



OREGON LIQUOR CONTROL COMMISSION

The Commission proposes to amend the following
Oregon Administrative Rules:

Redemption Center Package
(OAR 845-020-0020, OAR 845-020-0025 & OAR 845-020-0030)

PUBLIC HEARING:

Commission staff will hold a public hearing on this proposed action:

Date: December 15, 2009
Time: 10:00 am
Location: Oregon Liquor Control Commission
9079 SE McLoughlin Boulevard
Portland, OR 97222

Phone: (503) 872-5004 (toll free within Oregon 1-800-452-6522)

Fax: (503) 872-5110

Presiding Officer: Jennifer Huntsman

(Auxiliary aids for persons with disabilities are available upon advance request)

CAPTION: Amendments to redemption center rules providing clarity on convenience factors considered when approving a center

The Commission is responsible for regulation of the Beverage Container Act (Bottle Bill). Since its inception the Commission has had statutory authority to approve redemption centers if they will provide a convenient service to consumers for the return of empty beverage containers. In anticipation of our first redemption center applications, staff undertook to review our existing redemption center rules and amend them as appropriate in an effort to clarify redemption center requirements. Staff recommends amending OAR 845-020-0025 to more completely reflect the key information required on an application for a redemption center as well as amending OAR 845-020-0020 so that the major factors the Commission may consider in approving a redemption center correspond with the required application information. Staff further recommends amending OAR 845-020-0030 by removing references to specific agencies that do not in fact regulate redemption centers.

You can obtain a copy of the proposed amendments by calling Laura Paul at 503-872-5105, or the toll-free number listed above. Rule drafts are also available on the OLCC web site: <http://oregon.gov/OLCC/> - go to the "Liquor Laws and Rules" button, then follow the link to "OLCC Proposed Rulemaking", then "Redemption Center Rulemaking", and finally "Final Staff Rule Draft". If you wish to give your views, arguments, or information on this matter, you may do so at the public hearing, or you can submit comments by December 29, 2009. You can also email your comments to: jennifer.huntsman@state.or.us.

Documents faxed, mailed or emailed must be received by 5:00 pm on December 29, 2009.

ORS 183.335(2)(G) requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business. That comment must also be received by 5:00 pm on December 29, 2009.

The Commission reserves the right to request and receive additional comments at any time on or before the date the Commission takes final action on the proposed rule.

Statutory Authority: ORS 459A, including ORS 459A.735(1), (3) & (4), 459.992 & 471.730

Other Authority: None

Statutes Implemented: ORS 459A.735

Need for the Rule(s): The Commission is responsible for regulation of the Beverage Container Act (Bottle Bill). Since its inception the Commission has had statutory authority to approve redemption centers if they will provide a convenient service to consumers for the return of empty beverage containers. However, in the past 30 plus years the Commission has never had to apply that authority in a review of a redemption center application. The Commission has had administrative rules since 1972 that address the approval of and the application for redemption centers (OAR 845-020-0020 & OAR 845-020-0025), and also address sanitation and cleanliness standards (OAR 845-020-0030). But, again, until now, we have never had to apply them. In anticipation of our first redemption center applications, staff undertook to review our existing redemption center rules and amend them as appropriate in an effort to clarify redemption center requirements. In preparation for this rulemaking, staff formed a pre-rulemaking advisory committee made up of our state agency partners, industry, the public, and environmental stakeholders. This group provided the Commission with valuable input into the specific standards that should apply to prospective redemption centers. Staff recommends amending OAR 845-020-0025 to more completely reflect the key information required on an application for a redemption center as well as amending OAR 845-020-0020 so that the major factors the Commission may consider in approving a redemption center correspond with the required application information. Staff further recommends amending OAR 845-020-0030 by removing references to specific agencies that do not in fact regulate redemption centers.

Documents Relied Upon, and where they are available: Minutes of Advisory Committee meeting of September 17, 2009 available from the Commission's rules coordinator, Jennifer Huntsman, at 9079 SE McLoughlin Boulevard Portland, OR 97222.

Fiscal and Economic Impact, including Statement of Cost of Compliance: This statement takes into account the fiscal impact on **(a)** Off-Premises sales licensees; **(b)** local government; **(c)** state agencies; and **(d)** the public.

(a) Off-Premises Sales licensees. The Commission does not anticipate any significant fiscal impact on any retail licensee from these rule amendments. Because these proposed rule amendments are putting into rule what already exists in the redemption center system set up by statute, there really is no fiscal impact solely from these rule amendments. The overall redemption center system currently being proposed by the industry would not be a negative impact on retailers, specifically large retailers. Because the large retailers currently over-redeem, as long as a redemption center redeems the same or more containers than the participating retailers did, there should be no negative impact. However, if the center's redemption numbers are less, then there could be a negative impact on small retailers in the area, as well as recycling numbers as a whole, but there is no way to quantify the fiscal impacts on retail licensees at this time.

(b) Local government. The Commission does not anticipate any significant fiscal impact on local government from the proposed rule amendments, although local jurisdictions will be asked by redemption center applicants to endorse their application, attesting to their meeting all zoning requirements and applicable local ordinances.

(c) State agencies. The Commission does not anticipate any fiscal impact on state agencies from the proposed rule amendments.

(d) The public. The hope is that the establishment of redemption centers will prove convenient for the consumer as compared with redeeming their beverage containers at a retailer and that these rule amendments will help ensure that only centers that provide a convenient service are approved. During the Oregon redemption center system's establishment and growth over time, each consumer will likely feel different and unique impacts; however the Commission does not anticipate any significant fiscal impact on the public from the proposed rule amendments.

Cost of Compliance: There should be no additional costs for anyone to comply with these amendments. As mentioned previously, these rule amendments would put into rule what already exists in the redemption center system set up by statute. There are no reporting or recordkeeping requirements required for compliance with these rules. There is no additional requirement for equipment, supplies, labor, or administration. That said, the system actually getting up and running for approval of the first redemption centers could mean a slight increase to the applicant in time and resources to apply. It was also questioned by the advisory committee if the Commission has the staff and resources to handle the application approval process.

Because there is not adequate information available to accurately project the fiscal impact, the Commission is unable to calculate the potential fiscal impacts.

How were small businesses involved in the development of this rule? The Commission assumes the majority of its licensees are small businesses. We invited licensees, industry representatives, environmental stakeholders, and government partners, to the Advisory Committee meeting where this matter was discussed.

Administrative Rule Advisory Committee consulted? Yes. An Advisory Committee met on September 17, 2009. Members included industry representatives, licensees, state and local government, and members representing environmental concerns. The Committee assisted in writing this Fiscal Impact Statement.

(This notice mailed October 30, 2009)