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ADMINISTRATIVE
PROCESS DIVISION

PETITION TO AMEND RULE
Oregon Liquor Control Commission
Of the State of Oregon

In the matter of OAR 845-006-0396)
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)

PETITION TO AMEND RULES
Requirements for Same-Day Retail Delivery
of Malt Beverages to a Resident of Oregon

1. Petitioner: Restaurant Retrievers LLC Nathaniel Paschal, Registered Agent
928 Madison St.
Silverton, OR 97381

A Delivery Service serving Menu Items from Multiple Restaurants to Homes.

A For Hire Carrier of Malt Beverages and Wine

2. Guidelines for Same Day Retail Delivery of Malt Beverages (845-006-0396) currently exclude Delivery of Malt Beverage if a dinner order is placed with the Retail Outlet after 4:00 pm. Petition is to allow ordering Delivery of Malt Beverages for evening meals from Type O Licensees up to 8:00 pm in quantities 1.25 gallons or less to be delivered in compliance with all OLCC Guidelines.

3. Propose to amend:

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

845-006-0396

Requirements for Same-Day and Next-Day Retail Delivery of Malt Beverages to a Resident of Oregon

This rule sets the requirements for same-day and next-day delivery of malt beverages to a resident of Oregon. A licensee must be approved by the Commission under OAR 845-005-0420 in order to provide same-day delivery of malt beverages.

- (1) A licensee qualified to make same-day or next-day delivery of malt beverages under OAR 845-005-0420 must ship:
 - (a) Only malt beverages and only in a manufacturer-sealed container. A container must not hold more than two and one-quarter gallons;
 - (b) Only to a resident of Oregon who is at least 21 years of age and only if the malt beverage 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) The malt beverage in a package that is conspicuously labeled with the words "Contains alcohol: signature of person age 21 years or older required for delivery" or similar language approved by the Commission;
 - (e) Only pursuant to an order for the malt beverage that is received by the licensee prior to shipment of the alcohol;
 - (f) Only for next-day delivery unless the licensee has been approved for same-day delivery by the Commission; and
 - (g) Only to a home or business where the home or business has a permanent street address.
- (2) A licensee must retain a record for a minimum of eighteen months of the amount of alcohol contained in the shipment to the resident.
- (3) If the licensee ships via a for-hire carrier, in addition to complying with sections (1) and (2) of this rule, the licensee must use a for-hire carrier with a plan approved by the Commission under OAR 845-005-0424.

- (4) If the licensee does not use a for-hire carrier, in addition to complying with sections (1) and (2) of this rule, the person delivering the malt beverage must:
- (a) Be age 18 or over;
 - (b) Verify by inspecting government-issued photo identification that the person receiving the alcohol is at least 21 years of age;
 - (c) Determine that the person receiving the alcohol is not visibly intoxicated; and
 - (d) Collect information that must be retained by the licensee for a minimum of eighteen months from the date of delivery of the alcohol to the resident. The information may be collected and retained electronically (if the licensee so chooses) and must include:
 - (A) The date and time the alcohol was delivered to the resident;
 - (B) The name or information which can be used to determine the name of the person delivering the alcohol to the resident; and
 - (C) The name, signature, and delivery address of the person receiving the alcohol.
- (5) Same-day delivery. If the licensee is approved to make same-day delivery of malt beverages, in addition to complying with sections (1), (2), and either (3) or (4) of this rule, the licensee must:
- (a) Receive the order from the resident no later than 4:00 pm on the day the order is delivered, ensure that the malt beverage is delivered before 9:00 pm, and deliver not more than a total of five gallons of malt beverage per day to a resident of Oregon; or
 - (b) Receive the order from the resident no later than 4:00 pm on the day the order is delivered, ensure that the malt beverage is delivered before 9:00 pm, and may deliver an unlimited amount of malt beverage if the alcohol accounts for no more than 25 percent of the retail cost of the order (at least 75 percent of the retail cost of the order must be items other than alcohol); or
 - (c) Receive the order from the resident no later than 9:00 am on the day the order is delivered, ensure that the malt beverage is delivered before 9:00 pm, and may deliver an unlimited amount of malt beverage; or,
 - (d) Receive the order from the resident no later than 8:00 pm on the day the order is delivered, ensure that the malt beverage is delivered before 9:00 pm, and deliver not more than a total of 1.25 gallons per day to a resident of Oregon.**
- (6) Sanction. A violation of any section of this rule is a Category III violation.
Stat. Auth.: ORS 471, including ORS 471.030, ORS 471.040, 471.730(1) & (5)
Stats. Implemented: ORS 471.305

4. Reason to amend rule:

This rule excludes moderate consumption in home by a consumer ordering dinner from a Type O Licensee to be delivered to the residence. If amended, we expect legal and economic benefit to Type O Retailers. We also expect convenience and safety benefit to Consumers and Communities.

5. Options for achieving the existing rule's substantive goals while reducing the negative economic impact on businesses:

Quantity reduction of Deliverable Malt Beverage while increasing the window of ordering allows new economic activity, convenience, and community safety without encouraging irresponsible consumption or unpermitted festivity. Whereas no consumer needs five gallons delivered with dinner, two six packs (approximately 1.25 gallons) approaches the responsible upper limit of total household consumption.

6. The continued need for the existing rule:

Responsible Delivery of Malt Beverages is key to preventing problems with irresponsible consumption and unpermitted festivities. Community Integrity and Relations depend on regulation and control of delivery of larger quantities of Malt Beverage in a responsible manner.

- 7. The extent to which the existing rule overlaps, duplicates, or conflicts with other state or federal rules and with local government regulations:

The Existing rule has no overlaps, duplicates, or conflicts to the knowledge of the Petitioner.

- 8. The degree to which technology, economic conditions, or other factors have changed in the subject area affected by the existing rule, since the agency adopted the rule:

Online ordering, multiple restaurant delivery services (MRDS), and other integrated services have become prevalent, allowing the customer cuisine options far beyond Pizza. The restaurant and retail community has an opportunity to offer service and convenience in Beverage Delivery with dinner that will decrease driving after consumption, while maintaining accountability and responsibility of the transaction and delivery. Dinner service will then be equal to the service available for Lunch orders currently.

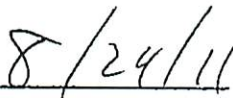
In closing, we believe that this amendment to the present rule will greatly benefit the restaurant/retailer community, community safety as a whole, and governmental agencies that work with Licensees.

We respectfully request the Oregon Liquor Control Commission amend this rule.

Petitioner: Restaurant Retrievers LLC



Nathaniel Paschal, Registered Agent



Date