

# Senate Bill 590

Sponsored by Senator PROZANSKI, Representative HOLVEY (at the request of Oregon Brewers Guild) (Pre-session 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**.

Conditionally limits space considered to be occupied by dealer for purposes of obligation to redeem beverage containers.

Clarifies that brewery licensee and brewery-public house licensee may deliver malt beverages, wine or cider directly to consumer only if holding direct shipper permit.

Repeals alcohol percentage limit for malt beverage labeled or otherwise designated as beer.

## A BILL FOR AN ACT

1  
2 Relating to beverages; creating new provisions; amending ORS 471.200 and 471.221; and repealing  
3 ORS 471.448.

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

5 **SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS 459A.700 to**  
6 **459A.740.**

7 **SECTION 2. For purposes of ORS 459A.710 and 459A.715, the space that a dealer occupies**  
8 **equals the retail space if:**

9 (1) **The retail space is less than 5,000 square feet; and**

10 (2) **The retail space occupies less than 50 percent of the single area.**

11 **SECTION 3. ORS 471.200 is amended to read:**

12 471.200. (1) A brewery-public house license allows the licensee:

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

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

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

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

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

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

25 (g) To conduct the activities, except manufacturing, described in paragraphs (a) to (f) of this  
26 subsection at two locations other than the premises where the manufacturing occurs;

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

**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 (i) To distribute malt beverages manufactured at the licensed premises to any other premises  
2 licensed to the same licensee, whether a manufacturer, wholesaler or retail premises; and

3 (j) To distribute for export, in any amount, malt beverages manufactured at the licensed prem-  
4 ises.

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

8 **(3) A brewery-public house licensee may sell and ship malt beverages, wine or cider di-**  
9 **rectly to a resident of this state only if the licensee has a direct shipper permit issued under**  
10 **ORS 471.282.**

11 [(3)] (4) A brewery-public house licensee, or any person having an interest in the licensee, is a  
12 retail licensee for the purposes of ORS 471.394 and, except as otherwise provided by this section and  
13 ORS 471.396, may not acquire or hold any right, title, lien, claim or other interest, financial or  
14 otherwise, in, upon or to the premises, equipment, business or merchandise of any manufacturer or  
15 wholesaler, as defined in ORS 471.392. A brewery-public house licensee, or any person having an  
16 interest in the licensee, is also a manufacturer for the purposes of ORS 471.398 and, except as oth-  
17 erwise provided by this section and ORS 471.400, may not acquire or hold any right, title, lien, claim  
18 or other interest, financial or otherwise, in, upon or to the premises, equipment, business or mer-  
19 chandise of any other retail licensee, as defined in ORS 471.392.

20 [(4)] (5) A brewery-public house licensee, or any person having an interest in the licensee, is a  
21 retail licensee for the purposes of ORS 471.398 and, except as otherwise provided by this section and  
22 ORS 471.400, may not accept directly or indirectly any financial assistance described in ORS 471.398  
23 from any manufacturer or wholesaler, as defined in ORS 471.392. A brewery-public house licensee,  
24 or any person having an interest in the licensee, is also a manufacturer for the purposes of ORS  
25 471.398 and, except as otherwise provided by this section and ORS 471.400, may not provide directly  
26 or indirectly any financial assistance described in ORS 471.398 to any retail licensee, as defined in  
27 ORS 471.392. The prohibitions on financial assistance in ORS 471.398 do not apply to financial as-  
28 sistance between manufacturing and retail businesses licensed to the same person under the pro-  
29 visions of this section.

30 [(5)] (6) Notwithstanding subsection [(3)] (4) of this section, a brewery-public house licensee, or  
31 any person having an interest in the licensee, may also hold a winery license authorized by ORS  
32 471.223. A brewery-public house licensee, or any person having an interest in the licensee, may also  
33 hold a warehouse license authorized by ORS 471.242.

34 [(6)] (7) Notwithstanding subsection [(3)] (4) of this section, a brewery-public house licensee is  
35 eligible for limited on-premises sales licenses and temporary sales licenses.

36 [(7)] (8) Notwithstanding subsection [(3)] (4) of this section, a brewery-public house licensee, or  
37 any person having an interest in the licensee, may also hold a full on-premises sales license. If a  
38 person holds both a brewery-public house license and a full on-premises sales license, nothing in this  
39 chapter shall prevent the sale by the licensee of both distilled liquor and malt beverages manufac-  
40 tured under the brewery-public house license.

41 [(8)] (9) Notwithstanding any other provision of this chapter, a brewery-public house licensee,  
42 or any person having an interest in the licensee, may also hold a distillery license. No provision of  
43 this chapter prevents a brewery-public house licensee that also holds a distillery license from being  
44 appointed by the commission as the distillery's retail outlet agent for the purpose of selling distilled  
45 liquors under ORS 471.230.

1        [(9)] (10) Notwithstanding subsection [(3)] (4) of this section, the commission by rule may au-  
 2        thorize a brewery-public house licensee to coproduce special events with other manufacturers.

3        [(10)(a)] (11)(a) Notwithstanding subsection [(3)] (4) of this section, a brewery-public house  
 4        licensee may hold, directly or indirectly, an interest in a manufacturer or wholesaler, provided that  
 5        the interest does not result in exercise of control over, or participation in the management of, the  
 6        manufacturer's or wholesaler's business or business decisions and does not result in exclusion of any  
 7        competitor's brand of alcoholic liquor.

8        (b) Notwithstanding subsection [(3)] (4) of this section, a manufacturer or wholesaler, and any  
 9        officer, director or substantial stockholder of any corporate manufacturer or wholesaler, may hold,  
 10        directly or indirectly, an interest in a brewery-public house licensee, provided that the interest does  
 11        not result in exercise of control over, or participation in the management of, the licensee's business  
 12        or business decisions and does not result in exclusion of any competitor's brand of alcoholic liquor.

13        [(11)] (12) For purposes of ORS chapter 473, a brewery-public house licensee shall be considered  
 14        to be a manufacturer.

15        **SECTION 4.** ORS 471.221 is amended to read:

16        471.221. (1) As used in this section, "common control" means:

17        (a) That a manufacturer, or any officer, director, substantial stockholder or other substantial  
 18        equity holder in the manufacturer:

19        (A) Directly or indirectly holds 50 percent or more interest in the brewery licensee; or

20        (B) Has authority to direct the management of the brewery licensee; or

21        (b) That a brewery licensee, or any officer, director, substantial stockholder or other substantial  
 22        equity holder in the brewery licensee:

23        (A) Directly or indirectly holds 50 percent or more interest in another manufacturer; or

24        (B) Has authority to direct the management of another manufacturer.

25        (2) A brewery license authorizes the licensee to:

26        (a) Manufacture malt beverages on the licensed premises.

27        (b) Sell to wholesale malt beverage and wine licensees, import, store, transport or export:

28        (A) Malt beverages produced on the licensed premises; or

29        (B) Malt beverages of a brand produced by a manufacturer that is under common control with  
 30        the brewery licensee.

31        (c) Sell wine, malt beverages or cider on the licensed premises at retail for consumption on or  
 32        off the licensed premises.

33        (d) Sell, in securely covered containers supplied by the consumer and having a capacity of not  
 34        more than two gallons each, wine, malt beverages or cider for off-premises consumption.

35        (e) Obtain a special events brewery license that entitles the holder to conduct the activities al-  
 36        lowed under paragraphs (c) and (d) of this subsection at a designated location other than the one  
 37        set forth in the brewery license for a period not exceeding five days.

38        (f) Notwithstanding ORS 471.392 to 471.400, subject to ORS 471.175, hold a full on-premises sales  
 39        license.

40        (g) Conduct any activities authorized under paragraph (c), (d) or (f) of this subsection at up to  
 41        two additional locations approved by the commission.

42        (3) Subject to ORS 471.235, a brewery licensee may hold a wholesale malt beverage and wine  
 43        license. A brewery licensee must hold a wholesale malt beverage and wine license if the brewery  
 44        licensee:

45        (a) Imports, stores, transports or exports malt beverages of brands that are not produced by the

1 licensee or a manufacturer under common control with the licensee; or

2 (b) Except as provided in this paragraph, sells or distributes malt beverages. This paragraph  
3 does not apply to malt beverages described in subsection (2)(a) or (b) of this section sold at a li-  
4 censed premises described in subsection (2)(a) of this section.

5 **(4) A brewery licensee may sell and ship malt beverages, wine or cider directly to a res-**  
6 **ident of this state only if the licensee has a direct shipper permit issued under ORS 471.282.**

7 [(4)] (5) A brewery licensee and a winery licensee may not be under common control unless the  
8 winery licensee:

9 (a) Uses its premises to produce wine or cider; and

10 (b) Holds a valid producer and blender basic permit issued by the federal Alcohol and Tobacco  
11 Tax and Trade Bureau.

12 [(5)] (6) Notwithstanding any other provision of this chapter, a brewery licensee, a manufacturer  
13 that is under common control with the brewery licensee or any officer, director, substantial stock-  
14 holder or other substantial equity holder in the brewery licensee or in a manufacturer that is under  
15 common control with the brewery licensee may not sell malt beverages at retail at more than three  
16 locations in this state regardless of the number or type of licenses held by the licensee, manufac-  
17 turer, officer, director, stockholder or equity holder.

18 **SECTION 5. ORS 471.448 is repealed.**

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