

(Including Amendments to Resolve Conflicts)

B-Engrossed Senate Bill 806

Ordered by the House June 25
Including Senate Amendments dated June 10 and House Amendments
dated June 25

Sponsored by Senator BEYER

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.

Includes "fortified cider" in definition of "cider." Allows holder of winery license to purchase from Oregon Liquor Control Commission distilled liquors for fortifying cider. [*Allows holder of direct shipper permit to ship up to five cases of wine per month to Oregon resident.*] Allows county to become licensee of commission. Deletes requirement that commission charge application fee for new licenses. Provides that commission may allow applicant to defer or waive payment of annual license fee if Governor declares state of emergency.

Provides that provisions of chapter __, Oregon Laws 2021 (Enrolled Senate Bill 317), allowing for sale of mixed drinks and single servings of wine for off-premises consumption become operative on passage of this Act.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to alcoholic beverages; creating new provisions; amending ORS 471.023, 471.223, 471.310,
3 471.311 and 473.015; repealing section 4, chapter __, Oregon Laws 2021 (Enrolled Senate Bill
4 317); and declaring an emergency.

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

6 **SECTION 1.** ORS 471.023 is amended to read:

7 471.023. For the purposes of this chapter, "cider" means an alcoholic beverage made from the
8 fermentation of the juice of apples or pears that contains not more than 8.5 percent of alcohol by
9 volume, including, but not limited to, flavored, sparkling [*or*], carbonated **or fortified** cider.

10 **SECTION 2.** ORS 471.223 is amended to read:

11 471.223. (1) As used in this section, "control" means that the licensee:

12 (a) Owns the brand under which the wine or cider is labeled; or

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

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

17 (a) [*To*] Import wine or cider in containers that have a capacity of more than four liters.

18 (b) [*To*] Import wine or cider in containers that have a capacity of four liters or less if the brand
19 of wine or cider is under the control of the licensee.

20 (c) [*To*] Bottle, produce, blend, store, transport or export wines or cider.

21 (d) [*To*] Sell wines or cider at wholesale to the Oregon Liquor Control Commission or to
22 licensees of the commission.

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 (e) [To] Sell wines or cider at retail directly to the consumer for consumption on or off the li-
2 censed premises.

3 (f) [To] Sell malt beverages at retail for consumption on or off the licensed premises.

4 (g) [To] Sell for consumption off the premises malt beverages, wines and cider in securely cov-
5 ered containers **that are** supplied by the consumer and [having] **have** capacities of not more than
6 two gallons each.

7 (h) [To] Conduct under [that] **the winery** license any activities described in paragraphs (a) to
8 (g) of this subsection at five or fewer premises designated by the commission.

9 (i) [To] Purchase from or through the commission brandy or other distilled liquors for fortifying
10 wines **or cider**.

11 (j) [To] Obtain a special events winery license that [shall entitle] **entitles** the holder to conduct
12 the activities allowed under paragraphs (e) to (g) of this subsection at a designated location other
13 than the one set forth in the winery license for a period not to exceed five days.

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

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

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

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

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

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

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

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

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

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

42 **SECTION 4.** ORS 471.310 is amended to read:

43 471.310. Any city **or county** may, without further charter authority, become a licensee under
44 this chapter.

45 **SECTION 5.** ORS 471.311 is amended to read:

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

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

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

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

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

21 *[(4)]* **(3)** Subject to subsection *[(5)]* **(4)** of this section, the commission shall assess a
 22 nonrefundable fee for processing a renewal application for any license authorized by this chapter
 23 only if the renewal application is received by the commission less than 20 days before expiration
 24 of the license. If the renewal application is received prior to expiration of the license but less than
 25 20 days prior to expiration, the fee shall be 25 percent of the annual license fee. If a renewal ap-
 26 plication is received by the commission after expiration of the license but no more than 30 days
 27 after expiration, the fee shall be 40 percent of the annual license fee. This subsection does not apply
 28 to a certificate of approval, a brewery-public house license or any license that is issued for a period
 29 of less than 30 days.

30 *[(5)]* **(4)** The commission may waive the fee imposed under subsection *[(4)]* **(3)** of this section if
 31 the commission finds that failure to submit a timely application was due to unforeseen circumstances
 32 or to a delay in processing the application by the local governing authority that is no fault of the
 33 licensee.

34 *[(6)]* **(5)** The license fee is nonrefundable and, **except as provided in subsection (6) of this**
 35 **section**, must be paid by each applicant upon the granting or committing of a license. Subject to
 36 ORS 471.155 and 473.065, the annual or daily license fee and the minimum bond required of each
 37 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

1	Wholesale Malt Beverage		
2	and Wine	\$ 550	\$ 1,000
3	Warehouse	\$ 200	\$ 1,000
4	Brewery-Public House,		
5	including Certificate		
6	of Approval	\$ 500	\$ 1,000
7	Limited On-Premises Sales	\$ 400	None
8	Off-Premises Sales	\$ 200	None
9	Temporary Sales	\$ 50 per day	
10	Grower sales privilege		
11	license	\$ 500	\$ 1,000
12	Special events brewery		
13	license	\$ 10 per day	
14	Special events winery		
15	license	\$ 10 per day	
16	Special events grower		
17	sales privilege		
18	license	\$ 10 per day	
19	Special events		
20	brewery-public house		
21	license	\$ 10 per day	
22	Special events		
23	distillery		
24	license	\$ 10 per day	

26

27 **(6) The commission may allow an applicant to defer payment, or may waive payment, of**
28 **an annual license fee imposed under subsection (5) of this section, if the Governor declares**
29 **a state of emergency under ORS 401.165 or a state of public health emergency under ORS**
30 **433.441. The commission may by rule establish requirements for an applicant to qualify for**
31 **deferral or waiver of an annual license fee.**

32 (7) The fee for a certificate of approval or special certificate of approval granted under ORS
33 471.244 is nonrefundable and must be paid by each applicant upon the granting or committing of a
34 certificate of approval or special certificate of approval. *[No bond is]* **A bond is not** required for
35 the granting of a certificate of approval or special certificate of approval. Certificates of approval
36 are valid for a period commencing on the date of issuance and ending on December 31 of the fifth
37 calendar year following the calendar year of issuance. The fee for a certificate of approval is \$350.
38 Special certificates of approval are valid for a period of 30 days. The fee for a special certificate
39 of approval is \$10.

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

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

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

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

3 **SECTION 6.** ORS 473.015 is amended to read:

4 473.015. For the purposes of this chapter, “cider” means an alcoholic beverage made from the
5 fermentation of the juice of apples or pears that contains not less than one-half of one percent and
6 not more than 8.5 percent of alcohol by volume, including, but not limited to, flavored, sparkling
7 [or], carbonated **or fortified** cider.

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

11 **SECTION 8.** Section 4, chapter __, Oregon Laws 2021 (Enrolled Senate Bill 317), is re-
12 pealed.

13 **SECTION 9.** This 2021 Act being necessary for the immediate preservation of the public
14 peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect
15 on its passage.
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