

B-Engrossed
House Bill 2803

Ordered by the Senate June 26
Including House Amendments dated April 21 and Senate Amendments
dated June 26

Sponsored by Representative HOYLE

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Requires Oregon Liquor Control Commission to include certain information in orders approving beverage container redemption centers. Requires commission to provide notice to dealers within convenience zones for beverage container redemption centers.

Requires dealers that are within convenience zones for beverage container redemption centers but that do not participate in redemption centers to meet certain requirements.

Allows commission to inspect premises to ensure compliance.

Provides for commission to impose civil penalties for noncompliance.

Increases limitation on expenditures from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by commission for commission's duties associated with redemption centers.

A BILL FOR AN ACT

1
2 Relating to beverage containers; creating new provisions; and amending ORS 459A.717, 459A.735 and
3 459A.737.

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

5 **SECTION 1.** ORS 459A.735 is amended to read:

6 459A.735. (1) To facilitate the return of empty beverage containers and to serve dealers of
7 beverages, any person may establish a redemption center, subject to the approval of the Oregon
8 Liquor Control Commission, at which any person may return empty beverage containers and receive
9 payment of the refund value of such beverage containers.

10 (2) Application for approval of a redemption center shall be filed with the commission. The ap-
11 plication shall state the name and address of the person responsible for the establishment and op-
12 eration of the redemption center, the kind of beverage containers that will be accepted at the
13 redemption center, the names and addresses of the dealers to be served by the redemption center
14 and proposals for up to two convenience zones described in [ORS 459A.737] **section 3 of this 2015**
15 **Act.** The application shall include such additional information as the commission may require.

16 (3) The commission shall approve a redemption center if it finds the redemption center will
17 provide a convenient service to persons for the return of empty beverage containers. The order of
18 the commission approving a redemption center shall state: [*the dealers to be served by the redemption*
19 *center and the kind of empty beverage containers that the redemption center must accept. The order*
20 *may contain such other provisions to ensure the redemption center will provide a convenient service to*
21 *the public as the commission may determine.*]

22 **(a) The location of the convenience zones specified by the commission under section 3 (1)**
23 **of this 2015 Act;**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 **(b) The dealers within the convenience zones to be served by the redemption center;**

2 **(c) The dealers within the convenience zones not to be served by or not participating in**
3 **the redemption center;**

4 **(d) The services to be provided by the redemption center and the equivalent services re-**
5 **quired to be provided under section 3 (5) of this 2015 Act by a dealer that does not participate**
6 **in, and is not served by, the redemption center;**

7 **(e) The kind of empty beverage containers that the redemption center must accept; and**

8 **(f) Such other provisions to ensure the redemption center will provide a convenient ser-**
9 **vice to the public as the commission may determine.**

10 **(4)(a) No later than five days after approving a redemption center under subsection (3)**
11 **of this section, the commission shall provide written notice to each dealer that is identified**
12 **in the order approving the redemption center as a dealer within the convenience zones not**
13 **to be served by or not participating in the redemption center.**

14 **(b) The notice required under this subsection shall include:**

15 **(A) All information required to be in the order approving the redemption center under**
16 **subsection (3) of this section; and**

17 **(B) Notice of the provisions of section 3 of this 2015 Act that are applicable to the dealer**
18 **receiving the notice.**

19 [(4)] **(5)** The commission may review at any time approval of a redemption center. After written
20 notice to the person responsible for the establishment and operation of the redemption center, and
21 to the dealers served by the redemption center, the commission may, after hearing, withdraw ap-
22 proval of a redemption center if the commission finds there has not been compliance with its order
23 approving the redemption center, or if the redemption center no longer provides a convenient ser-
24 vice to the public.

25 **SECTION 2.** ORS 459A.737 is amended to read:

26 459A.737. (1)[(a)] Pursuant to the provisions of ORS 459A.735, the Oregon Liquor Control Com-
27 mission:

28 [(A)] **(a)** Shall approve one beverage container redemption center in a city having a population
29 of less than 300,000, operated by a distributor cooperative serving a majority of the dealers in this
30 state; and

31 [(B)] **(b)** May approve one or more additional beverage container redemption centers.

32 [(b)] **(2)** Notwithstanding any other provision of ORS 459A.700 to 459A.740, a beverage container
33 redemption center:

34 [(A)] **(a)** May not refuse to accept and to pay the refund value of up to 350 individual empty
35 beverage containers, as established by ORS 459A.705, returned by any one person during one day;

36 [(B)] **(b)** Must provide hand counting of up to 50 individual empty beverage containers returned
37 by any one person during one day for the refund value established by ORS 459A.705;

38 [(C)] **(c)** May provide drop off service for at least 125 individual empty beverage containers re-
39 turned by any one person during one day for the refund value established by ORS 459A.705, and
40 may provide an accounting mechanism by which the person may redeem the refund value of the
41 beverage containers at a later date; and

42 [(D)] **(d)** May provide other services as determined necessary by the person responsible for the
43 operation of the beverage container redemption center.

44 [(2)(a)] *For each beverage container redemption center, the commission shall specify up to two con-*
45 *venience zones. The first convenience zone shall be the sector within a radius of not more than two*

1 miles around the beverage container redemption center. The second convenience zone shall be the
2 sector beginning at the border of the first convenience zone and continuing to a radius of not more than
3 three and one-half miles around the beverage container redemption center. The convenience zones shall
4 be based to the greatest extent practicable upon the proposals submitted as part of the application for
5 approval of the redemption center under ORS 459A.735.]

6 [(b) All dealers doing business within the first convenience zone that occupy a space of 5,000 or
7 more square feet in a single area may participate in, be served by and be charged the cost of partic-
8 ipation in the beverage container redemption center and, if such a dealer participates in, is served by
9 and pays the cost of participation in the redemption center, the dealer may, notwithstanding any other
10 provision of ORS 459A.700 to 459A.740, refuse to accept and to pay the refund value of empty beverage
11 containers.]

12 [(c) All dealers doing business within the second convenience zone that occupy a space of 5,000 or
13 more square feet in a single area may participate in, be served by and be charged the cost of partic-
14 ipation in the beverage container redemption center and, if such a dealer participates in, is served by
15 and pays the cost of participation in the redemption center, the dealer may, notwithstanding any other
16 provision of ORS 459A.700 to 459A.740, refuse to accept and to pay the refund value of more than 24
17 individual empty beverage containers returned by any one person during one day.]

18 [(d) All dealers doing business within either convenience zone that occupy a space of less than
19 5,000 square feet in a single area may, notwithstanding any other provision of ORS 459A.700 to
20 459A.740, refuse to accept and to pay the refund value of more than 24 individual empty beverage
21 containers returned by any one person during one day.]

22 [(e)(A) Any dealer doing business in either convenience zone that occupies a space of 5,000 or more
23 square feet in a single area that does not participate in, and is not served by, the beverage container
24 redemption center may not refuse to accept and to pay the refund value of up to 350 individual empty
25 beverage containers, as established by ORS 459A.705, returned by any one person during one day and
26 must provide services equivalent to those provided by the redemption center under subsection (1)(b) of
27 this section, including hand counting and drop off service.]

28 [(B) In addition to complying with the requirements specified in subparagraph (A) of this para-
29 graph, a dealer described in subparagraph (A) of this paragraph must:]

30 [(i) Post in each area where beverage containers are received a clearly visible and legible sign that
31 contains the list of services that must be provided by the dealer; and]

32 [(ii) Provide two automated reverse vending machines capable of processing metal, plastic and glass
33 beverage containers, or one automated reverse vending machine capable of processing metal, plastic and
34 glass beverage containers for each 500,000 beverage containers sold by the dealer in the previous cal-
35 endar year, whichever is greater.]

36 [(C) The provisions of subparagraphs (A) and (B) of this paragraph do not apply to a dealer de-
37 scribed in subparagraph (A) of this paragraph if the dealer sold fewer than 100,000 beverage containers
38 in the previous calendar year.]

39 [(3) The provisions of subsection (2) of this section do not apply to any dealer for which the driving
40 distance from the place of business of the dealer to the beverage container redemption center, calculated
41 using the shortest route, is more than two times the radius specified for the second convenience zone
42 or, if only one convenience zone is specified by the commission, two times the radius specified for that
43 convenience zone.]

44 [(4)] **(3)** The commission may adopt all rules necessary to implement and administer the pro-
45 visions of this section **and section 3 of this 2015 Act.**

1 **SECTION 3.** (1) For each beverage container redemption center, the Oregon Liquor
2 Control Commission shall specify up to two convenience zones. The first convenience zone
3 shall be the sector within a radius of not more than two miles around the beverage container
4 redemption center. The second convenience zone shall be the sector beginning at the border
5 of the first convenience zone and continuing to a radius of not more than three and one-half
6 miles around the beverage container redemption center. The convenience zones shall be
7 based to the greatest extent practicable upon the proposals submitted as part of the appli-
8 cation for approval of the redemption center under ORS 459A.735.

9 (2) All dealers doing business within the first convenience zone that occupy a space of
10 5,000 or more square feet in a single area may participate in, be served by and be charged
11 the cost of participation in the beverage container redemption center and, if such a dealer
12 participates in, is served by and pays the cost of participation in the redemption center, the
13 dealer may, notwithstanding any other provision of ORS 459A.700 to 459A.740, refuse to ac-
14 cept and to pay the refund value of empty beverage containers.

15 (3) All dealers doing business within the second convenience zone that occupy a space
16 of 5,000 or more square feet in a single area may participate in, be served by and be charged
17 the cost of participation in the beverage container redemption center and, if such a dealer
18 participates in, is served by and pays the cost of participation in the redemption center, the
19 dealer may, notwithstanding any other provision of ORS 459A.700 to 459A.740, refuse to ac-
20 cept and to pay the refund value of more than 24 individual empty beverage containers re-
21 turned by any one person during one day.

22 (4) All dealers doing business within either convenience zone that occupy a space of less
23 than 5,000 square feet in a single area may, notwithstanding any other provision of ORS
24 459A.700 to 459A.740, refuse to accept and to pay the refund value of more than 24 individual
25 empty beverage containers returned by any one person during one day.

26 (5)(a) Any dealer doing business in either convenience zone that occupies a space of 5,000
27 or more square feet in a single area that does not participate in, and is not served by, the
28 beverage container redemption center may not refuse to accept and to pay the refund value
29 of up to 350 individual empty beverage containers, as established by ORS 459A.705, returned
30 by any one person during one day and must, beginning on the date that the redemption
31 center begins accepting beverage containers, provide services equivalent to those provided
32 by the redemption center under ORS 459A.737 (2), including hand counting and drop off ser-
33 vice.

34 (b) In addition to complying with the requirements specified in paragraph (a) of this
35 subsection, a dealer described in paragraph (a) of this subsection must:

36 (A) Post in each area where beverage containers are received a clearly visible and legible
37 sign that contains the list of services that must be provided by the dealer; and

38 (B) Provide two automated reverse vending machines capable of processing metal, plastic
39 and glass beverage containers, or one automated reverse vending machine capable of pro-
40 cessing metal, plastic and glass beverage containers for each 500,000 beverage containers sold
41 by the dealer in the previous calendar year, whichever is greater.

42 (c)(A) The provisions of paragraphs (a) and (b) of this subsection do not apply to a dealer
43 described in paragraph (a) of this subsection if the dealer sold fewer than 100,000 beverage
44 containers in the previous calendar year. To be eligible for the exemption under this para-
45 graph, a dealer described in paragraph (a) of this subsection must report to the commission

1 the number of beverage containers sold by the dealer in the previous calendar year.

2 (B) The report required under this paragraph must be submitted by a dealer:

3 (i) Except as provided in subsection (6) of this section, no later than 60 days after issu-
4 ance of the notice required under ORS 459A.735 (4); and

5 (ii) No later than January 1 of each calendar year following the year that the notice un-
6 der ORS 459A.735 (4) was issued and for which the dealer intends to claim the exemption.

7 (d) The commission shall ensure compliance with this subsection by a dealer described
8 in paragraph (a) of this subsection that is not subject to an exemption under paragraph (c)
9 of this subsection.

10 (6) A dealer that plans to begin doing business in either convenience zone after the date
11 that the beverage container redemption center associated with the convenience zone begins
12 accepting beverage containers shall, not less than 60 days prior to the date that the dealer
13 begins doing business:

14 (a) Provide notice to the commission explaining whether the dealer will or will not par-
15 ticipate in, be served by and pay the cost of participation in the redemption center; and

16 (b) If the dealer will not participate in the redemption center and will claim an exemption
17 under subsection (5)(c) of this section, provide documentation of compliance with the re-
18 quirements for nonparticipating dealers under this section and an estimate of the number
19 of beverage containers that the dealer expects to sell during the first calendar year that the
20 dealer does business in the convenience zone.

21 (7) The provisions of subsections (2) to (6) of this section do not apply to any dealer for
22 which the driving distance from the place of business of the dealer to the beverage container
23 redemption center, calculated using the shortest route, is more than two times the radius
24 specified for the second convenience zone or, if only one convenience zone is specified by the
25 commission, two times the radius specified for that convenience zone.

26 (8) Not more than 60 days after issuance of notice from the commission under ORS
27 459A.735 (4), a dealer shall provide the commission with written documentation confirming
28 compliance with each of the requirements of this section that are applicable to the dealer
29 receiving notice.

30 **SECTION 4.** In addition to the authority granted under ORS 459.992, inspectors and in-
31 vestigators employed by the Oregon Liquor Control Commission have authority to inspect
32 any space occupied by a dealer, as defined in ORS 459A.700, for compliance with section 3 of
33 this 2015 Act.

34 **SECTION 5.** ORS 459A.717 is amended to read:

35 459A.717. (1) The Oregon Liquor Control Commission may impose a civil penalty of at least \$50,
36 but not more than \$500, for a violation of any provision of ORS 459A.700 to 459A.740. Each day a
37 violation occurs constitutes a separate violation. The authority to impose a civil penalty under this
38 section is in addition to and not in lieu of the revocation and suspension authority under ORS
39 459.992 (4) and the criminal penalty authorized by ORS 459.992.

40 (2) Notwithstanding subsection (1) of this section, if a dealer, as defined in ORS 459A.700,
41 violates a provision of section 3 of this 2015 Act, the commission shall provide the dealer with
42 written notice informing the dealer of the violation and stating that the dealer may avoid
43 civil penalty for the violation by curing the violation within 60 days after issuance of the
44 notice. If the dealer fails to cure the violation within 60 days after issuance of the notice, the
45 commission shall impose a civil penalty of at least \$200 for the violation. Each day after the

1 **60-day period that the dealer continues to violate a provision of section 3 of this 2015 Act is**
2 **a separate offense subject to a separate civil penalty. The commission is not required to**
3 **provide the dealer with an opportunity to cure a continuing violation before imposing a civil**
4 **penalty for the continuing violation.**

5 [(2)] (3) Civil penalties under this section shall be imposed as provided in ORS 183.745.

6 [(3)] (4) All penalties recovered under this section shall be paid into the State Treasury and
7 credited to the General Fund and are available for general governmental expenses.

8 **SECTION 6. Notwithstanding any other law limiting expenditures, the limitation on**
9 **expenditures established by section 1 (1), chapter ____, Oregon Laws 2015 (Enrolled Senate**
10 **Bill 5520), for the biennium beginning July 1, 2015, as the maximum limit for payment of ex-**
11 **penses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding**
12 **lottery funds and federal funds, collected or received by the Oregon Liquor Control Com-**
13 **mission, is increased by \$133,738 to fund the fulfillment of the commission's duties associated**
14 **with redemption centers for beverage containers.**