

# Oregon Alcohol Laws

August 2018

Alcohol and Other Drug Prevention and Education Program  
Health Promotion and Chronic Disease Prevention  
Oregon Health Authority  
800 NE Oregon Street, Suite 730  
Portland, OR 97232  
(971) 673-0984



# Oregon Alcohol Laws

## Oregon Alcohol Laws

Prepared by  
Amanda Cue, Policy Specialist  
Ilana Kurtzig, Policy Specialist

August 2018

Alcohol and Other Drug Prevention and Education Program  
Health Promotion and Chronic Disease Prevention  
Oregon Health Authority  
800 NE Oregon Street, Suite 730  
Portland, OR 97232  
(971) 673-0984

### **Suggested Citation**

Alcohol and Other Drug Prevention and Education Program. *Oregon Alcohol Laws*. Portland, Oregon: Oregon Health Authority, Oregon Public Health Division, 2018.

All material in this report is in the public domain and may be reproduced or copied without permission; citation as to source, however, is appreciated.

# Table of Contents

I. Introduction	<a href="#">5</a>
II. Alcohol Policy in the United States	<a href="#">7</a>
21st Amendment	<a href="#">7</a>
Oregon is an alcohol beverage control state for distilled liquor	<a href="#">8</a>
Oregon Liquor Control Act	<a href="#">11</a>
Oregon Liquor Control Commission and regulatory powers	<a href="#">12</a>
Preemption Overview	<a href="#">16</a>
The Preemption Doctrine	<a href="#">16</a>
III. Access to alcohol products and youth possession of alcohol products	<a href="#">19</a>
National Minimum Drinking Age Act	<a href="#">19</a>
Social Host Law and Furnishing to Minors	<a href="#">20</a>
IV. Product Formulations	<a href="#">25</a>
Federal Alcohol Administration Act	<a href="#">25</a>
V. Alcohol Taxes, Sur-charges, Payments and Distributions	<a href="#">27</a>
Federal Excise Taxes	<a href="#">27</a>
State Control	<a href="#">27</a>
Liquor	<a href="#">27</a>
Beer, Wine and Cider Taxes	<a href="#">27</a>
VI. Alcohol Licensing	<a href="#">31</a>
Liquor License Process	<a href="#">31</a>
Enforcement	<a href="#">33</a>
Liquor License and Service Permit Types	<a href="#">33</a>
VII. Advertising	<a href="#">34</a>
VIII. Miscellaneous	<a href="#">38</a>
Blood Alcohol Concentration (BAC)	<a href="#">38</a>
Federal	<a href="#">38</a>
Oregon BAC	<a href="#">39</a>
Appendix	<a href="#">42</a>
Annual and Multi-Year License Types	<a href="#">42</a>

# Introduction

## Introduction

This document outlines Oregon laws, federal laws, and state and federal court orders related to alcohol control in Oregon. Federal laws and court orders are included when they are more stringent than state law.

### Format and Content:

In **subsections I through VIII**, the laws, policies and court orders have been divided into eight groups based on their content:

- I. Introduction
- II. Alcohol Policy in the United States
- III. Access to alcohol products and youth possession alcohol products
- IV. Product Formulation
- V. Alcohol Taxes, Sur-charges, Payments and Distribution
- VI. Alcohol Licensing
- VII. Advertising
- VIII. Miscellaneous

Laws, policies and orders in these subsections include a brief summary and, where practical, full legal citations. In addition, cursory information about enforcement has been provided. To view statutes in their entirety, click on the link associated with the statute. Note that most relevant statutes are located in Chapter 471 - Alcohol Liquors Generally [https://www.oregonlegislature.gov/bills\\_laws/ors/ors471.html](https://www.oregonlegislature.gov/bills_laws/ors/ors471.html).

### *Definitions:*

**ORS:** Oregon Revised Statutes; contains statutes and the Oregon Rules of Civil Procedure.

**OAR:** Oregon Administrative Rules; ORS 183.310(9) defines “rule” as “any agency directive, standard, regulation or statement of general applicability that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of any agency.” The Oregon Administrative Rules are published by the Oregon Secretary of State.

# Alcohol Policy in the United States

## II. Alcohol Policy in the United States

### 21st Amendment

In the United States, public policies that govern the manufacture, sale, and use of alcohol and define society's responses to alcohol-related problems are established by Federal, State, and local governments.

The legal basis for Federal and State regulation of alcoholic beverages is derived from the United States Constitution. From 1919 until 1933, the 18th Amendment prohibited "the manufacture, sale, or transportation of intoxicating liquors" in the United States and its territories. At the end of 1933, Congress ratified the 21st Amendment, repealing national Prohibition and granting states broad power to regulate alcoholic beverages.

Ratification of the 21st Amendment gave states the authority to either permit or prohibit importation or sale of alcoholic beverages within their borders; to determine the specific structure of alcohol distribution within their borders; and to regulate various aspects of alcohol sales and possession. These powers, however, do not preclude regulation by the Federal Government. The Commerce Clause of the Constitution also grants the Federal Congress the authority "[t]o regulate Commerce with foreign Nations, and among the several States..." —an authority that has been broadly interpreted over the past half century. In addition, the U.S. Congress may use its taxing power, granted under Article 1 of the Constitution, to assess and collect taxes on alcoholic beverages. Finally, the Federal Government may regulate alcoholic beverages in all areas subject to direct Federal control, such as public lands or military bases.

Federal law can also influence State alcohol policies by means of financial incentives. For example, Federal law requires that a portion of Federal highway funding be withheld from any State that allows the purchase or public possession of alcoholic beverages by persons under the age of 21 years.

States vary in the amount of authority they allocate to local government to regulate alcoholic beverages. In many States, municipalities or other local government agencies create laws (often called ordinances) that regulate the sale and distribution of alcohol

# Alcohol Policy in the United States

within their jurisdictions. In other States, alcohol control is retained at the state level with little or no regulation originating at local levels.

(Source: Alcohol Policy Information System:  
<https://alcoholpolicy.niaaa.nih.gov/about-alcohol-policy>)

## **Oregon is an alcohol beverage control state for distilled liquor**

State laws and regulations specify who in the state may distribute alcoholic beverages. State-run alcohol control systems are also referred to as monopoly systems, and states with these systems are sometimes referred to as “control states.” Oregon is a “control state” for distilled liquor only and therefore the state controls the wholesale distribution of distilled liquor.

In an alcohol control system for wholesale and/or off-premises retail distribution of an alcoholic beverage type or subtype, the state sets the prices of the beverage and gains revenue directly from the sales (rather than solely from taxation, the case in private-market states). A state may own and operate the wholesale business or retail stores itself or it may contract with a private vendor while maintaining control over pricing and profits through the contractual relationship. In the latter case, the private contractor may be paid a fee or commission.

(Source: Alcohol Policy Information System:  
<https://alcoholpolicy.niaaa.nih.gov/apis-policy-topics/retail-distribution-systems-for-beer/5/about-this-policy#page-content>)

Oregon is referred to as a “control state” because it acts as the wholesaler and controls the pricing of distilled spirits in Oregon. Oregon does not control the sale or pricing of other alcohol beverage types such as wine, cider or beer. In Oregon, the Oregon Liquor Control Commission (OLCC) is the agency responsible for regulating the sale and service of distilled spirits by administering the state's Liquor Control Act (ORS 471.030).

The OLCC Distilled Spirits Program oversees the distribution and sale of distilled spirits in the state. The Distilled Spirits Program centrally purchases, warehouses and distributes distilled spirits to Oregon's independently operated liquor stores. The OLCC Retail Services Division oversees the daily operations of liquor stores, who are

# Alcohol Policy in the United States

independent contractors also known as retail service agents. Independent contractors are not state employees. The link between the state and the customer is the retail liquor store. The stores are run by agents that are OLCC-appointed and are responsible for the daily operation of the stores. The stores' distilled spirits are owned by the state.

OLCC's Public Safety Program licenses and regulates businesses in the alcohol industry such as manufacturers, wholesalers, bars, restaurants, grocery and convenience stores. Revenue generated from these programs supports state and local government programs.

(source: [https://www.oregon.gov/olcc/Pages/about\\_us.aspx](https://www.oregon.gov/olcc/Pages/about_us.aspx)).

Below is a high-level table summarizing aspects of alcohol product regulation in Oregon.

## Summary of Oregon's Alcohol Regulation

<b>Regulation</b>	<b>Beer and Wine</b>	<b>Distilled Spirits</b>
Wholesale distribution	No	OLCC purchases and distributes to retail stores, acting as the wholesaler
Sale of alcohol products	No	Independent operated liquor stores, also known as retail sales agents (RSAs)
OLCC sets price	No	Yes
Oregon imposes taxes	Collects beer, wine and cider taxes	No
OLCC imposes surcharge	No	Yes
Requires licenses	Yes	Yes

There are two types of liquor stores in Oregon's system, exclusive and non-exclusive. Exclusive stores are high-volume businesses whose primary function is to sell liquor. These stores usually serve metropolitan areas. They sell only distilled spirits provided by the state, and related items allowed by OLCC rules, such as mixers and glassware provided by the agent.



# Alcohol Policy in the United States

Non-exclusive liquor stores are operated in conjunction with other businesses such as hardware, drug or other small retail stores. Most non-exclusive liquor stores serve smaller communities and are located outside of metropolitan areas.

More information about the OLCC is in the Oregon Liquor Control Commission and regulatory powers section below.

**ORS 471.750 Liquor stores and warehouses:** Operation; sales; advertising; rules.

(1) The Oregon Liquor Control Commission shall establish such stores and warehouses in such places in the state as in its judgment are required by public convenience or necessity, for the sale of spirituous liquors, wines and other alcoholic liquors containing over five percent alcohol by volume, in sealed containers for consumption off the premises. The commission shall keep on hand in such stores or warehouses such quantities and kinds of alcoholic liquors as are reasonably required to supply the public demand.

(2) Any person qualified to purchase such liquors from the commission has the right to present to the commission, or at any of its stores, an application for any kind or brand of alcoholic liquor that the person may desire and that may be manufactured or obtainable in any place in the United States, and the commission shall obtain such liquor and sell it to the applicant. The commission may not require that an application for a kind or brand of alcoholic liquor include a commitment to purchase a minimum amount of the liquor or require that a purchase be for more than one container of a kind or brand of alcoholic liquor if the liquor:

(a) Except as provided in subsection (5) of this section, has a retail sales price of \$30 or more per container;

(b) Is available through a distributor in the United States that does not require the commission to acquire more than one case of the distilled liquor in a single transaction;

(c) Is not regularly stocked by the commission; and

(d) Is ordered in a 750-milliliter container size if available in that size.

(3) The commission may not establish a store in any county or incorporated city of this state where a local prohibitory law is in effect. The commission shall adopt rules governing advertising by stores operated by the commission. The commission may

# Alcohol Policy in the United States

appoint agents in the sale of said liquor under such agreement as the commission may negotiate with said agents or their representative.

(4) Rules relating to advertising adopted by the commission under subsection (3) of this section shall allow signs and displays within its stores for the purpose of supplying consumer information to customers, including but not limited to discounts, sales and other specials. Commission discretion with respect to those signs and displays shall be limited to regulation of the content, size, number per brand, type and duration of the sign or display. Signs and displays may be supplied by manufacturers, wholesalers or distributors, and may bear the name of a particular distillery, supplier or brand of liquor. The use of signs and displays shall be optional with the agent appointed by the commission. Signs or displays authorized by the commission may not be placed in positions within the store where the sign or display would be readily visible from outside of the store.

(5) The commission may annually adjust the price threshold established in subsection (2)(a) of this section by a percentage equal to the percentage change in the Portland-Salem, OR-WA Consumer Price Index for All Urban Consumers for All Items as published by the Bureau of Labor Statistics of the United States Department of Labor. However, the commission may not adjust the price threshold to be less than \$30. [Amended by 1977 c.321 §3; 1977 c.608 §2; 1991 c.379 §1; 1995 c.301 §89; 2001 c.785 §11; amendments by 2002 s.s.1 c.11 §1 repealed by 2002 s.s.2 c.1 §3; 2002 s.s.2 c.1 §1; 2011 c.180 §2]

## Oregon Liquor Control Act

### ORS 471.030 Purpose of the Liquor Control Act

(1) The Liquor Control Act shall be liberally construed so as:

- a) To prevent the recurrence of abuses associated with saloons or resorts for the consumption of alcoholic beverages.
- b) To eliminate the evils of unlicensed and unlawful manufacture, selling and disposing of such beverages and to promote temperance in the use and consumption of alcoholic beverages.
- c) To protect the safety, welfare, health, peace and morals of the people of the state.

(2) Consistent with subsection (1) of this section, it is the policy of this state to encourage the development of all Oregon industry.

# Alcohol Policy in the United States

**ORS 471.045 Liquor laws supersede and repeal inconsistent charters and ordinances.** The Liquor Control Act, designed to operate uniformly throughout the state, shall be paramount and superior to and shall fully replace and supersede any and all municipal charter enactments or local ordinances inconsistent with it. Such charters and ordinances hereby are repealed.

## **Oregon Liquor Control Commission and regulatory powers**

**ORS 471.155 Commission's licensing duties** The Oregon Liquor Control Commission shall provide for the licensing of persons and cities within the state to manufacture, distribute, take orders for and sell spirits, wines, beer and other alcoholic liquors. Except as provided in subsection (2) of this section, the holder of a brewery, winery, wholesale, warehouse, grower sales privilege or brewery-public house license or the holder of a wine self-distribution permit shall give, and at all times maintain on file with the commission, a bond with a corporate surety authorized to transact business in this state. The bond shall be in form and amount acceptable to the commission, shall be payable to the commission and conditioned that the licensee or permittee will pay any fine imposed for any violation of any provision of the Liquor Control Act and that the licensee or permittee will pay all license fees, privilege taxes, taxes imposed under ORS 473.045 (Tax on sale or use of agricultural products used by wineries) and other taxes on alcoholic liquors, together with penalties and interest thereon, levied or assessed against the licensee or permittee under statutes relating to the importation, manufacture, distribution, sale or taxation of alcoholic liquors in the State of Oregon.

(2) Under such conditions as the commission may prescribe, the holder of a brewery, winery, wholesale, warehouse, grower sales privilege or brewery-public house license or the holder of a wine self-distribution permit may deposit, in lieu of the bond required by subsection (1) of this section, the equivalent value in cash, bank letters of credit recognized by the State Treasurer or negotiable securities of a character approved by the State Treasurer. The deposit is to be made in a bank or trust company for the benefit of the commission. Interest on deposited funds or securities shall accrue to the depositor. [Formerly ORS 471.210; 2007 c.637 §1; 2007 c.651 §5a]

**ORS 471.705 Oregon Liquor Control Commission: qualifications; compensation; term; confirmation.**

# Alcohol Policy in the United States

(1) There is created the Oregon Liquor Control Commission, consisting of seven commissioners appointed by the Governor. One commissioner must be from among the residents of each congressional district of this state. One additional commissioner must be from eastern Oregon. One additional commissioner must be from western Oregon. One commissioner must be from the food and alcoholic beverage retail industry. Not more than four commissioners may be of the same political party. The Governor shall designate one commissioner to be chairperson of the commission. The commissioners are entitled to compensation and expenses as provided in ORS 292.495 (Compensation and expenses of members of state boards and commissions).

(2) Each commissioner at the time of appointment must be a resident of this state and must have resided in this state for at least five years next preceding appointment and qualification. Each commissioner must be an elector in this state and may not be less than 30 years of age. The term of office of a commissioner terminates if the commissioner ceases to possess the residency or industry qualification for appointment. If the term of office of a commissioner terminates under this subsection, the Governor shall appoint a qualified individual to complete the unexpired term of the commissioner.

(3) The term of office of a commissioner is four years from the time of appointment and qualification and until a successor qualifies for appointment. The terms of the commissioners commence April 1. If a commissioner is allowed to hold office after the expiration of a term, the Governor shall appoint the successor for the remainder of the unexpired term. If a vacancy occurs in the commission, the Governor shall appoint the successor for the remainder of the unexpired term. Each commissioner is eligible for reappointment, but an individual is not eligible to serve for more than two full terms.

(4) Appointments of commissioners by the Governor under this section are subject to confirmation by the Senate pursuant to section 4, Article III, Oregon Constitution. [Amended by 1967 c.577 §11; 1969 c.314 §50; 1973 c.792 §17; 1979 c.251 §1; 1981 c.545 §9; 2017 c.183 §95]

**ORS 471.730\_Regulator Powers of Commission:** The function, duties and powers of the Oregon Liquor Control Commission include the following:

(1) To control the manufacture, possession, sale, purchase, transportation, importation and delivery of alcoholic liquor in accordance with the provisions of this

# Alcohol Policy in the United States

chapter and ORS 474.105 (Legislative finding on ORS 474.115) and 474.115 (Wholesale sale of malt beverage subject to agreement designating territory of sale).

(2) To grant, refuse, suspend or cancel licenses and permits for the sale or manufacture of alcoholic liquor, or other licenses and permits in regard thereto, and to permit, in its discretion, the transfer of a license of any person.

(3) To collect the taxes and duties imposed by statutes relating to alcoholic liquors, and to issue, and provide for cancellation, stamps and other devices as evidence of payment of such taxes or duties.

(4) To investigate and aid in the prosecution of every violation of statutes relating to alcoholic liquors, to seize alcoholic liquor manufactured, sold, kept, imported or transported in contravention of this chapter and ORS 474.105 (Legislative finding on ORS 474.115) and 474.115 (Wholesale sale of malt beverage subject to agreement designating territory of sale), and apply for the confiscation thereof, whenever required by statute, and cooperate in the prosecution of offenders before any court of competent jurisdiction.

(5) To adopt such regulations as are necessary and feasible for carrying out the provisions of this chapter and ORS 474.105 (Legislative finding on ORS 474.115) and 474.115 (Wholesale sale of malt beverage subject to agreement designating territory of sale) and to amend or repeal such regulations. When such regulations are adopted they shall have the full force and effect of law.

(6) To exercise all powers incidental, convenient or necessary to enable it to administer or carry out any of the provisions of this chapter and ORS 474.105 (Legislative finding on ORS 474.115) and 474.115 (Wholesale sale of malt beverage subject to agreement designating territory of sale).

(7) To control, regulate and prohibit any advertising by manufacturers, wholesalers or retailers of alcoholic liquor by the medium of newspapers, letters, billboards, radio or otherwise.

(8) To sell, license, regulate and control the use of alcohol for scientific, pharmaceutical, manufacturing, mechanical, industrial and other purposes, and to provide by regulation for the sale thereof for such uses.

**ORS 471.740** Exclusive right of commission to handle certain liquors

## Alcohol Policy in the United States

Except as provided in this chapter, the Oregon Liquor Control Commission is vested with the exclusive right to purchase, sell, have in possession for sale, import or transport alcoholic beverages. [Amended by 1953 c.120 §6; 1974 c.4 §6; 1999 c.351 §77]

**ORS 471.745 Fixing prices and selling liquor.** The Oregon Liquor Control Commission shall fix the prices at which alcoholic liquors containing over five percent alcohol by volume may be purchased from it, and has power to bottle, blend, rectify, manufacture or sell alcoholic liquors for itself, or for or to any person or commission within or without this state. [Amended by 1995 c.301 §88]

# Alcohol Policy in the United States

## Preemption Overview

### The Preemption Doctrine

The preemption doctrine holds that higher levels of government can mandate in certain situations the actions and practices of lower levels of government. Thus, State and local governments must adhere to policies appropriately mandated by the Federal government, and local governments must adhere to policies appropriately mandated by State governments.

As noted above, alcohol policy has a unique position with regard to Federal preemption. Because of the 21st Amendment, Federal law cannot restrict or preempt most State alcohol-related laws. However, by virtue of the Supremacy Clause in Article VI of the Constitution, Federal preemption may still come into play if a State law conflicts with other Constitutional provisions (such as the Interstate Commerce clause) or falls outside the scope of the 21st Amendment (such as restrictions on health delivery systems).

State preemption, which limits the authority of local governments, is applied differently across States and policies and can have a significant effect on the nature and scope of alcohol policies at the local level. As noted above, many States permit local alcohol policy regulation. However, most States apply the preemption doctrine to at least some degree, limiting local authority generally or prohibiting local regulation of specific policies.

(Source: <https://alcoholpolicy.niaaa.nih.gov/about-alcohol-policy>)

# Alcohol Policy in the United States

Oregon state law preempts local jurisdictions from:

- **Taxing alcohol products**
  - ORS 473.190 State has exclusive right to tax liquor: Imposing any fee or tax in connection with the production with the sale, mixing, serving, transporting or delivering or handling of malt or alcoholic liquors
- **Fixing prices and selling liquor**
  - ORS 471.746 Fixing prices and selling liquor: The Oregon Liquor Control Commission shall fix the prices at which alcoholic liquors containing over five percent alcohol by volume may be purchased from it, and has power to bottle, blend, rectify, manufacture or sell alcoholic liquors for itself, or for or to any person or commission within or without this state. [Amended by 1995 c.301 §88]
- **Superseding the Liquor Control Act**
  - ORS 471.045 Liquor laws supersede and repeal inconsistent charters and ordinances:  
The Liquor Control Act (**471.030**) designed to operate uniformly throughout the state, shall be paramount and superior to and shall fully replace and supersede any and all municipal charter enactments or local ordinances inconsistent with it. Such charters and ordinances hereby are repealed.

Oregon state law explicitly allows local jurisdictions to:

- **Create reasonable time, place and manner regulations**
  - ORS 471.164 Authority of cities and counties over establishments that offer entertainment or serve alcoholic beverages: (1) Cities and counties may adopt reasonable time, place and manner regulations of the nuisance aspects of establishments that offer entertainment or serve alcoholic beverages if the city or county makes specific findings that the establishment would cause adverse effects to occur.
  - (2) The authority granted to cities and counties by this section is in addition to, and not in lieu of, the authority granted to a city or county under its charter and the statutes and Constitution of this state
- **Make recommendations on license issuance and renewal**



# Alcohol Policy in the United States

- ORS 471.166 Local government recommendations on license issuance and renewal: (1) The Oregon Liquor Control Commission may require that every applicant for issuance or renewal of a license under this chapter acquire a written recommendation from the governing body of the county if the place of business of the applicant is outside an incorporated city, and from the city council if the place of business of the applicant is within an incorporated city. The commission may take such written recommendation into consideration before granting or refusing the license.
- **Restrict or prohibit alcoholic liquors in the city or county\***
  - ORS 471.506 Petition and election for local option: (1) The governing body of a city or a county, when a petition is filed as provided in this section, shall order an election on the question whether the sale, for beverage purposes, of alcoholic liquors of any of the classes described in this section shall be prohibited in the city or county. The classes of alcoholic liquor to which this section applies are:
    - (a) Alcoholic liquors containing more than five percent alcohol by volume;
    - (b) Alcoholic liquors containing more than 14 percent alcohol by volume; and
    - (c) All alcoholic liquors.

\*Note: ORS 471.510 Sales not affected by local option laws: ORS 471.506 shall not prohibit the sale of pure alcohol for scientific or manufacturing purposes, or of wines to church officials for sacramental purposes, nor shall it prevent any person residing in the county or city from ordering and having delivered to the home of the person, for the personal use of self and family, alcoholic liquors purchased from the Oregon Liquor Control Commission or from persons duly licensed to sell them under the Liquor Control Act. [Amended by 1999 c.351 §35]

# **Access to alcohol products and youth possession of alcohol products**

## **III. Access to alcohol products and youth possession of alcohol products**

### **National Minimum Drinking Age Act**

**The Federal 1984 National Minimum Drinking Age Act**, [23 U.S.C. § 158], requires that States prohibit persons under 21 years of age from purchasing or publicly possessing alcoholic beverages as a condition of receiving State highway funds. A Federal regulation that interprets the Act excludes from the definition of "public possession," possession "for an established religious purpose; when accompanied by a parent, spouse or legal guardian age 21 or older; for medical purposes when prescribed or administered by a licensed physician, pharmacist, dentist, nurse, hospital or medical institution; in private clubs or establishments; or to the sale, handling, transport, or service in dispensing of any alcoholic beverage pursuant to lawful employment of a person under the age of twenty-one years by a duly licensed manufacturer, wholesaler, or retailer of alcoholic beverages", [23 C.F.R. § 1208.3].

**FEDERAL CITATIONS AND RELEVANT TEXT EXCERPTS** 23 U.S.C. § 158. National minimum drinking age. (a) Withholding of Funds for Noncompliance. (<https://alcoholpolicy.niaaa.nih.gov/the-1984-national-minimum-drinking-age-act>)

**ORS 471.430 Purchase or possession of alcoholic beverages by person under 21;** entry of licenses premises by person under 21; penalty; immunity; suspension of driving privileges; assessment and treatment. (1) A person under 21 years of age may not attempt to purchase, purchase or acquire alcoholic beverages. Except when such minor is in a private residence accompanied by the parent or guardian of the minor and with such parent's or guardian's consent, a person under 21 years of age may not have personal possession of alcoholic beverages

- (8) The prohibitions of this section do not apply to a person under 21 years of age who is acting under the direction of the Oregon Liquor Control Commission or under the direction of state or local law enforcement agencies for the purpose of investigating possible violations of laws prohibiting sales of alcoholic beverages to persons who are under 21 years of age.
- (9) The prohibitions of this section do not apply to a person under 21 years of age who is acting under the direction of a licensee for the purpose of investigating possible violations by employees of the licensee of laws prohibiting sales of alcoholic beverages to persons who are under 21 years of age.

## **Access to alcohol products and youth possession of alcohol products**

### **ORS 471.434 Immunity for violation of ORS 471.430 when reporting sexual assault crime.**

(1)(a) A person who contacts emergency medical services or a law enforcement agency to report a sexual assault crime, or to obtain medical or law enforcement assistance for a victim of a sexual assault crime, is immune from arrest or prosecution for a violation of ORS 471.430 (Purchase or possession of alcoholic beverages by person under 21) if the evidence of the violation was obtained because the person contacted emergency medical services or a law enforcement agency.

(b) A person who is the victim of a sexual assault crime is immune from arrest or prosecution for a violation of ORS 471.430 (Purchase or possession of alcoholic beverages by person under 21) if the evidence of the violation was obtained because any person contacted emergency medical services or a law enforcement agency to report the crime or to obtain medical or law enforcement assistance for the victim.

(2) The immunity from arrest or prosecution described in this section is not grounds for the suppression of evidence relating to a criminal offense other than a violation of ORS 471.430 (Purchase or possession of alcoholic beverages by person under 21).

### **Social Host Law and Furnishing to Minors**

The primary purpose of laws that establish state-imposed liability for hosting underage drinking parties is to deter underage drinking parties.

Oregon's social host provision states that its prohibitions apply only to a person who is present and in control of the location at the time underage consumption occurs.

For further information about alcohol laws and minors in Oregon:

[https://www.oregon.gov/olcc/pages/alcohol and minors.aspx#Oregon s Alcohol Laws and Minors](https://www.oregon.gov/olcc/pages/alcohol%20and%20minors.aspx#Oregon's%20Alcohol%20Laws%20and%20Minors)

**ORS 471.105 Purchaser's qualifications.** Before being qualified to purchase alcoholic liquor from the Oregon Liquor Control Commission, a person must be at

## **Access to alcohol products and youth possession of alcohol products**

least 21 years of age. [Amended by 1961 c.687 §5; 1967 c.577 §1; 1971 c.159 §1; 2005 c.22 §343]

### **ORS 471.130 Requiring statement of age or identification from certain purchasers.**

(1) All licensees and permittees of the Oregon Liquor Control Commission, before selling or serving alcoholic liquor to any person about whom there is any reasonable doubt of the person's having reached 21 years of age, shall require such person to produce one of the following pieces of identification:

(a) The person's passport.

(b) The person's motor vehicle operator's license issued by this state or another state of the United States.

(c) An identification card issued under ORS 807.400.

(d) A United States military identification card.

(e) An identification card issued by a federally recognized Indian tribe.

(f) Any other identification card issued by a state or territory of the United States that bears a picture of the person, the name of the person, the person's date of birth and a physical description of the person.

(2) If a person does not have identification as described in subsection (1) of this section, the permittee or licensee shall require such person to make a written statement of age and furnish evidence of the person's true age and identity.

### **Enforcement and penalties**

**ORS 471.410 Providing liquor to person under 21 or to intoxicated person; allowing consumption by minor on property; mandatory minimum penalties.** (1) A person may not sell, give or otherwise make available any alcoholic liquor to any person who is visibly intoxicated.

(2) No one other than the person's parent or guardian may sell, give or otherwise make available any alcoholic liquor to a person under the age of 21 years. A parent or guardian may give or otherwise make alcoholic liquor available to a person under the age of 21 years only if the person is in a private residence and is accompanied by the parent or guardian. A person violates this subsection who sells, gives or otherwise makes available alcoholic liquor to a person with the knowledge that the person to whom the liquor is made available will violate this subsection.

## **Access to alcohol products and youth possession of alcohol products**

(3)(a) A person who exercises control over private real property may not knowingly allow any other person under the age of 21 years who is not a child or minor ward of the person to consume alcoholic liquor on the property, or allow any other person under the age of 21 years who is not a child or minor ward of the person to remain on the property if the person under the age of 21 years consumes alcoholic liquor on the property.

(b) This subsection:

(A) Applies only to a person who is present and in control of the location at the time the consumption occurs;

(B) Does not apply to the owner of rental property, or the agent of an owner of rental property, unless the consumption occurs in the individual unit in which the owner or agent resides; and

(C) Does not apply to a person who exercises control over a private residence if the liquor consumed by the person under the age of 21 years is supplied only by an accompanying parent or guardian.

(4) This section does not apply to sacramental wine given or provided as part of a religious rite or service.

(5) Except as provided in subsections (6) and (7) of this section, a person who violates subsection (1) or (2) of this section commits a Class A misdemeanor. Upon violation of subsection (2) of this section, the court shall impose at least a mandatory minimum sentence as follows:

(a) Upon a first conviction, a fine of at least \$500.

(b) Upon a second conviction, a fine of at least \$1,000.

(c) Upon a third or subsequent conviction, a fine of at least \$1,500 and not less than 30 days of imprisonment.

(6)(a) A person who violates subsection (2) of this section is subject to the provisions of this subsection if the person does not act knowingly or intentionally and:

(A) Is licensed or appointed under this chapter; or

## **Access to alcohol products and youth possession of alcohol products**

(B) Is an employee of a person licensed or appointed under this chapter and holds a valid service permit or has attended a program approved by the Oregon Liquor Control Commission that provides training to avoid violations of this section.

(b) For a person described in paragraph (a) of this subsection:

(A) A first conviction is a Class A violation.

(B) A second conviction is a specific fine violation, and the presumptive fine for the violation is \$860.

(C) A third conviction is a Class A misdemeanor. The court shall impose a mandatory fine of not less than \$1,000.

(D) A fourth or subsequent conviction is a Class A misdemeanor. The court shall impose a mandatory fine of not less than \$1,000 and a mandatory sentence of not less than 30 days of imprisonment.

(7) For an employee of an off-premises sales licensee who violates subsection (2) of this section while operating a checkout device and does not act knowingly or intentionally, a first conviction is a Class A violation.

(8) The court may waive an amount that is at least \$200 but not more than one-third of the fine imposed under subsection (5) of this section, if the violator performs at least 30 hours of community service.

(9) Except as provided in subsection (8) of this section, the court may not waive or suspend imposition or execution of the mandatory minimum sentence required by subsection (5) or (6) of this section. In addition to the mandatory sentence, the court may require the violator to make restitution for any damages to property where the alcoholic liquor was illegally consumed or may require participation in volunteer service to a community service agency.

(10)(a) Except as provided in paragraph (b) of this subsection, a person who violates subsection (3) of this section commits a Class A violation.

(b) A second or subsequent violation of subsection (3) of this section is a specific fine violation, and the presumptive fine for the violation is \$1,000.

## **Access to alcohol products and youth possession of alcohol products**

(11) Nothing in this section prohibits any licensee under this chapter from allowing a person who is visibly intoxicated from remaining on the licensed premises so long as the person is not sold or served any alcoholic liquor. [Amended by 1963 c.243 §1; 1971 c.159 §5; 1977 c.458 §1; 1977 c.814 §1; 1983 cor. c.736 §1; 1995 c.301 §40; 1995 c.599 §5; 1995 c.756 §1; 1999 c.351 §58; 2009 c.412 §1; 2009 c.587 §4; 2009 c.608 §3; 2011 c.597 §87; 2014 c.20 §3]

**ORS 471.346** Uniform standards for minor decoy operations; rules. (1) The Oregon Liquor Control Commission shall by rule develop uniform standards for minor decoy operations used to investigate licensees and agents operating stores on behalf of the commission under ORS 471.750 for violations of the laws of this state prohibiting sales of alcoholic beverages to minors. Uniform standards established by the commission under this section apply to all investigations conducted by the commission that use minor decoys. The commission shall encourage all law enforcement agencies of this state to use the uniform standards established under this section for minor decoy operations conducted by the law enforcement agencies.

For more information about minor decoy operations in [Oregon Administrative Rules 845-009-0200](#):

# Product Formulations

## IV. Product Formulations

### [Federal Alcohol Administration Act](#)

The FAA Act provides for regulation of those engaged in the alcohol beverage industry, and for protection of consumers.

- **To ensure the integrity of the industry, the FAA Act includes provisions to:**
  - Require a permit for those who engage in the business as a producer, importer, or wholesaler of alcohol beverages;
  - Issue, suspend, and revoke permits;
  - Ensure the integrity of the industry by preventing persons who are not likely to operate in accordance with the law from entering the trade;
  - Protect the revenue and consumers by ensuring the integrity of the industry members;
- **To protect consumers, FAA Act provisions:**
  - Ensure that labeling and advertising of alcohol beverages provide adequate information to the consumer concerning the identity and quality of the product;
  - Require that alcohol beverages bottlers and importers must have an approved certificate of label approval (COLA) or an exemption certificate before the product may be sold in the United States
  - Prevent misleading labeling or advertising that may result in consumer deception regarding the product.
- **The FAA Act includes provisions to preclude unfair trade practice. These provisions:**
  - Regulate the marketing promotional practices concerning the sale of alcohol beverages; and

Regulate practices such as exclusive outlets, tied house arrangements, commercial bribery, and consignment sales. Food and Drug Administration ruling

On November 18, 2010, the Alcohol and Tobacco Tax and Trade Bureau (TTB) issued letters to four industry members regarding the seven malt beverage products that FDA identified in its warning letters as being adulterated. The TTB letters put these companies on notice that FDA's determination that a product is adulterated under the Federal Food, Drug, and Cosmetic Act (FFDCA) would have consequences



## Product Formulations

under the FAA Act, because of TTB's position that adulterated alcohol beverages are mislabeled within the meaning of the FAA Act.

Subject to the jurisdictional requirements of the FAA Act, mislabeled distilled spirits, wines, and malt beverages, including adulterated products, may not be sold or shipped, delivered for sale or shipment, or otherwise introduced or received in interstate or foreign commerce, or removed from customs custody for consumption, by a producer, importer, or wholesaler, or other industry member subject to 27 U.S.C. 205(e). TTB may pursue action to suspend or to revoke the FAA Act basic permit of industry members who willfully violate the conditions of their permit with respect to mislabeled, adulterated products. See 27 U.S.C. 204(e). Violations of the labeling provisions of the FAA Act are punishable as misdemeanors and the Government may seek injunctive relief to prevent and restrain such violations. TTB also may seek an offer in compromise covering the liability arising with respect to such violations in the sum of not more than \$500 for each offense. See 27 U.S.C. 207. Under the Internal Revenue Code of 1986, TTB officers may, in appropriate circumstances, temporarily detain any alcohol beverage container that is being removed in violation of law, or seek a voluntary detention agreement with the industry member. See 26 U.S.C. 5311. (source: [https://www.ttb.gov/faqs/alcohol\\_faqs.shtml#caffeine](https://www.ttb.gov/faqs/alcohol_faqs.shtml#caffeine))

# **Alcohol Taxes, Sur-charges, Payments and Distributions**

## **V. Alcohol Taxes, Sur-charges, Payments and Distributions**

### **Federal Excise Taxes**

#### **State Control**

##### **ORS 473.190 State has exclusive right to tax liquor**

No county or city of this state shall impose any fee or tax, including occupation taxes, privilege taxes and inspection fees, in connection with the production, sale, mixing, serving, transporting, delivering or handling of malt or other alcoholic liquors.

[Amended by 1961 c.259 §4; 1967 c.577 §8]

#### **Liquor**

##### **ORS 471.746 Fixing prices and selling liquor**

The Oregon Liquor Control Commission shall fix the prices at which alcoholic liquors containing over five percent alcohol by volume may be purchased from it, and has power to bottle, blend, rectify, manufacture or sell alcoholic liquors for itself, or for or to any person or commission within or without this state. [Amended by 1995 c.301 §88]

#### **Beer, Wine and Cider Taxes**

**ORS 473.020 Administration of chapter by commission.** The Oregon Liquor Control Commission shall administer this chapter, and shall prescribe forms and make such rules and regulations as it deems necessary to enforce its provisions.

##### **ORS 473.030 Tax on wines and malt beverages**

(1) A tax is imposed upon the privilege of engaging in business as a manufacturer or as an importing distributor of malt beverages at the rate of \$2.60 per barrel of 31 gallons on all such beverages.

(2) A tax is imposed upon the privilege of engaging in business as a manufacturer or as an importing distributor of wines at the rate of 65 cents per gallon on all such beverages.

# Alcohol Taxes, Sur-charges, Payments and Distributions

(3) In addition to the tax imposed by subsection (2) of this section, a manufacturer or an importing distributor of wines containing more than 14 percent alcohol by volume shall be taxed at the rate of 10 cents per gallon.

(4) In addition to the taxes imposed by subsections (2) and (3) of this section, a manufacturer or an importing distributor of wines shall be taxed at the rate of two cents per gallon. Notwithstanding any other provision of law, all moneys collected by the Oregon Liquor Control Commission pursuant to this subsection shall be paid into the account established by the Oregon Wine Board under ORS 182.470 (Depository accounts for moneys collected or received by semi-independent state agencies).

## **ORS 473.035 Tax on cider**

(1) A tax is imposed upon the privilege of engaging in business as a manufacturer or as an importing distributor of cider at the rate of \$2.60 per barrel of 31 gallons on all such beverages.

(2) Notwithstanding subsection (1) of this section or any other provision of law, the taxation of the manufacturing or distribution of cider shall be at a rate that is not less than the rate imposed for the privilege of manufacturing or distributing malt beverages under ORS 473.030 (Tax on wines and malt beverages).

## **Summary table of Oregon alcohol taxes and surcharges**

<b>Alcohol taxes surcharges - summary table</b>		
<b>Product</b>	<b>ORS Definition</b>	<b>Current</b>
Malt beverages	An alcoholic beverage obtained by the fermentation of grain that contains not more than 14 percent alcohol by volume.	\$2.60 per barrel (\$ .08 per gallon)
Cider	An alcoholic beverage made from the fermentations of the juice of apples or pears that contains not less than one-half of one percent and not more than 8.5 percent of alcohol by volume, including, but not	\$2.60 per barrel (\$ .08 per gallon)

# Alcohol Taxes, Sur-charges, Payments and Distributions

	limited to, flavored, sparkling or carbonated cider. <b>(ORS 471.023; 473.015)</b>	
Wine	"Wine" means any fermented vinous liquor or fruit juice, or other fermented beverage fit for beverage purposes that is not a malt beverage, containing more than one-half of one percent of alcohol by volume and not more than 21 percent of alcohol by volume. "Wine" includes fortified wine. "Wine" does not include cider.	\$0.67 per gallon (<14% abv) \$0.77 per gallon (>=14% abv)
Spirits	Any alcoholic beverage other than a wine, cider, or malt beverage. Includes distilled spirits.	Markup formula + \$0.50 surcharge per bottle

## **ORS 471.810 Distribution of monies in OLCC Account**

(1) At the end of each month, the Oregon Liquor Control Commission shall certify the amount of moneys available for distribution in the Oregon Liquor Control Commission Account and, after withholding such moneys as it may deem necessary to pay its outstanding obligations, shall within 35 days of the month for which a distribution is made direct the State Treasurer to pay the amounts due, upon warrants drawn by the Oregon Department of Administrative Services, as follows:

(a) Fifty-six percent, or the amount remaining after the distribution under subsection (4) of this section, credited to the General Fund available for general governmental purposes wherein it shall be considered as revenue during the quarter immediately preceding receipt;

(b) Twenty percent to the cities of the state in such shares as the population of each city bears to the population of the cities of the state, as determined by Portland State University last preceding such apportionment, under ORS 190.510 (Definitions for ORS 190.510 to 190.610) to 190.610 (State census program);

# Alcohol Taxes, Sur-charges, Payments and Distributions

(c) Ten percent to counties in such shares as their respective populations bear to the total population of the state, as estimated from time to time by Portland State University; and

(d) Fourteen percent to the cities of the state to be distributed as provided in ORS 221.770 (Revenue sharing to cities) and this section.

(2) The commission shall direct the Oregon Department of Administrative Services to transfer 50 percent of the revenues from the taxes imposed by ORS 473.030 (Tax on wines and malt beverages) and 473.035 (Tax on cider) to the Mental Health Alcoholism and Drug Services Account in the General Fund to be paid monthly as provided in ORS 430.380 (Mental Health Alcoholism and Drug Services Account).

Current net revenue distribution and amounts

	<b>Distribution of revenue (ORS 417.810)</b>
General Fund	56% + surcharges
Cities (per capita)	20%
Cities (formula)	14%
Counties	10%
Mental Health, Alcoholism, and Drug Services	50% of beer and wine taxes
Oregon Wine Board	\$.02 per gallon
<b>Total</b>	

# Alcohol Licensing

## VI. Alcohol Licensing

In Oregon, a license is required to manufacture, distribute, take orders for and sell spirits, wines, beer and other alcoholic liquors. The Oregon Liquor Control Commission is charged with the authority to issue these licenses in accordance with Oregon Revised Statutes.

For more information on the liquor licensing process:

[http://www.oregon.gov/olcc/LIC/pages/overview\\_licensing\\_process.aspx](http://www.oregon.gov/olcc/LIC/pages/overview_licensing_process.aspx)

### Liquor License Process

**ORS 471.155 Commission's licensing duties; bonds.** (1) The Oregon Liquor Control Commission shall provide for the licensing of persons and cities within the state to manufacture, distribute, take orders for and sell spirits, wines, beer and other alcoholic liquors. [Formerly 471.210; 2007 c.637 §1; 2007 c.651 §5a]

**ORS 471.157 Licenses issuable.** The licenses described in this chapter may be issued by the Oregon Liquor Control Commission, subject to its regulations and restrictions and the provisions of the Liquor Control Act. [Formerly 471.215; 2013 c.537 §1]

**ORS 471.159 Enclosure of licenses premises:** (1) The Oregon Liquor Control Commission may not license a location that does not have defined boundaries.

(2) A licensed premises need not be enclosed by a wall, fence or other structure, but the commission may require that any licensed premises be enclosed as a condition of issuing or renewing a license.

(3) Except as provided in ORS 471.182 (Issuance of full or limited on-premises sales license to public passenger carrier), the commission may not license premises that are mobile. [1999 c.351 §14 (enacted in lieu of ORS 471.017)]

**ORS 471.162 Exemptions from license requirements**

**ORS 471.164 Authority of cities and counties over establishments that offer entertainment or serve alcoholic beverages**

**ORS 471.166 Local government recommendations on license issuance and renewal: Rules; fees.**

# Alcohol Licensing

## **ORS 471.168 Certain Licensees required to maintain liquor liability insurance**

**or bond:** (1) For the purpose of providing coverage for injuries suffered by persons by reason of the conduct of intoxicated persons who were served alcoholic beverages on licensed premises while visibly intoxicated, all persons holding a license described in this section must either:

- (a) Maintain liquor liability insurance of not less than \$300,000; or
- (b) Maintain a bond with a corporate surety authorized to transact business in this state in the amount of not less than \$300,000.

(2) The Oregon Liquor Control Commission may by rule require liquor liability insurance or bond in an amount larger than the minimum amount provided for in subsection (1) of this section.

(3) The requirements of this section apply to full on-premises sales licenses, limited on-premises sales licenses and brewery-public house licenses. The requirements of this section apply to temporary sales licenses, special events winery licenses, special events grower sales privilege licenses, special events brewery-public house licenses, special events brewery licenses and special events distillery licenses if the event that is licensed is open to the public and attendance at the event is anticipated to exceed 300 individuals per day.

(4) The requirements of this section apply to winery licenses, brewery licenses and grower sales privilege licenses unless an applicant for issuance of the license or renewal of the license submits with the application for issuance or renewal of the license an affidavit that states that the licensee will not allow consumption of alcoholic beverages on the premises.

(5) All licensees subject to the requirements of this section must supply proof of compliance at the time the license is issued or renewed. The commission by rule shall determine the manner in which proof of compliance may be made under the provisions of this subsection. The commission may require a licensee to present proof of compliance with liquor liability insurance and bond requirements at any time upon request of the commission.

(6) Failure of a licensee to comply with liquor liability insurance or bond requirements imposed under this section constitutes a serious threat to public health and safety. In addition to any action available to the commission under ORS 471.313 (Grounds for refusing to issue license or for issuing restricted license) or 471.315 (Grounds for

# Alcohol Licensing

cancellation, suspension or restriction of license, requiring training or imposing civil penalty), the commission may immediately suspend or refuse renewal of a license as provided under ORS 183.430 (Hearing on refusal to renew license) (2) if the licensee fails to comply with those insurance or bond requirements.

(7) If a licensee fails to provide proof of compliance with liquor liability insurance or bond requirements imposed under this section at the time of license renewal or when requested by the commission, the failure is sufficient reason for the commission to find for purposes of ORS 183.430 (Hearing on refusal to renew license) (2) that the licensee has failed to comply with the insurance or bond requirements. [Formerly 471.218; 2009 c.140 §1; 2009 c.237 §1; 2009 c.514 §1; 2016 c.3 §3]

## Enforcement

### **ORS 471.385 Grounds for revoking or suspending permit or imposing civil penalty**

(1) The Oregon Liquor Control Commission may revoke or suspend a service permit, or impose a civil penalty in lieu of or in addition to suspension as provided by ORS 471.322 (Civil penalty in lieu of or in addition to short-term suspension of certain licenses and permits), if it finds or has reasonable grounds to believe any of the following to be true:

- (a) That the permittee has made false statements to the commission.
- (b) That the permittee has been convicted of a felony, of violating any of the liquor laws of the state, general or local, or any misdemeanor or violation of any municipal ordinance committed on the licensed premises.
- (c) That the permittee has performed or permitted any act which would constitute a violation of any provision of this chapter or any rule of the commission, if the act were performed or permitted by any licensee of the commission.

(2) The issuance, suspension or revocation of a permit under ORS 471.360 (Service permit required) to 471.385 (Grounds for revoking or suspending permit or imposing civil penalty) does not relieve a licensee from responsibility for any act of an employee on the licensee's premises.



# Alcohol Licensing

(3) When there has been a violation of this chapter or any rule adopted thereunder upon any premises licensed by the commission, the commission may revoke or suspend either the service permit of the employee who violated the law or rule or the license of the licensee upon whose premises the violation occurred, or both the permit and the license.

(4) Civil penalties under this section shall be imposed as provided in ORS 183.745 (Civil penalty procedures). [1979 c.788 §§6,8; 1981 c.599 §5; 1991 c.734 §43; 1995 c.301 §39; 1999 c.351 §55; 2009 c.350 §2; 2017 c.533 §16]

[https://www.oregonlegislature.gov/bills\\_laws/ors/ors471.html](https://www.oregonlegislature.gov/bills_laws/ors/ors471.html)

## **Liquor License and Service Permit Types**

A list of license types and detailed requirements can be downloaded at this link:  
[http://www.oregon.gov/olcc/LIC/docs/license\\_types.pdf](http://www.oregon.gov/olcc/LIC/docs/license_types.pdf)

# Advertising

## VII. Advertising

### Federal

#### **Federal Alcohol Beverage Advertising (source:**

**<https://www.ttb.gov/advertising/alcohol-beverage.shtml>)**

The Alcohol and Tobacco Tax and Trade Bureau (TTB) regulations define the term "advertisement" as any written or verbal statement, illustration, or depiction, which is in, or calculated to induce sales in, interstate or foreign commerce, or is disseminated by mail. Examples include ads in newspapers or magazines, trade booklets, menus, wine cards, leaflets, circulars, mailers, book inserts, catalogs, promotional materials, or sales pamphlets. The definition includes any written, printed, graphic, or other matter accompanying the container; markings on cases, billboards signs, or other outdoor display; and broadcasts made via radio, television, or in any other media. Though not specifically listed, this definition includes websites and other Internet-based advertising such as social media.

The Federal Alcohol Administration Act does not require alcohol beverage advertisements to be approved prior to appearing in print or broadcast.

[Federal Alcohol Administration Act provision](#)

[27 United States Code, Chapter 8, Subchapter I, Section 205 \(f\) Advertising](#)

#### **Advertising and marketing by the alcohol industry is largely self-regulated.**

Advertising and marketing content is governed by a system of self-regulation under the purview of the Beer Institute, the Wine Institute and the Distilled Spirits Council of the United States (DISCUS).

The Federal Trade Commission (FTC) authors reports on alcohol industry self-regulatory initiatives, providing data on how industry members allocate marketing expenditures; compliance with its advertising placement standard; online and digital marketing, including privacy practices; product placements in entertainment media; and external review of complaints regarding self-regulatory code compliance. The most recent report, *Self-Regulation in the Alcohol Industry, Report of the Federal Trade Commission*, was released in March 2014 ([link](#)).

<https://www.ftc.gov/system/files/documents/reports/self-regulation-alcohol-industry-report-federal-trade-commission/140320alcoholreport.pdf>

# Advertising

## State

### **ORS 471.750 Liquor stores and warehouses. Operation, sales, advertising, rules.**

(1) The Oregon Liquor Control Commission shall establish such stores and warehouses in such places in the state as in its judgment are required by public convenience or necessity, for the sale of spirituous liquors, wines and other alcoholic liquors containing over five percent alcohol by volume, in sealed containers for consumption off the premises. The commission shall keep on hand in such stores or warehouses such quantities and kinds of alcoholic liquors as are reasonably required to supply the public demand.

(2) Any person qualified to purchase such liquors from the commission has the right to present to the commission, or at any of its stores, an application for any kind or brand of alcoholic liquor that the person may desire and that may be manufactured or obtainable in any place in the United States, and the commission shall obtain such liquor and sell it to the applicant. The commission may not require that an application for a kind or brand of alcoholic liquor include a commitment to purchase a minimum amount of the liquor or require that a purchase be for more than one container of a kind or brand of alcoholic liquor if the liquor:

(a) Except as provided in subsection (5) of this section, has a retail sales price of \$30 or more per container;

(b) Is available through a distributor in the United States that does not require the commission to acquire more than one case of the distilled liquor in a single transaction;

(c) Is not regularly stocked by the commission; and

(d) Is ordered in a 750-milliliter container size if available in that size.

(3) The commission may not establish a store in any county or incorporated city of this state where a local prohibitory law is in effect. The commission shall adopt rules governing advertising by stores operated by the commission. The commission may appoint agents in the sale of said liquor under such agreement as the commission may negotiate with said agents or their representative.

(4) Rules relating to advertising adopted by the commission under subsection (3) of this section shall allow signs and displays within its stores for the purpose of supplying consumer information to customers, including but not limited to discounts, sales and other specials. Commission discretion with respect to those signs and

# Advertising

displays shall be limited to regulation of the content, size, number per brand, type and duration of the sign or display. Signs and displays may be supplied by manufacturers, wholesalers or distributors, and may bear the name of a particular distillery, supplier or brand of liquor. The use of signs and displays shall be optional with the agent appointed by the commission. Signs or displays authorized by the commission may not be placed in positions within the store where the sign or display would be readily visible from outside of the store.

(5) The commission may annually adjust the price threshold established in subsection (2)(a) of this section by a percentage equal to the percentage change in the Portland-Salem, OR-WA Consumer Price Index for All Urban Consumers for All Items as published by the Bureau of Labor Statistics of the United States Department of Labor. However, the commission may not adjust the price threshold to be less than \$30. [Amended by 1977 c.321 §3; 1977 c.608 §2; 1991 c.379 §1; 1995 c.301 §89; 2001 c.785 §11; amendments by 2002 s.s.1 c.11 §1 repealed by 2002 s.s.2 c.1 §3; 2002 s.s.2 c.1 §1; 2011 c.180 §2]

## **ORS 471.401 Purchase of alcoholic liquor advertising space or time from retail licensee**

(1) Notwithstanding any other provision of this chapter, a manufacturer or wholesaler of alcoholic liquor may purchase advertising space or time from a licensee authorized to sell alcoholic liquors at retail if the retail licensee:

(a) Holds a full or limited on-premises sales license and has on the licensed premises at least one room or area for which the maximum occupancy approved by the State Fire Marshal or a governmental subdivision granted an exemption under ORS 476.030 (Powers and duties of marshal and deputies generally) is 3,000 or more persons;

(b) Holds a full or limited on-premises sales license and the licensed premises is owned by the United States Government or a public body as defined in ORS 174.109 (“Public body” defined);

(c) Holds a full or limited on-premises sales license and is a foreign corporation or nonprofit corporation, both as defined in ORS 65.001 (Definitions), that possesses a certificate of authorization or certificate of existence issued under ORS 65.027 (Certificate of existence or authorization); or

# Advertising

(d) Holds a temporary sales license and is an entity described in ORS 471.190 (Temporary sales license) (3)(a), (c) or (d).

(2) A manufacturer or wholesaler may purchase advertising space or time under this section only in connection with events to be held on the licensed premises.

(3) A retail licensee that sells advertising space or time under this section must serve other brands of distilled liquors, malt beverages, cider or wine in addition to the brand manufactured or sold by the manufacturer or wholesaler purchasing advertising space or time.

(4) A purchase of advertising space or time under the provisions of this section must be made by written agreement. [1995 c.51 §2; 1999 c.351 §71; 2011 c.173 §1; 2013 c.537 §8]

471.730 Regulatory powers of commission. The function, duties and powers of the Oregon Liquor Control Commission include the following:(7) To control, regulate and prohibit any advertising by manufacturers, wholesalers or retailers of alcoholic liquor by the medium of newspapers, letters, billboards, radio or otherwise.

# Miscellaneous

## VIII. Miscellaneous

### Blood Alcohol Concentration (BAC)

Blood alcohol concentration (BAC) is a measure of the amount of alcohol in a person's bloodstream. BAC is commonly expressed in percentage terms. For instance, having a BAC of 0.08 percent means that a person has eight parts alcohol per 10,000 parts blood in the body. State laws generally specify BAC levels in terms of grams of alcohol per 100 milliliters of blood (often abbreviated as grams per deciliter, or g/dL). BAC levels can be detected by breath, blood, or urine tests. The laws of each jurisdiction specify the preferred or required types of tests used for measurement.

BAC statutes establish criteria for determining when an operator of a vehicle is violating the law. All jurisdictions have enacted *per se* BAC laws for adults operating noncommercial motor vehicles. A *per se* BAC statute establishes a BAC limit for a violation. If the operator has a BAC level at or above the *per se* limit, a violation has occurred without regard to other evidence of intoxication or sobriety. In other words, exceeding the BAC limit established in a *per se* statute is itself a violation. By limiting the use of evidence by defendants, *per se* laws make conviction more likely.

(source: <https://alcoholpolicy.niaaa.nih.gov/apis-policy-topics/adult-operators-of-noncommercial-motor-vehicles/12/about-this-policy#page-content>)

### Federal

In 1998, the Administration called for widespread adoption of 0.08 BAC levels across the country and on Federal property [1]. Congress passed two laws to spur such action. In 1998, Congress created incentive grant programs for States that moved toward adoption and enforcement of stricter BAC laws. Then, in 2000, Federal legislation was adopted that required each State to pass a *per se* 0.08 BAC law by 2004 or lose a portion of Federal highway funds. See [23 U.S.C. § 163].

### 23 U.S.C. § 163

United States Code

Title 23 - HIGHWAYS

CHAPTER 1 - FEDERAL-AID HIGHWAYS

### § 163. Safety incentives to prevent operation of motor vehicles by intoxicated persons

More recently, Congress passed legislation providing for incentive grants to States that adopt and implement programs to reduce driving under the influence of alcohol,

# Miscellaneous

drugs, or the combination of alcohol and drugs, including programs for improving BAC testing and reporting [23 U.S.C. § 405].

## 23 U.S.C. § 405

United States Code

Title 23 - HIGHWAYS

CHAPTER 4 - HIGHWAY SAFETY

### § 405. National priority safety programs

#### Oregon BAC

**ORS 813.010 Driving under the influence of intoxicants.** (1) A person commits the offense of driving while under the influence of intoxicants if the person drives a vehicle while the person:

(a) Has 0.08 percent or more by weight of alcohol in the blood of the person as shown by chemical analysis of the breath or blood of the person made under ORS 813.100, 813.140 or 813.150;

(b) Is under the influence of intoxicating liquor, cannabis, a controlled substance or an inhalant; or

(c) Is under the influence of any combination of intoxicating liquor, cannabis, a controlled substance and an inhalant.

(6) In addition to any other sentence that may be imposed, the court shall impose one or more of the following fines on a person convicted of driving while under the influence of intoxicants as follows:

(a) For a person's first conviction, a minimum of \$1,000.

(b) For a person's second conviction, a minimum of \$1,500.

(c) For a person's third or subsequent conviction, a minimum of \$2,000 if the person is not sentenced to a term of imprisonment.

(d) For a person who drives a vehicle while the person has 0.15 percent or more by weight of alcohol in the blood of the person as shown by chemical analysis of the breath or blood of the person made under ORS 813.100, 813.140 or 813.150, a minimum of \$2,000.

(7) Notwithstanding ORS 161.635, \$10,000 is the maximum fine that a court may impose on a person convicted of driving while under the influence of intoxicants if:

(a) The current offense was committed in a motor vehicle; and

(b) There was a passenger in the motor vehicle who was under 18 years of age and was at least three years younger than the person driving the motor vehicle. [1983 c.338 §587; 1985 c.16 §293; 1987 c.138 §5; 1991 c.835 §7; 1999 c.619 §3; 1999 c.1049 §1; 2003 c.14 §495; 2003 c.445 §1; 2007 c.879 §3; 2009 c.525 §1; 2009 c.613 §1; 2017 c.21 §80]

## Miscellaneous

**ORS 813.100 Implied consent to breath or blood test; confiscation of license upon refusal or failure of test.** (1) Any person who operates a motor vehicle upon premises open to the public or the highways of this state shall be deemed to have given consent, subject to the implied consent law, to a chemical test of the person's breath, or of the person's blood if the person is receiving medical care in a health care facility immediately after a motor vehicle accident, for the purpose of determining the alcoholic content of the person's blood if the person is arrested for driving a motor vehicle while under the influence of intoxicants in violation of ORS 813.010 or of a municipal ordinance. A test shall be administered upon the request of a police officer having reasonable grounds to believe the person arrested to have been driving while under the influence of intoxicants in violation of ORS 813.010 or of a municipal ordinance. Before the test is administered the person requested to take the test shall be informed of consequences and rights as described under ORS 813.130.

(2) No chemical test of the person's breath or blood shall be given, under subsection (1) of this section, to a person under arrest for driving a motor vehicle while under the influence of intoxicants in violation of ORS 813.010 or of a municipal ordinance, if the person refuses the request of a police officer to submit to the chemical test after the person has been informed of consequences and rights as described under ORS 813.130.

(3) If a person refuses to take a test under this section or if a breath test under this section discloses that the person, at the time of the test, had a level of alcohol in the person's blood that constitutes being under the influence of intoxicating liquor under ORS 813.300, the person's driving privileges are subject to suspension under ORS 813.410 and the police officer shall do all of the following:

(a) Immediately take custody of any driver license or permit issued by this state to the person to grant driving privileges.

(b) Provide the person with a written notice of intent to suspend, on forms prepared and provided by the Department of Transportation. The written notice shall inform the person of consequences and rights as described under ORS 813.130.

(c) If the person qualifies under ORS 813.110, issue to the person, on behalf of the department, a temporary driving permit described under ORS 813.110.

(d) Within a period of time required by the department by rule, report action taken under this section to the department and prepare and cause to be delivered to the department a report as described in ORS 813.120, along with the confiscated license or permit and a copy of the notice of intent to suspend.



## Miscellaneous

(4) If a blood test under this section discloses that the person, at the time of the test, had a level of alcohol in the person’s blood that constitutes being under the influence of intoxicating liquor under ORS 813.300, the person’s driving privileges are subject to suspension under ORS 813.410 and the police officer shall report to the department within 45 days of the date of arrest that the person failed the blood test.

(5) Nothing in this section precludes a police officer from obtaining a chemical test of the person’s breath or blood through any lawful means for use as evidence in a criminal or civil proceeding including, but not limited to, obtaining a search warrant. [1983 c.338 §591; 1985 c.16 §298; 1985 c.672 §19; 1993 c.305 §1; 1995 c.568 §1; 2013 c.642 §1]

This table outlines the dollar amounts of penalties for infractions against different levels/types of Oregon Law.

<b>VIOLATION TYPE/CLASS</b>	<b>PENALTY</b>
Class A Misdemeanor	Max. fine: \$6,250 Max. prison term: 1 year
Class B Misdemeanor	Max. fine: \$2,500 Max. prison term: 6 months
Class C Misdemeanor	Max. fine: \$1,250 Max. prison term: 30 days
Unclassified Misdemeanor	As provided in the statute defining the crime
Class A Violation	Max. fine: \$2,000
Class B Violation	Max fine: \$1,000
Class C Violation	Max fine: \$500
Class D Violation	Max fine: \$250
Civil Penalty	Varies based on violation
Unclassified or Specific-Fine Violations	As described in ORS 153.015

**Citation** ORS 153.018, 161.615, 161.635 [https://www.oregonlegislature.gov/bills\\_laws/ors/ors153.html](https://www.oregonlegislature.gov/bills_laws/ors/ors153.html)  
[https://www.oregonlegislature.gov/bills\\_laws/ors/ors161.html](https://www.oregonlegislature.gov/bills_laws/ors/ors161.html)

# Appendix

## IX. Appendix

### Annual Multi-Year License Types

<b>VIOLATION TYPE/CLASS</b>	<b>PENALTY</b>
Class A Misdemeanor	Max. fine: \$6,250 Max. prison term: 1 year
Class B Misdemeanor	Max. fine: \$2,500 Max. prison term: 6 months
Class C Misdemeanor	Max. fine: \$1,250 Max. prison term: 30 days
Unclassified Misdemeanor	As provided in the statute defining the crime
Class A Violation	Max. fine: \$2,000
Class B Violation	Max fine: \$1,000
Class C Violation	Max fine: \$500
Class D Violation	Max fine: \$250
Civil Penalty	Varies based on violation
Unclassified or Specific-Fine Violations	As described in ORS 153.015

*Citation* ORS 153.018, 161.615, 161.635 [https://www.oregonlegislature.gov/bills\\_laws/ors/ors153.html](https://www.oregonlegislature.gov/bills_laws/ors/ors153.html)  
[https://www.oregonlegislature.gov/bills\\_laws/ors/ors161.html](https://www.oregonlegislature.gov/bills_laws/ors/ors161.html)

### Liquor License and Service Permit Types

A list of license types and detailed requirements are below.  
[http://www.oregon.gov/olcc/LIC/docs/license\\_types.pdf](http://www.oregon.gov/olcc/LIC/docs/license_types.pdf)