

## For your information

The Oregon Liquor Control Commission has:

Amended  
 Adopted  
 Repealed

**OAR 845-005-0420**  
**TEMPORARY**

Effective Date: January 1, 2008 through June 28, 2008

Note: **Bold and underlined** = new text; *strikethrough and italics* = deleted text

**845-005-0420**

**Qualifications for Same-Day and Next-Day Retail Delivery of *Package Alcohol Malt Beverages with Meal Service* to Residents of Oregon**

**ORS 471.305 allows certain licensees of the Commission to deliver malt beverages to customers. This rule describes the qualifications to make same-day and next-day delivery of malt beverages to residents of Oregon.**

*(1) ORS 471.305 restricts retail wine and malt beverage sales to the licensed premises. It allows deliveries within Oregon "made by the licensee to customers pursuant to bona fide orders received on the premises prior to delivery".*

*(2) As used in this rule:*

*(a) "Made by the licensee" includes deliveries by the licensee's employee who is a service permittee, is at least 21 years old and has successfully completed an approved Alcohol Server Education Course. If the licensee's employee does not comply with the requirements of section (3) of this rule, the licensee has violated this rule;*

*(b) "Orders received on the licensed premises" means an order placed in person on the licensed premises and an order received by mail, telephone, telegraph, facsimile or other similar means.*

*(c) "Regular meal" means any combination of foods, excluding sandwiches, that is generally considered to be a complete meal, at least a part of which is prepared and cooked on the licensed premises, and requires the use of dining implements for consumption.*

*(3) Same-day delivery is limited to manufacturer-sealed containers of alcoholic beverages that may be sold for off-premises consumption under the license privilege, but not including kegs of malt beverages.*

*(4) To qualify for the same-day delivery privilege allowed by this rule, a licensee must:*

- ~~(a) Have an Off-Premises Sales license and either a Full On-Premises Sales or a Limited On-Premises Sales license, or a Brewery Public House license, and;~~
- ~~(b) Be in the business of preparing and serving regular meals on the licensed premises, and;~~
- ~~(c) Submit a complete written request for the privilege as specified in section (4) of this rule, and;~~
- ~~(d) Be approved by the Commission in writing.~~

**(1) Only a holder of one the following licenses may qualify to deliver malt beverages to residents of Oregon:**

**(a) An off-premises sales license issued under ORS 471.186.**

**(b) A brewery-public house license issued under ORS 471.200.**

~~(5) The licensee's request shall consist of the following:~~

- ~~(a) If the licensee does not hold a Full On-Premises Sales license, documentation that the licensee is in the business of preparing and serving regular meals on the licensed premises.~~
- ~~(b) A detailed proposal to deliver alcoholic beverages in compliance with the criteria of section (6) of this rule.~~

~~(6) To be approved for same-day delivery, the licensee must propose to comply with the following requirements:~~

- ~~(a) Food, excluding beverages, must account for at least 75% of the cost of the delivery.~~
- ~~(b) The licensee must use delivery vehicles that prominently display the licensee's trade name;~~
- ~~(c) The licensee must make all deliveries before 9:00 p.m.;~~
- ~~(d) The licensee must prominently label each shipping container: "Alcoholic Beverages – Do not deliver to a person who is under 21 years of age or visibly intoxicated;"~~
- ~~(e) The licensee must deliver only to a person who is at least 21 years old and must not deliver to a visibly intoxicated person;~~
- ~~(f) The licensee must deliver only to a home or business;~~
- ~~(g) The licensee must not deliver kegs;~~
- ~~(h) At the time of delivery, the delivery person must complete a Commission-approved form. The delivery person must use the form to record the verification that the person who receives the delivery is at least 21 years old, the delivery address and the identity of the delivery person. The delivery person must give the completed form to the retail licensee who must keep this verification record for two years.~~

~~(7) A licensee may request exemption from sub-section (6)(a) of this rule. The Commission will determine the merit of the request based on the following criteria:~~

- ~~(a) The licensee plans to deliver small quantities of alcoholic beverages;~~  
~~(b) The food that the licensee offers are not fast foods, short order foods or snacks. Examples include hamburgers, sandwiches and pizza;~~  
~~(c) The licensee has a good compliance history.~~

**(2) Notice of Next-Day Delivery. A licensee that intends to provide the service of next-day delivery of malt beverages to Oregon residents must notify the Commission in writing prior to beginning the next-day delivery service that it intends to provide this service. All deliveries must meet the requirements set forth in OAR 845-006-0396 for next-day delivery.**

**(3) Application for Same-Day Delivery. A licensee that intends to provide the service of same-day delivery of malt beverages to Oregon residents must make application to the Commission upon forms to be furnished by the Commission and receive approval from the Commission prior to beginning the same-day delivery service. The application shall include:**

**(a) A statement that the person understands and will follow the requirements for same-day delivery listed in OAR 845-006-0396.**

**(4) The Commission may refuse to process any application not complete and accompanied by the documents or disclosures required by the form. The Commission shall give applicants the opportunity to be heard if the Commission refuses to process an application. A hearing under this subsection is not subject to the requirements for contested case proceedings under ORS chapter 183.**

Stat. Auth.: ORS 471, including ORS 471.030, ORS 471.040, 471.730(1) & (5)  
Stats. Implemented: ORS 471.305

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