

SB 806 -4, -5 STAFF MEASURE SUMMARY

Senate Committee On Finance and Revenue

Prepared By: Mazen Malik, Senior Economist

Meeting Dates: 3/30, 5/24

WHAT THE MEASURE DOES:

Modifies definition of "malt beverage" for purpose of regulation and taxation of alcoholic beverages to align more closely with federal statutory definition of "beer." Increases alcohol by volume threshold percentage requiring additional privilege tax imposed on wine to match federal tax classification percentage.

ISSUES DISCUSSED:

- changes in the definition at the federal level
- industry concerns
- OLCC ability to examine different producers
- taxation changes
- Standardization and reformulation of products
-

EFFECT OF AMENDMENT:

-4 Replaces the bill to introduce technical changes which include Fortified Cider. Delete subsection (1)(b) of ORS 471.274 which removes the requirement that a wine self-distribution (WSD) permittee hold a certificate of approval (CERA), allow for 5 cases per month, and to allow the commission to waive payment of an annual license fee in the event the Governor declares a state of emergency.

-5 Includes changes in the "-4" and other technical changes.

BACKGROUND:

Beer and Wine are defined and taxed differently. Under current law Beer is defined as: Malt beverage means an alcoholic beverage obtained by the fermentation of grain that contains not more than 14 percent alcohol by volume. This definition includes:

1. Beer, ale, porter, stout and similar alcoholic beverages containing not more than 14 percent alcohol by volume
2. Malt beverages containing six percent or less alcohol by volume and that contain at least 51 percent alcohol by volume obtained by the fermentation of grain, as long as not more than 49 percent of the beverage's overall alcohol content is obtained from flavors and other added non-beverage ingredients containing alcohol; and
3. Malt beverages containing more than six percent alcohol by volume that derive not more than 1.5 percent of the beverage's overall alcohol content by volume from flavors and other added non-beverage ingredients containing alcohol.

"Malt beverage" does not include cider or an alcoholic beverage obtained primarily by fermentation of rice, such as sake.

This measure changes the definition of a 'malt beverage' to mean beer, ale, porter, stout and other similar fermented beverages that contain one-half one percent or more of alcohol by volume and that are brewed or produced from malt, wholly or in part, or from a substitute for malt.' The changed definition harmonizes Oregon's definition of malt beverages to the federal definition described in CFR (Code of Federal Regulations), Title 27 Part 25(A). The changed definition might include a class of flavored carbonated alcoholic beverages that may currently

be classified as wines under Oregon law (hard seltzers). The change in definition of malt beverage expands the class of beverages that are subject to the malt beverage privilege tax rate of \$2.6 per 31 gallon barrel, \$.08 per gallon.

Wines are defined as: Wine” means any fermented vinous liquor or fruit juice, or other fermented beverage fit for beverage purposes that is not a malt beverage, containing more than one-half of one percent of alcohol by volume and not more than 21 percent of alcohol by volume. “Wine” includes fortified wine. “Wine” does not include cider. Wine is subject to a privilege tax of \$.67 gallon, and the measure doesn't change the definition. However, dessert wine is defined as wines containing more than 14 percent alcohol by volume, and is taxed an additional \$0.10 per gallon. This measure changes the definition of dessert wine as wines containing more than 16 percent alcohol by volume.

The Oregon Liquor Control Commission is still determining which “Hard Seltzers” are wines and which are malt beverages under current law. The accurate potential revenue impact of the classification of existing hard seltzers is currently not established, and the OLCC does not have an accurate assessment of all potentially impacted products. It is also not clear, however, what would be the advantages and drawbacks of aligning to the definitions in federal rules.