

Enrolled
House Bill 2740

Sponsored by Representative LEIF; Representatives LEWIS, MORGAN, NOSSE, WILDE, Senator STEINER HAYWARD (Pre-session filed.)

CHAPTER

AN ACT

Relating to retail sales agents; creating new provisions; amending ORS 471.750; and declaring an emergency.

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

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

SECTION 2. (1) As used in this section:

(a) "Nonurban county" has the meaning given that term in ORS 653.026.

(b) "Portland metropolitan area county" means a county within the urban growth boundary of a metropolitan service district organized under ORS chapter 268.

(c) "Standard county" means a county that is not a Portland metropolitan area county or a nonurban county.

(2) The Oregon Liquor Control Commission shall compensate an agent appointed under ORS 471.750 in an amount equal to the sum of the following according to the store class, as determined under subsection (3) of this section, operated by the agent:

(a) The monthly base compensation established in subsection (4) of this section;

(b) The wage escalator amount described in subsection (5) of this section;

(c) The retail escalator amount described in subsection (6) of this section; and

(d) The sales commission according to the rates provided in subsection (7) of this section.

(3) A store shall be classed based on the store's amount of annual sales of alcoholic beverages rounded to the nearest whole dollar, adjusted annually by a percentage equal to any percentage increase in the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor, as follows:

(a) Class 1: up to \$120,000;

(b) Class 2: at least \$120,001 and not more than \$450,000;

(c) Class 3: at least \$450,001 and not more than \$750,000;

(d) Class 4: at least \$750,001 and not more than \$1,650,000;

(e) Class 5: at least \$1,650,001 and not more than \$2,500,000;

(f) Class 6: at least \$2,500,001 and not more than \$3,700,000;

(g) Class 7: at least \$3,700,001 and not more than \$5,500,000;

(h) Class 8: at least \$5,500,001 and not more than \$8,300,000;

(i) Class 9: at least \$8,300,001 and not more than \$12,500,000; and

(j) Class 10: at least \$12,500,001 and not more than \$18,750,000.

(4) The monthly base compensation for an agent, adjusted annually by a percentage equal to any percentage increase in the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor, is determined as follows according to the class of store operated by the agent:

- (a) Class 1 store: 14.5 percent of the first \$10,000 in monthly sales of alcoholic beverages;
- (b) Class 2 store: \$1,660;
- (c) Class 3 store: \$1,920;
- (d) Class 4 store: \$2,440;
- (e) Class 5 store: \$2,700;
- (f) Class 6 store: \$3,100;
- (g) Class 7 store: \$3,600;
- (h) Class 8 store: \$4,150;
- (i) Class 9 store: \$4,800; and
- (j) Class 10 store: \$5,500.

(5) The wage escalator amount is as follows:

(a) For an agent in a standard county, eight percent of the monthly base compensation;
or

(b) For an agent in a Portland metropolitan area county, 18 percent of the monthly base compensation.

(6) The monthly retail escalator amount is as follows:

(a) For a store located in a standard county, 50 percent of the monthly base compensation; or

(b) For a store located in a Portland metropolitan area county, 75 percent of the monthly base compensation.

(7) The sales commission rates are as follows:

(a) For sales of alcoholic beverages to licensees, 6.54 percent of the amount of sales.

(b) For sales of alcoholic beverages to persons other than licensees, 8.38 percent of the amount of sales.

SECTION 3. ORS 471.750, as amended by section 14, chapter 180, Oregon Laws 2021 (Enrolled House Bill 2264), is amended to read:

471.750. (1) The Oregon Liquor Control Commission shall establish stores and warehouses in places in this state that[,] in the commission's judgment[,] are required by public convenience or necessity, for the sale of distilled liquors, wines and other alcoholic liquors containing over five percent alcohol by volume, in sealed containers for consumption off the premises. The commission shall keep on hand in the stores or warehouses **established under this section** [the] quantities and kinds of alcoholic liquors as are reasonably required to supply the public demand.

(2) Any person qualified to purchase alcoholic liquors from the commission may present to the commission, or [to a store established under this section] **at any of the stores established by the commission**, an application for any kind or brand of alcoholic liquor that the person may desire and that may be manufactured or obtainable in any place in the United States[, and]. The commission shall obtain the alcoholic liquor and sell it to the applicant. The commission may not require that an application for a kind or brand of alcoholic liquor include a commitment to purchase a minimum amount of the **alcoholic** liquor or require that a purchase be for more than one container of a kind or brand of alcoholic liquor if the **alcoholic** liquor:

(a) Except as provided in subsection (6) of this section, has a retail sales price of \$30 or more per container;

(b) Is available through a distributor in the United States that does not require the commission to acquire more than one case of the distilled liquor in a single transaction;

(c) Is not regularly stocked by the commission; and

(d) Is ordered in a 750 milliliter container size if available in that size.

(3) The commission may not establish a store in any county or incorporated city of this state where a local prohibitory law is in effect.

(4) The commission may appoint agents in the sale of alcoholic liquors pursuant to agreements negotiated between the commission and the agents, or representatives of the agent.

(5)(a) The commission shall adopt rules governing advertising by stores operated by the commission. Rules relating to advertising adopted by the commission under this subsection must allow signs and displays within the **commission's** stores for the purpose of supplying consumer information to customers, including but not limited to discounts, sales and other specials. Commission discretion with respect to *[those]* **the** signs and displays *[shall be]* **described in this subsection is** limited to regulation of the content, size, number per brand, type and duration of the sign or display.

(b) Signs and displays may be supplied by manufacturers, wholesalers or distributors, and may bear the name of a particular distillery, supplier or brand of liquor. The use of signs and displays *[shall be]* **is** optional with the agent appointed by the commission.

(6) The commission may annually adjust the price threshold established in subsection (2)(a) of this section by a percentage equal to the percentage change in the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor. However, the commission may not adjust the price threshold to be less than \$30.

(7) **The commission shall compensate an agent appointed under this section according to the schedule established in section 2 of this 2021 Act.**

SECTION 4. Section 2 of this 2021 Act and the amendments to ORS 471.750 by section 3 of this 2021 Act apply to compensation paid to an agent on or after July 1, 2021.

SECTION 5. This 2021 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect on its passage.

Passed by House June 21, 2021

Repassed by House June 26, 2021

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate June 25, 2021

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2021

Approved:

.....M.,....., 2021

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2021

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Shemia Fagan, Secretary of State