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CHAPTER 845

OREGON LIQUOR AND CANNABIS COMMISSION

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FILING CAPTION: Amends and adopts rules to implement legislation related to the Oregon Bottle Bill.

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RULES:

845-020-0005, 845-020-0031, 845-020-0032, 845-020-0035

AMEND: 845-020-0005

RULE TITLE: Definitions

NOTICE FILED DATE: 07/28/2022

RULE SUMMARY: The 2022 Oregon Legislature passed Senate Bill 1520, which directs OLCC to develop and provide signage to dealers describing the reasons a dealer may refuse to accept and to pay the refund value for empty beverage containers. The notices may contain additional information as determined by OLCC.

Senate Bill 1520 also requires distributors who are not a member of a distributor cooperative and who sold more than 500,000 containers in Oregon in the previous calendar year to establish a program to provide redemption services in a distributor's distribution area that are comparable to services provided by a distributor cooperative. Redemption services may include but are not limited to operation of full-service redemption centers, drop-off service for beverage containers, retail pick-up service, and any other services required by OLCC by rule. OLCC proposes to add additional services to those identified in SB 1520, including establishing programs for nonprofit organizations to raise funds.

Further, Senate Bill 1520 sets out fees to be paid by distributors and distributor cooperatives. The proposed amendments incorporate these fees into OLCC's rules.

These provisions of Senate Bill 1520 become operative on January 1, 2023.

RULE TEXT:

(1) The terms defined in ORS 459A.700 have the same meaning in OAR 845-020-0005 through 845-020-0060.

(2) "Area of a Business" means the square footage of the entire building or portion of the building leased or owned by the dealer. The area of a business only includes the retail space and not the square footage of the entire business, if:

(a) The retail space is less than 5,000 square feet;

(b) The retail space occupies less than 50 percent of the leased or owned space where retail operations are located; and

(c) The nonretail space is used in whole or in part for the manufacturing of beverages.

- (3) "Cider" means an alcoholic beverage made from the fermentation 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 limited to, flavored, sparkling or carbonated cider.
- (4) "Convenience zone" means a sector within a radius of a redemption center specified by the Commission that determines which dealers may participate in a redemption center and that impacts the number of containers a store must accept.
- (5) "Dealer redemption center" means a location that serves one or more dealers doing business in an area that is not part of a convenience zone specified by the Commission under ORS 459A.738, at which any person may return empty containers for beverages that were purchased in Oregon and receive payment of the refund value of the beverage containers.
- (6) "Distributor" means every person in this state who engages in the sale of beverages in beverage containers to a dealer in this state including any manufacturer who engages in such sales. "Distributor" includes manufacturers that sell beverages in beverage containers to their own retail locations.
- (7) "Distributor cooperative" means an established organization of two or more distributors or importers that serves a majority of the dealers in Oregon.
- (8) "Full-service redemption center" means a location that meets the requirements of ORS 459A.737, at which any person may return empty containers for beverages that were purchased in Oregon and receive payment of the refund value of the beverage containers.
- (9) "Hard seltzer" means any sugar-based alcoholic beverage that contains carbonated water or any malt-based alcoholic beverage that contains carbonated water and is not a malt beverage, as that term is defined in ORS 471.001.
- (10) "Kind of beverage" means the type of beverage in a container that is required to have a refund value and does not refer to the size of the container or the brand of the beverage. The "kind of beverage" categories are:
- (a) Water;
 - (b) Carbonated soft drinks;
 - (c) All other non-alcoholic beverages (excluding dairy milk and plant-based milk, infant formula, and liquid meal replacements);
 - (d) Alcoholic beverages (excluding distilled liquor and wine); and
 - (e) Beverages containing marijuana or hemp.
- (11) "Kombucha" means a fermented beverage that is made from tea and does not contain more than 21 percent of alcohol by volume.
- (12) "Liquid Meal Replacement" means a ready-to-drink liquid with caloric and nutritional value intended to replace a regular meal.
- (13) "Milk" means a beverage that designates milk as the predominant (first) ingredient in the ingredient list on the container's label.
- (14) "Person." As used in OAR 845-020-0005 through 845-020-0060, unless the context requires otherwise, "Person" includes individuals, corporations, associations, firms, partnerships, and joint stock companies.
- (15) "Plant-Based Milk" means a beverage consisting of plant material suspended in water that imitates dairy milk and designates the plant-based milk as the predominant (first) ingredient in the ingredient list on the container's label.
- (16) "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, cider over 8.5 percent alcohol by volume, and mead. "Wine" does not include cider that is not more than 8.5 percent of alcohol by volume, hard seltzer, or kombucha.

STATUTORY/OTHER AUTHORITY: ORS 459A, 459.992(4), 471.030, 471.730(1) & (5)

STATUTES/OTHER IMPLEMENTED: ORS 459A.725

ADOPT: 845-020-0031

RULE TITLE: Requirements of Distributors Not Participating in a Distributor Cooperative

NOTICE FILED DATE: 07/28/2022

RULE SUMMARY: The 2022 Oregon Legislature passed Senate Bill 1520, which directs OLCC to develop and provide signage to dealers describing the reasons a dealer may refuse to accept and to pay the refund value for empty beverage containers. The notices may contain additional information as determined by OLCC.

Senate Bill 1520 also requires distributors who are not a member of a distributor cooperative and who sold more than 500,000 containers in Oregon in the previous calendar year to establish a program to provide redemption services in a distributor's distribution area that are comparable to services provided by a distributor cooperative. Redemption services may include but are not limited to operation of full-service redemption centers, drop-off service for beverage containers, retail pick-up service, and any other services required by OLCC by rule. OLCC proposes to add additional services to those identified in SB 1520, including establishing programs for nonprofit organizations to raise funds.

Further, Senate Bill 1520 sets out fees to be paid by distributors and distributor cooperatives. The proposed amendments incorporate these fees into OLCC's rules.

These provisions of Senate Bill 1520 become operative on January 1, 2023.

RULE TEXT:

(1) Distributors that do not participate in a distributor cooperative and that sold more than 500,000 beverages in beverage containers in Oregon in the previous calendar year must establish a program to provide redemption services in the distributor's distribution area that are comparable to services provided by a distributor cooperative in this state.

(2) Redemption services must include:

(a) Operation of full-service redemption centers that are staffed and operating at least 10 hours each day, seven days a week;

(b) Customer access to reverse vending machines, hand counting, and bag drop-off service;

(c) Providing dealers with a pick-up service, bag drop-off facilities, and facilitating establishment of dealer redemption centers; and

(d) Establishing programs for nonprofit organizations to raise funds.

STATUTORY/OTHER AUTHORITY: ORS 459A.737, 2022 Oregon Laws Ch. 80

STATUTES/OTHER IMPLEMENTED: ORS 459A.737, 2022 Oregon Laws Ch. 80

ADOPT: 845-020-0032

RULE TITLE: Fees for Distributors and Distributor Cooperatives

NOTICE FILED DATE: 07/28/2022

RULE SUMMARY: The 2022 Oregon Legislature passed Senate Bill 1520, which directs OLCC to develop and provide signage to dealers describing the reasons a dealer may refuse to accept and to pay the refund value for empty beverage containers. The notices may contain additional information as determined by OLCC.

Senate Bill 1520 also requires distributors who are not a member of a distributor cooperative and who sold more than 500,000 containers in Oregon in the previous calendar year to establish a program to provide redemption services in a distributor's distribution area that are comparable to services provided by a distributor cooperative. Redemption services may include but are not limited to operation of full-service redemption centers, drop-off service for beverage containers, retail pick-up service, and any other services required by OLCC by rule. OLCC proposes to add additional services to those identified in SB 1520, including establishing programs for nonprofit organizations to raise funds.

Further, Senate Bill 1520 sets out fees to be paid by distributors and distributor cooperatives. The proposed amendments incorporate these fees into OLCC's rules.

These provisions of Senate Bill 1520 become operative on January 1, 2023.

RULE TEXT:

(1) Fees for distributors that do not participate in distributor cooperatives:

(a) A distributor that sold more than 500,000 beverages in beverage containers in Oregon during the previous calendar year shall pay annually to the Commission \$3,000 multiplied by the total number of full-service redemption centers operated in this state for any period during a year, regardless of the person that operates the full-service redemption center. The fee must be paid no later than July 1 of the year prior to the year for which the fee applies. If the distributor operates a full-service redemption center, the distributor may satisfy its obligation to pay the annual registration fee described in ORS 459A.737 by paying the fee described in this subsection.

(b) A distributor that sold at least 15,000 but not more than 500,000 beverages in beverage containers in Oregon during the previous calendar year must pay annually to the Commission a fee of \$25,000.

(c) A distributor that sold fewer than 15,000 beverages in beverage containers in Oregon during the previous calendar year must pay annually to the Commission a fee of \$5,000.

(d) Fees described in (1)(b) and (1)(c) must be paid no later than January 1 of the year following the year for which the fee applies.

(e) Distributors described in (1)(b) and (1)(c) that become a participant in a distributor cooperative before December 31 of the year for which the fee applies are not required to pay the fee.

(2) Fees for distributor cooperatives:

(a) Each person responsible for the operation of one or more full-service redemption centers shall pay an annual registration fee to the Commission as described in ORS 459A.737. The registration fee shall be \$3,000 for each full-service redemption center operated in this state, regardless of the person that operates the full-service redemption center.

(b) In addition to the fees described in OAR 845-020-0020, a distributor cooperative shall pay annually to the Commission \$3,000 multiplied by the total number of full-service redemption centers operated in Oregon by any person other than the distributor cooperative. The fee must be paid no later than July 1 of each calendar year for the upcoming year.

STATUTORY/OTHER AUTHORITY: ORS 459A.737, 2022 Oregon Laws Ch. 80

STATUTES/OTHER IMPLEMENTED: ORS 459A.737, 2022 Oregon Laws Ch. 80

AMEND: 845-020-0035

RULE TITLE: When Dealer Not Required to Accept Containers

NOTICE FILED DATE: 07/28/2022

RULE SUMMARY: The 2022 Oregon Legislature passed Senate Bill 1520, which directs OLCC to develop and provide signage to dealers describing the reasons a dealer may refuse to accept and to pay the refund value for empty beverage containers. The notices may contain additional information as determined by OLCC.

Senate Bill 1520 also requires distributors who are not a member of a distributor cooperative and who sold more than 500,000 containers in Oregon in the previous calendar year to establish a program to provide redemption services in a distributor's distribution area that are comparable to services provided by a distributor cooperative. Redemption services may include but are not limited to operation of full-service redemption centers, drop-off service for beverage containers, retail pick-up service, and any other services required by OLCC by rule. OLCC proposes to add additional services to those identified in SB 1520, including establishing programs for nonprofit organizations to raise funds.

Further, Senate Bill 1520 sets out fees to be paid by distributors and distributor cooperatives. The proposed amendments incorporate these fees into OLCC's rules.

These provisions of Senate Bill 1520 become operative on January 1, 2023.

RULE TEXT:

(1) The Commission does not interpret ORS 459A.710 to require a dealer to accept an empty beverage container, if:

- (a) The area of the business occupies a total enclosed space of 5,000 or more square feet in a single location and has not offered the kind of beverage for sale within the past six months;
- (b) The area of the business occupies a total enclosed space of less than 5,000 square feet in a single location and has not offered the kind, size, and brand of beverage for sale within the past six months;
- (c) The dealer has reasonable grounds to believe the beverage was sold at retail outside Oregon;
- (d) The dealer has reasonable grounds to believe that the container was obtained from or through a distributor without paying the refund value. The primary goal of this subsection is to prevent distributors, recyclers or others from putting containers through the refund/return system more than once without paying the refund value; or
- (e) The dealer has reasonable grounds to believe that the container has already been redeemed, such as through a reverse vending process.

(2) Dealers must not use this rule to frustrate the requirement of the Beverage Container Act that requires dealers to accept return of beverage containers. If a person attempts to return a fewer number of redeemable beverage containers than the number stated in (4) below, the dealer must accept those containers. A dealer is not prohibited from accepting more beverage containers than the applicable amount.

(3) Dealers must post a notice about the requirement to accept beverage container returns, provided to the dealer by the Commission, in each area where beverage containers are received. The notice must be clearly visible to customers returning containers. Dealers may copy the provided notice, but may not modify it.

(4) Dealers must accept return of:

- (a) 144 beverage containers sold in Oregon from any person in any one day at all hours the dealer is open for business, if the dealer occupies a total enclosed space of 5,000 or more square feet in a single location and is not in a redemption center zone;
- (b) 144 beverage containers sold in Oregon from any person in any one day at all hours the dealer is open for business if the dealer occupies a total enclosed space of 5,000 or more square feet in a single location, is in a full-service redemption center zone, and is approved by the Commission for an exemption under ORS 459A.738(5)(c);
- (c) 50 beverage containers sold in Oregon from any person in any one day at all hours the dealer is open for business, if the dealer occupies a total enclosed space of less than 5,000 square feet in a single location and is not in a full-service

redemption center zone;

(d) 24 beverage containers sold in Oregon from any person in any one day at all hours the dealer is open for business if the dealer occupies a total enclosed space of 5,000 or more square feet in a single location, is in zone 2 of a redemption center, and participates in that redemption center;

(e) 24 beverage containers sold in Oregon from any person in any one day at all hours the dealer is open for business if the dealer occupies a total enclosed space of less than 5,000 square feet in a single location and is in a full-service redemption center zone;

(f) 24 beverage containers sold in Oregon from any person in any one day at all hours the dealer is open for business if a dealer establishes a dealer redemption center and if a dealer participates in a dealer redemption center; or

(g) Up to 350 beverage containers sold in Oregon from any person in any one day at all hours the dealer is open for business if the dealer occupies a total enclosed space of 5,000 or more square feet in a single area, is in a full-service redemption center convenience zone, and does not participate in that redemption center. This requirement is in addition to other equivalent services to the redemption center that the dealer must provide as specified in ORS 459A.738(5).

STATUTORY/OTHER AUTHORITY: 459A.738, ORS 459A.715, ORS 459A.705

STATUTES/OTHER IMPLEMENTED: 459A.738, 2022 Oregon Laws Ch. 80