

OPEN RECRUITMENT - INDEPENDENT CONTRACTORS
EXPANDING THE NUMBER OF OREGON'S LIQUOR SALES OUTLETS

Overview

About 30 years ago, Oregon had one liquor store for every 12,000 Oregonians. Today the Commission operates 248 liquor outlets, but with the continued rise in the state's population the current ratio is about 16,000 Oregonians per liquor outlet. The greatest disparity exists in the Portland Metro area, which includes Clackamas, Washington and Multnomah counties. Currently there are only 68 stores in the tri-county area, resulting in a ratio of over 25,000 customers per liquor outlet; well above the state's historic and existing ratio. Reducing this ratio will result in increased customer convenience, particularly as population continues to rise, and has the potential to increase state revenue as stores are sited in underserved areas.

Area	Population*	# Stores	Population Per Store
Washington	560,465	20	28,023
Clackamas	391,562	17	23,033
Multnomah	765,775	31	24,702
Tri-County	1,717,812	68	25,262
Statewide	3,962,710	248	15,979

*2014 Data, Portland State University Population Research Center

Applications in all zip codes within Washington, Clackamas, and Multnomah County will be considered based on business plan and consumer demand.

The following zip codes in the tri-county area have significant population and no stores:

97119 Gaston	97024 Fairview	97227 Portland	97009 Boring
97113 Cornelius	97060 Troutdale	97231 Portland	97027 Gladstone
97133 North Plains	97218 Portland	97233 Portland	97089 Damascus
97124 Hillsboro	97221 Portland	97004 Beaver Creek	

In addition, Oregonians have grown more sophisticated and have greater demand for modern, consumer-friendly shopping and higher levels of convenience than ever before. This combination presents a unique opportunity for the Commission to increase store density while exploring new and innovative business models to meet the state's highly convenience-driven market. As such, OLCC staff proposes an open recruitment plan for new locations and agents utilizing all types of retail store models, thereby widening the range of choices Oregon shoppers have for obtaining distilled spirits. Staff recommends initially focusing on the tri-county Portland Metro area, but ultimately expanding the recruitment statewide. Existing agents are encouraged to apply.

As described below in more detail, this recruitment will not be a deviation from the Commission's traditional processes for establishing new stores, but will be unique in a few ways. First, it will seek to establish multiple new locations in a given market at once, thereby narrowing the store to customer ratio at a faster rate. In addition, rather than the Commission selecting a store location and seeking an agent to operate it, staff believes a greater pool of potential outlets can be generated by asking applicants to submit their location and business model ideas to the Commission, which could include existing businesses with established customer bases and sales records.

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Differences from the Commission's existing process:

- 1) In the open recruiting process, existing liquor store agents are exempt from the two-store limitation as outlined in the Retail Operations Manual
- 2) Applicants have the ability to identify potential locations and propose a wide array of business models
- 3) Applicants may submit an application for multiple locations; the Commission will consider each location separately
- 4) Minor control plans will be requested from applicants who choose a sales model without a separate entrance

This open recruitment will seek applicants for the agency's existing liquor sales models:

Types of Stores	Exclusive - Traditional, store that sells only distilled spirits and a set list of related items
	Non-Exclusive - Distilled spirits are sold in conjunction with another business which may include beer and wine
What a Location Looks Like (Can be exclusive or non-exclusive)	1) Free standing store – Sells only distilled spirits and related items or sells distilled spirits, wine, beer and related items
	2) Located in another business: a) <u>No separate entrance</u> - under the roof of another business b) <u>Separate entrance</u> - under the roof of another business

Currently, the agency has 248 liquor outlets with the following number of liquor sales models operating throughout Oregon:

Types of Stores	Exclusive - Traditional, store that sells only distilled spirits and a set list of related items (126 stores)
	Non-Exclusive - Distilled spirits are sold in conjunction with another business which may include beer and wine (122 stores)
What a Location Looks Like (Can be exclusive or non-exclusive)	1) Free standing store – Sells only distilled spirits and related items or sells distilled spirits, wine, beer, and related items (150 locations)
	2) Located in another business: a) <u>No separate entrance</u> - under the roof of another business (91 locations) b) <u>Separate entrance</u> - under the roof of another business (7 locations)

Staff believes an open recruitment, focused primarily on the business plan of the proposed agent rather than the type of store being proposed, will give the Commission the widest array of potential locations

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and settings to choose from, which will ultimately benefit the state's customers by enlarging the options they have when shopping for distilled spirits.

Characteristics of the Recruitment

The open recruitment will have the following basic components:

- **Store Locations.** OLCC will create an open posting in the Portland Metro area (Washington, Clackamas and Multnomah counties), requesting proposals for store locations selected by the applicants. Staff anticipates using the pool of applicants from the recruitment process to establish up to 17 new stores in the tri-county area by the end of 2016.
- **Types of Stores.** All models of retail liquor sales will be encouraged. The Commission will consider proposals to place distilled spirits at customer service counters or co-located with other non-liquor items of an existing retail business, rather than requiring that distilled spirits be located in a separate, closed off section.
- **Store Ownership.** The Commission will allow an agent to be appointed to more than two stores, but only under this open recruitment.
- **Agent Selection Procedure.** The Commission will augment the agent selection process to include business, marketing and minor control plans as criteria for agent selection.
- **Agent Compensation.** Agents are paid a base rate and variable compensation, while the Commission pays bank card fees for sales of distilled liquor according to current practice.
- **Minors.** Currently, by rule, minors are not allowed in liquor stores unless accompanied by a legal guardian, parent, or of-age spouse or domestic partner. Concurrent with this recruitment, the Commission will engage in formal rulemaking to create an exception that allows an applicant to submit a control plan showing how the applicant will prevent minor access and theft, in lieu of being required to comply with the complete prohibition on minors being present in a retail liquor store.
- **Public Notice.** The Commission will provide public notice at the proposed location after the Commission selects an applicant's proposal. The final approval of the agent appointment is contingent upon public comment (see timeline).

Recruitment Posting Process

OLCC staff will create an open posting to advertise this recruitment, and will include a packet of materials for applicants to complete in order to apply for appointment. The Commission will seek a diverse applicant pool and hold informational meetings to give background on the OLCC and to explain the requirements and application process. The Commission is exempt from general public contracting requirements for selection of its liquor agents, and therefore has some flexibility on what these materials can look like, the time period for advertising openings, and the selection process itself. *See* ORS 279A.025(2)(j). Staff anticipates that the posting packet will include the application forms, information on the application process and selection criteria described below, and target opening dates. Staff proposes to have an advertising window of 60 days from the time the posting is first published. Staff may recommend extending the posting period depending on the number of applicants received and geographic distribution of proposed store locations.

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Agent and Store Location Selection Process

The open posting will direct applicants to submit proposals which will be assessed against a set of criteria listed in the posting. Once the posting period is closed, OLCC staff will use a scoring method to evaluating each of these criteria, and will use the same method for all applicants to ensure uniform evaluation of each submitted proposal. Staff will continue to refine the selection requirements prior to opening the recruitment, but at this time expect to evaluate applications based upon the following criteria:

- Knowledge of applicant related to liquor and/or alcohol sales;
- Retail business experience of applicant;
- Applicant's knowledge of retail operations, merchandising, and business management;
- Demonstration of applicant's customer service skills;
- Demonstration of supervisory ability and experience of applicant;
- Financial condition of applicant;
- Proposed locations' impact on current liquor agent(s);
- Applicant's business plan (will be a required part of the application packet); and
- Expected consumer sales at an applicant's proposed location(s) (supporting information may include expected traffic flow, population, and other factors).

OLCC staff will perform an initial screening of applicants based on the established criteria, which is anticipated to take approximately 30 days from the time the application period closes. This period may be shorter or longer depending on the number of applications received. Staff will then present recommendations to the Commission, and the Commission will review the recommended applicants, their proposal packets, and make agent appointments. Staff anticipates that agent selections for the Portland metro market could occur as early as February or March 2016, depending on the number of applicants that are put forward for Commission evaluation.

As noted above, staff proposes to initially focus the Commission's growth efforts in the Portland Metro market. Staff believes that once selections under this open posting for the tri-county area are complete, staff could begin accepting applications from candidates in other underserved markets, so as to continue the Commission's recruitment process throughout the state.

Anticipated Rulemaking and Commission Action

This open recruitment envisions establishing a higher number of new stores than is typically done at one time, but other than seeking location and sales model input from potential applicants it is substantially similar to the Commission's traditional processes. There are two issues, however, that will need some rule adjustment or Commission action in order to enhance the pool of applicants the Commission seeks in this posting:

- **Minors in Liquor Stores.** As noted above, OAR 845-015-0148 prohibits anyone under the age of 21 from being in a liquor store unless accompanied by a parent, guardian, spouse or domestic partner of legal age. Staff anticipates that this recruitment may attract existing businesses interested in adding distilled spirits to their shelves and inventory, but a complete prohibition on minors in stores may not line up with their established store layout or sales models. To make this

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opportunity available to a wider range of businesses, staff proposes that the Commission use the rulemaking process to create an exception to this rule, and allow applicants to submit an approved minor control plan that shows how the applicant will prevent access to minors and reduce opportunities for theft. Staff anticipates initiating rulemaking to amend OAR 845-015-0148 at the August 27, 2015 Commission meeting.

- **Allowance for Additional Stores.** By Commission decision, agents are only allowed to operate no more than two liquor sales locations. This policy is currently reflected in the Retail Operation Manual. Staff anticipates that some applicants interested in the recruitment may be established retail outlets with multiple stores (i.e. chains or grocery stores). Allowing an exception to the two-store limitation, for purposes of this open recruitment only, would increase the chances of having existing multi-store businesses take part in this recruitment. Staff recommends that the exception apply to existing agents as well, and allow those currently appointed to one or two stores to submit applications for new stores under this recruitment. This exception only applies during the Open Recruitment period.

Timeline

<u>Activity</u>	<u>Date</u>
Recruitment Packet completed	10/16/15
Open Recruitment starts	10/16/15
Applicant Informational Meetings	10/16/15 to 10/30/15
Open Recruitment ends	1/15/16
Application Review	10/30/15 to 2/15/16
Commission Selection	February Commission Meeting (TBA)
Public notice at Commission approved location	February after Commission Selection
Final approval of store opening (no public opposition)	February/early March (14 days after posting)
Final approval of store opening (public opposition)	March Commission Meeting (TBA)

Anticipated Outcome

The growth of the state's liquor outlets has not kept up with the growth in population, and this disparity will only continue to enlarge if additional retail liquor stores are not established. Ultimately, OLCC staff believes that an open recruitment will allow the agency to tap into a wider array of business models than ever before, resulting in a measured but consistent amount of growth in the availability of liquor outlets statewide.

As the recruitment progresses in the Portland Metro area, OLCC staff will monitor the success and impact of new stores in terms of revenue generated for the state, effect on the marketplace, and impact on existing agents in proximity to new stores. The benefits, obstacles, and drawbacks of the Portland area recruitment can then be used to evaluate the utility of expanding it into other, underserved markets within Oregon. OLCC staff anticipates that if this recruitment is successful, the Commission could add additional locations per year in selected market areas over the next several years. This amount of growth would bring the ratio of stores to population within Oregon much closer to the national averages.

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The addition of up to 17 stores has the potential to increase revenue as new stores may be located in underserved areas, accommodating population growth. The amount of revenue generated will be dependent upon the number of applications received and the ultimate siting decisions of the Commission. OLCC will track and monitor growth and if there is an increase in revenue, will employ the normal process to adjust the agency's forecasted distribution and the agent compensation limitation.