

D R A F T

SUMMARY

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. Allows, conditionally, 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
3 ORS 471.230; prescribing an effective date; and providing for revenue
4 raising that requires approval by a three-fifths majority.

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

6 **SECTION 1. Section 2 of this 2021 Act is added to and made a part**
7 **of ORS chapter 471.**

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

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

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

13 (c) **Is sold at retail in a factory-sealed container that does not ex-**
14 **ceed 375 milliliters in volume.**

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

7 **(3)(a) Subject to paragraph (c) of this subsection, a holder of a full**
8 **on-premises sales license, limited on-premises sales license, temporary**
9 **sales license, brewery-public house license, brewery license, winery li-**
10 **cence, grower sales privilege license or other license under this chap-**
11 **ter that allows the sale of wine for on-premises consumption may sell**
12 **a low-proof spirit beverage for on-premises consumption.**

13 **(b) Subject to paragraph (c) of this subsection, a holder of a license**
14 **under this chapter that allows the sale of wine in factory-sealed con-**
15 **tainers for off-premises consumption may sell a low-proof spirit**
16 **beverage at the premises for off-premises consumption. Any limita-**
17 **tions imposed on a licensee described in this subsection with regard**
18 **to the sale of wine apply to the sale of a low-proof spirit beverage by**
19 **the licensee.**

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

22 **(4)(a) A holder of a winery license, grower sales privilege license,**
23 **wholesale malt beverage and wine license, warehouse license, certif-**
24 **icate of approval under ORS 471.244 or other license, certificate or**
25 **permit under this chapter that allows the person to import or export**
26 **wine into or out of this state may import or export a low-proof spirit**
27 **beverage on the same terms that the person is allowed to import or**
28 **export wine.**

29 **(b) A holder of a certificate of approval under ORS 471.251 may**
30 **import a low-proof spirit beverage on the same terms that the holder**
31 **of a certificate of approval under ORS 471.244 may import a low-proof**

1 **spirit beverage.**

2 **(5) A holder of a wholesale malt beverage and wine license, ware-**
3 **house license or other license, certificate or permit under this chapter**
4 **that allows the person to distribute or ship wine in this state may**
5 **distribute or ship a low-proof spirit beverage on the same terms that**
6 **the person is allowed to distribute or ship wine in this state.**

7 **(6)(a) A holder of a winery license, grower sales privilege license,**
8 **wholesale malt beverage and wine license, warehouse license, direct**
9 **shipper permit, certificate of approval under ORS 471.244, wine self-**
10 **distribution permit or other license, certificate or permit under this**
11 **chapter that allows the person to deliver wine to a licensee of the**
12 **commission may deliver a low-proof spirit beverage to a licensee of the**
13 **commission on the same terms that the person is allowed to deliver**
14 **wine.**

15 **(b) A holder of a distillery license or a certificate of approval under**
16 **ORS 471.251 that pays to the commission an amount equal to the fee**
17 **for a wine self-distribution permit may deliver a low-proof spirit**
18 **beverage to a licensee of the commission on the same terms as a**
19 **holder of a wine self-distribution permit.**

20 **(7)(a) A holder of a direct shipper permit, warehouse license or**
21 **other license, certificate or permit under this chapter that allows the**
22 **person to deliver wine directly to a resident of this state for personal**
23 **use may deliver a low-proof spirit beverage directly to a resident of**
24 **this state for personal use on the same terms that the person is al-**
25 **lowed to deliver wine.**

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

31 **(8) Any liability insurance or bonding requirement imposed on a**

1 licensee under this chapter regarding the sale or service of a low-proof
2 spirit beverage must be identical to the liability insurance or bonding
3 requirement imposed on a licensee under this chapter regarding the
4 sale or service of wine.

5 (9) A nonprofit or charitable organization may sell a low-proof spirit
6 beverage at an auction or through a raffle on the same terms that the
7 organization may sell wine under ORS 471.162. This subsection does
8 not allow the sale of a low-proof spirit beverage that is not manufac-
9 tured in this state or imported into this state as provided under this
10 chapter.

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

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

16 (12) Subsections (2) to (7) of this section do not allow a holder of a
17 license, certificate or permit issued under this chapter to carry out
18 any function or power regarding wine that the holder is not otherwise
19 allowed to carry out under the license, certificate or permit. Sub-
20 sections (2) to (7) of this section do not allow a holder of a license,
21 certificate or permit issued under this chapter to carry out any func-
22 tion or power regarding distilled liquor, other than low-proof spirit
23 beverages, that the holder is not otherwise allowed to carry out under
24 the license, certificate or permit.

25 SECTION 3. Section 4 of this 2021 Act is added to and made a part
26 of ORS chapter 473.

27 SECTION 4. (1) As used in this section, “low-proof spirit beverage”
28 has the meaning given that term in section 2 of this 2021 Act.

29 (2) A tax is imposed on the privilege of engaging in business as a
30 manufacturer or importing distributor of low-proof spirit beverages.
31 The tax shall be 65 cents per gallon of low-proof spirit beverage man-

1 **ufactured or imported.**

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

3 **(a) A low-proof spirit beverage is not subject to tax more than once.**

4 **(b) A tax may not be levied, collected or imposed upon any low-**
5 **proof spirit beverage sold to the Oregon Liquor Control Commission**
6 **or exported from this state.**

7 **(c) A tax may not be levied, collected or imposed upon any low-**
8 **proof spirit beverage given away and consumed on the licensed prem-**
9 **ises of a distillery licensee, or sold to or by a voluntary**
10 **nonincorporated organization of army, air corps or navy personnel**
11 **operating a place for the sale of goods pursuant to regulations**
12 **promulgated by the proper authority of each such service.**

13 **(d) A tax may not be levied, collected or imposed upon any low-**
14 **proof spirit beverage determined by the commission to be unfit for**
15 **human consumption or unsalable.**

16 **(4) ORS 473.060, 473.080, 473.090 and 473.100 apply to the tax imposed**
17 **under this section on the same terms that ORS 473.060, 473.080, 473.090**
18 **and 473.100 apply to the tax imposed under ORS 473.030 on the privilege**
19 **of engaging in business as a manufacturer or importing distributor of**
20 **wine.**

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

23 **(6) ORS 473.070, 473.140, 473.150 and 473.170 apply to a manufacturer**
24 **of a low-proof spirit beverage on the same terms that ORS 473.070,**
25 **473.140, 473.150 and 473.170 apply to a manufacturer of wine.**

26 **(7) ORS 473.160 applies to a person transporting a low-proof spirit**
27 **beverage on the same terms that ORS 473.160 applies to a person**
28 **transporting wine.**

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

30 **471.230. (1)(a) A distillery license allows the licensee to:**

31 **(A) Import, manufacture, distill, rectify, blend, denature and store dis-**

1 tilled liquor[, *to*];

2 (B) Sell the distilled liquor to the Oregon Liquor Control Commission[
3 *and to*];

4 (C) Transport the distilled liquor out of this state for sale outside this
5 state[. *Distillery licensees may*]; **and**

6 (D) Purchase and sell distilled liquor from or to another distillery
7 licensee in containers having a capacity greater than one U.S. gallon for
8 blending and manufacturing purposes. A distillery licensee may not sell any
9 alcoholic beverage within this state except to the commission or as provided
10 in this section. [*However, any*]

11 (b) **An** agricultural producer [*or*], association of agricultural producers
12 or the [*legal agents*] **agent** of an agricultural producer or association of ag-
13 ricultural producers that manufactures and converts agricultural surpluses,
14 by-products and wastes into denatured ethyl and industrial alcohol for use
15 in the arts and industry [*are*] **is** not required to obtain a license from the
16 commission.

17 (2) If a distillery licensee holds a valid distilled spirits plant basic permit
18 issued by the federal Alcohol and Tobacco Tax and Trade Bureau for the li-
19 censed premises, the distillery licensee may:

20 (a) Permit tastings of distilled liquor approved by the commission for sale
21 in Oregon and manufactured in Oregon by the distillery licensee or by an-
22 other distillery licensee. Tastings may be of the distilled liquor alone or with
23 a mix of other liquids. If any of the other liquids are distilled liquors, they
24 must be distilled liquors on the list of products approved by the commission
25 for retail sale in Oregon and must be purchased by the licensee at the retail
26 price established by the commission. This paragraph does not authorize sales
27 by the drink of distilled liquor. The tastings may be conducted on the li-
28 censed premises of the distillery and at no more than five other premises
29 owned or leased by the licensee. The commission may allow more than one
30 distillery licensee to use the same premises at the same time for conducting
31 tastings if the premises are a primary production location and the licensees

1 share the premises or are owned by the same entity. If the manufacturer of
2 the distilled liquor obtains distilled liquor for conducting tastings from the
3 inventory of the commission, the licensee shall pay the commission a pro-
4 cessing fee.

5 (b) Obtain a special events distillery license.

6 (c) Apply for appointment by the commission as a distillery retail outlet
7 agent for purposes of [*retailing*] **selling at retail** distilled liquor at locations
8 where tastings are permitted under paragraph (a) of this subsection or sub-
9 section (4)(a) of this section. A distillery retail outlet agent may sell at lo-
10 cations where tastings are allowed under paragraph (a) of this subsection
11 only distilled liquor that is on the list of products approved by the commis-
12 sion for retail sale in Oregon and is manufactured in Oregon by the distillery
13 licensee or by another distillery licensee that uses the same premises as a
14 primary production location or is owned by the same entity as the distillery
15 licensee.

16 (3) Notwithstanding ORS 471.392 to 471.400, a distillery licensee may hold
17 one or more full on-premises sales licenses. All distilled liquor sold under a
18 full on-premises sales license must be purchased from the commission.

19 (4) A distillery licensee that holds a special events distillery license may
20 conduct an event on premises designated in the special events distillery li-
21 cense. Except as provided in this subsection, a special events distillery li-
22 cense may be valid for a period not exceeding five days. The commission
23 shall limit the approval of special events distillery licenses for a distillery
24 licensee at the same location to not more than 62 days during a calendar
25 year. A distillery licensee conducting a special event may:

26 (a) Permit tastings of distilled liquor approved by the commission for sale
27 in Oregon and manufactured in Oregon by the distillery licensee. Tastings
28 may be of the distilled liquor alone or with a mix of other liquids. If any of
29 the other liquids are distilled liquors, they must be distilled liquors on the
30 list of products approved by the commission for retail sale in Oregon and
31 must be purchased by the licensee at the retail price established by the

1 commission. If the manufacturer of the distilled liquor obtains distilled li-
2 quor for conducting tastings from the inventory of the commission, the
3 licensee shall pay the commission a processing fee.

4 (b) Permit sales by the drink of distilled liquor. A drink that a distillery
5 licensee sells under this paragraph must include distilled liquor that the
6 licensee manufactured in Oregon. Any distilled liquor contained in the drink
7 must be on the list of products approved by the commission for retail sale
8 in Oregon. The distillery licensee selling the drink must purchase all dis-
9 tilled liquor contained in the drink at the retail price set by the commission
10 for the month in which the drink is sold.

11 (c) If the distillery licensee has been appointed as a distillery retail outlet
12 agent under subsection (2)(c) of this section, sell distilled liquor in factory-
13 sealed containers for consumption off the licensed premises. A distillery re-
14 tail outlet agent may sell at a location where tastings are allowed under
15 paragraph (a) of this subsection only distilled liquor that is on the list of
16 products approved by the commission for retail sale in Oregon and is manu-
17 factured in Oregon by the distillery licensee. The distillery retail outlet
18 agent must sell the distilled liquor at the retail price set by the commission
19 for the month of sale.

20 **(5)(a) In addition to any other privilege granted to a distillery**
21 **licensee, a distillery licensee may import, manufacture, blend and**
22 **store low-proof spirit beverages as defined in section 2 of this 2021 Act.**
23 **A distillery licensee may sell a low-proof spirit beverage:**

24 **(A) To export;**

25 **(B) To any commission licensee authorized under section 2 of this**
26 **2021 Act to sell, distribute or deliver low-proof spirit beverages; or**

27 **(C) At retail directly to the consumer for consumption off the li-**
28 **icensed premises of the distillery.**

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

1 **SECTION 6. This 2021 Act takes effect on the 91st day after the date**
2 **on which the 2021 regular session of the Eighty-first Legislative As-**
3 **sembly adjourns sine die.**

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