

Requested by SENATE COMMITTEE ON ENERGY AND ENVIRONMENT

**PROPOSED AMENDMENTS TO
SENATE BILL 1520**

1 On page 1 of the printed bill, line 3, delete “459A.700.”

2 Delete lines 6 through 25 and delete pages 2 through 9 and insert:

3 **“SECTION 1. Sections 2 and 3 of this 2022 Act are added to and**
4 **made a part of ORS 459A.700 to 459A.744.**

5 **“SECTION 2. (1) The requirements of subsections (2) and (3) of this**
6 **section apply to a distributor if:**

7 **“(a) The distributor does not participate in a distributor cooper-**
8 **ative; and**

9 **“(b) The distributor sold more than 500,000 beverages in beverage**
10 **containers in this state in the previous calendar year.**

11 **“(2) A distributor described in subsection (1) of this section shall**
12 **establish a program to provide redemption services in the distributor’s**
13 **distribution area that are comparable to services provided by a dis-**
14 **tributor cooperative in this state. Redemption services may include,**
15 **but need not be limited to:**

16 **“(a) Operation of full-service redemption centers;**

17 **“(b) Drop-off service for beverage containers;**

18 **“(c) Retail pick-up service; and**

19 **“(d) Any other services required by the Oregon Liquor and Cannabis**
20 **Commission by rule.**

21 **“(3)(a) A distributor described in subsection (1) of this section shall**

1 pay annually to the commission a fee in an amount equal to \$3,000
2 multiplied by the number of full-service redemption centers operated
3 in this state, regardless of the person that operates the full-service
4 redemption center.

5 “(b) If the distributor operates a full-service redemption center, the
6 distributor may satisfy its obligation to pay the annual registration fee
7 described in ORS 459A.737 by paying the fee described in paragraph (a)
8 of this subsection.

9 “(4) Fees collected by the commission under this section shall be
10 deposited in the Bottle Bill Fund established under ORS 459A.744.

11 **“SECTION 3. (1) A distributor described in subsection (2) of this**
12 **section that does not participate in a distributor cooperative shall pay**
13 **to the Oregon Liquor and Cannabis Commission the fee described in**
14 **subsection (2) of this section for each calendar year, or part thereof,**
15 **that the distributor sells beverages in beverage containers in this**
16 **state. A distributor shall pay the fee no later than January 1 of the**
17 **year following the year for which the fee applies.**

18 “(2) The fee required under subsection (1) of this section is:

19 “(a) \$25,000, for a distributor that sells at least 15,000 but not more
20 than 500,000 beverages in beverage containers in this state during the
21 calendar year.

22 “(b) \$5,000, for a distributor that sells fewer than 15,000 beverages
23 in beverage containers in this state during the calendar year.

24 “(3) Notwithstanding subsections (1) and (2) of this section, a dis-
25 tributor is not required to pay the fee described in subsection (2) of
26 this section if, before December 31 of the year for which the fee ap-
27 plies, the distributor becomes a participant in a distributor cooper-
28 ative.

29 “(4) A distributor cooperative shall pay to the commission a fee in
30 an amount equal to \$3,000 multiplied by the number of full-service re-

1 **demption centers operated in this state by any person other than the**
2 **distributor cooperative.**

3 **“(5) Fees collected by the commission under this section shall be**
4 **deposited in the Bottle Bill Fund established under ORS 459A.744.**

5 **“SECTION 4.** ORS 459A.717 is amended to read:

6 “459A.717. (1) The Oregon Liquor and Cannabis Commission may impose
7 a civil penalty of at least \$50, but not more than \$500, for a violation of any
8 provision of ORS 459A.700 to 459A.744. Each day a violation occurs consti-
9 tutes a separate violation. The authority to impose a civil penalty under this
10 section is in addition to and not in lieu of the revocation and suspension
11 authority under ORS 459.992 (5) and the criminal penalty authorized by ORS
12 459.992.

13 “(2) Notwithstanding subsection (1) of this section, if a dealer violates a
14 provision of ORS 459A.738, or if a distributor or importer violates a provision
15 of ORS 459A.718, the commission shall provide the dealer, distributor or
16 importer with written notice informing the dealer, distributor or importer
17 of the violation and stating that the dealer, distributor or importer may
18 avoid civil penalty for the violation by curing the violation within 60 days
19 after issuance of the notice. If the dealer, distributor or importer fails to
20 cure the violation within 60 days after issuance of the notice, the commission
21 shall impose a civil penalty of at least \$200 for the violation. Each day after
22 the 60-day period that the dealer continues to violate a provision of ORS
23 459A.738, or that the distributor or importer continues to violate a provision
24 of ORS 459A.718, is a separate offense subject to a separate civil penalty.
25 The commission is not required to provide the dealer, distributor or importer
26 with an opportunity to cure a continuing violation before imposing a civil
27 penalty for the continuing violation.

28 **“(3)(a) Notwithstanding subsection (1) of this section, if a distribu-**
29 **tor violates the provisions of section 2 (2) of this 2022 Act, the com-**
30 **mission shall provide the distributor with written notice informing the**

1 distributor of the violation and stating that the distributor may avoid
2 civil penalty for the violation by curing the violation within 60 days
3 after issuance of the notice. A distributor may cure the violation by
4 becoming a participant in a distributor cooperative or by providing the
5 services described in section 2 (2) of this 2022 Act. If the distributor
6 fails to cure the violation, the commission shall impose a civil penalty
7 in the amount described in paragraph (b) of this subsection for each
8 day that the violation continues.

9 “(b)(A) For each day after the 60-day period beginning with the is-
10 suance of the notice under paragraph (a) of this subsection, the com-
11 mission shall impose a civil penalty of at least \$200 per day.

12 “(B) For each day after the 100-day period beginning with the issu-
13 ance of the notice under paragraph (a) of this subsection, the com-
14 mission shall impose a civil penalty of at least \$400 per day.

15 “(C) For each day after the 200-day period beginning with the issu-
16 ance of the notice under paragraph (a) of this subsection, the com-
17 mission shall impose a civil penalty of at least:

18 “(i) \$1,000 per day for a distributor that sold more than 500,000 but
19 fewer than five million beverages in beverage containers in this state
20 during the previous calendar year;

21 “(ii) \$1,500 per day for a distributor that sold at least five million
22 but fewer than 10 million beverages in beverage containers in this
23 state during the previous calendar year; or

24 “(iii) \$2,500 per day for a distributor that sold 10 million or more
25 beverages in beverage containers in this state during the previous
26 calendar year.

27 “[3] (4) Civil penalties under this section shall be imposed as provided
28 in ORS 183.745.

29 “[4] (5) All penalties recovered under this section shall be paid into the
30 State Treasury and credited to the General Fund and are available for gen-

1 eral governmental expenses.

2 **“SECTION 5.** ORS 459A.715 is amended to read:

3 “459A.715. (1) A dealer may refuse to accept from any person, and a dis-
4 tributor or importer may refuse to accept from a dealer, any empty beverage
5 container that does not state thereon a refund value as established by ORS
6 459A.705.

7 “(2) A dealer may refuse to accept and to pay the refund value of:

8 “(a) Empty beverage containers if the place of business of the dealer and
9 the kind of empty beverage containers are included in an order of the Oregon
10 Liquor and Cannabis Commission approving a full-service redemption center
11 under ORS 459A.735.

12 “(b) Any beverage container visibly containing or contaminated by a
13 substance other than water, residue of the original contents or ordinary dust.

14 “(c)(A) More than 144 individual beverage containers returned by any one
15 person during one day, if the dealer occupies a space of 5,000 or more square
16 feet in a single area.

17 “(B) More than 50 individual beverage containers returned by any one
18 person during one day, if the dealer occupies a space of less than 5,000
19 square feet in a single area.

20 “(d) Any beverage container that is damaged to the extent that the brand
21 appearing on the container cannot be identified.

22 **“(3) The commission shall develop and provide to dealers notices**
23 **that describe the reasons a dealer may refuse to accept and to pay the**
24 **refund value for empty beverage containers under subsection (2) of**
25 **this section. The notices may contain additional information as de-**
26 **termined by the commission.**

27 **“(4) A dealer must post in each area where beverage containers are**
28 **received a notice provided to the dealer under subsection (3) of this**
29 **section.**

30 “[3)(a) *In order to refuse containers under subsection (2)(b), (c)(A) or (d)*

1 of this section, if a dealer occupies a space of 5,000 or more square feet in a
2 single area, the dealer must post in each area where containers are received
3 a clearly visible and legible sign containing the following information:]

4 “[_____]

5 **NOTICE:**

6
7 Oregon Law allows a dealer to refuse to accept:

8 1. Beverage containers visibly containing or contaminated by a substance
9 other than water, residue of the original contents or ordinary dust;

10 2. More than 144 individual beverage containers from any one person dur-
11 ing one day; or

12 3. Beverage containers that are damaged to the extent that the brand ap-
13 pearing on the container cannot be identified.

14 “[_____]

15 “[(b) In order to refuse containers under subsection (2)(b), (c)(B) or (d) of
16 this section, if a dealer occupies a space of less than 5,000 square feet in a
17 single area, the dealer must post in each area where containers are received
18 a clearly visible and legible sign containing the following information:]

19 “[_____]

20 **NOTICE:**

21
22 Oregon Law allows a dealer to refuse to accept:

23 1. Beverage containers visibly containing or contaminated by a substance
24 other than water, residue of the original contents or ordinary dust;

25 2. More than 50 individual beverage containers from any one person during
26 one day; or

27 3. Beverage containers that are damaged to the extent that the brand ap-
28 pearing on the container cannot be identified.

29 “[_____]

30 **“SECTION 6.** ORS 459A.718 is amended to read:

1 “459A.718. (1) Two or more distributors or importers may establish a dis-
2 tributor cooperative for the purposes of:

3 “(a) Collecting the refund value of beverage containers specified in ORS
4 459A.705 from distributors or importers and refunding to dealers the amount
5 the dealers paid for the refund value of empty beverage containers;

6 “(b) Paying the refund value specified in ORS 459A.705 for beverage con-
7 tainers sold in this state;

8 “(c) Processing beverage containers sold in this state; and

9 “(d) Maintaining a registry of all beverage containers sold and redeemed
10 in this state.

11 “(2) A distributor cooperative established under this section must service
12 a majority of the dealers in this state.

13 “(3) If a distributor cooperative is established, a dealer that uses the dis-
14 tributor cooperative to redeem and process beverage containers sold in this
15 state is not required to return beverage containers to a distributor or
16 importer that does not participate in the distributor cooperative, provided
17 that the dealer or the distributor cooperative provides an accounting to the
18 distributor or importer of the beverage containers by brand and kind that
19 were distributed by the distributor or importer and subsequently redeemed
20 by the dealer or distributor cooperative.

21 “(4) Upon receipt of the accounting required by subsection (3) of this
22 section, a distributor or importer that does not participate in the distributor
23 cooperative must pay the refund value of the redeemed beverage containers
24 specified in the accounting to the dealer or distributor cooperative that
25 provided the accounting.

26 “(5) A distributor or importer that does not participate in a distributor
27 cooperative to redeem and process beverage containers shall register with
28 the distributor cooperative as a nonparticipating distributor or importer and
29 shall report, in a form and manner as required by the distributor cooperative,
30 information necessary for the distributor cooperative to maintain the

1 beverage container registry described in subsection (6) of this section.

2 “(6) A distributor cooperative shall maintain a registry of all types of
3 beverage containers sold and redeemed in this state for all registered entities
4 that describes the beverage containers using the following information for
5 each beverage container:

6 “(a) The name of the beverage contained in the beverage container as
7 identified through the use of letters, words or symbols on the product label
8 affixed to the beverage container;

9 “(b) The type of beverage contained in the beverage container using an
10 appropriate categorization method for beverages as determined by the dis-
11 tributor cooperative;

12 “(c) The size of the beverage container;

13 “(d) Whether the beverage container is glass, metal or plastic; and

14 “(e) If applicable, the universal product code or European article number
15 on the product label affixed to the beverage container.

16 “(7)(a) For purposes of this subsection, beverage container return data is
17 the number of beverage containers returned for the refund value specified in
18 ORS 459A.705 in Oregon during the calendar year and the number of
19 beverage containers that carry a refund value specified in ORS 459A.705 sold
20 in Oregon during the calendar year, calculated separately.

21 “(b) By July 1 of each calendar year, a distributor cooperative shall pro-
22 vide the Oregon Liquor and Cannabis Commission with a report that lists,
23 in aggregate form:

24 “(A) For all distributors and importers that participate in the distributor
25 cooperative, the previous calendar year’s beverage container return data,
26 calculated separately for glass, metal and plastic beverage containers; and

27 “(B) The registry of all beverage containers sold and redeemed in this
28 state during the previous calendar year.

29 “(c) By July 1 of each calendar year, a distributor or importer that does
30 not participate in a distributor cooperative shall provide the commission

1 with a report that lists the distributor's or the importer's beverage container
2 return data for the previous calendar year, calculated separately for glass,
3 metal and plastic beverage containers.

4 “(8)(a) By August 1 of each calendar year, using the beverage container
5 return data provided in subsection (7)(b) of this section, the Oregon Liquor
6 and Cannabis Commission shall calculate the previous calendar year's per-
7 centage of beverage containers returned for the refund value specified in
8 ORS 459A.705 for each distributor cooperative. The commission shall carry
9 out the calculation separately for glass, metal and plastic beverage contain-
10 ers and shall post the percentages on the commission's website.

11 “(b) By August 1 of each calendar year, using the beverage container re-
12 turn data provided in subsection (7)(c) of this section, the commission shall
13 calculate the previous calendar year's percentage of beverage containers re-
14 turned for the refund value specified in ORS 459A.705 for each distributor
15 or importer that does not participate in a distributor cooperative. The com-
16 mission shall carry out the calculation separately for glass, metal and plastic
17 beverage containers and shall post the percentages on the commission's
18 website.

19 “(c) By August 1 of each calendar year, using the beverage container re-
20 turn data provided in subsection (7)(b) and (c) of this section, the commission
21 shall calculate the previous calendar year's percentage of beverage contain-
22 ers returned for the refund value specified in ORS 459A.705 for all distribu-
23 tors and importers in Oregon. The commission shall carry out the calculation
24 for all beverage containers, and separately for glass, metal and plastic
25 beverage containers, and shall post the percentages on the commission's
26 website.

27 “(d) Except for the percentages described in paragraphs (a) to (c) of this
28 subsection or in a proceeding under ORS 459A.717 for a violation of sub-
29 section (7) of this section, the commission may not disclose any information
30 provided by a distributor, an importer or a distributor cooperative under

1 subsection (7) of this section.

2 “(9)(a) In order to determine compliance with the provisions of subsection
3 (7) of this section, within six months of the date that the commission re-
4 ceives a report described in subsection (7)(b) and (c) of this section, the
5 commission may review or audit the records of each reporting distributor
6 cooperative, or each reporting distributor or importer that does not partic-
7 ipate in a distributor cooperative.

8 “(b)(A) If in the course of a review described in paragraph (a) of this
9 subsection the commission determines that an audit of a distributor cooper-
10 ative, distributor or importer is necessary, the commission shall require the
11 distributor cooperative, distributor or importer to retain an independent fi-
12 nancial audit firm to determine the accuracy of information contained in the
13 report. The distributor cooperative, distributor or importer that is the sub-
14 ject of review shall pay the costs of the audit. The audit must be limited to
15 the records described in paragraph (a) of this subsection.

16 “(B) The commission shall adopt rules to carry out the provisions of this
17 paragraph.

18 **“(10) No later than February 15 of each year, a distributor cooper-**
19 **ative shall submit to the commission, and to the appropriate commit-**
20 **tees of the Legislative Assembly in the manner provided under ORS**
21 **192.245, a report that describes sites, options and access points added**
22 **during the previous calendar year and expansion priorities for the**
23 **current calendar year. The report must include a description of the**
24 **distributor cooperative’s efforts to expand and enhance alternative**
25 **redemption access opportunities for individuals who redeem containers**
26 **on a daily or near daily basis.**

27 **“SECTION 7. (1) Sections 2 and 3 of this 2022 Act and the amend-**
28 **ments to ORS 459A.715, 459A.717 and 459A.718 by sections 4 to 6 of this**
29 **2022 Act become operative on January 1, 2023.**

30 **“(2) The Oregon Liquor and Cannabis Commission may adopt rules**

1 **and take any action before the operative date specified in subsection**
2 **(1) of this section that is necessary to enable the commission, on and**
3 **after the operative date specified in subsection (1) of this section, to**
4 **exercise all of the duties, powers and functions conferred on the**
5 **commission by sections 2 and 3 of this 2022 Act and the amendments**
6 **to ORS 459A.715, 459A.717 and 459A.718 by sections 4 to 6 of this 2022**
7 **Act.**

8 **“SECTION 8.** ORS 459A.702 is amended to read:

9 “459A.702. ORS 459A.700 to 459A.744 apply to:

10 “(1) Any individual, separate, sealed glass, metal or plastic bottle or can,
11 except for a carton, foil pouch, drink box or metal container that requires
12 a tool to be opened, that contains any one of the following beverages, in-
13 tended for human consumption and in a quantity less than or equal to three
14 liters:

15 “(a) Water or flavored water;

16 “(b) Beer or another malt beverage;

17 “(c) Mineral water, soda water or a similar carbonated soft drink;

18 “(d) Kombucha; or

19 “(e) Hard seltzer.

20 **“(2) Wine in a can.**

21 “[2)] **(3)** Any beverage other than those specified in [*subsection (1)*] **sub-**
22 **sections (1) and (2)** of this section that is intended for human consumption
23 and is in a quantity more than or equal to four fluid ounces and less than
24 or equal to one and one-half liters, except distilled liquor, wine **in a con-**
25 **tainer other than a can**, dairy or plant-based milks, infant formula and any
26 other exemptions set forth in rule by the Oregon Liquor and Cannabis
27 Commission.

28 **“SECTION 9.** ORS 459A.705 is amended to read:

29 “459A.705. (1) Except as provided in subsections (2) and (3) of this section,
30 every beverage container sold or offered for sale in this state shall have a

1 refund value of not less than five cents.

2 “(2)(a) Every beverage container sold or offered for sale in this state shall
3 have a refund value of not less than 10 cents, beginning on the later of:

4 “(A) Eight months after the Oregon Liquor and Cannabis Commission
5 determines that, in each of the two previous calendar years, the number of
6 beverage containers returned for the refund value specified in this section
7 was less than 80 percent of the total number of beverage containers that
8 were sold in this state; or

9 “(B) January 1 of the calendar year following the determination by the
10 commission described in subparagraph (A) of this paragraph.

11 “(b) In making a determination under this subsection, the commission may
12 not include the beverages described in ORS 459A.702 [(2)] (3) before January
13 1, 2021.

14 “(3) Every beverage container certified as provided in ORS 459A.725, sold
15 or offered for sale in this state, shall have a refund value of not less than
16 two cents.

17 **“SECTION 10. (1) The amendments to ORS 459A.702 and 459A.705
18 by sections 8 and 9 of this 2022 Act become operative on July 1, 2025.**

19 **“(2) The Oregon Liquor and Cannabis Commission may adopt rules
20 and take any action before the operative date specified in subsection
21 (1) of this section that is necessary to enable the commission, on and
22 after the operative date specified in subsection (1) of this section, to
23 exercise all of the duties, powers and functions conferred on the
24 commission by the amendments to ORS 459A.702 and 459A.705 by
25 sections 8 and 9 of this 2022 Act.**

26 **“SECTION 11. On and after the operative date specified in section
27 10 of this 2022 Act and until October 1, 2026:**

28 **“(1) The refund value paid for a can that contains wine as described
29 in ORS 459A.702 shall be not less than 10 cents, regardless of the re-
30 fund value, or lack of a refund value, indicated on the beverage con-**

1 tainer.

2 “(2) A can that contains wine may be sold or offered for sale in this
3 state regardless of the refund value, or lack of a refund value, indi-
4 cated on the beverage container, notwithstanding ORS 459A.720 (1).

5 “SECTION 12. This 2022 Act takes effect on the 91st day after the
6 date on which the 2022 regular session of the Eighty-first Legislative
7 Assembly adjourns sine die.”.

8
