

## For your information

The Oregon Liquor Control Commission has:

Amended  
 Adopted  
 Repealed

**OAR 845-005-0428**

Effective: April 1, 2016

**Note:** **Bold and underlined** = new text; *strikethrough and italics* = 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~~ **annually** (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~~ **annually** 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~~. **The server may provide education to patrons and staff.** 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)~~ **(c)** Do not provide any other service normally provided by the Full On-Premises Sales licensee (for example: taking orders for alcohol or food, serving **anything drinks other than sample tastings** to customers, promoting alcohol beyond service of the sample tasting);

~~(f)~~ **(d)** Provide the distilled spirits product to be sampled, and remove any remaining product at the end of the tasting;

~~(g)~~ **(e)** Provide only distilled spirits product approved for sale in Oregon;

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

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

~~(3) Tastings allowed under sections (2) through (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)~~ **(3)** Sample tasting sizes, number of samples per customer. At sample tasting events allowed under ~~sections (2) through (7) of this rule~~, a tasting shall be no more than one-quarter **half** 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~~ **two and one-half fluid ounces** total of distilled spirits 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)~~ **(4)** 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)~~ **(5)** 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)~~ **(6)** 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.~~

**(7) Advertising. The retailer may advertise these events. The distillery may advertise these events as allowed in OAR 845-013-0040.**

~~(9) **(8)** 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, 471.030, 471.040 & 471.730(1) & (5)

Stats. Implemented: ORS 471.398

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 3-2001(Temp), f. & cert. ef. 8-10-01 thru 2-6-02; OLCC 3-2002, f. & cert. ef. 2-15-02; OLCC 7-2005, f. 10-19-05, cert. ef. 11-1-05; OLCC 5-2011, f. 8-15-11, cert. ef. 9-1-11

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