

## For your information

### The Oregon Liquor Control Commission has:

X Amended

Amend OAR 845-005-0416, 845-005-0417, 845-005-0440, 845-006-0335, 845-006-0391, 845-006-0392, 845-006-0396, 845-013-0090, and 845-015-0177

Adopted

Suspended

Suspend OAR 845-006-0441  
**TEMPORARY**

Effective Date: July 16, 2021

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

#### **DIVISION 5**

845-005-0416

Delivery of **Alcoholic Beverages Malt Beverage, Wine or Cider** to Individuals — Definitions

As used in OAR 845-005-0416 through 845-005-0426:

(1) ~~The term "ship" means to cause the delivery or transport of malt beverages, wine or cider to either a resident of Oregon or a licensee of the Commission. The term "deliver" has a similar meaning and includes the transport and handing over of malt beverages, wine or cider to a resident or a licensee of the Commission. The terms ship and deliver may be used interchangeably.~~

(2) ~~"Same-day delivery" means a person causes a resident of Oregon to receive malt beverages, wine or cider on the same day the person receives the order from the customer.~~

(3) ~~"Next-day delivery" means a person causes a resident of Oregon to receive malt beverages, wine or cider after the day the person receives the order from the customer.~~

**(1) "Deliver" means to transport alcoholic beverages from a licensee or direct shipper permittee to a resident of Oregon at a location that is off of the licensed or permitted premises.**

**(4) (2)** "For-hire carrier" means any person or company who holds itself out to the public as willing to transport property in return for compensation. The term "for-hire carrier" can include a common carrier.

**(5) (3)** "Month" means a calendar month.

**(4) "Resident of Oregon"** means an individual residing in Oregon, even if only temporarily.

## 845-005-0417

Qualifications for Direct Shipper Permit ~~Delivery of Malt Beverages, Wine, or Cider to a Resident of Oregon~~

~~ORS 471.282 allows a person with a Direct Shipper Permit to sell and deliver malt beverages, wine or cider directly to a resident of Oregon who is at least 21 years of age. 471.186 allows an off-premises sales licensee to deliver malt beverages, wine and cider to a resident of Oregon who is at least 21 years of age.~~

(1) A Direct Shipper Permit allows the delivery of only the type of alcohol allowed by the license that authorizes the person to hold a Direct Shipper Permit. Only the following persons may qualify for a Direct Shipper Permit:

(a) A person holding a **temporary sales license issued under ORS 471.190**, brewery-public house license issued under ORS 471.200, a brewery license issued under ORS 471.220, a winery license issued under ORS 471.223, or a grower sales privilege license issued under 471.227. These licenses are issued with a Direct Shipper Permit.

~~(b) A person holding a temporary sales license issued under ORS 471.190 that is also a nonprofit trade association and that has a membership primarily composed of persons holding winery licenses issued under 471.223 and grower sales privilege licenses issued under 471.227.~~

~~(c) (b)~~ A person holding a license issued by another state within the United States that authorizes the manufacture of malt beverages, wine, or cider. The person in the other state may deliver malt beverages only if that state allows Oregon licensees to deliver malt beverages directly to a resident of that state.

~~(d) (c)~~ A person holding a license issued by another state within the United States that authorizes the sale of wine or cider produced only from grapes or other fruit grown under the control of the licensee.

~~(e) (d)~~ A person holding a license issued by another state within the United States that authorizes the sale of malt beverages, wine, or cider at retail for consumption off the licensed premises. The person in the other state may deliver malt beverages only if that

state allows Oregon licensees to deliver malt beverages directly to a resident of that state.

(2) Application for a Direct Shipper Permit. A person described under subsections (1)(b)–~~(e)~~ **(d)** of this rule must make application to the Commission and receive a Direct Shipper Permit from the Commission before shipping any malt beverages, wine or cider directly to a resident of Oregon. Applicants must apply in writing using the forms provided by the Commission and submit the required fee. The Commission may require additional forms, documents, or information as part of the application. The Commission may refuse to process any application that is not complete or not accompanied by the documents or disclosures required by the form or the Commission.

(3) The Commission may revoke or refuse to issue or renew a Direct Shipper Permit if the permit holder or applicant fails to qualify for the permit under this rule or a refusal basis applies under ORS Chapter 471 or any other rule of the Commission and good cause does not overcome the refusal basis.

(4) A Direct Shipper Permit issued under subsections (1) ~~(e)~~–~~(e)~~ **(b) – (d)** of this rule must be renewed annually.

(a) If the person holds the permit based on a license issued by another state, the permit may be renewed by applying in writing using the forms provided by the Commission and submitting the required fee. The Commission may require additional forms, documents, or information as part of the application.

(b) If the person holds the permit based on an annual license issued by this state, the permit may be renewed at the same time that the license is renewed.

(5) Delivery. *Licensees and* Permit-holders delivering malt beverages, wine, and cider to a resident of Oregon must follow the delivery requirements listed in OAR 845-006-0392 and 845-006-0396.

(6) The Commission may refuse to process any application required under this rule if the application is not complete and accompanied by the fee, documents or disclosures required by the form. The Commission shall give applicants the opportunity to be heard if the Commission refuses to process an application. A hearing under this subsection is not subject to the requirements for contested case proceedings under ORS Chapter 183.

## **845-005-0440**

### **Temporary Sales Licenses**

(1) A person must obtain from the Commission a license or authority to sell alcoholic beverages. ORS 471.405 establishes a prohibition on sale of alcoholic beverages without a license or authority. ORS 471.406 defines sale of alcoholic beverages. This rule sets the requirements for obtaining a Temporary Sales License.

(2) Definitions. For this rule:

- (a) "Bar" means a counter at which the preparation, pouring, serving, sale, or consumption of alcoholic beverages is the primary activity.
- (b) "Food counter" means a counter in an area in which minors are allowed and at which the primary activity at all times is the preparation, serving, sale, or consumption of food.
- (c) "License day" means from 7:00 am until 2:30 am on the succeeding calendar day. The license fee is \$50 per license day or for any part of a license day.
- (d) "Nonprofit trade association" means an organization comprised of individual or business members where the organization represents the interests of the members and is registered with the state of Oregon as a nonprofit association.
- (e) "Serious violation history" means:
  - (A) Two or more category III or IIIa administrative violations of any type, or category IV violations involving minors. However, if the circumstances of a violation include aggravation, one violation may be sufficient; or
  - (B) One category I, II or IIa administrative violation; or
  - (C) Two or more crimes or offenses involving liquor laws.
- (f) "Social game" means a game other than a lottery, if authorized by a local county or city ordinance pursuant to ORS 167.121, between players in a private business, private club, or place of public accommodation where no house player, house bank, or house odds exist and there is no house income from the operation of the social game.
- (g) "Video lottery game" means a video lottery game terminal authorized by the Oregon State Lottery. Examples include but are not limited to video poker and video slots. Keno monitors are not considered a video lottery game.

(3) ORS 471.190 authorizes the Commission to issue a Temporary Sales License. Temporary Sales Licenses are issued in increments of one license day. ~~The Commission will not approve more than seven license days on a single application. The Commission may limit approval of any application to a single license day or to any number of license days fewer than seven days.~~ The Commission may issue a Temporary Sales License only to applicants that qualify under the Commission's licensing standards and that are:

- (a) A nonprofit or charitable organization that is registered with the state, including nonprofit trade associations where at least 51% of the total membership is comprised of persons that hold winery licenses issued under ORS 471.223 or grower sales privilege licenses issued under 471.227; or

- (b) A political committee that has a current statement of organization filed under ORS 260.039 or 260.042; or
- (c) An agency of the State; or
- (d) A local government or an agency or department of a local government; or
- (e) Any applicant not described in (3)(a)–(3)(d) of this subsection, including licensees of the Commission.

**(4) The Commission will not approve more than thirty license days on a single application submitted by an applicant identified in (3) (a), (c) or (d). The Commission may limit approval of any application to a single license day or to any number of license days fewer than thirty days.**

**(5) The Commission will not approve more than seven license days on a single application submitted by an applicant identified in (3) (b) or (e). The Commission may limit approval of any application to a single license day or to any number of license days fewer than seven days.**

**(4) (6)** A Temporary Sales License may authorize the licensee to sell wine, malt beverages and cider at retail for consumption on the licensed premises and for consumption off the licensed premises. All wine, malt beverages and cider sold for consumption off the licensed premises must be in either:

- (a) *Manufacturer-sealed Factory-sealed* containers ~~that do not hold more than two and one-quarter gallons each~~; or
- (b) Securely covered containers provided by the consumer that do not hold more than two gallons each.

**(5) (7)** A Temporary Sales License may authorize the licensee to sell distilled liquor by the drink at retail for consumption on the licensed premises.

**(6) (8)** Applicants must apply in writing for a Temporary Sales License, using the application form provided by the Commission. The Commission may require additional forms, documents, or information as part of the application. The Commission may refuse to process any application not complete, not accompanied by the documents or disclosures required by the form or the Commission, or that does not allow the Commission sufficient time to investigate it. Sufficient time is typically one to three weeks prior to the event date. The Commission may give applicants the opportunity to be heard if the Commission refuses to process an application. A hearing under this subsection is not subject to the requirements for contested case proceedings under ORS 183.310 to 183.550.

**(7) (9)** The application for a Temporary Sales License under this rule shall include:

(a) A ~~written, dated, and signed~~ **written and dated** plan. An application is not complete if this plan is not approved by the Commission. To approve a plan, the Commission must determine that the plan adequately manages:

- (A) The event to prevent problems and violations;
  - (B) Patronage by minors as set out in subsection ~~(8)~~ **(10)** of this rule; and
  - (C) Alcohol consumption by adults.
- (b) Identification of the individuals to be employed by the licensee to manage events on the licensed premises;
- (c) Identification of the premises proposed to be licensed;
- (d) Menu and proposal showing compliance with the food service standards of OAR 845-006-0465;
- (e) Statement of the type of event to be licensed, type and extent of entertainment to be offered, expected patronage overall and by minors, type of food service to be offered, proposed hours of food service, and proposed hours of operation;
- (f) The recommendation in writing of the local governing body where the licensed premises will be located;
- (g) License fees as established by ORS 471.311.

~~(8)~~ **(10)** A plan for managing patronage by minors under subsection ~~(7)~~ **(9)** (a) of this rule must meet the following requirements:

- (a) If the Temporary Sales License will be on any part of a premises, room, or area with ~~a permanent an~~ annual license issued by the Commission, the Commission must be convinced that the plan will follow the minor posting and control plan, including any temporary relaxation of the minor posting, assigned to that premises, room, or area under the ~~permanent annual~~ license. The Commission must also be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises prohibited to minors.
- (b) If the Temporary Sales License will not be on any part of a premises, room, or area with ~~a permanent an annual~~ license issued by the Commission, the Commission must be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises the Commission prohibits to minors.

~~(9)~~ **(11)** Minors are prohibited from the licensed premises or portions of the licensed premises as follows;

- (a) Minors may not sit or stand at a bar; however, minors may sit or stand at a food counter;
- (b) Minors may not be in an area where there is video lottery games, social games, or nude entertainment or where such activities are visible.
- (c) Minors may not be in an area where the licensee's approved written plan designates that minors will be excluded

~~(10)~~ **(12)** Minimum Age of Servers. Alcohol servers at temporary sales licensed locations must be at least 21 years of age to sell or serve alcoholic beverages, with the following exceptions:

- (a) In areas of the licensed premises not prohibited to minors, persons who are 18, 19, and 20 years of age may:
  - (A) Take orders for, serve and sell alcoholic beverages for on-premises consumption if the activity is incidental to the selling or serving of food in that area of the licensed premises, and may sell alcoholic beverages in ~~manufacturer-sealed~~ **factory-sealed** containers for off-premises consumption; or
  - (B) Sell ~~tokens/script, including verifying age,~~ **items, such as tokens or scrip**, to be redeemed for alcoholic beverages or food at the event.
- (b) In areas of the licensed premises prohibited to minors, persons who are 18, 19, and 20 years of age may deliver food, restock non-alcohol supplies and perform other non-alcohol related duties, however the person shall not remain in the prohibited area longer than is necessary to perform these duties.

~~(11)~~ **(13)** Alcohol servers at locations licensed under subsections (3)(b)–(e) of this rule must hold valid service permits unless specifically exempted under authority of subsection ~~(12)~~ **(14)** of this rule.

~~(12)~~ **(14)** The Commission may waive the service permit requirement for the holder of a Temporary Sales License issued under subsections (3)(b)–(e) of this rule, and the licensee's alcohol servers, if:

- (a) The license is used only for package sales; or if
- (b) The Commission concludes alcohol service by individuals who do not hold a service permit does not pose a significant risk for public safety problems or non-compliance with liquor laws; and
- (c) Each alcoholic beverage point-of-sale at the licensed location is staffed, at all times alcoholic beverages are being sold or served, by an individual who has completed a Server Education course successfully within 5 years prior to the date of the event.

**(13) (15)** At events licensed under subsection (3)(a) of this rule, before allowing alcohol servers to sell or serve alcoholic beverages, the licensee must ensure that all alcohol servers have met one of the following standards:

- (a) The alcohol server has a valid service permit or has successfully completed a Server Education course within 5 years prior to the date of the event, or
- (b) The alcohol server has attended training provided by the licensee, and has read, signed and dated the Commission-provided brochure, What Every Volunteer Alcohol Server Needs to Know. The licensee-provided training must address the topics included in the brochure, including but not limited to: minors and proper checking of identification, and how to recognize and respond appropriately to visibly intoxicated persons. At any time while on duty, the alcohol server shall make the signed brochure available for immediate inspection by any inspector or investigator employed by the Commission or by any other peace officer.

**(14) (16)** If there are compliance problems with an operator or an event, the Commission may add other requirements for the education of servers at events licensed under this rule.

**(15) (17)** The Commission may deny, cancel or restrict a Temporary Sales License for any reason for which the Commission may deny, cancel or restrict a regular license.

**(16) (18)** The Commission may deny or restrict a Temporary Sales License if the applicant has a serious violation history at events previously licensed with a Temporary Sales License within the past 36 months.

**(17) (19)** The Commission may refund the Temporary Sales License fee if the application is withdrawn by the applicant or denied by the Commission, if the event does not take place because of circumstances beyond the applicant's control, or if the Commission determines the applicant does not need a license for the event proposed in the application.

**(18) (20)** When the Commission approves a written plan under subsection **(7) (9)(a)** of this rule, the licensee must follow that written plan. Failure to follow that written plan is a category III violation.

**(19) (21)** If the licensee fails to prevent minors from gaining access to alcoholic beverages or fails to prevent minors from gaining access to any portion of the licensed premises prohibited to minors, the Commission may immediately prohibit minors from the licensed premises or portion(s) of the premises.

**(22) A Temporary Sales License may authorize the licensee to deliver, or cause to be delivered, factory-sealed and securely-covered containers of malt beverages, wine, or cider direct to a resident of Oregon.**

**(a) Malt beverages, wine, or cider may only be delivered on a licensed day.**

**(b) A Temporary Sales License must comply with OAR 845-006-0392 for the delivery of wine or cider and must comply with OAR 845-006-0396 for the delivery of malt beverages.**

**(23) A Temporary Sales License issued under subsections (3)(a)(c) or (d) of this rule may have more than one address on a single license application as part of a single licensed premises, provided that all addresses are located within the same local government jurisdiction. The Commission may refuse to process an application containing addresses for more than one local government jurisdiction.**

## **DIVISION 6**

### **845-006-0335**

#### **Age Verification; Minors on Licensed Premises**

**(1) Age Verification:**

(a) ORS 471.130 requires a licensee or permittee to verify the age of a person who wants to buy or be served alcoholic beverages when there is "any reasonable doubt" that the person is at least 21 years old. The Commission requires a licensee or permittee to verify the age of anyone who wants to drink alcoholic beverages, or is in an area prohibited to minors, if there is reasonable doubt that the person is at least 21 years old. "Reasonable doubt" exists if the person appears to be under the age of 26;

(b) Whenever a licensee or permittee verifies age, he/she must verify it as ORS 471.130 requires (statement of age card or the specified items of identification) and must reject any obviously altered document or one which obviously does not identify the person offering it;

(c) Licensees must require all their employees who sell, serve, oversee or control the sale or service of alcoholic beverages to verify age as subsection (a) of this section requires.

(d) Only the following forms of unexpired, unaltered, and legitimate identification are acceptable alone as proof of age:

(A) A driver license issued by a U.S. state, or the District of Columbia, or a province or territory of Canada;

(B) An identification card or driver license that has a picture of the person, the name of the person, the person's date of birth, and a physical description of the person and is issued by a U.S. state, the District of Columbia, or a territory of the U.S., or a province or territory of Canada;

- (C) An identification card that has a picture of the person, the name of the person, the person's date of birth, and a physical description of the person and is issued by a federally recognized Indian tribe;
- (D) A passport or passport card;
- (E) A U.S. military identification card; or
- (F) An identification card that is proof of the person's participation in the Secure Electronic Network for Travelers Rapid Inspection (SENTRI) program operated by United States Customs and Border Protection, the NEXUS program jointly operated by that agency and the Canada Border Services Agency, or a successor to either of those programs that is recognized by the Commission.

(2) Sanctions for Failure to Verify Age:

- (a) The Commission will sanction a licensee or permittee who does not verify the age of a person who appears to be under the age of 26 only if the person:
  - (A) Actually is a minor who buys, is served or drinks an alcoholic beverage at the licensed premises (Category (IIb) violation); or
  - (B) Actually is a minor who is in an area of the licensed premises prohibited to minors (Category IV violation).
- (b) If the Commission sanctions a licensee or permittee for one or more of the following violations under this rule: Failure to verify the age of a minor; Allowing a minor to drink; or Allowing a minor in an area prohibited to minors, the Commission will not sanction the licensee or permittee separately under ORS 471.130 or 471.410(2) for the same conduct. The Commission may charge a licensee or permittee for one or more violations under this rule and also charge violation of one or more of the statutes in the alternative.
- (c) Failure to verify age as ORS 471.130 requires or to reject obviously altered or false identification is a Category (IIb) violation.

(3) Minors on Premises: General Prohibitions.

- (a) No licensee, permittee, or licensee's employee will permit a minor:
  - (A) To drink any alcoholic beverage on licensed premises; or
  - (B) To be on licensed premises or an area of the licensed premises prohibited to minors, except as provided in ORS 471.430, 471.480, 471.482, OAR 845-006-0340 and this rule.
- (b) The assigned minor posting(s) describes where on the premises minors are allowed or prohibited. See OAR 845-006-0340, Minor Postings.

(4) Minor Employee and Minor Service Permittee:

- (a) A Number 1 minor posting. Minor employees and minor service permittees are prohibited from the entire licensed premises at all times.
- (b) A Number 2 minor posting. Minor employees and minor service permittees may be in this area of the premises only if they are performing work duties or going to or returning from a rest room. The minor employee or minor service permittee may not remain in the prohibited area longer than is necessary to perform the work duties or go to or return from a rest room and while in the area may not check identification, control conduct in the area, or mix, sell, or serve alcoholic beverages or directly supervise any person who does mix, sell, or serve alcoholic beverages.
- (c) A Number 3A, 4, 6, and 7 minor posting during the times when minors are prohibited. Minor employees and minor service permittees may be in areas of the premises during the times prohibited to them only if they are performing work duties or going to or returning from a rest room. The minor employee or minor service permittee may not remain in the prohibited area longer than is necessary to perform the work duties or go to or return from a rest room and while in the area may not check identification, control conduct in the area, or mix, sell, or serve alcoholic beverages or directly supervise any person who does mix, sell, or serve alcoholic beverages.
- (d) A Number 3A, 4, 6, and 7 minor posting in the areas and during the times when minors are permitted. Minor employees and minor service permittees are permitted in the areas and during the times when minors are allowed. The primary duty of minor service permittees must be food service.
- (e) A Number 3 minor posting. Minor employees and minor service permittees are allowed at all times in the area. The primary duty of minor service permittees must be food service.
- (f) A Number 5 minor posting. Minor employees and minor service permittees are allowed at all times in the area.
- (g) If a premises has one or more areas where minors are prohibited and one or more areas where minors are allowed, minor employees and minor service permittees may be in areas of the premises prohibited to them during the times prohibited to them only if they are performing work duties or going to or returning from a rest room. The minor employee or minor service permittee may not remain in the prohibited area longer than is necessary to perform the work duties or go to or return from a rest room and while in the area may not check identification, control conduct on the premises, or mix, sell, or serve alcoholic beverages or directly supervise any person who does mix, sell, or serve alcoholic beverages.

(5) Minor Vendor or Contractor. A minor, other than a licensee's employee, who has a legitimate business purpose, may be in the area of the licensed premises normally prohibited to minors. (For example, a minor who is a plumber may repair the plumbing in a prohibited area).

(6) Minor Entertainers:

- (a) A minor entertainer may perform on a licensed premises, including in areas that are prohibited to minors.
- (b) Licensees that allow minor entertainers to perform on the licensed premises where minors would normally be prohibited must maintain proof of the minor entertainer's identification and age on the premises, and make this information available for Commission inspection upon request. Acceptable forms of identification are set forth in Section 1(d) of this rule.
- (c) If the minor entertainer stays on the premises when not performing, the minor entertainer must stay in an area where minors are permitted, such as an area with a Number 3 minor posting, or in an approved designated area set forth in subsection (6)(d). If a minor entertainer is not performing and is not in an area permitted to minors or in a Commission-approved designated area on the licensed premises, then the minor entertainer must leave the licensed premises.
- (d) In order for licensees to allow minor entertainers in areas of the licensed premises that are prohibited to minors, the licensee must first obtain approval.
  - (A) To obtain approval, licensee must submit a plan, in a form and manner prescribed by the Commission, showing all areas where minors will perform, and all areas designated for minors when not performing.
  - (B) When minor entertainers are on the premises, no alcohol service or consumption is permitted in the approved designated area where minor entertainers have been approved to stay when not performing.
  - (C) The Commission may refuse to provide approval for minor entertainers to perform at a licensed premises in areas prohibited to minors if it has a reasonable belief that licensee's proposed plan creates a compliance risk.
  - (D) If conditions become unsuitable, the Commission may revoke its approval.
- (e) If the minor is under 18 years old, and the licensee proposes to employ that minor to conduct or assist in conducting any public dance, including but not limited to dancing by the child as a public performance, or to assist in or furnish music for public dancing, the licensee and minor must make sure the minor has the written permission of the appropriate juvenile court judge as required by ORS 167.840(2).
- (f) If the minor is under 18 years old, and the licensee proposes to employ that minor to perform or entertain on the licensed premises in a capacity other than described in (6)(e) of this rule, before allowing the minor to perform on the licensed premises the licensee must apply for and receive prior written permission from the Administrator of the Oregon Liquor Control Commission, or the Administrator's designee. Application must be made upon a form supplied by the Commission. The Administrator or designee shall grant such permission only if:

- (A) The parents or legal guardians of the minor have consented to the child's participation in such activity; and
- (B) The Administrator or designee has found that participation in such activity will not be inconsistent with the health, safety and morals of the minor.
- (d) Minors under 14 years old must also get a work permit if one is required by the Oregon Bureau of Labor and Industries.
- (7) Minor Patron. If the licensee permits it, a minor may be in the immediate company of his/her spouse or Domestic Partner who is at least 21 years old. "Domestic Partner" means an individual who, along with another individual of the same sex, has received a Certificate of Registered Domestic Partnership pursuant to the Oregon Family Fairness Act. The minor must not buy, possess or drink alcoholic beverages.
- (8) Sanctions: A violation of subsection (3)(a)(A) of this rule is a Category III violation. A violation of subsection (3)(a)(B) through section (7) of this rule is a Category IV violation.

## **845-006-0391**

### **Delivery of Alcoholic Beverages Malt Beverage, Wine or Cider to Individuals — Definitions**

As used in OAR 845-006-0391 through 845-006-0401:

- (1) ~~The term "ship" means to cause the delivery or transport of malt beverages, wine or cider to either a resident of Oregon or a licensee of the Commission. The term "deliver" has a similar meaning and includes the transport and handing over of malt beverages, wine or cider to a resident or a licensee of the Commission. The terms ship and deliver may be used interchangeably.~~
- (2) ~~"Same-day delivery" means a person causes a resident of Oregon to receive malt beverages, wine or cider on the same day the person receives the order from the customer.~~
- (3) ~~"Next-day delivery" means a person causes a resident of Oregon to receive malt beverages, wine or cider after the day the person receives the order from the customer.~~
- (1) "Deliver" means to transport alcoholic beverages from a licensee or direct shipper permittee to a resident of Oregon at a location that is off of the licensed or permitted premises.**
- (4) **(2) "For-hire carrier" means any person or company who holds itself out to the public as willing to transport property in return for compensation. The term "for-hire carrier" can include a common carrier.**

(5) **(3)** "Month" means a calendar month.

**(4) "Resident of Oregon" means an individual residing in Oregon, even if only temporarily.**

**845-006-0392**

**Requirements for *Direct Delivery of Wine and Cider to a Resident of Oregon***

(1) A person may sell for delivery wine or cider to a resident of Oregon only if the person holds:

(a) A valid Direct Shipper Permit and holds a license issued by this state or another state that authorizes the person to hold a Direct Shipper Permit; or

(b) An off-premises sales, **full-on premises sales, limited on-premises sales, or temporary sales** license issued by the Commission.

(2) A person holding a Direct Shipper Permit or an off-premises sales, **full-on premises sales, limited on-premises sales, or temporary sales** license must retain a record for a minimum of eighteen months of the amount of wine or cider contained in each order sold for delivery to the resident.

(3) A person holding a Direct Shipper Permit or an off-premises sales, **full-on premises sales, limited on-premises sales, or temporary sales** license may deliver or cause delivery of wine or cider as follows:

(a) Only in containers not exceeding two gallons.

(b) Only to a resident of Oregon who is at least 21 years of age and only if the wine or cider is for personal use and not for the purpose of resale;

(c) Only for delivery to a resident who is not visibly intoxicated at the time of receiving the wine or cider;

(d) The wine or cider **is** in a container **that is** conspicuously labeled with the words "Contains alcohol: signature of person age 21 years or older required for delivery" or similar language approved by the Commission;

(e) Only pursuant to an order for wine or cider that is received by the permit holder or licensee and paid for by the resident prior to removal from the licensed or permitted premises for delivery to the resident;

(f) To a home or business where the home or business has a permanent street address; or

(g) To a location that is within 100 feet of the boundary of the licensed premises.

(h) If the container is a securely-covered container it must be an empty container supplied by the resident. The permit holder or licensee may sell an empty container to the resident prior to or at the time of filling the container.

(4) If the permit holder or licensee delivers via a for-hire carrier, the permit holder and or licensee must use a for-hire carrier with a plan approved by the Commission under OAR 845-005-0424 and must comply with all other requirements of this rule applicable to the permit holder or licensee. When a permit holder or licensee uses a for-hire carrier to deliver wine or cider to a resident of Oregon, the permit holder or licensee may be held responsible for the for-hire carrier's failure to follow the requirements of OAR 845-005-0424.

(5) If the permit holder or licensee does not use a for-hire carrier, in addition to complying with all other requirements of this rule applicable to the permit holder or licensee, the person making the delivery of the wine or cider must:

(a) Be age 18 or over;

(b) Verify that the person receiving the alcohol is at least 21 years of age;

(c) Determine that the person receiving the alcohol is not visibly intoxicated; and

(d) Collect information that must be retained by the permit holder or licensee for a minimum of eighteen months from the date of delivery of the alcohol to the resident. The information retained must include:

(A) The date and time the alcohol 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, signature, and delivery address of the person receiving the alcohol.

(6) Delivery.

(a) A permit holder, in addition to complying with all other requirements of this rule applicable to the permit holder, must:

(A) Ensure that the wine or cider is delivered between the hours of 7:00 am and 10:00 pm.

(B) Deliver not more than a total of two cases of ~~wine or~~ cider containing not more than nine liters per case per day to a resident of Oregon.

(C) Deliver not more than a total of two cases of ~~wine or~~ cider containing not more than nine liters per case per month to a resident of Oregon.

**(D) Deliver not more than a total of 45 liters of wine per day to a resident of Oregon.**

**(E) Deliver not more than a total of 45 liters of wine per month to a resident of Oregon.**

(b) An off-premises sales, full on-premises sales, limited on-premises sales, and temporary sales licensee, in addition to complying with all other requirements of this rule applicable to the licensee, must:

(A) Ensure that the wine or cider is delivered between the hours of 7:00 am and 10:00 pm.

(B) Deliver not more than a total of two cases of ~~wine~~ or cider containing not more than nine liters per case per day to a resident of Oregon.

**(C) Deliver not more than a total of 45 liters each of wine per day to a resident of Oregon.**

(7) A permit holder must:

(a) Allow the Commission to audit the permit holder's records of wine and cider delivered to Oregon residents upon request and shall make those records available to the Commission in Oregon no later than 60 days after the Commission mails the notice;

(b) Report to the Commission all deliveries of wine or cider made to a resident of Oregon under the permit as required by ORS Chapter 473. The report must be made in a form prescribed by the Commission; and

(c) Timely pay to the Commission all taxes imposed under ORS Chapter 473 on wine and cider sold and delivered directly to a resident of Oregon under the permit. For the purpose of the privilege tax imposed under ORS Chapter 473, all wine or cider sold and delivered pursuant to a direct shipper permit is sold in this state. The permit holder, not the purchaser, is responsible for the tax to the Commission.

(8) If the permit holder is located in a state outside of Oregon, it consents to the jurisdiction of the Commission and the courts of this state for the purpose of enforcing the provisions of this rule and any related laws or rules.

(9) A violation of section (7) of this rule is a Category IV violation. A violation of any other section of this rule is a Category III violation. In lieu of a criminal citation, the Commission may assess an administrative penalty for delivering wine or cider without a valid Direct Shipper Permit in violation of section (1) of this rule against any Oregon license held by the shipper, including a Certificate of Approval issued pursuant to ORS 471.244.

**845-006-0396**

**Requirements for *Direct Delivery of Malt Beverages to a Resident of Oregon***

(1) A person may sell for delivery malt beverages to a resident of Oregon only if the person holds:

(a) A valid Direct Shipper Permit and holds a license issued by this state or another state that authorizes the person to hold a Direct Shipper Permit; or

(b) An off-premises sales, **full on-premises sales, limited on-premises sales, or temporary sales** license issued by the Commission.

(2) A person holding a Direct Shipper Permit or an off-premises seals, **full on-premises sales, limited on-premises sales, or temporary sales** license may deliver or cause delivery of malt beverages as follows:

(a) Only in containers not exceeding two gallons. Despite this requirement, a factory-sealed container from an off-premises sales licensee must not hold more than two and one-quarter gallons.

(b) Only to a resident of Oregon who is at least 21 years of age and only if the malt beverage is for personal use and not for the purpose of resale;

(c) Only for delivery to a resident who is not visibly intoxicated at the time of receiving the alcohol;

(d) The malt beverage must be in a package that is conspicuously labeled with the words "Contains alcohol: signature of person age 21 years or older required for delivery" or similar language approved by the Commission;

(e) Only pursuant to an order for malt beverage that is received by the licensee or permittee and paid for by the resident prior to removal from the licensed or permitted premises for delivery to the resident;

(f) To a home or business where the home or business has a permanent street address; or

(g) To a location that is within 100 feet of the boundary of the licensed premises.

(h) If the container is a securely-covered container it must be an empty container supplied by the resident. The permit holder or licensee may sell an empty container to the resident prior to or at the time of filling the container.

(3) A permit holder or licensee must retain a record for a minimum of eighteen months of the amount of malt beverage contained in the shipment to the resident.

(4) If the permit holder or licensee delivers via a for-hire carrier, the permit holder and licensee must use a for-hire carrier with a plan approved by the Commission under OAR 845-005-0424 and must comply with all other requirements of this rule applicable to the permit holder or licensee. When a permit holder or licensee uses a for-hire carrier to deliver malt beverages to a resident of Oregon, the permit holder or licensee may be held responsible for the for-hire carrier's failure to follow the requirements of OAR 845-005-0424.

(5) If the permit holder or licensee does not use a for-hire carrier, in addition to complying with all other requirements of this rule applicable to the permit holder or licensee, the person delivering the malt beverage must:

(a) Be age 18 or over;

(b) Verify that the person receiving the alcohol is at least 21 years of age;

(c) Determine that the person receiving the alcohol is not visibly intoxicated; and

(d) Collect information that must be retained by the licensee for a minimum of eighteen months from the date of delivery of the alcohol to the resident. The information retained must include:

(A) The date and time the alcohol was delivered to the resident;

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

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

(6) Delivery. A permit holder and an off-premises sales, **full on-premises sales, limited on-premises sales, and temporary sales** licensee, in addition to complying with all other requirements of this rule applicable to the permit holder or licensee, must:

(a) Ensure that the malt beverages are delivered between the hours of 7:00 am and 10:00 pm.

(b) Deliver not more than a total of five gallons of malt beverage per day per Oregon residence.

(7) A permit holder must:

(a) Allow the Commission to audit the permit holder's records of malt beverage deliveries to Oregon residents upon request and shall make those records available to the Commission in Oregon no later than 60 days after the Commission mails the notice;

- (b) Report to the Commission all deliveries of malt beverage made to a resident of Oregon under the permit as required by ORS Chapter 473. The report must be made in a form prescribed by the Commission; and
- (c) Timely pay to the Commission all taxes imposed under ORS Chapter 473 on malt beverage sold and delivered directly to a resident of Oregon under the permit. For the purpose of the privilege tax imposed under ORS Chapter 473, all malt beverage sold and delivered pursuant to a direct shipper permit is sold in this state. The permit holder, not the purchaser, is responsible for the tax to the Commission.
- (8) If the permit holder is located in a state outside of Oregon, it consents to the jurisdiction of the Commission and the courts of this state for the purpose of enforcing the provisions of this rule and any related laws or rules.
- (9) A violation of section (7) of this rule is a Category IV violation. A violation of any other section of this rule is a Category III violation. In lieu of a criminal citation, the Commission may assess an administrative penalty for delivering malt beverage without a valid Direct Shipper Permit in violation of section (1) of this rule against any Oregon license held by the shipper, including a Certificate of Approval issued pursuant to ORS 471.244.

**845-006-0441**

**Sale of Malt Beverages in Kegs**

- ~~(1) Before selling a keg of malt beverages as ORS 471.478 allows, a licensee will:~~
- ~~(a) Complete a Receipt for Sale of Malt Beverages in Kegs to Unlicensed Group or Individual (Form 760);~~
- ~~(b) Have the purchaser read and sign the receipt;~~
- ~~(c) Give the purchaser a copy of the signed receipt;~~
- ~~(d) Make sure the information on the receipt is accurate; and~~
- ~~(e) Securely attach a Commission-issued, serially-numbered identification label (keg tag) to each keg.~~
- ~~(2) If the licensee has reason to question the purchaser's legal age or identity, the licensee will ask the purchaser for two additional pieces of identification. One of these pieces must include the purchaser's physical description or picture, date of birth, and signature.~~
- ~~(3) A licensee must keep the original of the receipt (Form 760) for one year.~~

~~(4) The licensee must allow an authorized representative of the Commission or any person authorized under ORS 471.605 to inspect receipts and keg tags at any time during the licensee's business hours.~~

~~(5) The Receipt for Sale of Malt Beverages in Kegs to Unlicensed Group or Individual (receipt) will be completed by the licensee. The licensee is required to verify the following information on the receipt:~~

~~(a) Name, address, date of birth and phone number of the purchaser, the driver's license number of the purchaser, license state of issue, and, if necessary under section (2) of this rule, other identification verifying the name, address, physical description and date of birth of the purchaser;~~

~~(b) The license plate number of the vehicle in which the keg(s) will be transported. (For purposes of this rule, "automobile registration" as required by ORS 471.478 is the license plate number of the vehicle in which the keg(s) will be transported);~~

~~(c) The year, make, type, color, and state of registration (Oregon, California, Washington, for example) of the vehicle in which the keg(s) will be transported;~~

~~(d) The precise location (for example: street address, geographic location within a park) where the malt beverages will be consumed;~~

~~(e) A sworn, signed statement that the information given in the receipt is true and correct, and a warning about penalties for false swearing and failure to obey Oregon liquor laws;~~

~~(f) A signature block and certification by the seller stating that the seller checked the purchaser's identification and the identifying information regarding the vehicle in which the keg(s) will be transported.~~

## **DIVISION 13**

### **845-013-0090**

### **Wholesale-Retail Relations: Non-Profit Temporary Sales Licenses**

(1) ORS 471.400(1) permits the Commission to allow manufacturers and wholesalers to provide products and services to non-profit Temporary Sales licensees without violating financial assistance laws. These products and services are allowed in addition to the gratuities, point of sale material, items of nominal value and services of nominal value that OAR 845-013-0001 through 845-013-0070 allow.

(2) Federal Law May Differ. Although Oregon law allows manufacturers and wholesalers to provide the products and services described in this rule, federal laws regarding wine

may not. When dealing with wine, a federal law that is more strict than an Oregon law takes precedence over the Oregon law. Therefore, manufacturers and wholesalers should check with the *Bureau of Alcohol, Tobacco, and Firearms* **federal Alcohol and Tobacco Tax and Trade Bureau** before applying this rule to their wine business.

(3) Products and Services. A manufacturer or wholesaler may provide the following to a non-profit Temporary Sales licensee:

(a) Any product the manufacturer or wholesaler normally sells. The manufacturer or wholesaler may give the product free, sell the product at a discount or sell the product at the regular price. The manufacturer or wholesaler may pick up excess malt beverage product at the end of a special event held by a non-profit Temporary Sales licensee, and if the product was sold to the Temporary Sales licensee, may give a credit or cash refund for the returned product;

(b) Any services to support the alcoholic beverage product. This includes providing employees to sell or serve alcoholic beverages at the Temporary Sales license event as long as the employee has successfully completed an approved alcohol server education course within the last five years or has a valid service permit; and

(c) Banners for interior or exterior display at the licensed premises that advertise a special event and prominently display the manufacturer's or wholesaler's alcoholic beverage brand name. These banners may be displayed before and during the Temporary Sales license event and may exceed 630 square inches.

(4) Limitations. A manufacturer or wholesaler may provide the products and services that this rule allows only if ~~(a)~~ *F* the Temporary Sales licensee is a non-profit or charitable organization that is registered with the state, a political committee that has a current statement of organization filed under ORS 260.039 or 260.042, an agency of the State, or a local government or an agency or department of a local government; ~~and~~

*(b) The Temporary Sales license is not for more than 72 hours.*

(5) Equipment. ORS 471.400(1) also allows a manufacturer or wholesaler to provide the following equipment to any retail licensee: picnic pumps, cold plates, tubs, refrigerated trailers, refrigerated vans and refrigerated draft systems. The manufacturer or wholesaler may provide this equipment only for a period not to exceed ~~ten~~ **14** days **or for a period that is reasonable for the equipment to be set up at or removed from the site of the special event** and for a reasonable rental or service fee. The statute allows a manufacturer or wholesaler to provide this equipment to any retail licensee for a reasonable fee. A manufacturer or wholesaler does not have to require a reasonable fee when providing this equipment to a non-profit temporary sales licensee.

## **DIVISION 15**

**845-015-0177**

**Advertising in a Retail Liquor Store**

(1) Definitions: As used in this rule:

- (a) "Sweepstake" means a contest for prizes not prohibited by law and offered by a manufacturer or a person representing a distillery.
- (b) "Premium" means an item, offered to promote a product, which a person may order from a manufacturer or person representing a distillery. Examples of a premium include t-shirts, watches, and personalized bottle labeling.
- (c) "On-pack" means any item approved by the commission that is attached to or packaged with a distilled spirits product.

(2) The Commission allows product signs and displays that:

- (a) Comply with this rule, ORS 471.750(4), OAR 845-015-0175(2) and the federal Alcohol and Tobacco Tax and Trade Bureau ~~Alcohol and Tobacco Tax and Trade Bureau~~ (TTB) regulations;
  - (b) Do not obstruct another distillery's products;
  - (c) ~~Are not placed in a window;~~
  - (d) ~~(c)~~ Advertise or display a manufacturer's, wholesaler's, distributor's, or the distillery's product in conjunction with the approved items described in OAR 845-015-0143; and
  - (e) ~~(d)~~ Advertise a rebate (as allowed by OAR 845-015-0165), sweepstake or offer a premium or an on-pack for the consumer when the sign or display meets the requirements of (a), (b), (c) and (d) this rule.
- (3) If a retail sales agent chooses to allow signs and displays in the retail liquor store, each manufacturer, wholesaler, distributor, or distillery must be given a reasonable opportunity to advertise.
- (4) If the total value of the sign or display in section (3) is \$500 or more, then the item can only be loaned to the retail sales agent, must be clearly marked as the property of the manufacturer, wholesaler, distributor, or distillery representative, marked with the date the loan begins, and can only be loaned for a maximum of 90 days per calendar year. At no time can a loan period exceed more than 90 consecutive days. The manufacturer, wholesaler, distributor, or distillery representative can only have one such sign or display at any one time in any one liquor store. The value of a sign or display is the actual cost to the supplier who initially purchased it. Transportation and installation costs are excluded.

(5) Nothing in this rule requires a retail sales agent to order distilled spirits for use in a display, sweepstake or promotion. Empty case boxes may be used, if necessary.

(6) A retail sales agent may not request, accept, give away or remove on-packs or sweepstake, or premium items from the store at any time or otherwise use the items for personal or business gain. Displays and signs may be removed by the manufacturer, wholesaler, distributor, or a person representing a distillery. Retail sales agents may dispose of old and unused displays and signs, but retail sales agents must not use these items for personal or business gain.

(7) The Commission provides price tags which retail sales agents shall place in front of each brand and size of distilled liquor. If a brand is displayed in more than one area, the retail sales agent must provide tags comparable in quality and style as the price tags OLCC provides and that they be placed in front of each brand and size.

(8) A sweepstake or premium offer must not require the purchase of liquor in order to receive a prize, merchandise or other thing(s) of value, unless the manufacturer, wholesaler, distributor, or distillery representative donates the prize or merchandise to a charitable cause or community non-profit entity. A sweepstake participant may complete an entry blank at a retail liquor store, but a person representing a manufacturer, wholesaler, distributor, or distillery must draw the entry at the end of the promotion and contact the winner. Any sweepstake or premium must be delivered to the winner at a location other than a retail liquor store. Retail sales agents, liquor store personnel, commission staff or their immediate family living in the same household cannot participate in a sweepstake.

(9) When an on-pack is offered, the on-pack item must not be removed or sold separately from the original bottle unless directed by OLCC. Unless an exception is approved by Commission staff, on-packs of liquor must:

- (a) Not exceed two 50 ml per original bottle;
- (b) Not be a size that has a current listing; and
- (c) Be attached only to original bottles 750 ml in size or larger.

(10) The Commission retains the right to remove signs and displays the Commission finds objectionable or are inappropriate for use in a retail liquor store.