

# Senate Bill 248

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## 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 **as introduced**.

Increases certain fees charged by Oregon Liquor Control Commission.  
Declares emergency, effective July 1, 2019.

## A BILL FOR AN ACT

1  
2 Relating to Oregon Liquor Control Commission fees; creating new provisions; amending ORS 471.282  
3 and 471.311; and declaring an emergency.

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

5 **SECTION 1.** ORS 471.282 is amended to read:

6 471.282. (1) Notwithstanding any other provision of this chapter and except as provided by ORS  
7 471.186 (6), a person may sell and ship malt beverages, wine or cider directly to a resident of Oregon  
8 only if the person holds a direct shipper permit. The Oregon Liquor Control Commission shall issue  
9 a direct shipper permit only to:

10 (a) A person that holds a license issued by this state or another state that authorizes the man-  
11 ufacture of malt beverages, wine or cider;

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

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

16 (d) A nonprofit trade association that holds a temporary sales license under ORS 471.190 and  
17 that has a membership primarily composed of persons holding winery licenses issued under ORS  
18 471.223 or grower sales privilege licenses issued under ORS 471.227.

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

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

25 (b) If the application is based on a license issued by this state, the person must include in the  
26 application the number of the license issued to the person.

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

**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 (d) If the application is based on a license issued by another state, or the application is by a  
2 nonprofit trade association described in subsection (1)(d) of this section, the person or association  
3 must pay a [\$50] **\$100** registration fee and maintain a bond or other security described in ORS  
4 471.155 in the minimum amount of \$1,000.

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

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

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

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

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

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

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

17 (b) Verifies by inspecting government-issued photo identification that the recipient is at least  
18 21 years of age; and

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

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

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

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

28 (8)(a) A person holding a direct shipper permit must timely pay to the commission all taxes im-  
29 posed under ORS chapter 473 on malt beverages, wine and cider sold and shipped under the permit.  
30 For the purpose of the privilege tax imposed under ORS chapter 473, all malt beverages, wine or  
31 cider sold and shipped pursuant to a direct shipper permit is sold in this state.

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

36 (9) A direct shipper permit must be renewed annually. If the person holds the permit based on  
37 an annual license issued by another state, the person may renew the permit by paying a [\$50] **\$100**  
38 renewal fee and providing the commission with a true copy of a current license issued to the person  
39 by the other state or with sufficient information to allow verification of the license by electronic  
40 means or other means acceptable to the commission. If the person holds the permit based on an  
41 annual license issued by this state, the person may renew the permit at the same time that the  
42 person renews the license.

43 (10) The commission may refuse to issue or may suspend or revoke a direct shipper permit if the  
44 permit holder fails to comply with the provisions of this section. A person may sell and ship malt  
45 beverages, wine or cider under a direct shipper permit only for as long as the person has the license

1 issued by this state or another state that authorizes the person to hold a direct shipper permit. A  
2 direct shipper permit does not authorize the shipment of malt beverages by a permit holder de-  
3 scribed in subsection (1)(b) of this section or lacking authority as provided under subsection (2) of  
4 this section.

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

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

14 **SECTION 2.** ORS 471.311 is amended to read:

15 471.311. (1) Any person desiring a license or renewal of a license under this chapter shall make  
16 application to the Oregon Liquor Control Commission upon forms to be furnished by the commission  
17 showing the name and address of the applicant, location of the place of business that is to be op-  
18 erated under the license, and such other pertinent information as the commission may require. A  
19 license may not be granted or renewed until the applicant has complied with the provisions of this  
20 chapter and the rules of the commission.

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

25 (3) The commission shall charge an application fee, not to exceed \$150, to process an application  
26 for the issuance of a new license under this chapter or a license following a change in ownership.  
27 The application fee applies only to an application for a class of license having an annual license fee.  
28 The application fee is nonrefundable, except that the commission shall refund the fee if the applicant  
29 completes, submits and maintains an application and the commission does not, on or before 75 days  
30 following receipt of the completed application, propose that the license be granted, granted with  
31 conditions or refused. The commission shall adopt rules to:

32 (a) Establish application fees by class of license; and

33 (b) Define a completed application for purposes of this subsection.

34 (4) Subject to subsection (5) of this section, the commission shall assess a nonrefundable fee for  
35 processing a renewal application for any license authorized by this chapter only if the renewal ap-  
36 plication is received by the commission less than 20 days before expiration of the license. If the  
37 renewal application is received prior to expiration of the license but less than 20 days prior to ex-  
38 piration, the fee shall be 25 percent of the annual license fee. If a renewal application is received  
39 by the commission after expiration of the license but no more than 30 days after expiration, the fee  
40 shall be 40 percent of the annual license fee. This subsection does not apply to a certificate of ap-  
41 proval, a brewery-public house license or any license that is issued for a period of less than 30 days.

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

45 (6) The license fee is nonrefundable and must be paid by each applicant upon the granting or

1 committing of a license. Subject to ORS 471.155 and 473.065, the annual or daily license fee and the  
 2 minimum bond required of each class of license under this chapter are as follows:

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License	Minimum Fee	Bond
Brewery, including Certificate of Approval	[\$500] \$ 1,000	\$ 1,000
Winery	[\$250] \$ 500	\$ 1,000
Distillery	[\$100] \$ 200	None
Wholesale Malt Beverage and Wine	[\$275] \$ 550	\$ 1,000
Warehouse	[\$100] \$ 200	\$ 1,000
Brewery-Public House, including Certificate of Approval	[\$250] \$ 500	\$ 1,000
Limited On-Premises Sales	[\$200] \$ 400	None
Off-Premises Sales	[\$100] \$ 200	None
Temporary Sales	\$ 50 per day	
Grower sales privilege license	[\$250] \$ 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	

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37 (7) The fee for a certificate of approval or special certificate of approval granted under ORS  
 38 471.244 is nonrefundable and must be paid by each applicant upon the granting or committing of a  
 39 certificate of approval or special certificate of approval. No bond is required for the granting of a  
 40 certificate of approval or special certificate of approval. Certificates of approval are valid for a pe-  
 41 riod commencing on the date of issuance and ending on December 31 of the fifth calendar year fol-  
 42 lowing the calendar year of issuance. The fee for a certificate of approval is [\$175] **\$350**. Special  
 43 certificates of approval are valid for a period of 30 days. The fee for a special certificate of approval  
 44 is \$10.

45 (8) Except as provided in subsection (9) of this section, the annual license fee for a full on-

1 premises sales license is [~~\$400~~] **\$800**. No bond is required for any full on-premises sales license.

2 (9) The annual license fee for a full on-premises sales license held by a nonprofit private club  
3 as described in ORS 471.175 (8), or held by a nonprofit or charitable organization that is registered  
4 with the state, is [~~\$200~~] **\$400**.

5 **(10) The fee for temporary use of an annual license is \$10 per day.**

6 [~~(10)~~] (11) The annual fee for a wine self-distribution permit is [~~\$100~~] **\$200**, and the minimum  
7 bond is \$1,000.

8 **SECTION 3. If this 2019 Act becomes law after July 1, 2019, the amendments to ORS**  
9 **471.282 and 471.311 by sections 1 and 2 of this 2019 Act apply retroactively to July 1, 2019, for**  
10 **fees charged by the Oregon Liquor Control Commission under ORS 471.282 and 471.311 for**  
11 **periods that begin on or after July 1, 2019.**

12 **SECTION 4. This 2019 Act being necessary for the immediate preservation of the public**  
13 **peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect**  
14 **July 1, 2019.**