

House Bill 2502

Sponsored by Representative NOSSE (Presession filed.)

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**.

Specifies type of change in system for selling containers of distilled liquor that qualifies person appointed to operate liquor store for business loss compensation. Increases percentage of average annual gross distilled liquor sales to be paid as business loss compensation. Includes as source of moneys for business loss compensation percentage of average annual gross distilled liquor sales.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to distilled liquor sales; creating new provisions; amending ORS 471.473; and declaring an
3 emergency.

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

5 **SECTION 1.** ORS 471.473 is amended to read:

6 471.473. (1) A person appointed to operate a store established by the Oregon Liquor and
7 Cannabis Commission under ORS 471.750 qualifies for the payment of business loss compensation
8 under this section if:

9 (a) The system for selling containers of distilled liquor at retail in this state changes after the
10 person assumes operation of the store; and

11 (b) The system change results from a law that:

12 **(A) Prohibits the commission from purchasing or selling distilled liquor; or**

13 **(B) Otherwise changes the system in a manner that causes a reduction in sales of dis-**
14 **tilled liquor by a person described in this subsection.**

15 (2) The purpose of business loss compensation is to offset the actual or presumed sales reduction
16 and actual or perceived devaluation of a liquor store business following a system change described
17 in subsection (1) of this section. The commission shall pay a person qualifying under this section
18 business loss compensation equal to *[four]* **10** percent of the average annual gross distilled liquor
19 sales made by the store during the five years that preceded the system change, whether or not the
20 person was the store operator during the entire five-year period. If the store has operated less than
21 five years prior to the system change, the commission shall pay compensation equal to *[four]* **10**
22 percent of the average annual gross distilled liquor sales made by the store prior to the system
23 change.

24 (3)(a) The commission shall pay any business loss compensation due under this section from the
25 suspense account described in ORS 471.805. Except as otherwise required by federal or state law
26 or by contract, the commission shall give the payment of business loss compensation priority over
27 the payment of other debts from the suspense account.

28 (b) Notwithstanding ORS 279A.250 to 279A.290 or the revolving fund balance limit established
29 in ORS 471.805[,]:

30 **(A) If a change in the system for selling containers of distilled liquor at retail in this state re-**

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 sults in business loss compensation being payable under this section, and the commission declares
 2 within five years after the system change that a warehouse established by the commission under
 3 ORS 471.750 or the inventory of the commission is surplus property, the net proceeds from sale of
 4 the warehouse or inventory remaining after deduction of sales costs shall be deposited to the sus-
 5 pense account described in ORS 471.805.

6 **(B) If a change in the system for selling containers of distilled liquor at retail in this**
 7 **state results in business loss compensation being payable under this section but does not**
 8 **result in the commission making the declaration described in subparagraph (A) of this par-**
 9 **agraph, an amount of moneys equivalent to 10 percent of the average annual gross distilled**
 10 **liquor sales during the five years that preceded the system change in this state shall be de-**
 11 **posited to the suspense account described in ORS 471.805.**

12 (c) All moneys deposited under *[this]* paragraph **(b) of this subsection** shall be kept in a sub-
 13 account within the suspense account that indicates the source of the moneys. Notwithstanding ORS
 14 471.805, moneys deposited to the suspense account under *[this]* paragraph **(b) of this subsection**
 15 may not be transferred to the Oregon Liquor and Cannabis Commission Account if any business loss
 16 compensation is owed and remains unpaid. *[This]* Paragraph **(b) of this subsection** does not restrict
 17 the source for paying business loss compensation from the suspense account or alter the priority
 18 of business loss compensation payment established in paragraph (a) of this subsection.

19 (4) If a person that receives business loss compensation under this section brings any action
 20 against the commission for damages resulting from a change in the system for selling containers of
 21 distilled liquor at retail in this state, the business loss compensation received by the person as a
 22 result of that system change shall be an offset against any damages awarded the person in the
 23 action. This subsection does not create any new cause of action.

24 (5) Business loss compensation received by a person under this section does not affect the
 25 claiming of any tax deduction by the person for depreciation of equipment, fixtures or other property
 26 improvements, but is ordinary business income of the person, taxable as provided by law.

27 **SECTION 2. The amendments to ORS 471.473 by section 1 of this 2023 Act apply to**
 28 **changes in the system for selling containers of distilled liquor at retail in this state that**
 29 **occur on or after the effective date of this 2023 Act.**

30 **SECTION 3. This 2023 Act being necessary for the immediate preservation of the public**
 31 **peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect**
 32 **on its passage.**

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