

# Enrolled House Bill 2013

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Economic Development and Small Business for Representative Janelle Bynum)

CHAPTER .....

AN ACT

Relating to alcohol; creating new provisions; amending ORS 471.155, 471.175, 471.178, 471.184, 471.186, 471.190, 471.200, 471.244, 471.272, 471.274, 471.282, 471.311, 471.313, 471.315, 471.327, 471.329, 471.331, 471.392, 471.404, 471.412, 473.030, 473.035, 473.045, 473.047, 473.060, 473.065, 473.070, 473.080, 473.090, 473.100, 473.110, 473.120, 473.130, 473.140, 473.150 and 473.170; and prescribing an effective date.

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

## **DIRECT TO RETAILER AND DIRECT SHIPPER PERMITS**

**SECTION 1.** ORS 471.155 is amended to read:

471.155. (1) The Oregon Liquor and Cannabis Commission shall provide for the licensing of persons and cities within the state to manufacture, distribute, take orders for and sell spirits, wines, beer and other alcoholic liquors. Except as provided in subsection (2) of this section, the holder of a brewery, winery, wholesale, warehouse, grower sales privilege or brewery-public house license or the holder of a [*wine self-distribution*] **direct to retailer** permit shall give, and at all times maintain on file with the commission, a bond with a corporate surety authorized to transact business in this state. The bond shall be in form and amount acceptable to the commission, shall be payable to the commission and conditioned that the licensee or permittee will pay any fine imposed for any violation of any provision of the Liquor Control Act and that the licensee or permittee will pay all license fees, privilege taxes, taxes imposed under ORS 473.045 and other taxes on alcoholic liquors, together with penalties and interest thereon, levied or assessed against the licensee or permittee under statutes relating to the importation, manufacture, distribution, sale or taxation of alcoholic liquors in the State of Oregon.

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

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

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

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

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

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

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

(d) [A] Public location that does not qualify for licensing under paragraphs (a) to (c) of this subsection if:

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

(B) The predominant business activity at the location is other than the preparation or serving of food or the serving of alcohol; and

(C) The location meets any minimum food service requirements established by Oregon Liquor and Cannabis Commission rule.

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

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

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

(a) Except as provided in subsection [(10)] (12) of this section, has a retail sales price of \$30 or more per container;

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

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

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

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

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

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

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

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

**(10) On or before the 20th day of each month, the holder of a full on-premises sales license shall submit to the commission a report showing the quantity of malt beverages, wine or cider received from the holder of a direct to retailer permit issued under ORS 471.274**

**during the immediately preceding calendar month, and any other information required by the commission by rule.**

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

[(10)] (12) Beginning January 1, 2017, the commission may annually adjust the price threshold established in subsection (4)(a) of this section by a percentage equal to the percentage change in the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor. However, the commission may not adjust the price threshold to be less than \$30.

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

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

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

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

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

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

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

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

**(7) On or before the 20th day of each month, the holder of a limited on-premises sales license shall submit to the commission a report showing the quantity of malt beverages, wine or cider received from the holder of a direct to retailer permit issued under ORS 471.274 during the immediately preceding calendar month, and any other information required by the commission by rule.**

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

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

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

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

(a) Require notice to the commission before the exercise of license privileges at temporary events under this subsection;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**(11) On or before the 20th day of each month, the holder of an off-premises sales license shall submit to the commission a report showing the quantity of malt beverages, wine or cider received from the holder of a direct to retailer permit issued under ORS 471.274 during the immediately preceding calendar month, and any other information required by the commission by rule.**

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

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

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

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

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

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

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

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

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

(b) A political committee that has filed a statement of organization under ORS 260.039 or 260.042.

(c) State agencies.

(d) Local governments, and agencies and departments of local governments.

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

(4) The commission may by rule establish additional eligibility requirements for temporary sales licenses.

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

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

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

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

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

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

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

(8) A person holding a temporary sales license is not required to obtain an intermittent temporary restaurant, seasonal temporary restaurant, single-event temporary restaurant license or mobile unit license under ORS chapter 624 if only wine, malt beverages and cider in single-service containers are served and only nonperishable food items that are exempted from licensure by the Oregon Health Authority are served.

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

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

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

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

**(12) On or before the 20th day of each month, the holder of a temporary sales license shall submit to the commission a report showing the quantity of malt beverages, wine or cider received from the holder of a direct to retailer permit issued under ORS 471.274 during the immediately preceding calendar month, and any other information required by the commission by rule.**

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

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

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

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

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

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

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

(e) To sell wine and cider at retail for consumption on or off the premises;

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

(g) To conduct the activities, except manufacturing, described in paragraphs (a) to (f) of this subsection at two locations other than the premises where the manufacturing occurs;

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

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

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

(2) In addition to the privileges specified in subsection (1) of this section, in any calendar year a brewery-public house licensee may sell at wholesale and distribute to licensees of the commission no more than 7,500 barrels of malt beverages produced by the brewery-public house licensee.

(3) A brewery-public house licensee, or any person having an interest in the licensee, is a retail licensee for the purposes of ORS 471.394 and, except as otherwise provided by this section and ORS 471.396, may not acquire or hold any right, title, lien, claim or other interest, financial or otherwise, in, upon or to the premises, equipment, business or merchandise of any manufacturer or wholesaler, as defined in ORS 471.392. A brewery-public house licensee, or any person having an interest in the licensee, is also a manufacturer for the purposes of ORS 471.394 and, except as otherwise provided

by this section and ORS 471.396, may not acquire or hold any right, title, lien, claim or other interest, financial or otherwise, in, upon or to the premises, equipment, business or merchandise of any other retail licensee, as defined in ORS 471.392.

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

(b) The commission may issue more than one brewery-public house license at a single premises if each licensee:

(A) Has a valid Brewer's Notice issued by the federal Alcohol and Tobacco Tax and Trade Bureau at the premises address; and

(B) Otherwise complies with ORS 471.398.

(c) A brewery-public house licensee may produce malt beverages for another brewery-public house licensee under a custom order agreement. The commission may adopt rules regarding the contents of custom order agreements.

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

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

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

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

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

(10)(a) Notwithstanding subsection (3) of this section, a brewery-public house licensee may hold, directly or indirectly, an interest in a manufacturer or wholesaler, provided that the interest does not result in exercise of control over, or participation in the management of, the manufacturer's or wholesaler's business or business decisions and does not result in exclusion of any competitor's brand of alcoholic liquor.

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

**(11) A brewery-public house licensee may purchase for sale at retail:**

**(a) Wine and cider only from the holder of a license or permit issued by the commission that authorizes the sale of wine or cider at wholesale to licensees of the commission; and**

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

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

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

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

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

471.244. (1) [No] A licensee of the Oregon Liquor and Cannabis Commission [shall] **may not** manufacture, import into, or purchase in [the State of Oregon] **this state** for resale [therein] **in this state** any malt beverages, cider or wine unless the manufacturer of [such] **the** malt beverages, cider or wine has first obtained from the commission a certificate of approval, except that with respect to malt beverages, cider or wine manufactured outside the United States, the certificate of approval may be obtained by the person importing same into the United States.

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

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

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

471.272. (1) **Malt beverages**, wine or cider may be shipped or transported by a licensee or permit holder described in subsection (2) of this section only by employees of the licensee or permit holder, or by a common carrier using a commission-approved delivery plan. The holder of a [wine self-distribution] **direct to retailer** permit that uses a common carrier to ship or transport **malt beverages**, wine or cider shall take reasonable steps to ensure that the **malt beverages**, wine or cider is sold and transported only to licensees that are authorized to receive the **malt beverages**, wine or cider under ORS 471.274.

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

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

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

[(a) Holds a license issued by another state that authorizes the manufacture of wine or cider; and]

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

[(2) The holder of a wine self-distribution permit may sell at wholesale and transport wine or cider that the manufacturer produces directly to the commission, or to retail licensees in the manner provided by this section. A wine self-distribution permit allows the holder to sell wine or cider that the holder



*produces only to retail licensees who hold a valid endorsement issued by the commission authorizing receipt of wine or cider from the holder of a wine self-distribution permit.]*

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

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

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

*[(6)(a) Except as provided in paragraph (b) of this subsection, a retail licensee that receives wine or cider from holders of wine self-distribution permits must make a monthly report to the commission, using a form prescribed by the commission, listing the amount of all wine or cider received from permit holders in the previous month, and the names of the permit holders from whom the wine or cider was received. Retail licensees shall retain such purchase records for products received from permit holders as may be required by the commission.]*

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

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

*[(8) The holder of a wine self-distribution permit consents to the jurisdiction of the commission and the courts of this state for the purpose of enforcing the provisions of this chapter, ORS chapter 473 and any related laws or rules.]*

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

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

**(1) The Oregon Liquor and Cannabis Commission may issue a direct to retailer permit to a manufacturer of malt beverages, wine or cider that:**

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

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

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

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

**(3) A person may apply for a direct to retailer permit by submitting to the commission, in a form and manner prescribed by the commission:**

**(a) An application;**

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

(c) Any other information required by the commission to establish that the applicant's license authorizes the manufacture of malt beverages, wine or cider and that the applicant has a history of compliance with the laws of the other state or territory.

(4) The holder of a direct to retailer permit is responsible for paying all taxes imposed under ORS chapter 473 as a manufacturer or importing distributor, and for complying with all reporting requirements imposed by ORS chapter 473 for all malt beverages, wine and cider sold and transported to a holder of a license issued under ORS 471.175, 471.178, 471.186, 471.190 or 471.200.

(5) The holder of a direct to retailer permit consents to the jurisdiction of the commission and the courts of this state for the purpose of enforcing the provisions of this chapter and ORS chapter 473 and ORS 459A.700 to 459A.744, 474.005 to 474.095 and 474.115 and any related laws or rules.

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

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

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

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

(b) The fee specified in ORS 471.311.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[(c)] (C) May not exceed:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) If the person holds the permit based on an annual license issued by another state **or territory of the United States**, the person may renew the permit by paying a \$100 renewal fee and providing the commission with a true copy of a current license issued to the person by the other

state or with sufficient information to allow verification of the license by electronic means or other means acceptable to the commission.

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

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

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

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

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

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

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

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

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

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

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

---

Minimum

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

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

(7) The fee for a certificate of approval or special certificate of approval granted under ORS 471.244 is nonrefundable and must be paid by each applicant upon the granting or committing of a certificate of approval or special certificate of approval. A bond is not required for the granting of a certificate of approval or special certificate of approval. Certificates of approval are valid for a period commencing on the date of issuance and ending on December 31 of the fifth calendar year following the calendar year of issuance. The fee for a certificate of approval is \$350. Special certificates of approval are valid for a period of 30 days. The fee for a special certificate of approval is \$10.

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

(9) The annual license fee for a full on-premises sales license held by a nonprofit private club as described in ORS 471.175 [(9)] (11), or held by a nonprofit or charitable organization that is registered with the state, is \$400.

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

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

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

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

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

[(2)] (b) That the applicant has not furnished an acceptable bond as required by ORS 471.311 or is not maintaining the insurance or bond required by ORS 471.168.

[(3)] (c) That, except as allowed by ORS 471.392 to 471.400, any applicant to sell at retail for consumption on the premises has been financed or furnished with money or property by, or has any connection with, or is a manufacturer of, or wholesale dealer in, alcoholic liquor.

[(4)] (d) That the applicant:

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

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

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

[(d)] (D) Has been convicted of violating a general or local law of this state or another state, or of violating a federal law, if the conviction is substantially related to the fitness and ability of the applicant to lawfully carry out activities under the license.

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

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

[(g)] (G) *[Did not have a good record of compliance with the alcoholic liquor laws of this state and the rules of the commission when previously licensed]* **Has failed to comply with ORS 459A.700 to 459A.744, 474.005 to 474.095, 474.115, 475C.005 to 475C.525, 475C.540 to 475C.586 or 475C.770 to 475C.919 or ORS chapter 471 or 473 or rules adopted by the commission pursuant to ORS 459A.700 to 459A.744, 474.005 to 474.095, 474.115, 475C.005 to 475C.525, 475C.540 to 475C.586 or 475C.770 to 475C.919 or ORS chapter 471 or 473.**

[(h)] (H) Is not the legitimate owner of the business proposed to be licensed, or other persons have ownership interests in the business which have not been disclosed.

[(i)] (I) Is not possessed of or has not demonstrated financial responsibility sufficient to adequately meet the requirements of the business proposed to be licensed.

[(j)] (J) Is unable to read or write the English language or to understand the laws of Oregon relating to alcoholic liquor or the rules of the commission.

[(5)] (e) That there is a history of serious and persistent problems involving disturbances, lewd or unlawful activities or noise either in the premises proposed to be licensed or involving patrons of the establishment in the immediate vicinity of the premises if the activities in the immediate vicinity of the premises are related to the sale or service of alcohol under the exercise of the license privilege. Behavior *[which]* **that** is grounds for refusal of a license under this section, where so related to the sale or service of alcohol, includes, but is not limited to obtrusive or excessive noise, music or sound vibrations; public drunkenness; fights; altercations; harassment; unlawful drug sales; alcohol or related litter; trespassing on private property; and public urination. Histories from premises currently or previously operated by the applicant may be considered when reasonable inference may be made that similar activities will occur as to the premises proposed to be licensed. The applicant may overcome the history by showing that the problems are not serious or persistent or that the applicant demonstrates a willingness and ability to control adequately the premises proposed to be licensed and patrons' behavior in the immediate vicinity of the premises

[which] **that** is related to the licensee's sale or service of alcohol under the licensee's exercise of the license privilege.

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

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

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

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

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

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

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

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

(a) That the licensee:

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

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

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

(D) Has maintained an insanitary establishment.

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

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

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

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

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

(J) Since the granting of the license, has been convicted of a felony, of violating any of the liquor laws of this state, general or local, or of any misdemeanor or violation of any municipal ordinance committed on the licensed premises.

(b) That any person licensed to sell at retail for consumption on the premises is acting as an agent of, or is a manufacturer or wholesaler of alcoholic liquors, or has borrowed money or property, or has accepted gratuities or rebates, or has obtained the use of equipment from any manufacturer or wholesaler of alcoholic liquor or any agent thereof.

(c) That there is a history of serious and persistent problems involving disturbances, lewd or unlawful activities or noise either in the premises or involving patrons of the establishment in the immediate vicinity of the premises if the activities in the immediate vicinity of the premises are related to the sale or service of alcohol under the exercise of the license privilege. Behavior that is grounds for cancellation or suspension of a license under this section, where so related to the sale

or service of alcohol, includes but is not limited to obtrusive or excessive noise, music or sound vibrations; public drunkenness; fights; altercations; harassment or unlawful drug sales; alcohol or related litter; trespassing on private property; and public urination. Mitigating factors include a showing by the licensee that the problems are not serious or persistent or that the licensee has demonstrated a willingness and ability to control adequately the licensed premises and patrons' behavior in the immediate vicinity of the premises which is related to the licensee's sale or service of alcohol under the licensee's exercise of the license privilege.

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

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

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

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

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

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

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

**(f) Or any officer, agent or employee of the certificate or permit holder, violated any term or provision of an agreement entered into pursuant to ORS 471.244 or submitted a false or fictitious report pursuant to the agreement.**

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

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

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

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

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

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

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

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

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

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

**(c) Noise caused by patrons inside or outside a licensed premises located within the boundaries of a city or county that does not have an ordinance regulating excessive noise may be considered**



obtrusive or excessive only if the noise is of the type that a reasonable person would not expect to hear inside or outside a premises licensed for the sale of alcoholic beverages.

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

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

471.331. (1) Whenever the Oregon Liquor and Cannabis Commission proposes to refuse to renew or to suspend or cancel any license issued under this chapter because of adverse neighborhood impact of the licensee's operation, notwithstanding ORS 183.435, the commission shall grant the affected licensee 20 days from notification of the proposed commission action to request a hearing.

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

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

471.392. For the purposes of ORS 471.392 to 471.400:

(1) "Manufacturer or wholesaler" means:

(a) A person holding a brewery license issued under ORS 471.221, a winery license issued under ORS 471.223, a grower sales privilege license issued under ORS 471.227, a distillery license issued under ORS 471.230, a wholesale malt beverage and wine license issued under ORS 471.235 [or], a warehouse license issued under ORS 471.242, **a direct to retailer permit issued under ORS 471.274 or a direct shipper permit issued under ORS 471.282.**

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

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

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

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

(a) Alcoholic liquor ordered by and en route to the Oregon Liquor and Cannabis Commission, under a certificate of approval issued by the commission.

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

(c) Alcoholic liquor that is in transit on a common carrier to a destination outside Oregon.

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

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

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

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

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

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

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

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

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

(4) Notwithstanding any other provision of law, the Oregon Liquor and Cannabis Commission shall only impose letters of reprimand for the first three violations of this section within a two-year period. For license renewal purposes, the first three violations of this section in a two-year period do not apply in determining the past record of compliance under ORS 471.313 [(4)(g)] (1)(d)(G).

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

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

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

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

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

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

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

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

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

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

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

**(b) The holder of a direct to retailer permit issued under ORS 471.274, for wines containing more than 16 percent alcohol by volume sold and transported to a holder of a license issued under ORS 471.175, 471.178, 471.186, 471.190 or 471.200; and**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

473.070. (1) On or before the 20th day of each month[.];

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

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

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

(2) Notwithstanding subsection (1) of this section, a manufacturer of wine, **the holder of a direct to retailer permit or the holder of a direct shipper permit** that was not liable for a privi-

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

(3) The commission shall by rule establish procedures that allow manufacturers [*or*], importing distributors, **holders of direct to retailer permits and holders of direct shipper permits** to use electronic means to:

- (a) File statements required under this section; and
- (b) Pay privilege taxes imposed by ORS 473.030 and 473.035.

### CONFORMING AMENDMENTS

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

473.045. (1) A tax is hereby imposed upon the sale or use of all agricultural products used in a winery for making wine.

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

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

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

(5)(a) In the case of vinifera or hybrid grape products harvested in this state, \$12.50 per ton of the tax shall be levied and assessed against the person selling or providing the grape products to the winery and, except as provided in ORS 473.046, \$12.50 per ton shall be levied and assessed against the winery purchasing the grape products.

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

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

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

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

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

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

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

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

473.047. (1) As used in this section, "qualified marketing activity" means marketing activity:

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

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

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

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

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

(a) One hundred percent of the cost of qualified marketing activity to the extent that the cost of the activity does not exceed the amount of taxes the manufacturer or importing distributor of wine **or permit holder described in subsection (2) of this section** owed under ORS 473.030 (2) on the first 40,000 gallons, or 151,000 liters, of wine sold annually in Oregon; and

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

(4) The credit allowed under this section may not exceed the tax liability of the manufacturer or importing distributor of wine **or the permit holder described in subsection (2) of this section** under ORS 473.030 (2) for the calendar year following the year in which qualified marketing activity occurred.

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

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

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

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

473.060. (1) The privilege taxes imposed by ORS 473.030 and 473.035 shall be paid to the Oregon Liquor and Cannabis Commission. The taxes covering the periods for which statements are required to be rendered by ORS 473.070 shall be paid before the time for filing such statements expires or, as concerns wines, on or before the 20th day of the month after such wines have been withdrawn from federal bond. If not so paid, a penalty of 10 percent and interest at the rate of one percent a month or fraction of a month shall be added and collected. The commission may refund any tax payment imposed upon or paid in error by any licensee **or holder of a direct to retailer permit**

issued under ORS 471.274 or a direct shipper permit issued under ORS 471.282, and may waive the collection or refund the payment of any tax imposed and collected on wine, cider or malt beverages subsequently exported from this state, sold to a federal instrumentality or to the commission, or determined by the commission to be unfit for human consumption or unsalable.

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

(3) Except in the case of fraud, the commission may not assess any interest or penalty on any tax due under ORS 473.030 or 473.035 following the expiration of 36 months from the date on which was filed the statement required under ORS 473.070 reporting the quantity of wine, cider or malt beverages upon which the tax is due.

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

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

473.065. (1) If [a manufacturer's] the total tax liability under ORS 473.030 (1) of a manufacturer or holder of a direct to retailer permit issued under ORS 471.274 or a direct shipper permit issued under ORS 471.282 in the previous calendar year was less than \$1,000, the manufacturer or permit holder may deposit with the Oregon Liquor and Cannabis Commission an amount in cash equal to the manufacturer's or permit holder's total tax liability under ORS 473.030 (1) for the previous calendar year in lieu of the bond required by ORS 471.155 (1).

(2) If [a manufacturer's] the actual tax liability under ORS 473.030 (1) of a manufacturer or holder of a permit described in subsection (1) of this section is less than the amount deposited under subsection (1) of this section, the manufacturer or permit holder may request that the commission refund the excess funds or may apply those funds toward the manufacturer's or permit holder's tax liability under ORS 473.030 (1) for the next calendar year.

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

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

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

(b) The licensee or permit holder of a business established during the current calendar year does not expect to be liable for a privilege tax under this chapter in the current calendar year. As used in this paragraph, "business" means:

(A) A winery.

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

(C) A warehouse.

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

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

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

473.080. If any manufacturer or holder of a direct to retailer permit issued under ORS 471.274 or a direct shipper permit issued under ORS 471.282 fails, neglects or refuses to file a statement required by ORS 473.070 or files a false statement, the Oregon Liquor and Cannabis Commission shall estimate the amount of wine, cider and malt beverages produced, purchased or

received by the manufacturer **or permit holder** and assess the privilege tax thereon. The manufacturer **or permit holder** shall be estopped from complaining of the amount so estimated.

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

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

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

473.100. (1) Whenever any manufacturer **or holder of a direct to retailer permit issued under ORS 471.274 or a direct shipper permit issued under ORS 471.282** is delinquent in the payment of the privilege tax provided for in ORS 473.030 and 473.035, the Oregon Liquor and Cannabis Commission or its duly authorized representative shall seize any property subject to the tax and sell, at public auction, property so seized, or a sufficient portion thereof to pay the privilege tax due, together with any penalties imposed under ORS 473.060 for such delinquency and all costs incurred on account of the seizure and sale.

(2) Written notice of the intended sale and the time and place thereof, shall be given to such delinquent manufacturer **or holder of a permit described in subsection (1) of this section** and to all persons appearing of record to have an interest in the property, at least 10 days before the date set for the sale. The notice shall be enclosed in an envelope addressed to the manufacturer **or permit holder** at the last-known residence or place of business of the manufacturer **or permit holder** in this state, if any[;], and in the case of any person appearing of record to have an interest in such property, addressed to such person at the last-known place of residence of the person, if any. The envelope shall be deposited in the United States mail, postage prepaid. In addition, notice shall be published for at least 10 days before the date set for such sale, in a newspaper of general circulation published in the county in which the property seized is to be sold. If there is no newspaper of general circulation in such county, the notice shall be posted in three public places in such county for the 10-day period. The notice shall contain a description of the property to be sold, a statement of the amount of the privilege taxes, penalties and costs, the name of the manufacturer **or permit holder** and the further statement that, unless the privilege taxes, penalties and costs are paid on or before the time fixed in the notice for the sale, the property, or so much thereof as may be necessary, will be sold in accordance with law and the notice.

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

473.110. At the sale, the property shall be sold by the Oregon Liquor and Cannabis Commission or by its duly authorized agent in accordance with law and the notice. The commission shall deliver to the purchaser a bill of sale for the personal property, and a deed for any real property so sold. The bill of sale or deed vests title in the purchaser. The unsold portion of any property seized under ORS 473.100 may be left at the place of sale at the risk of the manufacturer **or holder of a direct to retailer permit issued under ORS 471.274 or a direct shipper permit issued under ORS 471.282**. If upon any such sale, the money received exceeds the amount of all privilege taxes, penalties and costs due the state from the manufacturer **or permit holder**, the excess shall be returned to the manufacturer, and a receipt therefor obtained. However, if any person having an interest in or lien upon the property has filed with the commission, prior to the sale, notice of interest or lien, the commission shall withhold any such excess pending a determination of the rights of the respective parties thereto by a court of competent jurisdiction. If the receipt of the manufacturer **or permit holder** is not available, the commission shall deposit such excess money with the State Treasurer, as trustee for the owner, subject to the order of the manufacturer **or permit holder or, the heirs, successors or assigns of the manufacturer or permit holder**.

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

473.120. (1) The Oregon Liquor and Cannabis Commission shall immediately transmit notice of the delinquency mentioned in ORS 473.100 to the Attorney General. The Attorney General shall at once proceed to collect all sums due to the state from the manufacturer **or holder of a direct to retailer permit issued under ORS 471.274 or a direct shipper permit issued under ORS 471.282** under this chapter by bringing suit against the necessary parties to effect forfeiture of the bonds of the manufacturer **or permit holder**, reducing any deficiency to judgment against the manufacturer **or permit holder**.

(2) The remedies of the state provided in ORS 473.090 to 473.120 are cumulative and no action taken by the commission or Attorney General constitutes an election on the part of the state or any of its officers to pursue one remedy to the exclusion of any other remedy provided in this chapter.

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

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

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

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

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

(4) That the law relating to assessment and levy of such privilege tax has been fully complied with by all persons required to perform administrative duties under this chapter.

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

473.140. Every manufacturer **and holder of a direct to retailer permit issued under ORS 471.274 or a direct shipper permit issued under ORS 471.282** shall keep a complete and accurate record of all sales of wine, cider and malt beverages, a complete and accurate record of the number of gallons imported, produced, purchased, manufactured, brewed [or], fermented **or delivered**, and the date of importation, production, purchase, manufacturing, brewing [or], fermentation **or delivery**. The records must be in the form and contain other information as the Oregon Liquor and Cannabis Commission may prescribe. The commission, by rule or regulation, may require the delivery of statements by distributors to purchasers, with wine, cider and malt beverages, and prescribe the matters to be contained in the statements. The records and statements must be preserved by the distributor and the purchaser respectively, for a period of three years, and must be offered for inspection at any time upon oral or written demand by the commission or its duly authorized agents.

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

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

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

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

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

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

(b) Falsify the statement required by ORS 473.070.

(2) A person may not:

(a) Refuse to permit the Oregon Liquor and Cannabis Commission or any of its representatives to make an inspection of the books and records authorized by ORS 473.140 to 473.160;



- (b) Fail to keep books of account prescribed by the commission or required by this chapter;
- (c) Fail to preserve the books for three years for inspection of the commission; or
- (d) Alter, cancel or obliterate entries in the books of account for the purpose of falsifying any record required by this chapter to be made, maintained or preserved.

### **EXPENDITURE LIMITATION**

**SECTION 37.** Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 1 (1), chapter \_\_, Oregon Laws 2023 (Enrolled Senate Bill 5519), for the biennium beginning July 1, 2023, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by the Oregon Liquor and Cannabis Commission, for administrative expenses, is increased by \$175,000.

### **MISCELLANEOUS**

**SECTION 38.** The amendments to ORS 473.030, 473.035 and 473.070 by sections 21 to 23 of this 2023 Act apply to the manufacture, distribution or transportation of malt beverages, wine or cider occurring on or after January 1, 2024.

**SECTION 39.** The unit captions used in this 2023 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2023 Act.

**SECTION 40.** (1) The amendments to ORS 471.155, 471.175, 471.178, 471.184, 471.186, 471.190, 471.200, 471.244, 471.272, 471.274, 471.282, 471.311, 471.313, 471.315, 471.327, 471.329, 471.331, 471.392, 471.404, 471.412, 473.030, 473.035, 473.045, 473.047, 473.060, 473.065, 473.070, 473.080, 473.090, 473.100, 473.110, 473.120, 473.130, 473.140, 473.150 and 473.170 by sections 1 to 36 of this 2023 Act become operative on January 1, 2024.

(2) The Oregon Liquor and Cannabis Commission may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the commission to exercise, on or after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the commission by the amendments to ORS 471.155, 471.175, 471.178, 471.184, 471.186, 471.190, 471.200, 471.244, 471.272, 471.274, 471.282, 471.311, 471.313, 471.315, 471.327, 471.329, 471.331, 471.392, 471.404, 471.412, 473.030, 473.035, 473.045, 473.047, 473.060, 473.065, 473.070, 473.080, 473.090, 473.100, 473.110, 473.120, 473.130, 473.140, 473.150 and 473.170 by sections 1 to 36 of this 2023 Act.

**SECTION 41.** This 2023 Act takes effect on the 91st day after the date on which the 2023 regular session of the Eighty-second Legislative Assembly adjourns sine die.

**Passed by House May 17, 2023**

.....  
Timothy G. Sekerak, Chief Clerk of House

.....  
Dan Rayfield, Speaker of House

**Passed by Senate June 22, 2023**

.....  
Rob Wagner, President of Senate

**Received by Governor:**

.....M,....., 2023

**Approved:**

.....M,....., 2023

.....  
Tina Kotek, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2023

.....  
Secretary of State