

DRAFT

SUMMARY

Expands permissible activities for brewery licensee. Limits number of locations at which brewery licensee, or certain persons connected with licensee, may sell malt beverages at retail regardless of licenses held.

A BILL FOR AN ACT

Relating to brewery licensees; creating new provisions; amending ORS 471.392, 471.402 and 471.501; and repealing ORS 471.220.

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

SECTION 1. Section 2 of this 2016 Act is added to and made a part of ORS chapter 471.

SECTION 2. (1) As used in this section, “common control” means:

(a) That a manufacturer, or any officer, director, substantial stockholder or other substantial equity holder in the manufacturer:

(A) Directly or indirectly holds 50 percent or more interest in the brewery licensee; or

(B) Has authority to direct the management of the brewery licensee; or

(b) That a brewery licensee, or any officer, director, substantial stockholder or other substantial equity holder in the brewery licensee:

(A) Directly or indirectly holds 50 percent or more interest in another manufacturer; or

(B) Has authority to direct the management of another manufacturer.

(2) A brewery license authorizes the licensee to:

- 1 **(a) Manufacture malt beverages on the licensed premises.**
- 2 **(b) Sell to wholesale malt beverage and wine licensees, import,**
3 **store, transport or export:**
- 4 **(A) Malt beverages produced on the licensed premises; or**
- 5 **(B) Malt beverages of a brand produced by a manufacturer that is**
6 **under common control with the brewery licensee.**
- 7 **(c) Sell wine, malt beverages or cider on the licensed premises at**
8 **retail for consumption on or off the licensed premises.**
- 9 **(d) Sell, in securely covered containers supplied by the consumer**
10 **and having a capacity of not more than two gallons each, wine, malt**
11 **beverages or cider for off-premises consumption.**
- 12 **(e) Obtain a special events brewery license that entitles the holder**
13 **to conduct the activities allowed under paragraphs (c) and (d) of this**
14 **subsection at a designated location other than the one set forth in the**
15 **brewery license for a period not exceeding five days.**
- 16 **(f) Notwithstanding ORS 471.392 to 471.400, subject to ORS 471.175,**
17 **hold a full on-premises sales license.**
- 18 **(g) Conduct any activities authorized under paragraph (c), (d) or (f)**
19 **of this subsection at up to two additional locations approved by the**
20 **commission.**
- 21 **(3) Subject to ORS 471.235, a brewery licensee may hold a wholesale**
22 **malt beverage and wine license. A brewery licensee must hold a**
23 **wholesale malt beverage and wine license if the brewery licensee:**
- 24 **(a) Imports, stores, transports or exports malt beverages of brands**
25 **that are not produced by the licensee or a manufacturer under com-**
26 **mon control with the licensee; or**
- 27 **(b) Except as provided in this paragraph, sells or distributes malt**
28 **beverages. This paragraph does not apply to malt beverages described**
29 **in subsection (2)(a) or (b) of this section sold at a licensed premises**
30 **described in subsection (2)(a) of this section.**
- 31 **(4) A brewery licensee and a winery licensee may not be under**

1 **common control unless the winery licensee:**

2 (a) **Uses its premises to produce wine or cider; and**

3 (b) **Holds a valid producer and blender basic permit issued by the**
4 **federal Alcohol and Tobacco Tax and Trade Bureau.**

5 (5) **Notwithstanding any other provision of this chapter, a brewery**
6 **licensee, a manufacturer that is under common control with the**
7 **brewery licensee or any officer, director, substantial stockholder or**
8 **other substantial equity holder in the brewery licensee or in a man-**
9 **ufacturer that is under common control with the brewery licensee may**
10 **not sell malt beverages at retail at more than three locations in this**
11 **state regardless of the number or type of licenses held by the licensee,**
12 **manufacturer, officer, director, stockholder or equity holder.**

13 **SECTION 3.** ORS 471.392 is amended to read:

14 471.392. For the purposes of ORS 471.392 to 471.400:

15 (1) "Manufacturer or wholesaler" means:

16 (a) A person holding a brewery license issued under [*ORS 471.220*] **sec-**
17 **tion 2 of this 2016 Act**, a winery license issued under ORS 471.223, a grower
18 sales privilege license issued under ORS 471.227, a distillery license issued
19 under ORS 471.230, a wholesale malt beverage and wine license issued under
20 ORS 471.235 or a warehouse license issued under ORS 471.242.

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

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

28 **SECTION 4.** ORS 471.402 is amended to read:

29 471.402. The holder of a brewery license issued under [*ORS 471.220*] **sec-**
30 **tion 2 of this 2016 Act**, a winery license issued under ORS 471.223, a grower
31 sales privilege license issued under ORS 471.227, a brewery-public house li-

1 cense issued under ORS 471.200, a warehouse license issued under ORS
2 471.242 or a manufacturer certificate of approval issued under ORS 471.244
3 may provide or pay for sample tastings of wine, cider or malt beverages for
4 the public on premises licensed under a full or limited on-premises sales li-
5 cense or under an off-premises sales license.

6 **SECTION 5.** ORS 471.501 is amended to read:

7 471.501. Nothing in this chapter prevents a brewery licensed under [*ORS*
8 *471.220*] **section 2 of this 2016 Act** or a brewery-public house licensed under
9 ORS 471.200 from establishing a refund value for malt beverage containers
10 under the provisions of ORS 459A.705 that is in excess of five cents, or in
11 excess of 10 cents as described in ORS 459A.705 (2), per container for the
12 purpose of encouraging purchasers to return the containers directly to the
13 brewery or brewery-public house. A refund value in excess of five cents, or
14 in excess of 10 cents as described in ORS 459A.705 (2), per container may be
15 paid under this section only to persons who are not licensed under this
16 chapter and who return the containers directly to the brewery or brewery-
17 public house.

18 **SECTION 6.** (1) **ORS 471.220 is repealed.**

19 (2) **Notwithstanding subsection (1) of this section, any brewery li-**
20 **cense issued under ORS 471.220 that is in effect immediately prior to**
21 **the effective date of this 2016 Act is considered a brewery license is-**
22 **sued under section 2 of this 2016 Act.**

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