

For your information

The Oregon Liquor Control Commission has:

Amended
 Adopted
 Repealed

OAR 845-006-0399 **TEMPORARY RULE**

Effective Dates: December 24, 2020 – June 22, 2021

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

OAR 845-006-0399

Sale of Mixed Drinks and Single Servings of Wine by Full On-Premises Sales Licensees for Off-Premises Consumption and Delivery

(1) Definitions. For the purposes of this rule:

(a) “Manufacturer-sealed container” means a container holding an alcoholic beverage that was sealed upon removal from federal bond.

(b) “Mixed drink” means a beverage that is combined on a licensed premises and sold in a sealed container for consumption off of the licensed premises and is:

(A) A drink where the principal alcoholic liquor is distilled liquor and one or more mixers, and contains no more than three ounces of distilled liquor; or

(B) A drink where the principal alcoholic liquor is wine combined with one or more mixers or distilled liquor that contains no more than six ounces of liquid.

(c) “Mixer” means malt beverages, wine, cider, or nonalcoholic ingredients.

(d) “Resident of Oregon” means a person who is in Oregon, even if temporarily.

(e) “Sealed container” means a container with a secure cap or lid that completely covers the opening for the container and a seal designed to make it evident when the seal has been removed or broken. The seal is affixed to the container by the licensee after the container is filled pursuant to a consumer order for the mixed drink.

(f) “Serving of wine” means a container holding six ounces or less of wine with no mixer and no distilled liquor.

(g) “Third-party platform” means a website, mobile application or other electronic service that facilitates the order of food and beverages for sale to a consumer by a licensee and that provides one or more the following services:

(A) Delivering, or arranging for the delivery of, the order to the consumer; or

(B) Arranging for the pickup of the order by the consumer from the licensee.

(2) A Full On-Premises Sales licensee may sell or provide no more than a total of either two containers of a mixed drink, two servings of wine, or one mixed drink and one serving of wine per substantial food item as defined in OAR 845-006-0459.

(3) A Full On-Premises Sales licensee that sells mixed drinks or servings of wine to consumers must prominently post a notice provided by the Commission relating to Oregon’s open container laws. The notice must be prominently displayed on the premises and present in whatever manner is necessary to ensure that the consumer purchasing, or a delivery person transporting, such beverages is given notice of this warning. Violation of this section is a Category IV violation.

(4) Mixed drinks and servings of wine may be delivered to a resident of Oregon by a Full On-Premises Sales licensee only as follows:

(a) To a resident of Oregon who is at least 21 years of age and only if the mixed drink or serving of wine is for personal use and not for the purpose of resale;

(b) To a resident of Oregon who is not visibly intoxicated at the time of receiving the mixed drink or serving of wine;

(c) The mixed drink or serving of wine is in a container or packaging that is conspicuously labeled with the words “Contains alcohol: deliver only to a person age 21 years or older.” This message may be directly on the container, on the packaging, or accompanying the container. Examples that meet this labeling requirement include but are not limited to a card, adhesive label or notice, or other medium approved by the Commission;

(d) Pursuant to an order for a mixed drink or serving of wine that is received by the licensee and paid for by the resident prior to removal from the licensed premises for delivery to the resident;

(e) The mixed drink or serving of wine is delivered between the hours of 7:00 am and 10:00 pm;

(f) To a home or business where the home or business has a permanent street address; or to a location that is within 100 feet of the boundary of the licensed premises.

(5) Licensees may use a for-hire carrier with a plan approved by the Commission under OAR 845-005-0424 to deliver mixed drinks and servings of wine to residents of Oregon. When a licensee uses a for-hire carrier to deliver a mixed drink or serving of wine to a resident of Oregon, the licensee may be held responsible for the for-hire carrier's failure to follow the requirements of OAR 845-005-0424. If the licensee does not use a for-hire carrier, in addition to complying with all other requirements of this rule applicable to the licensee, the person making the delivery of the mixed drink or serving of wine must:

(a) Be age 18 or over;

(b) Verify that the person receiving the mixed drink or serving of wine is at least 21 years of age;

(c) Determine that the person receiving the mixed drink or serving of wine is not visibly intoxicated; and

(d) Collect information that must be retained by the licensee for a minimum of 120 days from the date of delivery of the mixed drink or serving of wine to the resident. The information retained must include:

(A) The date and time the mixed drink or serving of wine was delivered to the resident;

(B) The name or information that can be used to determine the name of the person delivering the alcohol to the resident; and

(C) The name and delivery address of the person receiving the alcohol.

(6) A Full On-Premises Sales licensee may receive orders and payment for mixed drinks and servings of wine through a third-party platform. The licensee may use a third-party platform to deliver mixed drinks or servings of wine sold to a resident of Oregon only if the third-party platform is approved as a for-hire carrier as defined in OAR 845-005-0424.

(7) A Full On-Premises Sales licensee may not sell manufacturer-sealed containers of distilled liquor of any size. Violation of this subsection is a Category I violation.

(8) This rule does not apply to sales of manufacturer-sealed containers or securely covered containers of malt beverages, wine, or cider for off-premises consumption.

(9) Unless otherwise specified, violation of this rule is a Category III violation.

(10) This rule shall be repealed 60 days after the date on which the declaration of a state of emergency issued by the Governor on March 8, 2020, and any extension of the declaration, is no longer in effect.

Statutory/Other Authority: ORS 471, 471.030, 471.040, 471.730(1), 471.730(5)

Statutes/Other Implemented: 2020 S.B. 1801

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