

ORLA Advocacy: Protecting Our Businesses



2023 Oregon Legislative Session Recap

The Oregon Legislature adjourned its 160-day session on June 25, 2023. Throughout the session, Oregon Restaurant & Lodging Association's Government Affairs team focused on several priority bills relating to Oregon's restaurant and lodging industry. Below is the 2023 Oregon Legislative Session recap on many of the bills we engaged or monitored this past session. (Note: italicized text is text taken directly from bill language.)

GENERAL BUSINESS AND LABOR

In past sessions, there have been major labor policies passed increasing the cost of labor or making it more difficult for businesses to operate. This session, general business and labor issues were better than they have been in the past for the business community. At the beginning of this session, the House raised several labor policies and proposed amendments reducing costs or helping businesses in general. Unfortunately, these policies remained in Senate committees until the end of session and died due to lack of movement.

HB 2556 – *Requires that itemized statements provided to employees explain, in plain language, amount and purpose of each deduction. Provides requirements for employer deductions for erroneous overpayments of wages.*

This bill, as originally proposed, was a bad policy bill for the business community. Amendments made in the House improved it for most industries but ultimately, the bill died in committee on the Senate side.

- Status: Died in Committee
- Date of Implementation: N/A

HB 3028 – *Requires an employer to allow an employee to take leave without pay for time spent by the employee in service as an appointed member of a state board or commission as defined in ORS 292.495.*

This bill requires employers to allow employees to take unpaid leave if they are serving on a state board or commission as an appointed member. Employees cannot be coerced, threatened, discharged, or threatened with discharge if they choose to serve. Employees also cannot be

forced to use vacation, sick or annual leave for time served as an appointed member of a state board or commission.

- Status: Passed and signed by Governor
- Date of Implementation: September 24, 2023 (91st day after Sine Die)

HB 3172 – *Makes unlawful practice for employer to advertise employment opportunity without disclosing certain information regarding opportunity. Requires employer to apprise all employer's employees of promotion opportunities. Creates exceptions. Allows person to file complaint with Commissioner of Bureau of Labor and Industries for violation.*

There were versions of this bill in both the Senate and House which seemed to have traction in the beginning of session but were never moved out of their original committees.

- Status: Died in Committee
- Date of Implementation: N/A

HB 3205 – *Modifies definition of "compensation," for purposes of pay equity requirements, to exclude hiring bonuses and retention bonuses.*

This had one of the broadest coalitions of support across business and local governments. The Senate even offered amendments in the House committee, after which it passed the House 41-0. The Senate then undid the bi-partisan agreements from the House, all the supporters ended up opposing the bill and it died in committee.

- Status: Died in Committee
- Date of Implementation: N/A

SB 31 – *Requires Director of Employment Department to determine solvency of Paid Family and Medical Leave Insurance Fund for purposes of paying benefits and grant awards.*

Although employees in Oregon can access Paid Family and Medical Leave benefits as of September 3, 2023, the Oregon Employment Department has been collecting revenue since January 1, 2023.

This bill would allow the Director of the Employment Department to do an analysis of the fund before the September 3rd date to determine if the fund is solvent enough to begin paying out benefits. If the Director does not believe there is enough money to pay out benefits and for the fund to remain solvent, the beginning date for benefit payout could be delayed. This bill was generally seen as a prudent policy to avoid insolvency of the fund.

- Status: Passed both House and Senate and signed by the Governor
- Date of Implementation: Effective date, May 8, 2023

ALCOHOL

Alcohol taxes was a hot topic in the Legislature and at OLCC this session. The primary argument from tax proponents was more money was needed for addiction services. As an industry, ORLA supports dollars being directed to addiction services. The main problem we continue to see is taxes being proposed are not being spent specifically on addiction services but rather are going to the General Fund.

At the OLCC, a temporary surcharge of fifty cents was proposed by Governor Kotek in her budget, on top of a current “temporary” surcharge, enacted back in 2009 and continued each budget cycle since.

In an OLCC presentation to the Legislature of current alcohol revenues collected by the state, only 2.93% is currently being directed to addiction recovery services for the 2019-2021 biennium. The projected amount for the current biennium (2023-25) is 3% (3.2% calculated).

ORLA is a member of the Oregon Beverage Alliance, a group of industry advocates supporting a better use of current dollars before asking the industry to pay more. ORLA engaged the industry and advocated strenuously against the fifty-cent surcharge, with members sending over 200 letters to OLCC Commissioners on the issue and ORLA staff testifying at two Commission meetings.

Our efforts, combined with additional revenue from the May forecast, meant taxes were not raised and \$200 million was put toward Behavioral Health and Addiction Recovery Services.

HB 3308 – *Relating to alcohol; creating new provisions; amending ORS 471.175, 471.178, 471.186, 471.190, 471.200, 471.221, 471.223, 471.227, 471.282, 471.346, 471.410 and 471.430; and prescribing an effective date.*

This bill authorizes the Oregon Liquor and Cannabis Commission to issue a delivery permit to qualified applicants to deliver alcoholic beverages to final consumers. Also requires third party delivery drivers to have the same type of training food servers and grocery store clerks are required to take.

- Status: Passed House and Senate, Governor signed on July 31, 2023
- Date of Implementation: September 24, 2023 (91st day after Sine Die)

HB 3312 – *Requires Department of Revenue to study revenues received by state from transactions involving alcoholic beverages. Directs department to submit findings to interim committees of Legislative Assembly related to revenue not later than September 15, 2024.*

This bill would have increased taxes on Oregon's beer and cider by 1200% and increased taxes on wine by more than 500%. The stated purpose for the revenue from these taxes was for additional addiction and recovery services but as written, the revenue would flow directly to the General Fund. ORLA, along with others in the alcohol and hospitality industries, were strongly opposed to this bill.

- Status: Died in Committee
- Date of Implementation: N/A

HB 3610 – *Establishes Task Force on Alcohol Pricing and Addiction Services.*

The task force was seen to have a directive to discuss raising taxes high enough to be a deterrent and reduce alcohol consumption and raise more revenue for additional services. The Task Force is to present their findings to the 2025 Legislature.

- Status: Passed House and Senate, Governor signed on July 13, 2023
- Date of Implementation: September 24, 2023 (91st day after Sine Die)

SB 616 – *Allows holder of direct shipper permit to ship up to five cases of cider or malt beverages, each containing not more than nine liters, per month to Oregon resident.*

This bill would have increased the number of cases brewers could deliver directly to consumers to have parity with wineries. The bill passed the Senate but failed on the House floor because certain members felt the Legislature was doing too much to support the alcohol industry.

- Status: Died on House floor
- Date of Implementation: N/A

GENERAL BUSINESS

Because of the projected \$2 billion increase in income tax collections, there was little tax discussion this session. The Legislature did have a hearing on raising the exemption on the CAT tax but doing so would have ultimately increased the amount on the taxpayers so there was little interest in a straight tax shift from one taxpayer group to another.

There was also less action taken on packaging than in previous sessions even though a few changes were made regarding polystyrene and customer-provided packaging. It was the kind of session where most of the difficult bills were watered down to gain acceptance or neutrality from business groups, but little was done to try and help or promote economic development.

SB 140 – *Requires Legislative Revenue Officer to study corporate activity tax. Directs Legislative Revenue Officer to submit findings to interim committees of Legislative Assembly related to revenue not later than September 15, 2024.*

This bill would have raised the CAT exemption level from \$1 million to \$2 million, but in doing so would reduce the expense deduction to 30% (from current 35%) for companies between \$2-10 million in corporate activities.

In addition, SB 140-3 (the third proposed set of amendments) would have raised the tax rate for companies with corporate activities greater than \$10 million to .615% (from current .57%). This was a simple tax shift, so the bill never moved out of committee and died.

- Status: Died in Committee
- Date of Implementation: N/A

SB 543 – *Prohibits food vendor from using polystyrene foam container in sales of prepared food.*

ORLA was successful in working this bill to the point where it was less prohibitive than originally presented. In meetings with suppliers, cost effective alternatives are plentifully available and operators will have 18 months before it becomes effective.

- Status: Passed the House and Senate, the Governor signed it on May 8, 2023
- Date of Implementation: Prohibitions become operative January 1, 2025

SB 544 – *Directs Environmental Quality Commission to establish program for source reduction of single-use plastic food ware and single-use packaging and achieve 25% source reductions compared to 2023 levels by 2030.*

This bill did not pass due to ORLA's work on SB 543. This bill could have removed some of the most used and cost effective to-go utensils. ORLA was successful in convincing legislators that between the cost and supply chain issues, and as the industry is still recovering from the pandemic and its financial effects on operators, now was not the time to implement such a proposal.

- Status: Died in Committee
- Date of Implementation: N/A

SB 545 – *Directs Oregon Health Authority to adopt rules allowing restaurants to allow consumers to fill consumer-owned containers with food.*

This fall will start the rules process on what the health department would require to be done for a restaurant to accept a customer's to-go container. It is optional for the restaurant and the Oregon Health division cannot require anyone to accept to-go containers. We are not sure the proponents understand the health risk involved with the practice of consumers bringing containers into food establishments.

- Status: Passed the House and Senate, the Governor signed it on May 8, 2023
- Date of Implementation: Effective date of May 8, 2023 (Rulemaking to take place Fall 2023 before full implementation)

SB 569 – *Requires every place of public accommodation that provides a closed-captioned enabled television in a public area to activate closed captioning that satisfies certain specifications. Requires places of public accommodation with multiple televisions to activate closed captioning on at least 50% of the televisions within the area and those that sell televisions to activate closed captioning on at least one of the televisions on display. Exempts judicial department, places of public accommodation that have television screens smaller than 12 inches, hospital rooms, and rooms to rent.*

ORLA was able to ensure hotel room TVs and screens as part of a piece of exercise equipment in hotel gyms were exempted. We were also able to remove language requiring any screens not displaying closed captioning to have signage affixed noting the receiver does not output sound or the receiver is on mute.

- Status: Passed House and Senate, signed by the Governor on June 1, 2023
- Date of Implementation: September 24, 2023 (91st day after Sine Die)

SB 619 – *Permits consumers to obtain from controller that processes consumer personal data confirmation as to whether controller is processing consumer's personal data and categories of personal data controller is processing, list of specific third parties to which controller has disclosed consumer's personal data or any personal data and copy of all of consumer's personal data that controller has processed or is processing.*

The Oregon Attorney General convened a Consumer Privacy Task Force in 2019 to consider legislative proposals regarding consumers' online privacy and standards for businesses that obtain consumer data about the consumer's online activities. This measure is a result of that Task Force.

Senate Bill 619A provides certain rights to consumers and sets responsibilities for data controllers regarding data collected from consumers' online activities and establishes Attorney General authority to enforce the law. As passed, there are still a few issues with this bill needing to be worked on and ORLA is going to meet with the Attorney General's office to inform them and work with them on changes to relieve our concerns.

- Status: Passed the House and Senate, Governor signed on July 18, 2023
- Date of Implementation: January 1, 2024

SB 754 – *Allows recreational operators to require a release of liability for ordinary negligence from a person who participates in a sport, fitness or recreational activity, rents equipment from an operator, or volunteers for an operator.*

This bill has been around for the last few sessions because many of our recreational tourist attractions are having a difficult time finding affordable liability insurance if they can find coverage at all. The bill did not pass but the Chair for the Senate Committee on Judiciary said he would work with us in the interim to find a solution.

- Status: Died in Committee
- Date of Implementation: N/A

HB 3243 – *Provides that violation of prohibitions against unfair claim settlement practices with respect to insurance is subject to enforcement action under Unlawful Trade Practices Act.*

This bill would have added insurance carriers to the Unfair Trade Practices Act, which would make claims settlements more difficult and more expensive. The increases to workers compensation would probably be smaller but impacts to property, casualty and especially liquor liability would be much greater. The increased premiums could be as high as 20% above normal liability rates and 40% for liquor liability in addition to any other rate increases. The bill was on the Senate Floor but was sent back to committee where it ended up when session closed.

- Status: Died in Committee
- Date of Implementation: N/A

HB 3409 – *Requires State Department of Energy to report on rate of heat pump technology adoption and to collaborate with designated state agencies to reduce barriers to home energy efficiency and resilience.*

This was an omnibus climate change bill, and it is not clear from an environmental policy perspective that it would have a direct impact on the industry, but the way it is constructed could undermine the statewide building code preemption.

Statewide building code preemption has always been important to the industry so local governments could not make changes requiring businesses to go through expensive remodels if a local government passes a local ordinance different from the statewide code.

HB 3409 passed out of the House Rules Committee against several objections and concerns from the business community, but the Senate amended the bill to remove the building codes portion and passed the bill.

- Status: Passed the House and Senate, signed by the Governor on July 27, 2023
- Date of Implementation: Effective date is July 27, 2023

LOTTERY

There was not much activity this session around Oregon Lottery operations. During the last interim, there was a Joint Committee on Gaming Regulation, but the Oregon Senate decided to pause the discussion for the 2023 session and reinstate the Joint Committee this interim.

The House had a Gambling Regulation Committee during the session but only did informational hearings around Lottery and Tribal gaming. ORLA professional staff and several members participated in multiple hearings to provide information on the industry and perspective as the retailers for lottery products.

Unrelated to the legislative session, since the pandemic closed many lottery retailer locations, the Oregon Lottery has had a stay on new location contracts until they are able to start buying new terminals. During the June Lottery Commission meeting, the Commissioners passed a new terminal allocation rule to remove the stay on new contracts. As a result, retailers that have been waiting for new location contracts will hopefully be receiving contracts and be able to operate as a video retailer.

TOURISM

This session was a bit of a “hit or miss” for investments in tourism promotion. Several groups had different ideas about how to invest in tourism promotion and ways to aid different entrepreneurs, local governments, and nonprofit organizations to invest in growing economic activities around the state. The legislature did continue to invest in the Film Promotion Tax Credit to provide incentives for film companies to come to Oregon. Those companies bolster local economies and help our industry by using local restaurants and catering companies and staying in local accommodations.

HB 2023 – *Directs Oregon Tourism Commission to develop, and co-administer with Sport Oregon, program for awarding grants to local government bodies to help fund youth sporting events.*

This bill requested \$2.5 million from the General Fund to be set aside to the grant fund for the Oregon Tourism Commission and Sport Oregon to co-administer. HB 2023 passed out of the House Committee on Economic Development and Small Business to the Joint Committee on Ways and Means but was never funded.

- Status: Died in Committee
- Date of Implementation: N/A

HB 2093 – *Conforms applicability period for amendments to tax credit for certified film production development contributions to sunset applicable to credit.*

This bill allows the Oregon Film Office to sell tax credits at auction to promote statewide development of the film, video, and multimedia industry in Oregon and to enhance the industry's revenues, profile, and reputation within Oregon and among the industry nationally and internationally. ORLA supported this bill to continue investments in Oregon from film companies and stakeholders.

- Status: Passed the House and Senate, the Governor signed on May 8, 2023
- Date of Implementation: September 24, 2023 (91st day after Sine Die)

HB 2909 – *Appropriates moneys to Oregon Department of Administrative Services for distribution to Oregon Coast Visitors Association to be expended on various projects.*

This bill would have appropriated \$1,900,000 to the Oregon Coast Visitors Association for various projects including: \$190,000 to develop geographic information systems tools for food systems; \$700,000 for a facility in partnership with the Oregon Kelp Alliance; a kitchen, processing center, and cold storage at the Newport Seafood Analytical Lab; and the development of a mobile processing unit. The measure included \$300,000 to support existing businesses connected to projects funded by the bill.

This was a rare victory as even though this bill did not pass the money was appropriated in the end of session funding bill.

- Status: Died in Committee
- Date of Implementation: N/A

HB 2910 – *Appropriates moneys to Oregon Business Development Department for distribution for purposes related to outdoor recreation economy.*

This bill would have appropriated \$3,500,000 to the Oregon Business Development Department (OBDD) for distribution to OSU's Extension Service and then to CORE to support outdoor recreation industry programs, innovation, and wildfire recovery. Included in the bill was also \$2,000,000 to CORE to develop professional and workforce development programs.

Although HB 2910 did not pass, some of the programs were included in HB 3410, which did pass.

- Status: Died in Committee
- Date of Implementation: N/A

HB 3251A – *Requires Oregon Tourism Commission to establish and administer grant program to promote, develop and sustain opportunities for agricultural tourism in rural communities in this state.*

This bill would have appropriated \$2 million to the Oregon Tourism Commission to establish and administer a grant program to promote, develop, and sustain opportunities for agricultural tourism. ORLA supported the bill to help support the developing sector of agricultural tourism in Oregon.

Although HB 3251 passed out of the House Committee on Economic Development and Small Business to the Joint Committee on Ways and Means, it was not funded.

- Status: Died in Committee
- Date of Implementation: N/A

HB 3410 – *Appropriates moneys to Higher Education Coordinating Commission for distribution for purposes related to outdoor recreation economy.*

This was changed at the end of session to be a smaller version of HB 2910, allocating \$2 million for outdoor recreation workforce development and \$1 million to be used to help build outdoor recreation areas destroyed by wildfire.

- Status: Passed by the House and Senate, the Governor signed on July 31, 2023
- Date of Implementation: Effective date July 31, 2023

For more information on Oregon Restaurant & Lodging Association's advocacy efforts, or to get involved, visit OregonRLA.org/legislativeframework.