OREGON LIQUOR CONTROL COMMISSION
CHAPTER 845
PROPOSED AMENDMENTS

DIVISION 20
BEVERAGE CONTAINERS AND REDEMPTION CENTERS

845-020-0005
Definitions

(1) The terms defined in ORS 459A.700 have the same meaning in OAR 845-020-0005 through 845-020-00360, unless the context requires otherwise.

(2) The definition of “beverage” in ORS 459A.700(1) includes “similar carbonated soft drinks.”

(3) “Soft drinks” means any non-alcoholic drink except 100 percent coffee, tea, milk, cocoa and fruit or vegetable juices.

(4) “100 percent coffee, tea, milk, cocoa and fruit or vegetable juices” means the natural product with no water added, or concentrate that has been reconstituted to full strength, to which no flavorings have been added.

(2) Wine means any means an alcohlic beverage made from the fermentation of the juice of apples, grapes or pears that contains more than eight and half percent of alcohol by volume, including, but not limited to, flavored, sparkling or carbonated wine.

(3) “Milk” means a beverage that consists of only dairy milk, flavorings or nutritional additives. This includes
   (a) Flavored milk beverages such as chocolate milk.
   (b) Cultured milk, such as kefir and buttermilk; and
   (c) Lactose free milk.

(4) “Plant-Based Milk” means beverages consisting primarily of liquid extracted from nuts, grains, legumes and seeds. This includes flavored plant-based milk beverages. Coconut water is not a plant-based milk.

(5) “Meal Replacement Beverage” means a formulated or prepackaged beverage that can replace one or more daily meals.
As used in OAR 845-020-0005 through 845-020-00360, unless the context requires otherwise: "Person" includes individuals, corporations, associations, firms, partnerships, and joint stock companies.

Stats. Implemented: ORS 459A.702

845-020-0016
Container Exemptions

(1) ORS 459A.702 directs and enables the Commission to exempt certain beverages from having a refund value as specified in 459A.705.

(2) The following beverages are exempt from having a refund value:
(a) Distilled Spirits;
(b) Wine;
(d) Milk and Plant-based milks;
(e) Infant Formula; and
(f) Meal replacement beverages.

(3) The following container types are exempt from having a refund value:
(a) Any beverage containers of beer, water, or soft drinks larger than three fluid liters;
(b) Any other beverage containers under four ounces and over one and one-half liters;
(c) Metal containers that require a tool to be opened;
(d) Foil pouches;
(e) Cartons; and
(f) Drink boxes.

Stats. Implemented: ORS 459A.702 & 459A.705

845-020-0020
Redemption Centers

(1) The Commission shall approve a redemption center if it finds the redemption center will provide a convenient service to consumers for the return of empty beverage containers. The Commissioners delegate to the Administrator the authority to grant or deny redemption center applications in accordance with this rule.
(2) The Commission considers factors such as the following in determining whether or not a redemption center provides a convenient service to consumers for the return of empty beverage containers:

(a) Location of the redemption center;

(b) Kinds of beverage containers accepted at the redemption center;

(c) Dealers occupying 5,000 or more square feet within the redemption center zone that will be served by the redemption center and their distance from the redemption center;

(d) Dealers occupying 5,000 or more square feet within the redemption center zone that will not be served by the redemption center and their distance from the redemption center.

(de) Days and hours of operation of the redemption center;

(ef) Parking facilities serving the redemption center;

(efg) Evidence showing that the redemption center meets all applicable local ordinances and zoning requirements;

(egh) The cap, if any, on the number of beverage containers per person per day that the redemption center will accept;

(ehi) Payment method(s) accepted offered by the redemption center for redeemed beverage containers;

(aj) The projected volume of beverage container returns at the redemption center as compared to the actual returns at the dealers to be served by the redemption center;

(ak) A description of how consumers will be notified of the redemption center’s location, services, and service hours.

Stat. Auth.: ORS 459A.735(1), (3) & (4)
Stats. Implemented: ORS 459A.735

845-020-0025
Application for Approval of Redemption Center
Any person desiring approval of a redemption center shall make application to the Commission upon forms to be furnished by the Commission. The application shall include the following and such additional information as the Commission may require:

(1) Name and address of each person to be responsible for the establishment and operation of the redemption center;

(2) Exact location and mailing address of redemption center;

(3) Kinds of beverage containers that will be accepted at the redemption center;

(4) Names and addresses of the dealers occupying 5,000 or more square feet within the redemption center zone that will be served by the redemption center;

(5) Names and addresses of the dealers occupying 5,000 or more square feet within the redemption center zone that will not be served by the redemption center;

(6) Distances from the redemption center to the dealers occupying 5,000 or more square feet within the redemption center zone that will be served;

(7) Distances from the redemption center to dealers occupying 5,000 or more square feet within the redemption center zone that will not be served.

(8) Days and hours of operation of the redemption center;

(9) Description of parking facilities to serve the redemption center;

(10) Evidence showing that a redemption center meets the zoning requirements and other applicable local ordinances of the regulating local jurisdiction;

(11) The cap, if any, on the number of beverage containers per person per day that will be accepted at the redemption center;

(12) Payment method(s) for redeemed beverage containers;

(13) The projected volume of beverage container returns at the redemption center as compared to the actual returns at the dealers to be served by the redemption center;

(14) A description of how consumers will be notified of the redemption center’s location, services, and service hours.

Standards of Cleanliness for Redemption Centers

All persons responsible for the establishment and operation of the redemption center shall at all times keep the redemption center premises, including the parking facilities serving the redemption center, in full compliance with the law. Such persons shall keep such redemption center premises in good repair, painted, clean, well-lighted, free of litter and trash, and free of rodents, vermin, infestations of insects, and their harborages or breeding places.

Stat. Auth.: ORS 459A.735(1), (3) & (4)
Stats. Implemented: ORS 459A.735, 459A.737

When Dealer Not Required to Accept Containers

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

(a) Occupies a total enclosed space of 5,000 or more square feet in a single location and has not offered the kind of beverage for sale within the past six months;

(b) Occupies a total enclosed space of less than 5,000 square feet in a single location and has not offered the kind, size, and brand of beverage for sale within the past six months;

(c) Has reasonable grounds to believe the container was sold at retail outside Oregon;

(d) Has reasonable grounds to believe that the container was obtained from or through a distributor without paying the refund value. The primary goal of this subsection is to prevent distributors, recyclers or others from putting containers through the refund/return system more than once without paying the refund value; or

(e) Has reasonable grounds to believe that the container has already been redeemed, such as through a reverse vending process.

(2) Dealers must not use this rule to frustrate the requirement of the Beverage Container Act that dealers accept return of:

(a) Up to 144 beverage containers sold in Oregon from any person in any one day at all hours the dealer is open for business, if the dealer occupies a total enclosed space
of 5,000 or more square feet in a single location and is not in a redemption center zone;

(b) Up to 50 beverage containers sold in Oregon from any person in any one day at all hours the dealer is open for business, if the dealer occupies a total enclosed space of less than 5,000 square feet in a single location and is not in a redemption center zone;

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

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

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

Stats. Implemented: ORS 459A & 459A.738  

845-020-0040  
Sanctions and Civil Penalties

(1) The Commission is charged with ensuring that consumers are able to return redeemable containers to dealers and redemption centers and dealers are able to return containers to distributors and distributor cooperatives.

(2) Sanctions. The Commission will sanction or impose a civil penalty for any violation of Chapter 459A and division 20 of Oregon Administrative Rule Chapter 845.

(3) Sanction Schedule.

(a) Penalties for licensees of the Commission. A violation of the rules contained within Division 20 of OAR Chapter 845 or ORS 459A.700 to 459A.737 is a Category V level one violation, as defined in 845-006-0500 – Exhibit I.

(b) Civil Penalties for dealers that are not licensees of the Commission. A violation of the rules contained within Division 20 of Chapter 845 or ORS 459A.700 to 459A.737 carries a civil penalty of $500.00.

(4) Non participating dealers may be subject to violations under ORS 459A.738.
845-020-0060
Independent Audit Standards and Procedures

(1) Within six months of the date that the Commission receives reports required by 459A.718(5)(b) from a distributor cooperative, distributor or importer, the Commission may require that a distributor cooperative, distributor or importer undergo an independent audit to determine the accuracy of information contained in the report.

(2) The distributor cooperative, distributor or importer shall use an independent auditor that:
   (a) Is a registered to do business in Oregon;
   (b) Is registered with the Board of Accountancy; and

(3) The independent audit shall determine the accuracy of the information contained in the reports required by ORS 459A.718(5).

(4) Any violation discovered by the Commission may be subject to a civil penalty under ORS 459A.717.

(5) The Commission shall adhere to all pertinent and applicable laws concerning any public disclosures.

Stats Implemented: ORS 459A.718
Stat Authority: ORS 459A.718