

DRAFT

SUMMARY

Phases out role of Oregon Liquor Control Commission in purchasing, importing, warehousing and retailing of distilled liquors.

Creates wholesale distilled liquor license system. Authorizes distilled liquor wholesaler to import, store, transport, export, sell at wholesale and distribute distilled liquor.

Imposes privilege tax on engaging in business as distilled liquor wholesaler of 71.7 percent of price paid by wholesaler for distilled liquor.

Creates liquor store license system. Authorizes holder of license to sell factory-sealed containers of distilled liquor at retail for off-premises consumption.

Becomes operative on effective date of ballot measure that terminates authority of Oregon Liquor Control Commission or any successor state agency to sell distilled liquor at retail and set retail prices for distilled liquor.

Takes effect on 91st day following sine die.

A BILL FOR AN ACT

Relating to taxation; creating new provisions; amending ORS 279A.025, 471.001, 471.038, 471.105, 471.155, 471.175, 471.184, 471.190, 471.200, 471.223, 471.227, 471.230, 471.235, 471.251, 471.292, 471.294, 471.311, 471.327, 471.341, 471.346, 471.392, 471.396, 471.404, 471.405, 471.410, 471.446, 471.473, 471.710, 471.725, 471.740, 471.754, 473.060, 473.090, 473.100, 473.110, 473.120 and 473.150; repealing ORS 471.745, 471.750 and 471.752; prescribing an effective date; and providing for revenue raising that requires approval by a three-fifths majority.

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

SECTION 1. Sections 2 to 4 of this 2016 Act are added to and made a part of ORS chapter 471.

SECTION 2. (1) The holder of a wholesale distilled liquor license may import, store, transport, export, sell at wholesale and distribute distilled liquors in factory-sealed containers to liquor store licensees who operate exclusive or nonexclusive liquor stores within the service area established in the wholesale distilled liquor license or to another distilled liquor wholesaler. The distilled liquor wholesaler may sell and deliver distilled liquor only to a liquor store licensed under section 3 of this 2016 Act operating within the wholesaler's service area or to the premises of another distilled liquor wholesaler. Sales by a distilled liquor wholesaler to a liquor store shall be at the prices established by the Oregon Liquor Control Commission.

(2) A distilled liquor wholesaler shall establish and maintain warehouses and, subject to any license restrictions, conditions or limitations imposed by the commission, shall keep on hand in the warehouses such quantities and kinds of distilled liquors as are reasonably required to meet the purchasing needs of licensed liquor stores within the wholesaler service area.

(3) A liquor store licensee may make payment for purchases of distilled liquor, and a distilled liquor wholesaler may accept payment for purchases of distilled liquor, by cash, check or electronic fund transfer. All payments for distilled liquor by a liquor store licensee must be made before or at the time the distilled liquor is delivered.

(4) A wholesale distilled liquor license is subject to any license terms established by the commission. The commission may issue more than one wholesale distilled liquor license authorizing distilled liquor sales within an area, but may not authorize more than one distilled liquor wholesaler for a brand of distilled liquor within an area. The commission shall establish service areas for distilled liquor wholesalers that are adequate to ensure that each exclusive or nonexclusive liquor store has access to sufficient wholesalers to satisfy the purchasing needs of the store.

(5) The commission shall establish wholesale distilled liquor license fees by rule. A wholesale distilled liquor license is valid for a term of 10 years unless sooner suspended, revoked or surrendered. A wholesale distilled liquor license may not be transferred without written approval by the commission.

(6) The commission may inspect licensee books and records and the licensed premises during normal business hours to verify compliance with the terms of the wholesale distilled liquor license.

SECTION 3. (1) A liquor store license authorizes the licensee to sell distilled liquor at a retail store location approved by the Oregon Liquor Control Commission. Except as provided under ORS 471.175, distilled liquor may be sold at retail only by a liquor store licensee.

(2) A liquor store license may be an exclusive liquor store license, nonexclusive liquor store license or distillery liquor store license. An exclusive liquor store license authorizes the licensee to sell distilled liquor at a retail store that offers only distilled liquor and related items as permitted by commission rule. A nonexclusive liquor store license authorizes the licensee to sell distilled liquor at a retail store that offers distilled liquor and related items and offers other goods for sale. The commission may adopt rules limiting the amount of distilled liquor sold at a nonexclusive liquor store. A distillery liquor store license authorizes the sale of distilled liquor at a location authorized as provided in ORS 471.230.

(3) The commission shall license exclusive and nonexclusive liquor stores in sufficient number, and in localities in this state as in the judgment of the commission are required by public convenience or necessity, for the sale of distilled liquor in factory-sealed containers for consumption off the premises. A liquor store may not be established in any county or incorporated city of this state where a local prohibitory law is in effect.

(4) An exclusive or nonexclusive liquor store license shall be valid

for a term of 10 years unless sooner suspended or revoked. Prior to the creation or expiration of an exclusive or nonexclusive liquor store license, the commission shall give public notice requesting proposals for the operation of a licensed liquor store for the following 10-year term. The commission shall establish the minimum terms for a proposal to be considered by the commission, including the minimum acceptable proposed license fee and minimum required bond. A request for proposals under this section and the selection of a liquor store licensee are not subject to the Public Contracting Code.

(5) In selecting the holder of an exclusive or nonexclusive liquor store license, the commission shall give preference to the holder of the expiring license if the proposal submitted by the holder meets the minimum requirements established by the commission for acceptable proposals and contains the highest proposed license fee or a proposed license fee that is at least 10 percent higher than the minimum acceptable proposed license fee.

(6) The commission shall establish by rule a license fee for distillery liquor stores in an amount reasonably calculated to compensate the commission for the cost of administering the distillery liquor store license.

(7) The commission may inspect licensee books and records and the licensed premises during normal business hours to verify compliance with the terms of the liquor store license.

SECTION 4. (1) Distilled liquor sold by a liquor store must be in a factory-sealed container. Containers of distilled liquor sold under the license must not hold more than one gallon. A liquor store may sell distilled liquor only for off-premises consumption.

(2) A liquor store licensee may purchase distilled liquor for resale only from a distilled liquor wholesaler licensed by the Oregon Liquor Control Commission under section 2 of this 2016 Act.

(3) Sales by the liquor store licensee shall be at the prices estab-

lished by the commission.

(4) A liquor store licensee may conduct sales of distilled liquor only at the authorized liquor store location. A liquor store may not make deliveries of distilled liquor other than deliveries to the licensed premises of a full on-premises sales licensee.

(5) An exclusive or nonexclusive liquor store may not be operated on the same property as a full on-premises sales licensee or limited on-premises sales licensee. Except as provided in ORS 471.230, a liquor store licensee may not allow the consumption of alcoholic beverages on the licensed premises.

(6) The commission may adopt rules establishing the hours of operation for a liquor store and regulating advertising by a liquor store.

(7) A liquor store licensee must obtain commission approval to establish or change a liquor store location. If the licensee sells the business, the purchaser may not operate the business as a liquor store unless the commission approves the transfer of the liquor store license from the seller to the purchaser. If a liquor store licensee dies, the commission may transfer the license from the decedent to the spouse or child of the decedent, if the spouse or child is at least 21 years of age. In determining the qualifications of a person to receive transfer of a license under this subsection, the commission shall give primary consideration to the person's experience in liquor store operation. Notwithstanding section 3 of this 2016 Act, the commission is not required to request or accept proposals prior to transferring a license under this subsection.

SECTION 5. ORS 279A.025 is amended to read:

279A.025. (1) Except as provided in subsections (2) to (4) of this section, the Public Contracting Code applies to all public contracting.

(2) The Public Contracting Code does not apply to:

(a) Contracts between a contracting agency and:

(A) Another contracting agency;

- 1 (B) The Oregon Health and Science University;
- 2 (C) A public university listed in ORS 352.002;
- 3 (D) The Oregon State Bar;
- 4 (E) A governmental body of another state;
- 5 (F) The federal government;
- 6 (G) An American Indian tribe or an agency of an American Indian tribe;
- 7 (H) A nation, or a governmental body in a nation, other than the United
- 8 States; or
- 9 (I) An intergovernmental entity formed between or among:
 - 10 (i) Governmental bodies of this or another state;
 - 11 (ii) The federal government;
 - 12 (iii) An American Indian tribe or an agency of an American Indian tribe;
 - 13 (iv) A nation other than the United States; or
 - 14 (v) A governmental body in a nation other than the United States;
- 15 (b) Agreements authorized by ORS chapter 190 or by a statute, charter
- 16 provision, ordinance or other authority for establishing agreements between
- 17 or among governmental bodies or agencies or tribal governing bodies or
- 18 agencies;
- 19 (c) Insurance and service contracts as provided for under ORS 414.115,
- 20 414.125, 414.135 and 414.145 for purposes of source selection;
- 21 (d) Grants;
- 22 (e) Contracts for professional or expert witnesses or consultants to pro-
- 23 vide services or testimony relating to existing or potential litigation or legal
- 24 matters in which a public body is or may become interested;
- 25 (f) Acquisitions or disposals of real property or interest in real property;
- 26 (g) Sole-source expenditures when rates are set by law or ordinance for
- 27 purposes of source selection;
- 28 (h) Contracts for the procurement or distribution of textbooks;
- 29 (i) Procurements by a contracting agency from an Oregon Corrections
- 30 Enterprises program;
- 31 (j) The procurement, transportation or distribution of distilled liquor, as

defined in ORS 471.001, or the *[appointment of agents under ORS 471.750]*
requesting of liquor store license proposals, selection of liquor store
licensees or negotiation of a liquor store license by the Oregon Liquor
 Control Commission;

(k) Contracts entered into under ORS chapter 180 between the Attorney
 General and private counsel or special legal assistants;

(L) Contracts for the sale of timber from lands owned or managed by the
 State Board of Forestry and the State Forestry Department;

(m) Contracts for activities necessary or convenient for the sale of timber
 under paragraph (L) of this subsection, either separately from or in con-
 junction with contracts for the sale of timber, including but not limited to
 activities such as timber harvesting and sorting, transporting, gravel pit de-
 velopment or operation, and road construction, maintenance or improvement;

(n) Contracts for forest protection or forest related activities, as described
 in ORS 477.406, by the State Forester or the State Board of Forestry;

(o) Contracts entered into by the Housing and Community Services De-
 partment in exercising the department's duties prescribed in ORS chapters
 456 and 458, except that the department's public contracting for goods and
 services is subject to ORS chapter 279B;

(p) Contracts entered into by the State Treasurer in exercising the powers
 of that office prescribed in ORS 178.010 to 178.100 and ORS chapters 286A,
 287A, 289, 293, 294 and 295, including but not limited to investment contracts
 and agreements, banking services, clearing house services and
 collateralization agreements, bond documents, certificates of participation
 and other debt repayment agreements, and any associated contracts, agree-
 ments and documents, regardless of whether the obligations that the con-
 tracts, agreements or documents establish are general, special or limited,
 except that the State Treasurer's public contracting for goods and services
 is subject to ORS chapter 279B;

(q) Contracts, agreements or other documents entered into, issued or es-
 tablished in connection with:

1 (A) The issuance of obligations, as defined in ORS 286A.100 and 287A.310,
2 of a public body;

3 (B) The making of program loans and similar extensions or advances of
4 funds, aid or assistance by a public body to a public or private body for the
5 purpose of carrying out, promoting or sustaining activities or programs au-
6 thorized by law; or

7 (C) The investment of funds by a public body as authorized by law, and
8 other financial transactions of a public body that by their character cannot
9 practically be established under the competitive contractor selection proce-
10 dures of ORS 279B.050 to 279B.085;

11 (r) Contracts for employee benefit plans as provided in ORS 243.105 (1),
12 243.125 (4), 243.221, 243.275, 243.291, 243.303 and 243.565;

13 (s) Contracts for employee benefit plans as provided in ORS 243.860 to
14 243.886; or

15 (t) Any other public contracting of a public body specifically exempted
16 from the code by another provision of law.

17 (3) The Public Contracting Code does not apply to the contracting activ-
18 ities of:

19 (a) The Oregon State Lottery Commission;

20 (b) The legislative department;

21 (c) The judicial department;

22 (d) Semi-independent state agencies listed in ORS 182.454, except as pro-
23 vided in ORS 279.835 to 279.855 and 279A.250 to 279A.290;

24 (e) Oregon Corrections Enterprises;

25 (f) The Oregon Film and Video Office, except as provided in ORS 279A.100
26 and 279A.250 to 279A.290;

27 (g) The Travel Information Council, except as provided in ORS 279A.250
28 to 279A.290;

29 (h) The Oregon 529 Savings Network and the Oregon 529 Savings Board;

30 (i) The Oregon Innovation Council;

31 (j) The Oregon Utility Notification Center; or

(k) Any other public body specifically exempted from the code by another provision of law.

(4) ORS 279A.200 to 279A.225 and 279B.050 to 279B.085 do not apply to contracts made with qualified nonprofit agencies providing employment opportunities for individuals with disabilities under ORS 279.835 to 279.855.

SECTION 6. ORS 471.001 is amended to read:

471.001. As used in this chapter and ORS chapter 473:

(1) “Alcoholic beverage” and “alcoholic liquor” mean any liquid or solid containing more than one-half of one percent alcohol by volume and capable of being consumed by a human being.

(2) “Commercial establishment” means a place of business:

(a) Where food is cooked and served;

(b) That has kitchen facilities adequate for the preparation and serving of meals;

(c) That has dining facilities adequate for the serving and consumption of meals; and

(d) That:

(A) If not a for-profit private club, serves meals to the general public; or

(B) If a for-profit private club, serves meals to the club’s members and guests and complies with any minimum membership and food service requirements established by Oregon Liquor Control Commission rules.

(3) “Commission” means the Oregon Liquor Control Commission.

(4) “Distilled liquor” means any alcoholic beverage other than a wine, cider or malt beverage. “Distilled liquor” includes distilled spirits.

(5) “Distilled liquor wholesaler” means the holder of a wholesale distilled liquor license issued under section 2 of this 2016 Act.

[(5)] (6) “Licensee” means any person holding a license issued under this chapter.

(7) “Liquor store” means a premises operated under the authority of a liquor store license issued under section 3 of this 2016 Act.

[(6)(a)] (8)(a) “Malt beverage” means an alcoholic beverage obtained by

the fermentation of grain that contains not more than 14 percent alcohol by volume.

(b) "Malt beverage" includes:

(A) Beer, ale, porter, stout and similar alcoholic beverages containing not more than 14 percent alcohol by volume;

(B) Malt beverages containing six percent or less alcohol by volume and that contain at least 51 percent alcohol by volume obtained by the fermentation of grain, as long as not more than 49 percent of the beverage's overall alcohol content is obtained from flavors and other added nonbeverage ingredients containing alcohol; and

(C) Malt beverages containing more than six percent alcohol by volume that derive not more than 1.5 percent of the beverage's overall alcohol content by volume from flavors and other added nonbeverage ingredients containing alcohol.

(c) "Malt beverage" does not include cider or an alcoholic beverage obtained primarily by fermentation of rice, such as sake.

[(7)] **(9)** "Manufacturer" means every person who produces, brews, ferments, manufactures or blends an alcoholic beverage within this state or who imports or causes to be imported into this state an alcoholic beverage for sale or distribution within the state.

[(8)] **(10)** "Permittee" means a person holding a permit issued under ORS 471.360 to 471.390.

[(9)] **(11)** "Premises" or "licensed premises" means a location licensed under this chapter and includes all enclosed areas at the location that are used in the business operated at the location, including offices, kitchens, rest rooms and storerooms, including all public and private areas where patrons are permitted to be present. "Premises" or "licensed premises" includes areas outside of a building that the commission has specifically designated as approved for alcoholic beverage service or consumption.

[(10)] **(12)** "Regulatory specialist" means a full-time employee of the commission who is authorized to act as an agent of the commission in conducting

1 inspections or investigations, making arrests and seizures, aiding in prose-
2 cutions for offenses, issuing citations for violations and otherwise enforcing
3 this chapter, ORS 474.005 to 474.095 and 474.115, commission rules and any
4 other statutes the commission considers related to regulating liquor or
5 marijuana.

6 [(11)] (13) “Wine” means any fermented vinous liquor or fruit juice, or
7 other fermented beverage fit for beverage purposes that is not a malt
8 beverage, containing more than one-half of one percent of alcohol by volume
9 and not more than 21 percent of alcohol by volume. “Wine” includes fortified
10 wine. “Wine” does not include cider.

11 **SECTION 7.** ORS 471.038 is amended to read:

12 471.038. (1) Nonbeverage food products described in subsection (6) of this
13 section may be sold at retail by any holder of a license issued by the Oregon
14 Liquor Control Commission that authorizes the sale of alcoholic liquor at
15 retail[, *or in any store operated by the commission under the provisions of*
16 *ORS 471.750*]. Any nonbeverage food product [*containing more than one-half*
17 *of one percent of alcohol by volume*] **described in subsection (6) of this**
18 **section** must be clearly labeled to reflect the alcohol content of the product
19 and clearly labeled on the front of the package to indicate that the product
20 may not be sold to persons under 21 years of age.

21 (2) Except as provided by this section, sales of nonbeverage food products
22 described in subsection (6) of this section are subject to all provisions of this
23 chapter, including the prohibitions on sales to persons under 21 years of age
24 and the prohibitions on sales to persons who are visibly intoxicated.

25 (3) Nonbeverage food products described in subsection (6) of this section
26 may be imported, stored and distributed in this state without a license issued
27 by the commission. Nonbeverage food products described in subsection (6)
28 of this section are not subject to the privilege taxes imposed by ORS chapter
29 473.

30 (4) Manufacturers of nonbeverage food products described in subsection
31 (6) of this section are not subject to the provisions of ORS 471.392 to 471.400,

471.485, 471.490 or 471.495 or any other provision of this chapter relating to manufacturers of alcoholic liquor. A manufacturer of nonbeverage food products described in subsection (6) of this section may sell and deliver the product directly to a licensee authorized under this section to sell the product at retail.

(5) The holder of a distillery license issued under ORS 471.230 who is also a manufacturer of nonbeverage food products described in subsection (6) of this section may purchase distilled liquor directly from other distilleries.

(6) The provisions of this section apply only to nonbeverage food products that contain **more than one-half of one percent by volume and** not more than **the greater of** five percent alcohol by weight or 10 percent alcohol by volume[, *whichever is greater*].

SECTION 8. ORS 471.105 is amended to read:

471.105. Before being qualified to purchase alcoholic liquor [*from the Oregon Liquor Control Commission*], a person must be at least 21 years of age.

SECTION 9. ORS 471.155 is amended to read:

471.155. (1) The Oregon Liquor Control Commission shall provide for the licensing of persons and cities within [*the*] **this** 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 **malt beverage and wine, wholesale distilled liquor, liquor store**, warehouse, grower sales privilege or brewery-public house license or the holder of a wine self-distribution 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

1 with penalties and interest thereon, levied or assessed against the licensee
 2 or permittee under statutes relating to the importation, manufacture, dis-
 3 tribution, sale or taxation of alcoholic liquors in [*the State of Oregon*] **this**
 4 **state**.

5 (2) Under such conditions as the commission may prescribe, the holder
 6 of a brewery, winery, wholesale **malt beverage and wine, wholesale dis-**
 7 **tilled liquor, liquor store**, warehouse, grower sales privilege or brewery-
 8 public house license or the holder of a wine self-distribution permit may
 9 deposit, in lieu of the bond required by subsection (1) of this section, the
 10 equivalent value in cash, bank letters of credit recognized by the State
 11 Treasurer or negotiable securities of a character approved by the State
 12 Treasurer. The deposit is to be made in a bank or trust company for the
 13 benefit of the commission. Interest on deposited funds or securities shall
 14 accrue to the depositor.

15 **SECTION 10.** ORS 471.175 is amended to read:

16 471.175. (1) The holder of a full on-premises sales license may sell by the
 17 drink at retail wine, malt beverages, cider and distilled liquor. Except as
 18 provided in this section, all alcoholic beverages sold under a full on-premises
 19 sales license must be consumed on the licensed premises.

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

21 (a) A nonprofit private club, as described in subsection (8) of this section.

22 (b) A public passenger carrier as provided in ORS 471.182.

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

24 (d) A public location that does not qualify for licensing under paragraphs
 25 (a) to (c) of this subsection if:

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

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

29 (C) The location meets any minimum food service requirements estab-
 30 lished by Oregon Liquor Control Commission rule.

31 (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 is entitled to 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 (9) 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)] (4) The holder of a full on-premises sales license may purchase distilled liquor only from a *[retail sales agent of the commission]* **liquor store** or from another person licensed under this section who has purchased the distilled liquor from a *[retail sales agent of the commission]* **liquor store**.

[(6)] (5) The holder of a full on-premises sales license may sell factory-sealed containers of wine to a person who organizes a private gathering on the licensee's premises if the wine was acquired as part of a larger purchase of wine by the licensee for the purpose of the gathering and only part of the larger purchase was consumed at the gathering. Wine sold under this subsection may be sold only for an amount adequate to compensate the licensee for the amounts paid by the licensee for the wine.

[(7)] (6) The holder of a full on-premises sales license may sell for con-

1 sumption off the licensed premises malt beverages, wines and cider in
2 securely covered containers provided by the consumer and having capacities
3 of not more than two gallons each.

4 [(8)] (7) A nonprofit private club, including but not limited to a fraternal
5 or veterans organization, may qualify for a full on-premises sales license
6 under this section only if the club meets any minimum membership, nonprofit
7 status and food service requirements established by commission rule.

8 [(9) *The commission may annually adjust the price threshold established*
9 *in subsection (4)(a) of this section by a percentage equal to the percentage*
10 *change in the Portland-Salem, OR-WA Consumer Price Index for All Urban*
11 *Consumers for All Items as published by the Bureau of Labor Statistics of the*
12 *United States Department of Labor. However, the commission may not adjust*
13 *the price threshold to be less than \$30.*]

14 **SECTION 10a.** ORS 471.184 is amended to read:

15 471.184. (1) The holder of a full or limited on-premises sales license may
16 cater a temporary event at a location other than the licensed premises if the
17 event is not open to the general public. Catering of an event under this
18 subsection must be pursuant to a contract with a client. The contract must
19 provide that the licensee will furnish food and beverage services for no more
20 than 100 patrons. The licensee must serve food as required by rules of the
21 commission. The licensee may cater events under this subsection without
22 giving advance notice to the Oregon Liquor Control Commission if, before
23 the event occurs, the commission gives written approval to the licensee au-
24 thorizing catering pursuant to this subsection. Events catered under the
25 provisions of this subsection must meet all requirements for enclosure of
26 premises that may be imposed by the commission for the purposes of this
27 section. Notwithstanding ORS 471.175 (3) and [(7)] (6) and 471.178 (2) to (4),
28 the licensee may not permit patrons of the event to remove any alcoholic
29 beverages from the premises of the event.

30 (2) In addition to catered events under subsection (1) of this section, the
31 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 11. 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 Control Commission]* **liquor store**. The holder of a temporary sales license must provide food service as required by **Oregon Liquor Control** 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 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.

(7) 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.

(8) 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.

SECTION 12. 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 Control 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 one location 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

1 hold any right, title, lien, claim or other interest, financial or otherwise, in,
2 upon or to the premises, equipment, business or merchandise of any man-
3 ufacturer or wholesaler, as defined in ORS 471.392. A brewery-public house
4 licensee, or any person having an interest in the licensee, is also a man-
5 ufacturer for the purposes of ORS 471.398 and, except as otherwise provided
6 by this section and ORS 471.400, may not acquire or hold any right, title,
7 lien, claim or other interest, financial or otherwise, in, upon or to the
8 premises, equipment, business or merchandise of any other retail licensee,
9 as defined in ORS 471.392.

10 (4) A brewery-public house licensee, or any person having an interest in
11 the licensee, is a retail licensee for the purposes of ORS 471.398 and, except
12 as otherwise provided by this section and ORS 471.400, may not accept di-
13 rectly or indirectly any financial assistance described in ORS 471.398 from
14 any manufacturer or wholesaler, as defined in ORS 471.392. A brewery-public
15 house licensee, or any person having an interest in the licensee, is also a
16 manufacturer for the purposes of ORS 471.398 and, except as otherwise pro-
17 vided by this section and ORS 471.400, may not provide directly or indirectly
18 any financial assistance described in ORS 471.398 to any retail licensee, as
19 defined in ORS 471.392. The prohibitions on financial assistance in ORS
20 471.398 do not apply to financial assistance between manufacturing and retail
21 businesses licensed to the same person under the provisions of this section.

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

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

30 (7)(a) Notwithstanding subsection (3) of this section, and except as pro-
31 vided in this subsection, a brewery-public house licensee, or any person

1 having an interest in the licensee, may also hold a full on-premises sales li-
2 cense. If a person holds both a brewery-public house license and a full on-
3 premises sales license, nothing in this chapter shall prevent the sale by the
4 licensee of both distilled liquor and malt beverages manufactured under the
5 brewery-public house license.

6 (b) The commission may not issue a full on-premises sales license to a
7 brewery-public house licensee under the provisions of this subsection if the
8 brewery-public house licensee, or any person having an interest in the
9 licensee or exercising control over the licensee, is a brewery that brews more
10 than 200,000 barrels of malt beverages annually or a winery that produces
11 more than 200,000 gallons of wine annually.

12 (8) Notwithstanding any other provision of this chapter, a brewery-public
13 house licensee, or any person having an interest in the licensee, may also
14 hold a distillery license. No provision of this chapter prevents a brewery-
15 public house licensee that also holds a distillery license from [*being ap-*
16 *pointed by the commission as the distillery's retail outlet agent*] **becoming a**
17 **distillery liquor store licensee** for the purpose of selling distilled liquors
18 under ORS 471.230.

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

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

28 (b) Notwithstanding subsection (3) of this section, a manufacturer or
29 wholesaler, and any officer, director or substantial stockholder of any cor-
30 porate manufacturer or wholesaler, may hold, directly or indirectly, an in-
31 terest 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) For purposes of ORS chapter 473, a brewery-public house licensee shall be considered to be a manufacturer.

SECTION 13. ORS 471.223 is amended to read:

471.223. (1) As used in this section, "control" means that the licensee:

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

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

(2) A winery license shall allow the licensee:

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

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

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

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

(e) To sell wines or cider at retail directly to the consumer for consumption on or off the licensed premises.

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

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

(h) To conduct any activities described in paragraphs (a) to (g) of this subsection at a second or third premises as may be designated by the commission.

(i) To purchase from or through the commission brandy or other distilled

liquors for fortifying wines.

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

(3) A winery licensee shall allow a patron to remove a partially consumed bottle of wine from the licensed premises if the patron is not a minor and the patron is not visibly intoxicated.

(4) In order to hold a winery license the licensee shall:

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

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

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

(6)(a) Except as provided in paragraph (b) of this subsection, a winery licensee, or any person having an interest in the licensee, may also hold a full on-premises sales license. If a winery licensee, or a person having an interest in the licensee, also holds a full on-premises sales license, the provisions of this chapter do not prevent the licensee or person from both selling wine or cider bottled and produced under the winery license and selling alcoholic liquor as authorized under the full on-premises sales license.

(b) The commission may not issue a full on-premises sales license to a winery licensee under the provisions of this subsection if the winery licensee, or any person having an interest in the licensee or exercising control over the licensee, is a brewery that brews more than 200,000 barrels of malt

beverages annually.

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

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

SECTION 14. ORS 471.227 is amended to read:

471.227. (1) A grower sales privilege license shall allow the licensee to perform the following activities only for fruit or grape wine or cider where all of the fruit or grapes used to make the wine or cider are grown in Oregon under the control of the licensee:

(a) To import, store, transport or export such wines or cider.

(b) To sell such wines or cider at wholesale to **licensees of** the Oregon Liquor Control Commission [*or licensees of the commission*].

(c) To sell such wines or cider at retail directly to the consumer for consumption on or off the licensed premises.

(d) To sell at retail for consumption off the licensed premises malt beverages and such wines and cider in securely covered containers provided by the consumer and having capacities of not more than two gallons each.

(e) To conduct some or all of the activities allowed under paragraphs (a) to (d) of this subsection at a second or third premises as may be designated by the commission.

(f) To obtain a special events grower sales privilege license which shall entitle the holder to conduct the activities allowed under paragraphs (c) and (d) of this subsection at a designated location other than the one set forth in the grower sales privilege license for a period not to exceed five days.

(2) A grower sales privilege licensee shall allow a patron to remove a partially consumed bottle of wine from the licensed premises if the patron is not a minor and the patron is not visibly intoxicated.

(3) For purposes of ORS 471.392 to 471.400, a grower sales privilege licensee shall be considered a manufacturer.

(4) A person holding a winery license in another state is not eligible for a license under this section.

(5) A person licensed under this section is not eligible for a limited on-premises sales license, [or] an off-premises sales license **or a liquor store license**.

(6) As used in this section, "control" means the grower either owns the land upon which the fruit or grapes are grown or has a legal right to perform or does perform all of the acts common to fruit farming or viticulture under terms of a lease or similar agreement of at least three years' duration.

(7) For the purposes of tax reporting, payment and record keeping, the provisions of law that shall apply to a manufacturer under ORS chapter 473 shall apply to a grower sales privilege licensee, but such a licensee is not a manufacturer for purposes of ORS 473.050 (5).

SECTION 15. ORS 471.230 is amended to read:

471.230. (1) A distillery license allows the licensee to import, manufacture, distill, rectify, blend, denature and store spirits of an alcoholic content greater than 17 percent alcohol by weight, to sell the spirits to [*the Oregon Liquor Control Commission*] **a licensed distilled liquor wholesaler for sale within this state** and to transport the spirits out of this state for sale outside this state. Distillery licensees may purchase and sell distilled liquor from or to another distillery licensee in containers having a capacity greater than one U.S. gallon for blending and manufacturing purposes. A distillery licensee may not sell any alcoholic beverage within this state except [*to the commission or*] as provided in this section. However, any agricultural producer or association of agricultural producers or the legal agents of an agricultural producer or association of agricultural producers that

1 manufactures and converts agricultural surpluses, by-products and wastes
2 into denatured ethyl and industrial alcohol for use in the arts and industry
3 are not required to obtain a license from the **Oregon Liquor Control Com-**
4 mission.

5 (2) If a distillery licensee holds a valid distilled spirits plant basic permit
6 issued by the federal Alcohol and Tobacco Tax and Trade Bureau for the li-
7 censed premises, the distillery licensee may:

8 (a) Permit tastings of distilled liquor approved by the commission for sale
9 in Oregon and manufactured in Oregon by the distillery licensee or by an-
10 other distillery licensee. Tastings may be of the distilled liquor alone or with
11 a mix of other liquids. If any of the other liquids are distilled liquors, they
12 must be distilled liquors on the list of products approved by the commission
13 for retail sale in Oregon [*and must be purchased by the licensee at the retail*
14 *price established by the commission*]. This paragraph does not authorize sales
15 by the drink of distilled liquor. The tastings may be conducted on the li-
16 censed premises of the distillery and at no more than five other premises
17 owned or leased by the licensee. The commission may allow more than one
18 distillery licensee to use the same premises at the same time for conducting
19 tastings if the premises are a primary production location and the licensees
20 share the premises or are owned by the same entity. If the manufacturer of
21 the distilled liquor obtains distilled liquor for conducting tastings from the
22 inventory of the commission, the licensee shall pay the commission a pro-
23 cessing fee.

24 (b) Obtain a special events distillery license.

25 (c) [*Apply for appointment by the commission as a distillery retail outlet*
26 *agent for purposes of retailing distilled liquor*] **Hold a distillery liquor store**
27 **license that is limited to selling at retail** at locations where tastings are
28 permitted under paragraph (a) of this subsection or subsection (4)(a) of this
29 section. A **person holding a** distillery [*retail outlet agent*] **liquor store li-**
30 **cense** may sell at locations where tastings are allowed under paragraph (a)
31 of this subsection only distilled liquor that is on the list of products ap-

proved by the commission for retail sale in Oregon and is manufactured in Oregon by the distillery licensee or by another distillery licensee that uses the same premises as a primary production location or is owned by the same entity as the distillery licensee.

(3) Notwithstanding ORS 471.392 to 471.400, a distillery licensee may also hold a full on-premises sales license for a location at the licensed premises of the distillery and a full on-premises sales license for one other location. All distilled spirits sold [*under the*] **by the distillery under the distillery liquor store license or** full on-premises sales license must be purchased from [*the commission*] **an exclusive or nonexclusive liquor store.**

(4) A distillery licensee that holds a special events distillery license may conduct an event on premises designated in the special events distillery license. Except as provided in this subsection, a special events distillery license may be valid for a period not exceeding five days. The commission shall limit the approval of special events distillery licenses for a distillery licensee at the same location to not more than 62 days during a calendar year. A distillery licensee conducting a special event may:

(a) Permit tastings of distilled liquor approved by the commission for sale in Oregon and manufactured in Oregon by the distillery licensee. [*Tastings may be of the distilled liquor alone or with a mix of other liquids. If any of the other liquids are distilled liquors, they must be distilled liquors on the list of products approved by the commission for retail sale in Oregon and must be purchased by the licensee at the retail price established by the commission. If the manufacturer of the distilled liquor obtains distilled liquor for conducting tastings from the inventory of the commission, the licensee shall pay the commission a processing fee.*]

(b) Permit sales by the drink of distilled liquor. A drink that a distillery licensee sells under this paragraph must include distilled liquor that the licensee manufactured in Oregon. [*Any distilled liquor contained in the drink must be on the list of products approved by the commission for retail sale in Oregon. The distillery licensee selling the drink must purchase all distilled*

1 *liquor contained in the drink at the retail price set by the commission for the*
 2 *month in which the drink is sold.]*

3 (c) If the distillery licensee [*has been appointed as a distillery retail outlet*
 4 *agent under subsection (2)(c) of this section*] **holds a distillery liquor store**
 5 **license that is limited to selling at retail**, sell distilled liquor in factory-
 6 sealed containers for consumption off the licensed premises. [*A distillery re-*
 7 *tail outlet agent may sell at a location where tastings are allowed under*
 8 *paragraph (a) of this subsection only distilled liquor that is on the list of*
 9 *products approved by the commission for retail sale in Oregon and is manu-*
 10 *factured in Oregon by the distillery licensee. The distillery retail outlet agent*
 11 *must sell the distilled liquor at the retail price set by the commission for the*
 12 *month of sale.]*

13 **SECTION 16.** ORS 471.235 is amended to read:

14 471.235. (1) A wholesale malt beverage and wine license shall allow the
 15 importation, storage, transportation, wholesale sale and distribution **of**
 16 **wine, malt beverages and cider** to licensees of the Oregon Liquor Control
 17 Commission[,] and the export of wine, [*cider and*] malt beverages **and**
 18 **cider**, and the importation and sale to the commission and the export of wine
 19 of alcoholic content in excess of 21 percent alcohol by volume. A wholesale
 20 malt beverage and wine licensee may not sell any alcoholic liquor for con-
 21 sumption upon the licensed premises. However, a wholesale malt beverage
 22 and wine licensee may sell naturally fermented wine or cider in quantities
 23 of not less than four gallons nor more than 55 gallons at any one time to
 24 consumers for consumption not on the licensed premises. Wholesale malt
 25 beverage and wine licensees may sell malt beverages containing not more
 26 than nine percent alcohol by volume in quantities not less than four gallons
 27 to any unlicensed organization, lodge, picnic party or private gathering. The
 28 unlicensed organization, lodge, picnic party or private gathering may not sell
 29 the malt beverages. A wholesale malt beverage and wine license shall permit
 30 the licensee also to sell malt beverages at wholesale only, to persons holding
 31 licenses authorizing the persons to resell such beverages at retail. Employees

of wholesale malt beverage and wine licensees may serve sample tastings of **wine**, malt beverages[,] **and** cider [*and wine*] at alcoholic beverage industry trade shows, seminars and conventions and at alcoholic beverage industry sample tastings for employees of retail licensees.

(2) Subsection (1) of this section does not prohibit the transportation or wholesale sale or distribution of **wine**, malt beverage or [*wine*] **cider** by a wholesale malt beverage and wine licensee to any alcoholic treatment center licensed by the Oregon Health Authority.

(3) A wholesale malt beverage and wine licensee may impose an additional handling fee on any wine sold to any retailer in this state if the quantity of wine sold to the retailer is less than the smallest multiple-package case available to be sold and the handling fee is uniform for all licensees.

SECTION 17. ORS 471.251 is amended to read:

471.251. The Oregon Liquor Control Commission may issue a manufacturer or other person a certificate of approval authorizing the import of distilled liquor manufactured by a distillery not licensed under ORS 471.230. The commission may establish by rule:

(1) The conditions under which a manufacturer or other person may qualify for a certificate of approval;

(2) The products covered by the certificate of approval;

(3) Any conditions or limitations placed on imports under the certificate of approval; [*and*]

(4) The grounds for suspension or revocation of a certificate of approval[.]; **and**

(5) Requirements for reporting distilled liquor sales by the manufacturer to distilled liquor wholesalers in this state.

SECTION 18. ORS 471.292 is amended to read:

471.292. (1) A license granted under the Liquor Control Act [*or the Oregon Distilled Liquor Control Act*] shall:

(a) Be a purely personal privilege.

(b) Be valid for the period stated in the license.

(c) Be renewable in the manner provided in ORS 471.311, except for a cause which would be grounds for refusal to issue such license under ORS 471.313.

(d) Be revocable or suspendible as provided in ORS 471.315.

(e) Be transferable from the place for which the license was originally issued to another location subject to the provisions of the Liquor Control Act, [*the Oregon Distilled Liquor Control Act*,] any rules of the Oregon Liquor Control Commission and any municipal ordinance or local regulation.

(f) Cease upon the death of the licensee, except as provided in subsection (2) of this section.

(g) Not constitute property.

(h) Not be alienable.

(i) Not be subject to attachment or execution.

(j) Not descend by the laws of testate or intestate devolution.

(2) The commission may, by order, provide for the manner and conditions under which:

(a) Alcoholic liquors left by any deceased, insolvent or bankrupt person or licensee, or subject to a security interest, may be foreclosed, sold under execution or otherwise disposed of.

(b) The business of any deceased, insolvent or bankrupt licensee may be operated for a reasonable period following the death, insolvency or bankruptcy.

(c) A business licensed pursuant to this chapter subject to a security interest may be continued in business by a secured party as defined in ORS 79.0102 for a reasonable period after default on the indebtedness by the debtor.

(d) A license granted under this chapter may be transferred from the place for which the license was originally issued to another location.

(3) Notwithstanding subsection (1)(c) of this section, the renewal of an exclusive or nonexclusive liquor store license is also subject to the proposal process and preferences described in section 3 of this 2016

Act.

SECTION 19. ORS 471.294 is amended to read:

471.294. (1) Except as otherwise provided in this section, all licenses under this chapter and renewals thereof shall be issued for a period of one year which shall expire at 12 midnight on March 31, June 30, September 30 or December 31 of each year.

(2) Notwithstanding subsection (1) of this section, a license issued for the first time to an applicant may be issued for less than a year. The fee for a license issued for less than a year under this subsection is the annual license fee prescribed by ORS 471.311.

(3) The term of a temporary letter of authority or license issued under ORS 471.302 or any temporary sales license is the period fixed by the Oregon Liquor Control Commission when the letter or license is issued.

(4) A wholesale distilled liquor license has the length of term established in section 2 of this 2016 Act.

(5) An exclusive or nonexclusive liquor store license has the length of term established in section 3 of this 2016 Act.

SECTION 20. ORS 471.311 is amended to read:

471.311. (1) Any person desiring a license or renewal of a license under this chapter shall make application to the Oregon Liquor Control Commission upon forms to be furnished by the commission showing the name and address of the applicant, location of the place of business that is to be operated under the license, and such other pertinent information as the commission may require. No license shall be granted or renewed 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) The commission shall charge an application fee, not to exceed \$150, to process an application for the issuance of a new license under this chapter or a license following a change in ownership. The application fee applies only to an application for a class of license having an annual license fee. The application fee is nonrefundable, except that the commission shall refund the fee if the applicant completes, submits and maintains an application and the commission does not, on or before 75 days following receipt of the completed application, propose that the license be granted, granted with conditions or refused. The commission shall adopt rules to:

(a) Establish application fees by class of license; and

(b) Define a completed application for purposes of this subsection.

(4) Subject to subsection (5) 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, this 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, this 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.

(5) The commission may waive the fee imposed under subsection (4) of this section if it 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.

(6) The license fee is nonrefundable and shall 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
1			
2			
3	Brewery, including Certificate		
4	of Approval	\$ 500	\$ 1,000
5	Winery	\$ 250	\$ 1,000
6	Distillery	\$ 100	None
7	Wholesale Malt Beverage		
8	and Wine	\$ 275	\$ 1,000
9	Warehouse	\$ 100	\$ 1,000
10	Wholesale Distilled Liquor	_____	_____
11	Distillery Liquor Store	_____	_____
12	Special events winery		
13	license	\$ 10 per day	
14	Brewery-Public House,		
15	including Certificate		
16	of Approval	\$ 250	\$ 1,000
17	Limited On-Premises Sales	\$ 200	None
18	Off-Premises Sales	\$ 100	None
19	Temporary Sales	\$ 50 per day	
20	Grower sales privilege		
21	license	\$ 250	\$ 1,000
22	Special events grower		
23	sales privilege		
24	license	\$ 10 per day	
25	Special events		
26	brewery-public house		
27	license	\$ 10 per day	
28	Special events		
29	distillery		
30	license	\$ 10 per day	
31			

(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. No bond is 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 \$175. 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 \$400. No bond is 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 [(8)] **(7)**, or held by a nonprofit or charitable organization that is registered with the state, is \$200.

(10) The annual fee for a wine self-distribution permit is \$100, and the minimum bond is \$1,000.

SECTION 21. ORS 471.327 is amended to read:

471.327. (1) The Oregon Liquor Control Commission, in suspending any brewery license, [*wholesale wine license*,] wholesale malt beverage **and wine** license, **wholesale distilled liquor license or liquor store license**, or certificate of approval, may further impose against the licensee or the holder of the certificate of approval a civil penalty not to exceed \$5,000, or, in its discretion, may impose such civil penalty without suspending the license or the certificate of approval.

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

SECTION 22. ORS 471.341 is amended to read:

471.341. (1) An employee of an off-premises sales licensee **or of a liquor store** who has been found by the Oregon Liquor Control Commission to have

1 sold alcoholic beverages to a minor, or to have failed to properly verify
2 identification of a person who purchased alcoholic beverages, must attend a
3 clerk training course approved by the commission as a condition of making
4 sales of alcoholic beverages to members of the public under an off-premises
5 sales license **or liquor store license**.

6 (2) The commission shall by rule establish times for employees to com-
7 plete a required clerk training course under this section. An employee re-
8 quired to complete a clerk training course under this section may continue
9 to make sales of alcoholic beverages to members of the public until taking
10 such training, but may not make any sales of alcoholic beverages after the
11 expiration of the time allowed by commission rule if the employee has not
12 completed the training before the expiration of that time.

13 (3) Except as provided in subsection (2) of this section, the holder of an
14 off-premises sales license **or liquor store license** may not allow an employee
15 who has been found by the Oregon Liquor Control Commission to have sold
16 alcoholic beverages to a minor, or to have failed to properly verify identifi-
17 cation of a person who purchased alcoholic beverages, to sell alcoholic
18 beverages under the license unless the employee completes a clerk training
19 course as required by this section.

20 (4) The Oregon Liquor Control Commission, as part of the Alcohol Edu-
21 cation Program established under ORS 471.541, shall approve all clerk
22 training courses offered for the purpose of this section. The holder of an
23 off-premises sales license **or liquor store license** may establish a clerk
24 training course for employees of the licensee, but the course must be ap-
25 proved by the commission to meet the requirements of this section. Clerk
26 training courses approved under this section must address at least the fol-
27 lowing topics:

28 (a) The importance of not selling alcoholic beverages to minors and
29 visibly intoxicated persons.

30 (b) Guidelines for recognizing minors and visibly intoxicated persons.

31 (c) Guidelines for checking and verifying identification, and for recogniz-

ing false or altered identification.

(d) Recommended approaches for refusing sales of alcoholic beverages to minors and visibly intoxicated persons.

(5) If an employee of an off-premises sales licensee **or of a liquor store** is found to have sold alcoholic beverages to a minor, or to have failed to properly verify identification of a person who purchased alcoholic beverages, the commission shall notify the licensee that the employee must complete a clerk training course approved under this section and may not sell alcoholic beverages to members of the public after the time established by the commission unless the employee completes the training within the time allowed. If the off-premises sales licensee **or liquor store licensee** offers a clerk training course to new employees, and the employee has previously completed that course, the requirements of this section may be met by retaking the clerk training course if the course has been approved by the commission for the purposes of this section.

(6) Upon completion of a clerk training course by an employee of an off-premises sales licensee **or of a liquor store** pursuant to the requirements of this section, the off-premises sales licensee **or liquor store licensee** that employs the person must notify the commission in writing that the employee has successfully completed the training. The notification must include the name and address of the employee, the name of the clerk training course attended by the employee, and the date or dates on which the course was attended. The notification shall be kept by the commission in the licensee's file.

(7) The commission shall assess and collect a fee not to exceed \$13 from each person required to attend a clerk training course under this section. Amounts collected under this section shall be used for the administrative expenses incurred by the commission in the performance of the commission's duties under the Alcohol Education Program.

(8) In addition to any other penalty provided for by law, the commission may impose a civil penalty against any employee of an off-premises sales

licensee **or of a liquor store** who sells alcoholic beverages to members of the public and who is prohibited from making those sales under this section. A civil penalty under this subsection may not exceed \$500. Civil penalties under this subsection shall be imposed by the commission in the manner provided by ORS 183.745.

SECTION 23. ORS 471.346 is amended to read:

471.346. (1) The Oregon Liquor Control Commission shall by rule develop uniform standards for minor decoy operations used to investigate licensees *[and agents operating stores on behalf of the commission under ORS 471.750]* for violations of the laws of this state prohibiting sales of alcoholic beverages to minors. Uniform standards established by the commission under this section apply to all investigations conducted by the commission that use minor decoys. The commission shall encourage all law enforcement agencies of this state to use the uniform standards established under this section for minor decoy operations conducted by the law enforcement agencies.

(2) To the greatest extent possible, the uniform standards established by the commission under this section:

(a) Shall be the same for minor decoy operations conducted by the commission and for minor decoy operations conducted by law enforcement agencies of this state; and

(b) Shall provide for coordination between the commission and law enforcement agencies of this state in conducting minor decoy operations.

(3) The uniform standards established by the commission under this section shall provide that minor decoy operations must be conducted on either a random or a targeted basis in cities with populations of 20,000 or more. Random minor decoy operations shall cover a range of retail outlets. Targeted minor decoy operations may be conducted for a single licensee *[or agent]*, but may be used only if there is a documented compliance problem with the specific licensee *[or agent]* that is the target of the operation. For the purpose of implementing standards for random minor decoy operations

1 under this subsection, the commission shall by rule adopt a methodology that
2 produces, to the greatest extent possible, an equal chance that any licensee
3 [or agent] will be subject to a minor decoy operation.

4 (4) Except as provided in subsection (5) of this section, the failure of the
5 commission or of a law enforcement agency to follow uniform standards es-
6 tablished by the commission under this section is not grounds for challenging
7 any complaint, citation or conviction for violation of the laws prohibiting
8 the sale of alcoholic beverages to minors.

9 (5) In determining whether to impose sanctions based on multiple vio-
10 lations of the laws of this state prohibiting sales of alcoholic beverages to
11 minors, the commission may not consider any complaint filed against a
12 licensee for selling alcoholic beverages to a minor, citation issued to a
13 licensee for selling alcoholic beverages to a minor or conviction of a licensee
14 for selling alcoholic beverages to a minor if the complaint, citation or con-
15 viction arose out of a minor decoy operation that was not conducted pursu-
16 ant to the uniform standards established by the commission under this
17 section.

18 (6) Notwithstanding any other provision of this chapter, the commission
19 may not consider any sale of alcoholic beverages to a minor that results from
20 a minor decoy operation that is not conducted in compliance with the stan-
21 dards established under this section for the purpose of imposing any civil
22 penalty against a licensee, making a decision on the renewal, suspension or
23 cancellation of a license issued under this chapter or otherwise sanctioning
24 a licensee for the sale of alcoholic beverages to a minor.

25 (7) The commission shall give notice of the uniform standards established
26 under this section to all law enforcement agencies of this state that conduct
27 minor decoy operations.

28 **SECTION 24.** ORS 471.392 is amended to read:

29 471.392. For the purposes of ORS 471.392 to 471.400:

30 (1) "Manufacturer or wholesaler" means:

31 (a) A person holding a brewery license issued under ORS 471.220, 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, **a wholesale distilled liquor license issued under section 2 of this 2016 Act** or a warehouse license issued under ORS 471.242.

(b) Any manufacturer of alcoholic liquors whose products are sold in [*the State of Oregon*] **this state**.

(2) "Retail licensee" means the holder of a full or limited on-premises sales license, an off-premises sales license, **a liquor store 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 25. ORS 471.396 is amended to read:

471.396. (1) The prohibitions of ORS 471.394 (1) do not apply to persons holding winery licenses, grower sales privilege licenses, brewery-public house licenses, distillery licenses or brewery licenses, to the extent that retail sales are authorized by the statutes establishing the privileges of each license. **ORS 471.394 (1) does not apply to persons holding a liquor store license.**

(2)(a) The prohibitions of ORS 471.394 (2) and (3) do not apply to a person who wholesales alcoholic liquor and who is not required to be licensed under the provisions of this chapter if the retail licensee does not sell any brand of alcoholic liquor sold or distributed by the person and does not sell any brand of alcoholic liquor produced by any manufacturer doing business with the person selling at wholesale.

(b) The prohibitions of ORS 471.394 (2) and (3) do not apply to a manufacturer of alcoholic liquor if the retail licensee does not sell any brand of alcoholic liquor sold, distributed or produced by the manufacturer and does not sell any brand of alcoholic liquor sold, distributed or produced by any subsidiary or other business entity that the manufacturer owns or manages, or that the manufacturer exercises control over.

(3) The prohibitions of ORS 471.394 do not apply solely by reason of the

1 family relationship of a spouse or family member to a manufacturer or
2 wholesaler if:

3 (a) The manufacturer or wholesaler is licensed by the Oregon Liquor
4 Control Commission to sell alcoholic liquor at wholesale;

5 (b) The license authorizing sale of alcoholic liquor at wholesale was first
6 issued before January 1, 1965, and has been held continuously since that
7 date;

8 (c) The spouse or family member holds or seeks a license that authorizes
9 the retail sale of alcoholic liquor for off-premises consumption only; and

10 (d) The manufacturer or wholesaler does not directly or indirectly sell
11 alcoholic liquor to the spouse or family member.

12 (4) The prohibitions of ORS 471.394 do not apply solely by reason of the
13 family relationship of a spouse or family member to the retail licensee if the
14 manufacturer or wholesaler is licensed by the commission to sell alcoholic
15 liquor at wholesale and does not directly or indirectly sell alcoholic liquor
16 to the spouse or family member.

17 (5) Notwithstanding ORS 471.394, a manufacturer or wholesaler, and any
18 officer, director or substantial stockholder of any corporate manufacturer or
19 wholesaler, may hold, directly or indirectly, an interest in a full or limited
20 on-premises sales licensee, provided that the interest does not result in ex-
21 ercise of control over, or participation in the management of, the licensee's
22 business or business decisions, and does not result in exclusion of any
23 competitor's brand of alcoholic liquor.

24 (6) Notwithstanding ORS 471.394, a full or limited on-premises sales
25 licensee, and any officer, director or substantial stockholder of any corporate
26 full or limited on-premises sales licensee, may hold, directly or indirectly,
27 an interest in a manufacturer or wholesaler, provided that the interest does
28 not result in exercise of control over, or participation in the management
29 of, the manufacturer's or wholesaler's business or business decisions, and
30 does not result in exclusion of any competitor's brand of alcoholic liquor.

31 (7) Notwithstanding ORS 471.394, an institutional investor with a finan-

cial interest in a wholesaler or manufacturer may hold, directly or indirectly, an interest in a retail licensee unless the institutional investor controls, is controlled by, or is under common control with, a wholesaler or manufacturer. Notwithstanding ORS 471.394, an institutional investor with a financial interest in a retail licensee may hold, directly or indirectly, an interest in a wholesaler or manufacturer unless the institutional investor controls, is controlled by, or is under common control with, a retail licensee. The provisions of this subsection apply only to an institutional investor that is a state or federally chartered bank, a state or federally chartered mutual savings bank, a mutual fund or pension fund, or a private investment firm. The principal business activity of the institutional investor must be the investment of capital provided by depositors, participants or investors. The institutional investor must maintain a diversified portfolio of investments. The majority of the institutional investor's investments may not be in businesses that manufacture, distribute or otherwise sell alcoholic beverages. The institutional investor, and the officers, directors, substantial shareholders, partners, employees and agents of the institutional investor, may not participate in management decisions relating to the sale or purchase of alcoholic beverages made by a licensee in which the institutional investor holds an interest.

(8) Notwithstanding ORS 471.394, a member of the board of directors of a parent company of a corporation that is a manufacturer may serve on the board of directors of a parent company of a corporation that is a retail licensee if:

(a) The manufacturer or parent company of a manufacturer is listed on a national security exchange;

(b) All purchases of alcoholic beverages by the retail licensee are made from holders of wholesale malt beverage and wine licenses, brewery licenses or winery licenses in this state;

(c) The interest of the member of the board of directors does not result in the exclusion of any competitor's brand of alcoholic beverages on the li-

censed premises of the retail licensee; and

(d) The sale of goods and services other than alcoholic beverages by the retail licensee exceeds 50 percent of the gross receipts of the business conducted by the retail licensee on the licensed premises.

SECTION 26. 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:]* **provided in this section or ORS 471.405. The following may be imported without a license:**

(a) Alcoholic liquor *[ordered by and en route to the Oregon Liquor Control Commission,]* **imported** under a certificate of approval issued by the **Oregon Liquor Control Commission under ORS 471.251.**

(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)] **(e)** 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 ORS 471.274 (5).

[(g)] **(f)** 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]* **oversight** fee based on the quantity and type of alcoholic liquor being imported.

SECTION 27. ORS 471.405 is amended to read:

471.405. (1) No person shall peddle or deliver alcoholic beverages to or

1 at any place, where, without a license, alcoholic beverages are sold or offered
2 for sale. No licensee shall sell or offer for sale any alcoholic beverage in a
3 manner, or to a person, other than the license permits the licensee to sell.

4 (2) No person shall purchase, possess, transport or import, except for
5 sacramental purposes, an alcoholic beverage [*unless it is procured from or*
6 *through the Oregon Liquor Control Commission, except as provided otherwise*
7 *in the Liquor Control Act.*] **except as provided under this chapter.**

8 (3) No person not licensed under the Liquor Control Act shall sell, solicit,
9 take orders for or peddle alcoholic beverages.

10 (4) Notwithstanding the provisions of subsection (2) of this section, an
11 individual entering [*the*] **this** state may have in possession an amount not
12 to exceed four liters (135.2 fluid ounces) of distilled liquor, two cases of wine
13 or cider (620 fluid ounces) and two cases of malt beverages (576 fluid ounces).
14 These quantities of alcoholic beverages are exempt from fees **or taxes** col-
15 lected by the **Oregon Liquor Control** Commission.

16 (5) Upon conviction for unlawfully purchasing or importing alcoholic
17 beverages into this state, the person convicted shall forfeit to the commission
18 the alcoholic beverage so purchased or imported. The commission shall
19 thereupon seize the forfeited beverage and it shall then become the
20 commission's property.

21 **SECTION 28.** ORS 471.410 is amended to read:

22 471.410. (1) A person may not sell, give or otherwise make available any
23 alcoholic liquor to any person who is visibly intoxicated.

24 (2) No one other than the person's parent or guardian may sell, give or
25 otherwise make available any alcoholic liquor to a person under the age of
26 21 years. A parent or guardian may give or otherwise make alcoholic liquor
27 available to a person under the age of 21 years only if the person is in a
28 private residence and is accompanied by the parent or guardian. A person
29 violates this subsection who sells, gives or otherwise makes available alco-
30 holic liquor to a person with the knowledge that the person to whom the
31 liquor is made available will violate this subsection.

1 (3)(a) A person who exercises control over private real property may not
2 knowingly allow any other person under the age of 21 years who is not a
3 child or minor ward of the person to consume alcoholic liquor on the prop-
4 erty, or allow any other person under the age of 21 years who is not a child
5 or minor ward of the person to remain on the property if the person under
6 the age of 21 years consumes alcoholic liquor on the property.

7 (b) This subsection:

8 (A) Applies only to a person who is present and in control of the location
9 at the time the consumption occurs;

10 (B) Does not apply to the owner of rental property, or the agent of an
11 owner of rental property, unless the consumption occurs in the individual
12 unit in which the owner or agent resides; and

13 (C) Does not apply to a person who exercises control over a private resi-
14 dence if the liquor consumed by the person under the age of 21 years is
15 supplied only by an accompanying parent or guardian.

16 (4) This section does not apply to sacramental wine given or provided as
17 part of a religious rite or service.

18 (5) Except as provided in subsections (6) and (7) of this section, a person
19 who violates subsection (1) or (2) of this section commits a Class A
20 misdemeanor. Upon violation of subsection (2) of this section, the court shall
21 impose at least a mandatory minimum sentence as follows:

22 (a) Upon a first conviction, a fine of at least \$500.

23 (b) Upon a second conviction, a fine of at least \$1,000.

24 (c) Upon a third or subsequent conviction, a fine of at least \$1,500 and
25 not less than 30 days of imprisonment.

26 (6)(a) A person who violates subsection (2) of this section is subject to the
27 provisions of this subsection if the person does not act knowingly or inten-
28 tionally and:

29 (A) Is licensed [*or appointed*] under this chapter; or

30 (B) Is an employee of a person licensed [*or appointed*] under this chapter
31 and holds a valid service permit or has attended a program approved by the

Oregon Liquor Control Commission that provides training to avoid violations of this section.

(b) For a person described in paragraph (a) of this subsection:

(A) A first conviction is a Class A violation.

(B) A second conviction is a specific fine violation, and the presumptive fine for the violation is \$860.

(C) A third conviction is a Class A misdemeanor. The court shall impose a mandatory fine of not less than \$1,000.

(D) A fourth or subsequent conviction is a Class A misdemeanor. The court shall impose a mandatory fine of not less than \$1,000 and a mandatory sentence of not less than 30 days of imprisonment.

(7) For an employee of an off-premises sales licensee who violates subsection (2) of this section while operating a checkout device and does not act knowingly or intentionally, a first conviction is a Class A violation.

(8) The court may waive an amount that is at least \$200 but not more than one-third of the fine imposed under subsection (5) of this section, if the violator performs at least 30 hours of community service.

(9) Except as provided in subsection (8) of this section, the court may not waive or suspend imposition or execution of the mandatory minimum sentence required by subsection (5) or (6) of this section. In addition to the mandatory sentence, the court may require the violator to make restitution for any damages to property where the alcoholic liquor was illegally consumed or may require participation in volunteer service to a community service agency.

(10)(a) Except as provided in paragraph (b) of this subsection, a person who violates subsection (3) of this section commits a Class A violation.

(b) A second or subsequent violation of subsection (3) of this section is a specific fine violation, and the presumptive fine for the violation is \$1,000.

(11) Nothing in this section prohibits any licensee under this chapter from allowing a person who is visibly intoxicated from remaining on the licensed premises so long as the person is not sold or served any alcoholic liquor.

SECTION 28a. ORS 471.446 is amended to read:

471.446. (1) No retail licensee shall purchase any wine or cider for resale except in sealed containers, the seals of which shall remain unbroken when it is sold for consumption off the premises.

(2) The Oregon Liquor Control Commission [*may refuse to sell, or*] may prohibit any licensee from selling[,] any brand of alcoholic liquor [*which*] **that** in its judgment is deceptively labeled or branded as to content, or contains injurious or adulterated ingredients.

SECTION 28b. ORS 471.473 is amended to read:

471.473. (1) A person appointed to operate a store established by the Oregon Liquor Control Commission [*under ORS 471.750*] **prior to the operative date specified in section 46 of this 2016 Act** qualifies for the payment of business loss compensation under this section if:

(a) The system for selling containers of distilled liquor at retail in this state changes after the person assumes operation of the store; and

(b) The system change results from a law that prohibits the commission from purchasing or selling distilled liquor.

(2) The purpose of business loss compensation is to offset the actual or presumed sales reduction and actual or perceived devaluation of a liquor store business following a system change described in subsection (1) of this section. The commission shall pay a person qualifying under this section business loss compensation equal to four percent of the average annual gross distilled liquor sales made by the store during the five years that preceded the system change, whether or not the person was the store operator during the entire five-year period. If the store has operated less than five years prior to the system change, the commission shall pay compensation equal to four percent of the average annual gross distilled liquor sales made by the store prior to the system change.

(3)(a) The commission shall pay any business loss compensation due under this section from the suspense account described in ORS 471.805. Except as otherwise required by federal or state law or by contract, the commission

1 shall give the payment of business loss compensation priority over the pay-
2 ment of other debts from the suspense account.

3 (b) Notwithstanding ORS 279A.250 to 279A.290 or the revolving fund bal-
4 ance limit established in ORS 471.805, if a change in the system for selling
5 containers of distilled liquor at retail in this state results in business loss
6 compensation being payable under this section, and the commission declares
7 within five years after the system change that a warehouse established by
8 the commission [*under ORS 471.750*] **prior to the operative date specified**
9 **in section 46 of this 2016 Act** or the inventory of the commission is surplus
10 property, the net proceeds from sale of the warehouse or inventory remaining
11 after deduction of sales costs shall be deposited to the suspense account de-
12 scribed in ORS 471.805. All moneys deposited under this paragraph shall be
13 kept in a subaccount within the suspense account that indicates the source
14 of the moneys. Notwithstanding ORS 471.805, moneys deposited to the sus-
15 pense account under this paragraph may not be transferred to the Oregon
16 Liquor Control Commission Account if any business loss compensation is
17 owed and remains unpaid. This paragraph does not restrict the source for
18 paying business loss compensation from the suspense account or alter the
19 priority of business loss compensation payment established in paragraph (a)
20 of this subsection.

21 (4) If a person that receives business loss compensation under this section
22 brings any action against the commission for damages resulting from a
23 change in the system for selling containers of distilled liquor at retail in this
24 state, the business loss compensation received by the person as a result of
25 that system change shall be an offset against any damages awarded the per-
26 son in the action. This subsection does not create any new cause of action.

27 (5) Business loss compensation received by a person under this section
28 does not affect the claiming of any tax deduction by the person for depreci-
29 ation of equipment, fixtures or other property improvements, but is ordinary
30 business income of the person, taxable as provided by law.

31 **SECTION 29.** ORS 471.710 is amended to read:

471.710. (1) The Governor may remove any commissioner for inefficiency, neglect of duty, or misconduct in office, giving to the commissioner a copy of the charges made and an opportunity of being publicly heard in person or by counsel, in the commissioner's own defense, upon not less than 10 days' notice. If such commissioner is removed, the Governor shall file in the office of the Secretary of State a complete statement of all charges made against such commissioner, the findings thereon, and a complete record of the proceedings.

(2) No person, other than the member appointed in accordance with ORS 471.705 who is designated from the food and alcoholic beverage retail industry, is eligible to hold the office of commissioner, or to be employed by the Oregon Liquor Control Commission if:

(a) The person has any financial interest in any business licensed by the commission or in any business *[which]* **that** manufactures alcoholic beverages sold in *[Oregon]* **this state**;

(b) Anyone in the person's household or immediate family has a financial interest described in paragraph (a) of this subsection;

(c) Anyone in the person's household or immediate family is employed by a business licensed by the commission, unless the person is not in a position to take action or make decisions *[which]* **that** could affect the licensed business; or

(d) The person or anyone in the person's household or immediate family has a business connection with any business licensed by the commission, unless the person is not in a position to take action or make decisions *[which]* **that** could affect the licensed business.

(3)*[(a) A retail sales agent appointed by the commission,]* **Except as provided in ORS 471.230, a liquor store licensee** or a person in the household or immediate family of a *[retail sales agent]* **liquor store licensee**, may not have any financial interest in or business connection with:

[(A)] (a) A person or business that is licensed as a distillery;

[(B)] (b) A person or business that holds a full on-premises sales license;

[or]

[(C)] (c) A distillery whose products are sold in [Oregon] **this state; or**

(d) A person or business that holds a wholesale distilled liquor license.

[(b) Paragraph (a) of this subsection does not apply to a distillery retail outlet agent appointed by the commission under ORS 471.230.]

(4) Nothing in this section prohibits a person from having a financial interest resulting from investments made by the Public Employees Retirement System or through mutual funds, blind trusts or similar investments where the person does not exercise control over the nature, amount or timing of the investment.

(5) The commission by rule may establish additional restrictions to prohibit potential conflicts of interest. The commission by rule shall define “immediate family” and “business connection” as used in this section.

SECTION 30. ORS 471.725 is amended to read:

471.725. The function, duties and powers of the Oregon Liquor Control Commission include the following:

[(1) To buy, have in its possession, bottle, blend, rectify, transport and sell, for present or future delivery, in its own name, alcoholic liquor in the manner set forth in this chapter.]

[(2)] (1) To purchase, acquire, rent, lease or occupy any building, rooms, stores or land and acquire, own, lease and sell equipment and fixtures required for its operations.

[(3)] (2) To lease or sublet to others property [which it] **that the commission** acquires or owns and [which] **that** is not immediately required for [its operations] **use by the commission.** However, no real property [shall] **may** be purchased without the consent and approval of the Governor.

[(4)] (3) To borrow money, guarantee the payment [thereof] **of money** and of the interest [thereon] **on money**, by the transfer or pledge of goods or in any other manner required or permitted by law.

[(5)] (4) To issue, sign, indorse and accept checks, promissory notes, bills

of exchange and other negotiable instruments.

[(6)] (5) *[In the event]* If the United States Government provides any plan or method whereby the **federal** taxes upon alcoholic liquors are collected at the source, to enter into any and all contracts and comply with all **federal laws and** regulations, even to the extent of partially or wholly abrogating any statutory provisions *[which]* **that** might be in conflict with federal law or regulations, to the end that the commission receives the portion *[thereof]* **of federal taxes** allocated to this state, to be distributed as provided by statute.

[(7)] (6) To secure and pay for such policies of insurance as may be necessary to adequately protect *[it]* **the commission** from loss by fire, theft or other casualty.

SECTION 31. ORS 471.740 is amended to read:

471.740. Except as provided in this chapter, the Oregon Liquor Control Commission is vested with the exclusive right to **regulate the** purchase, *[sell, have in]* **sale, import, transport or** possession for sale, *import or transport]* **of** alcoholic beverages.

SECTION 32. ORS 471.754 is amended to read:

471.754. The Oregon Liquor Control Commission shall develop recycling education materials for distribution through *[stores established by the commission under ORS 471.750 that]* **liquor stores to** encourage the patrons of the *[store]* **stores** to recycle bottles sold through the stores.

SECTION 33. ORS 471.745, 471.750 and 471.752 are repealed.

SECTION 34. Sections 35 and 36 of this 2016 Act are added to and made a part of ORS chapter 473.

SECTION 35. (1) A tax is imposed upon the privilege of engaging in business as a distilled liquor wholesaler in this state at the rate of 71.7 percent of the price for which the wholesaler purchases the distilled liquor.

(2) The tax may not be levied, collected or imposed on a container of distilled liquor under this section more than once.

SECTION 36. (1) On or before the 20th day of each month, every liquor store licensee shall file with the Oregon Liquor Control Commission a statement of the amount paid for distilled liquor purchased by the liquor store during the preceding calendar month. The report must identify the distilled liquor wholesaler that sold the distilled liquor to the liquor store.

(2) Notwithstanding subsection (1) of this section, the commission may allow a nonexclusive liquor store that purchases a low volume of distilled liquor, as determined by the commission, to file with the commission on or before January 20 of each year an annual statement of the quantity of distilled liquor purchased by the liquor store during the preceding calendar year.

SECTION 36a. Sections 35 and 36 of this 2016 Act apply to sales of liquor occurring after the operative date specified in section 46 of this 2016 Act.

SECTION 37. ORS 473.060 is amended to read:

473.060. (1) The privilege taxes imposed by ORS 473.030 and 473.035 and section 35 of this 2016 Act shall be paid to the Oregon Liquor Control 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, and may waive the collection or refund the payment of any tax imposed and collected on **distilled liquor, 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 subject to the tax imposed under ORS 473.030 or 473.035 **or to a distilled liquor wholesaler subject to the tax imposed under section 35 of this 2016 Act**, if the commission, in its discretion, determines that the manufacturer **or wholesaler** 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 **or section 35 of this 2016 Act** following the expiration of 36 months from the date on which was filed the statement required under ORS 473.070 reporting the quantity of **distilled liquor**, wine, cider or malt beverages upon which the tax is due.

(4) A manufacturer may appeal a tax imposed under ORS 473.030 or 473.035, **and a distilled liquor wholesaler may appeal a tax imposed under section 35 of this 2016 Act**, in the manner of a contested case under ORS chapter 183.

SECTION 38. ORS 473.090 is amended to read:

473.090. (1) 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, 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]* **of the lien.**

(2) The privilege tax required to be paid under section 35 of this 2016 Act constitutes a lien upon, and has the effect of an execution duly levied against, any and all property of the distilled liquor wholesaler attaching at the time the wholesaler purchases the distilled liquor and remaining until the tax is paid or the property sold in payment of the lien.

(3) *[The]* A lien created by this section is paramount to all private liens or encumbrances.

SECTION 39. ORS 473.100 is amended to read:

1 473.100. (1) Whenever any manufacturer is delinquent in the payment of
2 the privilege tax [*provided for in*] **imposed under** ORS 473.030 and 473.035
3 **or any distilled liquor wholesaler is delinquent in the payment of the**
4 **privilege tax imposed under section 35 of this 2016 Act**, the Oregon Li-
5 quor Control Commission or its duly authorized representative shall seize
6 any property subject to the tax and sell, at public auction, property so seized,
7 or a sufficient portion thereof to pay the privilege tax due, together with any
8 penalties imposed under ORS 473.060 for such delinquency and all costs in-
9 curred on account of the seizure and sale.

10 (2) Written notice of the intended sale and the time and place thereof,
11 shall be given to such delinquent manufacturer **or wholesaler** and to all
12 persons appearing of record to have an interest in the property, at least 10
13 days before the date set for the sale. The notice shall be enclosed in an en-
14 velope addressed to the manufacturer **or wholesaler** at the last-known resi-
15 dence or place of business of the manufacturer **or wholesaler** in this state,
16 if any. [*; and in the case of*] **Written notice shall also be given to** any
17 person appearing of record to have an interest in such property, addressed
18 to such person at the last-known place of residence of the person, if any. The
19 envelope shall be deposited in the United States mail, postage prepaid. In
20 addition, notice shall be published for at least 10 days before the date set for
21 such sale, in a newspaper of general circulation published in the county in
22 which the property seized is to be sold. If there is no newspaper of general
23 circulation in such county, the notice shall be posted in three public places
24 in such county for the 10-day period. The notice shall contain a description
25 of the property to be sold, a statement of the amount of the privilege taxes,
26 penalties and costs, the name of the manufacturer **or wholesaler** and the
27 further statement that, unless the privilege taxes, penalties and costs are
28 paid on or before the time fixed in the notice for the sale, the property, or
29 so much [*thereof*] **of the property** as may be necessary, will be sold in ac-
30 cordance with law and the notice.

31 **SECTION 40.** ORS 473.110 is amended to read:

473.110. [At the sale, the] Property shall be sold **under ORS 473.100** by the Oregon Liquor Control 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 distilled liquor wholesaler**. 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 wholesaler**, the excess shall be returned to the manufacturer **or wholesaler**, and a receipt [therefor] **for the returned amount** 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 wholesaler** 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 wholesaler or of the heirs, successors or assigns of the manufacturer or wholesaler.**

SECTION 41. ORS 473.120 is amended to read:

473.120. (1) The Oregon Liquor Control Commission shall immediately transmit notice [of the delinquency mentioned in ORS 473.100] to the Attorney General **of any delinquency under ORS 473.100 by a manufacturer.** The Attorney General shall at once proceed to collect all sums due to the state from the manufacturer under this chapter by bringing suit against the necessary parties to effect forfeiture of the bonds of the manufacturer, reducing any deficiency to judgment against the manufacturer.

(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.

1 **SECTION 42.** ORS 473.150 is amended to read:

2 473.150. (1) The Oregon Liquor Control Commission may, at any time,
3 examine the books and records of a holder of a **wholesale distilled liquor**
4 **license or a** wine self-distribution permit or of any manufacturer of wine,
5 cider or malt beverages, and may appoint auditors, investigators and other
6 employees that the commission considers necessary to enforce its powers and
7 perform its duties under this section.

8 (2) Every holder of a **wholesale distilled liquor license or a** wine self-
9 distribution permit and every manufacturer shall maintain and keep for two
10 years all records, books and accounts required by this chapter and shall
11 provide copies of those records, books and accounts to the commission when
12 requested by the commission.

13 **SECTION 43. (1) Notwithstanding sections 3 and 4 of this 2016 Act,**
14 **the amendments to ORS 471.725 and 471.740 by sections 30 and 31 of this**
15 **2016 Act and the repeal of ORS 471.745, 471.750 and 471.752 by section**
16 **33 of this 2016 Act, a retail sales agent appointment made under ORS**
17 **471.750, as that statute was in effect before the operative date specified**
18 **in section 46 of this 2016 Act, shall terminate on the earlier of the**
19 **scheduled expiration date or at 12 midnight on the night of June 30,**
20 **2017. However, if a retail sales agent files an application to become a**
21 **liquor store licensee no later than 120 days prior to the date the ap-**
22 **pointment is to expire or terminate, the Oregon Liquor Control Com-**
23 **mission may grant the license application and terminate the**
24 **appointment.**

25 (2) Notwithstanding section 3 of this 2016 Act, the commission is
26 not required to request or accept proposals prior to granting a liquor
27 store license under subsection (1) of this section. The commission may
28 negotiate with the applicant regarding the license fee amount, the sale
29 of liquor store inventory to the applicant and the rental of an existing
30 liquor store location to the applicant. Unless the commission termi-
31 nates an appointment for cause, a retail sales agent that does not be-

1 come a liquor store licensee is entitled to the same payments or other
2 compensation, if any, as provided in commission rule for outgoing re-
3 tail sales agents.

4 (3) Subsection (1) of this section does not prohibit a retail sales
5 agent from submitting a liquor store license proposal in response to a
6 commission request for proposals.

7 (4) Upon the expiration or termination of an appointment as a retail
8 sales agent, the former agent shall cease to qualify for continuing
9 participation in the health benefit plan or the state deferred compen-
10 sation plan.

11 (5) Any moneys from the sale of distilled liquor at liquor stores
12 operated by retail sales agents of the commission as provided under
13 this section shall be deposited as provided in ORS 471.805.

14 SECTION 44. (1) The Oregon Liquor Control Commission shall es-
15 tablish sufficient distilled liquor wholesaler service areas on or before
16 July 1, 2017, to ensure that each liquor store operating in this state is
17 within one or more distilled liquor wholesaler service areas. This sub-
18 section does not prohibit the commission from establishing additional
19 distilled liquor wholesaler service areas after July 1, 2017.

20 (2) Notwithstanding sections 2 to 4 of this 2016 Act, the amendments
21 to ORS 471.230, 471.725 and 471.740 by sections 15, 30 and 31 of this 2016
22 Act and the repeal of ORS 471.745, 471.750 and 471.752 by section 33 of
23 this 2016 Act, the commission may, prior to July 1, 2017:

24 (a) Supply distilled liquor to liquor stores operated by retail sales
25 agents appointed by the commission under ORS 471.750, as that statute
26 was in effect before the operative date specified in section 46 of this
27 2016 Act; and

28 (b) Sell distilled liquor to liquor stores licensed by the commission
29 if the liquor stores do not have access to service by distilled liquor
30 wholesalers sufficient to satisfy the purchasing needs of the stores.

31 (3) Distilled liquor that the commission supplies to a liquor store

under subsection (2)(a) of this section shall be sold by the liquor store at the price per container paid by the commission plus the markup imposed under the law in effect on the day prior to the operative date specified in section 46 of this 2016 Act. Distilled liquor that the commission sells to a licensed liquor store under subsection (2)(b) of this section shall be sold by the commission for a price equal to the total of the price per container paid by the commission, plus an amount equal to the result of multiplying the percentage described in section 35 of this 2016 Act by the purchase price paid by the commission. Moneys received by the commission from sales under subsection (2)(b) of this section shall be deposited as provided in ORS 471.805.

(4) The commission may not purchase distilled liquor after the earlier of:

(a) July 1, 2017; or

(b) The date that the commission establishes sufficient distilled liquor wholesaler service areas to ensure that each liquor store licensed in this state is within one or more distilled liquor wholesaler service areas.

(5) The commission may sell to distilled liquor wholesalers any liquor purchased by the commission prior to the date described in subsection (4) of this section and not supplied or sold to liquor stores under subsection (2) of this section. The commission shall establish a price for distilled liquor sold under this subsection that is sufficient to recover the price per container paid by the commission for the distilled liquor. Purchases of liquor by a distilled liquor wholesaler under this subsection are subject to the tax imposed under section 35 of this 2016 Act.

SECTION 45. Sections 43 and 44 of this 2016 Act are repealed January 2, 2019.

SECTION 46. (1) Sections 2 to 4, 35 and 36 of this 2016 Act, the amendments to ORS 279A.025, 471.001, 471.038, 471.105, 471.155, 471.175,

1 471.184, 471.190, 471.200, 471.223, 471.227, 471.230, 471.235, 471.251, 471.292,
2 471.294, 471.311, 471.327, 471.341, 471.346, 471.392, 471.396, 471.404, 471.405,
3 471.410, 471.446, 471.473, 471.710, 471.725, 471.740, 471.754, 473.060, 473.090,
4 473.100, 473.110, 473.120 and 473.150 by sections 5 to 32 and 37 to 42 of
5 this 2016 Act and the repeal of ORS 471.745, 471.750 and 471.752 by sec-
6 tion 33 of this 2016 Act do not become operative unless, before July 1,
7 2017, the voters approve a ballot measure that will terminate the au-
8 thority of the Oregon Liquor Control Commission or any successor
9 state agency to sell distilled liquor at retail and set retail prices for
10 distilled liquor in this state.

11 (2) Sections 2 to 4, 35 and 36 of this 2016 Act, the amendments to
12 ORS 279A.025, 471.001, 471.038, 471.105, 471.155, 471.175, 471.184, 471.190,
13 471.200, 471.223, 471.227, 471.230, 471.235, 471.251, 471.292, 471.294, 471.311,
14 471.327, 471.341, 471.346, 471.392, 471.396, 471.404, 471.405, 471.410, 471.446,
15 471.473, 471.710, 471.725, 471.740, 471.754, 473.060, 473.090, 473.100, 473.110,
16 473.120 and 473.150 by sections 5 to 32 and 37 to 42 of this 2016 Act and
17 the repeal of ORS 471.745, 471.750 and 471.752 by section 33 of this 2016
18 Act become operative on the effective date of a ballot measure that
19 terminates the authority of the Oregon Liquor Control Commission
20 or any successor state agency to sell distilled liquor at retail and set
21 retail prices for distilled liquor in this state.

22 SECTION 47. This 2016 Act takes effect on the 91st day after the
23 date on which the 2016 regular session of the Seventy-eighth Legisla-
24 tive Assembly adjourns sine die.