

# House Bill 4118

Sponsored by Representative GOMBERG (Pre-session filed.)

## 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**.

Allows licensee, permittee or certificate holder authorized to import, export, sell, distribute, ship or deliver wine to import, export, sell, distribute, ship or deliver low-proof spirit beverages on same terms. Conditionally allows distribution or delivery of low-proof spirit beverages by distilleries.

Allows distillery licensee to import, manufacture, offer tastings of and make certain sales of low-proof spirit beverages.

Allows importer of distilled liquor to import low-proof spirit beverage.

Imposes tax on privilege of engaging in business as manufacturer or importing distributor of low-proof spirit beverages. Creates exceptions. Makes provisions regarding tax payments, liens and record keeping applicable for low-proof spirit beverages.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to low-proof spirit beverages; creating new provisions; amending ORS 471.230; prescribing  
3 an effective date; and providing for revenue raising that requires approval by a three-fifths ma-  
4 jority.

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

6 **SECTION 1. Section 2 of this 2020 Act is added to and made a part of ORS chapter 471.**

7 **SECTION 2. (1) As used in this section, "low-proof spirit beverage" means an alcoholic**  
8 **beverage that:**

9 (a) **Contains, at a minimum, a mixture of distilled liquor and a nonalcoholic liquid;**

10 (b) **Contains not more than 14 percent alcohol by volume; and**

11 (c) **Is sold at retail in a factory-sealed container that does not exceed 375 milliliters in**  
12 **volume.**

13 (2) **Notwithstanding ORS 471.186, an off-premises sales licensee may sell and deliver a**  
14 **low-proof spirit beverage. The retail sale and delivery of low-proof spirit beverages under this**  
15 **subsection is subject to the restrictions and requirements imposed under this chapter and**  
16 **Oregon Liquor Control Commission rules for retail sales and delivery of wine by off-premises**  
17 **sales licensees.**

18 (3)(a) **Subject to paragraph (c) of this subsection, a holder of a full on-premises sales li-**  
19 **cence, limited on-premises sales license, temporary sales license, brewery-public house li-**  
20 **cence, brewery license, winery license, grower sales privilege license or other license under**  
21 **this chapter that allows the sale of wine for on-premises consumption may sell a low-proof**  
22 **spirit beverage for on-premises consumption.**

23 (b) **Subject to paragraph (c) of this subsection, a holder of a license under this chapter**  
24 **that allows the sale of wine in factory-sealed containers for off-premises consumption may**  
25 **sell a low-proof spirit beverage at the premises for off-premises consumption. Any limitations**  
26 **imposed on a licensee described in this subsection with regard to the sale of wine apply to**  
27 **the sale of a low-proof spirit beverage by the licensee.**

**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 (c) This subsection does not allow a sale other than a sale at retail in conformance with  
 2 subsection (1)(c) of this section.

3 (4)(a) A holder of a winery license, grower sales privilege license, wholesale malt beverage  
 4 and wine license, warehouse license, certificate of approval under ORS 471.244 or other li-  
 5 cense, certificate or permit under this chapter that allows the person to import or export  
 6 wine into or out of this state may import or export a low-proof spirit beverage on the same  
 7 terms that the person is allowed to import or export wine.

8 (b) A holder of a certificate of approval under ORS 471.251 may import a low-proof spirit  
 9 beverage on the same terms that the holder of a certificate of approval under ORS 471.244  
 10 may import a low-proof spirit beverage.

11 (5) A holder of a wholesale malt beverage and wine license, warehouse license or other  
 12 license, certificate or permit under this chapter that allows the person to distribute or ship  
 13 wine in this state may distribute or ship a low-proof spirit beverage on the same terms that  
 14 the person is allowed to distribute or ship wine in this state.

15 (6)(a) A holder of a winery license, grower sales privilege license, wholesale malt beverage  
 16 and wine license, warehouse license, direct shipper permit, warehouse license, certificate of  
 17 approval under ORS 471.244, wine self-distribution permit or other license, certificate or  
 18 permit under this chapter that allows the person to deliver wine to a licensee of the com-  
 19 mission may deliver a low-proof spirit beverage to a licensee of the commission on the same  
 20 terms that the person is allowed to deliver wine.

21 (b) A holder of a distillery license or a certificate of authority under ORS 471.251 that  
 22 pays to the commission an amount equal to the fee for a wine self-distribution permit may  
 23 deliver a low-proof spirit beverage to a licensee of the commission on the same terms as a  
 24 holder of a wine self-distribution permit.

25 (7)(a) A holder of a direct shipper permit, warehouse license or other license, certificate  
 26 or permit under this chapter that allows the person to deliver wine directly to a resident of  
 27 this state for personal use may deliver a low-proof spirit beverage directly to a resident of  
 28 this state for personal use on the same terms that the person is allowed to deliver wine.

29 (b) A holder of a distillery license or a certificate of authority under ORS 471.251 that  
 30 pays to the commission an amount equal to the fee for a direct shipper permit may deliver  
 31 a low-proof spirit beverage directly to a resident of this state for personal use on the same  
 32 terms as a holder of a direct shipper permit.

33 (8) Any liability insurance or bonding requirement imposed on a licensee under this  
 34 chapter regarding the sale or service of a low-proof spirit beverage must be identical to the  
 35 liability insurance or bonding requirement imposed on a licensee under this chapter regard-  
 36 ing the sale or service of wine.

37 (9) A nonprofit or charitable organization may sell a low-proof spirit beverage at an  
 38 auction or through a raffle on the same terms that the organization may sell wine under  
 39 ORS 471.162. This subsection does not allow the sale of a low-proof spirit beverage that is  
 40 not manufactured in this state or imported into this state as provided under this chapter.

41 (10) An individual entering this state may possess an amount of low-proof spirit beverage  
 42 that does not exceed the amount of wine that ORS 471.405 allows an individual entering the  
 43 state to possess.

44 (11) ORS 471.740 and 471.745 do not apply to low-proof spirit beverages.

45 (12) Subsections (2) to (7) of this section do not allow a holder of a license, certificate or

1 permit issued under this chapter to carry out any function or power regarding wine that the  
 2 holder is not otherwise allowed to carry out under the license, certificate or permit. Sub-  
 3 sections (2) to (7) of this section do not allow a holder of a license, certificate or permit is-  
 4 sued under this chapter to carry out any function or power regarding distilled liquor, other  
 5 than low-proof spirit beverages, that the holder is not otherwise allowed to carry out under  
 6 the license, certificate or permit.

7 **SECTION 3.** Section 4 of this 2020 Act is added to and made a part of ORS chapter 473.

8 **SECTION 4.** (1) As used in this section, “low-proof spirit beverage” has the meaning  
 9 given that term in section 2 of this 2020 Act.

10 (2) A tax is imposed on the privilege of engaging in business as a manufacturer or im-  
 11 porting distributor of low-proof spirit beverages. The tax shall be 65 cents per gallon of low-  
 12 proof spirit beverage manufactured or imported.

13 (3) In computing the privilege tax imposed under this section:

14 (a) No low-proof spirit beverage is subject to tax more than once.

15 (b) No tax shall be levied, collected or imposed upon any low-proof spirit beverage sold  
 16 to the Oregon Liquor Control Commission or exported from this state.

17 (c) No tax shall be levied, collected or imposed upon any low-proof spirit beverage given  
 18 away and consumed on the licensed premises of a distillery licensee, or sold to or by a vol-  
 19 untary nonincorporated organization of army, air corps or navy personnel operating a place  
 20 for the sale of goods pursuant to regulations promulgated by the proper authority of each  
 21 such service.

22 (d) No tax shall be levied, collected or imposed upon any low-proof spirit beverage de-  
 23 termined by the commission to be unfit for human consumption or unsalable.

24 (4) ORS 473.060, 473.080, 473.090 and 473.100 apply to the tax imposed under this section  
 25 on the same terms that ORS 473.060, 473.080, 473.090 and 473.100 apply to the tax imposed  
 26 under ORS 473.030 on the privilege of engaging in business as a manufacturer or importing  
 27 distributor of wine.

28 (5) The bond and security requirements in ORS 471.155 and 473.065 do not apply to a  
 29 manufacturer of a low-proof spirit beverage.

30 (6) ORS 473.070, 473.140, 473.150 and 473.170 apply to a manufacturer of a low-proof spirit  
 31 beverage on the same terms that ORS 473.070, 473.140, 473.150 and 473.170 apply to a man-  
 32 ufacturer of wine.

33 (7) ORS 473.160 applies to a person transporting a low-proof spirit beverage on the same  
 34 terms that ORS 473.160 applies to a person transporting wine.

35 **SECTION 5.** ORS 471.230 is amended to read:

36 471.230. (1) A distillery license allows the licensee to import, manufacture, distill, rectify, blend,  
 37 denature and store distilled liquor, to sell the distilled liquor to the Oregon Liquor Control Com-  
 38 mission and to transport the distilled liquor out of this state for sale outside this state. Distillery  
 39 licensees may purchase and sell distilled liquor from or to another distillery licensee in containers  
 40 having a capacity greater than one U.S. gallon for blending and manufacturing purposes. A distillery  
 41 licensee may not sell any alcoholic beverage within this state except to the commission or as pro-  
 42 vided in this section. However, any agricultural producer or association of agricultural producers  
 43 or the legal agents of an agricultural producer or association of agricultural producers that manu-  
 44 factures and converts agricultural surpluses, by-products and wastes into denatured ethyl and in-  
 45 dustrial alcohol for use in the arts and industry are not required to obtain a license from the

1 commission.

2 (2) If a distillery licensee holds a valid distilled spirits plant basic permit issued by the federal  
3 Alcohol and Tobacco Tax and Trade Bureau for the licensed premises, the distillery licensee may:

4 (a) Permit tastings of distilled liquor approved by the commission for sale in Oregon and manu-  
5 factured in Oregon by the distillery licensee or by another distillery licensee. Tastings may be of  
6 the distilled liquor alone or with a mix of other liquids. If any of the other liquids are distilled li-  
7 quors, they must be distilled liquors on the list of products approved by the commission for retail  
8 sale in Oregon and must be purchased by the licensee at the retail price established by the com-  
9 mission. This paragraph does not authorize sales by the drink of distilled liquor. The tastings may  
10 be conducted on the licensed premises of the distillery and at no more than five other premises  
11 owned or leased by the licensee. The commission may allow more than one distillery licensee to use  
12 the same premises at the same time for conducting tastings if the premises are a primary production  
13 location and the licensees share the premises or are owned by the same entity. If the manufacturer  
14 of the distilled liquor obtains distilled liquor for conducting tastings from the inventory of the  
15 commission, the licensee shall pay the commission a processing fee.

16 (b) Obtain a special events distillery license.

17 (c) Apply for appointment by the commission as a distillery retail outlet agent for purposes of  
18 retailing distilled liquor at locations where tastings are permitted under paragraph (a) of this sub-  
19 section or subsection (4)(a) of this section. A distillery retail outlet agent may sell at locations  
20 where tastings are allowed under paragraph (a) of this subsection only distilled liquor that is on the  
21 list of products approved by the commission for retail sale in Oregon and is manufactured in Oregon  
22 by the distillery licensee or by another distillery licensee that uses the same premises as a primary  
23 production location or is owned by the same entity as the distillery licensee.

24 (3) Notwithstanding ORS 471.392 to 471.400, a distillery licensee may hold one or more full on-  
25 premises sales licenses. All distilled liquor sold under a full on-premises sales license must be pur-  
26 chased from the commission.

27 (4) A distillery licensee that holds a special events distillery license may conduct an event on  
28 premises designated in the special events distillery license. Except as provided in this subsection,  
29 a special events distillery license may be valid for a period not exceeding five days. The commission  
30 shall limit the approval of special events distillery licenses for a distillery licensee at the same lo-  
31 cation to not more than 62 days during a calendar year. A distillery licensee conducting a special  
32 event may:

33 (a) Permit tastings of distilled liquor approved by the commission for sale in Oregon and manu-  
34 factured in Oregon by the distillery licensee. Tastings may be of the distilled liquor alone or with  
35 a mix of other liquids. If any of the other liquids are distilled liquors, they must be distilled liquors  
36 on the list of products approved by the commission for retail sale in Oregon and must be purchased  
37 by the licensee at the retail price established by the commission. If the manufacturer of the distilled  
38 liquor obtains distilled liquor for conducting tastings from the inventory of the commission, the  
39 licensee shall pay the commission a processing fee.

40 (b) Permit sales by the drink of distilled liquor. A drink that a distillery licensee sells under this  
41 paragraph must include distilled liquor that the licensee manufactured in Oregon. Any distilled li-  
42 quor contained in the drink must be on the list of products approved by the commission for retail  
43 sale in Oregon. The distillery licensee selling the drink must purchase all distilled liquor contained  
44 in the drink at the retail price set by the commission for the month in which the drink is sold.

45 (c) If the distillery licensee has been appointed as a distillery retail outlet agent under sub-

1 section (2)(c) of this section, sell distilled liquor in factory-sealed containers for consumption off the  
2 licensed premises. A distillery retail outlet agent may sell at a location where tastings are allowed  
3 under paragraph (a) of this subsection only distilled liquor that is on the list of products approved  
4 by the commission for retail sale in Oregon and is manufactured in Oregon by the distillery licensee.  
5 The distillery retail outlet agent must sell the distilled liquor at the retail price set by the com-  
6 mission for the month of sale.

7 **(5)(a) In addition to any other privilege granted to a distillery licensee, a distillery**  
8 **licensee may import, manufacture, blend and store low-proof spirit beverages as defined in**  
9 **section 2 of this 2020 Act. A distillery licensee may sell a low-proof spirit beverage:**

10 **(A) For export;**

11 **(B) To any commission licensee authorized under section 2 of this 2020 Act to sell, dis-**  
12 **tribute or deliver low-proof spirit beverages; or**

13 **(C) At retail directly to the consumer for consumption off the licensed premises of the**  
14 **distillery.**

15 **(b) A distillery licensee may conduct tastings of low-proof spirit beverages at any location**  
16 **at which the licensee may conduct tastings of distilled liquor under subsection (2) or (4) of**  
17 **this section.**

18 **SECTION 6. This 2020 Act takes effect on the 91st day after the date on which the 2020**  
19 **regular session of the Eightieth Legislative Assembly adjourns sine die.**

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