

For your information

The Oregon Liquor Control Commission has:

Amended
 Adopted
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OAR 845-006-0392
TEMPORARY

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

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

845-006-0392

Requirements for Direct Shipment of Wine and Cider

OAR 845-005-0417 sets the qualifications to obtain a Direct Shipper Permit. This rule sets the requirements for direct shipment.

(1) A person holding a Direct Shipper Permit must ship:

(a) Only wine or cider and only in manufacturer-sealed containers;

(b) Only to a resident of Oregon who is at least 21 years of age and only if the wine or cider is for personal use and not for the purpose of resale;

(c) Only for delivery to a resident who is not visibly intoxicated at the time of receiving the alcohol;

(d) Not more than a total of two cases of wine or cider containing not more than nine liters per case per month to any resident of Oregon who is at least 21 years of age;

(e) The product in a container that is conspicuously labeled with the words "Contains alcohol: signature of person age 21 years or older required for delivery;"

(f) Only pursuant to an order for the wine or cider that is received by the permit holder prior to shipment of the alcohol;

(g) Only for next-day delivery, unless the permit holder has been approved for same-day delivery; and

(h) Only to a home or business with a permanent address.

(2) If the permit holder ships via a for-hire carrier, in addition to complying with subsection (1) of this rule, the permit holder must use a for-hire carrier with a plan approved by the Commission under OAR 845-005-0424. A for-hire carrier may not be used for same-day delivery.

(3) If the permit holder does not use a for-hire carrier, in addition to complying with subsection (1) of this rule, only the permit holder or an employee of the permit holder may deliver the wine or cider to the resident of Oregon. Also, the person making the delivery of the wine or cider must:

(a) Be age 21 or over;

(b) Verify by inspecting government-issued photo identification that the person receiving the alcohol is at least 21 years of age;

(c) Verify that the person receiving the alcohol is not visibly intoxicated; and

(d) Complete a Commission-approved form that must be retained by the permit holder for a minimum of two years from the date of delivery of the alcohol to the resident. The form must include:

(A) A statement that the person receiving the alcohol is required to sign that says "I am age 21 years or older;"

(B) A place for recording the date and time the alcohol was delivered to the resident;

(C) A place for recording the amount of wine or cider delivered to the resident;

(D) A place for recording the name of the person delivering the alcohol to the resident;

(E) A place for recording the name, birth date, and delivery address of the person receiving the alcohol;

(F) A place for recording that the person delivering the alcohol verified by inspecting government-issued photo identification that the person receiving the alcohol is at least 21 years of age;

(G) A place for recording the government and type of photo identification accepted; and

(H) A place for verifying that the person receiving the alcohol is not visibly intoxicated.

(4) Same-day delivery. If the permit holder has also obtained approval to make same-day delivery of wine or cider, in addition to complying with subsections (1) and (3) of this rule, the permit holder must:

(a) Receive the order from the resident no later than 4:00 pm on the day the order is delivered;

(b) Ensure that the wine and cider is delivered to the resident before 9:00 pm; and

(c) Utilize only the permit holder or the permit holder's employee to deliver the wine or cider to the resident.

(5) A permit holder must:

(a) Keep a record of all shipment of wine and cider to Oregon residents, including the name of the resident, the date of shipment and the amount of wine or cider shipped, and shall retain such records for a minimum of two years from the date of the shipment. The permit holder must allow the Commission to audit the permit holder's records upon request and shall make those records available to the Commission in this state;

(b) Report to the Commission all shipments of wine or cider made to Oregon residents under the permit as required by ORS chapter 473. The report must be made in a form prescribed by the Commission; and

(c) Timely pay to the Commission all taxes imposed under ORS chapter 473 on wine and cider sold and shipped directly to Oregon residents under the permit. For the purpose of the privilege tax imposed under ORS chapter 473, all wine or cider sold and shipped pursuant to a direct shipper permit is sold in this state. The permit holder, not the purchaser, is responsible for the tax.

(6) If the permit holder is a person holding a license issued by another state within the United States, it consents to the jurisdiction of the Commission and the courts of this state for the purpose of enforcing the provisions of this rule and any related laws or rules.

(7) A person may sell and ship wine or cider to Oregon residents only if the person holds a valid Direct Shipper Permit and holds a license issued by this state or another state that authorizes the person to hold a Direct Shipper Permit.

(8) A violation of section (5) of this rule is a Category IV violation. A violation of any other section of this rule is a Category III violation. In lieu

of a criminal citation, the Commission may assess an administrative penalty for shipping wine or cider without a valid Direct Shipper Permit in violation of section (7) of this rule against any Oregon license held by the shipper, including a Certificate of Approval issued pursuant to ORS 471.289.

Stat. Auth.: ORS 471, including ORS 471.030, 471.040 & 471.730(1) & (5)
Stats. Implemented: ORS 471.229 & ORS 473

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