



## OREGON LIQUOR & CANNABIS COMMISSION

### BREWERY – CONSUMPTION Primary License Privileges

#### Introduction

- Oregon Revised Statute (ORS) 471.221 authorizes the brewery license and its license privileges, including the ability to have a primary (1<sup>st</sup>) location along with optional 2<sup>nd</sup> and 3<sup>rd</sup> locations.

#### A brewery – consumption license at the primary (1<sup>st</sup>) location

- The OLCC license fee is \$1,000 per year.
- May make malt beverages at this location.
- Eligible to import into Oregon malt beverages to this location; however, only malt beverages of a brand produced by a manufacturer that is under common control with the brewery licensee. See 471.221 for the definition of “common control.”
- Eligible to export out of Oregon malt beverages from this location that:
  - Were produced on the licensed premises; or
  - Are of a brand produced by a manufacturer that is under common control with the brewery licensee.
- Eligible to receive malt beverages produced under a custom order agreement as described later in this document.
- Oregon has no requirements regarding shipping or delivering malt beverages to a business or individual outside of Oregon; however, the state or country in which the business or individual is located may have requirements.
- May distribute malt beverages from this location in Oregon only to a wholesale malt beverage and wine (WMBW) licensee of the Commission. May not distribute malt beverages in Oregon directly to any other Oregon licensee, including not directly distributing to the brewery licensee’s 2<sup>nd</sup> and 3<sup>rd</sup> locations.
- Eligible to obtain a WMBW license (and then use the WMBW license to distribute malt beverages directly to other Oregon licensees, including the licensee’s 2<sup>nd</sup> and 3<sup>rd</sup> locations). May obtain the WMBW license at this location provided any retail functions are kept separate from the wholesaling functions.
- Eligible to obtain an Oregon winery license but only if the winery holds a valid producer and blender permit from the TTB and uses the premises to produce wine or cider.
- On-premises: May sell and serve by the drink at retail to consumers for consumption on your licensed premises:
  - \* Malt beverages (beer), wine, and cider.
- Off-Premises: May sell at retail to consumers for consumption off your licensed premises:
  - \* Malt beverages, wine, and cider in factory-sealed containers. There is no minimum or maximum container size or volume limit to sell, but there are delivery limits (see the delivery rules).
  - \* Malt beverages, wine, and cider in a securely covered container (growler). The container may not hold more than two gallons; however, there is no minimum container size limit. There are delivery limits (see the delivery rules).
- May deliver factory-sealed containers and securely covered containers (growlers) of malt beverages (beer), wine, and cider direct to consumer for consumption off your licensed premises; however, must follow the delivery rules at OAR 845-006-0392 and 845-006-0396.
- The licensee (and certain others associated with the licensee, see ORS 471.221) may not sell malt beverages at retail at more than three locations in Oregon.
- Eligible to obtain a full on-premises sales license at this location.
- Eligible to apply for a special event brewery (SEB) license.
- Must obtain an OLCC privilege tax bond.
- “BRW” designates a license that allows on-premises consumption (including tastings) of alcohol by patrons. Must meet the alcohol server education, service permit, and liquor liability insurance requirements.



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- “BRWNC” designates a licensee that does not allow any on-premises consumption of alcohol by patrons. Eligible to be exempted from the alcohol server education, service permit, and liquor liability insurance requirements.
- Alternating proprietorship. This is a term used by the federal Alcohol and Tobacco Tax and Trade Bureau (TTB) to describe an arrangement at a licensed premises where two or more parties use the same premises and equipment to make an alcoholic beverage (in this case, malt beverages).
  - At a premises with a brewery license. Each party must have its own brewery (not brewery-public house) 1<sup>st</sup> location license.
  - At premises with a brewery-public house license. A brewery and a brewery-public house may not be licensed at the same address.

#### **Prohibited Financial Assistance from Manufacturer/Wholesaler to Retailer**

- ORS 471.392 defines a brewery as a manufacturer or wholesaler.
- ORS 471.398 prohibits a manufacturer or wholesaler from providing financial assistance to a full on-premises, limited on-premises, off-premises, brewery-public house, or temporary sales licensee unless allowed by exception.
- For the primary exceptions, see the “Supplier-Retailer Relations” guide.

#### **Private Labels**

- Private labels. May produce and then sell malt beverages to retail licensees under a private label but must follow OAR 845-010-0206.

#### **Custom Order Agreements**

- Custom Order Agreement to ***produce*** malt beverages for another OLCC licensee (see OAR 845-006-0410):
  - A “custom order agreement” means an agreement whereby a brewery licensee agrees to produce or manufacture malt beverages based on certain specifications for a commission licensee as described in OAR 845-006-0410(4).
  - Malt beverages produced under a custom order agreement are produced by the producing brewery licensee and not by the receiving licensee.
  - Privilege taxes for malt beverages produced under a custom order agreement are due from the producing licensee when the producing licensee sells or transfers the malt beverage to the receiving licensee. Despite this requirement, the producing licensee may qualify for nonpayment of privilege taxes under ORS 473.050.
  - Must follow OAR 845-006-0410, section (4).
    - May ***not*** use a custom order agreement to produce malt beverages for a full on-premises, limited on-premises, off-premises, or temporary sales license. However, despite this requirement, may use a custom order agreement to produce malt beverages for a full on-premises licensee licensed to the same licensee of record as the brewery licensee.
    - May use a custom order agreement to produce malt beverages for a brewery-public house licensee.
      - \* The custom order agreement must be in writing, must identify the malt beverage by a specific formula, and must identify a defined period of time for the agreement that is no longer than 60 days from production to delivery of the malt beverage to the receiving licensee.
      - \* The agreement may not allow the producing brewery licensee to store the malt beverage longer than the 60-day time period.
      - \* As per OAR 845-006-0410, sections (2) and (3), the malt beverages are produced by the brewery licensee. This means the brewery licensee is responsible for paying Oregon



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privilege taxes and the brewery-public house licensee may only sell the malt beverages at retail (the brewery-public house licensee may not wholesale or distribute the malt beverages).

- May use a custom order agreement to produce malt beverages for a manufacturer or wholesaler as defined in ORS 471.392.
- Custom Order Agreement to **receive** malt beverages produced by a different brewery licensee or a brewery-public house licensee:
  - May use a custom order agreement to receive malt beverages produced by a different brewery or a brewery-public house licensee.
  - May sell these malt beverages to individual consumers (non-licensees of the OLCC) for consumption on the licensed premises.
  - May sell these malt beverages to individual consumers (non-licensees of the OLCC) in factory-sealed containers for consumption off the licensed premises. There is no minimum or maximum container size limit.
  - May sell these malt beverages to individual consumers in a securely covered container (“growler”) for consumption off the licensed premises. The container may not hold more than 2 gallons; however, there is no minimum container size limit.
  - If the brewery licensee also holds a WMBW license, may wholesale and distribute these malt beverages under the WMBW license.

#### **Alternating Proprietorship**

- This is a term used by the federal Alcohol and Tobacco Tax and Trade Bureau (TTB) to describe an arrangement at a licensed premises where two or more parties use the same premises and equipment to make an alcoholic beverage (in this case, malt beverages).
  - At a premises with a brewery license. Each party must have its own brewery (not brewery-public house) 1<sup>st</sup> location license.
  - At premises with a brewery-public house license. A brewery and a brewery-public house may not be licensed at the same address.

#### **Some Links**

- CAMP Customer Portal: [CAMP Customer Portal](#)
- Alcoholic liquor laws: [ORS 471](#)
- Wine and cider delivery to consumer: [OAR 845-006-0392](#)
- Malt beverage delivery to a consumer: [OAR 845-006-0396](#)
- Custom order agreements: [OAR 845-006-0410](#)
- Private label agreements: [OAR 845-010-0206](#)
- [Supplier-Retailer Relations Guide](#)
- For inquiries regarding OLCC privilege tax bond: [olcc.bonds@olcc.oregon.gov](mailto:olcc.bonds@olcc.oregon.gov)
- For inquiries regarding OLCC privilege tax online: [olcc.privilegetaxonline@olcc.oregon.gov](mailto:olcc.privilegetaxonline@olcc.oregon.gov)
- For alcohol service permit questions: [olcc.servicepermits@olcc.oregon.gov](mailto:olcc.servicepermits@olcc.oregon.gov)
- For general liquor licensing questions: [olcc.alcohollicensing@olcc.oregon.gov](mailto:olcc.alcohollicensing@olcc.oregon.gov)
- For liquor license renewal inquiries: [olcc.renewals@olcc.oregon.gov](mailto:olcc.renewals@olcc.oregon.gov)
- For liquor compliance or enforcement inquiries: [alcohol.olcc@olcc.oregon.gov](mailto:alcohol.olcc@olcc.oregon.gov)