



LPRO: LEGISLATIVE POLICY AND RESEARCH OFFICE

RECENT ALCOHOLIC BEVERAGE INDUSTRY LEGISLATION

BACKGROUND BRIEF

Following the end of national prohibition in 1933, the Oregon Legislative Assembly created the Oregon Liquor Control Commission (OLCC). Oregon selected a “control” system, giving the state the exclusive right to sell packaged distilled spirits through contracted liquor agents, and today is one of 17 states that sell distilled spirits through government-operated stores or state-contracted designated outlets. The OLCC licenses and regulates all businesses that retail, manufacture, store, or distribute alcoholic beverages, including malt beverages, wine, cider, and distilled spirits. Table 1 shows the number of licenses for some of the common OLCC license types and retail liquor locations.

Table 1: License Types and Store Locations in Oregon

License Type	Number
Winery, with on-premises consumption	664 licenses
Winery, without on-premises consumption	439 licenses
Brewery-public house	364 licenses
Brewery, with on-premises consumption	17 licenses
Brewery, without on-premises consumption	13 licenses
Distillery*	106 licenses
Distillery with sales in tasting room	95 licensees
Retail Liquor Location*	279 locations

*Distillery data as of December 2017, Retail Liquor Locations as of April 2018,
 All other data as of May 2018
 Source: Legislative Policy and Research Office
 Data: Oregon Liquor Control Commission

Over the past decade, the Legislative Assembly has enacted legislation affecting many aspects of the malt beverage, wine, cider, and distilled spirits industry, including land use, allowable alcohol by volume, tasting rooms, and special events permits. Staff identified 32 such measures passed since 2007; this background brief focuses on measures directly affecting the industry and does not include topics such as driving under the influence of intoxicants, electronic license submissions, and other minor changes.

Listed below are brief summaries of the 32 pieces of enacted legislation since 2007, as well as 14 pieces of select landmark legislation from prior years.

1981

Senate Bill 503 allowed winery license holders to conduct production activities, wholesale activities, and direct-to-consumer sales at a third location. Previously, these activities were limited to two premises.

1985

Senate Bill 813, known as the 'Craft Brewing Bill,' created a brewery-public house license for the manufacture and retail sale of malt beverages.

1987

House Bill 3222 permitted a distillery licensee who distills brandy to offer tastings and sell brandy on the distilling premises and one other location. The measure also allowed retail malt beverage license holders to sell hard cider containing not more than 10 percent alcohol by volume.

1993

House Bill 2924 granted winery license holders the ability to sell malt beverages at retail for consumption on or off the licensed premises.

House Bill 3368 created the Joint Interim Oregon Liquor Control Commission Task Force to examine laws prohibiting certain activities of wholesalers and manufacturers. The measure also increased the number of barrels a brewery licensee could produce from 60,000 to 200,000 barrels of malt beverages annually, and specified that the OLCC may not issue multiple licenses to a single licensee under specified conditions.

1995

Senate Bill 13 authorized winery licensees to ship two cases of wine per month for personal use to Oregon residents and allowed such orders to be made by any form of communication. Wineries in Oregon were already permitted to ship wine to addresses in other states.

Senate Bill 266 was the product of the Joint Legislative Interim Oregon Liquor Control Commission Task Force. The measure cleaned up statutes, modified definitions, and made changes to the licensing structure (the structure was altered again in 1999 (HB 2892)).

1997

Senate Bill 300 allowed distillery licensees that distill brandy or pot distilled liquor to provide tastings and sell bottles on the two premises where tastings were permitted. Previously, only brandy could be tasted or sold on the two licensed premises. The measure also increased the volume of pot distilled liquor that could be produced under a distillery license from 2,500 to 12,000 gallons annually.

1999

House Bill 2892 restructured the OLCC and created much of today's statutory language governing license types, privileges, and fees. The measure added 'cider' throughout the statutes, defining it as having not more than 10 percent alcohol by volume.

House Bill 3429 granted the ability for multiple winery licensees to exercise the privileges of a winery license at a single location.

2001

House Bill 3532 allowed full and limited on-premises sales licensees to fill growlers with up to two gallons of malt beverages.

2003

Senate Bill 85 doubled the number of barrels of malt beverage that a brewery-public house license holder could sell at wholesale from 500 to 1,000 barrels.

House Bill 2295 allowed winery licensees to ship cider with the same restrictions for shipping wine.

House Bill 3442 created the Oregon Wine Board, a semi-independent state agency, for the "purpose of...supporting the promotion of Oregon's wine grape growing and wine making industries." Funding for the Board was established through a two cent per gallon tax on the manufacturer or importing distributor of wines.

2007

Senate Bill 451 authorized distillery licensees to hold two full on-premises sales licenses: one for a location at the licensed distillery and one for another location. Additionally, the measure allowed any licensed distillery to offer tastings and apply to sell their bottled products.

House Bill 2165 reduced the maximum alcohol content of cider from 10 percent alcohol by volume to seven percent alcohol by volume.

House Bill 2171 allowed persons with a direct shipper permit to sell and ship wine or cider directly to an Oregon resident. This legislation was in response to the U.S. Supreme Court's decision in *Granholm v. Heald*, 544 U.S. 460 (2005).

2008

House Bill 3636 clarified that off-premises sales licensees may deliver wine or cider to Oregon residents without obtaining a direct shipper permit (the direct shipper permit statute was modified in 2007).

2009

Senate Bill 802 extended special events license privileges to distillery licensees. Special events licenses were already available to winery licensees and for grower sales events.

House Bill 2250 eliminated inconsistencies that resulted from the expanded privileges given to distilleries in Senate Bill 451 (2007). It also clarified that distillery licensees may apply to be a distillery retail outlet agent for the purposes of retailing only distilled liquor that the licensee manufactured in Oregon at the locations where the tastings are permitted.

House Bill 2528 extended special events license privileges to brewery-public house licensees. Special events licenses were already available to winery licensees and for grower sales events.

House Bill 2611 increased the preceding year production amount that brewery-public house licensees could sell at wholesale from 1,000 to 5,000 barrels.

2010

Senate Bill 1055 authorized wineries as an outright permitted use on land zoned for exclusive farm use (EFU) under specified conditions.

2011

Senate Bill 444 was enacted in response to a Department of Justice legal opinion requested by OLCC regarding the legality of licensees conducting home-brewed beer competitions and events on their licensed premises. The measure clarified the privileges of individuals who produce homemade beer, wine, and fermented fruit juice within the state's Liquor Control Act and defined financial consideration within the context of homemade beer, wine, or fermented fruit juice.

Senate Bill 669 expanded the types of venues where a retail licensee may sell advertising to alcohol manufacturers and wholesalers. The advertising space or time may only be purchased in connection with events that are held on the licensed premises, and the licensee must serve other brands of alcoholic beverages beyond the brands being advertised at the event.

Senate Bill 944 modified the minimum purchase requirements from the OLCC warehouse for licensees. The measure stipulated that the OLCC may not require on-premises sales licensees to purchase distilled liquor from the OLCC warehouse in multiple quantities at one time if the product is a special order and other requirements are met.

Two bills, House Bill 2150 and House Bill 2924, addressed sales that wholesale malt beverage, wine, and brewery licensees may make on licensed premises to unlicensed entities (dock sales). House Bill 2924 lowered the minimum sale quantity from five to four gallons and removed the maximum alcohol content limit that a brewery licensee may sell to an unlicensed entity. House Bill 2150 established that wholesale malt

beverage and wine licensees may sell malt beverages containing no more than nine percent alcohol by volume in quantities no less than four gallons to an unlicensed entity.

House Bill 2633 clarified the privileges of winery licensees (particularly for custom crush customers) and established that a winery licensee may import wine or cider in containers that have a capacity of more than four liters, or of four liters or less if the brand of wine or cider is under the control of the licensee.

House Bill 3280 made further modifications regarding wineries on EFU land.

2012

House Bill 4047 revised the authority of charitable organizations and nonprofit organizations to sell alcoholic beverages in factory-sealed containers without a license. The measure expanded the types of alcohol that may be sold at auction or sold through a raffle without an OLCC license to include cider and up to four liters of distilled liquor.

House Bill 4092 extended the privileges of a special events distillery license to include sales by the drink of distilled liquor manufactured by the distillery. If the distillery licensee is a distillery retail outlet agent, the special events distillery licensee may also sell factory-sealed containers of their own liquor products for consumption off-premises.

2013

Senate Bill 795 addressed space concerns of brewery-public house licensees by allowing licensees to store, transport, and sell malt beverages at one location other than the location where the manufacturing occurs. The measure also allowed growlers of wine, cider, and malt beverages to be sold by special event licensees and filled by temporary service permit holders. Additionally, the measure allowed patrons on winery premises to take home a partially consumed bottle of wine.

Senate Bill 841 allowed wineries meeting one of the three production and acreage thresholds specified in the winery and large winery statutes to be established as a permitted use on mixed farm and forest land and clarified authorized activities related to the sale or marketing of wine produced in conjunction with such wineries. It also specified the conditions and parameters of holding agritourism and other commercial events.

House Bill 2443 allowed full on-premises sales licensees, limited on-premises sales licensees, off-premises sales licensees, brewery-public house licensees, winery licensees, and grower sales privilege licensees to sell wine and cider in growlers with a maximum capacity of two gallons per container, as was previously established for malt beverages.

House Bill 3435 increased the number of locations where a distiller may conduct tastings and sell the licensee's distilled spirits by the bottle. Previously, the bottles could be sold at the licensed premises and one other premise owned or leased by the licensee. With the passage of House Bill 3435, bottles of distilled spirits may be sold at the licensed premises and up to five other locations owned or leased by the licensee.

2015

Senate Bill 138 allowed the distribution of malt beverages manufactured by a brewery-public house licensee to another location owned by the same licensee and for export purposes. The measure also increased the amount that a brewery-public house licensee may wholesale and distribute from 5,000 barrels of malt beverage to 7,500 barrels a year.

Senate Bill 583 authorized off-premises sales licensees to deliver malt beverages; this license type already allowed for delivery of wine and cider. It also authorized holders of direct shipper permits to ship malt beverages directly to Oregon customers, but allowed out-of-state permit holders to do so only if their state made similar permits available to Oregon shippers. The measure also allowed brewery license holders to sell malt beverages that they produce on the licensed site for consumption on or off the premises and to sell malt beverages in growlers with a maximum capacity of two gallons per container.

Senate Bill 623 removed the wine production volume restriction for wineries wanting to hold a full on-premises sales license.

House Bill 2567 broadened the ability of distillery licensees to conduct tastings on their licensed premises and at special events. The measure allowed distillery licensees to purchase and sell bulk distilled spirits from one another. The measure also allowed tastings to include other liquids, including other distilled spirits if those spirits are approved by the OLCC for sale in Oregon and purchased at the OLCC price. The measure allowed joint tastings to occur between more than one distillery licensee if the premises are a primary production location for both distillers or are owned by the same entity. It allowed distillery licensees to sell distilled liquor by the drink if the liquor is approved for sale by OLCC and is purchased at the OLCC price. The measure also expanded the special events distillery license.

2016

House Bill 4053 expanded retail opportunities for brewery licensees to include retail sales of malt beverage, wine, and cider for consumption on or off the licensed premises; selling wine, malt beverages, or cider in growlers; and holding a full on-premises sales license, which allows for the sale of distilled spirits. The measure capped the expanded retail activities to only the licensed premises and up to two additional locations. The measure allowed a brewery to hold a special events brewery license. The measure prohibited a brewery licensee from holding a winery license unless wine or cider is being produced and a federal producer and blender permit is held. The measure also required a brewery licensee to obtain a wholesale malt beverage license to sell or distribute any malt beverage other than its own product or a product brewed by a manufacturer under common control and that is sold at the primary licensed premises. The measure limited brewery licensees, and certain individuals connected to the licensees, to selling malt beverages at retail to three locations regardless of the number or type of licenses held.

2017

Senate Bill 677, modeled on the EFU wine statute, established a cider business as a permitted use on land zoned for EFU or mixed farm and forest use, provided that the cider business meets specified criteria related to cider production and source of apples and pears. The measure also specified the related uses at such cider businesses and authorized up to 18 days of agritourism or other commercial events at these locations each calendar year (the same number of days allowed under the winery statutes).

Senate Bill 1044 made numerous changes including exempting the sale of distilled liquor and the OLCC's appointment of distillery retail outlet agents from public contracting laws. The measure allowed a distillery licensee to sell distilled liquor of 10 percent alcohol content by volume and greater; this was a reduction from the previous limit of 17 percent alcohol content by volume. The measure expanded the types of current licensees that may apply for an on-premises sales license. It also allowed an identification card issued by a federal territory or a federally recognized Indian tribe to be used as proof of age to purchase alcohol. The measure permitted homemade beer, wine, and fermented juices to be donated to nonprofit and charitable organizations for sale at auction.

House Bill 2089 allowed distillery retail outlet agents and liquor stores to offer up to 20 vermouth products.

House Bill 2159 raised the allowable alcohol by volume limit in cider from seven percent to 8.5 percent.

House Bill 2160 authorized brewery-public house licensees to hold and sell malt beverages at two locations other than the premises where the manufacturing occurs. Senate Bill 795 (2013) had previously allowed sales at one additional site other than the manufacturing site.

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