House Bill 3270

Sponsored by Representative HELM

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.


Imposes tax on certain beverages sold at wholesale in this state. Provides that wholesale beverage tax is liability of distributor. Authorizes distributor to collect tax from purchaser. Requires moneys received by Department of Revenue pursuant to tax to be transferred to Oregon Conservation and Recreation Fund.

Applies to beverages sold on or after January 1, 2019.

Refers Act to people for their approval or rejection at next regular general election.

A BILL FOR AN ACT

Relating to the taxation of beverages to fund state wildlife resource conservation; providing for revenue raising that requires approval by a three-fifths majority; and providing that this Act be referred to the people for their approval or rejection.

Whereas Oregon residents have a strong and growing interest in healthy populations of native flora and fauna and the habitat that sustains them; and

Whereas it is in the state’s interest to conserve the natural resources under its jurisdiction and connect this state’s diverse residents to those natural resources through education and outdoor recreation opportunities; and

Whereas these efforts currently rely heavily on revenue from the sale of fishing and hunting licenses and related federal excise taxes; and

Whereas House Bill 2402 (chapter 712, Oregon Laws 2015) recognized that it is in the state’s interest to diversify and broaden this revenue stream in order to support the actions needed to protect and enhance Oregon’s fish and wildlife and their habitats for the use and enjoyment by present and future generations; and

Whereas a task force, created pursuant to House Bill 2402, recommends the creation of the Oregon Conservation and Recreation Fund to be administered by the State Fish and Wildlife Commission for activities that protect, maintain and enhance the native fish and wildlife of the state; and

Whereas the task force recommended that moneys in the new fund specifically be used to enhance the conservation and management of the native fish and wildlife of this state, improve hunting and fishing opportunities, reduce hunting and fishing license fees, and connect Oregonians with the outdoors; and

Whereas the task force identified a funding mechanism, consisting of a wholesale tax on beverages subject to the Oregon Bottle Bill; and

Whereas the Legislative Assembly intends to refer this issue to Oregon voters; now, therefore,

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

SECTION 1. (1) The Oregon Conservation and Recreation Fund is established in the State

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.

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Treasury, separate and distinct from the General Fund. Interest earned by the Oregon Con-

(2) Moneys in the fund are continuously appropriated to the State Fish and Wildlife 
Commission to carry out conservation, wildlife management and habitat improvement activ-
ities, and other activities under the wildlife laws that serve to protect, maintain or enhance 

(3) The fund shall consist of:
   (a) Moneys transferred to the fund under section 9 of this 2017 Act;
   (b) Moneys appropriated or otherwise transferred to the fund; and
   (c) Gifts, grants, contributions or other donations received by the commission from any
       public or private source.

   (2) (a) A tax is imposed on the sale at wholesale of beverages in this state.
   (b) The tax is imposed at the rate of 2.34 percent of the total wholesale price of a 
   beverage.

   (3) A distributor may collect the tax imposed under this section from the purchaser at 

   (4) Notwithstanding subsection (3) of this section, the wholesale beverage tax is a liability 

   of the distributor.

SECTION 2. (1) As used in sections 1 to 10 of this 2017 Act:
   (a) “Beverage” means a beverage listed in ORS 459A.702 (1).
   (b) “Distributor” has the meaning given that term in ORS 459A.700.
   (c) “Wholesale beverage tax” means the tax imposed under this section.

SECTION 3. Every distributor shall:
   (1) Keep records and render statements sufficient to show whether there is a wholesale 

   (2) Comply with rules adopted by the Department of Revenue with respect to the whole-

SECTION 4. (1) Every distributor is liable for the wholesale beverage tax and shall file a 

   (2) The distributor may withhold an administrative reimbursement charge of five percent 

   (3) When a return is required under subsection (1) of this section, the distributor re-

SECTION 5. If the amount paid by a distributor to the Department of Revenue under 

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SECTION 6. (1) Every distributor is deemed to hold the amount of wholesale beverage taxes due under section 4 of this 2017 Act in trust for the State of Oregon and for payment to the Department of Revenue in the manner and at the time provided under section 4 of this 2017 Act.

(2) At any time the distributor fails to remit any amount of wholesale beverage taxes deemed to be held in trust for the State of Oregon, the department may enforce collection by the issuance of a distraint warrant for the collection of the delinquent amount and all penalties, interest and collection charges accrued on the delinquent amount. The warrant shall be issued, docketed and proceeded upon in the same manner and shall have the same force and effect as warrants for the collection of delinquent income taxes.

SECTION 7. Unless the context requires otherwise, the provisions of ORS chapters 305, 314 and 316 governing the audit and examination of reports and returns, confidentiality of reports and returns, determination of deficiencies, assessments, claims for refunds, penalties, interest, jeopardy assessments, warrants, conferences and appeals to the Oregon Tax Court, and related procedures, apply to sections 1 to 10 of this 2017 Act as if the wholesale beverage tax were a tax imposed upon or measured by net income.

SECTION 8. (1) Public records of moneys received by the Department of Revenue pursuant to sections 1 to 10 of this 2017 Act are exempt from disclosure under ORS 192.410 to 192.505. Nothing in this section shall limit the use that can be made of such information for regulatory purposes or its use and admissibility in any enforcement proceedings.

(2) If a conflict is found to exist between subsection (1) of this section and ORS 314.835, ORS 314.835 controls.

SECTION 9. (1) All moneys received by the Department of Revenue pursuant to sections 1 to 10 of this 2017 Act and interest on the moneys shall be paid to the State Treasurer to be held in a suspense account established under ORS 293.445.

(2) After the payment of refunds under section 5 of this 2017 Act:

(a) Moneys necessary to reimburse the Department of Revenue for the actual costs incurred by the department in administering the wholesale beverage tax, not to exceed two percent of wholesale beverage tax collections, are continuously appropriated to the department; and

(b) The balance of the moneys received shall be transferred to the Oregon Conservation and Recreation Fund established in section 1 of this 2017 Act.

SECTION 10. (1) The State Fish and Wildlife Commission shall keep a record of all moneys deposited in the Oregon Conservation and Recreation Fund.

(2) The record shall indicate by separate cumulative accounts the source from which the moneys are derived and the individual activity or program against which each withdrawal is charged.

(3) Notwithstanding the confidentiality provisions of section 7 of this 2017 Act, the commission shall use the record created under this section to report, in the budget documents of the commission submitted to the Legislative Assembly, on the use of these funds for the benefit and conservation of the native fish and wildlife of this state. The report may not contain information from which information about a particular taxpayer may be determined.

SECTION 11. Section 2 of this 2017 Act applies to beverages sold by a distributor to a purchaser at wholesale on or after January 1, 2019.
SECTION 12. This 2017 Act shall be submitted to the people for their approval or rejection at the next regular general election held throughout this state.