OREGON LIQUOR CONTROL COMMISSION
CHAPTER 845
DISTILLED SPIRITS TASTINGS
PROPOSED AMENDMENT

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

845-005-0428
Retail On-Premises Distilled Spirits Sampling Involving Distillery Representative

(1) Full On-Premises Sales licensees may allow a distillery with products approved for sale in Oregon (distillery) and its representatives, employees, contractors, and agents to participate in distilled spirits educational seminars and sample tasting events. These events must be sponsored by the Full On-Premises Sales licensee and be held on the Full On-Premises Sales licensee's permanently (not temporarily) licensed premises.

(2) Sample Tasting Events. These are events sponsored by the Full On-Premises Sales licensee where a distillery and its representatives, employees, contractors, and agents visit the Full On-Premises Sales licensee's permanently licensed premises for the purpose of offering free sample tastings of the distillery's product to customers of the Full On-Premises Sales licensee. At any event allowed by sections (2) through (7) of this rule, the Full On-Premises Sales licensee is responsible for ensuring that the distillery and its representatives, employees, contractors, and agents:

(a) Provide or pay for the person to serve the distilled spirit tasting. The server must be the distillery's representative, employee, contractor, or agent. The server may not be an employee or agent of the Full On-Premises licensee where the tastings occur. All servers must have valid Oregon Service Permits;

(b) Do not compensate the Full On-Premises Sales licensee or its employees or agents in order to conduct the tasting event;

(c) Do not sell, serve, or coordinate the sale or service of alcohol for the Full On-Premises Sales licensee or its employees or agents;

(d) Do not advertise the tasting. The Full On-Premises Sales licensee may advertise the tasting event only inside its retail business;

(e) Do not provide any other service normally provided by the Full On-Premises Sales licensee (for example: taking orders for alcohol or food, serving drinks to customers, promoting alcohol beyond service of the sample tasting);

(f) Provide the product to be sampled, and remove any remaining product at the end of the tasting;
(g) Provide only product approved for sale in Oregon;

(h) Do not give anything prohibited by division 13 of chapter 845 of the Commission's administrative rules to a retailer or its customers;

(i) Comply with ORS 471.398, and division 13 of chapter 845 of the Commission's administrative rules.

(3) Tastings allowed under sections (2) though (7) of this rule are permitted only in premises or portions of premises where minors are not allowed, either due to an existing OLCC minor posting sign which prohibits minors, or because the event is not open to minor patronage.

(4) Sample tasting sizes, number of samples per customer. At sample tasting events allowed under sections (2) through (7) of this rule, sample tastings are limited to two free samples of one-quarter ounce each per customer per tasting session, or one free sample of no more than one-half ounce of alcohol per customer per tasting session. A tasting shall be no more than one-quarter fluid ounce of distilled spirits in a single container. The container may also contain nonalcoholic beverages; however, the total amount of liquid in the container may be no more than two ounces. A distillery and its representatives, employees, contractors, and agents may not provide more than one-half ounce total of distilled spirits samples per customer per day. For purposes of this rule, a day is from 7:00 a.m. until 2:30 a.m. on the succeeding calendar day.

(5) Number of sample tasting events allowed. Each Full On-Premises Sales licensee shall sponsor no more than eight sample tasting events (as described in sections (2) through (7) of this rule) per calendar year on its premises.

(6) Violations associated with sample tastings. In the case of a liquor law violation associated with a sample tasting allowed under sections (2) through (7) of this rule, the Full On-Premises Sales licensee will be held responsible. When the violation also involves a server (for example, service of a sample to a minor or a visibly intoxicated person), both the server and the Full On-Premises Sales licensee will be held responsible.

(7) Record keeping. The Full On-Premises Sales licensee must keep a record of each tasting event it sponsors, including the date and location of each event, the products served, and the names of the servers. Records of tasting events must be retained for one year from the date of the tasting.

(8) Promotional Dinner Events. These are events sponsored by a Full On-Premises Sales licensee on its permanently licensed premises where it accepts assistance from the distillery and its representatives, employees, contractors, and agents, where meals are served, and multiple servings/samples (“flights”) of distilled spirits accompany the meals. These are not considered sample tasting events as described in sections (2)
through (7) of this rule. At all promotional dinner events the Full On-Premises Sales licensees must meet the Commission’s food service standards as described in OAR 845-006-0459 through 845-006-0469. All distilled spirits consumed at promotional dinner events as described in this section must be purchased by the Full On-Premises Sales licensee from a retail sales agent of the Commission or from another Full On-Premises Sales licensee who has purchased the distilled spirits from a retail sales agent of the Commission. All advertising of the promotional dinner event must be purchased by the Full On-Premises Sales licensee.

(a) Each Full On-Premises Sales licensee may sponsor no more than eight promotional dinner events per calendar year on its premises.

(b) At events allowed under this section, the Full On-Premises Sales licensee is responsible for ensuring that the distillery and its representatives, employees, contractors, and agents:

(A) Provide only education to patrons and staff (the distillery and its representatives, employees, contractors, and agents may not pour, serve or sell alcoholic beverages);

(B) Participate in these promotional events only for the products they represent;

(C) Do not compensate any employee or agent of the retail licensee to participate in any promotional event as described in this section;

(D) Do not pay for advertising the event;

(E) Do not donate, give, pay for, underwrite, or otherwise compensate the Full On-Premises Sales licensee for the distilled spirits consumed at the promotional dinner event.

(c) The Full On-Premises Sales licensee must keep a record of each promotional dinner event it holds, including the date and location of each event, the proof of purchase of each product(s) served, the distillery or distilleries represented, and the name of each distillery representative, employee, contractor, or agent who participated in an educational capacity at the event. These records must be retained by the Full On-Premises Sales licensee for one year from the date of the promotional dinner event.

(9) Violation of sections (2) through (8) of this rule are Category III violations.

(10) A distillery and its representatives, employees, contractors, and agents may offer samples not exceeding one-quarter ounce of alcohol per sample by measured pour to those attending an industry trade show.

Stat. Auth.: ORS 471, including 471.030, 471.040 & 471.730(1) & (5)
Stats. Implemented: ORS 471.398 & 471.750
(1) The Commission allows sponsors to conduct distilled spirits sample tastings in retail liquor stores at the sole discretion of the retail sales agent for the purpose of promoting the sponsor's products. For purposes of this rule, "sponsors" are: Oregon Distillery licensees, out-of-state manufacturers of distilled spirits, importers of distilled spirits, distillery representatives, and the employees or agents of Distillery licensees, out-of-state manufacturers, importers, and distillery representatives. Sample tastings are subject to the requirements and limits described in this rule.

(2) Sample Sizes, Number of Samples per Customer. The size of each distilled spirits sample must not exceed one-quarter ounce per sample. **Tasting shall be no more than one-quarter fluid ounce of distilled spirits in a single container. The container may also contain nonalcoholic beverages; however, the total amount of liquid in the container may be no more than two ounces. **Tastings are limited to two samples per customer per tasting session. A sponsor may not provide more than one-half ounce total of distilled spirits samples per customer per day.

(3) The product(s) provided for sample tastings must be available for sale at the retail sales agency where the sample tasting occurs at the time of the sample tasting.

(4) Identified Tasting Area. Retail sales agents who allow tastings at their retail liquor store must identify a specific tasting area. The area must be of a size and design such that the person(s) conducting the tasting can observe and control persons in the area to ensure no minors or visibly intoxicated persons possess or consume alcohol. Customers must remain in the tasting area until they have finished consuming the sample(s). In exclusive retail liquor stores, the tasting area may be the entire retail liquor store. In non-exclusive retail liquor stores, the retail sales agent must identify a tasting area, and keep on file at the retail liquor store a floor plan sketch identifying the tasting area.

(5) Duration of Tastings Allowed. Tastings are limited to a maximum of three consecutive hours per sponsor per retail sales agency per day. Only one sponsor at a time may conduct sample tastings in a retail sales agency.

(6) Server Requirements. Alcohol servers must have valid Oregon service permits.

(7) Record Keeping. The sponsor must keep a record of each tasting they conduct, including the date and location of each event, the products served, and the names of the servers. The sponsor must retain records of tastings for one year.

(8) Sponsor responsibilities. Sponsors must:
(a) Provide the product to be tasted, and remove any remaining product at the end of the tasting;

(b) Provide or pay for a person to serve the distilled spirits being tasted. The server must be a sponsor or an employee or agent of the sponsor;

(c) Not compensate the retail sales agent, or any employee or agent of the retail sales agent to participate in the tasting; and

(d) Not advertise the tasting outside of the retail liquor store.

(9) Retail Sales Agent Responsibilities. Retail sales agents:

(a) Must not advertise the sample tasting outside the retail sales agency; and

(b) Are responsible for liquor law violations occurring in the retail sales agency which are not related to the sample tasting.

(10) Violations Associated with the Sample Tasting. In the case of a liquor law violation associated with sample tasting (for example, service of a sample to a minor or a visibly intoxicated person), both the server and the sponsor may be held responsible for violations of Oregon liquor laws which occur due to or during the tasting. Violations which occur due to a sponsor or server violating the law will not be charged to the retail sales agent.

Stat. Auth.: ORS 471, including 471.030, 471.730(1) & (5)
Stats. Implemented: ORS 471.750(4)