



2021 LEGISLATIVE SESSION SUMMARY

Rosetta Shatkin | August 3, 2021



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ALCOHOL POLICY LEGISLATION

The way that alcohol is regulated in Oregon is in a period of modernization. During this year's historic session, policies were defined in large part, by the strains impacting the alcohol industry. This included the COVID-19 pandemic, the 2020 Oregon Wildfires and their related economic fallout. This 2021 legislative session report contains a brief preliminary report, links and related budget analysis impacting the rulemaking process.

At the start of the 2021 session in January, the Legislature consolidated several bills within House Bill 2264 (HB 2264) to advance legislative priorities by the Governor and legislators (on behalf of OLCC), as well as meeting the demands of a virtual session. OLCC staff worked with the Governor and the legislature to secure a variety of technical and policy changes, as highlighted in HB 2264, SB 750, and SB 806 to name a few. Many of the changes to law this session were motivated by the need to modernize components of the alcohol program in response to evolving business models and the challenges of today. It is clear that there is momentum behind the changes to alcohol policy and Oregon is likely to see the trend toward modernization continue in the coming years.

The OLCC serves the State of Oregon as a partner in public safety, as a resource for businesses, and a key revenue-generator for the state. The agency takes each of these roles very seriously. Coming out of session, there were some significant changes to law requiring implementation by the agency in the form of rulemaking as well as policy and process development. Staff are also tasked with communicating these changes to impacted stakeholders through means that are accessible and easy to understand. This work is ongoing as staff implement rules and develop guidance to aid the industry.

Continuing the conversation: public health and alcohol regulation in Oregon
In an effort to develop a comprehensive approach for the 2021 legislative session to the challenges presented by addiction, prevention, treatment, and recovery, the Oregon Alcohol and Drug Policy Commission (ADPC), Oregon Health Authority's Public Health Division (OHA-PHD) and the OLCC collaborated on developing and supporting solutions to address these issues within our respective regulatory areas. OLCC staff worked closely with key stakeholders and legislators to address the increasing dependency rates among Oregonians. Although not all successful, additional proposed legislative changes to OLCC alcohol policies would have modernized the existing regulatory framework for alcohol deliveries in a way that promotes responsible use, lawful access and economic viability of the businesses relying on this avenue for reaching consumers in Oregon.

As Oregonians continue to adapt to a "new normal," the OLCC's directive is clear: continue to provide support to an evolving alcohol industry while also maintaining a regulatory framework that promotes responsible sales, service and consumption of alcohol.

Bill Number Brief Legislative Overview

<u>HB 2264</u>	Omnibus legislative package including negotiations with Indian tribe or airlines (HB 2112); alignment of federal definition (SB 806); Canadian ID (HB 2606); equipment to retail licensee for special event (HB 3001).
<u>HB 2363</u>	Temporary Sales Licensee to sell specified alcoholic beverages for on and off-premises consumption at more than one location, under a single temporary sales license.
<u>HB 2740</u>	Establishes compensation schedule for OLCC's retail sales agents.
<u>HB 2742</u>	Allow holders of off-premises sales license to sell factory-sealed containers of malt beverages that hold more than seven gallons.
<u>HB 3344</u>	Specifies that agents appointed by the Commission shall deposit money and report receipts monthly to commission from their retail sale of distilled liquor.
<u>HB 5018</u>	OLCC's Budget expenditures from fees, or other revenues, including miscellaneous receipts, but excluding lottery and federal funds.
<u>SB 316</u>	Rate of compensation to distillery retail outlet agents for distilled liquor retail sales by those agents.
<u>SB 317</u>	Makes permanent in statute the retail sale of mixed drinks and single servings of wine in sealed containers for off-premises consumption.
<u>SB 406</u>	Allows holder of direct shipment permits to ship up to five cases of wine, each containing not more than nine liters, per month to Oregon residents.
<u>SB 515</u>	Employees required to report reasonable belief that sex trafficking is occurring at any premises or that minors are employed or contracted as performers at premises in violation of OLCC rules.
<u>SB 750</u>	Authorizes OLCC to grant temporary letter of authority to eligible applicants for any licenses issued by the Commission.
<u>SB 806</u>	Allows for fortification of hard cider, established authorization for license fee relief, cocktails to go effective date fix.

ALCOHOL POLICY LEGISLATION

HOUSE BILL 2264: OMNIBUS TECHNICAL POLICY FIXES

INTRODUCED BY: REPRESENTATIVE JOHN LIVELY

HOUSE VOTE: Ayes-57, Nays-0, Excused-3

SENATE VOTE: Ayes-28, Nays-1, Excused-1

**House Bill
2264 -
Chapter 180,
(2021 Laws):**

Chief Sponsors: Representative John Lively

Regular Sponsors: Representatives David Gomberg, Marty Wilde

At the start of the 2021 legislative session, Chair Marty Wilde consolidated several bills relating to OLCC within HB 2264 to advance legislative priorities by the Governor and legislators, and to meet the demands of a virtual post-pandemic legislative session.

The technical policy fixes include the following:

- Alignment with federal definition for malt beverage;
- Uniformity with different states and federal government regarding licensing;
- Expanded options for accepting Canadian ID;
- Indian tribes and commercial airlines in the sale of distilled liquor (HB 2112);
- Allows nonprofits to hold events without an OLCC license
- Gives F the sell and delivery privileges of an off-premises sales license;
- Gives L the sell and delivery privileges of an off-premises sales license;
- Removes malt beverage container size limit at an O;
- Give TSL delivery privileges;
- Removes requirement to charge a license application fee;
- M/W lease or furnish identified stuff up to 14 + days;
- Removes sign requirement for liquor stores;
- Revised the amount of funds an agent must have on deposit to qualify for exemption of ORS 295.001 and 295.108;
- Revised recordkeeping from two years to three years to align with other recordkeeping requirements;
- Repeals keg tag requirement.

Effective upon passage for various provisions.

OLCC IMPLEMENTATION ACTIVITIES

2021 technical rules package: The Commission adopted temporary rules and initiated permanent rulemaking to implement sections of this bill. Rules amended include:

- 845-005-0416, 845-005-0417, 845-005-0440, 845-006-0335, 845-006-0391, 845-006-0392, 845-006-0396, 845-006-0441, 845-013-0090, 845-015-0177

Retail Sales Agent (Liquor Store) Communications: OLCC's retail services division will update Retail Sales Agents about changes to sign locations prohibitions and cash deposit flexibility.

Policy and technical staff developed a variety of public facing informational resources related to changes stemming from this bill, including:

- [Malt beverage definition change](#) (See the Hard Seltzer resources)
- [Keg Sales](#) to consumers
- [Consolidating licenses](#)
- [Canadian IDs](#)
- [Nonprofit exempt event application](#) and the [exempt event and temporary sales license guide](#)
- [Exempt event and temporary sales license guide](#) also addresses alcohol deliveries with a TSL or exempt event approval

Additional resources are forthcoming.

HOUSE BILL 2363: STREAMLINING TSL PROCESS FOR MULTIPLE LOCATIONS AND PREMISES

INTRODUCED BY: REPRESENTATIVES ANDREA SALINAS, DAVID GOMBERG

HOUSE VOTE: Ayes-53, Nays-7, Excused-0 **SENATE VOTE:** Ayes-27, Nays-1, Excused-2

[House Bill 2363 - Chapter 115, \(2021 Laws\):](#)

Chief Sponsors: Representative Andréa Salinas, David Gomberg

Regular Sponsors: Representatives Shelly Boshart Davis, Maxine Dexter, Gary Leif, Rob Nosse, Bill Post, David Smith DB, Marty Wilde, Boomer Wright,

Allows certain temporary event licenses to sell specified alcoholic beverages for on and off-premises consumption at more than one location on licensed premises or have up to three premises licensed under single temporary sales license and operate.

- Allows nonprofit, charitable organizations, and governmental entities to sell alcoholic drinks at retail

for on-site consumption or sell packaged alcoholic beverages for off-site consumption from multiple addresses as a part of the licensed premises on a single TSL application;

- Allows nonprofit TSL holders to have as many as three separate premises with sales under one temporary license;
- Nonprofit TSL holders can operate for up to 30 days under a single TSL. The days need not be consecutive.

HB 2363 benefits Oregon nonprofit entities by streamlining the application process and reducing the costs associated with obtaining a temporary sales license for multiple addresses (locations). The amendments apply to temporary sales licenses issued on or after January 1, 2021.

Effective upon passage.

OLCC IMPLEMENTATION ACTIVITIES

2021 technical rules package: The Commission adopted temporary rules and initiated permanent rulemaking to implement sections of this bill. Rules amended include:

- [845-005-0440](#)

Policy and technical staff updated a variety of public facing informational resources related to changes stemming from this bill, including:

- The [temporary sales license application for a registered nonprofit or charitable organization in Oregon](#) and the [exempt event and temporary sales license guide](#)

HOUSE BILL 2740: COMPENSATION FOR LIQUOR AGENTS

INTRODUCED BY: REPRESENTATIVE GARY LEIF

HOUSE VOTE: Ayes-54, Nays-1, Excused-4

SENATE VOTE: Ayes-24, Nays-3, Excused-3

[HB 2740](#)
[Enrolled](#)

Chief Sponsors: Representative Gary Leif
Regular Sponsors: Representatives Rick Lewis, Lily Morgan, Rob Nosse, Marty Wilde, Senator Elizabeth Steiner Hayward.

Oregon operates a “control” system, which gives the state the exclusive right to sell packaged, distilled spirits through retail liquor stores operated by contracted agents. Agents work under contract and are not considered state employees. Total compensation to agents is set through the

budget process by the Legislative Assembly; the formula for distributing compensation to agents is determined by the OLCC. The compensation is based on a fixed rate determined by the type of store and annual sales volume and a variable rate based on sales.

Agents pay most operating expenses, including rent, staffing and their own salaries and benefits. They do not purchase the inventory, as the OLCC owns the distilled spirits. HB 2740 creates a compensation schedule for OLCC retail sales agents, applicable to compensation earned on or after July 1, 2021, and calculates compensation through a classification of retail stores based on annual sales and location as well as defined wage increases.

The fiscal impact of the measure is included in [HB 5018, the budget for the OLCC](#).

HOUSE BILL 2742: MALT BEVERAGE KEGS WITH 7 GALLONS

INTRODUCED BY: REPRESENTATIVE GARY LEIF

HOUSE VOTE: Ayes-48, Nays-11, Excused-1 **SENATE VOTE:** Ayes-28, Nays-1, Excused-1

[HB 2742](#)
[Chapter 183,](#)
[\(2021 Laws\):](#)

Chief Sponsors: Representative Gary Leif
Regular Sponsors: (Pre-session filed.)

During the early stages of the COVID shutdown, Rep. Gary Leif's constituent reached out to him requesting changes to the statute that would allow the ability to sell kegs to-go would serve as an added convenience for customers, with limited availability.

- Allows for the sale of malt beverages in sealed containers larger than 7 gallons by off-premises license holders;
- Bill language rendered moot by HB 2264, Section 10 which provides the surviving language to eliminate the limit on container size for manufacturer-sealed containers sold by off-premises license holders
- Gives the commission authority to promulgate rules to implement the changes in HB 2742-1 and 2264.

This bill allows the holder of an off-premises license to sell factory-sealed containers of malt beverages that hold more than seven gallons.

Effective 91st day following adjournment sine die.

OLCC IMPLEMENTATION ACTIVITIES

- N/A
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HOUSE BILL 3344: RETAIL SALES RECEIPTS

INTRODUCED BY: REPRESENTATIVE NANCY NATHANSON

HOUSE VOTE: Ayes-58, Nays-1, Excused-1

SENATE VOTE: Ayes-27, Nays-2, Excused-1

[HB 3344](#)
[Chapter 186,](#)
[\(2021 Laws\):](#)

Chief Sponsors: Representative Nancy Nathanson, John Lively, Anna Williams

Oregon Law specified that money from the retail sale of distilled liquor that are being held by a retail sales agent or a distillery retail outlet agent are not subject to the general deposit requirements for public funds if the agent maintains an amount on deposit not less than the average daily gross receipts from the agent's retail sales. OLCC has discretion to establish a higher amount than the average daily gross receipts if a retail agent changes the deposit that Liquor Agents must retain with an OLCC account.

The bill requires that the amount to be retained by agents be calculated from all receipts from sales, not just cash. The change simplifies managing liquor store agent deposits that are maintained with the OLCC, and will base the deposits on total sales instead of just cash sales.

Effective January 1, 2022.

OLCC IMPLEMENTATION ACTIVITIES

- Retail Sales Agent (Liquor Store) Communications: OLCC's retail services division will update Retail Sales Agents about changes to the cash deposit flexibility.
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SENATE BILL 316: STATUTORY COMPENSATION FOR DISTILLERY AGENTS

INTRODUCED BY: SENATOR LEE BEYER

HOUSE VOTE: Ayes-56, Nays-2, Excused-1

SENATE VOTE: Ayes-27, Nays-1, Excused-2

[SB 316](#)
[Enrolled](#)
[Governor's](#)
[Office -](#)
[Awaiting](#)
[Signature](#)

Chief Sponsor: Senators Lee Beyer, Tim Knopp, Lynn Findley, Representatives Rob Nosse, Vikki Breese-Iverson
Regular Sponsors: Senators Kennemer, Steiner Hayward, Representatives Shelly Boshart Davis, Christine Drazan,

Jason Kropf, Lily Morgan, E. Werner Reschke, David Brock Smith, Marty Wilde

Distilleries are treated like liquor stores, but are allowed to sell their own liquor out of their tasting rooms. Each distiller is allowed a maximum of 5 tasting rooms in addition to the main distillery, for a total of 6 tasting rooms. As of 2019, there were about 65 distilleries selling liquor out of 104 tasting rooms. SB 316 Establishes rate of compensation to distillery retail outlet agents.

The compensation rate has been averaging about 16% to 17% in the last few years.

- SB 316 fixes that rate at 17% in statutes for sales over \$250,000;
- Direct the commission to pay DRO agent commissions of 45% of the retail price for the first \$250,000 in annual sales of combined retail outlets attached to each Distillery Licensee.

Tasting rooms have been experiencing strong double-digit growth prior to 2020, however, they are among the businesses that have experienced significant slowing related to the COVID pandemic.

SB 316 is effective January 2, 2022 and sunsets the legislatively established Distiller Retail Agent Compensation schedule on January 2, 2028.

SENATE BILL 317: DISTILLED LIQUOR AND MIXERS TO-GO IN SEALED CONTAINERS FOR CONSUMPTION OFF-PREMISES

INTRODUCED BY: SENATOR LEE BEYER

HOUSE VOTE: Ayes-51, Nays-7, Excused-2 **SENATE VOTE:** Ayes-26, Nays-2, Excused-2

[Senate Bill
317 - Chapter
275, 2021
Laws.](#)

Chief Sponsors: Senator Lee Beyer, Representative Rob Nosse
Regular Sponsors: Representatives Janelle Bynum, Julie Fahey, Marty Wilde

Allows holder of full on-premises sales license to make retail sales of mixed drinks and single servings of wine in sealed containers for off-premises consumption. Deliveries will be allowed by approved for-hire-carriers or a delivery person who will meet accountability criteria to be established in rule.

The OLCC has already promulgated temporary rules as part of the commission's response to the COVID-19 emergency under SB 1801 (2020).

- Adds an exception to ORS 471.175(1) that allows the sale of mixed drinks and single-servings of wine for off-premises consumption
- Defines mixed drinks as distilled liquor or wine and one or more mixers, combined and sealed on the licensed premises.
- Allows third-party delivery of mixed drinks and single servings of wine sold by licensees through third-party platforms.
- Must be in a sealed container with a sealed lid that indicates whether a container has been opened.
- OLCC to adopt rules to implement including additional requirements for the sale of mixed drinks or single servings of wine for off-premises consumption.

Effective on passage (via SB 806).

OLCC IMPLEMENTATION ACTIVITIES

Final rule amended: The Commission adopted OAR 845-006-0399 as a permanent rule at the June 2021 Commission meeting.

Policy and technical staff updated a variety of informational resources on the subject of "drinks (cocktails) to-go" which can be found [here](#).

SENATE BILL 406: DIRECT SHIPPER PERMIT FOR WINE

INTRODUCED BY: SENATORS FLOYDD PROZANSKI, BEYER (At the Request of Oregon Winegrowers Association, Oregon Wine Council)

HOUSE VOTE: Ayes-39, Nays-13, Excused-8 **SENATE VOTE:** Ayes-29, Nays-0, Excused-2

[Senate Bill
406 - Chapter
78, 2021
Laws.](#)

Chief Sponsors: Senator Prozanski, Beyer, Representative Holvey, Senator Hansell, Representative Noble
Regular Sponsors: Senators Kennemer, Manning Jr, Steiner Hayward, Thomsen, Representative Fahey, Leif, Morgan, Nosse, Smith DB, Wilde

Changes the privileges associated with a Direct Shipper permit. Oregon law previously allowed a person who holds a direct shipper permit from the OLCC to sell and ship no more than two, nine liter cases directly to any resident each month of malt beverages, wine, or cider. SB 406 increased the amount for wine to five cases, with each case containing no more than nine liters.

- Changes the privileges associated with a Direct Shipper permit;
- Allows direct shipper permittees to ship up to five nine-liter cases of wine per customer per month.

Declares an emergency and is effective upon passage.

OLCC IMPLEMENTATION ACTIVITIES

2021 technical rules package: The Commission adopted temporary rules and initiated permanent rulemaking to implement sections of this bill. Rules amended include:

- [845-006-0392](#)

Policy and technical staff created a [link](#) to the public facing informational resource related to changes stemming from SB 406.

SENATE BILL 515: REPORTING BY SERVICE PERMIT HOLDER

INTRODUCED BY: SENATOR FRED GIROD

HOUSE VOTE: Ayes-57, Nays-0, Excused-3 **SENATE VOTE:** Ayes-27, Nays-1, Excused-3

[Senate Bill
515 - Chapter
44, 2021
Laws.](#)

Chief Sponsors: Senator Fred Girod, Bill Kennemer
Regular Sponsors: Senators Lynn Findley, Bill Hansell, Tim Knopp, Kim Thatcher, Representatives Shelly Boshart Davis, Jami Cate, Cedric Hayden, Rick Lewis, Racquel Moore-Green, Kim Wallan, Marty Wilde, Jack Zika.

Trafficking victims are often subjected to physical and psychological coercion, making them unable to seek help or attempt escape from forced labor or sex trades.

Under current rules, licensees and permit holders have a duty to report illegal activity. Additionally, mandatory training on some forms of sexual abuse and exploitation, and can adapt the curriculum to include training on trafficking for sexual exploitation and commission rules governing minor performers.

SB 515 requires a service permit-holder who is employed at full or limited on-premises sales licensee to report any suspected trafficking for human sexual exploitation that is occurring at the premises.

Effective 91st day after session adjourns.

OLCC IMPLEMENTATION ACTIVITIES

- Internal OLCC task force established
- Information is forthcoming

SENATE BILL 750: TEMPORARY LETTER OF AUTHORITY

INTRODUCED BY: SENATOR LEW FRDERRICK

HOUSE VOTE: Ayes-52, Nays-8, Excused-0

SENATE VOTE: Ayes-23, Nays-4, Excused-3

[Senate Bill
750 Chapter
85, 2021
Laws.](#)

Chief Sponsors: Senator Lew Frederick
Regular Sponsors: Senator James Manning Jr,
Representative Marty Wilde

Most licenses are processed and issued within 90 days. However, under some circumstances, the investigation takes longer than 90 days or even 120 days with the available 30-day extension. When an investigation takes longer than 120 days, it is often because the application involves complex issues for which there are multiple dependencies that delay the processing timeline. An applicant operating under a temporary letter of authority must cease all licensable activity when the temporary letter of authority expires, and this can cause great disruption and an economic hardship for the license applicant. 180 days provides the additional time needed to avoid the gap in authority to operate for even the most involved of cases.

The bill also makes the temporary letter of authority to operate available for all classes of license, which gets people into business more quickly and but also provides an opportunity to evaluate applicants as a compliance risk before officially issuing the license.

- Allows applicants for any license category to be eligible for a temporary letter of authority (not just off-premises sales license applicants or applicants for a change of ownership)
- Extends the period for a temporary letter of authority from 90 days (with an optional 30-day extension) to 180 days (with no further extension available).

Effective January 1, 2022.

OLCC IMPLEMENTATION ACTIVITIES

- Information is forthcoming

SENATE BILL 806: FORTIFIED CIDER, LICENSING COUNTIES, AND LICENSE FEE RELIEF

INTRODUCED BY: SENATOR LEE BEYER

HOUSE VOTE: Ayes-53, Nays-3, Excused-3 **SENATE VOTE:** Ayes-28, Nays-1, Excused-1

SB 806
(Awaiting
Governor's
Signature)

Chief Sponsors: Senator Lee Beyer
Regular Sponsors: Representatives Evans, Smith DB

- Allows for fortification of hard cider with distilled liquor.
- Allows Oregon counties to possess a liquor license.

Grants OLCC authority to establish a program for deferral or waiver of annual license fees in the event that the Governor declares a state of emergency under ORS 401.165 or 433.441.

The measure repeals the January 1, 2022 operative date for Senate Bill 317 and makes it effective on passage.

Certain portions declared and emergency and effective on passage. Other sections effective January 1, 2022.

OLCC IMPLEMENTATION ACTIVITIES

- Information is forthcoming
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