Hard seltzer is a relatively new type of alcoholic beverage that has seen rapid growth in popularity and demand in recent years. The Oregon market is no exception. The OLCC has received quite a few inquiries from the regulated community (and others) about how hard seltzer is classified under Oregon law. This document provides information that is specific to identifying when a hard seltzer qualifies as a malt beverage in Oregon.

**WHAT IS “HARD SELTZER?”**

“Seltzer” is simply carbonated water. In Oregon, a hard (sometimes also known as “spiked”) seltzer is a seltzer with more than one-half of one percent of alcoholic beverage in it.\(^1\)

The ingredients used to make a hard seltzer determines how the OLCC classifies it. This is important as its classification determines who may make it, import it into Oregon, distribute it, sell it at retail or wholesale, and the appropriate Oregon privilege tax classification.

**IS HARD SELTZER A MALT BEVERAGE IN OREGON?**

**HARD SELTZER ONLY QUALIFIES AS A MALT BEVERAGE IN OREGON IF:**

- 100% of the alcohol by volume (ABV) is obtained through the fermentation of grain\(^2\) and the ABV is more than .5% but not more than 14%; or
- At least 98.5% of the ABV is obtained through the fermentation of grain and the ABV is more than 6% but not more than 14%. Once those criteria are met, not more than 1.5 % of the ABV may be obtained through other flavoring agents containing alcohol; or
- At least 51% of the ABV is obtained by the fermentation of grain and the ABV is more than .5% and not more than 6%. Once those criteria are met, up to 49% of the ABV may be obtained through other flavoring agents containing alcohol.

**HARD SELTZER DOES NOT QUALIFY AS A MALT BEVERAGE IN OREGON IF:**

- 100% of the alcohol by volume (ABV) is obtained through the fermentation of **grain**, but the alcohol by volume is over 14 percent.
- It is classified at the federal level as a beer; however, the beer is not obtained primarily (at least 51%) by the **fermentation of grain** and it doesn’t meet Oregon’s definition of a “malt beverage.”

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1 Some may be familiar with the definition of “hard seltzer” in ORS 459A.700(9). However, this definition pertains only to beverage container redemption in Oregon.

2 OLCC relies on the federal definition of “grain” to mean barley, canola, corn, flaxseed, mixed grain, oats, rye, sorghum, soybeans, sunflower seed, triticale and wheat and the subsequent definition for each specific grain.
• It is classified at the federal level as a “malt beverage” but the alcoholic beverage doesn’t meet Oregon’s definition of a “malt beverage.”

• Examples of other products that the OLCC does not include as a “malt beverage” are sake, mead, and kombucha products made with cane sugar.

WHY DOES THIS MATTER?
The privilege tax rate for malt beverages is different from that for wine in Oregon. The OLCC may require the manufacturer, wholesaler, or importer who is claiming a product as a malt beverage for privilege tax purposes to provide verification that the alcohol qualifies as a malt beverage under Oregon law.

WHERE CAN I FIND MORE INFORMATION?
• Contact the OLCC’s privilege tax department: OLCC.privilegetax@oregon.gov
• Guide to Hard Seltzer regulation in Oregon (updated 10/26/20)