



## OREGON LIQUOR & CANNABIS COMMISSION

### Growlers

#### **What is a “growler?”**

In Oregon the term means an empty container supplied by a customer to business with an OLCC Brewery, Brewery-Public House, Full On-Premises, Grower Sales Privilege, Limited On-Premises, Off-Premises, or Winery license where the licensee has filled the container with malt beverage, wine, or cider sold to the customer at retail and then has securely-covered the container.

#### **What does “securely-covered” mean?**

“Securely-covered” means the container is sealed by the licensee after filling the growler so that liquid cannot be removed without breaking the seal.

#### **What does “supplied by the customer” mean?**

“Supplied by the customer” means the customer supplies an empty container to the licensee. The container is then filled with malt beverage, wine, or cider by the licensee.

The licensee may provide an empty container to the customer prior to or at the time of the filling the container; however, the container must be empty when the licensee begins the act of filling it.

#### **Is a securely-covered container that is pre-filled by a licensee a growler?**

No. In order for a container to be a growler it must be an empty container supplied or purchased by the customer that is then filled by the licensee with malt beverage, wine, or cider.

#### **What licenses are allowed to sell a pre-filled “securely-covered” container?**

Since a pre-filled “securely-covered” container is not a growler only licenses with the privilege to manufacture the specific alcohol may sell a pre-filled “securely-covered” container.

- A brewery-public house licensee and a brewery licensee may sell a pre-filled “securely-covered” container of malt beverages.
- A winery licensee may sell a pre-filled “securely-covered” container of wine or cider.

#### **May a licensee deliver a growler direct to an Oregon resident?**

- Wine/cider: Yes, if the license privilege allows it and OAR 845-006-0392 is followed.
- Malt beverages: Yes, if the license privilege allows it and OAR 845-006-0396 is followed.

#### **When a patron provides an empty securely-covered container must the licensee fill the container completely?**

Partially filling the container is okay; however, after filling the container it must be securely-covered.

#### **Once a customer is in possession of a filled and securely-covered growler, may the growler be opened and consumed on the licensed premises?**

If the licensee allows it and both #1 and #2 below exist:

1. It must be at a license that allows on-premises consumption of malt beverage, wine, or cider and that also allows the sale of growlers. These licenses are a full on-premises, limited on-premises, brewery-



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public house, brewery, winery, grower sales privilege (but only for wine/cider), Temporary Sales License (TSL), full on-premises licensee with a Temporary Use of an Annual License (TUAL), limited on-premises licensee with a Temporary Use of an Annual License (TUAL), winery licensee with a Special Events Winery (SEW) license, grower sales privilege licensee with a Special Events Grower (SEG license, but only for wine/cider), and a brewery-public house licensee with a Special Events Brewery-Public House (SEBPH) license and a Brewery with a Special Events Brewery (SEB) license; **AND**

2. The licensee or licensee's staff (who has met the service permit requirement) must open the container. At that point patrons would be allowed to consume from the container (the growler would be treated like an opened bottle of wine or a pitcher of beer). And, the licensee is still responsible for ensuring that all laws are followed; such as, no alcohol to minors or VIPs, removing the alcohol if one or more patrons becomes visibly intoxicated, etc.

**May a growler that has been opened and the contents partially consumed on the premises be refilled and again securely-covered and then be removed from the premises?**

No. This is because the container must be empty when the licensee begins the act of filling it.

**May a container (such as a bottle or pitcher) of malt beverages from which the contents has been partially consumed be poured into an empty container supplied by the consumer and removed from the premises?**

No. This is because the malt beverage has already been taken out of the licensee's inventory.

**May a growler that has been opened and served, and the contents partially consumed on the premises, and then not refilled and then again securely-covered be removed from the premises?**

	Malt Beverage	Wine	Cider
Full On-Premises licensed premises	No	The growler is treated like a bottle of wine; therefore, if the growler of wine was served in conjunction with the patron's meal then 471.175(3) allows the container to be removed if the patron is not a minor and is not visibly intoxicated	No
Limited On-Premises licensed premises	No	The growler is treated like a bottle of wine; therefore, if the growler of wine was served in conjunction with the patron's meal then 471.178(5) allows the container to be removed if the patron is not a minor and is not visibly intoxicated	No
Brewery licensed premises	No	No	No
Brewery-Public House licensed premises	No	No	No
Winery	No	The growler is treated like a bottle of	No



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licensed premises		wine so allowed via 471.223(3)	
Grower Sales Privilege licensed premises	No	The growler is treated like a bottle of wine so allowed via 471.227(2)	No
Temporary Sales License (TSL)	No	No	No
Temporary Use of an Annual License (TUAL)	No	The growler is treated like a bottle of wine; therefore, if the growler of wine was served in conjunction with the patron's meal then 471.175(3) and 471.178(5) allow the container to be removed if the patron is not a minor and is not visibly intoxicated	No
Special Event Winery (SEW)	No	No	No
Special Event Grower (SEG)	No	No	No
Special Event Brewery-Public House (SEBPH)	No	No	No
Special Event Brewery (SEB)	No	No	No

**May a Limited On-Premises Sales licensee sell only growlers either: 1) at the annually licensed premises or 2) at a Temporary Use of an Annual License (TUAL) event?**

Yes.

**When there is either: a) both a full on-premises and an off-premises license at the same premises; or b) both a limited on-premises and an off-premises license at the same premises, may a service permittee age 18, 19, or 20 sell a growler without also providing food service?**

Yes. ORS 471.480(1) is the overriding statute so the sale is considered to be made under the privilege of the off-premises license.



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#### **What about labeling?**

Any containers filled in advance of sale are subject to federal labeling requirements, including the health warning statement. Containers filled at the time of sale or after a sale are not subject to labeling requirements.

#### **What about a “crowler?”**

A crowler is an aluminum can that can be sealed on the spot by an alcohol server. The can is purged with CO2 to ensure maximum freshness and then the can is filled directly from the tap. The licensee or its employee uses a seamer to seal the can. The cans are not reusable.

Crowlers likely fit under the definition of a securely covered container, so long as it is supplied by the consumer. Securely covered containers must be purchased before or at the time of sale of the alcoholic beverage. The container may then be filled. Neither growlers nor crowlers may be filled in advance of a sale to a consumer.

The US Alcohol and Tobacco Tax and Trade Bureau (TTB) treats crowlers the same as growlers. Any containers filled in advance of sale are subject to federal labeling requirements, including the health warning statement. Containers filled at the time of sale or after a sale are not subject to labeling requirements.

#### **May a licensee fill a growler with a mixture of different types of alcohol?**

No. Licensees may fill growlers with only one type of alcohol. Adding distilled liquor to a growler or creating combinations of malt beverages, wine, or cider are prohibited.

#### **May a licensee fill a growler that also contains nonalcoholic products?**

The alcoholic beverage in the growler must be only one type; that is, only malt beverage, only wine, or only cider. If this is the case, the growler may contain nonalcoholic products such as nonalcoholic beverages, fruit, spices, etc.

*Note on pre-filled securely covered containers and formula approval:* As explained above, only brewery public house, brewery, and winery licensees may pre-fill a securely covered container in advance of sale. In the event that one of the qualifying licensees elected to pre-fill a securely covered container with both alcohol and nonalcoholic ingredients, the contents of the container would be subject to both federal labeling requirements and federal formula approval.

#### **What does each license allow when it comes to selling growlers?**

##### **Full On-Premises**

- May sell for consumption off the licensed premises malt beverage, wine, and cider in a securely covered container supplied by the customer.
- A securely covered container may not hold more than 2 gallons (there is no limit on the number of securely covered containers with malt beverage, wine, or cider that a licensee may sell to a customer; the limit, which is 2 gallons, is on the size of the container).
- The licensee may exercise this privilege at an event where the licensee has obtained a Temporary Use of an Annual License (TUAL). A written plan from the applicant may be needed to address control measures.
- May deliver direct to an Oregon resident as described in this document.



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#### **Limited On-Premises**

- May sell for consumption off the licensed premises malt beverage, wine, and cider in a securely covered container supplied by the customer.
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- The licensee may exercise this privilege at an event where the licensee has obtained a Temporary Use of an Annual License (TUAL). A written plan from the applicant may be needed to address control measures.
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#### **Off-Premises**

- May sell for consumption off the licensed premises malt beverage, wine, and cider in a securely covered container supplied by the customer.
- A securely covered container may not hold more than 2 gallons (there is no limit on the number of securely covered containers with malt beverage, wine, or cider that a licensee may sell to a customer; the limit, which is 2 gallons, is on the size of the container).
- ORS 471.360 and OAR 845-009-0130 require any person employed by an off-premises sales licensee to have a valid service permit if the person participates in the dispensing of malt beverage, wine, or cider sold in a securely covered container supplied by the customer.
- A person employed by an off-premises sales licensee who doesn't participate in the dispensing of malt beverage, wine, or cider sold into a securely covered but who does ring up the sale doesn't need a service permit; however, the training requirement described in OAR 845-009-0130(2)(a) applies to this person. Example: Clerk A (with a valid service permit) dispenses alcohol into a growler but the customer takes the container to clerk B to ring up the sale. In this example clerk B doesn't need a service permit but must complete the training requirement described in OAR 845-009-0130(2)(a).
- The people managing or supervising are required to have a service permit only if they also participate in the dispensing of malt beverage, wine, or cider sold in a securely covered container supplied by the customer.
- The person selling the growler may be age 18, 19, or 20 and the sale doesn't have to be incidental to the serving of food. ORS 471.480(1) is interpreted to allow the sale without the food requirement, thus overriding ORS 471.482(1).
- May deliver direct to an Oregon resident as described in this document.

#### **Brewery-Public House**

- May sell for consumption off the licensed premises malt beverage, wine, and cider in a securely covered container supplied by the customer.
- A securely covered container of wine or cider may not hold more than 2 gallons (there is no limit on the number of securely covered containers with wine or cider that a licensee may sell to a customer; the limit, which is 2 gallons, is on the size of the container).
- The container size limit doesn't apply to containers holding malt beverage.
- The licensee may exercise this privilege at an event where the licensee has obtained a Special Event Brewery-Public House License (SEBPH). A written plan from the applicant may be needed to address control measures.
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#### **Brewery**

- May sell for consumption off the licensed premises malt beverage, wine, and cider in a securely covered container supplied by the customer.
- A securely covered container may not hold more than 2 gallons (there is no limit on the number of securely covered containers with malt beverage that a licensee may sell to a customer; the limit, which is 2 gallons, is on the size of the container).
- The licensee may exercise this privilege at an event where the licensee has obtained a Special Event Brewery License (SEB). A written plan from the applicant may be needed to address control measures.
- May deliver direct to an Oregon resident as described in this document.

#### **Winery (with a TTB Producer and Blender Basic Permit)**

- May sell for consumption off the licensed premises malt beverage, wine, and cider in a securely covered container supplied by the customer.
- A securely covered container may not hold more than 2 gallons (there is no limit on the number of securely covered containers with malt beverage, wine, or cider that a licensee may sell to a customer; the limit, which is 2 gallons, is on the size of the container).
- The licensee may exercise this privilege at an event where the licensee has obtained a Special Event Winery License (SEW). A written plan from the applicant may be needed to address control measures.
- May deliver direct to an Oregon resident as described in this document.

#### **Winery (with a TTB Wholesaler Basic Permit)**

- May sell for consumption off the licensed premises malt beverage in a securely covered container supplied by the customer.
- May sell for consumption off the licensed premises only wine and cider brands that are under the control of the licensee in a securely covered container supplied by the customer. "Under control of the licensee" means that the licensee (a) Owns the brand under which the wine or cider is labeled; or (b) Performs or has the legal right to perform all of the acts common to a brand owner under the terms of a trademark license or similar agreement that for the brand under which the wine or cider is labeled has a term of at least three years.
- A securely covered container may not hold more than 2 gallons (there is no limit on the number of securely covered containers with malt beverage, wine, or cider that a licensee may sell to a customer; the limit, which is 2 gallons, is on the size of the container).
- The licensee may exercise this privilege at an event where the licensee has obtained a Special Event Winery License (SEW). A written plan from the applicant may be needed to address control measures.
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#### **Grower Sales Privilege**

- May sell for consumption off the licensed premises malt beverage in a securely covered container supplied by the customer.
- Can't sell malt beverage for on-premises consumption.
- May sell for consumption off the licensed premises only the wine and cider the license allows in a securely covered container provided by the consumer.
- A securely covered container may not hold more than 2 gallons (there is no limit on the number of securely covered containers with malt beverage, wine, or cider that a licensee may sell to a customer; the limit, which is 2 gallons, is on the size of the container).



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- The licensee may exercise this privilege at an event where the licensee has obtained a Special Event Grower License (SEG). A written plan from the applicant may be needed to address control measures.
- May deliver direct to an Oregon resident as described in this document.

#### **Does the OLCC consider the securely covered container to be an “open container?”**

Yes. However, a growler that has been securely-covered may be taken off the premises.

#### **Is the container considered an “open container” for driving purposes in Oregon?**

A container of this type would likely be considered an open container of alcohol for driving purposes in Oregon.

If the container will be in a motor vehicle, it should be kept in the trunk of the vehicle, or if vehicle is not equipped with a trunk, it should be kept in some other area of the vehicle not normally occupied by the driver or passengers.

#### **Does OLCC impose requirements on, or monitor for, container cleanliness?**

No. The licensee must contact the appropriate governing body (city or county) for this issue.

#### **What are the federal government requirements?**

- The OLCC does not enforce the federal government requirements.

#### **What are examples of common violations?**

- An employee with a valid service permit sells a growler to a minor or a visibly intoxicated person. The licensee may receive an OLCC violation the employee may receive an OLCC violation.
- An employee who is required to have a service permit does not have one. The licensee may receive an OLCC violation and the employee may receive a criminal citation.