

2019 Bottle Bill and Technical Package

OREGON LIQUOR CONTROL COMMISSION CHAPTER 845 PROPOSED AMENDMENTS

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

845-020-0005

Definitions

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

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

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

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

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

~~(2)~~ **(3) “Cider” means an alcoholic beverage made from the fermentation of the juice of apples or pears that contains not less than one-half of one percent and not more than 8.5 percent of alcohol by volume, including, but not limited to, flavored, sparkling or carbonated cider.**

(4) “Convenience zone” means a sector within a radius of a redemption center specified by the Commission that determines which dealers may participate in a redemption center and that impacts the number of containers a store must accept.

(5) “Dealer redemption center” means a location that serves one or more dealers doing business in an area that is not part of a convenience zone specified by the Commission under ORS 459A.738, at which any person may return empty containers for beverages that were purchased in Oregon and receive payment of the refund value of the beverage containers.

(6) “Full-service redemption center” means a location that meets the requirements of ORS 459A.737, at which any person may return empty containers

for beverages that were purchased in Oregon and receive payment of the refund value of the beverage containers.

(7) “Hard seltzer” means any sugar-based alcoholic beverage that contains carbonated water or any malt-based alcoholic beverage that contains carbonated water and is not a malt beverage, as that term is defined in ORS 471.001.

(8) “Kind of beverage” means the type of beverage in a container that is required to have a refund value and does not refer to the size of the container or the brand of the beverage. The “kind of beverage” categories are:

(a) Water;

(b) Carbonated soft drinks;

(c) All other non-alcoholic beverages (excluding dairy milk and plant-based milk, infant formula, and liquid meal replacements);

(d) Alcoholic beverages (excluding distilled liquor and wine); and

(e) Beverages containing marijuana or hemp.

(9) “Kombucha” means a fermented beverage that is made from tea and does not contain more than 21 percent of alcohol by volume.

(10) ~~(6)~~ “Liquid Meal Replacement” means a ready-to-drink liquid with caloric and nutritional value intended to replace a regular meal.

~~(3) “Wine” means any fermented vinous liquor or fruit juice, or other fermented beverage fit for beverage purposes that is not a malt beverage, containing more than one-half of one percent of alcohol by volume and not more than 21 percent of alcohol by volume. “Wine” includes fortified wine. “Wine” does not include cider.~~

(4) (11) “Milk” means a beverage that consists of only dairy milk, and flavorings, and/or nutritional additives. This includes: “Milk” includes lactose free milk and flavored milk beverages, such as chocolate milk. “Milk” does not include kefir, drinkable yogurt, buttermilk, smoothies, shakes, any beverage that is primarily milk but includes other ingredients such as fruit, or any beverage that is primarily milk but is marketed as a beverage other than a milk, such as a smoothie or shake.

(a) Flavored milk beverages such as chocolate milk;

(b) Cultured milk, such as kefir and buttermilk; and

(c) Lactose free milk.

(7) **(12) “Person.”** As used in OAR 845-020-0005 through 845-020-0060, unless the context requires otherwise, “Person” includes individuals, corporations, associations, firms, partnerships, and joint stock companies.

(5) **(13) “Plant-Based Milk”** means a beverages that consists ~~ing~~ primarily of liquid extracted from nuts, grains, legumes and seeds, **flavorings, or nutritional additives.** **“Plant-Based Milk” does not include kefir, drinkable yogurt, smoothies, shakes, coconut water, any beverage that is primarily plant-based milk, but includes other ingredients such as fruit, or any beverage that is primarily plant-based milk but is marketed as a beverage other than a milk, such as a smoothie or shake.** This includes flavored plant-based milk beverages. Coconut water is not a plant-based milk.

(14) “Wine” means any fermented vinous liquor or fruit juice, or other fermented beverage fit for beverage purposes that is not a malt beverage, containing more than one-half of one percent of alcohol by volume and not more than 21 percent of alcohol by volume. “Wine” includes fortified wine, cider over 8.5 percent alcohol by volume, and mead. “Wine” does not include cider that is not more than 8.5 percent of alcohol by volume, hard seltzer, or kombucha.

Statutory/Other Authority: ORS 459A, 459.992(4), 471.030, 471.730(1)
Statutes/Other Implemented: 459A.725

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. **Every beverage container sold or offered for sale in Oregon shall have a refund value unless exempt under ORS 459A.705 or these rules.***

*(2) ~~The following beverages~~ **Beverage containers with the following beverage types are exempt:***

- (a) Distilled Spirits;
- (b) Wine;
- (c) Milk and ~~P~~ **plant-based milks;**
- (d) Infant ~~F~~ **formula;** and
- (e) **Liquid meal replacements.**

*(3) The following container ~~types~~ **sizes** are exempt from having a refund value:*

- (a) Any **malt** beverage containers of beer, water, or **carbonated** soft drinks,

kombucha, or hard seltzer beverage container ~~larger~~ **that holds more** than three fluid liters; **and**

(b) Any other beverage containers **that holds** under four ounces ~~and~~ **or** over one and one-half liters.

(4) Any container types other than metal, glass, and plastic bottles and cans are exempt from having a refund value, including the following:

(a) Metal containers that require a tool to be opened;

(b) Foil pouches;

(c) Cartons; and

(d) Drink boxes.

~~(c) Metal containers that require a tool to be opened;~~

~~(d) Foil pouches;~~

~~(e) Cartons; and~~

~~(f) Drink boxes.~~

(5) Manufacturers of kombucha, hard seltzer, oral electrolyte replacement beverages, kefir, drinkable yogurt, buttermilk, smoothies, shakes, any beverage that is primarily milk or plant-based milk but includes other ingredients such as fruit, and any beverage that is primarily milk or plant-based milk but is marketed as a beverage other than a milk, such as a smoothie or shake will have until January 1, 2021 to have these containers labeled with the refund value. Until that date, these containers are redeemable and a container that contains one of these beverages may be sold or offered for sale in Oregon regardless of the refund value or lack of refund value indicated on the containers.

Statutory/Other Authority: ORS 459A & 459A.702

Statutes/Other Implemented: 459A.702 & 459A.705

845-020-0020

Full-Service Redemption Centers

(1) The Commission shall approve a **full-service** redemption center if it finds the redemption center ~~will~~ **provides** 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 **the following** factors ~~such as the following~~ in determining whether or not a **full-service** 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 a 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 a redemption center zone that will not be served by the redemption center and their distance from the redemption center.

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

(f) Parking facilities serving the redemption center;

(g) Evidence showing that the redemption center **will be located in an area zoned for commercial use under state statute or local ordinance or will be located in an area that will provide more convenient service given the proximity of the location to the dealers within the convenience zones;**

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

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

(j) 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; and

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

(3) Annual Registration. Once a full-service redemption center is approved by the Commission, the person responsible for the operation of the full-service redemption center must register with the Commission and pay the prescribed fee by July 1 of each calendar year for the upcoming year.

(a) The annual registration form will be furnished by the Commission. The registration form will not be considered complete unless the person responsible for the operation of the redemption center provides the Commission with the following:

(A) A list and exact address of each redemption center the person is responsible for operating during the upcoming year;

(B) The fee for each full-service redemption center the person is responsible for operating; and

(C) Any additional information needed to process the registration.

(b) The Commission will withdraw its approval of the redemption center if a person responsible for operating the redemption center fails to submit the required information or pay the required fee by July 1 of each year. Once the Commission withdraws its approval, the redemption center will be required to cease all operations until the required information or required fee is submitted.

(4) Full-Service Redemption Center Convenience Zones. For each full-service redemption center, the Commission must specify up to two convenience zones. Full-service redemption centers are not required to have a second convenience zone.

(a) The first convenience zone must be the sector within a radius of not more than two miles around the full-service redemption center.

(b) The second convenience zone must be the sector beginning at the border of the first convenience zone and continuing to a radius of not more than three and one-half miles around the full-service redemption center.

Statutory/Other Authority: ORS 459A.735

Statutes/Other Implemented: ORS 459A.735

845-020-0025

Application for Approval ~~of~~ for a Full-Service Redemption Center

Any person desiring approval of a **full-service** 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 a

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 a 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 a redemption center zone that will be served;

(7) Distances from the redemption center to dealers occupying 5,000 or more square feet within a 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 showing that a redemption center ~~meets the zoning requirements and other applicable local ordinances of the regulating local jurisdiction~~ **will be located in an area zoned for commercial use under state statute or local ordinance or will be located in an area that will provide more convenient service given the proximity of the location to the dealers within the convenience zones;**

(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; and

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

Statutory/Other Authority: ORS 459A.735 & 459A.737

Statutes/Other Implemented: ORS 459A.735

845-020-0027

Dealer Redemption Centers

(1) Requirements. An individual may establish a dealer redemption center to serve one or more dealers doing business in an area that is not part of a full-service redemption center convenience zone specified by the Commission under ORS 459A.738 and 845-020-0020(4). An individual operating a dealer redemption center must:

(a) Provide a secure drop-off service at no charge for empty beverage containers

to be returned by any person for the refund value established by ORS 459A.705 in a bag or other bulk return container sold for that purpose;

(b) Provide an accounting mechanism by which a person may redeem the refund value of beverage containers returned in bulk either immediately in cash from a dealer participating in the dealer redemption center or no later than one week after the beverage containers are dropped off;

(c) Be serviced by a distributor cooperative for purposes of transporting and processing redeemed beverage containers;

(d) Be available for persons to return beverage containers to the dealer redemption center during any time that a participating dealer is open between the hours of 8 a.m. and 8 p.m. Notwithstanding the provisions of this subsection, the dealer where the dealer redemption center is located must accept beverage containers and pay the refund value pursuant to ORS 459A.710 and ORS 459A.715 at all hours the dealer is open; and

(e) Be of a sufficient capacity to provide a convenient service to the public as the Commission may determine.

(2) Distributor Cooperative Responsibilities.

(a) A distributor cooperative that services a dealer redemption center must provide notice to the Commission no later than 14 days after the date that a dealer redemption center:

(A) Begins providing drop-off service to persons for the return of empty beverage containers; or

(B) Ceases operations.

(b) A distributor cooperative that services a dealer redemption center must annually provide the Commission the names and addresses of the dealers served by all dealer redemption centers serviced by the distributor cooperative and such additional information as the Commission may require.

(3) Dealer Redemption Participation. Any dealer doing business within a dealer redemption center convenience zone established by the Commission may participate in and be served by the dealer redemption center if the dealer pays the cost of participation. Any dealer doing business with an established dealer redemption center convenience zone that pays the cost of participating may refuse to accept and to pay the refund value of more than 24 individual empty beverage containers returned by any one person during one day.

(4) Dealer Redemption Center Convenience Zones. If a dealer redemption center

is established in a city having a population of less than 10,000 people, the Commission shall specify a dealer redemption center convenience zone of the sector within a radius of not more than one mile around the dealer redemption center.

Statutory/Other Authority: ORS 459A, 2019 OL Ch. 279

Statutes/Other Implemented: 2019 OL Ch. 279

845-020-0035

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) **The area of the business** ~~o~~ occupies a total enclosed space of 5,000 or more square feet in a single location and has not offered the kind of beverage for sale within the past six months;

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

(c) **The dealer** ~~h~~ has reasonable grounds to believe the **beverage** was sold at retail outside Oregon;

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

(e) **The dealer** ~~h~~ has reasonable grounds to believe that the container has already been redeemed, such as through a reverse vending process.

(2) Dealers must not use this rule to frustrate the requirement of the Beverage Container Act that **requires** dealers **to** accept return of **beverage containers**. **If a person attempts to return a fewer number of redeemable beverage containers than the number stated below, the dealer must accept those containers. A dealer is not prohibited from accepting more beverage containers than the applicable amount, but if the dealer limits returns to the number stated below, it must post a clearly visible and legible sign containing the information set forth in ORS 459A.715(3). Dealers must 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; *The dealer may limit returns to 144 containers per person per day only if it posts a*

~~clearly visible and legible sign containing the information in ORS 459A.715(3)(a).~~

(b) 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, is in a **full-service** redemption center zone, and is approved by the Commission for an exemption under ORS 459A.738(5)(c); ~~The dealer may limit returns to 144 containers per person per day only if it posts a clearly visible and legible sign containing the information in ORS 459A.715(3)(a).~~

(c) 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 **full-service** redemption center zone; ~~The dealer may limit returns to 50 containers per person per day only if it posts a clearly visible and legible sign containing the information in ORS 459A.715(3)(a).~~

(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 5,000 or more square feet in a single location, is in **zone 2** of a redemption center, and participates in that redemption center; ~~The dealer may limit returns to 24 containers per person per day only if it posts a clearly visible and legible sign containing the information in ORS 459A.715(3)(a).~~

(e) 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 **full-service** redemption center zone; ~~The dealer may limit returns to 24 containers per person per day only if it posts a clearly visible and legible sign containing the information in ORS 459A.715(3)(a).~~

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

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

Statutory/Other Authority: ORS 459A.705, 459A.738 & ORS 459A.715
Statutes/Other Implemented: 459A.738

845-020-0040
Sanctions and Civil Penalties

(1) The Commission is charged with ensuring:

(a) C onsumers are able to return redeemable containers to dealers redemption centers; and

(b) D ealers are able to return containers to distributors and distributor cooperatives.

(2) Sanctions. The Commission ~~will~~ **may** impose a civil penalty for any violation of Chapter 459A and Division 20 of Oregon Administrative Rules 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 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) **(a) Non-compliant dealers, distributors, distributor cooperatives, importers, or manufacturers** may be subject to violations **of any provision of ORS 459A.700 to 459A.740 per ORS 459A.717(1).** ~~per ORS 459A.717(2).~~

(b) Notwithstanding subsection (a) of this rule, non-compliant distributors and importers, as described in ORS 459A.718(5), and non-compliant dealers, as described in ORS 459A.738(5), may be subject to violations per ORS 459A.717(2).

Statutory/Other Authority: ORS 459A.710, 459A.717 & 459A.718

Statutes/Other Implemented: 459A.717