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A City Club Report on IP47 & 58: Liquor Privatization

City Club of Portland (Portland, Or.)

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A City Club Report on IP47 & 58: Liquor Privatization

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In the Spring of 2014, petitioners began the process of placing several initiative petitions on the November 2014 Ballot that would have privatized distilled liquor sales in Oregon, effectively eliminating the Oregon Liquor Control Commission's (OLCC) current role as sole wholesaler and distributor of distilled liquor in Oregon.

As of July, 2014 petitioners had failed to qualify for the ballot. In the interim your committee completed its review of Initiative Petitions 47 and 58, and submits the following report, with the hope that our work can inform City Club of Portland, as well as local, state and national communities, on future questions related to this issue.

Under the initiatives, any retailers licensed to sell beer and wine operating in buildings over 10,000 square feet could sell distilled liquor after completing a responsible vendor training program. Existing liquor retailers under the current OLCC system could sell their inventory back to manufacturers with the option to reapply for their liquor licenses and be "grandfathered in" to the new system as retailers. Both initiatives pledged to maintain revenue for the State of Oregon by replacing the OLCC mark-up with a 71.7% wholesale tax plus a per container surcharge of \$.75.

Your committee found Initiatives 47 and 58 deeply flawed. The proposed revenue-replacement taxes and surcharges did not provide for an efficient mechanism by which the state could audit and collect revenue, jeopardizing the state budget. Also, deregulation under the initiatives seemed to endanger several Oregon industries including craft distillers, small liquor retailers (especially in rural areas), and even beer and wine. Your committee's investigation revealed that similar legislation passed recently in the State of Washington did yield negative outcomes for craft distillers, smaller liquor retailers, and even public health. Your committee recommends further in-depth study on the issue of distilled liquor privatization in preparation for future privatization efforts.

Your committee unanimously recommends a no vote.

City Club members will vote on this report between Wednesday, August 20, 2014 and Monday, August 25, 2014. Until the membership votes, City Club of Portland does not have an official position on this report. The outcome of the vote will be reported in the City Club of Portland Bulletin Vol. 97, No. 6 dated August 26, 2014, and online at pdxcityclub.org

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Introduction

State of Oregon Initiative Petition 47: (ballot title certified by Attorney General, May 30, 2014)

"Allows qualified retail stores to sell liquor; imposes wholesale tax to replace current state markup

"Result of "Yes" Vote: "Yes" vote expands retail sales of liquor by qualified retailers; imposes wholesale tax to replace current state markup; establishes regulatory requirements for sales and distribution.

"Result of "No" Vote: "No" vote retains the current system of retail sales of liquor exclusively through Oregon Liquor Control Commission agents, retains state markup for costs and taxes.

"Summary: Under current law, retail sales of liquor by the bottle are made exclusively by retail sale agents of the Oregon Liquor Control Commission (OLCC). Price determined by multiplying cost/ case by 1.798, adding operation and other costs. Measure would expand the number of retailers; current agreements with retail sales agents would be terminated, subject to a right to continue to operate. Current beer/wine retailers over 10,000 square feet would qualify as liquor retailers, provided they are in compliance with all liquor laws and have successfully completed the responsible vendor program. Current markup of prices replaced by 71.7% tax, plus per bottle tax; taxes adjusted in 2017; establishes minimum price. Creates Oregon Distilled Liquor Board to encourage industry; OLCC retains regulatory functions. Other provisions.

State of Oregon Initiative Petition 58: (ballot title not certified)

"Allows qualified retail stores to sell liquor; imposes taxes similar to current state price markup

Result of "Yes" Vote: "Yes" vote expands retail sales of liquor by qualified retailers; imposes taxes roughly comparable to current state markup; establishes regulatory requirements for sales and distribution.

Result of "No" Vote: "No" vote retains the current system of retail sales of liquor exclusively through Oregon Liquor Control Commission agents, retains state markup for costs and taxes.

Summary: Under current law, retail sales of liquor by the bottle are made exclusively by retail sale agents of the Oregon Liquor Control Commission (OLCC). Price determined by multiplying cost/case by 1.798, adding operation and other costs. Measure would expand the number of retailers; current agreements with retail sales agents would be terminated, subject to a right to continue to operate. Current beer/wine retailers over 10,000 square feet would qualify as liquor retailers, provided they are in compliance with all liquor laws and have successfully completed the responsible vendor program. Current markup of prices replaced by 71.7% tax, plus per bottle tax; taxes, adjusted in 2017; establishes minimum price. Creates Oregon Distilled Liquor Board to encourage industry; OLCC retains regulatory functions. Other provisions.

Background

Explanation of the Measures

Initiatives 47 and 58 proposed to privatize distilled liquor sales in Oregon, effectively eliminating the Oregon Liquor Control Commission's (OLCC) current role as sole wholesaler and distributor of distilled liquor in Oregon. Lynn T. Gust, Division President of Portland-based Fred Meyer Stores, and Lauren G.R. Johnson, COO of Newport Ave. Market (a specialty grocer in Bend, Oregon), were the chief petitioners.¹ Support was also provided by The Northwest Grocer's Association and the Distilled Spirits Council of the United States (DISCUS). These initiatives would have made the following changes to liquor sales in Oregon:

Existing retailers licensed to sell beer and wine operating in buildings over 10,000 square feet could sell distilled liquor after completing a responsible vendor training program.

- Existing liquor retailers could sell their inventory back to manufacturers with the option to reapply for their liquor licenses and be "grandfathered in" to the new system as retailers.
- A new governmental agency—the Oregon Distilled Liquor Board—would assume responsibility for economic research and licensing to retailers under 10,000 square feet.
- Retailers would contract directly with manufacturers or wholesalers for their distilled liquor inventory.²

Much like the recently-passed privatization initiative in Washington State, the Oregon initiatives pledged revenue neutrality for the state budget. At present, sales of distilled liquor account for \$1.1 billion (or 95%) of OLCC Projected Gross Revenue for 2013-2015,³ constituting approximately one-third of the State's annual income. Roughly \$448 million of this income goes to services and programs at the state, county and city levels throughout Oregon. (For a full breakdown of OLCC revenue distribution, see the Appendix). Both initiatives proposed to replace this state income via a 71.7% wholesale tax plus a per container surcharge of \$.75.⁴ After the first year of privatization, the Oregon Distilled Liquor Board could make a one-time adjustment to the surcharge to maintain "revenue neutrality."⁵ After that, it would be up to the legislature to pass any additional taxes if the income to the state were to fall below projections.

Beyond fiscal implications for the state, these initiatives included potential repercussions for Oregon's craft distillers, current liquor retailers located in Oregon, national liquor manufacturers, and consumer prices. This report aims to explore these ancillary (but highly salient) repercussions.

ⁱ (Note: Initiatives 47 and 58 were inconsistent in their descriptions of the container surcharge, sometimes describing it as \$.75/container and sometimes \$.25/container; for consistency, this report will refer to the surcharge as \$.75, as witness testimony mentioned the \$.75 surcharge)

Past City Club of Portland Research Reports

Several of the witnesses interviewed by your committee referenced the Portland City Club's 1979 *Report on Oregon Liquor Control*. For reference, the 1979 report recommended against abolishing the OLCC, against regulating distilled liquor differently from beer and wine, and against using the OLCC as a mechanism for promoting temperance.⁶

While your committee did not disagree with these conclusions, the 1979 report addressed more philosophical questions regarding the interaction of government and alcohol sales that seem somewhat irrelevant to discussions surrounding the initiatives. Your committee did, however, question the 1979 Report's conclusion that "the State of Oregon should remove itself from the business of selling alcoholic beverages."⁷ This committee's research on initiatives did not reveal any incompetence or corruption in the OLCC. On the contrary, the OLCC operates effectively as a liquor wholesaler and distributor (see section on "Efficiencies of Current OLCC System"). Thus, your committee rejects the 1979 Report's unequivocal recommendation to remove the OLCC from the business of liquor sales.

History of the OLCC and Initiatives 47 and 58

Oregon is currently one of 18 "control states" in the United States that facilitate distilled liquor sales through a state-controlled monopoly.⁸ The Oregon Liquor Control Commission (OLCC) is the only warehouse, wholesaler and distributor of distilled liquor in the state.⁹ Created after the end of prohibition in 1933, the OLCC sells and regulates the sale of alcohol, and licenses businesses and individuals to serve alcohol.¹⁰ Independent retailers contract with the OLCC to sell distilled liquor to consumers; the OLCC owns the liquor (once it leaves the warehouse) and regulates store procedures. Your committee notes that some interested parties recently raised concerns over the ethics and long-term sustainability of the OLCC liquor sales system.¹¹ Such issues were beyond the purview of this study.

Initiatives 47 and 58 were the surviving initiatives of the eight privatization initiatives originally filed by the chief petitioners. Prior to these initiatives, the Oregon legislature considered Senate Bill 1559—a liquor privatization bill that would have established a 13-member Oregon Liquor Control Commission Modernization Task Force to study the options and consequences of privatization.¹² Your committee understands that both proponents and opponents of SB 1559 ultimately preferred a direct referendum to voters rather than a legislative process that would include ongoing research by a "Modernization Task Force."¹³

The Washington Experience

Oregon's proposed initiatives closely resemble the voter-approved Washington Measure 1183, though they are not identical, which went into effect June 1, 2012. Washington and Oregon are respectively the first and second highest collectors of state income from alcohol sales in the U.S.

Similarities

Washington Measure 1183 proposed to sustain the same amount of revenue for the state budget as obtained under the state-controlled system. Measure 1183 replaced the pre-1183 state alcohol taxes

with a “fee” system on distributors and retailers. (Note: The Oregon measures’ ballot titles employ the term “tax” to describe the revenue-replacement fees after interested parties contested use of the term “fee” in the original language of the title based on the following definition of a tax: A tax is “any contribution imposed by government upon individuals, for the use and service of the state.”)¹⁴ In Washington, these new fees amount to a 10% tax on distributors and a 17% tax on retailers that retailers can pass on to consumers. Indeed, the new fees trickled down to the consumer level, contributing to a spike in liquor prices after Measure 1183 took effect. As Oregon’s proposed initiatives would have similarly established a revenue replacement system (the wholesaler tax of 71.7% on the wholesale price plus a \$.75 container fee that could be passed on to consumers), prices could have also gone up in Oregon under Initiative 47 or 58.

Despite price increases, liquor sales in Washington increased as a result of Measure 1183. The Washington State Liquor Control Board attributes these increases to the added convenience of liquor availability.¹⁵ Prior to Measure 1183, retail outlets in Washington numbered 334; now there are roughly 1,200 qualified liquor retailers in the state.¹⁶ However, there is no evidence that this increase in sales represents a genuine spike in liquor demand—it may simply be a novelty-related outlier. Thus, forecasting state revenue based on current Washington liquor sales becomes complicated and unreliable. While Oregon’s initiatives might have paved the way for a comparable “outlier spike” in sales and demand, maintaining state revenue could have proved similarly difficult.

Differences

Prior to Measure 1183, the State of Washington staffed and owned the entirety of their state-owned liquor outlets. In essence, Washington State acted as both distributor and retailer in the liquor business. Thus, the state had to dismantle its network of state employees and retail establishments in order to privatize liquor sales. Because of the costs of this job loss and infrastructure shift, the State of Washington charged liquor manufacturers an extra one-time fee that generated \$150 million to cover transition costs.¹⁷ Manufacturers and retailers passed this fee along to consumers in the form of higher prices. In Oregon, however, the state is only the wholesaler/distributor and would not have incurred the transition costs experienced by Washington State.

Additionally, the Washington privatization system offsets state revenue losses by adding multiple layers of fees to the privatized sale of liquor (for a description of these fees, see the “Similarities” section above). Measure 1183 created fees at the manufacturer level, distributor level, and retailer level. Oregon’s proposed initiatives would have created a new 71.7% tax plus \$.75 container fee at only the manufacturer level. Manufacturers could choose to pass along these costs to distributors and/or retailers.¹⁸

In addition to the structural difference in pricing, Oregon’s initiatives would have also created a “price floor” for distilled liquor. In Washington, Measure 1183 did not establish any pricing “floors” or “ceilings,” permitting retailers to sell their liquor at a net loss (to generate foot traffic into their stores, etc.). The Oregon initiatives would have included a price “floor” clause prohibiting retailers from pricing distilled liquor below cost, except on discontinued items or to match the selling price of a competitor.

Proponents' and Opponents' Assertions

Below is a summary of the arguments that supporters and opponents of the measure made before your committee:

A comment on process and communication with the proponents:

Your committee feels obligated to provide the following caveat for our investigation into the “pro” arguments for Initiatives 47 and 58. Despite multiple phone and email invitations to the chief petitioners and their lead attorneys, “Pro” representatives consistently referred your committee to only one point of contact--Mr. Pat McCormick. Mr. McCormick’s firm, AM:PM PR, represents Oregonians for Competition. Oregonians for Competition is a political action committee comprised of proponents for Initiatives 47 and 58 including Safeway stores, Fred Meyer stores, the Northwest Grocer’s Association, and the Distilled Spirits Council.¹⁹ The work of the committee was frustrated by the refusal of any of the sponsors to meet with the committee or respond directly to our questions.

Your committee found it problematic that these groups channeled all referrals to Mr. McCormick, not only because we could not assemble a diverse profile of “Pro” opinions, but also because of Mr. McCormick’s personal prominence as a City Club of Portland member, including his service as former Club President and current member of the Board of Governors at the time of our interview.

Major Assertions Made in Favor of the Measure

- The number of liquor retailers in Oregon would grow (in Washington, roughly four times as many retailers now offer distilled liquor, for example²⁰). This increase in distilled liquor purveyors would enhance access and convenience for consumers.
- Retailers would have the option to contract directly with liquor manufacturers for their merchandise, circumventing the necessity for wholesalers and/or other middlemen. This direct arrangement could save money for more vulnerable manufacturers (like small craft distillers) or even for consumers at the register.
- For those who consider the consumption of alcohol a vice, these initiatives would remove the state from selling alcohol.
- While offering the benefits listed above, these initiatives would also maintain the vital state revenues from liquor sales and possibly divert more funding to alcohol-related law enforcement than Oregon currently allocates from OLCC revenues.²¹

Major Assertions Made Against the Measure

- While the overall number of distilled liquor retailers might increase, the number of retailers in more rural parts of Oregon might actually decrease without the OLCC’s statewide distribution infrastructure, which could increase the costs of commerce and consumer access in rural regions.

- Ambiguity in the measures’ tax and fee mechanisms cast severe doubt on the measures’ ability to ensure revenue neutrality for the State. Here are two reasons why:
 - The initiatives did not provide plans for an auditing system to collect the 71.7% tax plus \$.75 fee on liquor manufacturers. Thus, Oregon would have had to implement new mechanisms for collecting these taxes on manufacturers located throughout the world or rely on manufacturers self-reporting;²² in either case, net state income could diminish due to under-reporting of profits as well as the cost of establishing a new auditing system.
 - The Oregon Distilled Liquor Board would have one opportunity to adjust the 71.7% tax plus \$.75 fee after the first year of privatization to ensure post-privatization state revenues equaled pre-privatization state revenues. After this one-time adjustment, it would take a three-fifths majority in the state legislature to adjust these rates (i.e. impose higher or lower taxes). Maintaining the current state revenue from sales of distilled liquor could prove difficult if demand/sales changed and the taxes/fees needed further adjustment via the legislative process.
- Oregon’s system as a “control state” has created a thriving craft distillery economy by guaranteeing distribution, shelf space, and timely payment to craft distillers by the OLCC. Initiatives 47 and 58 might have thwarted the growth and development of these local industries by giving shelf space preference to national brands..
- Based on Washington’s experience, liquor prices in Oregon would have likely increased, while liquor selection could have plummeted.
 - Large national brands establish relationships with retailers that include discounts and “perks” permitted by Initiatives 47 and 58 that undercut smaller, local brands.²³
 - The OLCC’s uniform pricing guaranteeⁱⁱ would disappear with privatization, meaning distributors and manufacturers could charge retailers whatever they chose for distilled liquor. This price variability would likely be passed on to the consumer. Under the OLCC system the costs to consumers are uniform throughout the state.
- A change in the management and distribution of distilled liquor has serious implications for tax laws, interstate commerce, and myriad stakeholders. The state legislature and citizens would be

ⁱⁱ The existing uniform pricing guarantee means the OLCC sells liquor to all retailers at the same price regardless of their location in Oregon; many stakeholders attribute liquor price stability in Oregon (especially relative to Washington’s prices after privatization) to retailers’ ability to anticipate their costs and profits based on uniform wholesale pricing.

well served by undertaking a comprehensive study of the advantages and disadvantages of changing the current system of warehousing, distribution, and sales of distilled liquor on Oregon.

Effects on Public Health

None of the committee's witnesses mentioned concerns about public health as a principle argument against Initiatives 47 and 58. However, since these interviews, statistically significant findings have emerged about privatization and public health in Washington State. Your committee believes these data might fall under the "con" arguments for any privatization initiatives, including Initiatives 47 and 58. Dr. Julia Dilley, who conducted preliminary research for the Washington State Department of Health, found that since privatization in Washington State:

- Alcohol-related Emergency Room visits went up significantly.
- Liquor thefts perpetrated by minors increased significantly (nearly \$250,000 in thefts through September 2013, while Oregon saw only \$11,000 in theft in all of 2012.)
- Social acceptance of underage drinking among minors increased according to eighth grade and high school students surveyed in Washington.²⁴

While Dr. Dilley maintains that these data will require further analysis to firmly connect these changes to privatization, she also added, "We saw a statistically significant change in the trend after the change in law. So that is suggestive that the change in law made a difference."²⁵ Independent research from national studies indicates that privatization does correlate to increased risk of alcohol misuse. For example, a study conducted by the Alcohol Research Group concluded, "An effective state alcohol control system helps limit the physical and social damage caused by misusing alcohol, and reduces the costs borne from abusive alcohol consumption not only by drinkers but also by other citizens."²⁶ Thus, alcohol-related public health problems could increase with privatization of distilled liquor sales in Oregon.

Note: Another factor to consider is the difference in driving under the influence (DUI) citations and traffic fatalities in control states and states that have privatized liquor sales. Your committee did not look into this in detail, but believes that such studies in Washington will be of great value to future City Club research if the campaign to privatize liquor in Oregon moves forward and the City Club decides to do another study on the matter.

Discussion & Analysis

Revenue Collection/Distribution Concerns

While your committee does not have sufficient information to conclude that Initiatives 47 and 58 would have maintained or reduced state revenues, we do find that the initiatives left too many revenue mechanisms to chance.

Initiatives 47 and 58 would have created an entirely separate system for liquor sales that lacked firm processes for collecting revenue. Even if the 71.7% tax plus \$.75 fee had covered the revenue losses from privatization, these initiatives do not provide for a sufficient system of collection of taxes on products sold in Oregon. As written in Initiatives 47 and 58, wholesalers would pay the taxes voluntarily. In order to assure that such taxes were paid, the state would need to develop a new and extensive system in order to audit the sales records of every manufacturer/distiller in the world who sold distilled liquor in Oregon

Your committee also could not secure information explaining how Initiatives 47 and 58 would have distributed the state income from the 71.7% tax plus \$.75 fee. While the initiatives reserved \$.25 of the proposed \$.75 per container fee for public safety programs, neither the measures' language nor witness testimony accounted for how the rest of the income from these taxes and fees would be allocated. Your committee wonders: Would all public entities have continued to receive the same percent of the liquor sales income that exists under the current OLCC system? For example, OLCC liquor sales currently fund \$18 million in Mental Health/Alcoholism Services while contributing \$252 million to the Oregon General Fund.ⁱⁱⁱ Because Initiatives 47 and 58 would have diverted more funding into alcohol-related public safety spending, there is no way to determine how much other entities (like the General Fund and Mental Health Services) would have retained under privatization. This ambiguity presented a risk to the stable funding of the multiple state entities that depend on liquor sales revenue.

Oregon Industries that Could Suffer

Initiatives 47 and 58 would certainly have affected (and possibly harmed) Oregon's existing beer and wine industries. Craft distillers and small, rural liquor stores could also be harmed by these measures. Here are findings on how Initiatives 47 and 58 could have altered each of these businesses:

Beer and Wine

Initiatives 47 and 58 did not directly address beer and wine, but both initiatives would have eliminated Oregon's current "Cash on Delivery" (COD) law for alcohol wholesalers. Under the current OLCC-regulated system, retailers must pay distributors/wholesalers upon receipt of alcohol for retail sale (including beer and wine) using cash, check, or electronic money transfer. Under Initiatives 47 and 58, the law would not have required retailers to pay on delivery for beer, wine or spirits, leaving room for negotiation over payment terms between the parties. According to testimony from wine industry representatives, small, local wineries and distributors in particular rely heavily on the cash flow stability that the current COD law guarantees.

Craft Distillers

Witness testimony from one craft distiller broker/wholesaler credited the OLCC system with incubating Oregon's now world-renowned craft distiller culture. Under the current OLCC system, craft distillers

ⁱⁱⁱ See chart in Appendix for breakdown of OLCC Projected Revenue Distribution

have a level playing field with national brands. The OLCC guarantees shelf space and distribution of local craft distiller products as long as a retailer requests them. Under current OLCC regulations, large national brands cannot negotiate favors and/or special advantages with OLCC retailers, nor offer retailers deals that could undercut local distillers. Initiatives 47 or 58 would have removed the current distribution system that guarantees a market presence for these smaller craft products. Small distillers cannot afford to compete with national brands that could offer special deals and “perks” to retailers, such as paying for shelf space or promotional allowances for lower wholesale costs.

Rural Liquor Stores

Your committee heard witnesses express concerns for the welfare of small, more rural liquor retailers in Oregon. Currently, the OLCC provides wholesale and distribution service to retailers throughout Oregon, including the remote Oregon communities. The OLCC assures that there is comparable geographic proximity to the State’s licensed liquor stores throughout the state. Without the OLCC warehousing and distribution system, there is doubt that a small or remote retailer could obtain or afford the expense of a for-profit distributor. Warehousing of inventory once delivered would be an additional expense.

Mr. Chuck Defoe of Ken’s Sporting Goods, a liquor retailer in Crescent, Oregon, substantiated these concerns. Noting the number of small liquor stores in Washington that have closed since the enactment of Measure 1183, he said he would probably have to stop selling liquor because of the added expense of paying for his own wholesalers and distributors if Initiatives 47 or 58 became law. He would depend on seasonal hunting/fishing-related business to stay open. (Note: In small, rural communities, liquor retailers usually sell other retail items.)

Your committee also heard from distributors that under Washington’s new privatization laws, smaller liquor stores could not entice distributors or manufacturers to supply their stores, as smaller stores could not purchase the same volume of distilled liquor as large stores. As a result, many smaller stores in Washington have closed or face closure. Mr. Defoe reported that liquor businesses in southern parts of Oregon (like his) are already vulnerable to cheaper prices available just over the border in California; any price increase as a result of privatization would only exacerbate this problem for these stores.

Mr. Defoe also commented that, like many stores in rural parts of Oregon, his is the only distilled liquor retailer in any direction for roughly 80 miles. His customers would have to travel these distances to purchase distilled liquor, as there are no grocery stores nearby with 10,000 square feet of retail space. Also, as with many liquor stores in Oregon, Ken’s Sporting Goods is a vendor of distilled liquor to bars and restaurants in the area. He is the only close source of distilled liquor to high-end resorts and bars that attract tourists to these remote areas where tourism is integral to the local economy. How such resorts and bars would have obtained distilled liquor to sell to their customers is another unknown.

Efficiencies of Current OLCC System

Your committee found that the OLCC operates effectively as a warehouse, wholesaler, and distributor for distilled liquor. The committee’s witnesses who conduct liquor sales business with the OLCC (e.g. Ken’s Sporting Goods, Rogue Ales and Spirits, etc.) all reported high levels of satisfaction with OLCC

processes, noting that liquor deliveries, cash flow, and prices are quite dependable. Additionally, the OLCC operates on a slim margin of 5% of the total expenses for administration of the sales of liquor in the State of Oregon.²⁷ The OLCC's low operating costs help keep overall prices of distilled liquor affordable to the consumer, especially by comparison to Washington's now higher prices under their privatization law. As previously noted, the OLCC's statewide distribution system also keeps wholesale costs low for the smaller rural liquor businesses.

These efficiencies developed over several years as a result of the OLCC's willingness to adapt and evolve in response to changes in demand for alcohol. In your committee's interview with OLCC Executive Director, Steve Marks, he reinforced the OLCC's commitment to seeking continued opportunities to streamline and evolve. Mr. Marks provided an example of the OLCC's recent study of a "hybrid model" wherein the OLCC's contract retailers would vend distilled liquor in outlets adjacent to larger grocery stores and operate during hours similar to the grocery stores' hours.

Based on the testimony of witnesses, your committee notes that the OLCC's role in distilled liquor sales serves a larger purpose for economic development in Oregon. By stimulating the craft distillery market through guaranteed distribution, consistent cash flow, and uniform pricing, the OLCC has helped put Oregon on the international map for craft distilling. Bill Owens, founder and president of the American Distilling Institute, said that Oregon is in the top five states for sheer number of craft distilleries.²⁸ Anecdotally, we also heard that Washingtonians now make trips to Oregon to purchase craft liquors—including brands distilled in Washington—that have lost their market foothold in Washington since privatization. This Oregon craft distiller culture affects growth in other sectors and labor markets, such as bartending, restaurants, hospitality, and tourism. Should privatization (such as that proposed under Initiatives 47 and 58) weaken this emerging industry, there would be serious repercussions for some of these burgeoning economic markets in Oregon.

What Stakeholders Want in Future Proposals to Privatize Liquor Sales

When the chief petitioners withdrew Initiatives 47 and 58, your committee decided to use this report to share what it learned from the many witnesses who commented on what a distilled liquor privatization system *should* do for the State of Oregon. Below is a synthesis of their criteria for a privatized system:

- Protect and promote Oregon craft distilling and the Oregon wine and brewery industries
- Maintain or lower prices for consumers
- Maintain or increase access to wholesale distilled liquor for all liquor retailers in Oregon
- Increase access to distilled liquor for consumers (number of retailers, store hours, etc.)
- Maintain or increase liquor-related revenue for the State of Oregon

Through witness testimony from representatives in the wine industry, your committee learned that the current privatized beer and wine industry in Oregon already has a sound tax structure using a three

tiered sales system. There are three required participants (or tiers): the alcohol manufacturer (brewers, vintners, etc.), the wholesale distributor, and the retailer. In the beer and wine industry, the wholesaler/distributor intermediary tracks the taxable sales from the manufacturer, ensuring relatively accurate sales reporting to the state government. The wholesale distributor sells to retailers after purchasing from the manufacturer. Your committee suggests that any future consideration of privatizing the sale of distilled liquor in Oregon include the study and review of the three tiered beer and wine system for its applicability to distilled liquor sales.

In conclusion, your committee recommends an extensive study of the ramifications of privatizing the sales of distilled liquor before taking a position on any future proposals for the privatization of distilled liquor sales. Further study of the issue is vital to understanding the complex factors at play. Given that your committee unearthed questions about implications for public health, commerce, and consumers, a more in-depth study would serve both legislators and voters by providing information about the complexities and possibly unintended consequences of privatizing the warehousing, distribution and sale of distilled liquor in Oregon.

Conclusions

- Initiatives 47 and 58 would have benefitted one stakeholder group: “Big Box” retailers eligible to sell liquor from their retail premises of over 10,000 square feet. Benefits to other stakeholder groups (especially consumers) were dubious at best. While some consumer might have increased access to liquor via 10,000+ square foot retailers, the net potential disadvantages to consumers (i.e. higher prices, lower selection, and loss of access in rural areas) outweigh the advantages
- Initiatives 47 and 58 lacked provisions for auditing and collecting the 71.7% tax plus \$.75 container fees that would replace OLCC liquor revenues, placing Oregon’s third largest source of revenue at risk.
- The current OLCC system is not broken. While the OLCC could streamline and improve, Initiatives 47 and 58 did not pose a more efficient or equitable warehousing, distribution and sales alternative to Oregon’s current state-controlled system.
- Further in-depth study of distilled liquor sales privatization is warranted. Learning more about the costs, benefits, and details of privatized liquor sales helps ensure that any future privatization reform create benefits for Oregon consumers, retailers, local government, local economies, and craft distillers.

Recommendation

Your committee unanimously recommends a no vote.

Signatures

Respectfully submitted,

Serena Stoudamire Wesley, chair

Dan Keppler, vice-chair

Laura Doppelt, lead writer

Sean Cruz

Tom Markgraf

Paul Meyer

Paul Milius

Nancy Thomas

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Witnesses

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Michelle Cole, *Principal, Portland, Gallatin Public Affairs*

Chuck Defoe, *Owner, Ken's Sporting Goods*

Rick Garza, *Agency Director, Washington State Liquor Control Board*

Brett Joyce, *President, Rogue Ales and Spirits*

Bob Liner, *Founder, Galaxy Wine Company*

Steve Marks, *Executive Director, Oregon Liquor Control Commission*

Pat McCormick, *Principal, AM:PM PR*

Dan Miner, *Owner, Hollywood Beverage*

Jeanelle Owings, *Owner, Wayne Sierra Brands*

Paul Romain, *Attorney, The Romain Group*

Bill Schuette, *Economist and Research Analyst, Oregon Liquor Control Commission*

Richard Williams, *Owner, Wayne Sierra Brands*

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Court Citations

IN THE SUPREME COURT OF THE STATE OF OREGON

Elspeth McCANN, *Petitioner*, v. Ellen ROSENBLUM, Attorney General, State of Oregon, *Respondent*.

Paul ROMAIN and Ronald R. Dodge, *Petitioners*, v. Ellen ROSENBLUM, Attorney General, State of Oregon, *Respondent*.

Lauren G. R. JOHNSON and Lynn T. Gust, *Petitioners*, v. Ellen ROSENBLUM, Attorney General, State of Oregon, *Respondent*. (SC S062154 (Control), SC 062157, S062158)

En Banc: On petitions to review ballot title filed March 31, 2014, (S062154) and April 1, 2014, (S062157; S062158); considered and under advisement May 20, 2014.

About the City Club

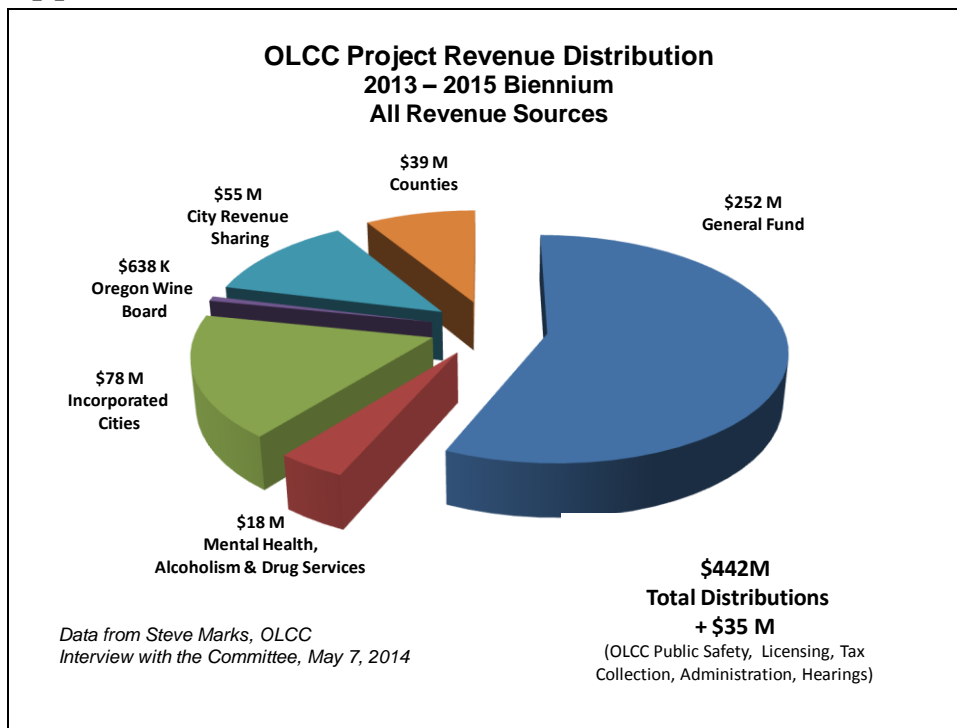
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Appendix



Endnotes

¹ Oregon Secretary of State Elections Division, Initiative, Referendum and Referral Search http://egov.sos.state.or.us/elec/web_irr_search.record_detail?p_reference=20140058..LSCYYY

² Oregon Secretary of State's Office, Text of Proposed Initiative Petition 47, page 12 <http://oregonvotes.org/irr/2014/047text.pdf>

³ Steve Marks, Interview with committee (May 7, 2014)

⁴ Oregon Initiative Petition 58, §§16(1) and 16a (1); Oregon Initiative Petition 47, §§16(1) and 16a (1); *McCann v. Rosenblum*, 355 Or. 463, 465 n. 2 (2014)

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⁷ *Ibid.* Page 207

⁸ National Alcoholic Beverage Control Association (NABCA.) <http://www.nabca.org/States/States.aspx>

⁹ Oregon.Gov, OLCC Liquor Stores and Products.

http://www.oregon.gov/olcc/LIQUORSTORES/Pages/about_us.aspx

¹⁰ *Ibid.*

¹¹ Steve Marks, Interview with committee (May 7, 2014)

¹² 77th Oregon Legislative Assembly – 2014 Regular Session, Senate Bill 1559.

<https://olis.leg.state.or.us/liz/2014R1/Committees/SBT/2014-02-04-15-00/SB1559/Details> and

<https://olis.leg.state.or.us/liz/2014R1/Downloads/MeasureAnalysisDocument/23549>
<https://olis.leg.state.or.us/liz/2014R1/Downloads/MeasureAnalysisDocument/23549>

¹³ Steve Marks, Interview with committee (May 7, 2014)

¹⁴ Supreme Court of Oregon, Bulletin No. 33, May 30, 2014, pages 467-468.

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¹⁵ Rick Garza, Interview with committee (May 1, 2014)

¹⁶ *Ibid.*

¹⁷ Steve Marks, Interview with committee (May 7, 2014)

¹⁸ Pat McCormick, Interview with committee (April 30, 2014)

¹⁹ Esteve, Harry. “National liquor group gives \$100,000 to Oregon privatization effort.” *The Oregonian*. February 27, 2014. http://www.oregonlive.com/politics/index.ssf/2014/02/liquor_manufacturer_group_give.html

²⁰ Rick Garza, Interview with committee (May 1, 2014)

²¹ Steve Marks, Interview with committee (May 7, 2014)

²² Steve Marks, Interview with committee (May 7, 2014)

²³ For description of permitted “perks,” see Proposed Initiative Petition 47, page 8.
<http://oregonvotes.org/irr/2014/047text.pdf>

²⁴ Esteve, Harry. “Liquor Privatization in Washington Bad for Youths, new study says.” *The Oregonian*. February 21, 2014. http://www.oregonlive.com/politics/index.ssf/2014/02/liquor_privatization_in_washin.html

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²⁶ Alcohol Research Group. “Alcohol Control Systems and the Potential Effects of Privatization.” 2011. Page 11.
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