



GUIDE TO DELIVERING ALCOHOL TO CONSUMERS IN OREGON

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PURPOSE OF THIS GUIDE

Delivery of alcohol to residents of Oregon is regulated by the Oregon Liquor Control Commission. This guide is intended to provide information to parties interested in participating in the delivery of alcohol to Oregon residents (whether as the sender, delivery agent, or the receiver). Specifically, this guide is for businesses and consumers interested in delivering or receiving malt beverages, wine, cider, and non-beverage food products. Distilled liquor/spirits may not be delivered to a resident of Oregon and may only be shipped to a resident of Oregon as narrowly outlined in this guide.

The intended audience for this document includes:

- OLCC licensees
- Residents of Oregon
- Courier services
- Peer-to-peer ride sharing services
- Taxi cab companies
- App or web-based (e-commerce) food and beverage delivery services
- Out of state businesses interested in shipping or delivering malt beverages, wine, or cider to residents of Oregon

This guide includes a variety of resources for interested parties, including:

- A general overview document discussing how delivery of malt beverages, wine, cider, or non-beverage food products to residents of Oregon is regulated
- Discussion on limited scenarios in which shipment of distilled liquor to residents of Oregon is allowed
- Guidance regarding alcohol order facilitation and delivery services provided by e-commerce operators
- A quick reference document for For-Hire Carriers
- A document covering frequently asked questions related to delivering malt beverages, wine, cider, or non-beverage food products to residents of Oregon
- Applicable statutes and rules
- Helpful links to application forms referenced in this guide and a link to the OLCC's liquor licensing webpage

OVERVIEW

TERMS

WHAT IS A "RESIDENT OF OREGON?"

The term "resident of Oregon" means a person who resides in Oregon, even if temporarily, who orders alcohol for personal use and not for resale. The OLCC does not require proof of Oregon residency in order to receive an alcohol delivery.

WHAT IS AN "OREGON RESIDENCE?"

The term "Oregon residence" means a home or business that has a permanent street address.

WHICH TYPES OF ALCOHOL MAY BE DELIVERED TO A RESIDENT OF OREGON?

- Malt beverages
- Wine
- Cider
- Non-beverage food products

HOW DOES OREGON DEFINE "MALT BEVERAGES," "WINE," "CIDER", AND "NON-BEVERAGE FOOD PRODUCTS?"

Malt Beverages

"Malt beverages" means an alcoholic beverage obtained by the fermentation of grain; and that contains not more than 14 percent alcohol by volume. Other common names for "malt beverage" are beer, ale, porter, and stout. "Malt beverage" does not include cider or an alcoholic beverage obtained primarily by fermentation of rice, such as sake. See ORS 471.001(6).

Malt beverage may not be labeled or designated as beer in Oregon unless it contains six percent or less alcohol by volume. See ORS 471.448.

Wine

"Wine" means any fermented liquor or fruit juice (but not cider; see the definition of "cider") that is not a malt beverage and that contains not more than 21 percent alcohol by volume. See ORS 471.001(11).

- Wine may contain distilled liquor and still be considered "wine" as long as the final alcohol content of the wine is not more than 21 percent alcohol by volume.
- In Oregon, mead made with honey, rice wine (sake), and kombucha¹ containing more than .5% ABV are typically considered "wine."

¹ If the kombucha contains more than .5% ABV, it may also be considered a malt beverage, depending on the type of sugar used during fermentation. In Oregon, if the kombucha is made with cane sugar, it is considered a wine. If it is made with malt sugars, it is considered a malt beverage.

Cider

“Cider” means an alcoholic beverage made from the fermentation of the juice of apples or pears and that contains not more than 8.5% alcohol by volume. “Cider” may include flavored, sparkling, or carbonated cider; but “cider” does not include wine. See ORS 471.023 and 473.015.

- The juice is not required to come only from apples or pears.
- Cider may not contain more than 8.5% alcohol. Above 8.5% ABV, this type of product is classified as wine under Oregon law.

Non-beverage food products

A non-beverage food product is something a person eats (not drinks) and that contains a small amount of alcohol. Examples include candy, chocolate, ice cream, pastry, bread, cake, bacon, jerky, sauces, condiments, cookies, jam, and jelly. If the alcohol content of the final product is more than one-half of one percent (.5%) alcohol by volume, but equal to or less than five percent alcohol content by weight (5% ABW) or ten percent alcohol by volume (10% ABV) (whichever is greater), then the product is a non-beverage food product. The non-beverage food product may contain distilled liquor, malt beverages, wine, or cider as long as the alcohol content of the final product is not greater than 10% ABV or 5% ABW.

WHAT DOES IT MEAN TO “DELIVER” OR “ARRANGE FOR THE DELIVERY” DIRECT TO A RESIDENT OF OREGON?

Deliver: A licensed business that qualifies for the delivery of malt beverages, wine, or cider to a resident of Oregon who elects to deliver the alcohol itself must follow the delivery requirements in OAR 845-006-0392 and 845-006-0396.

Arrange for the delivery: A licensed business that qualifies for the delivery of malt beverages, wine, or cider to a resident of Oregon who does not deliver the alcohol itself must use an OLCC-approved for-hire carrier and must follow the delivery requirements in OAR 845-006-0392 and 845-006-0396. The list of OLCC-approved for-hire carriers is on the OLCC website.

In addition, a qualifying licensee that is located in Oregon but is not in a licensed building, such as a food cart, must also follow OAR 845-006-0309(4) for delivery of malt beverages, wine, or cider.

NOTE: See question #7 of the Frequently Asked Questions section of this Guide for information related to delivering Non-beverage Food Products to residents of Oregon.

WHAT IS A FOR-HIRE CARRIER?

A for-hire carrier is a person or business that does not sell the malt beverages, wine, cider, or non-beverage food products, but delivers those items based on an order from a business with a qualifying OLCC license or Direct Shipper permit. A for-hire carrier does not need an OLCC license or permit but must meet certain requirements set out in OAR 845-005-0424.

NEXT-DAY DELIVERY DIRECTLY TO A RESIDENT OF OREGON

Provided the rules are followed, the privilege of making next-day deliveries direct to a resident of Oregon automatically comes with the Off-Premises Sales, Brewery-Public House, Brewery, Grower Sales Privilege, and Winery licenses.

Eligible out of state businesses must obtain a Direct Shipper Permit from the OLCC in order to ship malt beverages, wine, or cider directly to an Oregon resident. See the section of this document titled, “Businesses Located Outside of Oregon.”

“Next-day delivery” means the business causes a resident of Oregon to receive malt beverages, wine, or cider after the day the business receives the order from the customer. The OLCC interprets “day” to include all legal hours for sales of alcohol on a given license day. The legal hours for sale of alcohol in Oregon are 7:00 am – 2:30 am (this timeframe is the license day).² Sales and deliveries of alcohol are prohibited between 2:30 am and 7:00 am.

SAME-DAY DELIVERY DIRECTLY TO A RESIDENT OF OREGON

Licensees must apply to, and receive approval from, the OLCC prior to making same-day delivery of malt beverages, wine, or cider. The application form for making same-day deliveries as an Oregon licensee is on the OLCC website and a link to the application can be found at the end of this guide. Out of state Direct Shipper Permit holders may apply for the same-day delivery privilege on the Direct Shipper Permit application form. A link to the Direct Shipper Permit application can also be found at the end of this guide. The OLCC will give general approval (once approved the licensee is not required to obtain approval from the OLCC for each delivery). There is no fee associated with the same-day delivery approval process.

“Same-day delivery” means the business causes a resident of Oregon to receive malt beverages, wine, or cider on the same day the business received the order from the customer. Delivery of alcohol to a resident of Oregon on the day that the business received the order from the customer must be completed in accordance with the OAR 845-006-0392 and OAR 845-006-0396. The following tables provide an overview of the same-day delivery hours and volume limits.

² For example, if a business receives an order for alcohol at 10:00 pm, the earliest that the alcohol could legally be delivered to the consumer is 7:00 am the following day. The new “day” does not start at 12:01 am for the purposes of “next-day delivery.”

LEGAL HOURS FOR SAME-DAY DELIVERY OF WINE AND CIDER

Direct Shipper Permit + Same Day Approval (out of state permittee; Brewery Public-House; Brewery; Grower Sales Privilege; Winery)	Receipt of Order from Resident	Deliver to Resident	Volume
	No later than 4:00 pm	No later than 9:00 pm	2 cases of wine or cider containing no more than 9L per case delivered to a <u>resident</u> ³ of Oregon

Off-Premises Sales License + Same-Day Approval	Receipt of Order from Resident	Deliver to Resident	Volume
	No later than 4:00 pm	No later than 9:00 pm	2 cases of wine or cider containing no more than 9L per case delivered to an Oregon <u>residence</u> or Unlimited amount of wine or cider, as long as the alcohol does not account for more than 25% of retail cost of the order
	No later than 9:00 am	No later than 9:00 pm	Unlimited amount of wine or cider
	No later than 7:00 pm	No later than 9:00 pm	1500 ml of wine or cider (approximately two standard bottles) delivered to an Oregon <u>residence</u>
	Between 7:01 pm – 9:00 pm	No later than 10:00 pm	750 ml of wine or cider (approximately one standard bottle) delivered to an Oregon <u>residence</u>

³ Direct Shipper permittees are limited to shipping/delivering no more than two cases of wine or cider containing not more than nine liters per case, per month to a resident of Oregon who is at least 21 years of age.

LEGAL HOURS FOR SAME-DAY DELIVERY OF MALT BEVERAGES

Direct Shipper Permit + Same Day Approval (out of state permittee; Brewery Public-House; Brewery; Grower Sales Privilege; Winery)	Receipt of Order from Resident	Deliver to Resident	Volume
	No later than 4:00 pm	No later than 9:00 pm	No more than 5 gallons delivered to an Oregon <u>residence</u>

Off-Premises Sales License + Same Day Approval	Receipt of Order from Resident	Deliver to Resident	Volume
	No later than 4:00 pm	No later than 9:00 pm	No more than 5 gallons of malt beverage delivered to an Oregon <u>residence</u> or Unlimited amount of malt beverage, as long as the alcohol does not account for more than 25% of retail cost of the order
	No later than 9:00 am	No later than 9:00 pm	Unlimited amount of malt beverage
	No later than 7:00 pm	No later than 9:00 pm	No more than 160 oz of malt beverage (approximately two standard six-packs) delivered to an Oregon <u>residence</u>
	Between 7:01 pm – 9:00 pm	No later than 10:00 pm	No more than 80 oz of malt beverage (approximately one standard six-pack) delivered to an Oregon <u>residence</u>

BUSINESSES LOCATED INSIDE OF OREGON WITH A QUALIFYING OLCC LICENSE

Type of OLCC License	Malt Beverages (Beer)	Wine	Cider
Off-Premises Sales	May deliver, or arrange for the delivery of, malt beverages directly to a resident of Oregon.	May deliver, or arrange for the delivery of, wine directly to a resident of Oregon.	May deliver, or arrange for the delivery of, cider directly to a resident of Oregon.
Brewery-Public House	May deliver, or arrange for the delivery of, malt beverages directly to a resident of Oregon.	May deliver, or arrange for the delivery of, wine directly to a resident of Oregon.	May deliver, or arrange for the delivery of, cider directly to a resident of Oregon.
Brewery	May deliver, or arrange for the delivery of, malt beverages directly to a resident of Oregon.	May deliver, or arrange for the delivery of, wine directly to a resident of Oregon.	May deliver, or arrange for the delivery of, cider directly to a resident of Oregon.
Grower Sales Privilege	May <u>not</u> sell, deliver, or arrange for the delivery of malt beverages directly to a resident of Oregon.	May deliver, or arrange for the delivery of, wine directly to a resident of Oregon, but only wine made from fruit or grapes grown in Oregon under the control of the licensee.	May deliver, or arrange for the delivery of, cider directly to a resident of Oregon, but only cider made from fruit or grapes grown in Oregon under the control of the licensee.
Winery with a valid TTB Producer and Blender Basic Permit	May deliver, or arrange for the delivery of, malt beverages directly to a resident of Oregon.	May deliver, or arrange for the delivery of, wine directly to a resident of Oregon.	May deliver, or arrange for the delivery of, cider directly to a resident of Oregon.
Winery with a valid TTB Wholesaler Basic Permit	May deliver, or arrange for the delivery of, malt beverages directly to a resident of Oregon.	May deliver, or arrange for the delivery of, wine directly to a resident of Oregon, but only wine brands that are under the control of the licensee. "Control" is defined in ORS 471.223.	May deliver, or arrange for the delivery of, cider directly to a resident of Oregon, but only cider brands that are under the control of the licensee. "Control" is defined in ORS 471.223.

BUSINESSES LOCATED OUTSIDE OF OREGON

A business outside of Oregon must obtain a Direct Shipper permit from the OLCC prior to delivering, or arranging for the delivery of, malt beverages, wine, or cider directly to a resident of Oregon. The following businesses are eligible to obtain a Direct Shipper permit:

- 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.
- 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.
- 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.

Provided the rules are followed, the privilege of making next-day deliveries automatically comes with the Direct Shipper permit.

A business with a Direct Shipper permit must obtain approval from the OLCC prior to making same-day delivery of malt beverages, wine, and cider. The Direct Shipper Permit application form is on the OLCC website and a link to the form can be found at the end of this guide. The OLCC will give the Direct Shipper permittee general approval (once approved, the Direct Shipper permittee is not required to obtain approval from the OLCC for each delivery).

NONPROFIT TRADE ASSOCIATION TEMPORARY SALES LICENSEE AND DIRECT SHIPPER PRIVILEGE

A nonprofit trade association with a membership primarily composed of persons holding winery licenses issued under ORS 471.223 and grower sales privilege licenses issued under ORS 471.227 may obtain a nonprofit Temporary Sales License (“TSL-NP”). With the TSL-NP, these licensees can apply for the direct shipper privilege and the same-day delivery authority to be added to the TSL-NP.

The direct shipper additional privilege allows next-day delivery of containers of malt beverages, wine, or cider to residents of Oregon. If a nonprofit trade association TSL-holder also wants to make same-day deliveries of containers of malt beverages, wine, or cider, the applicant must also apply for same-day delivery approval with the Commission.

In either case, the TSL-NP applicant must obtain the direct shipper privilege approval before shipping any container of malt beverages, wine, or cider directly to a resident of Oregon and must obtain the same-day delivery authorization to deliver malt beverages, wine, and cider on the day the order is placed.

APPLICATION AND PROCESS FOR NONPROFIT TRADE ASSOCIATION

Applicants must complete the application form (available on the OLCC website and at the end of this guide) “Direct Shipper Permit for Non-Profit Trade Association.” The form allows the applicant to apply for both the direct shipper privilege and same-day delivery. There is a \$50 fee.

Deliveries to residents of Oregon must be conducted by the TSL-NP licensee or an approved for-hire carrier during the period of the TSL-NP and the TSL-holder must comply with the delivery rules: OAR 845-006-0392 and 845-006-0396.

SHIPMENT OF DISTILLED LIQUOR TO A RESIDENT OF OREGON

DEFINITION: DISTILLED LIQUOR/SPIRITS

“Distilled liquor” means any alcoholic beverage that does not qualify as a wine, cider, or malt beverage. Other common names for “distilled liquor” are distilled spirits, hard liquor, hard alcohol, ethyl alcohol, and ethanol. See ORS 471.001(4). Typically, distilled liquor comes from a distillation process using heat or freeze-distillation, or the blending and rectifying of base ethanol with other ingredients.

DISTILLED LIQUOR/SPIRITS PURCHASED IN OREGON:

Distilled liquor for off-premises consumption may only be purchased in Oregon for personal use in either:

- a Retail Liquor Store, operated by an OLCC retail sales agent, or
- a Distillery Retail Outlet, operated by a distillery retail agent

All distilled spirits/liquor sold to individual consumer customers must be made in-person at the premises where the retail liquor store or the distillery retail outlet has been approved by the Commission. Shipping requests by phone, internet, etc. are prohibited.

A retail sales agent or a distillery retail outlet agent may ship distilled liquor purchased in-person by a consumer customer who is a resident of Oregon and is at least 21 years of age. When shipping to an Oregon resident, retail sales agents and distillery retail outlet agents must use an approved for-hire carrier. A retail sales agent or a distillery outlet agent may not deliver the distilled liquor directly to a resident of Oregon.

In-person purchases may be shipped to a resident of a state other than Oregon only in accordance with the laws of that state.

DISTILLED LIQUOR/SPIRITS PURCHASED OUTSIDE OF OREGON:

ORS 471.405(4) allows an exception for an individual entering Oregon to have in his/her possession an amount not to exceed four liters (135.2 fluid ounces) of distilled liquor. This alcohol is for personal use only; the alcohol may not be sold. When the individual enters Oregon via a common carrier (such as a plane, train, bus, or boat) the alcohol is considered to be in the individual’s possession.

There is no legal option for a person who is outside of Oregon to ship distilled liquor directly to an Oregon resident (including to himself/herself), nor is there a way for an out of state distillery or other business engaged in the sale of alcohol to ship distilled liquor directly to a resident of Oregon.

DELIVERY SERVICES PROVIDED BY E-COMMERCE OPERATORS

Summary: The e-commerce frontier is extremely complex and the ways that buyers and sellers interact and monies are controlled is very different from the way transactions were processed even 20 years ago, let alone 85 years ago when the definition for conduct qualifying as a sale of alcohol was drafted as a part of the 1933 Oregon Liquor Control Act. With that said, the statutory definitions for conduct qualifying as a sale of alcohol in Oregon under ORS 471.405 and 471.406 are written very broadly to include activities like solicitation of an order for alcohol, receipt of an order for alcohol, delivery of alcohol, etc.

The purpose of this section is to identify e-commerce operator activity that is not likely to amount to a sale of alcohol (thus not necessitating a liquor license) under Oregon law. To assist the reader in interpreting the information included in the E-Commerce Activity Table below, please consider the following:

- **What do we mean by “e-commerce operators?”** Parties who would like to provide internet-based order facilitation and delivery services between Oregon licensees and consumers. The Oregon licensees served must hold license types that allow them to sell and deliver malt beverages, wine, cider, or non-beverage food products directly to consumers. E-commerce operators cannot facilitate orders for or deliver distilled liquor/spirits to consumers. The two most common e-commerce business models that provide services that may not constitute sales of alcohol under Oregon law are:
 - **The marketplace grocery delivery model:** multiple grocery-vendors (licensees and non-licensees) offer their products for sale on a platform that is owned and operated by an e-commerce operator. Each of the grocery-vendors sells a variety of items, as advertised in the virtual marketplace. The consumer selects a vendor to purchase items from and then selects items to add to a “cart.” Typically, the items selected are delivered to the consumer on the same day that the order is placed. If the order contains alcohol, the grocery-vendor would need to hold a license-type that allows for off-premises sales and delivery of alcohol. Alcoholic beverage items are sold in factory sealed containers or securely covered containers (“growlers”) provided by the consumer. Non-beverage food products are sold in packaging containing required label information as set out in rule.
 - **The on-demand food and beverage delivery model:** multiple restaurant-vendors (licensees and non-licensees) advertise their menus on a platform that is owned and operated by an e-commerce operator. The consumer selects a restaurant-vendor to purchase items from and then selects items to add to a “cart.” Typically, the items selected are delivered to the consumer within a very short period of time (within an hour of order placement, for example). If the order contains alcohol, the restaurant-vendor would need to hold a license-type that allows for off-premises sales of alcohol. Alcoholic beverage items are sold in factory sealed containers or securely covered containers (“growlers”) provided by the consumer. Non-beverage food products are sold in packaging containing required label information as set out in rule.

- **Note on evaluating e-commerce models on a case-by-case basis:** Because e-commerce is such a complex operational arena, determining whether the specific conduct engaged in by an e-commerce operator qualifies as a sale of alcohol under Oregon law must be evaluated on a case-by-case basis by the OLCC. The evaluation involves looking at the totality of the proposed operation, with no one specific factor providing sufficient evidence to show that the proposed activities do or do not constitute sales of alcohol. Again, the E-Commerce Activity Table identifies conduct related to each factor that makes it less likely that the e-commerce operator is engaging in sales of alcohol. Businesses should consult this table prior to submitting a proposed business model to the OLCC for evaluation.

An e-commerce business interested in facilitating orders containing alcohol and delivering orders containing alcohol must notify the OLCC of its interest by sending an email to OLCC.Ecommerce@oregon.gov and must work with an OLCC technician through the evaluation process. If the OLCC determines that the e-commerce business is not proposing to engage in conduct qualifying as sales of alcohol under Oregon law, the e-commerce operator would still need to apply with the OLCC to become an “approved for-hire carrier” in order to deliver alcohol to residents of Oregon.

- **What do we mean by a “platform” and what is a “marketplace?”** For the purposes of the E-Commerce Activity Table included in this section, a “platform” is the technology tool managed by e-commerce operators for vendors to use as an online portal to conduct sales with consumers. A platform exists within an app or website and can house multiple vendors to create a virtual “marketplace” experience for the consumer. When a consumer visits a marketplace in an app or website, the consumer has the option to select a vendor or vendors it wishes to purchase items from by adding items to a cart.
- **What do we mean by a “cart?”** The “cart” is the place where consumers aggregate their orders (selecting items that the consumer intends to purchase from a particular vendor), much like a grocery cart at a grocery store.
- **Note on multiple location licensees:** If the e-commerce operator elects to work with a licensee who has multiple licensed locations within Oregon, the transaction must be completed with a specific licensed premises. That specific premises must be the premises from which the alcohol inventory is removed in order to fulfill the order.

E-COMMERCE ACTIVITY TABLE

Instructions for completing the table:

The following table identifies factors that represent common aspects of e-commerce delivery service operators' business models and are relevant to determining whether the activities engaged in are likely to amount to a sale of alcohol in Oregon. If you plan to offer alcohol order facilitation and delivery services as discussed above, please:

1. Send an email expressing your interest to olcc.ecommerce@oregon.gov
2. OLCC staff will send you a blank version of the table, below, to complete based on your business model (note that some factor fields will be slightly different to ask for specific information about your business).
3. Complete the table and send it to the olcc.ecommerce@oregon.gov email address. You can use the completed table, below, for samples of the kind of conduct under to each factor that make it less likely that you are proposing to engage in sales of alcohol. However, do not enter information in your table that does not accurately reflect your proposed business model. You can always send questions to the olcc.ecommerce@oregon.gov email address.
4. OLCC staff will evaluate your model based on the information you've entered into the table to determine whether you are proposing to engage in sales of alcohol in Oregon. There may be follow-up questions and/or in-person meetings that you will be asked to participate in as a part of the evaluation. Remember that the evaluation involves looking at the totality of the proposed operation, with no one specific factor providing sufficient evidence to show that the proposed activities do or do not constitute sales of alcohol.
5. E-commerce operators that OLCC staff have determined are not proposing to engage in sales of alcohol in Oregon can apply to become an approved for-hire carrier with the OLCC so that they may offer order facilitation and delivery services to liquor licensees. See the following section of this guide for steps to becoming an approved for-hire carrier.

Factors	Conduct
Relationship between e-commerce owner/operators and licensee partners	E-commerce operator offers virtual space for licensees to advertise their businesses and provides order facilitation and delivery services
Items available for sale	E-commerce operator facilitates orders from licensees who sell non-alcohol items in addition to alcohol items
License types that could be served in Oregon	<ul style="list-style-type: none"> • Off-Premises Sales • Grower Sales Privilege • Winery • Brewery • Brewery Public House
Consumer access to platforms	<ul style="list-style-type: none"> • Consumer memberships where members pay the e-commerce operators directly (membership fee); or • Consumer memberships/guest access where consumer does not pay the e-commerce operator directly for access to app/site (consumer likely still creates an "account")
"Cart" management	In the app or website, if there are multiple vendor-licensees for the consumer to choose from (a "marketplace"), user must first select a licensee and then add items to the "cart." Carts are not commingled between licensees
Payment processor	Payment processor used by the e-commerce operator funnels all monies collected for alcohol items directly into an account owned by the specific licensee. So, the monies must be funneled into an account that is owned by the licensee who is fulfilling the order.
Initiation of payment	Payment for alcohol items is made directly to the licensee upon the licensee's "acceptance" of an order. "Acceptance" is discussed below.
Order fulfillment process (prior to order leaving licensed premises)	<ul style="list-style-type: none"> • <u>Licensee's staff fills:</u> Licensee receives notice of the order and the contents of the order. Licensee's employees prepare an order for pick-up by the e-commerce operator's agent; or • <u>E-commerce agent fills:</u> E-commerce agent receives notice of the order and the contents of the order. E-commerce agent collects the items in the premises and "checks" the items out of the inventory of the licensee
Delivery personnel	<ul style="list-style-type: none"> • Independent contractors engaged by e-commerce operators; or • Employees of e-commerce operators
Delivery process	E-commerce agent delivers to destination address. If the order contains alcohol, the delivery agent follows Oregon's regulations for delivery of alcohol to a resident of Oregon
Order acceptance	<ul style="list-style-type: none"> • The order is accepted by the licensee when payment is made to the licensee; or • The order is accepted by the licensee upon delivery to the consumer at the moment that the e-commerce

	delivery agent completes legal delivery of the alcohol items following Oregon's delivery rules
Control of monies	E-commerce operator never receives or controls the monies for alcohol. Only the licensee controls monies for alcohol.
Process for returns/rejected orders	If the alcohol is unable to be delivered for any reason, the e-commerce agent returns the alcohol to the licensee. The consumer must work directly with the licensee for refunds of money for alcohol. If the licensee rejects an order at any point in time for an alcohol item, the consumer must work directly with the licensee to get a refund for monies for alcohol already collected from the consumer
Service fees	<ul style="list-style-type: none"> • Charged to licensee as a percentage of total sale and is not tied to alcohol sales in any way; or • Flat service fee charged to licensee that is not specific to alcohol; or • Charged to consumer as a percentage of sale and is not tied to alcohol sales in any way; or • Flat service fee charged to consumer that is not specific to alcohol
Appearance of transaction on bank statement	Appears as transaction with licensee

QUICK REFERENCE FOR APPROVED FOR-HIRE CARRIERS

With OLCC approval, a for-hire carrier can deliver malt beverages, wine, cider, or non-beverage food products to an Oregon resident on behalf of an approved OLCC licensee or deliver malt beverages, wine, or cider on behalf of an out of state Direct Shipper Permit holder. A for-hire carrier may deliver alcohol to a resident of Oregon only after payment has been made to the OLCC licensee or Direct Shipper Permit holder. YOU, as a for-hire carrier, may not accept payment for alcohol on behalf of a licensee/permit-holder, nor may YOU pay a licensee/permit-holder for alcohol on behalf of a resident of Oregon.

Application

See OLCC's website for the for-hire carrier application form. A link to the form can also be found at the end of this guide. The application and approval are free. After approval by the OLCC, the trade name of the for-hire carrier is added to a list of other approved for-hire carriers on the OLCC website.

Guidelines for a For-Hire Carrier to Deliver Malt Beverages, Wine or Cider

The for-hire carrier's plan must ensure that the person delivering alcohol is:

- Age 18 years or older.
- Inspecting government-issued photo identification that the person receiving the alcohol is at least 21 years of age.
- Determining that the person receiving the alcohol is not visibly intoxicated.
- Delivering no later than 10:00 pm if the order was placed on the same day, per the applicable delivery rule.
- Delivering only to a home or business with a permanent street address.
- Conspicuously labeling any package containing alcohol with the words "Contains alcohol: signature of person age 21 years or older required for delivery" or similar language approved by the OLCC.

A for-hire carrier must retain delivery records for a minimum of eighteen months from the date of delivery. The information may be collected and retained electronically and must include:

- The date and time the alcohol was delivered to the resident.
- The name or information which can be used to determine the name of the person delivering the alcohol to the resident.
- The name, signature and delivery address of the person receiving the alcohol.

Revocation of Privileges

The OLCC may revoke its approval of a for-hire carrier's plan if the for-hire carrier fails to follow the approved plan or fails to comply with administrative rules for a for-hire carrier.



Taxi companies, peer-to-peer ridesharing companies, and food delivery services often receive requests to deliver alcohol.

In addition to an application, a for-hire carrier who delivers malt beverages, wine, cider, or non-beverage food products to a resident of Oregon must have and follow a plan listed in OAR 845-005-0424.

For more information contact:

Public Safety Division
phone: **503 872 5253**



FREQUENTLY ASKED QUESTIONS

DELIVERY OF MALT BEVERAGES, WINE, CIDER, OR NON-BEVERAGE FOOD PRODUCTS IN OREGON

1) Q: Which OLCC licensees licensed at an address in Oregon are allowed to deliver malt beverages, wine, cider, or non-beverage food products to a resident of Oregon?

A: The following annual OLCC licensees licensed at an address in Oregon are allowed under some circumstances to deliver malt beverages, wine, cider, or non-beverage food products to a resident of Oregon.

- Off-Premises Sales
- Brewery
- Brewery-Public House
- Grower Sales Privilege
- Winery

A nonprofit trade association holding a temporary sales license can also apply for a next day delivery privilege and same day delivery authorization to be added to the temporary sales license. Once approved, the TSL-holder would be allowed to ship/deliver malt beverages, wine, and cider to residents of Oregon during the license period.

2) Q: What is the definition of “resident?”

A: “Resident” means a person who resides in Oregon, even if temporarily (proof of residency is not required), who orders alcohol for personal use and not for resale.

3) Q: What is the difference between “ship” and “deliver” as those terms apply to malt beverages, wine, cider, or non-beverage food products in Oregon?

A: The term “ship” means to cause the delivery or transport of malt beverages, wine, cider, or non-beverage food products to a resident of Oregon. The term “deliver” has a similar meaning and includes the transport and handing over of malt beverages, wine, cider, or non-beverage food products to a resident. The terms “ship” and “deliver” may be used interchangeably in the malt beverages, wine, cider, or non-beverage food products context. However, in the distilled liquor context, delivery is not allowed. Distilled liquor may only be shipped to a resident of Oregon. See the Shipment of Distilled Liquor to a Resident of Oregon document included in this guide.

4) Q: How does a person or company obtain a Direct Shipper Permit?

A: A person described under OAR 845-005-0417(1)(a) automatically receives a Direct Shipper Permit with the annual license. A person described under OAR 845-005-0417 subsections (1)(b)-(e) of the rule must submit an application with fee to the OLCC and receive the Direct Shipper Permit from OLCC before shipping any malt beverages, wine or cider directly to a resident of Oregon.

5) Q: What is a person or company allowed to do with a Direct Shipper Permit?

A: A person or company with a Direct Shipper Permit may sell and deliver, or sell and cause the delivery of malt beverages, wine or cider directly to a resident of Oregon who is at least 21 years of age. An out of state Direct Shipper permittee is not allowed to sell, ship, or deliver non-beverage food products to a resident of Oregon.

6) Q: What are the rules governing delivery of malt beverages, wine, and cider to a resident of Oregon?

A: The following regulations set out the requirements that must be adhered to when delivering alcohol to residents of Oregon:

- OAR 845-006-0392 sets the requirement for wine and cider.
- OAR 845-006-0396 sets the requirement for malt beverages.

7) Q: May I ship/deliver “non-beverage food products” directly to a resident of Oregon?

A: Yes, provided that the products are labeled and delivered in accordance with OAR 845-006-0445. If the licensee delivers the non-beverage food products through a common carrier, the common carrier must be an approved for-hire carrier. Note that an out of state Direct Shipper permittee is not allowed to sell, ship, or deliver non-beverage food products to a resident of Oregon.

8) Q: What rule or statute prohibits a person or company not holding a valid Direct Shipper Permit or OLCC license from delivering or causing the delivery of malt beverages, wine, cider, or non-beverage food products to a resident of Oregon?

A: ORS 471.405 provides general prohibitions on the sales, purchases, possession, transportation, importation or solicitation of alcoholic beverages without a license. ORS 471.406 identifies activities covered by prohibitions on sale of alcoholic beverages without a license. For the purposes of ORS 471.405 and ORS 471.406, the Direct Shipper Permit is a license.

9) Q: May an OLCC licensee licensed at an address in Oregon who is allowed to deliver malt beverages, wine, cider, or non-beverage food products to a resident of Oregon make a delivery to its parking lot or other adjoining area?

A: An OLCC licensee licensed at an address in Oregon who is allowed to deliver malt beverages, wine, cider, or non-beverage food products to a resident of Oregon may deliver this alcohol to its parking lot or other adjoining area provided all of the following are met:

- The parking lot or other outdoor area is contiguous to the licensed premises;
- The parking lot or other outdoor area is under the licensee’s control (such as by ownership or lease);
- The licensee is fulfilling a completed transaction (prior to fulfilling the transaction the licensee received a bona fide order with payment from the resident); and

- The licensee follows all delivery requirements, including verifying that the person receiving the alcohol is at least 21 years of age and is not visibly intoxicated.

10) Q: What is a for-hire carrier?

A: A 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, such as FedEx, DHL, or UPS.

11) Q: Does Oregon allow a for-hire carrier to deliver malt beverages, wine, cider, or non-beverage food products to a resident of Oregon?

A: Under OAR 845-005-0424 a person or company may apply as a for-hire carrier to deliver malt beverages, wine, or cider to a resident of Oregon. The for-hire carrier application is on the OLCC website. OAR 845-006-0445 requires carriers to be approved by the OLCC prior to delivering non-beverage food products to residents of Oregon. The applicant must be approved as a for-hire carrier by the Commission prior to offering alcohol delivery services.

12) Q: If I hold a liquor license in Oregon that allows for delivery of alcohol to a resident of Oregon and I hire a for-hire carrier to deliver alcohol to a resident on my behalf, am I responsible for ensuring that Oregon’s delivery rules are complied with, including portions of the delivery rules where the for-hire carrier’s responsibilities are the same as those that apply to the licensee?

A: Yes. Eligible licensees who wish to deliver alcohol to residents of Oregon (whether through an approved for-hire carrier or directly) are responsible for complying with OAR 845-006-0392 and 845-006-0396 (depending on the type of alcohol being delivered). Where portions of those rules overlap, both the for-hire carrier and the licensee are responsible. The possible administrative penalty for non-compliance with the delivery rules for the licensee is a Category III violation. The possible penalty for non-compliance with the delivery rules for a for-hire carrier is revocation of the for-hire carrier approval by the OLCC.

13) Q: What are the rules for the delivery of distilled liquor to a resident of Oregon?

A: OAR 845-015-0141 states all sales of distilled liquor to individual consumers must be made in-person at a retail liquor store location (which includes a distillery retail outlet). Once the transaction is complete, the distillery retail outlet agent or retail sales outlet agent may ship the purchased distilled liquor to an Oregon resident as discussed above. In-person delivery by the retail liquor store agent or the distillery outlet agent is not allowed.

14) Q: What is the relationship between a Direct Shipper Permit holder or OLCC licensee and a for-hire carrier?

A: A Direct Shipper Permit holder, OLCC licensee, or Oregon resident can enlist the services of approved for-hire carriers for delivery of malt beverages, wine, or cider. OLCC licensees and Oregon residents may hire for-hire carriers to deliver non-beverage food products. The for-hire carrier acts as a courier service for both the Direct Shipper holder/OLCC licensee and the Oregon resident when the Direct Shipper holder/OLCC licensee is unable to dedicate

its own staff to deliver the alcohol to the Oregon resident and/or the Oregon resident is unable to go directly to the premises to pick up the alcohol.

15) Q: Is there an application fee to become a for-hire carrier?

A: No, the application process is free.

16) Q: Are there rules that a for-hire carrier must follow?

A: A for-hire carrier must follow the plan that the person or company signed as a part of the for-hire carrier application, which mirrors the responsibilities of for-hire carriers set forth in OAR 845-005-0424. Requirements include maintaining records for inspections and consenting to the jurisdiction of the OLCC and the courts of this state for the purpose of enforcing the provisions of this rule and any related laws or rules.

17) Q: May an approved for-hire carrier take payment for the malt beverage, wine, cider, or non-beverage food products from the Oregon resident and then give it to the OLCC licensee/Direct Shipper Permit holder later?

A: No. Payment for malt beverages, wine, cider, or non-beverage food products must be made directly from the Oregon resident to the Direct Shipper Permit holder/OLCC licensee.

18) Q: May an approved for-hire carrier pay an OLCC licensee/Direct Shipper Permit holder for malt beverages, wine, cider, or non-beverage food products and then get reimbursed by the Oregon resident?

A: No. Payment for malt beverages, wine, cider, or non-beverage food products must be made directly to the OLCC licensee/Direct Shipper Permit holder by the Oregon resident.

19) Q: May an approved for-hire carrier charge a fee to either the OLCC licensee/Direct Shipper Permit holder or the Oregon resident for delivering an order that contains alcohol?

A: Yes, as long as the fee is not specifically charged or increased when an order contains alcohol. The fee must be non-specific to alcohol.

20) Q: If I plan to deliver malt beverages, wine, cider, or non-beverage food products only to OLCC licensees, do I need to obtain approval as a for-hire carrier?

A: No. Although OAR 845-005-0424(2) states that a for-hire carrier must be approved by the Commission in order to make deliveries to licensees of the Commission, the Commission does not enforce this portion of the regulation. If a for-hire carrier intends to deliver only to Commission licensees, the for-hire carrier is not required to obtain approval from the Commission to make those deliveries.

21) Q: What is the sanction/penalty for selling malt beverages, wine, cider, or non-beverage food products to a resident of Oregon without a license?

A: Per ORS 471.990, a person may be cited with a Class A misdemeanor for selling alcohol without a license.

22) Q: What happens if a person delivers alcohol to a resident of Oregon without following the delivery rules?

A: The OLCC may revoke approval from a for-hire carrier and a licensee may be administratively sanctioned.

APPLICABLE STATUTES AND RULES

STATUTES

ORS 471.038 Non-beverage food products

ORS 471.186 Off-premises sales license; deliveries to retail customers

ORS 471.282 Direct shipper permit; fees

ORS 471.405 Prohibited sales, purchases, possession, transportation, importation or solicitation in general; forfeiture upon conviction

ORS 471.406 Activities covered by prohibitions on sale of alcoholic beverages

ORS 471.475 Mixing, storing or serving of liquor without license

ORS 471.990 Penalties

https://www.oregonlegislature.gov/bills_laws/ors/ors471.html

REGULATIONS

OAR 845-005-0416

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

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

<https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=212242>

OAR 845-005-0417

Qualifications for Direct Shipment and Retail Delivery of Malt Beverages, Wine, or Cider to a Resident of Oregon

<https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=212245>

OAR 845-005-0424

Guidelines for Approval of a For-Hire Carrier’s Plan for Delivery of Malt Beverages, Wine or Cider

<https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=212266>

OAR 845-006-0309

Requirements for Outdoor Areas Not Abutting a Licensed Building

<https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=234021>

OAR 845-006-0392

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

<https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=212426>

OAR 845-006-0396

Requirements for Direct Shipment and Delivery of Malt Beverages to a Resident of Oregon

<https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=212439>

OAR 845-006-0425

Hours for Sale

<https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=212459>

OAR 845-006-0445

Non-beverage Food Products Containing Alcoholic Beverages

<https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=212481>

OAR 845-015-0141

Shipment of Distilled Spirits

<https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=213202>

ADDITIONAL HELPFUL LINKS

APPLICATION FORMS REFERENCED

[For-Hire Carrier Application to Deliver Malt Beverages, Wine, or Cider](#)

[Same-Day Delivery of Malt Beverages, Wine, or Cider from Oregon Licensees](#)

[Direct Shipper Permit for Licensees Outside of Oregon](#)

[Direct Shipper Permit for Non-Profit Trade Associations](#)

OLCC LIQUOR LICENSING WEBPAGE

[OLCC Liquor Licensing](#)