

Enrolled
Senate Bill 806

Sponsored by Senator BEYER; Representatives EVANS, SMITH DB

CHAPTER

AN ACT

Relating to alcoholic beverages; creating new provisions; amending ORS 471.023, 471.223, 471.310, 471.311 and 473.015; repealing section 4, chapter __, Oregon Laws 2021 (Enrolled Senate Bill 317); and declaring an emergency.

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

SECTION 1. ORS 471.023 is amended to read:

471.023. For the purposes of this chapter, “cider” means an alcoholic beverage made from the fermentation of the juice of apples or pears that contains not more than 8.5 percent of alcohol by volume, including, but not limited to, flavored, sparkling [*or*], carbonated **or fortified** cider.

SECTION 2. ORS 471.223 is amended to read:

471.223. (1) As used in this section, “control” means that the licensee:

- (a) Owns the brand under which the wine or cider is labeled; or
- (b) Performs or has the legal right to perform all of the acts common to a brand owner under the terms of a trademark license or similar agreement that for the brand under which the wine or cider is labeled has a term of at least three years.

(2) [*A winery license shall allow the licensee*] **The holder of a winery license may:**

- (a) [*To*] Import wine or cider in containers that have a capacity of more than four liters.
- (b) [*To*] Import wine or cider in containers that have a capacity of four liters or less if the brand of wine or cider is under the control of the licensee.
- (c) [*To*] Bottle, produce, blend, store, transport or export wines or cider.
- (d) [*To*] Sell wines or cider at wholesale to the Oregon Liquor Control Commission or to licensees of the commission.
- (e) [*To*] Sell wines or cider at retail directly to the consumer for consumption on or off the licensed premises.
- (f) [*To*] Sell malt beverages at retail for consumption on or off the licensed premises.
- (g) [*To*] Sell for consumption off the premises malt beverages, wines and cider in securely covered containers **that are** supplied by the consumer and [*having*] **have** capacities of not more than two gallons each.
- (h) [*To*] Conduct under [*that*] **the winery** license any activities described in paragraphs (a) to (g) of this subsection at five or fewer premises designated by the commission.
- (i) [*To*] Purchase from or through the commission brandy or other distilled liquors for fortifying wines **or cider**.
- (j) [*To*] Obtain a special events winery license that [*shall entitle*] **entitles** the holder to conduct the activities allowed under paragraphs (e) to (g) of this subsection at a designated location other than the one set forth in the winery license for a period not to exceed five days.

(3) A winery licensee shall allow a patron to remove a partially consumed bottle of wine from the licensed premises if the patron is not a minor and the patron is not visibly intoxicated.

(4) Except as provided in subsection (5) of this section, in order to hold a winery license the licensee shall:

(a) Possess at a bonded premises within Oregon a valid producer and blender basic permit issued by the federal Alcohol and Tobacco Tax and Trade Bureau; or

(b) Possess a valid wine blender or valid wholesaler basic permit issued by the federal Alcohol and Tobacco Tax and Trade Bureau and have a written contract with a winery licensed under paragraph (a) of this subsection that authorizes the winery to produce for the licensee a brand of wine or cider that is under the control of the licensee.

(5) Subsection (4) of this section does not apply if a licensee produces only cider under the winery license.

(6) A winery licensee may sell and ship malt beverages, wine or cider directly to a resident of this state only if the licensee has a direct shipper permit issued under ORS 471.282.

(7) A winery licensee, or any person having an interest in the licensee, may also hold a full on-premises sales license. If a winery licensee, or a person having an interest in the licensee, also holds a full on-premises sales license, the provisions of this chapter do not prevent the licensee or person from both selling wine or cider bottled and produced under the winery license and selling alcoholic liquor as authorized under the full on-premises sales license.

(8) More than one winery licensee may exercise the privileges of a winery license at a single location. The commission may not refuse to issue a winery license to a person for the production of wine or cider on specified premises based on the fact that other winery licensees also produce wine or cider on those premises.

(9) If a winery licensee does not possess at a bonded premises within Oregon a valid producer and blender basic permit issued by the federal Alcohol and Tobacco Tax and Trade Bureau, the licensee may exercise the privileges described in this section only for wine and cider brands that are under the control of the licensee.

NOTE: Section 3 was deleted by amendment. Subsequent sections were not renumbered.

SECTION 4. ORS 471.310 is amended to read:

471.310. Any city **or county** may, without further charter authority, become a licensee under this chapter.

SECTION 5. ORS 471.311 is amended to read:

471.311. (1) *[Any person desiring]* **An applicant** for a license or renewal of a license under this chapter shall *[make]* **submit an** application to the Oregon Liquor Control Commission *[upon forms to be furnished]* **on a form provided** by the commission *[showing]* **that includes** the name and address of the applicant, location of the place of business that is to be operated under the license, and *[such]* **any** other pertinent information *[as]* the commission may require. *[A license may not be granted or renewed]* **The commission may not grant or renew a license** until the applicant has complied with the provisions of this chapter and the rules of the commission.

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

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

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

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

[(4)] (3) Subject to subsection [(5)] (4) of this section, the commission shall assess a nonrefundable fee for processing a renewal application for any license authorized by this chapter only if the renewal application is received by the commission less than 20 days before expiration of the license. If the renewal application is received prior to expiration of the license but less than 20 days prior to expiration, the fee shall be 25 percent of the annual license fee. If a renewal application is received by the commission after expiration of the license but no more than 30 days after expiration, the fee shall be 40 percent of the annual license fee. This subsection does not apply to a certificate of approval, a brewery-public house license or any license that is issued for a period of less than 30 days.

[(5)] (4) The commission may waive the fee imposed under subsection [(4)] (3) of this section if the commission finds that failure to submit a timely application was due to unforeseen circumstances or to a delay in processing the application by the local governing authority that is no fault of the licensee.

[(6)] (5) The license fee is nonrefundable and, **except as provided in subsection (6) of this section**, must be paid by each applicant upon the granting or committing of a license. Subject to ORS 471.155 and 473.065, the annual or daily license fee and the minimum bond required of each class of license under this chapter are as follows:

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

(6) **The commission may allow an applicant to defer payment, or may waive payment, of an annual license fee imposed under subsection (5) of this section, if the Governor declares a state of emergency under ORS 401.165 or a state of public health emergency under ORS 433.441. The commission may by rule establish requirements for an applicant to qualify for deferral or waiver of an annual license fee.**

(7) The fee for a certificate of approval or special certificate of approval granted under ORS 471.244 is nonrefundable and must be paid by each applicant upon the granting or committing of a certificate of approval or special certificate of approval. *[No bond is]* **A bond is not** required for the granting of a certificate of approval or special certificate of approval. Certificates of approval are valid for a period commencing on the date of issuance and ending on December 31 of the fifth calendar year following the calendar year of issuance. The fee for a certificate of approval is \$350. Special certificates of approval are valid for a period of 30 days. The fee for a special certificate of approval is \$10.

(8) Except as provided in subsection (9) of this section, the annual license fee for a full on-premises sales license is \$800. *[No bond is]* **A bond is not** required for any full on-premises sales license.

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

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

(11) The annual fee for a wine self-distribution permit is \$200, and the minimum bond is \$1,000.

SECTION 6. ORS 473.015 is amended to read:

473.015. For the purposes of this chapter, “cider” means an alcoholic beverage made from the fermentation of the juice of apples or pears that contains not less than one-half of one percent and not more than 8.5 percent of alcohol by volume, including, but not limited to, flavored, sparkling *[or]*, carbonated **or fortified** cider.

SECTION 7. The amendments to ORS 471.023, 471.223 and 473.015 by sections 1, 2 and 6 of this 2021 Act apply to the manufacture or distribution of alcoholic beverages occurring on or after January 1, 2022.

SECTION 8. Section 4, chapter __, Oregon Laws 2021 (Enrolled Senate Bill 317), is repealed.

SECTION 9. 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 Senate June 15, 2021

Repassed by Senate June 25, 2021

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 25, 2021

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Tina Kotek, Speaker of House

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