



Oregon

Kate Brown, Governor

Liquor Control Commission
9079 SE McLoughlin Blvd
Portland, OR 97222-7355
503-872-5136

FOR YOUR INFORMATION **NO ACTION NEEDED**

To: Rulemaking List
Date: January 11, 2016
Re: Notice of an Advisory Committee Meeting: Direct Shipper Package

On December 18th 2015, the Oregon Liquor Control Commission voted to take temporary action and initiate permanent rulemaking to amend OAR 845-005-0417, 845-006-0392, 845-006-0396 & repeal 845-005-0420.

The Oregon Legislature encourages agencies to seek public input to the maximum extent possible before giving notice of intent to amend, adopt or repeal an administrative rule. Agencies may involve the public in many different ways. To assist with the drafting and development of the proposed amendments, the Commission has appointed an advisory committee. Members of this committee represent the interests of persons most likely to be impacted by the proposed rule amendments.

Advisory committee meetings are open to the public. If you would like to observe the committee's discussion, you are welcome to attend. The committee will meet at 9:00 a.m. on Thursday February 11, 2016 at our Portland office (9079 SE McLoughlin Blvd., Portland, OR 97222). For your convenience, copies of the invite list, proposed rule amendments and supporting documents are attached.

Please note, this notice is purely informational. Advisory committees are typically used during the initial stages of the rulemaking process. You will receive a notice of public hearing three to four weeks after the advisory committee meets that includes the time and date of the public hearing and the period for public comments.

If you have questions about this or any other rulemaking matter, please contact me directly, at (503) 872-5136, or by e-mail, at bryant.haley@oregon.gov. Thank you for your interest.

Sincerely,

Bryant Haley
Rules Coordinator
Administrative Policy and Process Division
Oregon Liquor Control Commission
att. AC Invite List; At-A-Glance Initial Action; Proposed Rule Language



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Per ORS 183.333(3):

“If an agency appoints an advisory committee for consideration of a rule under subsection (1) of this section, the agency shall seek the committee’s recommendations on whether the rule will have a fiscal impact, what the extent of that impact will be and whether the rule will have a significant adverse impact on small businesses. If the committee indicates that the rule will have a significant adverse impact on small businesses, the agency shall seek the committee’s recommendations on compliance with ORS 183.540.”

Per ORS 183.540:

“If the statement of cost of compliance effect on small businesses required by ORS 183.335 (2)(b)(E) shows that a rule has a significant adverse effect upon small business, to the extent consistent with the public health and safety purpose of the rule, the agency shall reduce the economic impact of the rule on small business by:

- (1) Establishing differing compliance or reporting requirements or time tables for small business;
- (2) Clarifying, consolidating or simplifying the compliance and reporting requirements under the rule for small business;
- (3) Utilizing objective criteria for standards;
- (4) Exempting small businesses from any or all requirements of the rule; or
- (5) Otherwise establishing less intrusive or less costly alternatives applicable to small business.”

Per OAR 137-001-0007(2):

“If the agency appoints an advisory committee, the agency shall make a good faith effort to ensure that the committee's members represent the interests of persons likely to be affected by the rule. The meetings of the advisory committee shall be open to the public.”



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OLCC Advisory Committee Invitation List

Direct Shipper Package

(amend OAR 845-005-0417, 845-006-0392, 845-006-0396 & repeal 845-005-0420)

Thursday, February 11, 2016 @ 9:00 a.m. – Noon

Invitations have been sent to the following individuals:

Community and Public Safety Representatives

Mitchell Orellana (Portland Police)
Doug Ehrich, Commander (Hillsboro Police Department)
Kathy Stromvig / Anne Pratt (Mothers Against Drunk Driving)
Daniel Estes (Oregon Department of Transportation)
Lisa Frisch / Bill Sinnott (Portland Downtown Retail & Clean & Safe Programs)
Lise Gervais (Public Action Management)
Daniel Ward (Oregon Alcohol & Drug Policy Commission)
Scott Winkels (League of Oregon Cities)
Patty McMillan (Safe Communities Program Coordinator - Clackamas County)
Mike Boyer - (ONI Liquor Licensing Coordinator)

Licensees and Industry Representatives

Bill Perry (Balance point strategies)
Brian Butenschoen (Oregon Brewers Guild)
Brian McMenemy (McMenamin's)
Duke Tufty (Wyse Kadish)
Elaine Albrich (Stoel Rives)
Jesse Lyon (Davis Wright Tremaine)
Judy Craine (Holman Bar & Grill)
Paul Romain (Romain Group)
Mike O'Gorman (Craft brew.com)
Ted Pappas (Oregon Distillers Guild)
Brad Whiting (Clear Creek Distillery, HRD Spirits)
Pete Mulligan (NW Cider Association)
Jesse Stafford (Southern Wine Spirit West)
Glenda Hamstreet (Oregon Restaurant & Lodging Association)
Jason Brandt (ORLA - President)
Jeff Giametta (Davis Wright Tremaine)
Shawn Miller (Lobbyist Grocery - Miller Public Affairs)



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Art Larrance (Licensee)
Phil Donovan (NW Public Affairs)
Michael Mills (ORLA)
Marcus Reed (Craft Brew Alliance)
Danelle Romain (Romain Group)
Janene Grace (Grace Consulting)
Brainard Brauer (Licensee)

OLCC Staff

Bryant Haley (AP&P)
Joshua Williams (AP&P)
Dan Croy (Licensing)
Jesse Sweet (Administration)
Carolyn Moreno (AP&P)
Kelly Routt (AP&P)
Danica Hibpshman (AP&P)



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OREGON LIQUOR CONTROL COMMISSION

Initial & Temporary Rulemaking

Direct Shipper Package

(amend OAR 845-005-0417, 845-006-0392, 845-006-0396 & repeal 845-005-0420)

DECEMBER 2015

Senate Bill 583 passed by the legislature has an effective date of January 1, 2016.

The amendments in the bill added to and revised the qualifications and requirements for the direct shipment of malt beverages, wine, and cider directly to a resident of Oregon.

The amendments and repeal align the rule with the statutory changes made in SB 583.

SUGGESTED MOTIONS:

I move to:

Temporarily adopt the amendments to OAR 845-005-0417, 845-006-0392, 845-006-0396 & repeal 845-005-0420 effective January 1, 2016 to June 28, 2016;

and to

Initiate rulemaking on this matter, and to hold a rulemaking hearing at staff's discretion.



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OREGON LIQUOR CONTROL COMMISSION
CHAPTER 845
PROPOSED AMENDMENTS

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

845-005-0417

Qualifications for Direct Shipment and Retail Delivery of Malt Beverages, Wine, or Cider to a Resident of Oregon

ORS 471.282 allows a person with a Direct Shipper Permit to sell and ~~ship~~ **deliver malt beverages**, wine or cider directly to a resident of Oregon who is at least 21 years of age. 471.186 allows an off-premises sales licensee to deliver **malt beverages**, wine and cider to a resident of Oregon who is at least 21 years of age. *This rule sets the qualifications to obtain a Direct Shipper Permit and for an off-premises sales licensee to obtain approval from the Commission to make same-day delivery of wine and cider.*

(1) **A Direct Shipper Permit allows the delivery of only the type of alcohol allowed by the license that authorizes the person to hold a Direct Shipper Permit.** Only the following persons may qualify for a Direct Shipper Permit:

(a) A person holding a **brewery-public house license issued under ORS 471.200, a winery license issued under ORS 471.223, or a grower sales privilege license issued under 471.227.** **These licenses are issued with a Direct Shipper Permit.**

(b) A person holding a temporary sales license issued under ORS 471.190 that is also a nonprofit trade association and that has a membership primarily composed of persons holding winery licenses issued under 471.223 and grower sales privilege licenses issued under 471.227.

(c) A person holding a license issued by another state within the United States that authorizes the manufacture of **malt beverages**, wine, or cider. **The person in the other state may deliver malt beverages only if that state allows Oregon licensees to deliver malt beverages directly to a resident of that state.**

(d) A person holding a license issued by another state within the United States that authorizes the sale of wine or cider produced only from grapes or other fruit grown under the control of the licensee.

(e) A person holding a license issued by another state within the United States that authorizes the sale of **malt beverages**, wine, or cider at retail for consumption off the



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licensed premises. **The person in the other state may deliver malt beverages only if that state allows Oregon licensees to deliver malt beverages directly to a resident of that state.**

(2) Application for a Direct Shipper Permit. A person, ~~other than an off-premises sales licensee,~~ **described under subsections (1)(b) - (e) of this rule** must make application to the Commission ~~upon forms to be furnished by the Commission~~ and receive a Direct Shipper Permit from the Commission before shipping any **malt beverages**, wine or cider directly to a resident of Oregon. ~~The application shall include:~~ **Applicants must apply in writing using the forms provided by the Commission and submit the required fee. The Commission may require additional forms, documents, or information as part of the application. The Commission may refuse to process any application that is not complete or not accompanied by the documents or disclosures required by the form or the Commission.**

~~(a) If the application is by a person described under subsection (1)(a) of this rule: a statement that the person understands and will follow the requirements listed in OAR 845-006-0392.~~

~~(b) If the application is by a person described under subsection (1)(b) of this rule: a statement that the person understands and will follow the requirements listed in OAR 845-006-0392; a bond or other security described in ORS 471.155 in the minimum amount of \$1,000; and a \$50 fee.~~

~~(c) If the application is by a person described under subsection (1)(c), (1)(d), or (1)(e) of this rule: a statement that the person understands and will follow the requirements listed in OAR 845-006-0392; a true copy of their license; a bond or other security described in ORS 471.155 in the minimum amount of \$1,000; and a \$50 fee.~~

(3) The Commission may revoke or refuse to issue or renew a Direct Shipper Permit if the permit holder or applicant fails to qualify for the permit under this rule or a refusal basis applies under ORS Chapter 471 or any other rule of the Commission and good cause does not overcome the refusal basis.

(4) A Direct Shipper Permit **issued under subsections (1)(c) – (e) of this rule** must be renewed annually.

(a) If the person holds the permit based on a license issued by another state, the permit may be renewed by ~~paying a \$50 renewal fee, providing the Commission with a true copy of a current license issued to the person by the other state, and providing proof of a bond or other security described in ORS 471.155 in the minimum amount of \$1,000~~ **applying in writing using the forms provided by the Commission and submitting**



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the required fee. The Commission may require additional forms, documents, or information as part of the application.

(b) If the person holds the permit based on an annual license issued by this state, the permit may be renewed at the same time that the license is renewed.

(5) ~~Application for~~ Same-Day **and Next-Day** Delivery.

(a) The privilege of next-day delivery of malt beverages, wine, and cider is included with a Direct Shipper Permit and an off-premises sales license.

(b) A person who holds, or is applying for, a Direct Shipper Permit or an off-premises sales license issued by the Commission who intends to provide the service of same-day delivery of **malt beverages**, wine, or cider to a resident of Oregon must make application to the Commission upon forms to be furnished by the Commission and receive approval from the Commission prior to beginning the same-day delivery service. The application for same-day delivery approval shall include a statement that the person understands and will follow the same-day delivery requirements listed in OAR 845-006-0392 **and 845-006-0396**.

(6) The Commission may refuse to process any application required under this rule if the application is not complete and accompanied by the documents or disclosures required by the form. The Commission shall give applicants the opportunity to be heard if the Commission refuses to process an application. A hearing under this subsection is not subject to the requirements for contested case proceedings under ORS Chapter 183.

Stat. Auth.: ORS 471, 471.030, 471.040, 471.186 & 471.730(1) & (5)

Stats. Implemented: ORS 471.155, 471.186, & 471.282 **& 471.305**

Hist.: OLCC 23-2007(Temp), f. 12-14-07, cert. ef. 1-1-08 thru 6-28-08; OLCC 6-2008(Temp), f. & cert. ef. 4-18-08 thru 6-28-08; OLCC 8-2008, f. 6-12-08, cert. ef. 6-29-08

845-005-0420

Qualifications for Same-Day and Next-Day Retail Delivery of Malt Beverages to a Resident of Oregon

ORS 471.305 allows certain licensees of the Commission to deliver malt beverages to customers. This rule describes the qualifications to make same-day and next-day delivery of malt beverages to a resident of Oregon.



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~~(1) Only a holder of one of the following licenses may qualify to deliver malt beverages to a resident of Oregon:~~

~~(a) An off-premises sales license issued under ORS 471.186.~~

~~(b) A brewery-public house license issued under ORS 471.200.~~

~~(2) Notice of Next-Day Delivery. A licensee that intends to provide the service of next-day delivery of malt beverages to a resident of Oregon must notify the Commission in writing prior to beginning the next-day delivery service that it intends to provide this service. All deliveries must meet the requirements set forth in OAR 845-006-0396 for next-day delivery.~~

~~(3) Application for Same-Day Delivery. A licensee that intends to provide the service of same-day delivery of malt beverages to a resident of Oregon must make application to the Commission upon forms to be furnished by the Commission and receive approval from the Commission prior to beginning the same-day delivery service. The application shall include a statement that the person understands and will follow the requirements for same-day delivery listed in OAR 845-006-0396.~~

~~(4) The Commission may refuse to process any application not complete and accompanied by the documents or disclosures required by the form. The Commission shall give applicants the opportunity to be heard if the Commission refuses to process an application. A hearing under this subsection is not subject to the requirements for contested case proceedings under ORS Chapter 183.~~

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

~~Stats. Implemented: ORS 471.305~~

~~Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 14-2002, f. 10-25-02 cert. ef. 11-1-02; OLCC 23-2007(Temp), f. 12-14-07, cert. ef. 1-1-08 thru 6-28-08; OLCC 8-2008, f. 6-12-08, cert. ef. 6-29-08~~

845-006-0392

Requirements for Direct Shipment and Delivery of Wine and Cider to a Resident of Oregon

~~This rule sets the requirements for direct shipment and same-day delivery of wine and cider to a resident of Oregon. A licensee must be approved by the Commission under OAR 845-005-0417 in order to provide direct shipment or same-day delivery of wine and cider. The provisions of this rule apply retroactively to May 1, 2012.~~



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(1) A person may sell and ship wine or cider to a resident of Oregon only if the person holds:

- (a) A valid Direct Shipper Permit and holds a license issued by this state or another state that authorizes the person to hold a Direct Shipper Permit; or
- (b) An off-premises sales license issued by the Commission.

(2) A person holding a Direct Shipper Permit must ship not more than a total of two cases of wine or cider containing not more than nine liters per case per month to a resident of Oregon who is at least 21 years of age.

(3) A person holding a Direct Shipper Permit or an off-premises sales license must retain a record for a minimum of eighteen months of the amount of alcohol contained in the shipment to the resident.

(4) A person holding a Direct Shipper Permit or an off-premises sales license must ship:

(a) Only wine or cider, *and only in manufacturer-sealed containers*; **A container must not hold more than two gallons.**

(b) Only to a resident of Oregon who is at least 21 years of age and only if the wine or cider is for personal use and not for the purpose of resale;

(c) Only for delivery to a resident who is not visibly intoxicated at the time of receiving the alcohol;

(d) The product in a container that is conspicuously labeled with the words "Contains alcohol: signature of person age 21 years or older required for delivery" or similar language approved by the Commission;

(e) Only pursuant to an order for the wine or cider that is received by the permit holder or licensee prior to shipment of the alcohol;

(f) Only for next-day delivery, unless the permit holder or licensee has been approved for same-day delivery; and

(g) Only to a home or business where the home or business has a permanent street address.

(h) If the container is a securely-covered container it must be an empty container supplied by the resident. The permit holder or licensee may sell an empty container to the resident prior to or at the time of filling the container.

(5) If the permit holder or licensee ships via a for-hire carrier, the permit holder and licensee must use a for-hire carrier with a plan approved by the Commission under OAR 845-005-0424 and must comply with sections (2), (3) and (4) of this rule, as applicable.

(6) If the permit holder or licensee does not use a for-hire carrier, in addition to complying with sections (2), (3) and (4) of this rule, as applicable, the person making the delivery of the wine or cider must:

(a) Be age 18 or over;

(b) Verify that the person receiving the alcohol is at least 21 years of age;



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(c) Determine that the person receiving the alcohol is not visibly intoxicated; and
(d) Collect information that must be retained by the permit holder or licensee for a minimum of eighteen months from the date of delivery of the alcohol to the resident. The information retained must include:

- (A) The date and time the alcohol was delivered to the resident;
- (B) The name or information that can be used to determine the name of the person delivering the alcohol to the resident; and
- (C) The name, signature, and delivery address of the person receiving the alcohol.

(7) Same-day delivery for a permit holder. If a permit holder has also obtained approval to make same-day delivery of wine or cider, in addition to complying with sections (2), (3), (4) and either (5) or (6) of this rule, the permit holder must receive the order from the resident no later than 4:00 pm on the day the order is delivered, ensure that the wine and cider is delivered before 9:00 pm, and deliver not more than a total of two cases of wine or cider containing not more than nine liters per case per day to a resident of Oregon (and must also follow section (2) of this rule).

(8) Same-day delivery for a **an off-premises sales** licensee. If a licensee has also obtained approval to make same-day delivery of wine or cider, in addition to complying with sections (3), (4) and either (5) or (6) of this rule, the licensee must:

- (a) Receive the order from the resident no later than 4:00 pm on the day the order is delivered, ensure that the wine and cider is delivered before 9:00 pm, and deliver not more than a total of two cases of wine or cider containing not more than nine liters per case per day per Oregon residence;
- (b) Receive the order from the resident no later than 4:00 pm on the day the order is delivered, ensure that the wine and cider is delivered before 9:00 pm, and may deliver an unlimited amount of wine or cider if the alcohol accounts for no more than 25 percent of the retail cost of the order (i.e., at least 75 percent of the retail cost of the order must be items other than alcohol);
- (c) Receive the order from the resident no later than 9:00 am on the day the order is delivered, ensure that the wine and cider is delivered before 9:00 pm, and may deliver an unlimited amount of wine or cider;
- (d) Receive the order from the resident no later than 7:00 pm on the day the order is delivered, ensure that the wine and cider is delivered before 9:00 pm, and deliver not more than a total of 1500 milliliters of wine or cider (approximately two standard bottles) per day per Oregon residence; or
- (e) Receive the order from the resident between 7:01 pm and 9:00 pm on the day the order is delivered, ensure that the wine or cider is delivered before 10:00 pm, and deliver not more than a total of 750 milliliters of wine or cider (approximately one standard bottle) per day per Oregon residence.

(9) A permit holder must:



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- (a) Allow the Commission to audit the permit holder's records of wine and cider shipments to Oregon residents upon request and shall make those records available to the Commission in Oregon no later than 60 days after the Commission mails the notice;
- (b) Report to the Commission all shipments of wine or cider made to a resident of Oregon under the permit as required by ORS Chapter 473. The report must be made in a form prescribed by the Commission; and
- (c) Timely pay to the Commission all taxes imposed under ORS Chapter 473 on wine and cider sold and shipped directly to a resident of Oregon under the permit. For the purpose of the privilege tax imposed under ORS Chapter 473, all wine or cider sold and shipped pursuant to a direct shipper permit is sold in this state. The permit holder, not the purchaser, is responsible for the tax.

(10) If the permit holder is located in a state outside of Oregon, it consents to the jurisdiction of the Commission and the courts of this state for the purpose of enforcing the provisions of this rule and any related laws or rules.

(11) A violation of section (9) of this rule is a Category IV violation. A violation of any other section of this rule is a Category III violation. In lieu of a criminal citation, the Commission may assess an administrative penalty for shipping wine or cider without a valid Direct Shipper Permit in violation of section (1) of this rule against any Oregon license held by the shipper, including a Certificate of Approval issued pursuant to ORS 471.244.

Stat. Auth.: ORS 471, 471.030, 471.040, 471.186 & 471.730(1) & (5)

Stats. Implemented: ORS 471.186, 471.282 & 473

Hist.: OLCC 23-2007(Temp), f. 12-14-07, cert. ef. 1-1-08 thru 6-28-08; OLCC 6-2008(Temp), f. & cert. ef. 4-18-08 thru 6-28-08; OLCC 8-2008, f. 6-12-08, cert. ef. 6-29-08; OLCC 4-2012, f. 4-10-12, cert. ef. 5-1-12; OLCC 4-2013(Temp), f. 7-12-13, cert. ef. 7-15-13 thru 1-11-14; OLCC 13-2013, f. 12-12-13, cert. ef. 1-1-14

845-006-0396

Requirements for ~~Same-Day and Next-Day Retail~~ Direct Shipment and Delivery of Malt Beverages to a Resident of Oregon

~~*This rule sets the requirements for same-day and next-day delivery of malt beverages to a resident of Oregon. A licensee must be approved by the Commission under OAR 845-005-0420 in order to provide same-day delivery of malt beverages. The provisions of this rule apply retroactively to May 1, 2012.*~~

~~*(1) A licensee qualified to make same-day or next-day delivery of malt beverages under OAR 845-005-0420 must ship:*~~



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(1) A person may sell and ship malt beverages to a resident of Oregon only if the person holds:

- (a) A valid Direct Shipper Permit and holds a license issued by this state or another state that authorizes the person to hold a Direct Shipper Permit; or**
(b) An off-premises sales license issued by the Commission.

(2) A person may ship:

(a) Only malt beverages, *and only in a manufacturer-sealed container. A container must not hold more than two and one-quarter gallons;* **A container must not hold more than two gallons. Despite this requirement, a factory-sealed container from an off-premises sales licensee must not hold more than two and one-quarter gallons.**

- (b) Only to a resident of Oregon who is at least 21 years of age and only if the malt beverage is for personal use and not for the purpose of resale;
- (c) Only for delivery to a resident who is not visibly intoxicated at the time of receiving the alcohol;
- (d) The malt beverage in a package that is conspicuously labeled with the words "Contains alcohol: signature of person age 21 years or older required for delivery" or similar language approved by the Commission;
- (e) Only pursuant to an order for the malt beverage that is received by the licensee prior to shipment of the alcohol;
- (f) Only for next-day delivery unless the licensee has been approved for same-day delivery by the Commission; and
- (g) Only to a home or business where the home or business has a permanent street address.

(h) If the container is a securely-covered container it must be an empty container supplied by the resident. The permit holder or licensee may sell an empty container to the resident prior to or at the time of filling the container.

~~(2)~~ **(3)** A licensee must retain a record for a minimum of eighteen months of the amount of alcohol contained in the shipment to the resident.

~~(3)~~ **(4)** If the licensee ships via a for-hire carrier, in addition to complying with sections (1), **(2)**, and ~~(2)~~ **(3)** of this rule, the licensee must use a for-hire carrier with a plan approved by the Commission under OAR 845-005-0424.

~~(4)~~ **(5)** If the licensee does not use a for-hire carrier, in addition to complying with sections (1), **(2)**, and ~~(2)~~ **(3)** of this rule, the person delivering the malt beverage must:

- (a) Be age 18 or over;
- (b) Verify that the person receiving the alcohol is at least 21 years of age;
- (c) Determine that the person receiving the alcohol is not visibly intoxicated; and



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(d) Collect information that must be retained by the licensee for a minimum of eighteen months from the date of delivery of the alcohol to the resident. The information retained must include:

- (A) The date and time the alcohol was delivered to the resident;
- (B) The name or information which can be used to determine the name of the person delivering the alcohol to the resident; and
- (C) The name, signature, and delivery address of the person receiving the alcohol.

(6) Same-day delivery for a permit holder. If a permit holder has also obtained approval to make same-day delivery of malt beverages, in addition to complying with sections (2) and (3) and either (4) or (5) of this rule, the permit holder must receive the order from the resident no later than 4:00 pm on the day the order is delivered, ensure that the malt beverage is delivered before 9:00 pm, and deliver not more than a total of five gallons of malt beverage per day per Oregon residence.

~~(5)~~ **(7) Same-day delivery for an off-premises sales licensee.** If the licensee is approved to make same-day delivery of malt beverages, in addition to complying with sections (1), (2), **and (3)** and either ~~(3)~~ **(4)** or ~~(4)~~ **(5)** of this rule, the licensee must:

- (a) Receive the order from the resident no later than 4:00 pm on the day the order is delivered, ensure that the malt beverage is delivered before 9:00 pm, and deliver not more than a total of five gallons of malt beverage per day per Oregon residence;
- (b) Receive the order from the resident no later than 4:00 pm on the day the order is delivered, ensure that the malt beverage is delivered before 9:00 pm, and may deliver an unlimited amount of malt beverage if the alcohol accounts for no more than 25 percent of the retail cost of the order (i.e., at least 75 percent of the retail cost of the order must be items other than alcohol);
- (c) Receive the order from the resident no later than 9:00 am on the day the order is delivered, ensure that the malt beverage is delivered before 9:00 pm, and may deliver an unlimited amount of malt beverage;
- (d) Receive the order from the resident no later than 7:00 pm on the day the order is delivered, ensure that the malt beverage is delivered before 9:00 pm, and deliver not more than a total of 160 ounces of malt beverage (approximately two standard six-packs) per day per Oregon residence; or
- (e) Receive the order from the resident between 7:01 pm and 9:00 pm on the day the order is delivered, ensure that the malt beverage is delivered before 10:00 pm, and deliver not more than a total of 80 ounces of malt beverage (approximately one standard six-pack) per day per Oregon residence.

~~(6)~~ **(8) Sanction.** A violation of any section of this rule is a Category III violation.

(9) A permit holder must:



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- (a) Allow the Commission to audit the permit holder's records of malt beverage shipments to Oregon residents upon request and shall make those records available to the Commission in Oregon no later than 60 days after the Commission mails the notice;**
- (b) Report to the Commission all shipments of malt beverage made to a resident of Oregon under the permit as required by ORS Chapter 473. The report must be made in a form prescribed by the Commission; and**
- (c) Timely pay to the Commission all taxes imposed under ORS Chapter 473 on malt beverage sold and shipped directly to a resident of Oregon under the permit. For the purpose of the privilege tax imposed under ORS Chapter 473, all malt beverage sold and shipped pursuant to a direct shipper permit is sold in this state. The permit holder, not the purchaser, is responsible for the tax.**
- (10) If the permit holder is located in a state outside of Oregon, it consents to the jurisdiction of the Commission and the courts of this state for the purpose of enforcing the provisions of this rule and any related laws or rules.**
- (11) A violation of section (9) of this rule is a Category IV violation. A violation of any other section of this rule is a Category III violation. In lieu of a criminal citation, the Commission may assess an administrative penalty for shipping malt beverage without a valid Direct Shipper Permit in violation of section (1) of this rule against any Oregon license held by the shipper, including a Certificate of Approval issued pursuant to ORS 471.244.**

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

Stats. Implemented: ORS 471.305

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 7-2003(Temp), f. & cert. ef. 5-20-03 thru 11-16-03; OLCC 12-2003, f. 9-23-03, cert. ef. 11-1-03; OLCC 23-2007(Temp), f. 12-14-07, cert. ef. 1-1-08 thru 6-28-08; OLCC 6-2008(Temp), f. & cert. ef. 4-18-08 thru 6-28-08; OLCC 8-2008, f. 6-12-08, cert. ef. 6-29-08; OLCC 4-2012, f. 4-10-12, cert. ef. 5-1-12; OLCC 4-2013(Temp), f. 7-12-13, cert. ef. 7-15-13 thru 1-11-14; OLCC 13-2013, f. 12-12-13, cert. ef. 1-1-14