

Enrolled
Senate Bill 112

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Business and Transportation)

CHAPTER

AN ACT

Relating to tax on grape product used in wine manufacture; creating new provisions; and amending ORS 473.045.

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

SECTION 1. ORS 473.045 is amended to read:

473.045. (1) A tax is hereby imposed upon the sale or use of all agricultural products used in a winery for making wine.

(2) The amount of the tax shall be \$25 per ton of grapes of the vinifera varieties, whether true or hybrid.

(3) An equivalent tax is imposed upon the sale or use of vinifera or hybrid grape products imported for use in a winery licensed under ORS chapter 471 for making wine. Such tax shall be \$25 per ton of grapes used to produce the imported grape product. The tax shall be determined on the basis of one ton of grapes for each 150 gallons of wine made from such vinifera or hybrid grape products.

(4) A tax on the sale or use of products that are not subject to subsection (2) or (3) of this section that are used to make wine in this state shall be imposed at a rate of \$.021 per gallon of wine made from those products.

(5)(a) In the case of vinifera or hybrid grape products harvested in this state, \$12.50 per ton of *[such]* **the** tax shall be levied and assessed against the person selling or providing *[such]* **the** grape products to the winery **and, except as provided in section 3 of this 2019 Act, \$12.50 per ton shall be levied and assessed against the winery purchasing the grape products.** *[If the purchasing winery is licensed under ORS chapter 471, that winery shall deduct the tax levied under this subsection from the price paid to the seller. If the purchasing winery is not licensed under ORS chapter 471, the seller shall report all sales on forms provided by the Oregon Liquor Control Commission and pay \$12.50 per ton as a tax directly to the commission.]*

(b) If the purchasing winery is licensed under ORS chapter 471 or holds a wine self-distribution permit, direct shipper permit or certificate of approval, the purchasing winery shall pay the \$25 per ton tax and deduct \$12.50 per ton from the price paid to the person selling or providing the grape products to the winery.

(c) If the purchasing winery is not licensed under ORS chapter 471 and does not hold a wine self-distribution permit, direct shipper permit or certificate of approval, the person selling or providing the grape products to the winery shall report the sale on forms provided

by the Oregon Liquor Control Commission and pay \$12.50 per ton as a tax directly to the commission.

(6) *[Taxes paid by sellers under subsection (5) of this section]* **Moneys that a winery deducts for taxes described in subsection (5) of this section and forwards to the commission** shall be collected by the *[Oregon Liquor Control]* commission on behalf of the Oregon Wine Board. The commission may retain an amount sufficient to cover the cost of collecting the taxes paid under subsection (5) of this section and shall transfer the remainder of those taxes to the board for deposit as provided in ORS 576.775. Failure to pay a tax imposed under subsection (5) of this section subjects the violator to the penalty provided in ORS 473.992.

(7) If a winery deducts and pays the tax imposed on an item under this section, resale of the item in bulk to an out-of-state buyer does not subject the out-of-state buyer to the imposition of tax under this section.

[(7)] **(8)** Except for the tax specified in subsection (4) of this section the taxes specified under this section shall be levied and assessed to the *[licensed]* winery at the time of purchase of the product by the winery or of importation of the product, whichever is later. The tax specified in subsection (4) of this section shall be levied and assessed to the licensed winery at the time the wine is made.

[(8)] **(9)** The taxes imposed by this section shall be paid *[by the licensed winery]* to and collected by the commission subject to the same powers as taxes imposed and collected under ORS chapter 473. The tax obligation for a calendar year shall be paid in two installments. Half shall be due on December 31 of the current calendar year. The remaining half shall be due the following June 30.

(10) The commission may adopt rules for carrying out this section.

SECTION 2. The amendments to ORS 473.045 by section 1 of this 2019 Act become operative on July 1, 2021. The Oregon Liquor Control Commission may take any action prior to July 1, 2021, that the commission deems necessary to allow the commission to exercise, on or after July 1, 2021, all the duties, functions and powers conferred on the commission by the amendments to ORS 473.045 by section 1 of this 2019 Act.

SECTION 3. A purchase of vinifera or hybrid grapes harvested in this state is exempt from the tax under ORS 473.045 (5) levied and assessed against wineries purchasing grape products, if the grapes are used for wine that:

(1) Is produced within a federally approved American viticultural area located partially within this state; and

(2) Does not use Oregon designations or use an American viticultural area located wholly within Oregon on its label or packaging or in its advertising or marketing.

SECTION 4. Section 3 of this 2019 Act applies to taxes on grape purchases made on or after July 1, 2021.

Passed by Senate June 19, 2019

.....
Lori L. Brocker, Secretary of Senate

.....
Peter Courtney, President of Senate

Passed by House June 25, 2019

.....
Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2019

Approved:

.....M,....., 2019

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2019

.....
Bev Clarno, Secretary of State