

OREGON LIQUOR CONTROL COMMISSION
CHAPTER 845
PROPOSED AMENDMENTS

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 distilled spirits product to be sampled, and remove any remaining product at the end of the tasting;

(g) Provide only distilled spirits 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) 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) 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 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 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) (8)~~ Violation of sections (2) through ~~(8) (7)~~ of this rule are Category III violations.

~~(10) (9)~~ 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

845-006-0446

Food and Alcohol Events at a Retailer Licensed Premises Involving Suppliers

(1) Definitions. As used in this rule:

(a) "Retailer Licensed Premises" means a premises licensed with a full on-premises sales issued under ORS 471.175, limited on-premises sales issued under ORS 471.178, temporary sales license issued under ORS 471.190, brewery-public house licensed issued under ORS 471.200, or temporary use of an annual license issued under OAR 845-005-0410.

- (b) “Supplier” means manufacturers, wholesalers, and their respective agents.
- (2) Food and Alcohol Events. These are events sponsored by a retailer at a retailer licensed premises where the retailer accepts assistance from one or more suppliers and food service is available at all times and in all areas where alcohol service is available. The retail licensee is responsible for:
- (a) All sale and service of alcohol at the event.
- (b) Meeting the food service requirements at the event.
- (c) Ensuring that a supplier who sells or serves alcoholic beverages at the event has a service permit.
- (d) Ensuring that the supplier does not compensate the retailer or any employee or agent of the retailer to participate in any event as described in this section.
- (e) Ensuring that the supplier does not donate alcohol or sell alcohol at a discount to the retailer and the retailer does not accept donated alcohol or discounted alcohol from a supplier (the retailer must obtain the alcohol from a retail sales agent of the Commission or a supplier authorized to sell alcohol directly to retail licensees of the Commission).
- (3) Food Service Requirements.
- (a) If the event is on a premises licensed with a full on-premises sales license the food service requirements as described in OAR 845-006-0459 through 845-006-0469 must be met at all times and in all areas where alcohol service is available.
- (b) If the event is on a premises licensed with a limited on-premises sales license at least one substantial food item as described in OAR 845-006-0459(1) must be available at all times and in all areas where alcohol service is available.
- (c) If the event is on a premises licensed with a temporary sales license the food service requirements as described in OAR 845-006-0465 must be met at all times and in all areas where alcohol service is available.
- (d) If the event is on a premises licensed with a brewery-public house license at least one substantial food item as described in OAR 845-006-

0459(1) must be available at all times and in all areas where alcohol service is available.

- (e) **If the event is on a premises licensed with a temporary use of an annual license the food service requirements as described in OAR 845-006-0462 must be met at all times and in all areas where alcohol service is available.**
- (4) **Supplier Assistance. OAR 845-013-0001 to 845-013-0110 apply to these events; however, at these events a supplier may provide to a retailer and a retailer may accept from a supplier:**
 - (a) **Food and nonalcoholic beverages and payment for such items.**
 - (b) **Staff or agents of the supplier to provide alcoholic beverages, nonalcoholic beverages, and food service.**
- (5) **Record Keeping. The retail licensee must keep a record of each event it sponsors, including the date and location of each event, the products served, and the names of suppliers. Records of events must be retained for at least one year from the date of the event.**
- (6) **This rule does not apply to items or services a manufacturer or wholesaler provides under OAR 845-013-0090 to a nonprofit or governmental temporary sales licensee as described in OAR 845-013-0090(4)(a).**
- (7) **Violation of sections (2) through (5) of this rule are Category III violations.**

845-006-0450

~~Retail On-Premises Malt Beverage or Wine Sampling: Operating Requirements and Limits~~ Malt Beverage, Wine, or Cider Tastings Involving Suppliers

The Commission allows certain other Oregon licensees to conduct or *participate* **assist** in malt beverage, cider, or wine sample tasting on Full On-Premises Sales, Limited On-Premises Sales, and Off-Premises Sales licensed premises as specified in OAR 845-005-0427, subject to the requirements and limits identified in this rule.

- (1) Sample Sizes. The size of each sample must not exceed one and a half ounces for wine or cider and three ounces for malt beverages.
- (2) Identified Tasting Area. Any Off-Premises Sales retailer who conducts tastings or who allows manufacturers to conduct tastings on the retail premises

must identify a specific tasting area or areas. The area/s 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 or areas until they have finished consuming the sample. The retailer must keep on file at the premises a floor plan identifying the tasting area(s). If a retailer does not have an identified tasting area or areas, the Commission may require prior approval of an area or areas before the retailer conducts any more tastings or allows any more manufacturer-conducted tastings on the premises.

~~(3) Number of In-Store Tastings.~~

~~(a) A manufacturer may be in each retail premises no more than eight times per calendar year for the purpose of tastings, including both manufacturer-conducted tastings and retail-conducted tastings where the manufacturer assists.~~

~~(b) There is no limit on the number of tastings a retailer may conduct, but the retailer must not allow a manufacturer on the retailers premises more than eight times per calendar year for the purpose of tastings.~~

~~(4) Manufacturer Conducted Tastings. A manufacturer may hold tastings on consecutive days in one premises, but the tastings must not exceed two consecutive days. Tastings must be conducted at least four weeks apart. If a manufacturer holds tastings on two consecutive days, they must not hold another tasting on that retail premises for at least four weeks.~~

~~(5) (3) Server Requirements. Alcohol servers must have service permits.~~

~~(6) (4) Record Keeping. The manufacturer or wholesaler 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.~~

~~(7) (5) Manufacturer-Conducted Sample Tastings: Oregon law allows Oregon Winery, Grower Sales Privilege, Brewery, Brewery-Public House and Warehouse licensees and Oregon Certificate of Approval holders, for the product for which they hold the certificate, to conduct tastings if they:~~

~~(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 wine, cider, or malt beverages. The server must be the manufacturer's employee or agent. The manufacturer may not compensate any employee or agent of the retail licensee to participate in the tasting; and~~

~~(c) ~~Do not advertise the tasting.~~ The retailer may advertise the tasting ~~only inside the licensed premises~~ **and the manufacturer may advertise the tasting as allowed in OAR 845-013-0040.**~~

~~(8) (6) Retailer-Conducted Tastings. Retailers with Full On-Premises Sales, Limited On-Premises Sales and Off-Premises Sales licenses may conduct tastings on their licensed premises, **may advertise these events,** and may:~~

(a) Accept assistance from manufacturers, wholesalers and warehouse licensees, and from certificate of approval holders if:

(A) The only assistance provided is an employee to assist. Assist includes pouring if the person meets the requirements in subsection (5);

(B) The retailer pays for the wine, cider, or malt beverages; and

(C) ~~The retailer is responsible for any advertising~~ **Any assistance a manufacturer provides for advertising is provided only as allowed in OAR 845-013-0040.**

(b) Sponsor an unlimited number of tastings if there is no manufacturer, wholesaler, warehouse or certificate holder involved. ~~The retailer may advertise these events.~~

~~(9)~~ **(7)** Prohibitions. Off-Premises Sales licensees at locations where petroleum products are sold shall not conduct or allow sample tasting on the licensed premises or otherwise at the licensed location, unless the licensee operates a fully enclosed retail area encompassing at least 20,000 square feet and tastings take place within that retail area.

Stat. Auth.: ORS 471, including ORS 471.030, ORS 471.040, 471.730(1) & (5)

Stats. Implemented: ORS 471.398 & ORS 471.402

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 15-2002, f. 12-19-02, cert. ef. 1-1-03; OLCC 7-2003(Temp), f. & cert. ef. 5-20-03 thur 11-16-03; OLCC 12-2003, f. 9-23-03, cert. ef. 11-1-03

845-013-0040

Advertising, ORS 471.398(4)

ORS 471.398(4) allows a manufacturer or wholesaler to provide advertising to a retailer.

(1) Except as authorized **in this rule** ~~under section (2) of this rule~~, the only advertising a supplier ~~(manufacturer or wholesaler), or its agents~~, may provide under **ORS 471.398(4)** ~~this statute~~ is generic, off-premises references to the **supplier's** ~~manufacturer or wholesaler's~~ alcoholic beverage products that mention no specific retailer. Some examples include radio and television commercials and billboards.

(2) A supplier, ~~or its agents~~, may make available to its customers, either on the supplier's website or on lists available at the supplier's premises, the names and addresses of the retail licensees that sell products made or distributed by the supplier. Any such list must include all retailers who carry the products without discrimination, for example, an alphabetical or geographical list. The lists may not

include prices or any other information that would appear to promote any particular retailer over other retailers.

(3) A supplier may provide or pay for advertising of the following events. The advertising may list only the name and location of the event along with the name of the supplier's product. No monetary payments of any kind may be made by a supplier to a retail licensee except for payments to purchase advertising allowed under ORS 471.401(1)(d). Any payments for advertising provided under this rule must be made by the supplier directly to the third party provider of the advertising (for example, payments for advertising furnished by the supplier must be made to the media outlet that provides the advertising and not to the retail licensee). Advertising does not include fixtures, furniture or furnishings as prohibited by ORS 471.398(3) and OAR 845-013-0030:

(a) Food and alcohol events that are held at a retailer licensed premises pursuant to OAR 845-006-XXXX.

(b) Tastings held pursuant to OAR 845-006-0450.

~~(3)~~ **(4)** A violation of any section of this rule is a Category III violation.