

Senate Bill 806

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 **as introduced**.

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.

Applies to manufacture or distribution of alcoholic beverages occurring on or after January 1, 2022.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to alcoholic beverages; creating new provisions; amending ORS 471.001 and 473.030; and
3 prescribing an effective date.

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

5 **SECTION 1.** ORS 471.001 is amended to read:

6 471.001. As used in this chapter and ORS chapter 473:

7 (1) "Alcoholic beverage" and "alcoholic liquor" mean any liquid or solid containing more than
8 one-half of one percent alcohol by volume and capable of being consumed by a human being.

9 (2) "Commercial establishment" means a place of business:

10 (a) Where food is cooked and served;

11 (b) That has kitchen facilities adequate for the preparation and serving of meals;

12 (c) That has dining facilities adequate for the serving and consumption of meals; and

13 (d) That:

14 (A) If not a for-profit private club, serves meals to the general public; or

15 (B) If a for-profit private club, serves meals to the club's members and guests and complies with
16 any minimum membership and food service requirements established by Oregon Liquor Control
17 Commission rules.

18 (3) "Commission" means the Oregon Liquor Control Commission.

19 (4) "Distilled liquor" means any alcoholic beverage other than a wine, cider or malt beverage.
20 "Distilled liquor" includes distilled spirits.

21 (5) "Licensee" means any person holding a license issued under this chapter.

22 (6)(a) "Malt beverage" means [*an alcoholic beverage obtained by the fermentation of grain that*
23 *contains not more than 14 percent alcohol by volume*] **beer, ale, porter, stout and other similar**
24 **fermented beverages that contain more than one-half and not more than 16 percent of alco-**
25 **hol by volume and that are brewed or produced from malt, wholly or in part, or from bran,**
26 **glucose, grain, molasses, rice or sugar as a substitute for malt.**

27 [(b) "*Malt beverage*" includes:]

28 [(A) *Beer, ale, porter, stout and similar alcoholic beverages containing not more than 14 percent*

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 alcohol by volume;]

2 [(B) Malt beverages containing six percent or less alcohol by volume and that contain at least 51
3 percent alcohol by volume obtained by the fermentation of grain, as long as not more than 49 percent
4 of the beverage's overall alcohol content is obtained from flavors and other added nonbeverage ingre-
5 dients containing alcohol; and]

6 [(C) Malt beverages containing more than six percent alcohol by volume that derive not more than
7 1.5 percent of the beverage's overall alcohol content by volume from flavors and other added
8 nonbeverage ingredients containing alcohol.]

9 [(c) "Malt beverage" does not include cider or an alcoholic beverage obtained primarily by
10 fermentation of rice, such as sake.]

11 **(b) "Malt beverage" does not include cider, mead, hard kombucha, sake or wine.**

12 (7) "Manufacturer" means every person who produces, brews, ferments, manufactures or blends
13 an alcoholic beverage within this state or who imports or causes to be imported into this state an
14 alcoholic beverage for sale or distribution within the state.

15 (8) "Permittee" means a person holding a permit issued under ORS 471.360 to 471.385.

16 (9) "Premises" or "licensed premises" means a location licensed under this chapter and includes
17 all enclosed areas at the location that are used in the business operated at the location, including
18 offices, kitchens, rest rooms and storerooms, including all public and private areas where patrons
19 are permitted to be present. "Premises" or "licensed premises" includes areas outside of a building
20 that the commission has specifically designated as approved for alcoholic beverage service or con-
21 sumption.

22 (10) "Regulatory specialist" means a full-time employee of the commission who is authorized to
23 act as an agent of the commission in conducting inspections or investigations, making arrests and
24 seizures, aiding in prosecutions for offenses, issuing citations for violations and otherwise enforcing
25 this chapter, ORS 474.005 to 474.095, 474.115, 475B.010 to 475B.545, 475B.550 to 475B.590 and
26 475B.600 to 475B.655, commission rules and any other statutes the commission considers related to
27 regulating liquor, marijuana or marijuana-derived products.

28 (11) "Wine" means any fermented vinous liquor or fruit juice, or other fermented beverage fit
29 for beverage purposes that is not a malt beverage, containing more than one-half of one percent of
30 alcohol by volume and not more than 21 percent of alcohol by volume. "Wine" includes fortified
31 wine. "Wine" does not include cider.

32 **SECTION 2.** ORS 473.030 is amended to read:

33 473.030. (1) A tax is imposed upon the privilege of engaging in business as a manufacturer or
34 as an importing distributor of malt beverages at the rate of \$2.60 per barrel of 31 gallons on all such
35 beverages.

36 (2) A tax is imposed upon the privilege of engaging in business as a manufacturer or as an im-
37 porting distributor of wines at the rate of 65 cents per gallon on all such beverages.

38 (3) In addition to the tax imposed by subsection (2) of this section, a manufacturer or an im-
39 porting distributor of wines containing more than [14] **16** percent alcohol by volume shall be taxed
40 at the rate of 10 cents per gallon.

41 (4) In addition to the taxes imposed by subsections (2) and (3) of this section, a manufacturer
42 or an importing distributor of wines shall be taxed at the rate of two cents per gallon.
43 Notwithstanding any other provision of law, all moneys collected by the Oregon Liquor Control
44 Commission pursuant to this subsection shall be paid into the account established by the Oregon
45 Wine Board under ORS 182.470.

1 (5) The rates of tax imposed by this section upon malt beverages apply proportionately to
2 quantities in containers of less capacity than those quantities specified in this section.

3 (6) The taxes imposed by this section shall be measured by the volume of wine or malt beverages
4 produced, purchased or received by any manufacturer. If the wine or malt beverage remains unsold
5 and in the possession of the producer at the plant where it was produced, no tax imposed or levied
6 by this section is required to be paid until the wine or malt beverage has become sufficiently aged
7 for marketing at retail, but this subsection shall not be construed so as to alter or affect any pro-
8 vision of this chapter relating to tax liens or the filing of statements.

9 **SECTION 3. The amendments to ORS 471.001 and 473.030 by sections 1 and 2 of this 2021**
10 **Act apply to the manufacture or distribution of alcoholic beverages occurring on or after**
11 **January 1, 2022.**

12 **SECTION 4. This 2021 Act takes effect on the 91st day after the date on which the 2021**
13 **regular session of the Eighty-first Legislative Assembly adjourns sine die.**

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