



LPRO: LEGISLATIVE POLICY AND RESEARCH OFFICE

# RECENT ALCOHOLIC BEVERAGE INDUSTRY LEGISLATION

## BACKGROUND BRIEF

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The Legislative Assembly regularly enacts legislation affecting many aspects of the malt beverage, wine, cider, and distilled spirits industry. This background brief highlights landmark and recent legislation directly affecting the industry and the Oregon Liquor Control Commission (OLCC); it does not include topics such as taxes, driving under the influence of intoxicants, electronic license submissions, or other minor changes.

Footnotes are provided for legislation passed before 2007 to document sources or the applicable Oregon Session Laws. Legislation adopted between 1995 and 2005 is also hyperlinked to the [archived bills](#) on the Oregon State Legislature’s website. Legislation passed between 2007 and 2019 is hyperlinked to the [Oregon Legislative Information System](#) (OLIS).

## BACKGROUND

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Following the end of national prohibition in 1933, the Oregon Legislative Assembly created the 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 either government-operated stores or state-contracted designated outlets. The OLCC also licenses and regulates all businesses that retail, manufacture, store, or wholesale distribute alcoholic beverages, including malt beverages, wine, cider, and distilled spirits. More information about the OLCC and its regulation of alcohol is available in the companion background brief entitled *Alcohol Regulation*.<sup>1</sup>

## LANDMARK LEGISLATION

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### 1947

The OLCC’s Temperance and Rehabilitation Division, advised by the Education Advisory Committee, was established by law in 1947 to further control the use of alcoholic beverages through a comprehensive education program and operation of the Oregon State Clinic for the Rehabilitation of

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<sup>1</sup> Legislative Policy and Research Office, *Alcohol Regulation* (2020), available online at <https://www.oregonlegislature.gov/lpro> (last visited October 22, 2020).

Alcoholics. Oregon was the first state in the country to fund alcohol education and the second to provide clinical aid for the rehabilitation of alcoholics.<sup>2</sup>

### 1949

The Statement of Age procedure was approved by the Legislative Assembly in 1949 to help curtail sales of alcoholic beverages to minors. Licensees and permittees could request Statement of Age Certificates from patrons they suspected of being under 21 years of age.<sup>3</sup>

### 1952-1953

Voters approved a constitutional amendment in 1952 allowing the OLCC to license establishments to sell alcoholic liquor by the glass where food is cooked and served. Subsequently, the Legislative Assembly enacted the Oregon Distilled Liquor Control Act, which provided for the sale of alcoholic liquor by the drink and created a new dispenser license.<sup>4</sup> Dispenser licenses were not allowed to exceed the ratio of one such licensed premise per 2,000 population in the state.<sup>5</sup>

### 1961

The Legislative Assembly transferred the Temperance and Rehabilitation Division from the OLCC to the Mental Health Division of the State Board of Control, effective July 1, 1962.<sup>6</sup>

### 1971

Chapter 159, Oregon Laws 1971, effective September 9, 1971, eliminated the order of interdiction which made it unlawful for anyone to give or sell alcoholic liquor to a person known to drink to excess. According to the OLCC, “this law had become virtually unenforceable, and with the increased use of treatment and rehabilitation for problem drinkers, was an outmoded and ineffective method of control.”<sup>7</sup>

Senate Joint Resolution 14 (1971) created an interim committee to study Oregon’s liquor laws and state control of liquor, as well as to investigate the extent of drug use and the methods by which it can be controlled and reduced.<sup>8</sup>

### 1973

The Legislative Assembly enacted legislation consolidating license types for dispenser, retail malt beverage, restaurant, package store, and wholesale licenses. The legislation—Chapter 395, Oregon Laws 1973—consolidated various types of licenses, but did not change the dispenser license quota of one license per 2,000 population.<sup>9</sup>

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<sup>2</sup> Oregon Liquor Control Commission, *1948-1950 Biennial Report*, pages 5-20 (1950).

<sup>3</sup> *Id.*

<sup>4</sup> Oregon Liquor Control Commission, *Annual Report*, page 4 (1971).

<sup>5</sup> [ORS 472.110 \(1953\)](#)

<sup>6</sup> Oregon Liquor Control Commission, *Annual Report*, page 4 (1971).

<sup>7</sup> Oregon Liquor Control Commission, *Annual Report*, page 7 (1971).

<sup>8</sup> *Id.*

<sup>9</sup> Oregon Liquor Control Commission, *Annual Report*, page 6 (1974).

**1979**

While the OLCC had implemented regulations, effective November 1, 1948, requiring service permits, the Legislative Assembly added a service permit requirement to the statutes for any person who mixes, sells, or provides alcoholic liquor for consumption on a licensed premise.<sup>10</sup>

**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.<sup>11</sup>

**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.<sup>12</sup>

**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.<sup>13</sup>

The Server Education program was created to reduce drunk driving, promote responsible consumption of alcohol, and educate the industry and others about liquor laws.<sup>14</sup>

**1993**

The Legislative Assembly established a formula for compensating liquor store operators according to sales, and at a level close to that of state employees with comparable responsibilities. It also created the Oregon Liquor Control Task Force to review, study, and make recommendations on Oregon laws relating to the relationship between licensed wholesalers and licensed retailers and between licensed manufacturers and licensed retailers.<sup>15</sup> That measure (House Bill 3368) also increased the number of barrels a brewery licensee could produce annually from 60,000 to 200,000 barrels of malt beverages, and specified that the OLCC may not issue multiple licenses to a single licensee under specified conditions.<sup>16</sup>

House Bill 2924 granted winery license holders the ability to sell malt beverages at retail for consumption on or off the licensed premises.<sup>17</sup>

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<sup>10</sup> Section 2, Chapter 788, Oregon Laws 1979.

<sup>11</sup> Section 1, Chapter 201, Oregon Laws 1981.

<sup>12</sup> Section 4, Chapter 649, Oregon Laws 1985.

<sup>13</sup> Section 1, Chapter 558, Oregon Laws 1987.

<sup>14</sup> Oregon Liquor Control Commission, *Administrative Overview August 2000*, available at <https://digital.osl.state.or.us/islandora/object/osl%3A150464/datastream/OBJ/view> (last visited August 19, 2020).

<sup>15</sup> *Id.*

<sup>16</sup> Chapter 663, Oregon Laws 1993.

<sup>17</sup> Section 1, Chapter 202, Oregon Laws 1993.

## 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.<sup>18</sup>

[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.<sup>19</sup>

## 1997

[Senate Bill 300](#) allowed distillery licensees who 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.<sup>20</sup>

## 1999

[House Bill 2140](#) required the OLCC to establish a “Responsible Vendor Program” and a “Clerk Training Program” for retail liquor licensees, which was intended to incentivize licensees to avoid sales to minors.<sup>21</sup>

[House Bill 2892](#) restructured the OLCC and created much of today’s statutory language governing license types, privileges, and fees. All OLCC licenses for retail businesses were consolidated into four broad categories: Full On-Premises Sales Licenses, Limited On-Premises Sales Licenses, Off-Premises Sales Licenses, and Temporary Sales Licenses.<sup>22</sup> The measure also added ‘cider’ throughout the statutes, defining it as having not more than 10 percent alcohol by volume. Dispenser licenses and the quota limitation of one license per 2,000 people set by the Distilled Liquor Control Act of 1953 were repealed.<sup>23</sup>

[House Bill 3429](#) granted the ability for multiple winery licensees to exercise the privileges of a winery license at a single location.<sup>24</sup>

## 2001

[House Bill 3532](#) allowed full and limited on-premises sales licensees to fill growlers with up to two gallons of malt beverages.<sup>25</sup>

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<sup>18</sup> Section 1, Chapter 188, Oregon Laws 1995.

<sup>19</sup> Chapter 301, Oregon Laws 1995.

<sup>20</sup> Sections 1 and 2, Chapter 803, Oregon Laws 1997.

<sup>21</sup> Oregon Liquor Control Commission, *Administrative Overview August 2000*, available at <https://digital.osl.state.or.us/islandora/object/osl%3A150464/datastream/OBJ/view> (last visited August 19, 2020).

<sup>22</sup> *Id.*

<sup>23</sup> Chapter 351, Oregon Laws 1999.

<sup>24</sup> Chapter 431, Oregon Laws 1999.

<sup>25</sup> Chapter 154, Oregon Laws 2001.

## 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.<sup>26</sup>

[House Bill 2295](#) allowed winery licensees to ship cider with the same restrictions as for shipping wine.<sup>27</sup>

[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 a manufacturer or importing distributor of wines.<sup>28</sup>

## 2007

[Senate Bill 451](#) authorized distillery licensees to hold two full on-premises sales licenses (at the licensed distillery and one other location) and allowed any licensed distillery to offer tastings and apply to sell their bottled products.

[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.

## 2009

[Senate Bill 802](#) and [House Bill 2528](#) extended special events license privileges, which were already available to winery licensees and for grower sales events, to distillery and brewery-public house licensees.

[House Bill 2250](#) eliminated inconsistencies that resulted from the expanded privileges given to distilleries in Senate Bill 451 (2007) and 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 2611](#) increased the preceding year production amount that brewery-public house licensees could sell at wholesale from 1,000 to 5,000 barrels.

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<sup>26</sup> Chapter 15, Oregon Laws 2003.

<sup>27</sup> Chapter 44, Oregon Laws 2003.

<sup>28</sup> Chapter 797, Oregon Laws 2003.

## RECENTLY ENACTED LEGISLATION

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### 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 the 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](#) modified state law governing the siting of wineries on land zoned for exclusive farm use (EFU land) and the uses allowed at such wineries.

### 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 and 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; clarified the authorized activities related to the sale or marketing of wine produced in conjunction with such wineries; and specified conditions and parameters for 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, which 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 to include the licensed premises and up to five other locations owned or leased by the licensee. Previously, bottles could be sold at the licensed premises and one other premise 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](#) expanded the special events distillery license and 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;
- tastings to include other liquids, including other distilled spirits if those spirits were approved by the OLCC for sale in Oregon and purchased at the OLCC price;
- 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; and
- distillery licensees to sell distilled liquor by the drink if the liquor is approved for sale by the OLCC and is purchased at the OLCC price.

## 2016

[House Bill 4053](#) expanded retail opportunities for brewery licensees to include retailing 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 on-site consumption of distilled spirits. The measure also allowed a brewery to hold a special events license but prohibited it from holding a winery license unless wine or cider is produced. House Bill 4053 further clarified that brewery licensees must obtain a wholesale license in order to sell or distribute any malt beverage other than its own product or a product brewed by a manufacturer under common control and sold at the primary premises. The measure also limited brewery licensees, and certain individuals connected to the licensees, to selling malt beverages at three retail locations regardless of the number or type of licenses held.

## 2017

[Senate Bill 677](#), modeled on the EFU wine statutes, allowed a cider business as a permitted use on land zoned for EFU or mixed farm and forest use, provided that the cider business met 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 several changes to the laws governing alcohol, including:

- exempting the sale of distilled liquor and the OLCC's appointment of distillery retail outlet agents from public contracting laws;



- allowing a distillery licensee to sell distilled liquor of 10 percent alcohol content by volume and greater, which was a reduction from the previous limit of 17 percent alcohol content by volume;
- expanding the types of current licensees that may apply for an on-premises sales license;
- allowing an identification card issued by a federal territory or a federally recognized Indian tribe to be used as proof of age to purchase alcohol; and
- permitting 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, which was an increase of one additional site.

## 2019

[Senate Bill 248](#) doubled 15 existing license, permit, and certification fees, and established a \$10 per day fee for the temporary use of an annual license. The OLCC testified that fees for stores, bars, breweries, and wineries had been unchanged since 1949.

[Senate Bill 590](#) allowed the OLCC to issue more than one brewery-public house license at a single premises address under certain conditions and allowed brewery and brewery-public house licensees to produce malt beverages for a brewery-public house licensee under a custom order agreement, as defined by OLCC rules. The measure also allowed an airline to have designated storage facilities other than the licensed premises with written OLCC approval.

[Senate Bill 829](#) required that wine labels after January 1, 2020, for the Willamette Valley American viticultural area (AVA), and other AVAs specified by rules adopted by the OLCC after consultation with a rule advisory committee, identify both the AVA and any larger AVA in which it is wholly or partially located.

[House Bill 2334](#) makes violations of the OLCC service permit requirements by a licensee or permittee a Class B violation, which has a maximum fine of \$1,000.

[House Bill 3113](#) allows a winery licensee to import, process, store, and export wine or cider and sell malt beverages, wine, and cider at five or fewer premises instead of two or three premises.

[House Bill 3239](#) allows a distillery licensee to hold an unlimited number of full on-premises sales licenses, make and import distilled spirit beverages with an alcohol content of less than 10 percent by volume, and verify a person's age through proof of participation in the U.S. Customs and Border Protection Secure Electronic Network for Travelers Rapid Inspection and NEXUS program.

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