

# Enrolled House Bill 3145

Sponsored by Representatives BERGER, CANNON, Senators DINGFELDER, HASS; Senators BATES, BURDICK, DEVLIN, EDWARDS, MONNES ANDERSON, MONROE, PROZANSKI, ROSENBAUM, VERGER

CHAPTER .....

AN ACT

Relating to beverage containers; creating new provisions; and amending ORS 459A.700, 459A.705 and 471.501.

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

## BEVERAGE CONTAINERS

**SECTION 1.** ORS 459A.700 is amended to read:

459A.700. As used in ORS 459.992 (3) and (4) and 459A.700 to 459A.740, unless the context requires otherwise:

(1) "Beverage" *[means water and flavored water, beer or other malt beverages and mineral waters, soda water and similar carbonated soft drinks in liquid form and intended for human consumption]* **means a fluid described in section 2 of this 2011 Act.**

(2)[(a)] "Beverage container" *[means an individual, separate, sealed glass, metal or plastic bottle or can containing a beverage in a quantity less than or equal to three fluid liters]* **means a container described in section 2 of this 2011 Act.**

*[(b) "Beverage container" does not include cartons, foil pouches and drink boxes.]*

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

(4) "Consumer" means every person who purchases a beverage in a beverage container for use or consumption.

(5) "Dealer" means every person in this state who engages in the sale of beverages in beverage containers to a consumer, or means a redemption center certified under ORS 459A.735.

(6) "Distributor" means every person who engages in the sale of beverages in beverage containers to a dealer in this state including any manufacturer who engages in such sales.

(7) "Importer" means any dealer or manufacturer who directly imports beverage containers into this state.

(8) "In this state" means within the exterior limits of the State of Oregon and includes all territory within these limits owned by or ceded to the United States of America.

(9) "Manufacturer" means every person bottling, canning or otherwise filling beverage containers for sale to distributors, importers or dealers.

(10) "Place of business of a dealer" means the location at which a dealer sells or offers for sale beverages in beverage containers to consumers.

(11) "Use or consumption" includes the exercise of any right or power over a beverage incident to the ownership thereof, other than the sale or the keeping or retention of a beverage for the purposes of sale.

(12) "Water and flavored water" means any beverage identified through the use of letters, words or symbols on its product label as a type of water.

**SECTION 2.** (1) Except as provided in subsection (2) of this section, ORS 459A.700 to 459A.740 apply to any individual, separate, sealed glass, metal or plastic bottle or can, except for cartons, foil pouches and drink boxes, that contains the following beverages, intended for human consumption and in a quantity less than or equal to three fluid liters:

- (a) Water and flavored water;
- (b) Beer or other malt beverages; and
- (c) Mineral waters, soda water and similar carbonated soft drinks.

(2) One year after the date on which the Oregon Liquor Control Commission determines that at least 60 percent of the beverage containers returned for the refund value specified in ORS 459A.705 are returned statewide to redemption centers approved under ORS 459A.735, or on January 1, 2018, whichever comes first, ORS 459A.700 to 459A.740 apply to any individual, separate, sealed glass, metal or plastic bottle or can, except for cartons, foil pouches, drink boxes and metal containers that require a tool to be opened, that contains:

(a) The following beverages, intended for human consumption and in a quantity less than or equal to three fluid liters:

- (A) Water and flavored water;
- (B) Beer or other malt beverages; and
- (C) Mineral waters, soda water and similar carbonated soft drinks.

(b) Any beverage other than those specified in paragraph (a) of this subsection that is intended for human consumption and is in a quantity more than or equal to four fluid ounces and less than or equal to one and one-half fluid liters, except distilled liquor, wine, dairy or plant-based milks, infant formula and any other exemptions set forth in rule of the Oregon Liquor Control Commission.

#### 10-CENT REFUND VALUE

**SECTION 3.** ORS 459A.705 is amended to read:

459A.705. (1) Except as provided in [subsection (2)] subsections (2) and (3) of this section, every beverage container sold or offered for sale in this state shall have a refund value of not less than five cents.

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

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

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

(b) The commission may not make a determination under this subsection before January 1, 2016.

(c) In making a determination under this subsection, the commission may not include the beverage containers and beverages described in section 2 (2)(b) of this 2011 Act before January 1, 2021.

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

**SECTION 4.** ORS 471.501 is amended to read:

471.501. Nothing in this chapter prevents a brewery licensed under ORS 471.220 or a brewery-public house licensed under ORS 471.200 from establishing a refund value for malt beverage containers under the provisions of ORS 459A.705 that is in excess of five cents, **or in excess of 10 cents as described in ORS 459A.705 (2)**, per container for the purpose of encouraging purchasers to return the containers directly to the brewery or brewery-public house. A refund value in excess of five cents, **or in excess of 10 cents as described in ORS 459A.705 (2)**, per container may be paid under this section only to persons who are not licensed under this chapter and who return the containers directly to the brewery or brewery-public house.

## PILOT PROJECT

**SECTION 5. (1)(a) Pursuant to the provisions of ORS 459A.735, the Oregon Liquor Control Commission shall approve one beverage container redemption center pilot project in a city having a population of less than 300,000, operated by a distributor cooperative serving a majority of the dealers in this state.**

**(b) Notwithstanding any other provision of ORS 459A.700 to 459A.740, the beverage container redemption center operated under the pilot project may not refuse to accept and to pay the refund value of up to 300 individual empty beverage containers, as established by ORS 459A.705, returned by any one person during one day.**

**(2)(a) The commission shall specify two convenience zones for the pilot project. The first convenience zone shall be the sector within the one and one-half mile radius around the beverage container redemption center pilot project, and the second convenience zone shall be the sector within the three mile radius around the beverage container redemption center pilot project.**

**(b) All dealers doing business within the first convenience zone that occupy a space of 5,000 or more square feet in a single area may participate in, and be served by, the pilot project and, if such a dealer participates in, and is served by, the pilot project, the dealer may, notwithstanding any other provision of ORS 459A.700 to 459A.740, refuse to accept and to pay the refund value of empty beverage containers.**

**(c) All dealers doing business within the second convenience zone that occupy a space of 5,000 or more square feet in a single area may participate in, and be served by, the pilot project and, if such a dealer participates in, and is served by, the pilot project, the dealer may, notwithstanding any other provision of ORS 459A.700 to 459A.740, refuse to accept and to pay the refund value of more than 24 individual empty beverage containers returned by any one person during one day.**

**(d) All dealers doing business within either convenience zone that occupy a space of less than 5,000 square feet in a single area may, notwithstanding any other provision of ORS 459A.700 to 459A.740, refuse to accept and to pay the refund value of more than 24 individual empty beverage containers returned by any one person during one day.**

**(e) Any dealer doing business in either convenience zone that occupies a space of 5,000 or more square feet in a single area that does not participate in, and is not served by, the pilot project may not refuse to accept and to pay the refund value of up to 300 individual empty beverage containers, as established by ORS 459A.705, returned by any one person during one day and must provide services similar to those provided by the pilot project, including hand counting of individual empty beverage containers that are returned for the refund value established by ORS 459A.705.**

**(3) The commission may adopt all rules necessary to implement and administer the provisions of this section.**

## MISCELLANEOUS

**SECTION 6.** Sections 2 and 5 of this 2011 Act are added to and made a part of ORS 459A.700 to 459A.740.

**UNIT CAPTIONS**

**SECTION 7.** The unit captions used in this 2011 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2011 Act.

**Passed by House May 4, 2011**

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Ramona Kenady Line, Chief Clerk of House

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

**Passed by Senate May 25, 2011**

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Peter Courtney, President of Senate

**Received by Governor:**

.....M,....., 2011

**Approved:**

.....M,....., 2011

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John Kitzhaber, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2011

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Kate Brown, Secretary of State