section** is less than the amount deposited under subsection (1) of this
7 section, the manufacturer **or permit holder** may request that the commis-
8 sion refund the excess funds or may apply those funds toward the
9 manufacturer's **or permit holder's** tax liability under ORS 473.030 (1) for
10 the next calendar year.

11 “(3) If [*a manufacturer's*] **the** actual tax liability under ORS 473.030 (1)
12 **of a manufacturer or holder of a permit described in subsection (1) of**
13 **this section** is greater than the amount deposited under subsection (1) of
14 this section, the manufacturer **or permit holder** shall pay to the commission
15 the additional amount owed in the manner required under ORS 473.060.

16 “(4) Unless the commission determines that a winery, grower sales privi-
17 lege or warehouse licensee or direct shipper or [*wine self-distribution*] **direct**
18 **to retailer** permit holder presents an unusual risk for nonpayment of any
19 license fees, privilege taxes, agricultural products taxes or other tax, penalty
20 or interest imposed under this chapter or ORS chapter 471, the commission
21 shall waive the bond required under ORS 471.155 (1) for the licensee or per-
22 mit holder if:

23 “(a) The licensee or permit holder was not liable for a privilege tax under
24 this chapter in the immediately preceding calendar year and does not expect
25 to be liable for a privilege tax under this chapter in the current calendar
26 year; or

27 “(b) The licensee or permit holder of a business established during the
28 current calendar year does not expect to be liable for a privilege tax under
29 this chapter in the current calendar year. As used in this paragraph, ‘busi-
30 ness’ means:

1 “(A) A winery.

2 “(B) A business operated pursuant to a license issued under ORS 471.227.

3 “(C) A warehouse.

4 “(D) A business operated pursuant to a permit issued under ORS 471.274.

5 “(E) A business operated pursuant to a permit issued under ORS 471.282.

6 **“SECTION 28.** ORS 473.080 is amended to read:

7 “473.080. If any manufacturer **or holder of a direct to retailer permit**
8 **issued under ORS 471.274 or a direct shipper permit issued under ORS**
9 **471.282** fails, neglects or refuses to file a statement required by ORS 473.070
10 or files a false statement, the Oregon Liquor and Cannabis Commission shall
11 estimate the amount of wine, cider and malt beverages produced, purchased
12 or received by the manufacturer **or permit holder** and assess the privilege
13 tax thereon. The manufacturer **or permit holder** shall be estopped from
14 complaining of the amount so estimated.

15 **“SECTION 29.** ORS 473.090 is amended to read:

16 “473.090. The privilege tax required to be paid by ORS 473.030 and 473.035
17 constitutes a lien upon, and has the effect of an execution duly levied
18 against, any and all property of the manufacturer **or the holder of a direct**
19 **to retailer permit issued under ORS 471.274 or a direct shipper permit**
20 **issued under ORS 471.282**, attaching at the time the beverages subject to
21 the tax were produced, purchased or received, as the case may be, and re-
22 maining until the tax is paid or the property sold in payment thereof. The
23 lien created by this section is paramount to all private liens or
24 encumbrances.

25 **“SECTION 30.** ORS 473.100 is amended to read:

26 “473.100. (1) Whenever any manufacturer **or holder of a direct to**
27 **retailer permit issued under ORS 471.274 or a direct shipper permit is-**
28 **sued under ORS 471.282** is delinquent in the payment of the privilege tax
29 provided for in ORS 473.030 and 473.035, the Oregon Liquor and Cannabis
30 Commission or its duly authorized representative shall seize any property

1 subject to the tax and sell, at public auction, property so seized, or a suffi-
2 cient portion thereof to pay the privilege tax due, together with any penal-
3 ties imposed under ORS 473.060 for such delinquency and all costs incurred
4 on account of the seizure and sale.

5 “(2) Written notice of the intended sale and the time and place thereof,
6 shall be given to such delinquent manufacturer **or holder of a permit de-**
7 **scribed in subsection (1) of this section** and to all persons appearing of
8 record to have an interest in the property, at least 10 days before the date
9 set for the sale. The notice shall be enclosed in an envelope addressed to the
10 manufacturer **or permit holder** at the last-known residence or place of
11 business of the manufacturer **or permit holder** in this state, if any[;], and
12 in the case of any person appearing of record to have an interest in such
13 property, addressed to such person at the last-known place of residence of
14 the person, if any. The envelope shall be deposited in the United States mail,
15 postage prepaid. In addition, notice shall be published for at least 10 days
16 before the date set for such sale, in a newspaper of general circulation pub-
17 lished in the county in which the property seized is to be sold. If there is
18 no newspaper of general circulation in such county, the notice shall be
19 posted in three public places in such county for the 10-day period. The notice
20 shall contain a description of the property to be sold, a statement of the
21 amount of the privilege taxes, penalties and costs, the name of the man-
22 ufacturer **or permit holder** and the further statement that, unless the priv-
23 ilege taxes, penalties and costs are paid on or before the time fixed in the
24 notice for the sale, the property, or so much thereof as may be necessary,
25 will be sold in accordance with law and the notice.

26 **“SECTION 31.** ORS 473.110 is amended to read:

27 “473.110. At the sale, the property shall be sold by the Oregon Liquor and
28 Cannabis Commission or by its duly authorized agent in accordance with law
29 and the notice. The commission shall deliver to the purchaser a bill of sale
30 for the personal property, and a deed for any real property so sold. The bill

1 of sale or deed vests title in the purchaser. The unsold portion of any prop-
2 erty seized under ORS 473.100 may be left at the place of sale at the risk of
3 the manufacturer **or holder of a direct to retailer permit issued under**
4 **ORS 471.274 or a direct shipper permit issued under ORS 471.282.** If upon
5 any such sale, the money received exceeds the amount of all privilege taxes,
6 penalties and costs due the state from the manufacturer **or permit holder,**
7 the excess shall be returned to the manufacturer, and a receipt therefor ob-
8 tained. However, if any person having an interest in or lien upon the
9 property has filed with the commission, prior to the sale, notice of interest
10 or lien, the commission shall withhold any such excess pending a determi-
11 nation of the rights of the respective parties thereto by a court of competent
12 jurisdiction. If the receipt of the manufacturer **or permit holder** is not
13 available, the commission shall deposit such excess money with the State
14 Treasurer, as trustee for the owner, subject to the order of the manufacturer
15 **or permit holder or,** the heirs, successors or assigns of the manufacturer
16 **or permit holder.**

17 **“SECTION 32.** ORS 473.120 is amended to read:

18 “473.120. (1) The Oregon Liquor and Cannabis Commission shall imme-
19 diately transmit notice of the delinquency mentioned in ORS 473.100 to the
20 Attorney General. The Attorney General shall at once proceed to collect all
21 sums due to the state from the manufacturer **or holder of a direct to**
22 **retailer permit issued under ORS 471.274 or a direct shipper permit is-**
23 **sued under ORS 471.282** under this chapter by bringing suit against the
24 necessary parties to effect forfeiture of the bonds of the manufacturer **or**
25 **permit holder,** reducing any deficiency to judgment against the manufac-
26 turer **or permit holder.**

27 “(2) The remedies of the state provided in ORS 473.090 to 473.120 are cu-
28 mulative and no action taken by the commission or Attorney General con-
29 stitutes an election on the part of the state or any of its officers to pursue
30 one remedy to the exclusion of any other remedy provided in this chapter.

1 **“SECTION 33.** ORS 473.130 is amended to read:

2 “473.130. In any suit brought to enforce the rights of the state, the as-
3 sessment made by the Oregon Liquor and Cannabis Commission under ORS
4 473.080, or a copy of so much thereof as is applicable in such suit, duly cer-
5 tified by the commission and showing unpaid privilege taxes assessed against
6 any manufacturer **or holder of a direct to retailer permit issued under**
7 **ORS 471.274 or direct shipper permit issued under ORS 471.282**, is prima
8 facie evidence:

9 “(1) Of the assessment of the privilege tax and the delinquency thereof.

10 “(2) Of the amount of the privilege tax, interest, penalties and costs due
11 and unpaid to the state.

12 “(3) That the manufacturer **or permit holder** is indebted to this state in
13 the amount of such privilege tax, interest and penalties therein appearing
14 unpaid.

15 “(4) That the law relating to assessment and levy of such privilege tax
16 has been fully complied with by all persons required to perform administra-
17 tive duties under this chapter.

18 **“SECTION 34.** ORS 473.140 is amended to read:

19 “473.140. Every manufacturer **and holder of a direct to retailer permit**
20 **issued under ORS 471.274 or a direct shipper permit issued under ORS**
21 **471.282** shall keep a complete and accurate record of all sales of wine, cider
22 and malt beverages, a complete and accurate record of the number of gallons
23 imported, produced, purchased, manufactured, brewed [*or*], fermented **or de-**
24 **livered**, and the date of importation, production, purchase, manufacturing,
25 brewing [*or*], fermentation **or delivery**. The records must be in the form and
26 contain other information as the Oregon Liquor and Cannabis Commission
27 may prescribe. The commission, by rule or regulation, may require the de-
28 livery of statements by distributors to purchasers, with wine, cider and malt
29 beverages, and prescribe the matters to be contained in the statements. The
30 records and statements must be preserved by the distributor and the pur-

1 chaser respectively, for a period of three years, and must be offered for in-
2 spection at any time upon oral or written demand by the commission or its
3 duly authorized agents.

4 **“SECTION 35.** ORS 473.150 is amended to read:

5 “473.150. (1) The Oregon Liquor and Cannabis Commission may, at any
6 time, examine the books and records of a holder of a [*wine self-distribution*]
7 **direct to retailer permit issues under ORS 471.274 or direct shipper**
8 **permit issued under ORS 471.282** or of any manufacturer of wine, cider or
9 malt beverages, and may appoint auditors, investigators and other employees
10 that the commission considers necessary to enforce its powers and perform
11 its duties under this section.

12 “(2) Every holder of a [*wine self-distribution*] **direct to retailer permit**
13 **or direct shipper permit** and every manufacturer shall maintain and keep
14 for three years all records, books and accounts required by this chapter and
15 shall provide copies of those records, books and accounts to the commission
16 when requested by the commission.

17 **“SECTION 36.** ORS 473.170 is amended to read:

18 “473.170. (1) A manufacturer **or a holder of a direct to retailer permit**
19 **issued under ORS 471.274 or a direct shipper permit issued under ORS**
20 **471.282** may not:

21 “(a) Fail to pay the privilege tax prescribed in ORS 473.030 and 473.035
22 when it is due; or

23 “(b) Falsify the statement required by ORS 473.070.

24 “(2) A person may not:

25 “(a) Refuse to permit the Oregon Liquor and Cannabis Commission or any
26 of its representatives to make an inspection of the books and records au-
27 thorized by ORS 473.140 to 473.160;

28 “(b) Fail to keep books of account prescribed by the commission or re-
29 quired by this chapter;

30 “(c) Fail to preserve the books for three years for inspection of the com-

1 mission; or

2 “(d) Alter, cancel or obliterate entries in the books of account for the
3 purpose of falsifying any record required by this chapter to be made, main-
4 tained or preserved.

5

6

“MISCELLANEOUS

7

8 **“SECTION 37. The amendments to ORS 473.030, 473.035 and 473.070**
9 **by sections 21 to 23 of this 2023 Act apply to the manufacture, distrib-**
10 **ution or transportation of malt beverages, wine or cider occurring on**
11 **or after January 1, 2024.**

12 **“SECTION 38. The unit captions used in this 2023 Act are provided**
13 **only for the convenience of the reader and do not become part of the**
14 **statutory law of this state or express any legislative intent in the**
15 **enactment of this 2023 Act.**

16 **“SECTION 39. (1) The amendments to ORS 471.155, 471.175, 471.178,**
17 **471.184, 471.186, 471.190, 471.200, 471.244, 471.272, 471.274, 471.282, 471.311,**
18 **471.313, 471.315, 471.327, 471.329, 471.331, 471.392, 471.404, 471.412, 473.030,**
19 **473.035, 473.045, 473.047, 473.060, 473.065, 473.070, 473.080, 473.090, 473.100,**
20 **473.110, 473.120, 473.130, 473.140, 473.150 and 473.170 by sections 1 to 36**
21 **of this 2023 Act become operative on January 1, 2024.**

22 **“(2) The Oregon Liquor and Cannabis Commission may take any**
23 **action before the operative date specified in subsection (1) of this sec-**
24 **tion that is necessary to enable the commission to exercise, on or after**
25 **the operative date specified in subsection (1) of this section, all of the**
26 **duties, functions and powers conferred on the commission by the**
27 **amendments to ORS 471.155, 471.175, 471.178, 471.184, 471.186, 471.190,**
28 **471.200, 471.244, 471.272, 471.274, 471.282, 471.311, 471.313, 471.315, 471.327,**
29 **471.329, 471.331, 471.392, 471.404, 471.412, 473.030, 473.035, 473.045, 473.047,**
30 **473.060, 473.065, 473.070, 473.080, 473.090, 473.100, 473.110, 473.120, 473.130,**

1 473.140, 473.150 and 473.170 by sections 1 to 36 of this 2023 Act.

2 **“SECTION 40. This 2023 Act takes effect on the 91st day after the**
3 **date on which the 2023 regular session of the Eighty-second Legislative**
4 **Assembly adjourns sine die.”**

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