



Supplier-Retailer Relations

A Guide to Oregon's Financial Assistance Laws

(Rev. 01/17)



Supplier – Retailer Guidelines

Oregon law prohibits manufacturers and wholesalers from having any financial or ownership interest in a retail establishment. This concept is known as a “tied house,” meaning manufacturers cannot be “tied” to the retailer through financial interests or create incentives that could exert undue influence on the products that retailers sell and consumer selection.

Unless allowed by the exceptions explained in this publication, Oregon law also prohibits a supplier from giving financial assistance to a retailer, and a retailer cannot accept financial assistance from a supplier. “Supplier” refers to manufacturers, wholesalers, and their respective agents.

A supplier may promote its products, but cannot promote a retailer’s business or underwrite a retailer’s business expenses.

This publication provides guidelines for what suppliers may provide and the conditions under which they may provide them.

Legal references for tied house regulations and financial assistance are Oregon Revised Statutes (ORS) 471.392 – 471.402 and Oregon Administrative Rules (OAR) Chapter 845 Division 13.

PENALTY: Providing or accepting financial assistance is a Category III violation. Sanctions range from a 10-day suspension or civil penalty of \$1,650 for a first offense to license cancellation for a fourth offense. Both the retailer and the supplier may be subject to administrative penalties for financial assistance violations.

Money, Credit, Discounts

OAR 845-013-0020

Supplier may give credit or cash for malt beverages or wine that retailer returns with OLCC's prior written approval, only in the following circumstances:

- Retailer terminates the business
- Retailer temporarily stops operating due to natural disaster
- Retailer stops operation for more than 29 days
- After a Temporary Sales License event (except for Full On-Premises Sales licensees)

Supplier may give credit for malt beverage or wine that is leaking, deteriorating, near/past shelf life, damaged container, delivered in error, has bad labels, when no saleable product is available for exchange:

- Credit must be applied to the retailer's next purchase
- OLCC's prior written approval must be obtained (for more than one case)
- Credit is limited to retailer's original purchase price for product

Supplier may sell a retailer existing vintage-dated wine for future delivery by written contract prior to winery release

- Opportunity must be offered to all retail licensees at same general time
- Supplier keeps a copy of the contract
- Supplier keeps a record of how and to whom this opportunity was offered

Prices

OAR 845-010-0200, 845-010-0210

Supplier must maintain price lists. Price lists must show the following:

- Every brand and type of product offered
- Price for each size container
- Effective date of each price
- Allowance granted for returnable containers
- Handling fee on wine sold in less than the smallest multi-pack
- Transportation costs
- If supplier decreases the price, it must not increase the price for 14 days

Supplier must charge same price to all retailers

- Excluding transportation costs (must be separately itemized on invoice)
- Quantity discounts are prohibited

Substantial Gratuities

OAR 845-013-0010

Supplier may provide food and beverages to a retailer for immediate consumption at:

- Business meetings
- Conventions, where it is offered to all participants
- Sports/entertainment events when supplier attends with the retailer

Supplier may provide items at a convention

- Items must be available to all convention participants

Supplier may provide tickets and admission fees (includes green, court and lane fees)

- Only if supplier accompanies retailer to the sports or entertainment event and does not pay associated costs (e.g. travel expenses)

Supplier may provide gifts to acknowledge a grand opening, birthday, anniversary, etc.

- Gifts may not exceed \$30 fair market value in a calendar year
- Gifts may not include cash

Supplier may provide campaigns for responsible use

- Only promoting responsible use and containing no reference to retailer
- May provide inexpensive items such as buttons and posters
- May provide a person/celebrity as part of the campaign at a licensed premises, as long as:
 - The event is not advertised
 - There is only a brief performance, if any
 - The supplier does not provide alcohol to any customers
 - The supplier provides only one promotion per year, per retailer

Advertising

OAR 845-013-0040

Suppliers may advertise their products apart from a retailer's premises

- Advertising must only refer to the supplier's product
- A specific retailer may not be mentioned
- Supplier may make lists of retailers that sell its products available to customers
- Retailer lists may not include prices and must include every retailer that sells suppliers products

Suppliers may reference specific retailers subject to the following regulations:

- OAR 845-005-0428, Retail On-Premises Distilled Spirits Sampling Involving Distillery Representative
- OAR 845-006-0446, Promotional Events at a Retailer Licensed Premises Involving Suppliers

- OAR 845-006-0450, Retail On-Premises Malt Beverage, Wine, or Cider Tastings Involving Suppliers
- The advertising may list *no more than* the retailer's name and address, the date of the event, and the name of the supplier's product.

Suppliers may not make monetary payments for advertising to retailers except under ORS 471.401 (Purchase of alcoholic liquor advertising space or time from retail licensee)

- This may be done for the following retailers:
 - Limited and Full On-Premises Sales licensees with a capacity exceeding 3,000 persons
 - Limited and Full On-Premises Sales licensees owned by the U.S. Government or a public body
 - Limited and Full On-Premises Sales licensees that are registered non-profit organizations
 - Temporary Sales licensees that are registered non-profit organizations
- Event must be held on licensee's annually licensed premises
- Licensee must serve other brands of alcoholic beverages
- There must be a written agreement between supplier and retailer

Fixtures, Furniture & Furnishings

OAR 845-013-0030

Supplier may provide bins or display racks valued at \$300 or less

- Only one bin or rack per trade name, per retailer at any given time
- Bin or rack is permanently marked with brand name or trade name of supplier
- Retailer only uses bin or rack for named product

Schematics

OAR 845-013-0075

Schematics are proposals that recommend the placement of a supplier's products on a retailer's shelves.

Suppliers may use schematics only to promote their products to a retailer.

- Retailer remains responsible for deciding what products are actually sold
- Includes schematics provided by a third party

Items of Nominal Value

OAR 845-013-0060

Basic items that support supplier's products can be provided, such as:

- **Tastings or samples of distilled spirits**
 - Only if retailer does not carry the product, and only if 50 ml or less
- **Tastings or samples of wine or malt beverages**
 - Only if retailer doesn't already carry the brand
 - Must not exceed 1 gallon of malt beverage
 - Must not exceed 5 liters of wine
 - Sample containers must be marked "*SAMPLE – NOT FOR RESALE*"
- **For Draft Systems:**
 - Tavern Heads (one per calendar year; trade-in of tavern head at fair market value as partial payment when retailer replaces draft system), washers and Thomas valves, and new and used empty shells/bags (for returning retailer's empty containers)

Supplier may provide items to retailers made of inexpensive material that provide information to customers, ("consumer takeaways") such as:

- Items for off-premises use, including sports/entertainment schedules, calendars and recipes
- Beer, wine and spirits lists which may include any alcohol sold at the premises and generic references to food
- Suppliers may not provide items such as clothing or glassware to consumers on a retail premises.

Point of Sale Material

OAR 845-013-0050

Supplier may provide material that functions to advertise the alcoholic beverage product at the retailer's premises

- Retailer may use material only for promotional display on licensed premises
- Such materials include coasters, napkins, table tents and items of like value
- Supplier may provide signs (e.g. neon, electrical, mechanical, or inflatable)
- Interior point of sale items may include the name and address of the retailer
- Supplier may not require a minimum purchase in order for a retailer to receive point of sale items
- Supplier may not directly or indirectly pay or credit the retailer for using or distributing these items or for any expense incidental to their use

Supplier may provide exterior point of sale material

- Only for supplier's alcoholic beverage product
- Must not exceed 2160 square inches (approximately 3 ft. x 5 ft.)
- May not be customized to retailer

All point of sale advertising and consumer take-aways must bear conspicuous and substantial advertising matter about the product or the supplier that is permanently inscribed or securely affixed.

Services of Nominal Value

OAR 845-013-0070

Supplier may provide basic services that support products on draft, such as:

- Inspecting equipment for sanitation and quality control
- Performing emergency repairs on draft equipment
- Instructing retailers how to care for draft and cooling systems
- Tapping kegs during regular delivery calls

Supplier may install, clean and repair point of sale material

Supplier may provide basic marketing support services, such as:

- Delivering to a designated place on the retailer's premises
 - Only for supplier's alcoholic beverage products
- Moving product to a nearby store (for chains)
 - Only when a store closes, and only for supplier's alcoholic beverage products
 - ***Retailers may not move product between stores*
- Rearranging/replenishing product
 - Only supplier's own product
- Pricing own brands
 - This means adding the price to the alcoholic beverage product or to the shelf, *not* setting the price of the alcohol.
 - No repricing
- Promptly exchanging product delivered in error
 - Both supplier and retailer must keep a record of transaction
- Exchanging product that is leaking, deteriorating, near/past shelf date, has damaged or missing labels, or damaged containers.
 - The exchange must be for an equal quantity of identical product.
 - Product must not have been damaged by the retailer or the retailer's customer
- Providing assistance with promotional events as allowed by 845-006-0446 and conducting tastings as allowed by 845-005-0428 and 845-006-0450. (See pages 10-12 for additional information on these concepts)

Items & Services to Non-Profit Temporary Sales

Licensees

OAR 845-013-0090

The licensee must be a non-profit or charitable organization registered with the state, a political committee that has a current statement of organization filed under ORS 260.039 or 260.042, an agency of the state, or a local government, agency or department of a local government.

A supplier may give, sell or discount the following to a non-profit temporary sales licensee:

- Any product the supplier normally sells
- Credit or cash for returned product
- Services that support the beverage
- Banners for interior/exterior display that advertise the special event - no size limitation
- Equipment (such as picnic pumps, cold plates, etc.) for the event (not to exceed 10 days)
- Supplier may provide employees to sell or serve at the approved event
 - Employee must have a valid service permit or have successfully complete an approved alcohol server education course within the last five years
- Supplier may pick up excess malt beverage product at the end of a qualifying special event

Items & Services to For-Profit Temporary Sales

Licensees

OAR 845-013-0080

- Retailers affected: Temporary Sales License, Temporary Use of an Annual License (TUAL), Special Event Brewery Public House License (SEBPH)
- Supplier may provide advertising of a temporary special event that lists the name and location of the event along with the name of the supplier's product
- Advertising must be paid to third party provider, not the retailer
- Alcoholic beverages must be sold to the temporary sales licensee at posted wholesale prices and may not exclude other suppliers' products
- Supplier must follow all other financial assistance rules

Private Labels for Wine or Malt Beverages

OAR 845-010-0206

Supplier and Retailer may enter into an agreement for a private label wine or malt beverage product

- Retailer must pay all costs for the development and production of the label
- Out-of-State manufacturer must sell through an independent wholesaler
- Product may not be a new malt beverage or wine
- Private label product must be identical to supplier's existing product
- Identical product must be reasonably available to other retailers
- Supplier must sell product for at least the wholesale cost
- Commission must approve the private label and the private label agreement
- Note: this rule does not authorize a private label for distilled liquor or cider

Additional Information

- A supplier may, for a reasonable fee, sell to a retailer items, labor, or services that are otherwise prohibited under OLCC's financial assistance laws. A "reasonable fee" is one that covers at least the supplier's cost for services or is at least the cost to the supplier who initially purchased or produced the item. The supplier and the retailer must keep a record of the sale. (OAR 845-013-0001(5))
- No supplier may buy food, beverages or anything of value on a retailer's premises for customers who are not his/her personal acquaintances. (ORS 845-013-0110)
- No promotional activities for alcohol may be conducted on any college or university campus. (ORS 845-006-0349)
- Rebate coupons for distilled spirits are prohibited except for purchases at liquor stores. (OAR 845-015-0165, -0175 and -0177) See page 13 for information about manufacturer-issued rebates for malt beverages, wine, and cider.

Guidelines for Malt Beverage, Wine, and Cider Tastings

At a Business with a Full-On Premises, Limited On-Premises, or Off-Premises Sales License

OAR 845-006-0450

Manufacturers: Defined as Winery, Brewery, Brewery Public House, Grower Sales Privilege, Warehouse licensees and Certificate of Approval (CERA) holders (but only for the product for which they hold the certificate). Holders of Wholesale Malt Beverage and Wine (WMBW) licenses may not conduct tastings on a retail premises unless doing so on behalf of a CERA holder.

Manufacturers may conduct tastings of malt beverages, wine, and cider at retail locations under the following conditions:

- License:** Manufacturers do not need a special or temporary license to conduct a tasting.
- Alcohol:** Manufacturers must provide the samples and must remove any leftover alcohol at the end of the tasting.
- Size of samples:** No more than 1.5 ounces for wine or cider and 3 ounces for malt beverages.
- Servers:** Must have service permits. Manufacturers must provide or pay for the servers who must be the manufacturer's employees or agents. Manufacturers may not pay or compensate any employee or agent of the retailer to participate in the tasting.
- Number:** No more than 12 days per calendar year at each retail premises for the purposes of tastings.
- Advertising:** Manufacturers may advertise the tasting as allowed in OAR 845-013-0040. This means the advertising may only reference the retailer's name and address, the date of the event, and the name of the supplier's product. Retailers may advertise the tasting.
- Records:** Manufacturers must keep records of each tasting they conduct, including the date, location, products served, and names of servers.

Note: OAR 845-006-0450(7) allows retailers to conduct tastings of alcohol beverages. The retailer must provide the alcoholic beverages for sampling and may not accept any assistance from a manufacturer.

Guidelines for Distilled Spirits Tastings

At a Business with a Full-On Premises Sales license

OAR 845-005-0428

Full On-Premises Sales licensees may allow a distillery to participate in distilled spirits sample tasting events for the retailer's customers under the following conditions:

License: Event must be sponsored by the Full On-Premises Sales licensee and must be held on its annually-licensed premises.

Alcohol: Distillery products must be approved for sale in Oregon. Distillery must provide the sample tastings of approved distilled spirits and remove any remaining product at the end of the tasting.

Size of samples: Samples are limited to one-half (0.5) ounce of distilled spirits per container. No more than two and one-half (2.5) ounces to each customer per day. The spirits may be mixed with nonalcoholic beverages; however, the total amount of liquid per container cannot exceed two (2) ounces.

Servers: Server must have a valid Oregon Alcohol Service Permit. Distillery must pay for person to serve the tasting. The person serving may not be an employee of the retail licensee. Server may provide education to patrons and staff.

Number: Eight sample tastings are allowed per year, per retail premises.

Advertising: Distillery may advertise the tasting as allowed by OAR 845-013-0040. This means the advertising may only reference the retailer's name and address, the date of the event, and the name of the supplier's product. Retailer may advertise the tasting.

Assistance: Distillery must not compensate the licensee in order to participate in the tasting event. Except for serving the sample tastings, the distillery must not be involved with the sale or service of alcoholic beverages or any other service normally provided by the retailer on the licensed premises.

Records: The retailer must keep a record of each tasting event it holds for one year from the date the tasting was held. Records must include the date and location of each event, the products served, and the names of servers.

Guidelines for Promotional Events

At a Business with a Full-On Premises, Limited On-Premises, or Brewery-Public House License

OAR 845-006-0446

Suppliers: Defined as Winery, Grower Sales Privilege, Brewery, Brewery-Public House, Warehouse, and Distillery licensees and Certificate of Approval (CERA) holders (but only for the product for which they hold the certificate). Holders of WMBW licenses may not participate in a promotional event unless doing so on behalf of a CERA holder.

Retail licensees may allow a supplier to participate in promotional events under the following conditions:

- License:** Event must be sponsored by a retailer at its licensed premises. Examples of events include winemaker dinners, food and alcohol pairings, and product releases. Retailer is responsible for all alcohol sale and service at the event. Retailer must meet OLCC food service standards.
- Alcohol:** Retailer must purchase alcoholic beverages from a retail sales agent of the Commission (for distilled spirits) or from a supplier authorized to sell alcohol directly to retail licensees (for malt beverages, wine, or cider). Alcohol may not be donated or discounted to retailer.
- Servers:** Server must have a valid Oregon Alcohol Service Permit. Supplier may provide staff to serve alcoholic beverages for the products it represents
- Number:** A supplier may be in each retail premises no more than 12 days per calendar year for the purpose of a promotional event.
- Advertising:** Retailer may advertise the event. Supplier may advertise the event as allowed in OAR 845-013-0040. This means the advertising may only reference the retailer's name and address, the date of the event, and the name of the supplier's product.
- Assistance:** Supplier may provide education to patrons and staff for products it represents. Supplier may not compensate retailer or any employee or agent of the retailer to participate in an event.
- Records:** The retailer must keep a record of each event it sponsors for one year from the date of the event. Records must include the date and location of each event, the products served, and the names of suppliers.

Coupon Guidelines

For Manufacturer-Issued Rebates Associated with Malt Beverages, Wine, and Cider OAR 845-007-0015

For the purpose of ORS 845-007-0015, coupons are any material that a person may use to obtain a price reduction or rebate offered by an alcohol supplier.

All rebate coupons offered by manufacturers must meet the following requirements:

- Be redeemable only by mail
- Bear an expiration date
- Require proof of purchase; and
- Valid only for adults of legal drinking age

Manufacturers must furnish rebate coupons to all licensees carrying the product for off-premises consumption.

Mail-in progressive-type coupons which provide a larger rebate when progressively more alcohol is purchased are permitted.

Mail-in rebate coupons for cross-promotional products that provide a discount or rebate on food, non-alcoholic beverages or non-food items with or without the purchase of an alcoholic beverage product are permitted.

Manufacturers may offer instantly redeemable coupons for products sold to consumers under the manufacturer's retail privileges at the manufacturer's licensed premises.

For more information

If you have questions regarding any of the information in this publication, please contact Kelly Routt at 503-872-5007 or kelly.routt@oregon.gov.

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