

A-Engrossed
Senate Bill 138

Ordered by the Senate April 2
Including Senate Amendments dated April 2

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Business and Transportation)

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.

Allows brewery-public house licensee to distribute malt beverages manufactured by licensee for delivery to other premises having same owner, for export or for delivery to wholesale purchasers.

[Removes] **Increases** production limit for brewery-public house licensee selling malt beverages, produced by licensee at wholesale, to other licensees of Oregon Liquor Control Commission.

A BILL FOR AN ACT

1
2 Relating to wholesaling by brewery-public house licensees; amending ORS 471.200.

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

4 **SECTION 1.** ORS 471.200 is amended to read:

5 471.200. (1) A brewery-public house license allows the licensee:

6 (a) To manufacture on the licensed premises, store, transport, sell to wholesale malt beverage
7 and wine licensees of the Oregon Liquor Control Commission and export malt beverages;

8 (b) To sell malt beverages manufactured on or off the licensed premises at retail for consumption
9 on or off the premises;

10 (c) To sell malt beverages in brewery-sealed packages at retail directly to the consumer for
11 consumption off the premises;

12 (d) To sell on the licensed premises at retail malt beverages manufactured on or off the licensed
13 premises in unpasteurized or pasteurized form directly to the consumer for consumption off the
14 premises, delivery of which may be made in a securely covered container supplied by the consumer;

15 (e) To sell wine and cider at retail for consumption on or off the premises;

16 (f) To sell for consumption off the premises wines and cider in securely covered containers
17 supplied by the consumer and having capacities of not more than two gallons each;

18 (g) To conduct the activities, except manufacturing, described in paragraphs (a) to (f) of this
19 subsection at one location other than the premises where the manufacturing occurs; *[and]*

20 (h) To obtain a special events brewery-public house license entitling the holder to conduct the
21 activities allowed under paragraphs (b) to (f) of this subsection at a designated location other than
22 the location set forth in the brewery-public house license for a period not exceeding five days[.];

23 (i) **To distribute malt beverages manufactured at the licensed premises to any other**
24 **premises licensed to the same licensee, whether a manufacturer, wholesaler or retail prem-**
25 **ises; and**

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 **(j) To distribute for export, in any amount, malt beverages manufactured at the licensed**
 2 **premises.**

3 (2) In addition to the privileges specified in subsection (1) of this section, in any calendar year
 4 a brewery-public house licensee may sell at wholesale **and distribute** to licensees of the commission
 5 **no more than 7,500 barrels of** malt beverages produced by the brewery-public house licensee [*if*
 6 *the brewery-public house licensee produced 5,000 barrels or less of malt beverages in the immediately*
 7 *preceding calendar year*].

8 (3) A brewery-public house licensee, or any person having an interest in the licensee, is a retail
 9 licensee for the purposes of ORS 471.394 and, except as otherwise provided by this section and ORS
 10 471.396, may not acquire or hold any right, title, lien, claim or other interest, financial or otherwise,
 11 in, upon or to the premises, equipment, business or merchandise of any manufacturer or wholesaler,
 12 as defined in ORS 471.392. A brewery-public house licensee, or any person having an interest in the
 13 licensee, is also a manufacturer for the purposes of ORS 471.398 and, except as otherwise provided
 14 by this section and ORS 471.400, may not acquire or hold any right, title, lien, claim or other in-
 15 terest, financial or otherwise, in, upon or to the premises, equipment, business or merchandise of
 16 any other retail licensee, as defined in ORS 471.392.

17 (4) A brewery-public house licensee, or any person having an interest in the licensee, is a retail
 18 licensee for the purposes of ORS 471.398 and, except as otherwise provided by this section and ORS
 19 471.400, may not accept directly or indirectly any financial assistance described in ORS 471.398 from
 20 any manufacturer or wholesaler, as defined in ORS 471.392. A brewery-public house licensee, or any
 21 person having an interest in the licensee, is also a manufacturer for the purposes of ORS 471.398
 22 and, except as otherwise provided by this section and ORS 471.400, may not provide directly or in-
 23 directly any financial assistance described in ORS 471.398 to any retail licensee, as defined in ORS
 24 471.392. The prohibitions on financial assistance in ORS 471.398 do not apply to financial assistance
 25 between manufacturing and retail businesses licensed to the same person under the provisions of
 26 this section.

27 (5) Notwithstanding subsection (3) of this section, a brewery-public house licensee, or any person
 28 having an interest in the licensee, may also hold a winery license authorized by ORS 471.223. A
 29 brewery-public house licensee, or any person having an interest in the licensee, may also hold a
 30 warehouse license authorized by ORS 471.242.

31 (6) Notwithstanding subsection (3) of this section, a brewery-public house licensee is eligible for
 32 limited on-premises sales licenses and temporary sales licenses.

33 (7)(a) Notwithstanding subsection (3) of this section, and except as provided in this subsection,
 34 a brewery-public house licensee, or any person having an interest in the licensee, may also hold a
 35 full on-premises sales license. If a person holds both a brewery-public house license and a full on-
 36 premises sales license, nothing in this chapter shall prevent the sale by the licensee of both distilled
 37 liquor and malt beverages manufactured under the brewery-public house license.

38 (b) The commission may not issue a full on-premises sales license to a brewery-public house
 39 licensee under the provisions of this subsection if the brewery-public house licensee, or any person
 40 having an interest in the licensee or exercising control over the licensee, is a brewery that brews
 41 more than 200,000 barrels of malt beverages annually or a winery that produces more than 200,000
 42 gallons of wine annually.

43 (8) Notwithstanding any other provision of this chapter, a brewery-public house licensee, or any
 44 person having an interest in the licensee, may also hold a distillery license. No provision of this
 45 chapter prevents a brewery-public house licensee that also holds a distillery license from being ap-

1 pointed by the commission as the distillery's retail outlet agent for the purpose of selling distilled
2 liquors under ORS 471.230.

3 (9) Notwithstanding subsection (3) of this section, the commission by rule may authorize a
4 brewery-public house licensee to coproduce special events with other manufacturers.

5 (10)(a) Notwithstanding subsection (3) of this section, a brewery-public house licensee may hold,
6 directly or indirectly, an interest in a manufacturer or wholesaler, provided that the interest does
7 not result in exercise of control over, or participation in the management of, the manufacturer's or
8 wholesaler's business or business decisions and does not result in exclusion of any competitor's
9 brand of alcoholic liquor.

10 (b) Notwithstanding subsection (3) of this section, a manufacturer or wholesaler, and any officer,
11 director or substantial stockholder of any corporate manufacturer or wholesaler, may hold, directly
12 or indirectly, an interest in a brewery-public house licensee, provided that the interest does not re-
13 sult in exercise of control over, or participation in the management of, the licensee's business or
14 business decisions and does not result in exclusion of any competitor's brand of alcoholic liquor.

15 (11) For purposes of ORS chapter 473, a brewery-public house licensee shall be considered to
16 be a manufacturer.

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