

**CHAPTER 180**

AN ACT

HB 2264

Relating to alcohol; creating new provisions; amending ORS 471.001, 471.130, 471.162, 471.175, 471.178, 471.184, 471.186, 471.282, 471.311, 471.400, 471.750, 471.805, 473.030, 473.140, 473.150 and 473.170; repealing ORS 471.478; and declaring an emergency.

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

**SECTION 1.** Sections 2 and 3 of this 2021 Act are added to and made a part of ORS chapter 471.

**SECTION 2.** Notwithstanding ORS 471.175, an Indian tribe that holds a full on-premises sales license may purchase distilled liquor for sale by the drink within Indian country directly from the Oregon Liquor Control Commission at a price negotiated by the Indian tribe and the commission. As used in this section, "Indian country" has the meaning given that term in 18 U.S.C. 1151.

**SECTION 3.** Notwithstanding ORS 471.175, an airline described in ORS 471.182 that holds a full on-premises sales license may purchase distilled liquor for sale to ticketed passengers aboard a commercial aircraft directly from the Oregon Liquor Control Commission at a price negotiated by the airline and the commission.

**SECTION 4.** 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) "Licensee" means any person holding a license issued under this chapter.

[(6)(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.]

(6)(a) "Malt beverage" means beer, ale, porter, stout and other similar fermented beverages that contain more than one-half of one percent and not more than 16 percent of alcohol by volume and that are brewed or produced from malt, wholly or in part, or from rice, grain, bran, glucose, sugar or molasses as a substitute for malt.

(b) "Malt beverage" does not include cider, mead, sake or wine.

(7) "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) "Permittee" means a person holding a permit issued under ORS 471.360 to 471.385.

(9) "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) "Regulatory specialist" means a full-time employee of the commission who is authorized to act as an agent of the commission in conducting inspections or investigations, making arrests and seizures, aiding in prosecutions for offenses, issuing citations for violations and otherwise enforcing this chapter, ORS 474.005 to 474.095, 474.115, 475B.010 to 475B.545, 475B.550 to 475B.590 and 475B.600 to 475B.655, commission rules and any other statutes the commission considers related to regulating liquor, marijuana or marijuana-derived products.

(11) "Wine" means any fermented vinous liquor or fruit juice, or other fermented beverage fit for beverage purposes that is not a malt beverage, containing more than one-half of one percent of alcohol by volume and not more than 21 percent of alcohol by volume. "Wine" includes fortified wine. "Wine" does not include cider.

**SECTION 5.** ORS 471.130 is amended to read:

471.130. (1) *[All licensees and permittees of the Oregon Liquor Control Commission,]* Before selling or serving **an** alcoholic *[liquor]* **beverage** to any person about whom there is any reasonable doubt of the person's having reached 21 years of age, **a licensee or permittee** shall require *[such]* **the** person to produce one of the following pieces of identification:

(a) The person's passport issued by the United States or a foreign government.

(b) The person's motor vehicle operator's license issued by this state or another state of the United States **or a province or territory of Canada**.

(c) An identification card issued under ORS 807.400.

(d) A United States military identification card.

(e) An identification card issued by a federally recognized Indian tribe.

(f) Any other identification card issued by a state or territory of the United States **or province or territory of Canada** that bears a picture of the person, the name of the person, the person's date of birth and a physical description of the person.

(g) Proof of the person's participation in the Secure Electronic Network for Travelers Rapid Inspection program operated by United States Customs and Border Protection, the NEXUS program jointly operated by that agency and the Canada Border Services Agency, or a successor to either of those programs that is recognized by the **Oregon Liquor Control Commission**.

**(h) Any other form of identification as defined by the commission by rule.**

(2) If a person does not have identification as described in subsection (1) of this section, the permittee or licensee shall require *[such]* **the** person to make a written statement of age and furnish evidence of the person's true age and identity. The written statement of age shall be on a form furnished or approved by the commission, including but not limited to the following information:

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Date \_\_\_\_\_

I am 21 years of age or over. \_\_\_\_\_

Signature \_\_\_\_\_

Description of evidence in support of age and identity:

\_\_\_\_ Identification No. (if any) \_\_\_\_\_

\_\_\_\_ Identification No. (if any) \_\_\_\_\_

(Fill in information pertaining to any two or more pieces of evidence submitted by the person.)

I hereby certify that I have accurately recorded identification of the evidence submitted to complete this form.

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Signature of permittee or licensee

A person under 21 years of age who knowingly misrepresents the person's true age with the intent of obtaining alcohol in violation of ORS chapter 471 may be subject to criminal penalties under ORS 165.805.

**SECTION 6.** ORS 471.162 is amended to read:

471.162. (1) Hospitals, sanitariums, convalescent homes, rest homes, retirement homes and facilities for the care of the elderly that have been licensed or registered by the state may sell and serve alcoholic beverages to patients, inmates and residents, and to bona fide visitors and guests of patients, inmates and residents, without a license issued under this chapter. Facilities authorized to sell and serve alcoholic beverages without a license under this subsection may not sell or serve alcoholic beverages after 10 p.m. except upon a physician's prescription.

(2) A person who operates a private residence that is not a boarding house but that accommodates transient guests for a limited duration may sell and serve wine, malt beverages and cider to registered overnight guests without a license. Facilities authorized to sell and serve alcoholic beverages without a license under this subsection must have six or fewer guest units.

(3) A person who is an employee or agent of the holder of a license issued under this chapter that authorizes wholesale distribution of alcoholic beverages may, on behalf of the licensee, sell alcoholic beverages in factory-sealed containers to retail licensees and wholesalers.

(4) A pharmacist licensed under the laws of this state may sell alcoholic beverages without a license. Pharmacists may only sell alcoholic beverages under the provisions of this section if the alcoholic beverages are drugs as defined in ORS 689.005. A pharmacist may sell alcoholic beverages under the provisions of this subsection pursuant to a prescription, in containers of not more than one quart capacity.

(5) A wine collector, or the agent of a wine collector, may sell wine in factory-sealed containers at auction without a license. Any wine sold under this subsection must have been held by the collector for at least a six-month period. A wine collector must receive written approval from the Oregon Liquor Control Commission before conducting a sale under this subsection. No more than one sale in a 12-month period may be conducted by a wine collector under the provisions of this subsection.

*[(6) A nonprofit or charitable organization registered in this state may sell wine, malt beverages and cider, including but not limited to donated homemade malt beverages, wine and fermented fruit juices, and a total of not more than four liters of distilled liquor, in factory-sealed containers at an auction or through a raffle without a license. The organization must receive written approval from the commission before*

*conducting an auction or raffle under this subsection. The organization may conduct no more than one auction or raffle under this subsection in a 12-month period. The auction or raffle may not have a duration of more than one day. The organization may sell under this subsection wine, malt beverages, cider and distilled liquor purchased by or donated to the organization. Except for donated homemade malt beverages, wine and fermented fruit juices, the purchased or donated wine, malt beverages, cider and distilled liquor must be imported into this state by the commission or be manufactured in or imported into this state under a brewery, brewery-public house, distillery, grower sales privilege, winery or wholesale malt beverage and wine license. As used in this subsection, "homemade" has the meaning given that term in ORS 471.037.]*

**(6)(a) As used in this subsection, "homemade" has the meaning given that term in ORS 471.037.**

**(b) A nonprofit or charitable organization registered in this state may sell, including but not limited to through an auction or raffle, alcoholic beverages for up to 45 days in a calendar year without a license issued under this chapter, subject to paragraphs (c) to (f) of this subsection.**

**(c) Prior to selling or offering for sale an alcoholic beverage, the organization must obtain written approval from the commission to sell or offer for sale an alcoholic beverage on any day on which the organization wishes to sell or offer for sale alcoholic beverages under this subsection.**

**(d) The organization may sell malt beverages, wine, cider and distilled liquor purchased by or donated to the organization. Except for donated homemade malt beverages, wine and fermented fruit juices, the purchased or donated malt beverages, wine, cider and distilled liquor must be imported into this state by the commission or be manufactured in or imported into this state under a brewery, brewery-public house, distillery, grower sales privilege, winery or wholesale malt beverage and wine license.**

**(e) The organization may sell:**

**(A) Malt beverages, wine, cider, distilled liquor and donated homemade malt beverages, wine and fermented fruit juices by the drink for on-premises consumption;**

**(B) Malt beverages, wine, cider and donated homemade malt beverages, wine and fermented fruit juices in factory-sealed containers or securely covered containers for off-premises consumption; and**

**(C) Up to a total of four liters per calendar year of distilled liquor in factory-sealed containers for off-premises consumption.**

**(f) The organization may deliver or arrange for the delivery of alcoholic beverages sold for off-premises consumption as described in this subsection.**

(7) A manufacturer may sell proprietary or patent medicines, perfumes, lotions, flavoring extracts, medicinal tinctures and other preparations unfit for beverage purposes without a license.

**SECTION 7.** ORS 471.175 is amended to read:

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

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

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

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

**(c)** A commercial establishment, as defined in ORS 471.001 (2).

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

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

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

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

**(e)** A caterer, subject to the requirements of ORS 471.184.

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

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

**(a)** Except as provided in subsection [(9)] **(10)** of this section, has a retail sales price of \$30 or more per container;

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

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

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

**(5)** The holder of a full on-premises sales license may purchase distilled liquor only from a retail sales

agent of the commission or from another person licensed under this section who has purchased the distilled liquor from a retail sales agent of the commission.

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

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

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

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

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

**SECTION 8.** ORS 471.178 is amended to read:

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

(2) The holder of a limited on-premises sales license may sell malt beverages, **wine and cider** in factory-sealed containers for consumption off the licensed premises. [Containers sold under this subsection may not hold less than seven gallons per container.]

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

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

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

[(5)] *Sales of alcoholic beverages under a limited on-premises sales license must consist principally of sales by the drink for consumption on the licensed premises.*

**SECTION 9.** ORS 471.184 is amended to read:

471.184. (1) The holder of a full or limited on-premises sales license may cater a temporary event at a location other than the licensed premises if the event is not open to the general public. Catering of an event under this subsection must be pursuant to a contract with a client. The contract must provide that the licensee will furnish food and beverage services for no more than 100 patrons. The licensee must serve food as required by rules of the commission. The licensee may cater events under this subsection without giving advance notice to the Oregon Liquor Control Commission if, before the event occurs, the commission gives written approval to the licensee authorizing catering pursuant to this subsection. Events catered under the provisions of this subsection must meet all requirements for enclosure of premises that may be imposed by the commission for the purposes of this section. Notwithstanding ORS 471.175 (3), **(6)** and (7) and 471.178 (2) to [(4)] **(5)**, the licensee may not permit patrons of the event to remove any alcoholic beverages from the premises of the event.

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

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

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

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

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

**SECTION 10.** ORS 471.186 is amended to read:

471.186. (1) The holder of an off-premises sales license may sell factory-sealed containers of malt beverages, wine and cider **for consumption off the licensed premises**. [*Factory-sealed containers of malt beverages sold under the license may not hold more than two and one-quarter gallons.*]

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

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

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

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

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

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

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

(c) Must be made in containers that are conspicuously labeled with the words: "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 YEARS OR OLDER REQUIRED FOR DELIVERY."

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

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

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

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

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

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

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

471.282. (1) Notwithstanding any other provision of this chapter and except as provided by ORS **471.175, 471.178 and 471.186** [(6)], a person may sell and ship malt beverages, wine or cider directly to a resident of Oregon only if the person holds a direct shipper permit. The Oregon Liquor Control Commission shall issue a direct shipper permit only to:

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

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

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

(d) [*A nonprofit trade association that holds a temporary sales license under ORS 471.190 and that has a membership primarily composed of persons holding winery licenses issued under ORS 471.223 or grower sales privilege licenses issued under ORS 471.227.*] **A person that holds a temporary sales license under ORS 471.190, if the shipments of malt beverages, wine or cider made by the person are delivered only during the term of validity of the temporary sales license.**

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

(3)(a) A person may apply for a direct shipper permit by filing an application with the commission. The application must be made in such form as may be prescribed by the commission.

(b) If the application is based on a license issued by this state, the person must include in the appli-

cation the number of the license issued to the person.

(c) If the application is based on a license issued by another state, the person must include in the application a true copy of the license issued to the person by the other state or include sufficient information to allow verification of the license by electronic means or other means acceptable to the commission.

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

(4) Sales and shipments under a direct shipper permit:

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

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

(c) May not exceed two cases, containing not more than nine liters per case, to any resident per month.

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

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

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

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

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

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

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

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

(8)(a) A person holding a direct shipper permit must timely pay to the commission all taxes imposed under ORS chapter 473 on malt beverages, wine and cider sold and shipped under the permit. For the purpose of the privilege tax imposed under ORS

chapter 473, all malt beverages, wine or cider sold and shipped pursuant to a direct shipper permit is sold in this state.

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

(9) A direct shipper permit must be renewed annually. If the person holds the permit based on an annual license issued by another state, the person may renew the permit by paying a \$100 renewal fee and providing the commission with a true copy of a current license issued to the person by the other state or with sufficient information to allow verification of the license by electronic means or other means acceptable to the commission. If the person holds the permit based on an annual license issued by this state, the person may renew the permit at the same time that the person renews the license.

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

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

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

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

471.311. (1) *[Any person desiring]* **An applicant for a license or renewal of a license under this chapter shall *[make]* submit an application to the Oregon Liquor Control Commission *[upon forms to be furnished]* on a form provided by the commission *[showing]* that includes the name and address of the applicant, location of the place of business that is to be operated under the license, and *[such]* any other pertinent information as the commission may require. *[A license may not be granted or renewed]* **The commission may not grant or renew a license until the applicant has complied with the****

provisions of this chapter and the rules of the commission.

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

[(3) *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)] (3) Subject to subsection [(5)] (4) of this section, the commission shall assess a nonrefundable fee for processing a renewal application for any license authorized by this chapter only if the renewal application is received by the commission less than 20 days before expiration of the license. If the renewal application is received prior to expiration of the license but less than 20 days prior to expiration, the fee shall be 25 percent of the annual license fee. If a renewal application is received by the commission after expiration of the license but no more than 30 days after expiration, the fee shall be 40 percent of the annual license fee. This subsection does not apply to a certificate of approval, a brewery-public house license or any license that is issued for a period of less than 30 days.

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

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

License	Fee	Minimum Bond
Brewery, including Certificate of Approval	\$ 1,000	\$ 1,000
Winery	\$ 500	\$ 1,000
Distillery	\$ 200	None
Wholesale Malt Beverage		

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

[(7)] (6) 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] **A bond is not** required for the granting of a certificate of approval or special certificate of approval. Certificates of approval are valid for a period commencing on the date of issuance and ending on December 31 of the fifth calendar year following the calendar year of issuance. The fee for a certificate of approval is \$350. Special certificates of approval are valid for a period of 30 days. The fee for a special certificate of approval is \$10.

[(8)] (7) Except as provided in subsection [(9)] (8) of this section, the annual license fee for a full on-premises sales license is \$800. [No bond is] **A bond is not** required for any full on-premises sales license.

[(9)] (8) The annual license fee for a full on-premises sales license held by a nonprofit private club as described in ORS 471.175 [(8)] (9), or held by a nonprofit or charitable organization that is registered with the state, is \$400.

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

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

### SECTION 13. ORS 471.400 is amended to read:

471.400. (1)(a) Notwithstanding ORS 471.394 and 471.398, a manufacturer or wholesaler may lease or furnish picnic pumps, cold plates, tubs, refrigerated trailers, refrigerated vans and refrigerated draft systems to a retail licensee if:

(A) The equipment is leased or furnished for a special event[, i/];

(B) A reasonable rental or service fee is charged for the equipment; and [i/]



(C) **Except as provided in paragraph (b) of this subsection**, the period that the equipment is leased or furnished does not exceed *[10]* 14 days.

(b) **The maximum period for which equipment may be leased or furnished under this subsection may be extended by periods that are reasonable for the equipment to be set up at or removed from the site of the special event.**

(2) Notwithstanding ORS 471.394 and 471.398, the Oregon Liquor Control Commission may specify by rule the manner and circumstances under which a manufacturer or wholesaler may provide products and services to a nonprofit special licensee.

(3)(a) Notwithstanding ORS 471.394 and 471.398, the commission shall allow the sale of nonalcoholic products in the manner in which the nonalcoholic product is sold by a manufacturer or wholesaler not licensed by the commission. The commission may limit merchandising practices involving nonalcoholic products if the commission finds that the limitations are necessary to prevent abuses of ORS 471.394 and 471.398 by the industry as a whole.

(b) Any fixtures, equipment or furnishings provided by a manufacturer or wholesaler in furtherance of the sale of nonalcoholic products may not be used by the retail licensee to store, service, display, advertise, furnish or sell, or aid in the sale of, alcoholic products regulated by the commission. All *[such]* fixtures, equipment or furnishings **described in this subsection** must be identified by the retail licensee as being furnished by a licensed manufacturer or wholesaler.

#### **SECTION 14.** ORS 471.750 is amended to read:

471.750. (1) The Oregon Liquor Control Commission shall establish *[such]* stores and warehouses in *[such]* places in *[the]* **this** state *[as]* **that**, in *[its]* **the commission's** judgment, are required by public convenience or necessity~~[,]~~ for the sale of *[spirituos]* **distilled** liquors, wines and other alcoholic liquors containing over five percent alcohol by volume, in sealed containers for consumption off the premises. The commission shall keep on hand in *[such]* **the** stores or warehouses *[such]* **the** quantities and kinds of alcoholic liquors as are reasonably required to supply the public demand.

(2) Any person qualified to purchase *[such]* **alcoholic** liquors from the commission *[has the right to]* **may** present to the commission, or *[at any of its stores]* **to a store established under this section**, an application for any kind or brand of alcoholic liquor that the person may desire and that may be manufactured or obtainable in any place in the United States, and the commission shall obtain *[such]* **the alcoholic** liquor and sell it to the applicant. The commission may not require that an application for a kind or brand of alcoholic liquor include a commitment to purchase a minimum amount of the liquor or require that a purchase be for more than one container of a kind or brand of alcoholic liquor if the liquor:

(a) Except as provided in subsection *[(5)]* **(6)** 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.

(3) The commission may not establish a store in any county or incorporated city of this state where a local prohibitory law is in effect. *[The commission shall adopt rules governing advertising by stores operated by the commission.]*

(4) The commission may appoint agents in the sale of *[said liquor under such agreement as the commission may negotiate with said agents or their representative]* **alcoholic liquors pursuant to agreements negotiated between the commission and the agents, or representatives of the agent.**

*[(4)]* **(5) The commission shall adopt rules governing advertising by stores operated by the commission.** Rules relating to advertising adopted by the commission under **this** subsection *[(3) of this section shall]* **must** allow signs and displays within *[its]* **the** stores for the purpose of supplying consumer information to customers, including but not limited to discounts, sales and other specials. Commission discretion with respect to those signs and displays shall be limited to regulation of the content, size, number per brand, type and duration of the sign or display. Signs and displays may be supplied by manufacturers, wholesalers or distributors, and may bear the name of a particular distillery, supplier or brand of liquor. The use of signs and displays shall be optional with the agent appointed by the commission. *[Signs or displays authorized by the commission may not be placed in positions within the store where the sign or display would be readily visible from outside of the store.]*

*[(5)]* **(6)** The commission may annually adjust the price threshold established in subsection (2)(a) of this section by a percentage equal to the percentage change in the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor. However, the commission may not adjust the price threshold to be less than \$30.

#### **SECTION 15.** ORS 471.805 is amended to read:

471.805. (1)(a) Except as otherwise provided in subsection (3) of this section and ORS 471.810 (2), all *[money]* **moneys** collected by the Oregon Liquor Control Commission under this chapter and ORS chapter 473 and **as** privilege taxes shall be remitted to the State Treasurer who shall credit *[it]* **the moneys** to a suspense account of the commission. Whenever the commission determines that **the commission has received** moneys *[have been received by it]* in excess of the amount legally due and payable to the commission *[or that it has received*



money to which it has no legal interest], **that the commission has received moneys to which the commission has no legal interest** or that any license fee or deposit is properly refundable, the commission is authorized and directed to refund such [money] **moneys** by check drawn upon the State Treasurer and charged to the suspense account of the commission.

(b) After withholding refundable license fees and [such] a sum, not to exceed \$250,000, as [it] **the commission** considers necessary as a revolving fund for a working cash balance for the purpose of paying travel expenses, advances, other miscellaneous bills and extraordinary items which are payable in cash immediately upon presentation, the commission shall direct the State Treasurer to transfer the [money] **moneys** remaining in the suspense account to the Oregon Liquor Control Commission Account in the General Fund. Moneys in the Oregon Liquor Control Commission Account are continuously appropriated to the commission to be distributed and used as required or allowed by law.

(2) All necessary expenditures of the commission incurred in carrying out the purposes required of the commission by law, including the salaries of [its] **the commission's** employees, purchases made by the commission and such sums necessary to reimburse the \$250,000 revolving fund, shall be audited and paid from the Oregon Liquor Control Commission Account in the General Fund, upon warrants drawn by the Oregon Department of Administrative Services, pursuant to claims duly approved by the commission.

(3)(a) Moneys from the retail sale of distilled liquor that are being held by an agent appointed under ORS 471.750 or by a distillery retail outlet agent appointed under ORS 471.230 are not subject to ORS 295.001 to 295.108 if the agent has on deposit with the commission an amount equaling or exceeding an amount the commission, in [its] **the commission's** discretion, deems to be reasonable and sufficient and [to be] **that is** not less than the average daily gross **cash and check** receipts from retail sales of distilled liquor by the agent.

(b) The commission shall remit moneys deposited with the commission under this subsection to the State Treasurer for deposit to a separate reserve account of the commission. Moneys in the reserve account are not revenue of the commission for purposes of ORS 221.770. The commission shall return the deposit, and any interest earned on the deposit, if the appointment of the agent terminates and the agent has forwarded to the commission all moneys owed the commission from retail sales of distilled liquor by the agent.

**SECTION 16.** ORS 473.030 is amended to read:

473.030. (1) A tax is imposed upon the privilege of engaging in business as a manufacturer or as an importing distributor of malt beverages at the rate of \$2.60 per barrel of 31 gallons on all such beverages.

(2) A tax is imposed upon the privilege of engaging in business as a manufacturer or as an importing distributor of wines at the rate of 65 cents per gallon on all such beverages.

(3) In addition to the tax imposed by subsection (2) of this section, a manufacturer or an importing distributor of wines containing more than [14] **16** percent alcohol by volume shall be taxed at the rate of 10 cents per gallon.

(4) In addition to the taxes imposed by subsections (2) and (3) of this section, a manufacturer or an importing distributor of wines shall be taxed at the rate of two cents per gallon. Notwithstanding any other provision of law, all moneys collected by the Oregon Liquor Control Commission pursuant to this subsection shall be paid into the account established by the Oregon Wine Board under ORS 182.470.

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

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

**SECTION 17.** ORS 473.140 is amended to read:

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

**SECTION 18.** ORS 473.150 is amended to read:

473.150. (1) The Oregon Liquor Control Commission may, at any time, examine the books and records of a holder of a wine self-distribution permit or of any manufacturer of wine, cider or malt beverages, and may appoint auditors, investigators and other employees that the commission considers nec-

essary to enforce its powers and perform its duties under this section.

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

**SECTION 19.** ORS 473.170 is amended to read:

473.170. (1) *[No manufacturer shall]* **A manufacturer may not:**

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

(b) Falsify the statement required by ORS 473.070.

(2) *[No person shall]* **A person may not:**

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

(b) Fail to keep books of account prescribed by the commission or required by this chapter;

(c) Fail to preserve the books for *[two]* **three** years for inspection of the commission; or

(d) Alter, cancel or obliterate entries in the books of account for the purpose of falsifying any record required by this chapter to be made, maintained or preserved.

**SECTION 20.** ORS 471.478 is repealed.

**SECTION 21.** The amendments to ORS 473.030, 473.140, 473.150 and 473.170 by sections 16 to 19 of this 2021 Act apply to the manufacture or distribution of malt beverages, wine or cider occurring on or after January 1, 2022.

**SECTION 22.** This 2021 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect on its passage.

Approved by the Governor June 8, 2021

Filed in the office of Secretary of State June 9, 2021

Effective date June 8, 2021

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