



**RETAIL OPERATIONS
MANUAL**

Promoting Responsible Alcohol Sales and Service

RETAIL OPERATIONS MANUAL

August 2016 Revision

SECTIONS

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SECTION 1.
GENERAL INFORMATION

1-A. PURPOSE OF THE RETAIL OPERATIONS MANUAL

This manual helps explain the obligations of a retail sales agent pertaining to liquor laws and regulations as well as the Retail Sales Agent Agreement (*Exhibit 1-1*).

Agents of the Oregon Liquor Control Commission (OLCC or Commission) must obey all laws and rules related to the sale of liquor and the operation of a liquor store. Agents are required to train store personnel thoroughly on the laws and rules. Legal entities must designate a representative (agent representative) responsible for upholding all laws, rules, policies and procedures at a specified store location. The agent representative will also be responsible for ensuring that all appropriate store personnel are thoroughly trained in their job responsibilities and in responsible sales. Please note that the Retail Operations Manual is referenced in and incorporated as part of the Retail Sales Agent Agreement. Agents are required to operate their liquor store in strict, full and complete conformance with the Retail Operations Manual. Agents must read the manual and any updates, keep the manual current, and train store personnel on pertinent manual content. Should there be any conflict between the Retail Operations Manual and any statute or rule, the statute or rule requirements prevail over the Retail Operations Manual. Similarly, if there is any conflict between the Retail Operations Manual and the Retail Sales Agent Agreement, the Retail Sales Agent Agreement prevails over the Retail Operations Manual.

The underlying intent of this manual, the policies herein, and the Retail Sales Agent Agreement is to support, augment and fulfill the OLCC's efforts as a regulatory body which provides effective control and regulation of the sale and distribution of distilled spirits products in the State of Oregon.

Please read the manual carefully and direct questions to the OLCC district manager assigned to the store or to Retail Services Division staff.

1-B. OLCC PURPOSE AND FUNCTIONS

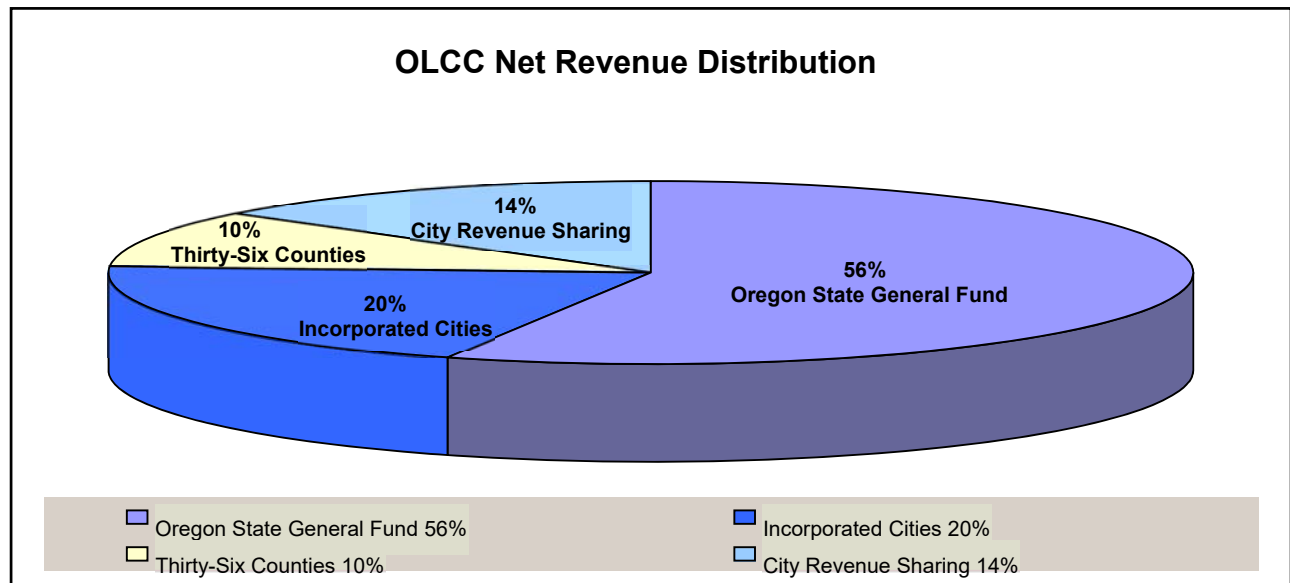
When Prohibition was repealed, Oregon adopted state regulation of alcoholic beverages. The Oregon Liquor Control Commission is the state agency that regulates the sale and service of alcohol and merchandises distilled spirits. The OLCC serves the public by assuring the availability of alcoholic beverages for responsible use while producing revenue for state and local governments. Its mission is to effectively regulate the sale and distribution of alcoholic beverages in order to protect Oregon's public health, safety and community livability.

Five OLCC commissioners, appointed by the governor, serve unpaid four year terms. Each commissioner represents one of Oregon's congressional districts, and one also represents the food and beverage industry. Not more than three commissioners can be from the same political party, and one is designated by the governor to serve as chairperson. The Commissioners meet monthly to set policy, adopt rules, appoint agents, act on violations, and make decisions not delegated to staff. The Commissioners appoint the administrator who serves as the executive director of the agency.

Liquor agents (agents) are independent contractors who have agreed to manage the state inventory and funds as directed by the OLCC. The state provides store inventory and some business supplies and individual agents have access to some state benefits. However, agents themselves are not state employees.

The relationship between OLCC and liquor agents is fundamental and agents have the ongoing support of OLCC staff and resources to market liquor products responsibly and lawfully. Modern merchandising techniques are used for the most efficient and profitable business possible within the context of a liquor control system to provide excellent service and a pleasant shopping atmosphere.

Net revenue from liquor sales, license fees, and taxes on malt beverages are distributed in the following proportions:



1-C. THE DISTILLED SPIRITS PROGRAM

The Distilled Spirits Program operates the retail liquor business, meeting the needs of the public while promoting the safe and responsible sale of distilled spirits and operating a profitable business for the state. The Distilled Spirits Program contains two divisions, Wholesale Operations, which includes Purchasing and the Distribution Center, and Retail Services.

Wholesale Operations

Purchasing staff coordinate liquor movements from the distilleries and importers for timely delivery to the Commission's distribution center. They also monitor statewide sales trends and assist the listing committee in the selection of new products.

Distribution Center receives liquor shipments daily and staff organizes, stores, and secures the product. They fill orders and arrange for shipment to liquor stores and settle claims for damaged or defective goods.

Retail Services

Retail Services Division staff has the responsibility to ensure proper accounting for the State's liquor inventory and revenue. Division staff is available:

- As a valuable resource to help agents develop customer service and merchandising expertise and to provide information concerning the sale of liquor.
- To assist liquor agents in understanding and complying with the various requirements of statutes, rules, regulations and the Retail Operations Manual.
- To make suggestions and provide information to support agents in the daily operation of liquor stores.
- To assist agents with improvements to their stores.

District managers work closely with agents to assist in resolving problems and clarifying policies and procedures.

OLCC Phone/Fax Numbers & Addresses

OLCC's main office is located at 9079 SE McLoughlin Blvd., Portland, Oregon, 97222. The mailing address is PO Box 22297, Milwaukie, Oregon 97269-2297.

Wholesale Operations can be reached Monday through Friday, at (503) 872-5015 or toll-free at (800) 426-2004, option 6 then option 1. Wholesale Operations can be reached by fax at (503) 872-5014.

Retail Services can be reached Monday through Friday, 8:00 a.m. to 5:00 p.m. at (503) 872-5020, or toll-free at (800) 426-2004, option 6, then option 2. Retail Services can be reached by email at OLCC.RetailServices@oregon.gov or by fax at (503) 872-5355.

Non-emergency messages can be left after hours at these same numbers. In case of an emergency, follow emergency procedures information in this manual.

1-D. LIQUOR STORES AND LIQUOR AGENTS

1. Types of Liquor Stores

Exclusive stores generally have more than \$1,500,000 in annual liquor sales. They sell only distilled spirits and authorized related items (*Exhibit 1-2*) allowed by OLCC rule. Exclusive liquor stores must be separated from other businesses by a solid wall with no connecting interior doors, unless a different means of preventing public access between another business and the exclusive liquor store is approved by the OLCC. An exclusive liquor store located entirely within another retail business may have its public entrance connected directly to the retail business.

Non-exclusive stores operate in conjunction with other businesses and generally have annual liquor sales less than \$1,500,000

The Commission may change the type of a retail liquor store from exclusive to non-exclusive or non-exclusive to exclusive based on the sales volume guideline. In addition to sales volume, the Commission may evaluate other factors including but not limited to customer service or an agent's business plan.

Self-service stores are laid out for customers to leisurely shop the product selection. They usually provide unique product displays along with assorted related items. The Commission prefers self-service stores as they provide the most enjoyable customer shopping experience.

Counter service stores display liquor behind counters with no customer access. These stores are not preferred and only permitted with Commission approval.

2. General Responsibilities of Liquor Agents

Exclusive agents must devote enough time to the liquor store to ensure efficient operation and reasonable service to the public. Non-exclusive agents must devote enough time to the liquor store and other business to ensure efficient operation and reasonable service to the public.

The OLCC appoints agents to operate liquor stores and pays them for retailing services based on monthly liquor sales. The agents are responsible for all store operating expenses, including equipment, capital improvements and staffing.

Agents sign a Retail Sales Agent Agreement, for an initial five year period, defining OLCC's expectations and the agent's obligations. After new agents successfully complete a new appointment period of one year, the appointment may be continued depending on performance.

The Retail Sales Agent Agreement provides that liquor stores must be managed using sound business practices, which requires agents to devote their "best efforts" to the success, viability and quality of the liquor store and its operations. Best efforts include being actively involved in and informed about all aspects of the liquor store.

Active involvement requires agents' on-going, consistent and direct participation in all areas of store management and operations including, but not limited to:

- Customer service, including courteous and helpful service and offering sufficient variety and quantity of inventory. There is no substitute for the goodwill that develops from a friendly, helpful and hands-on relationship between the agent and the customer.
- Training of store personnel prior to their assumption of duties, specifically with regard to liquor statutes and safe and responsible sales. On-going observations and training of store personnel is important for both long term and new employees.
- Accounting for all liquor furnished by the Commission and all revenue received from the sale of the Commission's liquor, including accurate and timely sales and inventory reporting.
- Merchandising of the liquor store including layout, appropriate product selection and presentation. Development and maintenance of the relationship between agents and vendors can be important to the continued viability of every store.
- Personal inspection of the condition, appearance, cleanliness and safety of the liquor store and premises on a frequent basis. It is essential that any and all needed improvements are completed in a timely manner whether or not the premises is owned by the agent.
- Immediate personal and on-site response at the agent's store in the event of an emergency such as robbery, after-hour burglary or other causes of damage to the product or store.
- In-person availability to OLCC staff as required or reasonably requested to discuss issues relating to the operation of the liquor store such as audit shortages, inventory concerns, evaluations, customer relations, unacceptable conditions or other matters.

3. Change of Legal Entity

A legal entity appointed as agent must notify the commission through the Retail Services Division when any change of entity as defined in ORS 63.470 to 63.497 and 60.470 to 60.501 occurs and is filed with the Secretary of State. In addition, any change in members or corporate officers must be reported to the Retail Services Division. A Change of Limited Liability Company form or Change of Corporation form located on OLCC Liquor Agent Services (OLAS) must be submitted 14 calendar days before the change takes effect.

When a change in premises, regional, district or area manager occurs, a Notice of Manager Change form must be submitted to Retail Services within 5 calendar days of the change. An Individual History packet will be required from the new manager and submitted with the Notice of Manager Change form.

4. Insurance Requirements

Agents need to be aware of their exposure to liquor liability. Agents and store personnel can be held liable for any damages, injuries, or deaths which result from the sale of alcohol to a minor or a visibly intoxicated person.

The Retail Sales Agent Agreement requires agents to obtain and keep in effect during the term of their agreement the following insurance:

- Commercial General Liability
- Worker's Compensation
- Automobile Liability

5. Evaluations and Appointments

District managers will evaluate agents' performance using the Agent Evaluation (*Exhibit 1-3*) in the areas of customer service, store appearance, merchandising, record keeping and fiscal practices, inventory management, compliance, and law and policy. Evaluation criteria (*Exhibit 1-4*) are based on OLCC standards and expectations. Evaluation results determine reappointments and second store appointments.

a. Reappointment

The length of reappointment is dependent upon performance as determined by the Agent Evaluation in time frames leading to the agreement renewal date.

Reappointment terms are as follows:

- Ten year reappointment if the average score of the past three evaluations is outstanding.
- Five year reappointment if the average score of the past three evaluations is satisfactory.
- One year reappointment if the prior year evaluation score is unsatisfactory, and there is an approved action plan. An agent may qualify for a five year reappointment if the evaluation score following the one year reappointment period is at least satisfactory.
- An agent may not be reappointed if the evaluation score following a one year reappointment is unsatisfactory.

b. Second Store Appointment

A permanent liquor agent may be qualified to operate two liquor stores. In order to qualify, the agent must meet the following criteria:

- The agent's most recent Agent Evaluation must have an overall rating of

“outstanding,” and indicates the agent is effectively managing the inventory, has reasonably low audit shortages, and has an outstanding interior store appearance at their current store.

- The agent has not received any notices of violation within three years of the application closing date.
- The agent must have a history of timely depositing and reporting.

6. Store Vacancies

A vacancy occurs when an agent resigns, retires, is dismissed, dies, or becomes permanently disabled. The Retail Sales Agent Agreement requires agents to give no fewer than 120 days notice before they resign or retire.

The Commission may terminate an agent’s agreement for good cause, as described in the Retail Sales Agent Agreement.

When an agent dies or becomes permanently disabled, a qualified spouse, domestic partner, or child who applies for the liquor store receives preference in the appointment of a new agent. Order of preference is spouse or domestic partner, then child.

7. Resignation Buy-Out

Resigning agents are eligible for a resignation buy-out amount from the incoming agent, per OAR 845-015-0190. The amount equals three percent of the store’s average annual gross liquor sales for the past five years unless the agent’s most current Annual Evaluation is “outstanding,” in which case the agent is eligible for an amount of four percent. The Commission includes this amount in the information sheet that all applicants receive.

The outgoing agent may supplement the Commission’s recruiting process to assist in finding qualified applicants. If the Commission’s recruiting process does not generate a qualified applicant, or the commissioners do not appoint a new agent, the outgoing agent may continue to seek qualified applicants. If these efforts fail to result in a qualified applicant after thirty days, the outgoing agent shall choose either to postpone the resignation or to accept a lower buy-out amount.

The outgoing agent will spend a minimum of twelve days in the store working productively with the incoming agent before takeover. During that time, the outgoing agent will introduce the incoming agent to licensee and commercial accounts, and orient the incoming agent.

The outgoing agent must sign a non-compete agreement to participate in the resignation buy-out program.

If an outgoing agent is eligible for a resignation buy-out, it can be paid from the incoming agent to the outgoing agent once Financial Services has all Sales Reports, deposit slips

and other reporting paperwork and is able to preliminarily calculate the final audit. If the calculation indicates a shortage that exceeds the estimated amount of the compensation due the outgoing agent, the shortage will be deducted from the buy-out amount and if any balance remains, will be paid to the outgoing agent. Financial Services will send a letter to both agents indicating the final buy-out amount to be paid to the outgoing agent. This notification will be emailed or faxed to each agent.

Exceptions --

An agent is not eligible for a full buy-out if terminated for cause relating to fiscal irresponsibility; is under suspension; has the store taken over by the Commission; is a temporary agent; or has the store turnover outside the program effective date.

8. Temporary Agent

Pursuant to OAR 845-015-0196 or the Retail Sales Agent Agreement, the OLCC may appoint a temporary agent to continue service to the public. A temporary agent may operate a retail liquor store until the Commission decides a retail sales agent can resume store duties or until a new retail sales agent is appointed. The agent may nominate a candidate by sending a letter to Retail Services, which will be considered in the selection of the temporary agent. When the Commission proposes to dismiss an agent, it may appoint a temporary agent. Temporary agents, like permanent liquor agents, are not state employees.

9. Fixtures and Equipment Policy

Agents furnish and install the shelving, counters, cash registers, and other equipment necessary to operate the store. Agents are responsible for all support and maintenance of their equipment and software, and for training their staff in its use. An agent must receive Commission approval before making significant fixture and equipment alterations. A change is significant if it could hinder sales. An example of a significant change is adding additional shelves. An example of a change that is not significant is replacing a counter's surface. Agents should consult with OLCC if uncertain whether a proposed change is significant.

When the Retail Sales Agent Agreement is voluntarily terminated by the agent, by the mutual consent of the parties, or by the agent's death, and when an agent is terminated during the New Appointment Period, and prior to advertising a vacancy in these situations, a licensed independent appraiser determines the fair market value of the fixtures and equipment currently in use. In non-exclusive stores when applicable, this applies only to fixtures and equipment currently being used in the sale of liquor. The new agent and the outgoing agent each pay half of the appraisal fee. If a new Agent is not appointed or a new Agent does not sign an Agreement with the Commission within 120 calendar days of the written appraisal date, then the outgoing Agent is responsible for the full amount of the appraisal fee.

An incoming agent is required to purchase the fixtures and equipment used in the sale of distilled spirits from the outgoing agent, providing the following criteria is met:

- They are being used in the store at the time of the appraisal
- They are owned by the outgoing agent
- They are in good working order
- They are unencumbered

The following will **not** be considered for an appraisal:

- Any upholstered fixture that is ripped or damaged.
- Phones, faxes, radio and speakers, and calculators will only be appraised if there is a tag indicating a date when the item was manufactured or a detailed store receipt indicating a purchase date of the new item. These items that are more than five years old will not be included in the appraisal.
- Janitorial supplies, such as brooms, mops, buckets, etc.
- Desk office equipment – stapler, pencil sharpener, desk light, etc. Any electrical equipment that is considered excessive. Examples: more than one standard printer, an unreasonable number of security monitors, cameras and equipment, etc.

Some examples of items the incoming agent may purchase, but is not required to, are:

- Vacuums, refrigerators, microwaves, freezers, ice machines
- Pricing guns, table and chairs, decor items
- Excess or obsolete electrical equipment – printers, security equipment, etc.

10. Exclusive Liquor Store Lease Assumption Requirements

Liquor stores currently under a lease will be subject to lease assumption per the criteria below.

a. Non-Owner Occupied

The incoming agent must assume the current lease if the time remaining on an assumable lease is five years or less. The incoming agent will be required to assume a lease that is longer than five years if a current agent has obtained Retail Services staff approval of an extended lease period and the lease is assumable.

Prior to the signing of a new lease or lease renewal with a term of more than five years, the agent must present an appropriate business case to justify the extended lease duration. Retail Services staff will review and consider the current agent's written business case, the proposed lease, and other considerations for an extended lease period. If the extended lease period is approved, the incoming agent will be required to assume the current lease. If the extended lease period is not approved, the current agent may sign the extended lease, however, the incoming agent would not be required to assume the lease unless the time remaining is five years or less. Contact the assigned district manager for more detailed information.

b. Owner-Occupied (Owner includes spouse, children and family members)

A minimum of 30 days prior to advertising a store vacancy, the outgoing agent will provide the Retail Services Division with a lease and a written determination by an independent commercial leasing broker stating the lease is reasonable per current market conditions.

Retail Services must determine the lease is reasonable per current market conditions before the incoming agent will be required to assume the lease. If the lease is determined to be unreasonable per current market conditions by Retail Services, OLCC will solicit another written determination from an independent commercial leasing broker to determine if the lease is reasonable.

All current owner-occupied leases must meet reasonable current market conditions prior to advertising a store.

11. Establishing New Stores

The Commission may establish new liquor stores to serve the public. The Commission may use computer software data, such as population, demographics, roads and highways, to assist in analyzing areas for specific needs. Once a specific area has been determined, a target date is set for the store to begin operation and the process for selecting and appointing a new agent follows.

After a new agent has been appointed, a public opinion period on the location opens with the agent posting a sign at the proposed location and handing out a public notice flyers to surrounding neighbors and the local governing jurisdiction.

12. Store Relocations

The Commission may require a store to relocate to conveniently serve the public. Reasons for a required Commission relocation may include, but are not limited to, size limitations, location, building condition, and parking. The current agent has the right to operate the store after the relocation unless good cause exists for termination of the Retail Sales Agent Agreement.

Any store relocation must be approved by the Commission and requires site and modification approval. Agents will discuss with their district manager any possible relocation. This will allow OLCC to inform agents about the relocation process. The relocation process involves site evaluation approval and floor plan/appearance approval.

a. Site Evaluation

For any store relocation, OLCC compares the proposed site to the current location, evaluating and comparing trade areas, traffic patterns, accessibility, visibility, public opinion, impact on neighboring liquor stores, space to conduct business, interior upgrades for a modern shopping experience, customer service, etc.

These steps must be followed:

- OLCC will provide relocation boundaries.
- Once the agent locates a proposed site within relocation boundaries, the agent may be required to submit photos of proposed location's interior, exterior, parking, area surrounding proposed site, location of exterior signing, etc.
- The district manager will conduct a site evaluation to determine if the proposed location is an improvement to the current location, evaluating and comparing trade areas, traffic patterns, accessibility, visibility, public opinion, impact on neighboring liquor stores, space to conduct business, interior upgrades for a modern shopping experience, customer service, etc.
- The agent must provide OLCC with a letter of intent, a signed lease, or a sales agreement for the proposed location. OLCC recommends that agents include a clause in the lease or sales agreement that the lease or sales agreement is only valid if the Commission approves the relocation.
- OLCC will provide, and the agent must post, relocation signs in the current and proposed locations. The agent must deliver public notice flyers to every occupied residence, business, school, house of worship, etc. within a 500 foot radius of the proposed location. The agent will also need to provide a copy of the flyer to the governing body (i.e. city) when a relocation will cause a store to move to a different governing body's jurisdiction. Relocation sign posting and flyer distribution must occur on the same day. Public comment will be considered in final site determination.
- If necessary, the proposed relocation documentation will be presented at a Commission meeting for commissioners' approval. If approved, OLCC will pay the freight cost for moving liquor and fixtures and equipment used in the sale of liquor.

b. Floor Plan/Appearance

OLCC expects a floor plan that optimizes customer convenience and an interior appearance consistent with modern retailing practices. **Agents must not place orders or purchase materials until the following process is complete.**

These steps must be followed:

- The agent must provide a **detailed** floor plan which includes sales area and stockroom (*Exhibit 1-5*) to the district manager for approval. Sales area in most cases should equal two thirds of the overall space, with one third dedicated to the stockroom. Include on the floor plan the type and location of shelving, counter surface, flooring and modern paint color. It is recommended that agents, prior to contracting with an architect, consult with the district manager on a floor plan to minimize unnecessary expenses.
- The district manager will make any changes and return the floor plan to the agent.
- Once the agent has revised the floor plan, it must be submitted to the district manager for final approval.

13. Memoranda and Bulletins

Agents must comply with all memos, bulletins, and correspondence from OLCC, and explain them to store personnel. It is recommended that agents file them by date in the store.

14. Release of Information

The Commission's policy on the release of information to the public and the media (with the exception of store advertising) requires the OLCC's Communications Division to be responsible for what is disseminated. The purpose of this is to ensure consistency, accuracy, and timeliness of information provided on Commission policies, activities and decisions. Feel free to refer any media inquiry regarding the Commission to the Communications Division. Agents may share with the media or public **their personal** views as individuals, provided that agents do not represent their opinion as the viewpoint of the Commission or of all agents.

Any opinion posted or offered within or outside a store must also be directly accompanied with a legible disclaimer that states the opinion is that of the agent and does not represent the views of the Commission or other agents.

Agents shall not release information regarding distilled spirits sales without prior written consent of the OLCC.

15. Public Disclosure

The OLCC keeps a master file of correspondence and store operations documents for each store. The files are available as public record upon request. Certain personal information concerning agents and their store personnel is exempt from public disclosure.

16. Leave of Absence

To ensure the State's property is being properly managed during an agent's or an agent representative's absence, follow the steps below.

When an agent is planning an absence of more than five days:

- 1. Complete a Notification of Absence form located on OLCC Liquor Agent Services (OLAS).**
- 2. Submit a copy to Retail Services at least 10 days in advance of absence by email, fax or mail.**

Note: Audit schedules for any month are usually created by the 20th of the prior month. If an agent has concerns about an audit being conducted in their absence, they should notify auditing (503-872-5134 or 1-800-426-2004, option 5, ext. 5134) by the 20th of the month prior to their expected absence.

1-E. STATE REGULATIONS

Agents must comply with all statutes of the United States, statutes and rules of the State of Oregon including Oregon Tax Laws. Agents should refer to Oregon Revised Statutes and Oregon Administrative Rules for details on State regulations.

1. Prohibited Interests

To avoid possible conflicts of interest, certain connections or interests in the alcoholic beverage industry are unlawful. Retail sales agents, their immediate family, and household members may not be employed by a business that is licensed with a Distillery or Full On-Premises Sales license with certain exceptions. They may not knowingly have any business connection or control financial interest in a Full On-Premise licensee or distillery licensed by OLCC or a distillery whose products are sold in Oregon.

Agents shall discuss possible prohibited interests with the district manager. Agents must disclose any prohibited interest as soon as they know about it, and divest within the timelines set by the Commission.

2. Conflict of Interest

An agent cannot have a connection with the liquor industry that the Commission perceives as a conflict of interest. An individual has a conflict of interest if the agent or a member of the agent's household:

- Owns, manages or has a monetary interest in a business involving distilled spirits.
- Receives a commission or profit from or has an interest in purchases made by the Commission.
- Owns or controls more than one percent of the stock of any distilled spirits business.
- Has any business connection with Commission management personnel.

An agent cannot be a licensee, officer, director or substantial stockholder of a licensee. A non-exclusive agent, however, may be a package store licensee.

An agent may not work for any licensee of the Commission involved in distilled spirits. However, the Commission may appoint a licensee as an agent if the licensee is the only suitable applicant for appointment as a retail sales agent in a very small town in a remote area. This retail liquor store must be non-exclusive and must be located in a part of the premises completely separated from the service or consumption of alcoholic beverages.

3. Gifts and Gratuities

Agents may not accept gifts, gratuities, or thing of value from alcoholic beverage licensees or distillery representatives, **except** items offered on an equal basis to customers or the general public; food and beverages consumed at a convention or

business meeting and other items offered equally to all participants; non-alcoholic beverages consumed at a business meeting.

4. Auctions, Raffles and Prizes

Under certain conditions, a non-profit or charitable organization may auction or raffle full, sealed bottles of distilled spirits without possessing a liquor license. Written permission from the OLCC Licensing Division must be obtained prior to the event.

A charitable, fraternal or religious organization may offer liquor as a prize, premium or consideration in a game of chance.

5. Solicitations

Agents may not give or offer any gift, gratuity, free merchandise, special individualized discount, or other incentive to anyone. Except for licensees or other businesses, agents must not solicit, ask, suggest or urge anyone to make a purchase at a particular retail liquor store.

An exclusive agent must charge all customers the same price for related items of identical brand, type, size and number.

Agents may solicit licensees for distilled spirits business without frequency restrictions. They may also solicit commercial business accounts for distilled spirits business. An agent can describe the store and its services and invite a potential business or licensee customer to visit the store.

6. Distillery Representatives

The activities of distillery representatives are regulated. They may not give samples to agents, store personnel, or customers in the store except as follows:

Distillery representatives may give agents samples of not more than four 50 ml factory-sealed containers of distilled spirits one time per brand. The sample must be a Commission approved brand. If a product is not available in a 50 ml container, a distillery representative must request prior approval to give a sample in a larger factory sealed container. The distillery representative must make the request in writing to the Purchasing Coordinator. Agents may give the samples to store personnel who are at least 21 years old. Samples must not be consumed in a retail liquor store or within the immediate vicinity. All samples must be sealed bottles.

Distillery representatives are not allowed to give gifts to agents or receive gifts from them. However, they may visit stores to educate agents and store personnel about listed products, provide informational material, and they may purchase and deliver liquor orders to commercial accounts that are not licensees.

Distillery representatives may write off distillery claims and remove them from the store. Agents have the responsibility for submitting the paperwork to OLCC for credit.

7. Drinking and Drugs on Duty

Selling liquor is a serious responsibility that requires an agent's best judgment. Agents and store personnel must not consume or use intoxicants or be under the influence of intoxicants any time during a shift. Drinking or tasting alcohol in the store is against the law except as allowed by rules governing tastings.

8. Tastings

The Commission allows sponsors to conduct distilled spirits tastings in liquor stores at the sole discretion of the agent for the purpose of promoting the sponsor's products.

"Sponsors" are defined as Oregon distillery licensees, out-of-state manufacturers of distilled spirits, importers of distilled spirits, distillery representatives, and the employees or agents of distillery licensees, out-of-state manufacturer, importers and distillery representatives. Tastings are subject to the requirements and limits described in OAR 845-015-0155.

If an agent chooses to offer a tasting:

- Sample sizes may not exceed $\frac{1}{4}$ fluid ounce of distilled spirits in a single container. The container may also include nonalcoholic beverages; however, the total amount of liquid in the container may be no more than two ounces. A sponsor may not provide more than one-half ounce of distilled spirits per customer per day.
- Items to be tasted must be available for sale at the store where and when the tasting occurs.
- Agents must identify a specific tasting area and customers must remain in that area until they have finished consuming the sample(s). Exclusive agents may utilize any part of retail sales area. Non-exclusive agents must identify the tasting area with a floor plan sketch and keep the sketch on file in the store.
- Tastings are limited to a maximum of three consecutive hours per sponsor per store per day. No more than one sponsor at a time may conduct tastings.
- Tasting servers must have valid Oregon service permits.
- Sponsors must provide the items to be tasted and remove any remaining samples at the end of the tasting.
- Sponsors will provide or pay for a person to serve the product being tasted.
- Agents and store personnel must not be compensated or participate in a tasting session.
- Agents or employees of a retail liquor store may not be hired to participate as a server at any time in the retail liquor store where they are employed.

9. Smoking

The Oregon Indoor Clean Air Act (ICAA), also known as the Smokefree Workplace Law, prohibits smoking in the workplace and within 10 feet of all entrances, exits, accessibility ramps that lead to and from an entrance or exit, windows and air-intake vents. The ICAA includes the use of "inhalant delivery systems." Inhalant delivery systems are devices that can be used to deliver nicotine, cannabinoids and other substances, in the form of a

vapor or aerosol. These include e-cigarettes, vape pens, e-hookah and other devices. Under the law, Oregonians may not use e-cigarettes and other inhalant delivery systems in workplaces, restaurants, bars and other indoor public places in Oregon.

Agents are required to post “No Smoking or Vaping Within Ten Feet” signs at each entrance.

10. Bags

State law requires retailers using plastic bags to also offer the choice of paper bags as an alternative. Some cities may ban plastic bags requiring retailers to offer only paper bags. If a customer declines a bag, OLCC recommends honoring the customer’s request.

11. Oregon Bottle Bill

Beverage containers that require a deposit and refund include:

- water and flavored water
- beer/malt beverages (this applies to non-exclusive liquor stores with an Off-Premises license)
- soda water and mineral water
- carbonated soft drinks

Eligible containers are required to display the Oregon refund value on the product. Some bottle manufacturers are laser printing redemption information onto the plastic or glass container, not the label. Store personnel must be aware of which containers should be accepted from a customer for redemption. Even if a store does not charge a deposit, agents are required to pay the redemption value to the consumer on qualifying beverage containers.

Additional information regarding the Oregon Bottle Bill can be found at:
www.oregon.gov/olcc/pages/bottle_bill.aspx

Redemption Requirement Chart

Store Size	Returned Containers	Type Of Container
Stores with up to 4,999 total square feet (Sales floor and stockroom combined)	If the retailer is within the convenience zone(s) from a redemption center: Up to 24 per person per day	Only brands and sizes retailer sells
	If the retailer is outside the convenience zone(s) from a redemption center: Up to 50 per person per day	
Stores 5,000 square feet or greater (Sales floor and stockroom combined)	If the <u>participating</u> retailer is within the first convenience zone from a redemption center: May refuse to redeem all containers ----- If the <u>participating</u> retailer is within a second convenience zone from a redemption center: Up to 24 per person per day ----- If the <u>non-participating</u> retailer is within the convenience zone(s) from a redemption center: Up to 350 containers per person per day (equivalent services to the redemption center)	All brands if they sell the same type of category (soda pop, water, beer, etc.) in their store
	If the retailer is outside the convenience zone(s) from a redemption center: Up to 144 per person per day	

1-F. FEDERAL REGULATIONS

1. TTB Regulations

The U.S. Treasury Department Alcohol, Tobacco Tax and Trade Bureau (TTB) regulates the manufacture, bottling and packaging of liquor. Distilled spirits must be in bottles with federally approved labels and packaging. Each bottle must have a seal or closure that must be broken to open the bottle.

It is unlawful to:

Alter, mutilate, destroy, obliterate or remove any mark, brand or label on distilled spirits.

Refill or alter the contents of previously sealed liquor bottles.

2. Warning Label

Alcoholic beverages bottled after November 18, 1989 must bear the following label:

Government Warning:

1. According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects.
2. Consumption of alcoholic beverages impairs a person's ability to drive a car or operate machinery, and may cause health problems.

3. Postal Regulations

It is unlawful to transport distilled spirits through the U.S. Postal Service.

4. Bioterrorism

The U.S. Food and Drug Administration (FDA) implemented the Bioterrorism Act requiring all facilities that manufacture, process, pack or hold food for human consumption to register with the FDA. For purposes of this Act, an alcoholic beverage is considered "food." Agents operating a liquor store that generates greater than 51% of fiscal year sales to licensees are required to register with the FDA.

OLCC will contact agents when the Bioterrorism Act applies to a product that is contaminated.

Upon notification from OLCC, each agent must:

1. Remove any product from the sales area and stockroom (with lot number) involved in the alert. Agents must not sell any product involved in the alert until OLCC informs agent that it is okay to make such sales.
2. Isolate the product in the stockroom with a sign stating "Not for sale. Do Not Use per OLCC." Agent may use equivalent language that clearly communicates "Not for sale. Do Not Use per OLCC."
3. Post a sign of not less than 8 ½ X 11 inches in a prominent place by the cash register and the product shelf location to alert customers of the issue. Due to public safety concerns, agent must use sign content issued by OLCC.
4. Notify each licensee that purchased the product to inspect their stock.
5. Accept any return from a customer who has a concern about the product:
 - Return product for a full refund or replacement of the same product (different lot number).
 - If customers have concerns or reservations relative to the same product (but not the lot number in the alert) OLCC authorizes a full refund to the customers.
 - Contact Retail Services to report the return, on the day of receipt at the store.
 - Place any returned product with all other contaminated product.
6. Provide a total count of product to Retail Services.
7. Coordinate the return of or disposal of the product(s) with Distribution Center Management Team. OLCC will determine if a Store Claims Report is required.

Refer all possible bioterrorism issues regarding returned product to OLCC Retail Services.

1-G. KEEPING PUBLIC RECORDS

The Secretary of State and OLCC require agents to maintain and secure store records. Agents are to retain certain records for OLCC audits or Commission staff inspection. Agents are responsible for the safeguarding/maintenance of all records. Agents must keep all records in the store. The required retention times are listed below.

<u>FORM</u>	<u>RETENTION TIME</u>
Notification of Expected Absence	Destroy on return
Hours of Operation	Destroy when superseded
Bulletins/Memoranda/Correspondence	File by date/destroy when superseded
Inventory Tally Sheets	Two months
Statement of Age Card	Two years
Stock Transfer	Destroy after OLCC audit
Store Claims Report	Destroy after OLCC audit
Licensee Invoice	18 Months after OLCC audit
Sales Report	One year after OLCC audit
Store Sales Slip	One year after OLCC audit
Control Sheet	One year after OLCC audit
Cash Register Transaction Journal	18 months after OLCC audit
Bank Deposit Slips	18 months after OLCC audit
Bank card sales drafts and credit vouchers*	18 months after OLCC audit
Bank terminal Detail Batch reports*	18 months after OLCC audit
Bank Card Type & Settlement reports*	18 months after OLCC audit

* A person who creates or retains a copy of a receipt containing more information about a customer than the customer's name and five digits of the customer's credit or debit card number must shred, incinerate or otherwise destroy the copy once the retention period has expired.

SECTION 2.
APPEARANCE AND MERCHANDISING

2-A. APPEARANCE AND MERCHANDISING OVERVIEW

Today's consumer has high expectations of shopping destinations for distilled spirits that challenge agents to excel in their effort to share a part of the market. In addition to customer service excellence, the expectations are of shopping environments that provide pleasing experiences and encourage return visits. Success depends heavily on an agent's ability to meet the requirements of all shoppers, whether they are neighborhood locals or out-of-area tourists.

Continued attention to modernizing liquor stores is necessary in keeping with customer demand. Agents shall maintain the condition and appearance of their stores in accordance with the written standards of the Commission. The topics in this section define Retail Services expectations of agents for providing distilled spirits customers with modern, appealing, convenient shopping environments that are well organized and offer sufficient liquor inventory.

Routine maintenance and continuous cleaning are necessary to uphold the appearance of the store. Periodic remodeling of the interior and exterior of the store is required and must include, but is not limited to, floors, walls, ceilings, shelving, counters, signage and paint. Agents are responsible for meeting expectations of store appearance and should work with property owners to achieve this.

The layout and appearance of a store are vital to customer service and are subject to OLCC approval. District managers must approve changes in layout, fixtures, equipment, signs, décor and other features affecting overall store appearance and customer service.

Merchandising is more than just the placement of products on a shelf. It is a presentation of product in an appealing, logical, easy to shop manner that conveys the image of the store as a professionally-run business. As businesspeople contracted to devote their best efforts to the success of the store, agents need to ensure appropriate selection and proper presentation of the state's inventory.

Agents are encouraged to solicit assistance from Retail Services to meet expectations. Tools available through Retail Services include a photo catalog that highlights exceptional store appearance, and product comparisons which can assist agents in ensuring the best possible distilled spirits selection to meet customer demand.

2-B. EXTERIOR APPEARANCE

The exterior appearance of any store creates the first impression on the consumer, making it essential that the appearance offered is attractive and inviting. Agents should dedicate the time, effort and resources to this vital impression to guarantee a customer's willingness to shop their location.

1. Building Appearance

Agents need to ensure that the building exterior appears in like new condition or is recently refinished with fresh paint or siding that is appropriate to the market area. Agents must keep the building's exterior surface clean and free of holes, cracks and weather-related damage and evidence of damage or wear on the building surface must be corrected.

2. Exterior Signs

To inform the public of distilled spirit access, exterior signs must be highly visible, easy to read and compatible with the market area. Illuminated signs will stand out best during all business hours. Signs with bright, vibrant colors draw attention to the location. When available, OLCC recommends utilizing marquee or pylon signs along with storefront signage.

Signs and sign hardware must be maintained, clean, fully functional, undamaged and freshly painted when necessary. Signs and hardware that appear worn or faded must be replaced.

See Section 3-E for specifics and restrictions on sign content.

3. Parking and Landscape

Agents must keep parking areas and sidewalks clean and well maintained. Potholes and damaged areas must be repaired to ensure customer safety.

Landscaped areas should be maintained. When no bedding areas are available, agents are encouraged to use potted plants around the entry to the store.

Parking, sidewalks, and landscaped areas must be free of trash and debris at all times.

4. Windows and Doors

Windows and doors shall be kept clean and allow an unobstructed view into and out of the store with minimal signage other than that required by the Retail Operations Manual. Wood surfaces must be maintained and freshly painted or stained so that the finish is not faded, peeling, or rusted. All other materials must be maintained so that windows and doors are undamaged and in like new condition.

Doors and windows must be maintained in proper working order.

2-C. INTERIOR APPEARANCE

A shopping experience that makes customers feel welcome and comfortable is essential in today's sophisticated marketplace. Attractive stores enhance the image of the community and our state. As a general rule such stores experience higher sales. Clean, brightly lit, well-organized sales areas, offices and stockrooms reflect the standards of excellence held by the agent and the Commission.

1. Surface Areas (Ceilings, Walls, Floors)

Large interior surface areas generate immediate reaction from a customer entering a store. Interior surface areas are ceilings, walls and floors and include vents, diffusers, tiles, etc.

Surface areas shall be clean and free of damage, stains, visible flaws and signs of wear. Agents must repair or replace surfaces that exhibit these types of conditions.

Decorative ceiling tile, metal medallion and open-exposed are among the most contemporary ceilings available. OLCC recommends that store walls display bright, vibrant, modern two-color schemes. Hardwood, laminated wood, stained concrete or ceramic tile are suggested for durability and are the most popular commercial floor finishes. These modern types of surface area finishes are recommended to meet the ever-changing demands of consumers.

2. Shelving and Counters

Shelving needs to be clean and free of blemished paint, rust, dirt, stains or damage and needs to have moldings for price labels. Shelving that has worn paint or is rusty, or damaged must be replaced or professionally refurbished.

Counters and countertops are to be clean, undamaged and unworn and must allow adequate customer space. Countertop surfaces that are broken, damaged, chipped or worn are to be replaced. Avoid countertop clutter that restricts customer space or that does not allow customers to set down all purchases at once.

Solid surface metal shelving in contemporary colors is recommended as it provides the best stability against damage to the state's inventory. Countertops should be marble, laminate or other modern finishes.

3. Lighting

Effective lighting is critical to the appearance of the store, helps customers make better decisions in product selection, and is important for security as dark or shadowed areas can promote theft.

Light fixtures shall be maintained in clean, fully intact and undamaged condition. All lighting is to be turned on during business hours and missing or burned out bulbs must be replaced.

Monorail, recessed, sconce and pendant fixtures are examples of the types of up-to-date lighting stores should be utilizing.

4. Sales Floor and Aisles

Customers forced to shop in stores that are crowded with fixtures and displays that hamper movement tend to spend less time browsing and are more likely to enter and leave quickly.

Aisles should be wide, uncluttered and should allow customers to shop unencumbered by case stacks, empty boxes or other customers. Aisles need to be wide enough to allow customers to easily see and select product on bottom shelves.

Sales floors and aisles must meet the requirements of the Americans with Disabilities Act (ADA).

5. Stockroom and Office

Stockrooms and office areas are to be clean and neatly organized. These areas must be consistently ready for OLCC audit. Racking for loose bottles should be installed to facilitate a smooth and accurate inventory count. If an agent stacks cases, an agent must stack cases in a way that is safe and stable to protect the state's inventory. Stockrooms and office areas should not be visible from the sales floor.

Distillery and breakage claims should be kept in a separate, designated area.

6. Décor and Music

The Commission encourages the use of décor and music to promote the ambience of the store.

Store décor must appeal to the general public with attractive color pallets, art and displays. Décor should be appropriate to the overall theme of the store and compatible with the market area. Seasonal and holiday décor is encouraged to enhance the shopping experience.

Background music must also appeal to the general public.

2-D. STORE LAYOUT

Essential to the success of any store is a layout that maximizes customer convenience and provides the greatest sales and income opportunities for the agent. Retail Services has developed a floor plan based on known shopping habits that offers customers easier navigation and improved sight lines, while at the same time giving agents guidelines for category placement that better serve the goals of convenience and sales. Exhibit 1-5 is an example of a floor plan that implements these guidelines. It also demonstrates the level of detail an agent should include when communicating with OLCC about agent's floor plan.

1. Store Size

Agents are obligated to provide sufficient selling areas that are spacious, open and shoppable to accommodate customer traffic. It is important that a store offers adequate space to accommodate sales volume of distilled spirits products and related items.

Careful planning and effective use of space is essential to the operation and success of a store.

- a. Exclusive stores shall have ample space allotted for distilled spirits. Because a proven formula for ample space is two-thirds of the total square footage devoted to the sales floor, OLCC recommends that agents use that formula.
- b. Non-exclusive stores shall have enough linear footage of shelf space to offer a broad selection that is appropriate to market demand.

Proper space allotment ensures that customers have the best choices and helps agents avoid the labor intensity of constant restocking.

2. Fixtures

Store fixtures should be placed to allow for traffic patterns that do not crowd customers or impede shopping any area of the store. The OLCC floor plan establishes guidelines for fixture placement, based on consumer convenience and habits, which agents must replicate in the planning of the floor layout.

Register counters should be placed to the left of the store entrance and to the front of the selling area. This allows customers to flow to the right as they traditionally do and gives agents and staff the best visibility of the entire sales floor. Free-standing gondolas should be centered and angled in the sales area in such a way as to allow patrons to easily walk around and between them.

Perimeter fixtures should be set against interior walls to create stability and prevent breakage. Perimeter fixtures should be no more than 84" high with no more than 5 shelves (including base) to allow customers to reach all products. Free-standing gondolas should be no more than 48" high and have no more than 3 shelves.

Agents should select fixture colors appropriate to the overall décor, from a variety of new, modern color choices.

3. Category Arrangements

Proper placement of products throughout the store allows customers to be exposed to all items and addresses product security. The category placement of OLCC's recommended floor plan is a proven method of achieving these goals.

- High-draw liquor categories such as vodka and whiskey should be located furthest from the entrance to draw customers through the store.
- Light and dark spirit categories should be alternated to help highlight the visual impact of each section and avoid confusion as to where a category begins and ends.
- Low volume categories such as cordials, creams and coffees can be placed on free-standing gondolas in the center of the store where customers might see them on the way to other products.
- Miniatures, 375 ml bottles and plastic 750 ml bottles should be highly visible, but behind the counter to guard against theft. High dollar categories like scotch and tequila should be easily seen from the counter area. Locking showcases or cabinets should be used for more expensive products.

4. Related Items

Exclusive agents are encouraged to devote sales floor space for the sale of authorized items to enhance customer convenience and provide additional income. Related items should be offered to meet customer expectations for one-stop shopping and should supplement the distilled spirits selection without displacing distilled spirits or making shopping difficult when products are unreachable.

5. Stockrooms

Stockroom layout should be neat, with straight rows of case stacks or straight rows of like product on racking. The most common methods of product sequencing are by category or by product code number.

Stores with high volume licensee sales may have specific areas devoted to licensee-preferred products. Agents can also consider stockroom workstations for processing licensee orders.

Areas around receiving doors should be uncluttered to allow for safe, smooth, and efficient delivery of products.

6. Store Remodels

Stores will require upgrades to interior store appearance that Retail Services finds unsatisfactory, including but not limited to, floors, walls, counter, shelving, lighting, etc.

District managers must approve changes that affect store appearance and store layout. Required approval is needed when a store layout is going to significantly change from the current configuration, which may include but is not limited to, moving and upgrading fixtures, equipment, walls, etc.

Remodeling must not start until the following process has been completed.

- The agent submits a detailed floor plan to the district manager for approval. The detailed floor plan must include sales area and stockroom. Refer to Exhibit 1-5 for floor plan content. Sales area in most cases equals two thirds of the overall retail space with one third dedicated to the stockroom. Include on the floor plan the type and location of shelving, counter surface, flooring, and modern paint color.
- The district manager will make any changes and return the floor plan to the agent.
- When the agent has incorporated the changes, the floor plan is resubmitted to the district manager for final approval.
- When final approval is given, the agent may proceed with alterations.

2-E. MERCHANDISE PRESENTATION

Merchandise presentation is vital to the success of every store particularly with a unique primary product like distilled spirits. Because applying basic principles of effective merchandising can affect consumer buying decisions, agents should devote the time and effort necessary to capture their market, inform customers and impact choices.

Basic merchandising principles include offering broad selection, clear and logical presentation, drawing the customer's attention, being informative, and promoting impulse or add-on sales such as related items. This section further defines these principles and offers proven tips for successful merchandise presentation to assist agents in generating optimum sales and revenue.

1. Product Selection

Product selection in a store should be closely managed, but with an open mind to new product offerings and changes in demand.

All stores must carry the basic distilled spirits categories:

Vodka	Canadian Whisky	Whiskies/Blends
Gin	Scotch/Single Malt	Rum
Tequila	Liqueurs	Cordials
Coffees/Creams	Brandy/Cognac	Cocktails (Pre-mix)

Within each of these categories it is necessary to stock a suitable range of products based on store sales volume, individual category growth, price point, quality, age and flavor. Seasonal changes and holidays should always influence an agent's selection of products. Product selection decisions that consider each of these areas will offer customers a wide variety of choices.

Miniatures (50 ml) are a great way to introduce customers to new items in the store. In addition, plastic bottles (known as travelers or light weights) are often preferred by tourists, hunters and anglers. Consider merchandising products produced in Oregon in a dedicated section as well as in the appropriate distilled spirits category.

Demographics are also important to the product selection. Attention to specific age groups, cultural background, and financial affluence can help ensure an appropriate mix targeted at many areas of population. Trade publications are a good source of information about trends in the distilled spirits industry and media advertising can provide ideas for focus on brand or type of product. Ranking reports available from Retail Services are another effective tool in product selection. These reports can compare surrounding stores or stores in similar markets to help agents make informed decisions about the best selection for their stores.

2. Shelf Management Standards

Merchandise presentation that is clear, logical and easy for customers to understand, will ensure maximum exposure and help customers make their best selection. Shelves should be kept stocked and faced at all times. Agents must strive for the best presentation including the key aspects of shelf management which are category placement and product placement (within a category).

a. Category Placement

The most important component of category placement is to set the highest demand, highest volume categories such as vodka or whiskey, at the furthest point from the entrance. This placement will draw the majority of customers through the entire store and expose them to additional products (the reason dairy and meat departments are usually placed at the back of grocery stores).

Agents should allocate adequate shelf space to each category by calculating category sales as a percentage of total distilled spirits sales. Further, categories should be set so they are merchandised vertically and visually separated (“blocked”) from other categories.

Where space permits, agents are encouraged to set destination areas for customer convenience and to optimize sales. Examples of destination areas include new items, close-outs or made in Oregon products. A permanent location for new items will draw customers and promote recent arrivals in the store. Ultimately, many patrons will head for this area first. For greatest exposure, new items should be cross-merchandised in the new item area and in the regular product set. Bargain hunters will often go directly to a close-out section, whether items there are delisted by the Commission or being discontinued from the store. With a growing number of distilleries in the state, a made in Oregon section will attract tourists while supporting Oregon business.

b. Product Placement

Agents must devote their best efforts to the success of the store. OLCC’s recommended basic plan for product placement helps agents achieve this goal. The fundamentals of this unique plan include best use of priority shelves, the right-hand trade-up rule, brand groupings and adequate facings. Combined, these elements enhance customer service and convenience, maximize agent income and state revenue, and are fair to all vendors.

The most precious resource in a store is priority shelves at or near eye-level. Studies have shown that sales increases of 70% can be reached with product moved to this vital area. Agents should place the most expensive products on these priority shelves, with least expensive products on less visible shelves. The order of priority shelf sequencing for a 5-shelf section (starting from the top) begins with the 2nd shelf, goes to the 3rd shelf, then the 1st (top) shelf, then the 4th shelf, and finally the 5th (base) shelf (*Exhibit 1-5*).

Products should be placed by size using the right-hand trade-up rule. Since customers read from left to right, put smaller sizes to the left and larger sizes to the right. By listing

out the 750 ml brand prices, brands can be arranged using the priority shelves information as a guideline. When the 750 ml price grouping is complete, add the other sizes carried in that brand. Merchandise the plastic 750 ml to the left (if on the sales floor), followed by the glass 750 ml, and finally the 1.75 liter on the right. For this method to be most effective, continuous adjustments must be made as products are added or removed from a category.

Place 750 ml and 1.75 liters of identical items together to create a billboard effect and catch the consumer's eye. For example, if Brand X has 80 proof, 100 proof, and flavored product, the 80 proof 750 ml would be on the far left with the 80 proof 1.75 liters to the right. Next, the 100 proof 750 ml would follow with the 100 proof 1.75 liter on the right. Finally, the flavored product would continue in the same fashion. All Brand X would be grouped together for customer convenience and name recognition.

Agents should decide the adequate number of product facings based on store sales history. Agents should ensure that enough of each product is available on the sales floor to avoid out-of-stocks and to reduce labor costs from constant restocking. Store personnel who can serve customers will generate more sales; those who are continually stocking shelves will not.

3. Displays

Effective displays should be creative and unique to catch a customer's attention upon entering the store. Displays should always be kept full. Successful display merchandising will generate additional sales and revenue and needs to be constantly changed to give the customer the impression that there is always something new being offered.

Displays should highlight monthly specials, seasonal items or promotional items and always be signed with the current price. Case or bulk stack displays should offer sufficient product to create the impression of large quantities without causing inventory overruns. This can be accomplished by using appropriate empty boxes to build a display foundation.

Recipe bars or tables that feature a seasonal or sale item along with other products in the recipe are a great way to generate interest in a specific drink while promoting impulse sales.

Agents who permit distillery displays in their stores must allow equal access to all distilleries. The Commission retains the right to remove point of sale materials it finds objectionable. For specific requirements of distillery signs and displays, refer to OAR 845-015-0175 and OAR 845-015-0177.

4. Signs

Attractive, visible signs are important to directing and informing customers in the store. OLCC recommends that all signs be professional-looking and easy to read to enhance customer convenience. Types of signs include category signs, product signs, and informational signs. The Commission may prohibit any sign it deems inappropriate.

a. Category Signs

Category signs are intended to lead customers to a particular area of the store or liquor department and must be placed directly above associated sections. Category signs are required in all stores and must be large enough to be highly visible throughout the store or liquor area, and appropriately designed to coordinate with the store's décor. Back-lit or neon category signs are recommended in modern urban settings, while rustic appearance may be more suitable in rural areas, but all category signs should relate to the overall store décor.

b. Product Signs

Product signs make customers aware of changes in the product line. These signs are usually temporary. Special signs and Close-out signs are used to show the original price and the discounted price to assist customers in realizing the savings.

Recommended product signs include new item, out of stock and temporary price reduction (multi-month) signs. OLCC recommends that agents post product signs in all areas where a product is merchandised.

Product signs for specials, close-outs, new items, out-of-stock and temporary price reductions may be ordered from the OLCC mailroom by email or by using a Supply Requisition form located on OLAS. Some sign templates are available on OLAS.

c. Informational Signs

Informational signs usually educate customers about policies such as store hours or cash-only registers. Informational signs must be computer generated or custom printed and professional in appearance.

5. Related Items

To achieve the convenience of one-stop shopping, liquor agents are encouraged to merchandise a broad selection of related items to compliment distilled spirits. Related items that are well presented will promote add-on and impulse sales from consumer and licensee customers and agents who focus attention to this area generally attain greater customer satisfaction and increased income. As a reminder, exclusive agents may only carry related items from the authorized list (*Exhibit 1-2*).

The Commission suggests presenting related items in an area of the sales floor that customers can readily see and shop. Further, cross merchandising of related items adjacent to distilled spirits will afford the opportunity for customers to purchase all their beverage needs in one store. Some examples of these adjacencies are tonic, lemons, limes and olives near the gin section, margarita mix and salt near the tequila section, or tomato juice, Tabasco sauce and pepper close to the vodka section.

SECTION 3.
OPERATIONS AND CUSTOMER SERVICE

3-A. STORE HOURS AND STORE CLOSURES

To ensure adequate service to the public, the Commission requires liquor stores to maintain convenient hours of operation. Liquor stores must be open Monday through Saturday at least eight hours a day, including the hours between noon and 6:00 p.m. They may also be open Sundays and holidays for any number of hours. Liquor stores must not open before 7:00 a.m. or close after 10:00 p.m. on any day.

Stores may stay open past their regularly posted closing hours (but not after 10:00 p.m.) to serve an occasional influx of customers. Liquor stores closing at 10:00 p.m. must close and lock the doors but can serve the remaining customers in the store.

Agents must post their business hours at the main entry to the store. Hours of Operation signs are provided by OLCC.

1. Change in Hours or Days of Operation

Agents must provide notice to OLCC of changes in regular store hours or days of operation. Agents must follow these steps:

- a. Submit an Hours of Operation form located on OLAS to Retail Services.**
- b. Post a sign next to the regular hours indicating the change for a minimum of two weeks prior to the effective date of the change.**
- c. Post a new Hours of Operation sign after the two week period.**

2. Store Closure

A liquor store must be open during regular hours to serve the public except for a final audit, a power failure, severe weather or building damage that forces closure. Agents must not have customers in the store when conditions are unsafe and can only allow customers back in the store when it is reasonably safe to be open. Post a sign to notify customers the store is or will be closed. Post a closure sign 10 days in advance of a final audit.

Notify Retail Services of unexpected closures during regular OLCC hours. For robbery, after-hour burglary or other situations causing damage to the distilled spirits follow the steps in the Emergency Procedures section of this manual.

3-B. VOLUNTARY SUNDAY / HOLIDAY OPERATION

Liquor stores may be open on Sunday and the following approved holidays:

New Year's Day, January 1

Martin Luther King Jr. Birthday, third Monday in January

Presidents' Day, third Monday in February

Memorial Day, last Monday in May

Independence Day, July 4

Labor Day, first Monday in September

Veterans' Day, November 11

Thanksgiving Day, fourth Thursday in November

Christmas Day, December 25

Any other legal holiday proclaimed by the Commission

Agents must post a sign at the main entry at least one week prior to an approved holiday stating whether the liquor store will be open or closed. Signs must remain posted until the beginning of the next business day following the holiday.

3-C. CUSTOMER SERVICE

Customer service must be of the highest priority for agents and store personnel. Customers are entitled to a pleasant shopping experience with friendly, efficient, knowledgeable and responsive service. Interacting in a positive outgoing manner from the moment the customer enters the store can only enhance the shopping experience.

The agent must operate the liquor store courteously and responsibly for the benefit of the citizens of Oregon. The agent must thoroughly train store personnel and routinely support their efforts to develop customer service skills.

Agent and the agent's store personnel must treat customers, OLCC staff and the general public with professional courtesy and respect in all dealings related to the liquor store.

Repeated customer service concerns or complaints about a store or store personnel are unacceptable and must be corrected immediately.

1. Product Availability

The liquor inventory in each store is the property of the State of Oregon. Allocated items or items in limited quantities must be sold immediately or made available for purchase to the public or licensee upon request.

Agents must make any product available for legal sale to any customer. The Commission reserves the right to transfer slow moving items, or transfer items of ample quantities to stores where sales and demand exist. It is OLCC's expectation that agents work together to transfer product where there is a customer need.

2. Personnel Appearance

The way agents and store personnel look can greatly impact the way customers feel about shopping in the store. Professional attire conveys the value put on the business and often translates into repeat sales.

Liquor store personnel are required to wear clothing that does not negatively impact public health or safety, and which reflects the decency standards of the community.

3. Product Knowledge

Product knowledge is an excellent form of customer service that is often overlooked. If liquor store personnel cannot answer a question, a customer may decide not to make a purchase rather than risk making a mistake.

Although liquor store personnel are not allowed to specifically recommend one brand over another they may ask about the use of the product to assist a customer in making a decision. Questions and discussions about how and where a product is made, how it is used, its flavor, aroma, age, proof, and price are appropriate. Suppliers, trade magazines, and newsletters are good sources of information about the products sold in the store.

4. Minors in Liquor Stores

Minors may only enter a liquor store when accompanied by a parent, spouse or domestic partner who is 21 years or older. The minor is not allowed to be in possession of or handle distilled spirits products. Minors are allowed to converse with the parent, spouse or domestic partner and while accompanied may be in possession of or purchase non-distilled spirits products.

Minors may work in liquor stores, but they must be at least 18 years old to sell alcohol. Agents' employment practices must meet state and federal laws on youth employment.

5. Delivery

Delivery to a consumer customer is prohibited. However, an agent may deliver or arrange to have delivered alcoholic liquor and related items to a Full On-Premises sales licensee's business. Any person making a delivery must be at least 18 years old.

6. Drive-Up Windows

Drive-up service windows are prohibited for the sale of alcoholic beverages.

7. Cell Phones

OLCC has no policy on cell phone use in a liquor store.

8. Animals

The only animals allowed in the store are service animals or service animals in training. Service animal means a dog trained to work or perform tasks for an individual with a disability. The disability may be a physical, sensory, psychiatric, intellectual, or other mental disability. Service animals are working animals, not pets. An animal that is not trained to work or perform tasks for an individual with a disability and only provides comfort or emotional stability is not a service animal. Agents are also required to make reasonable modifications in policies, practices, or procedures to allow the use of miniature horses trained to perform duties for individuals with disabilities into stores. Agents can call 1-800-514-0301 for information about the Americans with Disabilities Act.

9. Empty Boxes

Agents can recycle or destroy empty boxes or offer them to the public at no charge. Empty boxes must be stored out of public view.

10. Customer Comment Cards

Customer comment cards can be ordered from the mailroom and are an excellent tool to help agents provide the best service possible to customers. They also help OLCC evaluate customer satisfaction and consumer needs. Please keep a supply of the cards readily available for customers and encourage their use.

11. Customer Complaints

Because OLCC requires friendly, courteous and professional customer service, complaints about a store, an agent or store personnel are taken very seriously. The district manager will investigate a complaint and it will be the agent's responsibility to immediately correct any deficiency in customer service.

3-D. SHOPLIFTING

OLCC requires agents to make every effort to prevent shoplifting in a liquor store during business hours.

1. Efforts To Prevent Shoplifting

Agents are responsible for preventing shoplifting. OLCC recommends the following steps to reduce the risk of shoplifting.

- a. Arrange the sales area to eliminate blind spots and dark corners, with displays in full view of store personnel. Use mirrors, cameras, and observation areas where appropriate.
- b. Relocate high theft items to secure areas.
- c. Higher priced items should be displayed in a way that protects against shoplifting, such as placing these in a locked showcase or a locked cabinet or by putting an empty box, canister, etc. in the appropriate place as a display.
- d. Store personnel should be scheduled based on anticipated customer volume.
- e. Watch for suspicious behavior and customers with clothing or bags that can be used to conceal merchandise.
- f. "Over-serve" suspected shoplifters – greet customers, engage them in conversation, offer assistance, and observe them to discourage shoplifting.

Agents making reasonable efforts to prevent or avoid shoplifting are eligible for relief from a loss. **However, any bottle retailing for \$250.00 or more will not be eligible for relief from a shoplifting loss.** Liquor stores with excessive shoplifting may not be eligible for relief.

To seek relief, an agent must:

- a. Notify the police within 24 hours of the loss and obtain a police report case number.
- b. Submit a completed Shoplifting Incident Report located on OLAS to Retail Services explaining how the agent exercised reasonable care to prevent shoplifting.

Incomplete Shoplifting Incident Reports will be returned to the store delaying the overall determination for relief.

Agents must continue to include shoplifted items in reported inventory until a letter has been received from Financial Services with a final determination.

2. Apprehending Shoplifters

State law allows a retailer to confront shoplifters and detain suspects as they leave the store. It is recommended that agents check with the local police department and their attorney for guidance on how to deal with shoplifters. Do not use physical force if confronting shoplifters or detaining suspects and do not search the person without consent. Call the police immediately. Upon request, give the evidence to the police. The police may take the shoplifter into custody or issue a citation.

3-E. ADVERTISING

The Commission allows advertising by retail sales agents through print media, television, radio, website, social media, exterior signage, interior signage, displays and other forms that are not prohibited by statute or rule. Agents may advertise lottery sales and distilled spirits tasting promotions in their liquor store advertisements.

1. Advertising by a Retail Sales Agent

When an agent decides to advertise, the advertisement shall not:

- a) Be false, misleading or discriminatory;
- b) Make claims that any government agency endorses or supports the distilled spirits product;
- c) Include materials so appealing to minors that it encourages them to purchase, possess or drink distilled spirits;
- d) Be included in any material that is for the purpose of youth or minor viewership (i.e. school yearbooks);
- e) Use a person appearing to be under 26 years of age displayed drinking distilled spirits;
- f) Use material that encourages the use of distilled spirits because of its intoxicating effect;
- g) Include the words, "OLCC" or "State of Oregon";
- h) Include material that encourages excessive or rapid consumption;
- i) Be purchased or given by a manufacturer, wholesaler, distributor, or a person representing a distillery, or a Full On-Premises licensee on behalf of a retail sales agent, except as otherwise allowed by statute or rule. (See ORS 471.750(4) and OAR 845-015-0175);
- j) Be placed in media that is being purchased by a Full On-Premises licensee or material advertising a Full On-Premises licensee in a liquor store;
- k) Promote a licensee, sweepstake, premium, on-pack or non-tasting distilled spirit events.

Prior approval of advertising material is not normally required. However, agents who fail to comply with the advertising rules may be required to submit future distilled spirit advertising material to the Commission for prior approval to ensure compliance with OLCC rules. In such cases, the Commission will specify a reasonable period of time during which prior approval is required.

Agents must remove any sign, display, or advertisement found by the Commission to violate OAR 845-015-0175 or OAR 845-015-0177, or both. The Commission will specify a reasonable period of during time during which the agent must remove the objectionable advertising.

2. Exterior Signs

To inform the public of distilled spirit access, stores that sell liquor must have exterior "Liquor" sign(s) which are highly visible, attractive, easy to read, compatible with the location and that conform to local ordinances.

Liquor stores located within another retail business or building may place an exterior sign at the immediate entrance to the liquor store.

Exterior signs may be located off the property that the retail liquor store occupies with written permission from the owner of the property where the sign is located. Upon request from the commission, agents will need to provide evidence of the property owner's permission.

Signs and sign hardware must be maintained, clean, fully functional, undamaged and freshly painted. Signs and hardware that appear worn or faded must be replaced.

3. Advertising in a Retail Liquor Store

Stores may post interior advertisements for liquor that are compliant with administrative rules and relevant statutes. Signs, displays, and fixtures must not be readily visible from outside the store or obstruct another distiller's product. If the agent chooses to allow signs and displays in a retail liquor store, each manufacturer, wholesaler, distributor, or distillery must be given a reasonable opportunity to advertise. The Commission retains the right to remove any sign or display it finds objectionable or are inappropriate for use in a retail liquor store.

Agents are not required to order distilled spirits for use in a display, sweepstakes or promotion. Empty case boxes may be used, if necessary.

a. Signs and Displays

The Commission allows manufacturer, wholesaler, distributor, and distillery displays that advertise or display the entity's product in conjunction with the approved items described in OAR 845-015-0143. Displays and fixtures that have a function besides advertising or displaying the entity's product are not allowed.

When the total value of the sign or display is \$500 or more, the item:

- Can only be loaned to the retail sales agent.
- Must be clearly marked as the property of the manufacturer, wholesaler, distributor, or distillery.
- Must be marked with the date the loan begins, and can only be loaned for a maximum of 90 days per calendar year. At no time can a loan period be more than 90 consecutive days.

A manufacturer, wholesaler, distributor, or person representing a distillery can only have one such sign or display (\$500 or more) at a time in any one liquor store. The value of a sign or display is the actual cost to the supplier who initially purchased it. Transportation and installation costs are excluded.

Displays and signs may be removed by the manufacturer, wholesaler, distributor, or a person representing a distillery. Retail sales agents may dispose of old and unused displays and signs, but retail sales agents must not use these items for personal or business gain.

b. Sweepstakes and Premiums

A sweepstakes, defined by rule, is a contest for prizes not prohibited by law and offered by a manufacturer or a person representing a distillery.

A sweepstakes offer must not require the purchase of liquor in order to receive a prize, merchandise or other thing(s) of value, unless the manufacturer or distillery representative donates the prize or merchandise to a charitable cause or community non-profit entity. A sweepstakes participant may complete an entry blank at a retail liquor store, but a person representing a manufacturer or distillery must draw the entry at the end of the promotion and contact the winner. Any sweepstakes or premium must be delivered to the winner at a location other than a retail liquor store. Retail sales agents, liquor store personnel, commission staff or their immediate family living in the same household cannot participate in a sweepstakes.

A premium is an item, offered to promote a product, which a person may order from a manufacturer or person representing a distillery. Examples of a premium include t-shirts, watches, and personalized bottle labels. A person may pick up an order form for a premium at a retail liquor store, but the item must be delivered at a location other than a retail liquor store.

Agents may not request, accept, give away or remove sweepstakes or premium items from the store at any time or otherwise use the items for personal or business gain.

c. On-Packs

Any item approved by the commission that is attached to or packaged with a distilled spirits product is called an on-pack.

When an on-pack is offered, the on-pack item must not be removed or sold separately from the original bottle unless directed by OLCC. Unless an exception is approved by Commission staff, on-packs of liquor must: not exceed two 50 ml per original bottle; not be a size that has a current listing; and can only be attached to original bottles that are 750 ml in size or larger.

Agents may not request, accept, give away or remove (unless directed by OLCC) on-packs at any time or otherwise use the items for personal or business gain.

3-F. BUSINESS LICENSE AND NAME

1. Business License

Cities and counties do not require a business license for the sale of distilled spirits, but they may require a license for related items. Agents should contact city and county offices to be sure they comply with local licensing requirements.

2. Business Name

If using a business name other than their own name, agents are required to register the assumed business name with the state Corporation Division. An agent's business name **must not** include these words: Liquor, OLCC, State, or Distilled Spirits.

3-G. SUPPLIES PROVIDED BY OLCC

OLCC supplies certain forms and envelopes to assist in the monitoring of liquor inventory and revenue. Agents must use these forms. OLCC also provides certain in-store signs and product signs (special, close-out, etc.) designed to assist customers. Signs may be ordered from the OLCC mailroom by email (agent.supplies@oregon.gov) or by using a Supply Requisition form located on OLAS.

1. In-Store Signs

These informational signs must be displayed prominently in all stores.

At the main entrance:

**No Minors (decal)
Hours of Operation
Holiday Signs
No Smoking or Vaping Within 10 Feet**

At the sales counter:

**Pregnancy Warning Sign
Drugs and Medicine Warning**

These informational signs may be displayed:

**Acceptable ID
Minor/VIP
Check Acceptance Policy
Shoplifting**

OLCC periodically distributes other signs and information to be placed in stores.

2. Price Labels

Each shelf position must be labeled with the current item price. Missing or worn labels may be ordered by emailing a list of code numbers (Example: 0129B) to OLCC.RetailServices@oregon.gov. OLCC automatically sends shelf price labels for new items and price changes.

Self-service stores not using point-of-sale computer system must price each bottle with the correct monthly price. When a price change occurs, remove the old label before repricing the bottle. OLCC does not supply pricing materials other than shelf labels.

SECTION 4.
SALES AND REVENUE

4-A. REGULATING LIQUOR SALES

The sale of alcoholic beverages is a serious responsibility, regulated by laws to protect against abuses. It is against the law to sell alcohol to a person who is: under 21, furnishing alcohol to minors or visibly intoxicated. Local ordinances may prohibit consumption of alcohol in public (street corners, parks, etc.). These sales must be refused while being careful not to violate the rights of a customer.

The law also requires that individuals selling alcohol must check identification (ID) of anyone who appears younger than 26.

1. Types of ID

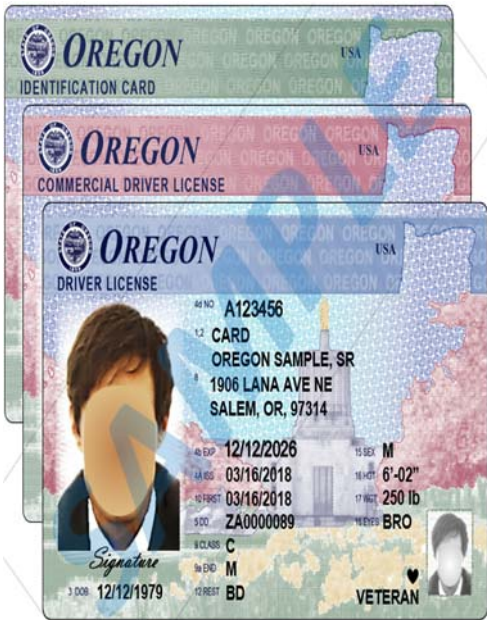
Agent must follow ORS 471.130 regarding acceptable forms of identification. The following are acceptable types of identification:

- i. **Any** valid United States or District of Columbia issued driver license
- ii. A valid Oregon identification card issued under ORS 807.400 or a valid ID card with a photo, name, date of birth, and physical description issued by:
 - another state
 - District of Columbia
 - Puerto Rico
 - Guam
 - Northern Mariana Islands
 - United States Virgin Islands, or
 - American Samoa
- iii. A valid ID card issued by a federally recognized Indian tribe with photo, name, and date of birth.
- iv. A valid United States Military ID card
- v. A valid Passport or Passport Card
- vi. A valid NEXUS or SENTRI card



Oregon driver licenses issued to a person 21 and older.

Issued Beginning 2019



Oregon driver license issued to a person younger than 21.

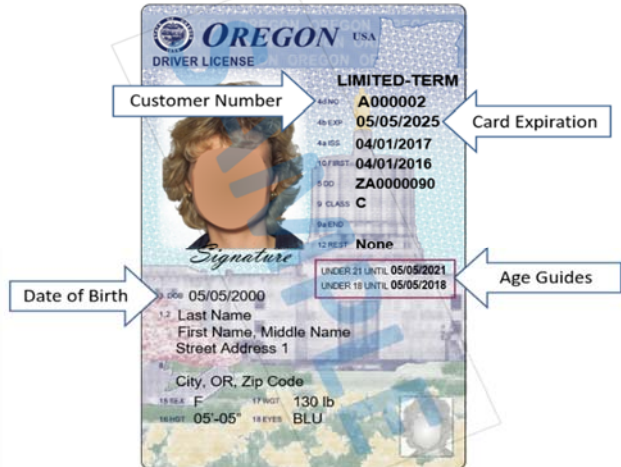
Issued Beginning 2019



21 and Over



Under 21



Back for all cards



A valid interim (temporary paper) Oregon motor vehicle license or an Oregon ID is considered a legal form of ID to verify age.



Interim cards issued beginning in 2019 are printed on blue paper. They hold the same data as the final card, including barcodes.

Oregon driver licenses issued to a person 21 and older.

Issued 2019 and Before



Oregon driver license issued to a person younger than 21.

Issued 2019 and Before



Oregon driver license issued to a person younger than 21. The picture will have a **red border** stating “Under 21 until MM-DD-YYYY” on the top of the picture and “Under 18 until MM-DD-YYYY” on the right side of the picture.

2. Tips on Valid Identification

Since the law requires sellers of alcohol to check ID of anyone who appears younger than 26, below are tips to help an agent establish a routine to verify the document is valid, unaltered and belongs to the presenter.

Touch the ID	Look at the ID	Ask About the ID
<p>Ask the person to provide their ID so it can be examined for signs of tampering. If the ID is in a wallet, ask for it to be removed.</p> <p>By running a finger over the ID, it may detect:</p> <ul style="list-style-type: none"> • Raised edges around photo • Altered birth date, expiration date or "Under 21 Until" date • Bumpy surfaces by the picture • Irregular lamination • Obvious cuts or slashes • Unusual thickness and quality 	<p>Visually inspect the ID for the following:</p> <ul style="list-style-type: none"> • Date of Expiration - Expired ID is not acceptable. • Date of Birth (DOB) - Is the person 21 or older? • Photo - Does it look like the person presenting the ID? • Font Type - Do all the letters and numbers appear the same? • Height and Weight - People can lose or gain weight, but the height should be consistent. • Printed information on the back – Oregon and most states have printed information on the back. 	<p>While holding the ID, ask the person to state their:</p> <ul style="list-style-type: none"> • Address • ZIP Code • Middle Name • Date of Birth <p>Have the person:</p> <ul style="list-style-type: none"> • Show a second piece of valid ID if in doubt about the first ID • Sign a piece of paper and compare the signature to the ID

3. Refusing Illegal Sales

Refusing illegal sales of alcohol is a key responsibility while working in a liquor store. Agents must train store personnel on the responsible sales of alcohol and how to apply that training to make legal sales. Periodic meetings throughout the year should be conducted with all store personnel on the topics of minors attempting to purchase, signs of visibly intoxicated persons, tips on refusing illegal sales and penalties for making illegal sales.

Use the following tips to assist in refusing illegal sales:

a. Minors

Minors come in all shapes and sizes and may attempt to deceive store personnel to obtain alcohol. Keep in mind, minors may alter their look or act differently in an attempt to purchase alcohol. However, appearance and behavior cannot be the only factors in determining age.

Appearance		Behavior
<ul style="list-style-type: none">▶ Minor males may have facial hair, bald or shaved heads▶ Minor females may wear makeup▶ Other minors may have smooth or unlined faces▶ Minors may dress in mature clothing		<ul style="list-style-type: none">▶ Some minors may appear nervous or may not make eye contact▶ Other minors will be very confident, make eye contact and lie about their age

In an attempt to purchase alcohol, minors may use false ID or approach someone who is 21 or older to make the purchase, known as "shoulder tapping". Another scenario occurs when a vehicle full of people send in a person 21 or older to make a purchase. There are many other ways minors may attempt to purchase alcohol and if store personnel suspect an ID is false or altered, are not sure or unable to confirm if the person is 21 or older or believe the alcohol could go to minors, they must **REFUSE THE SALE**.

Agents shall refuse to serve disorderly, disruptive, or abusive persons and call the police if they do not leave the store.

b. Visibly Intoxicated Persons

Selling alcohol to a visibly intoxicated person (VIP) is against the law. Agents must train store personnel on the possible signs of intoxication and how to apply that training to make legal sales. Visible intoxication is intoxication that store personnel can see. If store personnel can tell by looking at a customer that they have been drinking or using legal or illegal drugs, the person is visibly intoxicated.

Below are tips to assist in determining if a person may be visibly intoxicated.

Some Signs of Intoxication	Observe and Interact
<ul style="list-style-type: none">▶ Slurred speech▶ Bloodshot, glassy eyes▶ Unkempt clothing▶ Mussed hair▶ Difficulty handling money or making change▶ Difficulty standing up▶ Swaying, staggering, stumbling or falling▶ Difficulty remembering▶ Speaking loudly, then quietly▶ Argumentative▶ Slow response to questions or comments▶ Rambling train of thought▶ Depressed/crying/moody	<p>When a person comes into the store, watch how they move around the area. Are they:</p> <ul style="list-style-type: none">▶ Unsteady▶ Using fixtures or displays to assist in standing▶ Swaying, staggering or stumbling▶ Falling down <p>Does the person have:</p> <ul style="list-style-type: none">▶ Bloodshot or glassy eyes?▶ Ungroomed appearance?▶ Trouble handling money, keys or other things? <p>By conversing with a person and asking them an open-ended question it may assist in listening for:</p> <ul style="list-style-type: none">▶ Thick or slurred speech▶ Whether the answer makes sense

NOTE: One sign alone could be a disability. For example, slow speech may be a medical condition or walking abnormally may be a physical disability. Most of the time a combination of signs indicates intoxication.

4. Tips on Refusing Illegal Sales

Below are recommended steps to **refuse a sale** after determining a person is either under 21, furnishing alcohol to minors, visibly intoxicated, or known to drink in public.

- a. **Remove the product from the counter.**
- b. **Be calm and polite** - People are generally more cooperative when treated with respect.
- c. **Be tactful** - Accusing a person of being intoxicated or breaking the law could escalate the situation.
- d. **Be discreet** - Speak softly in an effort to not embarrass the person in front of other customers.
- e. **Act confident and be firm** - This will indicate to the person they can't persuade the agent or other store personnel to change the decision.
- f. **Politely move on to the next customer** - The person will see that the decision is final.

5. Penalties for Illegal Sales

Selling alcohol is a serious responsibility as it is a legal drug that is available only to individuals 21 or older. Alcohol is a leading cause of death among young people. If an agent or store personnel sell alcohol to a minor or visibly intoxicated person, they can be held responsible for liabilities, damages or death from an alcohol-related accident.

Store personnel can receive the following penalties for selling to a minor:

- ▶ First sale - Be convicted of a Class A Violation with a fine
- ▶ Second sale - Receive up to \$860 fine
- ▶ Third sale - Be convicted of a Class A Misdemeanor with a fine not less than \$1,000
- ▶ Fourth sale - Receive the most severe punishment of being convicted of a Class A Misdemeanor and a fine of not less than \$1,000 and not less than 30 days in jail.

A Notice of Violation is issued to an agent if an illegal sale of distilled spirits occurs. There may be other fines or penalties based on the jurisdiction that reviews the illegal sale.

6. Non-Discrimination

Agents shall not refuse service based on a person's race, religion, national origin, sex, sexual orientation, marital status, or physical or mental capability. The liquor store is a public place subject to the laws that protect individuals from discrimination.

7. Customer Requests to Refuse Service

When a person asks a store not to sell liquor to someone they believe is an alcoholic or a problem drinker, the agent or store personnel must honor the request **only** when the store has a copy of a court order that prohibits the person from purchasing alcohol.

8. Neighborhood Livability

Agents should monitor the outside of their businesses for the following types of behaviors and activities:

- Public drinking/drunkenness
- Alcohol or related litter
- Public urination
- Obtrusive or excessive noise
- Fights, harassment
- Sale/use of drugs
- Trespassing

Such behaviors and activities can impact the success of an agent's business. Agents must develop and implement a plan to correct problems created by inappropriate customer behavior in and around the store.

9. Training on Legal Sales of Alcohol

Agents are required to train all current store personnel and any new hires on the responsible sales of alcohol prior to their first sale of alcohol.

a. Required Training for Store Personnel

OLCC has produced the brochure "What Every Store Clerk Needs to Know About Selling Alcohol" and the video "It's Your Job" located on youtube.com at <http://www.youtube.com/watch?v=5xBtAD1CtVE> to assist store personnel to make legal sales of alcohol. Agents may obtain brochures from OLCC.

Responsible Sales Training Program Requirement

Agents shall utilize the below four step program or a different training process that meets or exceeds the OLCC approved seller training program when training all store personnel who sell alcoholic products.

- All store personnel who sell alcohol or tobacco products must read the brochure "What Every Store Clerk Needs to Know About Selling Alcohol," complete the alcohol selling quiz and view the video "It's Your Job."
- All store personnel sign and date the brochure "What Every Store Clerk Needs to Know About Selling Alcohol," complete the alcohol selling quiz, and sign the appropriate columns on the Responsible Sales Training Log acknowledging they have completed the brochure and viewed the video "It's Your Job."
- Agents issue a Responsible Sales Training Verification form to all store personnel once they have read the brochure "What Every Store Clerk Needs to Know About Selling Alcohol," completed the alcohol selling quiz and viewed the video "It's Your Job."
- **Agents are required to retain signed brochures, completed alcohol selling quizzes, the Responsible Sales Training Log and a copy of the Responsible Sales Training Verification forms on file at the store.**

The above Responsible Sales Training Program meets the standards of OAR 845-009-0150 as an Approved Seller Training Program and store personnel may receive reduced penalties from a court of law if they have been cited for a sale to a minor.

Upon request, liquor agents must present all responsible sales training documentation for all store personnel to OLCC staff (i.e. district manager, inspector).

b. Enhanced Training Due to an Illegal Sale

If a distilled spirits sale to a minor or visibly intoxicated person occurs, the following will be required over the course of one year once notified by OLCC:

- At a minimum, hold quarterly meetings to discuss responsible sales of alcohol regardless of whether the original clerk who sold is still employed at the store.

Each quarter, one of the following documents must be read or viewed by all store personnel:

- The brochure “What Every Store Clerk Needs to Know About Selling Alcohol” and complete the alcohol selling quiz
- The video “It’s Your Job” on youtube.com
- The brochure “Age Verification”
- The brochure “Refusing Illegal Sales of Alcohol”

Even though store personnel have previously read “What Every Store Clerk Needs to Know About Selling Alcohol,” completed the alcohol selling quiz, and viewed the video “It’s Your Job,” store personnel are required to view the video or read and discuss one of the brochures during each meeting.

- In addition to the Responsible Sales Training Log from section (a.) above a separate Responsible Sales Training Log must be initiated and maintained to ensure compliance with the enhanced training requirement.

10. Minor Decoy Program

A liquor agent’s business is subject to a minor decoy visit without any notice. OLCC and local law enforcement agencies may visit the store in an effort to measure an agent’s compliance with state liquor laws.

In accordance with ORS 471.430, the OLCC and local law enforcement agencies may use minor decoys (under the age of 21) in an attempt to purchase alcohol from a store. Minor decoys appear under 26 years of age, will not lie about their age and will produce their own, valid identification if asked. As required under OAR 845-009-0200(7), if an agent or agent's employee obtains and holds a minor decoy's identification, then it must be returned upon request of law enforcement or an OLCC representative. Failure to do so could result in a violation of ORS 162.247, Interfering with a peace officer (police officers and OLCC inspectors are classified as peace officers) or ORS 164.043, Theft in the third degree.

The Commission requires an agent and store personnel comply with the law, be courteous and fully cooperate with police officers or OLCC inspectors conducting decoy operations.

If an agent or store personnel sells alcohol to a minor decoy, the seller is subject to administrative or criminal sanctions for illegal sale to a minor, or both. The agent usually receives a Notice of Violation and the person who sells is cited into criminal court. If store personnel sold alcohol to a minor and will continue employment in a position that sells alcohol, the store personnel who sold must complete an approved seller training program within 45 days of notification by Retail Services. Agents will receive and be required to fill out and submit to OLCC an Alcohol Education Verification form and fee when applicable.

OLCC's goal is to help agents and store personnel prevent illegal sales of alcohol to minors. If agents or store personnel would like training in checking identification, they may contact the nearest OLCC regional office.

4-B. SECURITY POLICIES AND PROCEDURES

Agents are responsible for the security of state funds and liquor inventory in their custody. They are eligible for relief from losses **if they exercise reasonable care** to prevent theft of cash or inventory. Agents are liable for cash and inventory that disappears with no signs of forced entry or robbery.

1. Security Policies

Agents and store personnel must:

- **Never endanger themselves or others in an attempt to protect state funds or property.**
- **Never keep any weapon in the store or carry a weapon when depositing state funds in the bank.**
- **Always employ sufficient store personnel to maintain the required security procedures at all times.**
- **Lock doors and windows when not in use.**

If repeated security issues occur, discuss prevention with the district manager.

2. Fidelity Bond

OLCC reports all losses or claims due to suspected illegal activity to the Risk Management Division, Secretary of States Audits Division and the Oregon State Police. Losses or claims due to suspected illegal activity over the \$10,000 deductible amount may be eligible for reimbursement from the fidelity bond.

The agent is responsible for reporting all dishonest acts by store personnel and must contact their district manager **as soon as they suspect theft**. The agent must immediately submit a written explanation to Retail Services specifically detailing the loss and steps taken to mitigate further losses. When an audit is performed and a shortage occurs due to losses from theft by store personnel, the agent must reimburse OLCC within 30 days of notification.

Although the bond is to protect the state, it might benefit an agent, under the following conditions imposed by the bonding company:

1. The agent immediately notifies OLCC in writing of the potential loss.
2. The agent has documentation that proves store personnel stole or embezzled state money or property under the agent's control.
3. The agent proves they were not involved in the fraudulent or dishonest act.
4. The agent notifies the police and cooperates with the authorities to prosecute the individual.
5. Upon commencement of prosecution of the individual, the agent furnishes the documentation requested including verification of the loss, the police report and correspondence with the District Attorney.

If these conditions exist, the insurance company should pay the loss (minus the deductible) and seek restitution from the dishonest individual. The agent is responsible for the deductible. The coverage applies only to state funds or property, not the personal funds or property of the agent.

4-C. 190 PROOF PRODUCTS

No reference to 190 proof grain alcohol is allowed in the retail selling area. This product must be stored in the stockroom or under the checkout counter. Customers **must not** be able to see this product when visiting a store. Make legal sales to customers who request the product.

4-D. AGENT'S COMPENSATION

1. Compensation

Prior to the start of each biennium, OLCC creates a forecast of projected sales as part of the state budget process. In the budgetary process the legislature establishes an authorized average payout rate and multiplies the forecast to determine the maximum amount of compensation to be paid for the biennium. The approved fund is used to pay agents for their retailing services. This rate is used solely for setting the budget limitation and is not intended to be the actual commission rate for any agent.

Actual compensation for an individual agent is based on a Commission approved compensation formula. Based on the type of store, exclusive or non-exclusive, the agent will receive a fixed base allowance plus a variable sales commission. It may be necessary to adjust the variable commission rates upward or downward when total actual sales from all agents across the state do not match forecasted sales. If actual sales are higher than forecasted, the variable commission rates will need to decrease unless additional limitation is approved by the Legislature. If actual sales are lower than forecasted, the variable commission rates will need to be adjusted to a level that will maintain the legislatively approved average payout rate. The OLCC must adjust the variable rates in order to be sure that it only disburses an average of the authorized payout rate on liquor sales by the end of the biennium as mandated by the legislature. If forecasted liquor sales from all agents exceed initial projections, the OLCC will ask the Emergency Board to increase the Store Operating Expense fund proportionately to maintain the average system wide payout rate.

OLCC does not and cannot control the average payout rate set by the legislature and whether the Emergency Board approves or disapproves an increase to the commission fund. Contact Retail Services for the current legislatively approved compensation rate.

NON-EXCLUSIVE AGENT COMPENSATION

Fixed Base Allowance 14.25% of first \$10,000 of monthly sales

Variable Sales Commission

Two different variable rates are paid, one rate for consumer sales and another rate for licensee sales in addition to the fixed base allowance. These variable commission rates may change in accordance with provisions enacted by the OLCC Commissioners and any other law requirements. The variable rate is subject to change as needed. Agents will be notified of any adjustments in the variable rate.

Individual exclusive agents may participate in a 457 deferred compensation plan through the Oregon Savings Growth Plan (OSGP). OLCC will match up to \$118.00 per month in contributions made by the agent. Additional contributions are available for certain age groups. Further information is available at www.oregon.gov/pers/OSGP.

EXCLUSIVE AGENT COMPENSATION

Fixed Base Allowance

<u>Store Class/Annual Sales</u>	<u>Fixed Base</u>
I Up to \$209,999	14.25% of the first \$10,000 monthly sales
II \$210,000 - \$449,999	\$1,660
III \$450,000 - \$749,999	\$1,920
IV \$750,000 - \$1,049,999	\$2,348
V \$1,050,000 - \$1,649,999	\$2,440
VI \$1,650,000 and up	\$2,700

Variable Sales Commission

Two different variable rates are paid, one rate for consumer sales and another rate for licensee sales in addition to the fixed base allowance. These variable commission rates may change in accordance with provisions enacted by the OLCC Commissioners and any other law requirements. The variable rate is subject to change as needed. Agents will be notified of any adjustments in the variable rate.

Individual exclusive agents may participate in a 457 deferred compensation plan through the Oregon Savings Growth Plan (OSGP). OLCC will match up to \$150.00 per month in contributions made by the agent. Additional contributions are available for certain age groups. Further information is available at www.oregon.gov/pers/OSGP.

Payment Options

Agents will receive their compensation by direct deposit. OLCC will make deductions from an agent's monthly compensation which might include, but are not limited to, bank card fees, unpaid audit shortages, unpaid returned checks, unpaid deposit errors, and deferred compensation. When an agent resigns, final compensation will be paid after the final audit has been certified correct and any deductions have been made. Final compensation will be paid in the normal cycle based on the month in which the last day of business for the outgoing agent occurred.

Agent's monthly compensation payment statements are available online. Contact Retail Services for assistance in accessing and viewing these statements. Agents will receive a 1099-M statement for all compensation earned throughout a calendar year.

Agents are paid by the last day of the month after the month worked, based on sales during the month worked. Example: The February 28 payment is for work performed in January, based on January sales.

Note: Prior to August 2000, some agents elected to be paid at the end of the month for the work performed that month, based on sales for the prior month (e.g., March 31 check is for work performed in March, based on February sales). Agents paid using this method are paid on a compensation advance basis which will be adjusted in the final full month of work. There are still some agents paid under this method, known as "Schedule A" agents.

2. Earned Advance Option

Exclusive agents have the option of receiving two compensation checks per month. The "earned advance" option pays base compensation about two weeks earlier than the regular compensation payment. They receive the balance of their compensation by the end of the month. Exclusive agents interested in participating should contact Financial Services for further information.

4-E. FINAL CONSUMER TRANSACTIONS

Customer service skills, application of the law, and fundamental accounting procedures must be utilized in the following transaction procedures.

1. Sales to Final Consumers - Generally

Definitions:

“Final consumer” means an individual who is at least 21 years of age taking possession of distilled spirits for personal or social use, and not for resale.

a) Orders.

Retail sales agents may accept orders from final consumers for distilled spirits only when the store is open for business and may accept them:

- In-person; or
- Telephonically; or
- Electronically.

b) Payment.

Agents should not accept payment telephonically. Retail sales agents may accept payment from final consumers for distilled spirits only when the store is open for business and may accept it:

- In-person and inside the store;
- In-person at a location that is within 100 feet of the boundary of the store;
- Electronically, subject to:
 - Agents wanting to use an electronic method of accepting payment other than the Commission approved bank card system must obtain written permission from the OLCC before using such a method.

c) Delivery.

Retail sales agents may deliver distilled spirits to a final consumer:

- In the store; or
- At a location that is within 100 feet of the boundary of the store, or
- To a resident of Oregon after purchased in-person at the store. Agents must use an approved for-hire carrier when shipping to an Oregon resident. An updated list may be obtained through the web address:

http://www.oregon.gov/OLCC/docs/liquor_license_and_license_process/approved_for_hire_carriers.pdf

- To a resident of a state other than Oregon after purchased in-person at the store only in accordance with the laws of that state.
- d) Delivery requirements are specific to checking identification and visibly intoxicated persons.
- Prior to an individual receiving the distilled spirits, verify by using only identification authorized by ORS 471.130 or OAR 845-006-0335 that the individual receiving the distilled spirits is at least 21 years of age.
 - Prior to an individual receiving the distilled spirits, verify that the individual is not visibly intoxicated at the time of receiving the distilled spirits.
- e) Additional information regarding the sale of distilled spirits to a final consumer:
- Agents must sell the item for the current monthly price set by OLCC and **may not add on or charge any other fees.**
 - Agents must accept only United States currency, checks, United States traveler's check, cashier's check, money order, or approved bank cards as payment for distilled spirits. Stores using a Commission approved bank card system for processing card sales can only accept VISA, MasterCard, DISCOVER credit and debit cards for consumer sales.
- Businesses holding **any** license issued by the Commission are not allowed to use the Commission approved bank card system for any purchase relating to the licensed business, including non-liquor items.
- Agents must record all liquor sales at the time of purchase on a computerized cash register or manually.
 - Agents must give the customer a receipt upon request.

2. Refunds and Exchanges

Consumer customers may return sealed and undamaged merchandise current in the product line for a refund or exchange.

Occasionally, an opened bottle may be returned if the customer has a valid reason. Some examples may include foreign matter inside a bottle, solidification, or bad taste. Store personnel should use good judgment in accepting opened bottles. Obtain the customer's name and phone number and attach that information to the returned product in case any follow-up is necessary. Customers who abuse the open bottle return process may have their return privileges revoked.

If a store has a POS system, it is important to ring an exchange through the register to keep accurate inventory. Agents must accept legitimate returns or exchanges as follows:

- a. Refund or exchange at the purchase price if the customer has a receipt. Without a receipt, refund or exchange at the lowest price of the product in the past 60 days. If the product was purchased through the state bank card system, the refund must be processed on the card used for the original transaction (see section 8. Bank Card System section (g.)).
- b. If the return creates a monetary gain or loss, complete a Refund Report located on OLAS. Submit the original with the weekly Store Sales Report. Give one copy to the customer and retain one copy for store records.

3. Cash Handling Procedures

Agents must maintain proper register or cash drawer security. This includes opening the drawer only when making a sale and shutting the drawer between sales transactions.

Drawer contents must be at a minimum. Under normal circumstances this means keeping contents to less than \$400 and removing surplus cash from the drawer every hour. Checks and other negotiable items must be removed periodically during business hours. Failure to follow these procedures may result in denial of relief for loss of funds.

Surplus cash and checks must be kept in a locked safe. A safe set on "dial lock" is not locked. If an agent does not have a safe, surplus cash must be kept in a locked master cash drawer or a locked container hidden in the back room. The container must be too large to be concealed on a person.

4. Personal Check Acceptance

Agents may accept personal checks from consumer customers as a form of payment for distilled spirits.

Agents have the option of not accepting personal checks from consumer customers only if the store accepts bank cards using PCI-DSS compliant equipment discussed under section 7.

Personal Check Acceptance Policy (Payable to OLCC)

- a. Accept only checks made **payable to OLCC** and:
 - Imprinted with name, address, and account number
 - For exact amount of purchase
 - Properly dated
 - Free of alterations
- b. Personal checks must not exceed \$200.00
- c. Personal checks must be accompanied by a valid driver's license with a photo or valid DMV Identification card with photo, name, date of birth and physical description. Verify that the address and signature on the driver's license matches the information on the check. Verify the license photo.
- d. Endorse the back of the check with the rubber endorsement stamp provided by Financial Services.

Note: Replacement endorsement stamps must be ordered through Financial Services or the agent will be responsible for any cost from an outside source.

- e. Customers who write bad checks will lose check writing privileges.

Personal Checks (Payable to Agent's Business)

- a. Agents participating in the EFT deposit option must have personal checks payable to the agent's business.
- b. Agents will assume full responsibility for collecting on any payment declined by the bank.

5. Returned Checks

This section only applies to agents using in-person bank depositing.

Agents are responsible for collecting on all returned checks for which the bank has declined payment. When a check is returned, it is sent to the State Treasury and then routed to OLCC. Financial Services invoices the check to the liquor store that accepted it. When agents are invoiced for a returned check, they should contact the customer for reimbursement. Reimbursement payments for distilled spirits are considered State funds and must be deposited into the State Treasury account within one business day of receipt on the next banking day. Agents may only collect the invoiced amount from the customer. Additional fees added by an agent are not allowed.

When making a deposit to cover one or more returned checks, agents should be sure to write the name and the invoice number on a deposit slip so they have a record of the transaction. Do not include any other daily deposits on this slip. Be sure to include the invoice number and dollar amount on the Store Sales Report.

Failure to meet the Commission's deposit requirements may result in a Letter of Warning or a Notice of Violation. Financial Services will deduct any unpaid invoices from compensation.

6. Traveler's Checks

Agents may accept only U.S. traveler's checks at face value like cash. Store personnel must have the check holder countersign upon presentation even if the check has already been countersigned. If the counter signature appears different from the pre-signature, ask the customer to sign again on the reverse side of the check and request identification. The check can be accepted if store personnel are satisfied with both signatures and the identification.

Agents with questions about traveler's checks, or doubts about the authenticity, should call for confirmation:

American Express Travelers Checks	1-800-525-7641
MasterCard/Thomas Cook Travelers Checks	1-800-223-7373
VISA Travelers Checks	1-800-227-6811

The companies will issue an approval code that will assure the check is covered.

Traveler's checks should be listed on the agent's deposit slip along with other checks.

7. Payment Card Industry Data Security Standards (PCI DSS)

All merchants are required by Payment Card Industry Data Security Standards (PCI DSS) to safeguard consumer bank card information. OLCC expects agents to be familiar with and adhere to and train staff on bank card industry best practices for handling transactions. OLCC requires agents using the state bank card system to understand and comply with PCI DSS including, but not limited to, storage, retention and disposal. Complete information regarding PCI requirements can be found at www.pcisecuritystandards.org.

a. Reporting

As directed by Retail Services, agents must annually complete a PCI Self-Assessment Questionnaire (SAQ) to validate compliance with the standard and an Attestation of Compliance (AOC) to confirm the validation.

- **Stand-Alone Analog Terminals**

Agents with stand-alone analog (dial-out connection) terminals must complete and submit PCI SAQ-B and the AOC in accordance with instructions from Retail Services.

- **Stand-Alone High-Speed Terminals**

Agents with stand-alone high-speed (DSL, cable or IP-based connection) terminals must:

1. Complete and submit PCI SAQ-C and the AOC in accordance with instructions from Retail Services.
2. Undergo quarterly network scans at their expense to ensure the integrity of their network. Copies of reports from scanning vendors must be submitted to Retail Services upon request.

- **Integrated Processing**

Agents who elect to utilize an integrated payment application are liable for fines and penalties related to a security breach on their networks and will be required to sign an amendment to the Retail Sales Agent Agreement accepting that liability. Agents whose payment application is integrated with their POS system must:

1. Complete and submit PCI SAQ-D and the AOC in accordance with instructions from Retail Services.
2. Undergo quarterly network scans at their expense to ensure the integrity of their network. Copies of reports from scanning vendors must be submitted to Retail Services upon request.
3. Contract for constant and continuous network monitoring by a Qualified Security Assessor approved by the PCI Security Standards Council. The contract must include a provision for regular reporting to OLCC and specific incident reporting to OLCC. This provision will be at no cost to the Commission.

Agents are required to maintain a PCI DSS secure network. Upon notification of non-compliant SAQs or quarterly network scans, agents shall submit a remediation plan to OLCC, including timelines for corrective action. Agents must correct any vulnerable areas in the network immediately to mitigate the risk of a security breach.

Agents using the state bank card system must notify Retail Services prior to making any changes to their payment application or bank card processing method and prior to changing POS systems and vendors.

Failure to meet the reporting deadlines set by the Commission can result in a Letter of Warning or a Notice of Violation and suspension of access to the state bank card system. Failure to take immediate corrective action to mitigate the risk of a security breach or failure to strictly adhere to the requirements of PCI DSS can result in disciplinary action up to and including termination of an agent's agreement.

b. Information Security Policy

Payment Card Industry Data Security Standards Requirement 12 requires that all merchants maintain an information security policy. This information must be distributed to and annually reviewed with all personnel. Agents and store personnel must understand and comply with this requirement. An agent's information security policy must include, at a minimum, the following points.

Policy specifics for agents:

- Use of technologies such as store email and internet should be limited to authorized personnel.
- Agents must ensure the timely and effective handling of all situations arising from a security breach, including implementation of the Security Breach Response Plan.

Transaction processing specifics for all personnel:

- All personnel must understand the importance of cardholder data security.
- Do not accept a bank card if the presenter is not the bank-authorized cardholder; cardholder is defined as the person to whom the card was issued.
- US Bank policy requires that cards are signed by the cardholder. If a card is unsigned or is unsigned and uses language similar to "see ID," the card must be signed immediately and the signature must be compared to the signature on a piece of valid ID before completing the transaction. Agents who accept unsigned bank cards are liable for chargebacks in the event of fraudulent transactions.
- If voice authorization is necessary do not allow the card to leave the cardholder's line of sight. Place the call to Merchant Services in the customer's presence.
- Do not make a written copy of any information, such as account number, expiration, or security code (CCV). If a manual imprint of the card is required, then be sure to secure the imprinted copy in a locked cabinet or safe.
- Do not write down any personal information, such as phone number, address or driver's license number for use in conjunction with a bank card transaction.
- Never use email or other such technology to send sensitive cardholder information.
- All liquor transactions must be made in-person by the cardholder. Payment for liquor may not be made by phone, internet, mail, etc.

Specifics on information security can be found at the PCI website:
www.pcisecuritystandards.org.

c. Bank Card Security Breach Response Plan

In the event of a breach in bank card data security, agents must immediately take the following steps:

1. Contain and limit the exposure of cardholder information:

- Do not access or alter compromised computer systems or terminals (e.g. do not log on under any circumstances; do not change passwords).
- Do not turn off compromised computer systems or terminals. Instead unplug the network cable to isolate equipment from the network.
- Preserve logs and electronic evidence.
- Monitor all systems with cardholder data.

2. Notify Retail Services first, or other parties as follows:

- If the breach is discovered during OLCC business hours (M-F 8:00 a.m. to 5:00 p.m.), notify Retail Services. Retail Services will contact the Office of the State Treasurer (OST), which will coordinate communication and will alert US Bank.
- If the breach is discovered outside normal OLCC business hours, leave a voice message with Financial Services at 503-688-3856, and then contact US Bank directly at 800-725-1243. Identify the store as a National Account under the State of Oregon and provide your Merchant ID number. Advise the bank representative that the store has experienced a merchant card breach and ask that the event be reported to the Risk Department.
- Follow up with notification to Retail Services when business hours resume.

3. Investigate and report all information available as follows:

- Prepare a written record of all actions taken, including such things as conversations conducted, contact names, and dates/times.
- Conduct a thorough investigation of suspected loss or theft of cardholder information and the source and timeframe of the breach.
- Complete a Bank Card Security Breach Report (available on OLAS under Reports/Liquor Store Reports/Forms) and email or fax to Retail Services within two calendar days of the discovery of the breach.

US Bank will determine if an independent forensic investigation, compliance questionnaire and vulnerability scan are required and notify OLCC. Agents will then be instructed on how to proceed.

8. Bank Card System

Agents using the state bank card system are required to follow all current US Bank policies and procedures for credit and debit cards, except where superseded by Commission written policy. Some of the procedures in US Bank's Merchant Operating Guide are incorporated into this Bank Card System section. For a full description of US Bank's procedures consult the Merchant Operating Guide at www.merchantconnect.com/CWRWeb/pdf/MOG_Eng.pdf and Terms of Service at https://www.merchantconnect.com/CWRWeb/pdf/TOS_ENG.pdf. Agents must ensure store personnel are trained on the proper policies of accepting a bank card.

Failure to follow US Bank policies and procedures will result in the agent being responsible for reimbursing the Commission for bank chargeback transactions. The bank may revoke a store's card acceptance privileges. Failure to follow Commission and US Bank policies and procedures will result in disciplinary action, up to and including termination of an agent's agreement.

a. General Information

Liquor stores using the state bank card system are permitted to accept VISA, MasterCard, DISCOVER credit and debit cards. In addition:

- Exclusive agents must allow only consumer customers to use the system for both liquor and authorized related-item sales including lottery, to assure professional customer service.
- Bank card transactions can only be for the exact amount of purchase of distilled spirits and non-liquor items. Cash back is prohibited except in special debit refund circumstances (see section g).
- The Commission will assess a monthly service fee for using the State bank card system for non-liquor items. The Commission will deduct this non-liquor item service fee from agent's compensation. Stores may be required to provide and certify to the Commission non-liquor item sales for fee assessment.
- Costs for installing and maintaining the bank card system are at the agent's expense.

b. Prohibited Bank Card Transactions

The following prohibitions apply to stores using the state bank card system unless otherwise noted.

Agents, their family members and store personnel are not allowed to use the bank card system to:

- Process credit or debit transactions using any bank card to increase, decrease or adjust Commission bank deposits for any purpose (cycle counts, deposit errors, etc.).
- Settle audit shortages or overages using any bank card.
- Process transactions involving other agents, their family members and store personnel, except transactions for personal consumption.

Additional prohibitions include the following.

- Businesses holding **any type** of license issued by the Commission are not allowed to use a bank card for any purchase, including non-liquor items.
- Non-exclusive stores are not permitted to use the state bank card system for sales at the adjunct business. Exception: Exclusive stores converted to non-exclusive may be permitted to use the state bank card system for purchases of liquor and non-liquor items. These stores will be required to report sales data to Retail Services by the 5th of each month on a Commission approved form located on OLAS. Data received will be used to calculate the bank card fee associated with the sale of non-liquor item bank card sales (debit or credit card) to the total bank card sales for the reporting month. Bank card fees will be deducted from agent's compensation.
- Stores may not use the state bank card system to cover a returned check, or for cash back except in special debit refund circumstances (see section g).
- Stores may not release any card information or account numbers to anyone except authorized OLCC or US Bank staff.
- Stores may not request phone numbers or addresses for card transactions or verification.

No liquor store is allowed to:

- Establish minimum or maximum purchase amounts as a condition for accepting cards.
- Impose any surcharge on card transactions.

- Accept payment for liquor by phone, internet or mail order.

c. Authorized Card Signatures

A person may **not** authorize another individual to use their card for purchases. Be sure the signature on the card matches with the one on the sales receipt. Also, any card having two signatures on the back panel is invalid. For cards bearing a photograph of the cardholder, ensure that the person presenting the card appears to be the same person depicted in the photo.

Some card holders may write “see ID” in the signature box of the card. Bank policy requires a merchant to request a valid piece of ID, have the card holder sign the back of the card before completing the sale, and compare the signature on the ID to the signature on the card and sales receipt.

d. Suspicious Transactions/Code 10 Authorization

If the agent finds the appearance of a card suspicious or if the behavior of the person presenting a card is questionable, ask the customer for additional information. These requests should be made in a conversational tone so as not to arouse customer suspicion.

If the customer asks why the information is needed, the agent can inform the customer that the information is needed to finalize the sale. If store personnel are still not sure about the validity of the transaction, call the Voice Authorization Center and say, “I have a Code 10 Authorization request.” Answer all questions and follow the operator’s instructions.

e. Card Recovery

When an Authorization Center operator instructs the agent to confiscate a customer’s card, they should do so only if the recovery can be done by peaceful means. Safety comes first. If a customer becomes threatening or violent, return the card immediately to the customer. Otherwise, refer the customer to the card-issuing bank for more information.

f. Defective Cards

When a bank card terminal does not read the embedded chip or the magnetic strip on any credit transaction, the agent can ask for another form of payment or will need to enter the card number manually. The agent **must** manually imprint the card, if it has raised numbers, onto the store copy of the receipt prior to giving the card back to the customer. Imprinting the card proves to the bank the card was physically in the store which may prevent a chargeback at a later date. If a card does not read electronically and does not have raised numbers, refuse the card and ask for another form of payment.

g. Processing a Return

To process a return on the state bank card system, the card and sales receipt from the original transaction is required.

Keep in mind:

If a customer wants to exchange the original product for an item of the same dollar value, the bank does not require a store to process a credit.

- Cash refunds are not allowed for merchandise purchased with a credit card.
- Refunds are not to be credited to any card other than the card used for the original transaction. Refunds cannot be processed on the state bank card system when the original transaction was paid by cash or check.

If a debit refund **does not** process, consider the following:

- If the debit card used during the original transaction has a VISA or MasterCard logo on the front, inform the customer the refund will need to be placed on the credit side of their card.
- In some instances when refunding merchandise purchased on a debit card, it may be necessary to refund cash. Cash will need to be refunded if the card does not have a VISA or MasterCard logo and the refund cannot be done on the debit card. After receiving the product back into store inventory, the agent should complete a Refund Report. Have the customer sign acknowledging receipt of the cash. Agents must submit a copy of the Refund Report with the Store Sales Report.

NOTE: Because of bank processing issues, an agent must process a return through the Refund key. *Never perform a Void.*

h. Batch Settlement

All bank card transactions must be purged and sent to the State Treasury account for each business day. This process is called “Batching” the system. A summary report must be printed showing each transaction and a total for each card type. “GBOK” will print on the report followed by a series of numbers indicating the settlement successfully processed. If this code does not appear, a manual batch will need to be done before the store opens for business. Submit the appropriate portion from each day’s summary report indicating the grand total for the day with the Store Sales Report.

i. Retrieval Request

Occasionally, US Bank may require a copy of a card transaction to respond to customer requests. Agents will need to be able to locate a transaction through a “date capture reference number,” and supply a legible copy of the transaction. Agents must respond to Merchant Services by the deadline specified on the retrieval notice, since a prompt response is required to avoid unnecessary chargebacks.

j. Chargebacks

A chargeback is a transaction the card issuer returns to the merchant because of a dispute, error, fraudulent transaction, or other reasons. An agent will be held liable for the full amount of all chargebacks. Financial Services will notify the agent of a chargeback in the form of a deposit error invoice. Payment must be made within seven (7) calendar days of the invoice or the invoice amount will be deducted from agent's compensation. Chargebacks can be minimized by following OLCC and US Bank procedures to avoid performing prohibited transactions.

k. Supplies

Agents using the state bank card system can order receipt paper for the bank card terminals using the steps on the Supply Requisition form.

l. Bank Card Equipment

All US Bank card equipment remains the exclusive property of US Bank. Misuse or modification of the equipment is not allowed and agents are financially responsible for any damage. The equipment can only be used in conjunction with US Bank's card program and must not be removed without Commission and US Bank approval. If bank card equipment stops working, agents must contact US Bank Merchant Services for a replacement.

m. POS Systems With Integrated Bank Card Processing

Stores with a bank card system integrated into a POS system are responsible for all equipment costs, supplies and ongoing maintenance.

n. Service Interruption

If bank card service is interrupted, agents must minimize customer inconvenience by doing everything possible to expedite the repair process. Credit card transactions can be processed manually until service is restored:

- Contact merchant services for an authorization code on each credit card transaction.
- Manually imprint the card onto a register receipt or a paper draft filling in the authorization code and other appropriate information.
- Black out the card number on the customer copy, have the customer sign, and verify the signatures match
- Enter the card information and amount when the machine is working. Do not make a written copy of any information, such as account number, expiration, or security code (CCV). Once the information has been entered, the register receipt or paper draft must be secured in a locked file cabinet or safe for the appropriate retention period.

Note: If the sale and bank card transactions fall in different reporting periods, agents should contact Financial Services for instructions.

o. Data Security

Agents must ensure all bank card information including transaction receipts, paper reports and computer files are secure during the required retention period (18 months after audit). At the expiration of the retention period, agents are required to shred or incinerate receipts containing more information than customer name and five digits of the bank card number. Paper reports or any other documents containing similar information must be destroyed in the same manner after their retention periods. Agents are required to limit access to such data stored in a computer with an internal bank card system.

4-F. FULL ON-PREMISES SALES LICENSEE TRANSACTIONS

Full On-Premises sales licensees (for purposes of this section, hereafter referred to as licensee or licensees) receive a five percent discount from the current listed price on distilled spirits. They can obtain a Temporary Use of Annual License for non-licensed premises to use at special events or other locations. This licensee would also receive the discount in these situations.

1. Sales

Agents shall provide the five percent discount to the following Full On-Premises sales licenses

- F-CAT – Caterer license
- F-COM – Commercial license
- F-CLU – Private club license
- F-PC – Passenger carrier license
- F-PL – Another public location license

A temporary sales license (TSL) for use at special events that sell and serve distilled spirits **is not** eligible for the discount.

When a licensee purchases distilled spirits:

- a. Record all sales each day, using a computer generated form or manual Licensee Invoice located on OLAS.

Accept cash, licensee business check or use an approved ACH processor for payment.

Businesses holding any type of license issued by the Commission are not allowed to use the state bank card system for any purchase, including non-liquor items.

- b. It is recommended that agents check every licensee invoice and order for accurate prices and quantities and ask the licensee to verify the order to avoid mistakes. **Agents must ensure that the licensee signs all licensee invoices legibly.**
- c. Keep the original licensee invoice for store records and provide one copy to the licensee as a receipt.

Agents are required to provide OLCC with copies of signed, original licensee invoices upon request.

Voided licensee invoices should be approved by the agent and retained.

2. Acceptable Forms of Payment from a Licensee

Licensees may purchase distilled spirits by cash, paper business check or through an Automated Clearing House (ACH) processor that has been approved by OLCC and Oregon State Treasury. No business holding a license of any type issued by the Commission is allowed to use the State bank card system for any purchase of distilled spirits or non-liquor items.

a. Licensee Business Checks

Licensee Business Check Acceptance Policy (Payable to OLCC)

- Payable to OLCC*
- Deposited daily
- Free from alterations
- Imprinted with the licensee's business or tradename
- Written for the amount of the purchase only
- Properly dated (with date of pickup or delivery)

Personal checks cannot be accepted for licensee purchases. It is unlawful to cash licensee checks.

Licensee Business Checks (Payable to Agent's Business)

- Agents participating in EFT deposits will have the licensee make the check payable to the agent's business.
- Agents will assume full responsibility for collecting on any payment declined by the bank.

b. Automated Clearing House (ACH) Payments

Agents who choose to accept this form of licensee payment will:

- Be required to sign an addendum to their Retail Sales Agent Agreement.
- Enter into an agreement with the approved ACH provider.
- Comply with applicable National Automatic Clearing House Association (NACHA) rules relating to the originator (OLCC) of an ACH transaction (applicable rules located on OLAS).
- Pay for any costs related to accepting this form of payment
- Process and deposit payment for distilled spirit sales into the State Treasury account.
- Comply with Financial Services reporting requirements which include submitting the Licensee Liquor Purchasing report with the Store Sales Report reflecting ACH payments, a Bank Activity report and an Invoice Detail report from the agent's ACH account indicating licensee purchases and depositing information. Additional documentation may be required.
- Ensure the POS system can transmit licensee invoices in a batch file to a third party ACH at the **close** of each business day in order to initiate invoice payments to the State Treasury account from licensee ACH accounts.

Licensee invoices MUST be tendered and batched on the day the licensee takes possession of the product.

Due to processing constraints, sales to licensees using an ACH payment process are NOT allowed on Sundays or when a holiday falls on a Monday.

Agent may use a single invoice for liquor and non-liquor items, but the entire dollar amount of the invoice will be deposited into the State Treasury account when invoiced this way. Agents may choose instead to process two separate transactions so that the payment for non-liquor item sales may be deposited into the agent's own business account and the distilled spirits sales will be deposited to the State Treasury account.

An agent's failure to comply with these policies is a violation of the Retail Sales Agent Agreement (RSAA), paragraph 31(d)(vii), in addition to any other remedy that may apply. In lieu of termination of the RSAA, OLCC may revoke the agent's privilege of using an ACH form of depositing.

More information on ACH setup and processing is available on the Reports tab on OLAS.

Licensees must not present NSF payments to the OLCC. A violation of this rule may result in a fine or suspension of the license.

When a bank declines a licensee payment, Financial Services invoices the liquor store for reimbursement.

Upon receiving the invoice, agents must make every effort to collect funds within seven calendar days by contacting the licensee.

If an agent collects a reimbursement payment, the licensee's name and the invoice number must be written on a deposit slip so there is a record of the transaction. Agents may not include any other deposits on this slip. Agents must deposit payment into the State Treasury account within one business day of collection.

OLCC authorizes some agents in remote areas to bank less often, depending on their individual situation. Reimbursement payments for distilled spirits are considered State funds and must be deposited into the State Treasury account on the next banking day. These agents must follow the same deposit steps as agents who deposit daily.

If an agent is unable to collect on a licensee declined payment within the seven day period, a letter must be sent to Financial Services describing recovery efforts and detailing collection attempts and any other relevant information. Be sure to include a copy of the invoice. Questions regarding any licensee non-payment may be directed to Financial Services at 503-872-5169.

Licensees are placed on a "Cash Only" basis when two or more distilled spirit product payments to OLCC have been declined within six months. OLCC will notify agents of licensees in their area that have this restriction. A current list of Cash Only licensees can be obtained on OLAS.

Agents must not accept business paper checks or process ACH payments from "Cash Only" licensees until OLCC informs the agent that a licensee is in good standing.

When a licensee has been on Cash Only for six months and would like to start writing paper business checks or restart using ACH payments, the licensee may obtain a letter from their bank stating the "checking or ACH account has been in good standing for the previous six months." The letter will need to be on bank letterhead with a contact name and phone number. Financial Services will review the letter and notify agents and the licensee when they may use other forms of payment.

3. Refunds and Exchanges

When a current licensee returns a small amount of sealed bottles of liquor (up to \$500), the agent should issue a credit for the returned bottles against a current licensee invoice. Under normal circumstances this means the returned items do not exceed the overall dollar value of the invoice before the return is applied. For a return in excess of \$500, an agent will need to attach a copy of the original licensee invoice(s) to the new invoice for all returned items indicating the purchase price. The amount credited to a new invoice must be the same as the original purchase price. Complete a Refund Report if the return creates a monetary gain or loss. Distribute per the instructions on the report.

If a licensee has a return in excess of \$500 without a copy of the original invoice or if a licensee goes out of business or is not purchasing items under a new invoice, the

licensee may return resalable merchandise to an agent for a refund from OLCC.

The agent shall not accept product from the licensee prior to the completion of steps a and b:

- a. The licensee is required to send a written request to OLCC Retail Services detailing the reason for the return and listing the quantity and product to be returned. It must also include an address where the refund check will be sent. This can be done by email to OLCC.RetailServices@oregon.gov, fax to 503-872-5355 or mail.
- b. Retail Services must approve the licensee's written request to return the liquor. When the request is approved, a letter will be emailed to the agent authorizing the store to accept the return and another letter will be sent to the licensee instructing them to contact the agent to set up a convenient time for the return.
- c. The agent should examine the return with the licensee present and accept only currently listed products. Refuse items that are delisted, are closeouts or have broken seals as well as items that have old, faded or defaced labels. Give all unaccepted merchandise back to the licensee. If there are questionable items, they may be left for the DM to evaluate.
- d. On all items that are accepted, the agent must complete a hand written Stock Transfer form leaving the prices blank or create a credit invoice on the store POS computer system. Cross out all the prices for the product if using a computer invoice. Be sure to not apply this product to the store inventory at this time. Have the licensee sign the Stock Transfer form or the invoice acknowledging the listed product was left at the store.
- e. The agent must leave the accepted items boxed and isolated in the stockroom and contact the district manager when the return is ready to be inspected.
- f. Once the return has been inspected, the district manager will submit paperwork to Financial Services for processing. The licensee will receive a check in the mail in about 30 days. Prices for the product will be determined by using the licensee invoice amount (if available) or the lowest retail price during the last 60 days, minus the five percent discount. An eight percent handling charge will also be assessed. OLCC will generate an invoice to charge the liquor store inventory for the value of the product. When the invoice is posted on OLAS the agent must apply the product to the store inventory and the agent can then offer the merchandise for sale.

4. Delivery

An agent may deliver or arrange to have delivered alcoholic liquor and related items to a licensee's premises. Persons who make deliveries of distilled spirits must be at least 18 years old.

If liquor and related items are delivered to a licensee's premises:

- Agents must receive licensee's payment at the liquor store not later than the store's close of business on the same day that the product is delivered.
- Title to the product remains with OLCC until the agent receives payment.
- In the event of product loss after the product leaves the store, but before payment is received, the agent is strictly liable for the full retail value of the product, regardless of the reason for the loss.
- The agent is strictly liable for the full retail value of the product in the event of nonpayment.
- Agent's repayment for any such loss shall be made as provided in the Retail Sales Agent Agreement "Responsibility for Shortages."

5. Prohibited Sales for Non-Exclusive Agents

A non-exclusive agent who holds an Off-Premises sales license may sell beer wine, and cider to retail customers. Non-exclusive agents with an Off-Premises license are not allowed to sell beer, wine, vermouth (not listed with OLCC) and cider to a licensee with a Full On-premises license, a Temporary Sales License (TSL), Limited On-Premises (L) or Off-Premises (O) license.

Sales to licensees of the Commission are not allowed under an "O" license per statute, ORS 471.186. An Off-premises license is a retail license and the licensee can only sell beer, wine, vermouth (not listed with OLCC) and cider to the ultimate end consumer. An agent selling one of these products to a licensee would be making sales not covered by the license.

4-G. REVENUE DEPOSITS

Proceeds from the sale of distilled liquor are funds owned by the State under Oregon law. This section explains the requirements for possessing and depositing State proceeds whether receiving them as cash, check, bank card or ACH from a customer.

Failure to meet the Commission's depositing requirements may result in a change of deposit options, a Letter of Warning or a Notice of Violation.

1. Cash/Check Deposits

Agents must follow one of the depositing options listed below.

a. Option One: Daily In-Person Bank Deposits

Agents who use this option must deposit at a bank branch cash and check proceeds from liquor sales the following business banking day after receiving the funds. OLCC assigns the bank where agents will deposit liquor sales proceeds. Agents will generally use the nearest full-service bank to the liquor store where the State Treasury has an account. The assigned bank will deposit directly into the State Treasury account.

Agents must:

- i. Deposit daily liquor sales proceeds into the State Treasury account during banking hours by the close of the following banking day. Deposits must be validated the same day they are put into the bank. Secure the proceeds in the store safe until the deposit can be made. Deposit the funds into the bank account that has been identified by OLCC. Do not mix proceeds with another day's funds. State funds may not be deposited into a non-state account for any period of time.
- ii. Be sure the cash and check deposit equal the day's proceeds, less the total bank card transactions and Automated Clearing House (ACH) payments made by Full On-Premises licensees. These transactions are deposited separately.
- iii. Endorse all checks with the endorsement stamp provided by Financial Services.
- iv. Use State Treasury account deposit slips as follows:
 - Use deposit slips in numeric order. If more than one deposit slip is necessary to list checks, total each slip separately.
 - Keep "field office" copy in the store when going to the bank.
 - Take all other copies to the bank with the deposit. Have the bank validate the back of the controller's copy. If the bank is unable to validate the back, obtain two receipts. Attach one copy to the controller's copy and keep the other for store records.

- If required, mail the "State Treasurer's" copy daily in the pre-addressed envelope provided by OLCC unless otherwise instructed by Financial Services.
- Submit the "controller's" copy with the Store Sales Report.

To reorder deposit slips, contact the OLCC mailroom at agent.supplies@oregon.gov, or 503-872-5183, or use a Supply Requisition form, allowing ample time for processing. Do not use deposit slips from other liquor stores.

Non Daily Deposit for Remote Agents

OLCC may grant agents in remote areas authority to deposit sales proceeds less frequently than daily. Financial Services will inform and authorize stores if they qualify for this option. Agents with this option must follow the same deposit steps as agents who deposit daily.

In special circumstances, some stores in remote areas submit to OLCC a completed deposit slip with attached check(s) and accompanied by a Store Sales Report. Agents must mail this deposit and Store Sales Report by the due date determined by Financial Services. Financial Services will inform stores if they are authorized for this banking situation.

b. Option Two: Daily Electronic Fund Transfer Deposits

Agents may be permitted to deposit proceeds from liquor sales into a state bank account by the end of the next business day through the use of electronic funds transfer (EFT) if agents "prefund" an OLCC Treasury account ("Prefunded Deposit account").

Agents must stay in compliance with the following policies or risk losing this option for depositing. OLCC may revoke the agent's privilege to use this option if 1) the Prefunded Deposit Account is not fully funded once Financial Services has notified the agent of any shortfall and non-payment was not submitted to OLCC, and 2) Financial Services withdraws funds more than twice in a six month period.

Agents may ask to be removed from the EFT deposit option at any time. Further, OLCC may terminate this option for non-compliant agents.

i. Prefunded Deposit Account

To qualify for the EFT deposit option, agents must complete a Prefunded Deposit Request form located on OLAS and submit to Financial Services which will review the form and Store Sales Report/deposit compliance history of the agent. Financial Services will notify the agent if they approve this option for depositing. Agents who are denied may

reapply at a later date.

Agents permitted to participate in this option must deposit with OLCC an amount determined by Financial Services. The initial amount must be paid by check or cash. In most cases, Financial Services will calculate the deposit amount as three times the daily average of a recent twelve month sales period. If the request comes from an agent with a new store, the estimated annual sales will be used to determine the prefunded amount. This type of store will be reevaluated approximately six months after approval to determine if additional funds need to be submitted to OLCC. Agents must pay the shortfall amount by check or cash directly to OLCC within five business days. Financial Services will then notify the agent that the account has been prefunded. Funds must be left on account during the term of the agent agreement or participation in the EFT deposit option.

OLCC may determine that the average daily deposit amount is insufficient. Financial Services will recalculate, normally once a calendar year or as needed, an average daily sales amount. If needed, the new calculation may apply an additional number of sales days to determine a new prefunded amount. Notice of the new prefunded amount will be provided to the agent who must submit the difference to OLCC within five business days. If the agent fails to submit the difference of the prefunded amount, OLCC may revoke the EFT deposit option.

If agents fail to make a daily EFT deposit, Financial Services may withdraw an amount equal to the estimated amount due from the prefunded account. Financial Services will notify the agent immediately of the shortfall using the email address of record. Agents will have five business days after receiving notice to submit the amount of withdrawal to OLCC.

When Financial Services withdraws funds from the account more than twice in a six month period, this option may be revoked and agents must return to daily in-person bank deposits. If the agent meets the depositing standards in option one for a six month period, they may be reconsidered for the EFT deposit option.

ii. EFT Setup

Financial Services will assist in setting up an electronic transfer between the agent's bank and OLCC's Treasury account. Agents may use an existing bank account or open a new operating bank account to deposit state sales proceeds and then transfer amounts equal to reported sales into an assigned State Treasury account by the end of the next business day. Agents must complete forms approved by the State Treasury allowing their bank to transfer funds into the State Treasury's account. Financial Services may require a test deposit, to ensure that the electronic transfer processes correctly, then will notify agents that they may begin regularly using this option.

2. Bank Card Deposits

Agents depositing bank card transactions directly into the State Treasury account must transmit data for each business day. This process is called “Batching” the system. A summary report must be printed showing each transaction and a total for each card type. The letters “GBOK” will print on the report followed by a series of numbers indicating the settlement processed successfully. If this code does not appear, a manual batch will need to be done before the store opens for business the following day. Do not combine more than one business day on the bank system. Submit the appropriate portion from each day’s summary report indicating the grand total for the day with the Store Sales Report.

3. Deposit Errors

Agents are responsible for deposit errors. When invoiced by Financial Services for a deposit error, the agent **must** deposit (shortage) or withhold (overage) payment within seven calendar days of the invoice date. If the agent does not deposit payment on time, Financial Services will deduct any unpaid invoices from agent’s compensation. Do not attempt to correct errors by adjusting deposits unless an invoice has been received.

4. Agent Returned Checks

Agents must not present checks to OLCC for which the bank will decline payment (NSF, closed account, etc.). Financial Services will invoice the agent for any check on which the bank has declined payment and any related fee or charge. The agent must deposit payment for the declined check to OLCC within seven days in the form of cash or a money order. If the agent does not deposit payment on time, Financial Services will deduct any unpaid invoices from agent’s compensation. Do not attempt to correct errors by adjusting deposits unless an invoice has been received.

5. Counterfeit Currency

If a store accepts a counterfeit bill and realizes it prior to making a deposit, agent must take the bill to the bank and complete a counterfeit currency form and retain a copy. The bank deposit for that day must still equal the total sales less any bank card transactions.

If the bank contacts the store after a deposit has been made and states that there was a counterfeit bill in the deposit, agent must reimburse the bank for the amount of the bill and obtain a document stating that a counterfeit bill had been deposited.

To request relief from OLCC for the amount of the counterfeit bill, agent must complete an Incident Report located on OLAS with as much information as possible and send the request to Financial Services. Be sure to include a copy of the document from the bank.

4-H. REVENUE TRACKING PAPERWORK

1. Detail of Store Sales Report

Agents shall keep a record of the store sales for each business day. Agents may use the “Detail of Store Sales Report” or a computer spreadsheet to record each reporting period. When totaled, the information can be transferred directly to the Store Sales Report.

2. Store Sales Report

Agents must complete and submit sales reports to OLCC to assist in tracking the State’s liquor inventory and revenue. Agents may use the Store Sales Report located on OLAS or a POS computer generated report that has the same information with a similar format to the OLAS sales report. Generally, sales reporting periods are Sunday through Saturday. However, a sales reporting period at the start of a month is from the first day of the month through the first Saturday and a sales reporting period at the end of a month is Sunday through the last day of the month. Financial Services may require small or rural stores to report more often.

- a. When completing the report, be sure to include the store number, location and period ending date. Agents should check addition and subtraction for accuracy. Reported sales must equal actual sales.
- b. Generate a Licensee Liquor Purchasing report (sorted by tradename then store number) from OLAS through the Reports tab if there were licensee sales during the period.

The last page of the report will indicate licensee sales totals for the reporting period. After totaling licensee invoices and entering those totals on line 3, 4 and 5 of the Sales Report, check to ensure those totals match the Licensee Liquor Purchasing report. If the report is missing sales include a copy of the licensee invoice and change the totals on the last page of the Licensee Liquor Purchasing report to match the Sales Report.

For agents processing licensee payments through ACH, include an Invoice Detail report for the period using the total from this report and entering it on line 14 of the Store Sales Report. A Bank Activity report will also need to be submitted with the Sales Report for the sales period. Both reports can be generated from the agent’s ACH account.

Note: If agents are participating in EFT depositing, these deposits would be entered on line 14 of the Store Sales Report and may need to be combined if ACH is being accepted for licensee payment.

- c. When preparing the Store Sales Report, follow these specific instructions.
- Stack the bank card slips (GBOK slips) in date order Place the deposit slips beneath the bank card slips, also in date order if making in-person bank deposits. For any EFT deposits, include a summary report that includes the date and dollar amount of each transaction during the sales period.
 - Place the completed Store Sales Report atop the bundle and paperclip or SINGLE STAPLE the entire bundle at top center.
 - Include a Licensee Liquor Purchasing report from OLAS and if applicable, the ACH Bank Activity report and the Invoice Detail report if there were licensee sales for the sales reporting period.
 - Stock Transfer or Store Claims Reports should go atop the Sales Report bundle.
- d. Mail to OLCC in the envelope provided. The envelope must be postmarked no later than the first postal service day after the last day of the reporting period.

Continued failure to meet the Commission's reporting requirements may result in a Letter of Warning or a Notice of Violation.

4-I. DAILY LIQUOR SALES AND DAILY LIQUOR INVENTORY REPORTING

Daily liquor sales reporting offers the most timely and accurate information and allows OLCC, liquor agents and stakeholders the opportunity to make better business decisions. Daily liquor inventory reporting ensures the most up-to-date information is available on the OLCC public access website.

All agents are required to submit daily liquor sales and daily liquor inventory.

Daily liquor sales and daily liquor inventory reporting must adhere to the following requirements:

1. All sales and inventory data must be reported electronically in the required OLCC format. This includes maintaining accurate licensee data at all times. If a premises number has not been issued, place a zero in that field until a number is available.
2. All data must be:
 - Complete, accurate and up-to-date
 - Transmitted by 11 a.m. the next business day
3. Agent must transmit missing data within 48 hours of when OLCC sends notification to the agent of the missing data.
4. Agent must correct inaccurate data and send corrected information within 48 hours of when OLCC sends notification to the agent of the incorrect data. Stores with a POS discrepancy rate greater than 7.5 percent in two consecutive audits must conduct cycle counts. Cycle counts are to be completed so the entire inventory is counted each month until the discrepancy rate falls below 7.5 percent at next audit. Agents must update POS systems immediately upon completion of cycle counts to ensure that physical inventory is accurately reflected. Stores reporting daily sales and daily inventory manually through OLAS must correct inventory counts prior to the next transmission.

Failure to meet the Commission's requirements for daily liquor sales and inventory reporting may result in a Letter of Warning or a Notice of Violation.

SECTION 5.
INVENTORY MANAGEMENT

5-A. PRODUCT SELECTION AND PRICING

Stores must stock an appropriate supply of items to meet customer demand without having an inventory surplus. Efficient inventory control is essential because the liquor inventory belongs to the State of Oregon.

1. Product Listing and Delisting

The Commission lists items based on consumer demand, market trends, sales history, and net profit projections. It manages the inventory in the Distribution Center (DC) to ensure product availability. The majority of product received from the distillers into the DC is called bailment. The OLCC manages the product but it is still owned by the distillers until it is shipped to a store or is moved to the repack section of the DC. Most product is vendor managed, which allows the Commission to step out of the ordering process. This allows distilleries to monitor warehouse levels and order what they feel are acceptable levels for their product.

Staff and agents on the Listing Committee meet periodically to sample products and make recommendations about whether a product should be offered in the state. If an item is not listed, the distillery may present it again after six months.

The Commission delists unprofitable products and may close them out with discount prices.

2. Pricing and Monthly Specials

The Commission sets retail prices and adjusts them monthly if needed.

When suppliers post-off (offer temporary discounts), the Commission passes the savings on to customers as a monthly special if the product has been available more than three months and it is a 750 ml or 1.75 liter. An item may be a monthly special only once in a three-month period and no more than four times per year.

3. Pricing Information

Pricing information is located on OLCC's website or on OLAS.

4. Distribution Center Sales

Federal jurisdictions, such as military bases and Native American reservations, may purchase liquor directly from distilleries or from the DC for the state's landed cost plus a handling fee.

5-B. INVENTORY MANAGEMENT

1. Inventory Goals

Since the inventory of distilled spirits in each store is owned by the State of Oregon, good inventory management is a necessary part of running an efficient store. Agents need to keep their inventory levels as low as possible while still meeting customer demand.

Agents will receive inventory forecasts to help better plan and control inventory levels to enhance sales opportunities. An inventory forecast is a recommended amount of inventory an agent should have based on sales from the previous year. With district manager approval, adjustments may be made to the inventory forecasts as actual sales change compared to the sales forecasted.

Inventory control performance will be reviewed based on how an agent managed actual average inventory compared to the forecast average inventory goal. For annual agent evaluation purposes this will be done on a fiscal year basis, July through June.

2. POS File Maintenance

Agents with a POS computer system are required to maintain an accurate inventory file at all times. POS computer files must be adjusted after each audit. Monthly cycle counts will also ensure an accurate POS file by comparing the computer inventory to the physical inventory in the store. Each major category of distilled spirits should be counted within a calendar month and more often if issues arise. When discrepancies occur, adjustments must be made to the POS inventory file and to the Control Sheet.

Agents who meet the following criteria shall be deemed to have accurately maintained POS inventory files:

- The discrepancy rate between the POS inventory file and the actual inventory at audit is not over 7.5% of the number of product codes in the store.
- The two most recent audits prior to a burglary reflect discrepancy rates of not more than 7.5% of the number of product codes in the store.

An accurately maintained POS inventory file is used to determine relief if product is taken during a burglary. When a burglary occurs and an audit is conducted, reimbursement for the product loss will be evaluated based on POS file maintenance history and other issues, including building security.

5-C. ORDERING DISTILLED SPIRITS

Each liquor store has the opportunity to order distilled spirits weekly or biweekly, depending on sales volume. It is the agent's responsibility to submit timely and accurate orders to the Commission. OLCC provides an order schedule through OLAS each month indicating when an order must be submitted.

Order due dates change periodically. Agents should always check the monthly order schedule located on OLAS for due dates.

1. Creating a Regular Order

Below are tips for creating an order:

- When an item has a consistent history of selling close to or more than a full case per month it should be ordered in case quantities. When an item has a history of selling half a case or less per month and is moderate to high priced, consider ordering as a repack item.
- Certain faster moving items are available in full or half case quantities only. When these items are ordered in less than required quantities, OLCC's computer will automatically adjust to required minimums.
- When ordering more than a case of an item, be sure to order in case quantities. OLCC's computer system automatically reduces the order to full cases unless the order is for less than one case of the item. For example, if a store tries to order 18 bottles of an item, OLCC will adjust the order and ship only 12 bottles.
- When an item was not received on a previous order, it must be reordered since OLCC does not back order. If an item is discontinued, the agent should delete it from the ordering process because this product is no longer available.
- Stores with POS systems should generate an order based on pre-set min/max numbers or historical sales data. Review and periodically adjust the minimum and maximum order quantities based on the selling season. The preliminary order should be edited for specific store needs.
- Stores without POS systems should determine the quantity needed using the Bottle Sales History report

2. Repacks - Ordering Less Than a Full Case

Agents are able to order some slow-moving items in quantities less than a full case. Since this process is very labor intensive and costly, order items that do not have a set minimum in quantities of 1 for high priced product, and 3, 6, or 12 for lower priced product. However, if more than a half case and less than a full case of a repack item is ordered, the item will be adjusted to a full case quantity.

OLCC occasionally reviews items offered through repack and may eliminate or move products to full case only. OLCC may temporarily suspend repack orders when unanticipated situations occur.

OLCC will monitor orders that are processed through the repack system quarterly, looking for items that are reordered in quantities which add up to at least a case per month. Each month a store will be allowed to have up to a maximum of eight different item codes which equal at least a full case quantity. However, if a store orders more than eight different items in quantities that add up to a full case within a month, a \$15.00 fee will be assessed for each full case over the maximum allowed.

For example, a store ordering repacks similar to the quantities below would be charged \$30.00 for having ten full case equivalents, two over the eight allowed.

Items Ordered Through The Repack System For One Month							
Code Number	Week 1	Week 2	Week 3	Week 4	Week 5	Total Shipments	
						Case Quantity	Bottles
133B 12 bottles per case	6	6	6	6	0	2	
154H 6 bottles per case	0	3	0	0	0	0	3
311E 24 bottles per case	3	3	3	12	3	1	
346B 12 bottles per case	6	0	0	6	0	1	

6017E 24 bottles per case	3	9	0	0	12	1	
6128B 12 bottles per case	0	3	0	3	0	0	6
6221B 12 bottles per case	6	0	0	6	6	1	6
6705B 12 bottles per case	0	9	3	6	6	2	
8391E 12 bottles per case	1	0	3	0	3	0	7
8876H 6 bottles per case	3	3	3	3	3	2	3
Total						10	25

The above codes which appear in the “case quantity” column should have been ordered once as full cases rather than individual bottles through the repack system. OLCC will deduct the appropriate repack fee from agent's compensation. A report located on OLAS is available to assist in monitoring repack orders.

3. Submitting an Order

OLCC accepts regular orders only through OLAS or by a POS system using the appropriate OLCC format. Orders are due at OLCC on the published day, no later than 8:00 p.m. Partial case items may be deleted or the entire order cancelled if received after this deadline.

If a scheduled order is not needed, the DC must be notified at 503-872-5033 or 1-800-426-2004, option 5, ext. 5033 by 8:00 p.m. on the scheduled order date.

Agents experiencing problems submitting an order through the store computer can use another computer (i.e. home, library or another business) that has internet access to log into OLAS at <http://www.olcc.state.or.us/olas/servlet/LoginServlet>. Once logged in, the Order tab can be clicked allowing agents to use the template to manually enter the appropriate data from a backup printout of the order.

Repeated failure to meet the Commission's deadline for submitting orders may result in a Letter of Warning and subsequently a Notice of Violation, and can affect an agent's agreement.

4. Verifying and Changing an Order

Agents can verify through OLAS that their order was received by OLCC and can update a submitted order also through OLAS or retransmit the order using a POS system to correct an issue any time before 8:00 p.m. on the day the order is due.

5. Will Calls

To correct sudden out-of-stocks, agents may order merchandise and pick it up at the DC. This is called a "will call" order. To meet Taxable Trade Bureau (TTB) bailment rules, the Commission requires agents to provide 24-hour notice from the time the will call order is entered into the system. OLCC may temporarily suspend will call orders when they interfere with regular shipping. OLCC is unable to accept will call orders after 3 p.m. or on the last day of the month. Voice mail orders will not be accepted or processed. Agents will need to call back the next business day to place an order for pickup the following day.

When placing a will call order:

- Call Wholesale Operations at 503-872-5015 or 1-800-426-2004, option 5, ext. 5015.
- State the bottle code and the number of bottles the agent wishes to receive. Will call items can only be ordered in full case quantities.
- Pick up the order at the DC after 24 hours at door #10 from 7:30 a.m. to 3:00 p.m. Ring the bell for service.
- Store personnel who are at least 18 years old may pick up the will call order with written authorization from the agent.
- A packing slip accompanies the order. Input the quantity received into the POS system, if applicable, and place the total will call value on the Control Sheet the day the will call is picked up.

Will call charges

OLCC charges liquor agents for some will call orders – those over a certain number per month.

Non-Holiday Season	Will Calls	Charges to Agent
January - October	4 or fewer in a month	None
January - October	Upon the 5 th will call for the month	\$10.00 charge for 5 th will call
January - October	Upon the 6 th will call for the month	\$15.00 charge for the 6 th will call
January - October	7 or more will calls for the month	\$25.00 charge for each will call after the 6 th

Holiday Season	Will Calls	Charges to Agent
November - December	6 or fewer in a month	None
November - December	Upon the 7 th will call for the month	\$10.00 charge for 7 th will call
November - December	Upon the 8 th will call for the month	\$15.00 charge for the 8 th will call
November - December	9 or more will calls for the month	\$25.00 charge for each will call after the 8 th

Charges for the will call program are as follows:

- If an agent comes to the OLCC warehouse **only** to pick up a product that has been out-of-stock and is now in stock, OLCC will **not** include that pick up in the will call count for the month.
- If an agent picks up other product in addition to product that has been out-of-stock, OLCC will include the pick up as part of the store will call count for the month.
- An agent may include up to 20 different item codes in a single will call. Anything more than 20 item codes will be counted as another will call.
- Agents will generate each will call with a single phone call to OLCC. If an agent calls more than once to arrange to pick up product, each phone call counts as another will call (even if the agent makes a single trip to pick up all the product). OLCC has to process the product from each phone call separately, so to OLCC the processing work is more even if the agent only makes one trip. Agents should wait until they know all their needs before calling in a will call order.
- At the end of each quarter, OLCC will review, check and assess the number of each store's will call orders. OLCC will deduct the appropriate will call charges from agent's compensation.

6. Special Order

Customers may request products not listed in Oregon and agents can order those items if they are available in the United States.

All special orders will be submitted by agents electronically through OLAS. Agents have a number of options when using the electronic ordering process. OLAS may be used to order currently listed special order items, inquire about a new item, determine if a product is listed in Oregon or obtain a price quote prior to ordering an item for a customer.

If the special order is approved, the agent will receive confirmation of the original request. On average, it takes around six weeks to receive an item. Please explain the length of time to the customer.

Once the product arrives at the DC, it will be invoiced along with the store's next regular order.

Some products may already be available in the state.

To determine if a product is already listed, agents can go to OLAS, click the Inquiry tab and type in the name of the product or as much of the name as is known. If a product is listed, the item code and other information will appear. The agent may be able to transfer a few bottles from another store. To find a store that has inventory of a product, use www.oregonliquorsearch.com. If the product is not available in the state or unavailable through a stock transfer, a special order for a full case(s) will need to be submitted.

Some limitations apply to special orders:

- Discontinued items will not be changed to special order until 6 months after a change of status and all stock in stores is depleted. Closeouts will not be changed to special order until 12 months after a change of status and all stock is depleted. The price may be greater for special order items.
- Additional sizes will not be special ordered unless sales of the 750 ml size average at least 25 cases per month over the prior three months.

Special orders may be cancelled if there is sufficient inventory in the system. Agents with available stock on-hand will need to assist other stores with stock transfers. If needed, commission staff may facilitate a stock transfer of special order items.

5-D. RECEIVING

When OLCC receives an agent's liquor order, the information is sent to the Distribution Center (DC) for processing. The order is filled and shipped using common freight carriers to arrive on the store's delivery day. The Straight Bill of Lading (*Exhibit 5-1*) and packing list (*Exhibit 5-2*) go with the shipment. For orders delivered the same day as shipped from the DC, the Straight Bill of Lading may also serve as the carrier's freight bill. For orders that are not delivered the same day as shipped, the carrier may create a separate freight bill. Use these documents to verify that the correct merchandise is being delivered. Agents should compare the packing slip with the OLCC invoice which can be reviewed through OLAS. Issues relating to overages, shortages or damaged product must be reported to the Distribution Center inventory analyst at 503-872-5323 within 72 hours of receiving the load. Failure to report discrepancies within 72 hours may result in the store being denied an inventory adjustment. Any invoice pricing errors should be reported to Financial Services.

To help contain the costs of liquor distribution, it is recommended that agents always schedule enough staff on delivery days to efficiently receive the merchandise without interruption. Also, agents must work with the carrier to avoid additional freight charges for extra labor or delays. Agents may be held responsible for additional or unusual charges incurred. Agents must not request delivery more than 20 feet into the store, sorting or special inspection, or delivery on weekends or holidays.

To receive a shipment:

1. Verify the correct load is being delivered by checking the store number on the Straight Bill of Lading and packing list.

If the paperwork is for another store and the shipment is for the correct store, print the OLCC invoice from OLAS to check in the shipment. Notify the DC that the paperwork was incorrect. If the order is for another store, refuse the shipment but contact the DC before the truck leaves. **NOTE: The only reason a shipment should be refused is if it is for another store.**

2. Count the repack cases and verify the total matches the Straight Bill of Lading. Repack case labels can be checked against the repack packing list while repacks are being unloaded.
3. As the freight company brings in full cases, check off the quantities by item code against the full case packing list. Do this until the entire load is checked off.
4. If the load is correct and there is no visible damage, sign the freight bill or other delivery documents (if available). At this point, the freight company can leave.

If one or more cases are missing or product was damaged by the freight company, bring it to the attention of the driver. Follow the steps under the Transportation Claims section (5-H) of this manual.

5. Be sure repack items are correct by opening each case and comparing the contents with the label on the outside. Mispicks or missing items must be reported to the DC at 503-872-5323 within 72 hours of receiving freight.
6. Agents should always record in store inventory what is actually delivered. If an incorrect product or quantity was actually received, that should be reflected in store inventory immediately.

If a case is received that looks correct, but upon opening the product is found to be different, contact the DC at 503-872-5323 within 72 hours of receiving freight and correct the inventory to the product in the box. Special order items should be opened immediately to ensure the product is correct.

5-E. TRACKING INVENTORY

1. Control Sheet Instructions

The Control Sheet located on OLAS is a record of the cash and inventory transactions for each month. Accurate accounting of the State's money and inventory is an important function of the agent. Each day, the agent must record inventory transactions, sales, and cash transactions to keep a running balance.

Use the four sections of the Control Sheet as follows:

a. Inventory Transactions

- Beginning Inventory – Enter the amount from the previous month's ending inventory.

Add the following to the beginning inventory:

- Liquor Received – Enter the dollar value of any freight received from the DC. This includes regular freight deliveries, licensee returns that were invoiced by OLCC or will calls.
- Invoice Adjustments – An adjustment is given when there was an error billing product to the store. Add or subtract the amount based on the adjustment.
- Transfers In – Post the value of any product the agent receives from another liquor store.
- Refunds – Stores with a POS system will never enter a refund value in this column. Stores without a POS system will post the current value of any product that was brought back to the store by a customer. There is no reason to enter an amount for an exchange of the same retail value.
- Inventory Adjustments – During the process of maintaining an accurate POS computer inventory file, the computer value may increase or decrease depending on the changes made during a category cycle count. Once the computer inventory has been changed to the physical count, enter the final dollar difference (obtained from computer printout) on the Control Sheet.

Deduct from the beginning inventory:

- Transfers Out – Post the value of any product the agent sends out of the store. This includes product sent to another store or to the DC.

- Claims – Post the dollar amount of any product written off on a Store Claims Report. This would include a transportation claim and claims written by the district manager or distillery representative.
- Total Retail Liquor Sales – Enter consumer and licensee sales at **full retail** for each day.

b. Consumer/Licensee Sales

- Enter the number of consumer and licensee transactions the store had for the day.
- Enter the consumer and licensee sales at full retail for each day.

c. Cash Transactions

- Licensee Discount – Enter the dollar amount of the licensee discount.
- Gains or Losses on Refunds – If a customer returns a bottle and the price changed since the purchase date, enter the amount of the gain or loss.
- NSF (any returned checks)/Audit Gain or Loss – Enter any returned check as a positive. If there is an audit shortage, post it as a positive. If there is an audit overage, post it as a negative.
- Total Bank Deposits – Enter the proper amount of cash and checks deposited in the bank for each business day.
- Bank Card Sales – After closing, the bank card machine needs to be batched out. Enter the dollar amount that says “Grand Total” from the batch settlement report.

d. Markups/Markdowns

The markup/markdown section is for changes in prices at the first of the month.

- After submitting an end-of-month inventory all stores can obtain the markup/markdown dollar values through the “Reports” tab of OLAS. Add or subtract these values to the ending inventory amount on the Control Sheet. The new amount will be the store’s beginning inventory for the next month. The Control Sheet and the store computer should have the correct inventory dollar value.

2. Inventory Reports on OLAS

Agents can obtain reports through OLAS that can assist in monthly monitoring of inventory and sales. These reports include the Monthly Inventory Summary, the Detail Stock Status Report and the Markup/Markdown Report.

5-F. INVENTORY SUBMISSION

Agents are required to submit a timely and accurate inventory at the end of each month, by the due date and time specified.

1. Submitting an Inventory

OLCC accepts inventories only through OLAS or a POS system using the appropriate OLCC format. Inventories are due at OLCC by the second business day of the new month by 11 p.m.

When submitting an inventory:

- Ensure all transactions that occurred in the month are reflected in the submitted inventory. Shipments must be recorded when received, even if they were scheduled for a different delivery date. If the invoice (not the packing list) reflects the wrong month's prices, notify Financial Services at 503-872-5175 so the proper inventory adjustment can be processed.
- Stores with POS systems **should** submit on the last day of the month after closing or the next morning prior to opening to avoid sales or receiving issues in the new month. Agents with POS systems are required to transmit an accurate inventory count by the due date and time.
- Agents without a POS system must take a physical inventory after closing the last business day of the month and before opening the next business day. These agents are required to transmit an accurate inventory count through OLAS by the due date and time.

Agents experiencing problems submitting an inventory through the store computer can use another computer, (i.e. home, library or another business) that has internet access to log into OLAS at <http://www.olcc.state.or.us/olas/servlet/LoginServlet>. Once logged in, the Inventory tab can be clicked allowing agents to use the template to enter the appropriate data from a backup printout of the inventory.

Repeated failure to meet the Commission's deadline for submitting accurate inventories may result in a Letter of Warning and subsequently a Notice of Violation, and can affect an agent's agreement.

2. Verifying and Changing an Inventory

Agents can verify through OLAS that an inventory was received by OLCC, can manually update a submitted inventory also through OLAS or retransmit the inventory using a POS system to correct an issue any time before 11:00 p.m. on the day the inventory is due.

5-G. STOCK TRANSFER

Stock transfers occur when product is moved from one store to another or to correct out-of-stocks and overstocks or when merchandise is returned from a store to the DC.

Agents need to make every effort to transfer slow moving or overstocked product to surrounding stores. This includes product in full cases, holiday, discontinued, closeout, one time buy, special order items or items with less than full case quantities. Contact your district manager for unique store specific inventory reduction situations.

If the district manager gives approval, only factory sealed full cases from the product line (regular and limited listing) can be returned to the warehouse and **must** arrive at the DC by the 25th of the month. Returns recommended by a distillery representative also require district manager approval prior to the product arriving at the DC.

Shipping and receiving store personnel must print their name below their signature so OLCC can follow-up with any questions regarding the transfer. Store personnel should sign on the agent's signature line. If a distillery representative is transporting the merchandise, have them sign and print their name and date the form **in a different place than the receiving agent's signature line.**

Store-to-store stock transfers must arrive at the destination by the end of the month so all parties can account for the product in the current month. Submit stock transfer forms from the first of the month to the 25th in the weekly paperwork mailing to OLCC. For the rest of the month, submit stock transfer forms the day of the transfer, in order to receive proper credit or debit the same month.

The agent transferring merchandise must:

1. Complete a computer-generated transfer form (four copies) or a Stock Transfer form located on OLAS. The form must include:
 - Shipping store number
 - Receiving store number
 - Item code number and size
 - Number of bottles of each item code
 - Extend retail value for each code
 - Total number of bottles in the transfer
 - Total retail value of the transfer - if using more than one form, place total on the last page
 - Date transfer initiated
 - Signature from shipping store
2. Send the first copy directly to OLCC Financial Services **per the instructions above.**
3. Pack two copies with the merchandise being transferred.
4. File the last copy in the store.

If product is being returned to the DC, the agent will need district manager's pre-authorization.

The agent (or DC) receiving the transfer product will:

1. Inspect the product and compare it with the transfer paperwork; note any corrections on the forms.
2. Sign both transfer copies.
3. Send a copy of the Stock Transfer form, with both store personnel's signatures to OLCC Financial Services.
4. File a copy in the store.

Do NOT send transfer forms when:

- Receiving liquor from the DC, unless it is a transfer from another store that was included in the shipment.
- Processing a claim. (Use a Store Claims Report instead).
- Making internal inventory adjustments (such as changing codes).

DO NOT send extra copies of transfer paperwork to OLCC. Only one copy is needed from the transferring store, and one from the receiving store, to process a transfer.

5-H. CLAIMS FOR UNSALABLE LIQUOR

The Store Claims Report located on OLAS is used in three ways. One is to give an agent credit for transportation errors. Another is to give credit when a bottle is damaged by an employee or customer. Finally, credit can be given when defective product is received from the manufacturer.

1. Transportation Claims

If an agent finds a case missing when verifying a distilled spirits delivery, or if product was damaged by the freight company, follow these steps:

- a. For missing cases, write, "Short from Load," the code number, and quantity on the freight company's freight bill. If product was damaged, write "Damaged Product," the code number, and quantity on the freight bill. Have the driver acknowledge the problem by signing the freight bill. If the freight company does not have a company freight bill or another form to show acknowledgment of the load, use OLCC's Bill of Lading to document the situation. **Be sure to keep a copy of the signed freight bill or Bill of Lading showing the discrepancy and the driver's signature (next to the discrepancy).** Complete an OS & D form located on OLAS showing the missing case or damaged product and *have the driver sign the form*. The driver may leave after this.
- b. **Before submitting an OS & D form for a missing case, contact the inventory analyst clerk at 503-872-5323 within 72 hours of delivery.** If it is determined that the case was shipped, submit the OS & D. If the case was not shipped, do not complete or submit any other paperwork and check on OLAS for an adjustment.

Submit an OS & D form for any damaged product that was caused by the freight carrier.

- c. Complete an OS & D form located on OLAS showing the missing case or damaged product and *have the driver sign the form*. The driver may leave after this. Complete a Store Claims Report by filling in the code number, number of bottles, product description, price, date, store number, location, and agent's signature.
- d. Send Wholesale Operations a copy of the signed freight bill (or Bill of Lading), a copy of the OS & D form and two copies of a computer generated Store Claims Report or two copies of an OLCC Store Claims Report.

If the freight company broke bottles and the rest of the contents in the box is unsalable, set the box off to the side and turn in the above paperwork. Hold the product in the store with the white copy of the Store Claims Report inside the box until the district manager inspects the merchandise.

It is very important for an agent to submit the proper paperwork for credit. Otherwise, the freight company could deny payment and the agent would be responsible for the loss.

2. Breakage Claims

In the course of doing business, bottles might be damaged or broken. When this occurs, the district manager will determine during their store visit what credit if any is going to be given.

a. Store Breakage

An agent may receive a case with a broken bottle from the DC. If this happens and the broken bottle was not caused by a freight carrier, remove the bottle from the box and place the bottle in the store's claim area. Be sure to save as much of the bottle as possible to identify the size and contents. Agents will only receive credit if the neck of the bottle has the cap intact and the seal is unbroken.

When a sealed bottle gets broken in the store, place the contents of the bottle in the store's claim area. Be sure to save as much of the bottle as possible to identify the size and contents. Agents will only receive credit if the neck of the bottle has the cap intact and the seal is unbroken.

b. Pilferage

When an agent receives freight and finds evidence of tampering with a case, the agent should set it off to the side and bring it to the attention of the driver. If an agent finds a bottle missing and there is an imprint in the box, write on the outside of the box what happened and save it for the district manager to inspect.

3. Distillery Claims

Bottles are considered unsalable if they fall in the following categories:

Defective Cap	Seal is Broken
No Bottle Cap	Bottle Missing in Case
Customer Complaint	Defective Bottle
Foreign Matter	Label Problem
Short-Low-Empty Bottle	Improper Packaging
Contents Solidified	

Place this merchandise in the claim area with a dated note. Distillery representatives may write off this product using the Store Claims Report and take the product after writing it off. It is the **agent's responsibility** to send in the pink and blue copy of the form with the store's weekly paperwork. Agents may use a computer generated claim report and have the distillery representative sign all four copies. The agent must sign and submit two copies to OLCC. To ensure that the store receives proper credit the store number and location must be included on all claims.

Note: If an agent opens a factory-sealed case and finds a bottle missing, the agent should take a black marker and mark the divider (if applicable) where the bottle was missing. Write on the outside of the box, "Missing in Case." Agents should save the box for the distillery representative or district manager in order for agents to receive credit.

5-I. AUDITS

OLCC conducts periodic visits to every store to perform audits. OLCC audits are necessary to meet the fiduciary responsibilities to the State of Oregon. The Commission expects agents to be prepared for an audit on the day of the audit. Because an audit could occur at any time, agents should be generally prepared for an audit at all times. Agents can reduce the impact of preparing for an audit by incorporating the below steps into Agent's regular business practices where practical to do so. The Commission requires the agent or an authorized agent representative to be present at all times during an audit. **Note: Audit schedules for any month are usually created by the 20th of the prior month. If an agent has concerns about an audit being conducted in their absence, they should notify auditing (503-872-5134 or 1-800-426-2004, option 5, ext. 5134) by the 20th of the prior month for expected absences in the following month.**

1. Regular Audit

Once the auditing department has notified an agent of an audit, use the following process to prepare.

a. Preparation For the Audit

To ensure an accurate inventory count, agents are to organize product on the sales floor as listed below:

- Partial and empty boxes used in displays need to be separated from full cases.
- Place only identical items in rows that are front faced on the shelving units with the correct price label.
- Sort loose minis by product code and leave overstock product in the original packaging.
- Identify any empty packaging (i.e. scotch cylinders, gift boxes) with a note or by removing or laying the container down.

To ensure an accurate inventory count, agents are to organize product in the stockroom as listed below:

- Keep full cases sealed and stacked with codes facing out.
- Identify boxes containing less than a full case or mixed product.
- Place identical items in rows on shelving units or in case stacks.
- Label with item code all high end or special order products located on shelves.
- Have licensee orders pulled and set aside with printed invoices. Orders placed after the auditors arrive cannot be filled until the physical inventory is completed and verified. It is recommended that Agents notify licensees that their delivery may be delayed on audit day.
- List all unprocessed store claims with item code, quantity and description.

b. Day Before The Audit

Collect the following information for the month of the audit:

- Completed Store Sales Reports.
- The last shipment invoice information prior to the audit that includes invoice number, day of delivery and dollar value.
- All store transfer paperwork that has not been mailed to OLCC.
- Store Claims paperwork that has been written off, but has not been mailed to OLCC.
- Completed Control Sheet (if available).
- Stores with a POS system: After making any inventory adjustments and completing the end-of-day process, download the store's liquor inventory onto a flash drive.

Questions regarding the download procedure will need to be directed to the POS computer system vendor prior to the audit. A paper copy of the inventory is required for the auditors if the inventory cannot be downloaded.

c. Day of The Audit

- Unlock display cases.
- Place miscellaneous items on the counter with item codes.
- Complete a Store Sales Report: Include all days in the current period using the day before the audit as the last reporting day. Write "Audit" at the top of this report.

d. During The Audit

- Do not move product once the audit has started.
- If time permits, the auditors may verify some counts that show up on the POS Discrepancy Report.

e. After The Audit

- Secure any unlocked display cases.
- Stores with a POS system must update the inventory to match the auditors count, subject to adjustments after review of the POS Discrepancy Report.
- If errors are found when reviewing the POS Discrepancy Report after the auditors have left, complete an Audit Discrepancy Report located on OLAS. This form needs to be submitted to Financial Services within 3 working days of the audit by fax at 503-872-5180 or email at OLCC.LiquorAudits@oregon.gov. Financial Services will review and determine if any adjustments will be made.
- Make any final deposits for the audit Sales Report period and mail the report with accompanying paperwork to OLCC no later than the next postal service day. If the audit is conducted during the final week of the month, the auditors may need to transport the completed Store Sales Report back to OLCC to meet auditing deadlines.

2. Final Audit

a. Preparation for The Audit

A month prior to takeover, conduct cycle counts and adjust the on hand inventory in the POS system.

Maintain a one to two week supply of liquor in the store. Minimizing overstocks will assist in speed and accuracy of the audit.

Post a sign two week prior to the audit at the main entrance and at the registers indicating:

Due to an OLCC audit, this store (or liquor section) will be temporarily closed on ###/###/#### and will open approximately at ##:## AM/PM.

Sorry for any inconvenience.

To ensure an accurate inventory count, agents are to organize product on the sales floor as listed below:

- Partial and empty boxes used in displays need to be separated from full cases.
- Place only identical items in rows that are front faced on the shelving units with the correct price label.
- Sort loose minis by product code and leave overstock product in the original packaging.
- Identify any empty packaging (i.e. scotch cylinders, gift boxes) with a note or by removing or laying the container down.

To ensure an accurate inventory count, agents are to organize product in the stockroom as listed below:

- Keep full cases sealed and stacked with codes facing out.
- Identify boxes containing less than a full case or mixed product.
- Place identical items in rows on shelving units or in case stacks.
- Label with item code all high end or special order products located on shelves.
- Have licensee orders pulled and set aside with printed invoices. Orders placed after the auditors arrive cannot be filled until the physical inventory is completed and verified. Notify licensees that their delivery may be delayed on audit day.
- Store claims can be processed up to a week before the audit. List all unprocessed store claims with item code, quantity and description. These claims can be processed after the audit and will be applied to the incoming agent.

b. Day Before The Audit

Collect the following information for the month of the audit:

- Completed Sales Reports.
- The last shipment invoice information prior to the audit that includes invoice number, day of delivery and dollar value.
- All store transfer paperwork that has not been mailed to OLCC.
- Store Claims paperwork that has been written off, but has not been mailed to OLCC.
- Completed Control Sheet (if available).
- The outgoing and incoming agent take an inventory of any items that the incoming agent agrees to purchase (i.e. pop, mixer, giftware).
- Stores with a POS system: After making any inventory adjustments and completing the end-of-day process, download the store's liquor inventory onto a flash drive.

Questions regarding the download procedure will need to be directed to the POS computer system vendor prior to the audit. A paper copy of the inventory is required for the auditors if the inventory cannot be downloaded.

c. Day of The Audit

Ensure these steps are followed on the day of the audit.

- The store or liquor area remains closed until the audit, discrepancy review and POS file has been updated.
- Unlock display cases.
- Place miscellaneous items on the counter with item codes.
- Complete a Store Sales Report: Include all days in the current period using the day before the audit as the last reporting day. Write "Final Audit" at the top of this report and attach all required documentation including any outstanding deposit slips prior to completion of the audit unless otherwise given instructions by the auditors. The auditors will transport this document and any previous period Store Sales Reports that have not been mailed.

d. During The Audit

After the audit has begun:

- Do not move product once the audit has started.
- The auditors will verify the physical count on items that appear on the POS Discrepancy Report. Outgoing and incoming agents must participate in this process and should not plan any other activities until the POS Discrepancy list has been verified.

NOTE: Once the auditors leave the store, the final count will be the ending inventory value for the outgoing agent and the beginning inventory value for the incoming agent. No changes will be accepted after this point.

e. After the Audit

The outgoing and incoming agent will sign an OLCC document acknowledging that the audit is complete and accepting the retail value of product in the store. At this time, the outgoing agent's retail sales agent agreement is terminated and the incoming agent's retail sales agent agreement is in effect. Responsibility for store operations and security of the distilled spirits is transferred to the incoming agent.

Tasks to complete after the audit:

- Stores with a POS system must update the inventory to match the auditors count.
- Secure any unlocked display cases.
- Open the store for business.

If an outgoing agent is eligible for a resignation buy-out, it can be paid from the incoming agent to the outgoing agent once Financial Services has all Store Sales Reports, deposit slips and other reporting paperwork and is able to preliminarily calculate the final audit. If the calculation indicates a shortage that exceeds the estimated amount of the compensation due the outgoing agent, the shortage will be deducted from the buy-out amount and the balance will be paid to the outgoing agent. Both agents will receive a letter from Financial Services indicating the final buy-out amount to be paid to the outgoing agent. This notification can be emailed or faxed to each agent.

Final Audit shortages will be deducted from and overages will be applied to an agent's last compensation payment which will be released at least one day after regular compensation is paid.

3. Adjusting Inventory After an Audit

All agents should place the auditor's total dollar count as their new beginning inventory on the Control Sheet. Agents with a POS system must adjust their inventory file after an audit.

4. Audit Payment/Shortages/Overages

Agents are rewarded for outstanding performance in the stewardship of the State's inventory in their custody. A retail adjustment of 40% off of the retail value of the audit shortage will be made if the agent is eligible.

Eligibility:

- An agent's total gross audit shortage must not exceed 0.1% of gross sales
- Only self-serve stores will be able to participate
- All permanent and temporary liquor store agents will be eligible

OLCC may modify this program at any time. When an agent is eligible to pay an audit shortage at 60% of retail value, the Store Audit Report (*Exhibit 5-3*) will be accompanied by an invoice giving detailed instructions on the payment process.

If an audit results in a shortage, the agent will be instructed on the Store Audit Report to increase the weekly bank deposit by the invoiced amount using a separate bank deposit slip. All agents must pay their shortages regardless of payment structure (adjusted retail or full retail) within 30 days of receiving the Store Audit Report, as provided in the Retail Sales Agent Agreement. The audit shortage must be paid within 30 days, regardless of whether a hearing is requested. If an agent fails to pay an audit shortage within 30 days, a Notice of Violation may be issued and OLCC will withhold payment from agent's compensation.

Agents must find the cause of shortages or overages and correct the problem. They may contact their district manager or the audit manager for help if needed. All transactions posted by OLCC to an agent's inventory are viewable on OLAS. Any discrepancies between OLCC records and agent's records should be reported immediately to Financial Services at (503) 872-5175.

Large audit shortages indicate mismanagement and a failure to meet the terms of the Retail Sales Agent Agreement to safeguard the state's inventory and proceeds. Any shortage amount(s) exceeding 0.2% of gross sales may be considered a large audit shortage. Agents with large audit shortages may receive disciplinary action, up to and including termination of an agent's agreement.

If an audit results in an overage, the agent will be instructed on the Store Audit Report to decrease the weekly bank deposit by the amount of the audit overage. Agents will need to decrease the deposit within 30 days of receiving the audit report. Failure to do so may result in a Notice of Violation.

Common causes of shortages and overages are:

	Shortage	Overage
Liquor is being rung on the wrong register key	X	
Theft or pilferage by the public and/or store personnel	X	
Related items being rung on the "Liquor" register key		X
Incorrect prices	X	X
Errors in licensee orders	X	X
Failure to verify shipment packing slips	X	X
Inaccurate or incomplete record keeping and deposits	X	X
Incorrect credit given to agent on mark-up/mark-downs due to an inaccurate inventory file submitted to OLCC	X	X

5. Store Audit Report

The Store Audit Report is a summary of the revenue and inventory activity for an audit period and states the final audit results. It includes instructions to pay shortages or to withhold overages.

The following is a description of each line on the report.

MERCHANDISE TRANSACTIONS:

- **BEGINNING BALANCE:** - This is the same as the ending inventory from the prior audit.

- **CHARGES:**

Shipments From Warehouse - All regular freight deliveries, invoice adjustments, licensee returns that were invoiced by OLCC and will calls invoiced to the store.

Transfers In - Any product transferred in from another store.

Markups - The dollar difference of a product that increased in price.

Inventory Adjustments - Monetary changes to the agent's book value not related to routine inventory transactions. Usually these are due to price changes and timing differences.

Total to Account For - The total inventory dollar amount a store is responsible for during an audit period (Beginning Balance plus Charges).

- **CREDITS:**

Liquor Sales - Combined sales during the audit period.

Transfers Out - Inventory transferred to another store or to the DC.

Claims - Any merchandise written off on a Store Claims Report.

Markdowns - The dollar difference of a product that decreased in price.

Inventory Adjustments - Monetary changes to the agent's book value not related to routine inventory transactions. These could be due to price changes and any transactions that are recorded in a different month than they actually occurred.

Total Credits - Subtotal of this section (items that reduce the agent's inventory liability).

- Balance to Account For - Book value of inventory that should be in the store on the day of the audit. (Total To Account For minus Total Credits).
- ACCOUNTED FOR AS FOLLOWS:

Ending Liquor Inventory - The actual dollar amount the auditors counted on the day of the audit. This will also be the beginning inventory for the next audit period.

Liquor Inventory Short or Over - The amount a store is over or short comparing book value to the physical inventory in the store. (Balance to Account For minus Ending Liquor Inventory).

Pending Burglary – (or Shoplifting, etc) – Transactions that are awaiting authorizations at the time of the audit. These transactions will not be booked in the same month as the audit, so the activity is accounted for separately from the audit activity.

- TOTAL TO ACCOUNT FOR - This must equal the Balance to Account For. It is the ending inventory net any overage, shortage, or pending authorizations.

CASH TRANSACTIONS

- Balance From Previous Audit:

AUDIT REPORT NO. ##### Agent Short (or Over) - Balance from previous audit.

Sales Receipts In Transit To Bank - Previous day receipts not deposited in bank.

Cash - More or less cash or checks deposited from original amount on deposit slip.

NSF Checks - Any bad checks that were not collected or paid by agent.

Retail Adjustment - If the previous audit met the requirements for a retail adjustment under section 5-I, section 3, this is the amount that the audit shortage repayment was reduced.

- CHARGES:

Total Liquor Sales - Adjusted sales during the audit period.

Less: Licensee Discounts - Total discount on licensee sales.

Less: Refunds - Stores without a POS system will have a dollar value in the field if they filled out a refund slip. All other stores will have zero.

Net Sales Receipts - Total Liquor Sales minus Licensee Discounts and Refunds.

Gains on Merchandise Refunds - If a store had given a customer a refund at a lower price than its current price, the store will have a gain in the value of the inventory.

Other - There may be other miscellaneous charges.

- Total To Account For - What was reported to OLCC that was sold during the period after adjustments (i.e. audit, licensee discount, refunds, gains). This is the amount expected to be deposited by the agent during the audit period.

- CREDITS:

Deposits - Total amount of bank deposits during the audit period.

Loss on Merchandise Refunds - If a store had given a customer a refund at a higher price than its current price, the store will have a cash loss.

Robbery Loss - If a store had a robbery and cash was taken, the amount of the loss that was relieved would be entered on this line.

Audit Payments Withheld from Comp - If the agent does not settle an audit shortage within 30 days of receipt of the audit, the audit amount may be withheld from the agent's compensation payment. Overages may also be settled in this way and will be accounted for in the same line.

Bank Card Transactions - Total amount of credit and debit card charges processed during the audit period.

Other - Used for any other credit transaction as needed.

- Total Cash Accounted For - The total of the deposit activity during the audit period.
- Balance To Account For - The difference between what should have been deposited and what was actually deposited during the audit period.

- **ACCOUNTED FOR AS FOLLOWS:** - This is a breakdown of the “Balance to Account For” section.

Sales Receipts in Transit To Bank - Previous day receipts not deposited in bank.

NSF Checks - Any bad checks that were not collected or paid yet.

ENDING Cash Over Deposited - Outstanding deposit errors, created when the amount reported for sales is different from the amount deposited.

Prior Audit(s) - Any prior audit balance that has not been settled.

Other - Any other transaction that is outstanding.

- **TOTAL ACCOUNTED FOR** - Total outstanding cash transactions as of the date of the audit.

SECTION 6.
EMERGENCY PROCEDURES

6-A. EMERGENCY PROCEDURES

1. Robbery of Funds During Business Hours

Agent must follow these steps if the store is robbed of funds:

1. Close the store.
2. Call the local police immediately.
3. Closeout all registers and bank card equipment to determine the loss.
4. Contact the **OLCC 24-Hour Call Center** immediately at **503-872-5030**. Be prepared to provide the following information to the call center:
 - Store number, address of incident, name of the caller, and phone number
 - Type of incident
 - Date, time, and a description of the incident
 - Amount of loss, if available
5. Once the police have investigated the crime scene, the agent should reopen the store. If the store cannot reopen, place a closed sign on the door for the remaining hours of operation.
6. Enter the robbery loss as a negative amount on line 11 of the Store Sales Report. A robbery loss is reported as a deposit shortage in the amount of the loss. If relief is granted, the Store Sales Report will be reposted by OLCC to reflect the robbery loss on line 13.
7. To request relief, completely fill out an Incident Report located on OLAS, including a police report case number, and send a copy immediately to Retail Services. Pictures/videos of the incident may be requested. Also, submit a police report if available. Granting of relief will be determined once OLCC receives a police report.

2. After-Hours Burglary/Break-in

Agents must follow these steps for an after-hour burglary/break-in:

1. Call the local police immediately.
2. Secure the store and make any necessary repairs to open for the next business day.
3. Determine if there was a loss of distilled spirits or funds. Contact the **OLCC 24-Hour Call Center** immediately at **503-872-5030** if there is a loss of distilled spirits or state funds.
4. When contacting, be prepared to provide the following information to the call center:
 - Store number, address of incident, name of the caller, and phone number
 - Type of incident
 - Date, time, and a description of the incident
 - Amount of loss, if available

When an agent contacts the Call Center due to an after-hours break-in, OLCC will inform the store by 9 am if a closure is required until an emergency audit can be performed. All emergency audits should be completed by the OLCC within two business days, except on holiday weeks. If an agent can determine the actual loss, an audit may not be necessary.

5. Take pictures of the damage for insurance purposes. Provide any pictures and videos (if available) to OLCC.
6. Completely fill out an Incident Report located on OLAS, including a police report case number, and send a copy to Retail Services with any pictures/video. Also, submit a police report if available. When a burglary occurs, and an audit is conducted, reimbursement for the product loss will be evaluated based on POS file maintenance requirements and other issues, including building security. Granting of relief will be determined once OLCC receives a police report.

3. Other Emergencies

Follow these steps when distilled spirits are damaged by flood, fire, building damage, etc.:

1. Call the appropriate local emergency response organization.
2. Close the store if necessary.
3. Contact the **OLCC 24-Hour Call Center** immediately at **503-872-5030**. Be prepared to provide the following information to the call center:
 - Store number, address of incident, name of the caller, and phone number
 - Type of incident
 - Date, time, and a description of the incident
 - Amount of loss, if available
4. Take pictures of the damage for insurance purposes. Provide any pictures and videos (if available) to OLCC.
5. Completely fill out an Incident Report located on OLAS with a police report case number when appropriate and send a copy immediately to Retail Services with any pictures/video. Also, submit a police report if available.

SECTION 7.
LIQUOR LAWS AND RULES

Selected Oregon Revised Statutes

This section references state statutes and rules that apply to retail sales agents. The statutes and rules below may not be the most current version of those laws. In some instances, OLCC has included only those sections of the statute or rule that OLCC would like to highlight for the agent. The full current version of each statute and rule applies to the agent, even if this section contains an outdated or truncated version.

Agents can view all statutes and rules in their entirety at:
http://www.oregon.gov/OLCC/laws_and_rules.shtml.

471.001

Definitions for ORS chapters 471 and 473

As used in this chapter and ORS chapter 473:

- (1) "Alcoholic beverage" and "alcoholic liquor" mean any liquid or solid containing more than one-half of one percent alcohol by volume and capable of being consumed by a human being.
 - (3) "Commission" means the Oregon Liquor Control Commission.
 - (4) "Distilled liquor" means any alcoholic beverage other than a wine, cider or malt beverage. "Distilled liquor" includes distilled spirits.
 - (5) "Licensee" means any person holding a license issued under this chapter.
- [1995 c.301 §2; 1999 c.351 §42; 2005 c.100 §1; 2010 c.33 §1; 2012 c.54 §1; 2015 c.614 §160]

471.030

Purpose of Liquor Control Act

- (1) The Liquor Control Act shall be liberally construed so as:
 - (a) To prevent the recurrence of abuses associated with saloons or resorts for the consumption of alcoholic beverages.
 - (b) To eliminate the evils of unlicensed and unlawful manufacture, selling and disposing of such beverages and to promote temperance in the use and consumption of alcoholic beverages.
 - (c) To protect the safety, welfare, health, peace and morals of the people of the state.
- (2) Consistent with subsection (1) of this section, it is the policy of this state to encourage the development of all Oregon industry.

471.105

Purchaser's qualifications

Before being qualified to purchase alcoholic liquor from the Oregon Liquor Control Commission, a person must be at least 21 years of age.

[Amended by 1961 c.687 §5; 1967 c.577 §1; 1971 c.159 §1; 2005 c.22 §343]

471.115

Limitations on purchasing may be imposed

The Oregon Liquor Control Commission may limit the quantity of alcoholic liquor purchased at any one time by any person. It may limit the amount of purchases within any length of time so as effectually to prevent the resale of such liquors.

471.130

Requiring statement of age or identification from certain purchasers

(1) All licensees and permittees of the Oregon Liquor Control Commission, before selling or serving alcoholic liquor to any person about whom there is any reasonable doubt of the person's having reached 21 years of age, shall require such person to produce one of the following pieces of identification:

- (a) The person's passport issued by the United States or a foreign government.
- (b) The person's motor vehicle operator's license issued by this state or another state of the United States.
- (c) An identification card issued under ORS 807.400.
- (d) A United States military identification card.
- (e) An identification card issued by a federally recognized Indian tribe.
- (f) Any other identification card issued by a state or territory of the United States that bears a picture of the person, the name of the person, the person's date of birth and a physical description of the person.
- (g) Proof of the person's participation in the Secure Electronic Network for Travelers Rapid Inspection program operated by United States Customs and Border Protection, the NEXUS program jointly operated by that agency and the Canada Border Services Agency, or a successor to either of those programs that is recognized by the commission.

(2) If a person does not have identification as described in subsection (1) of this section, the permittee or licensee shall require such person to make a written statement of age and furnish evidence of the person's true age and identity. The written statement of age shall be on a form furnished or approved by the commission, including but not limited to the following information:

Date _____

I am 21 years of age or over. _____
Signature

Description of evidence in support of age and identity:
 _____ Identification No. (if any) _____
 _____ Identification No. (if any) _____

(Fill in information pertaining to any two or more pieces of evidence submitted by the person.)
 I hereby certify that I have accurately recorded identification of the evidence submitted to complete this form.

 Signature of permittee or licensee

ORS 165.805 provides as follows:

- (1) A person commits the crime of misrepresentation of age by a minor if:
 - (a) Being less than a certain, specified age, the person knowingly purports to be of any age other than the person's true age with the intent of securing a right, benefit or privilege which by law is denied to persons under that certain, specified age; or
 - (b) (Not applicable.)
- (2) Misrepresentation of age by a minor is a Class C misdemeanor.

[Amended by 1955 c.525 §1; 1961 c.687 §4; 1967 c.171 §1; 1967 c.577 §7; 1979 c.313 §1; 1983 c.338 §939; 1995 c.44 §1; 1999 c.526 §1; 2001 c.785 §6; 2003 c.225 §1; 2017 c.533 §5; 2019 c.658 §1]

471.135

False statement of age; statement of age as defense

(1) No person shall make a written statement of age under ORS 471.130 that is false in whole or in part, or produce any evidence that would falsely indicate the person's age.

(2) If a written statement of age and the information pertaining to the evidence which was exhibited to the permittee or licensee at the time the statement was made that is entered in writing on the statement, are offered as evidence in any administrative or criminal prosecution for sale or service of alcoholic liquor to a person not having reached 21 years of age, the permittee or licensee shall be found to have committed no crime or other wrong unless it is demonstrated that a reasonable person would have determined that the identification exhibited was altered or did not accurately describe the person to whom the alcoholic liquor was sold or served.

[Amended by 1955 c.525 §2; 1967 c.53 §1; 1979 c.313 §2]

471.162

Exemptions from license requirement

(6) A nonprofit or charitable organization registered in this state may sell wine, malt beverages and cider, and a total of not more than four liters of distilled liquor, in factory-sealed containers at an auction or through a raffle without a license. The organization must receive written approval from the commission before conducting an auction or raffle under this subsection. The organization may conduct no more than one auction or raffle under this subsection in a 12-month period. The auction or raffle may not have a duration of more than one day. The organization may sell under this subsection wine, malt beverages, cider and distilled liquor purchased by or donated to the organization. The purchased or donated wine, malt beverages, cider and distilled liquor must be imported into this state by the commission or be manufactured in or imported into this state under a brewery, brewery-public house, distillery, grower sales privilege, winery or wholesale malt beverage and wine license.

[1999 c.351 §10; 2012 c.16 §1]

471.186

Off-premises sales license; deliveries to retail customers

(1) The holder of an off-premises sales license may sell factory-sealed containers of malt beverages, wine and cider. Factory-sealed containers of malt beverages sold under the license may not hold more than two and one-quarter gallons.

(2) The holder of an off-premises sales license may sell for consumption off the licensed premises malt beverages, wines and cider in securely covered containers supplied by the consumer and having capacities of not more than two gallons each.

[1999 c.351 §6; 2008 c.34 §1; 2013 c.32 §3; 2015 c.673 §1]

471.392

Definitions for ORS 471.392 to 471.400

For the purposes of ORS 471.392 to 471.400:

(1) "Manufacturer or wholesaler" means:

(a) A person holding a brewery license issued under ORS 471.220, a winery license issued under ORS 471.223, a grower sales privilege license issued under ORS 471.227, a distillery license issued under ORS 471.230, a wholesale malt beverage and wine license issued under ORS 471.235 or a warehouse license issued under ORS 471.242.

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(b) Any manufacturer of alcoholic liquors whose products are sold in the State of Oregon.

(2) "Retail licensee" means the holder of a full or limited on-premises sales license, an off-premises sales license or a temporary sales license. "Retail licensee" does not include a bona fide trade association that represents retail licensees and that is open to all persons licensed under at least one type of retail license.

[1995 c.301 §76; 1997 c.249 §172; 1999 c.351 §31]

471.405

Prohibited sales, purchases, possession, transportation, importation or solicitation in general; forfeiture upon conviction

(1) No person shall peddle or deliver alcoholic beverages to or at any place, where, without a license, alcoholic beverages are sold or offered for sale. No licensee shall sell or offer for sale any alcoholic beverage in a manner, or to a person, other than the license permits the licensee to sell.

(2) No person shall purchase, possess, transport or import, except for sacramental purposes, an alcoholic beverage unless it is procured from or through the Oregon Liquor Control Commission, except as provided otherwise in the Liquor Control Act.

(3) No person not licensed under the Liquor Control Act shall sell, solicit, take orders for or peddle alcoholic beverages.

(4) Notwithstanding the provisions of subsection (2) of this section, an individual entering the state may have in possession an amount not to exceed four liters (135.2 fluid ounces) of distilled liquor, two cases of wine or cider (620 fluid ounces) and two cases of malt beverages (576 fluid ounces). These quantities of alcoholic beverages are exempt from fees collected by the commission.

(5) Upon conviction for unlawfully purchasing or importing alcoholic beverages into this state, the person convicted shall forfeit to the commission the alcoholic beverage so purchased or imported. The commission shall thereupon seize the forfeited beverage and it shall then become the commission's property.

[Amended by 1953 c.120 §6; 1974 c.4 §5; 1981 c.600 §1; 1985 c.592 §2; 1987 c.608 §11; 1995 c.301 §19; 1999 c.351 §72]

471.406

Activities covered by prohibitions on sale of alcoholic beverages

Any prohibition on the sale of alcoholic beverages provided for in this chapter includes:

(1) Soliciting orders for alcoholic beverages or receiving orders for alcoholic beverages.

(2) Keeping alcoholic beverages for sale or exposing alcoholic beverages for sale.

(3) Delivering alcoholic beverages for value or in any way other than purely gratuitously.

(4) Peddling alcoholic beverages.

(5) Keeping alcoholic beverages with intent to sell.

(6) Trafficking in alcoholic beverages.

(7) For any consideration, promised or obtained, directly or indirectly, or under any pretext or by any means, procuring alcoholic beverages, or allowing alcoholic beverages to be procured, for any other person.

[1995 c.301 §8 (enacted in lieu of 471.025); 1999 c.351 §57]

471.408

Alcoholic liquor may not be given as prize; exception

(1) Except as otherwise provided in this section, alcoholic liquor may not be given as a prize, premium or consideration for a lottery, contest, game of chance or skill, or competition of any kind.

(2) A nonprofit or charitable organization registered in this state may auction or raffle alcoholic liquor as provided under ORS 471.162 (6) and may deliver or arrange for delivery of the alcoholic liquor to the residence of the successful bidder or raffle winner.

(3) A charitable, fraternal or religious organization may offer alcoholic liquor as a prize, premium or consideration in a contest of chance described in ORS 167.117 (7)(b) or conducted as part of a Monte Carlo event as defined in ORS 167.117.

(4) An auction is not a lottery, contest, game of chance or skill or competition for purposes of this section.

[1995 c.363 §2; 1997 c.191 §1; 1997 c.867 §25; 2013 c.150 §1]

471.410

Providing liquor to person under 21 or to intoxicated person; allowing consumption by minor on property; mandatory minimum penalties

(1) A person may not sell, give or otherwise make available any alcoholic liquor to any person who is visibly intoxicated.

(2) No one other than the person's parent or guardian may sell, give or otherwise make available any alcoholic liquor to a person under the age of 21 years. A parent or guardian may give or otherwise make alcoholic liquor available to a person under the age of 21 years only if the person is in a private residence and is accompanied by the parent or guardian. A person violates this subsection who sells, gives or otherwise makes available alcoholic liquor to a person with the knowledge that the person to whom the liquor is made available will violate this subsection.

[Amended by 1963 c.243 §1; 1971 c.159 §5; 1977 c.458 §1; 1977 c.814 §1; 1983 cor. c.736 §1; 1995 c.301 §40; 1995 c.599 §5; 1995 c.756 §1; 1999 c.351 §58; 2009 c.412 §1; 2009 c.587 §4; 2009 c.608 §3; 2011 c.597 §87; 2014 c.20 §3]

471.430

Purchase or possession of alcoholic beverages by person under 21; entry of licensed premises by person under 21; penalty; immunity; suspension of driving privileges; assessment and treatment.

(1) A person under 21 years of age may not attempt to purchase, purchase or acquire alcoholic beverages. Except when such minor is in a private residence accompanied by the parent or guardian of the minor and with such parent's or guardian's consent, a person under 21 years of age may not have personal possession of alcoholic beverages.

(2) For the purposes of this section, personal possession of alcoholic beverages includes the acceptance or consumption of a bottle of such beverages, or any portion thereof or a drink of such beverages. However, this section does not prohibit the acceptance or consumption by any person of sacramental wine as part of a religious rite or service.

(3) Except as authorized by rule or as necessitated in an emergency, a person under 21 years of age may not enter or attempt to enter any portion of a licensed premises that is posted or otherwise identified as being prohibited to the use of minors.

(4) (a) Except as provided in paragraph (b) of this subsection, a person who violates

subsection (1) or (3) of this section commits a Class B violation.

(b) A person commits a Class A violation if the person violates subsection (1) of this section by reason of personal possession of alcoholic beverages while the person is operating a motor vehicle, as defined in ORS 801.360.

(5) In addition to and not in lieu of any other penalty established by law, a person under 21 years of age who violates subsection (1) of this section through misrepresentation of age may be required to perform community service and the court shall order that the person's driving privileges and right to apply for driving privileges be suspended for a period not to exceed one year. If a court has issued an order suspending driving privileges under this section, the court, upon petition of the person, may withdraw the order at any time the court deems appropriate. The court notification to the Department of Transportation under this subsection may include a recommendation that the person be granted a hardship permit under ORS 807.240 if the person is otherwise eligible for the permit.

(6) If a person cited under this section is at least 13 years of age but less than 21 years of age at the time the person is found in default under ORS 153.102 or 419C.472 for failure to appear, in addition to and not in lieu of any other penalty, the court shall issue notice under ORS 809.220 to the department for the department to suspend the person's driving privileges under ORS 809.280 (4).

(7) In addition to and not in lieu of any penalty established by law, the court may order a person who violates this section to undergo assessment and treatment as provided in ORS 471.432. The court shall order a person to undergo assessment and treatment as provided in ORS 471.432 if the person has previously been found to have violated this section.

(8) The prohibitions of this section do not apply to a person under 21 years of age who is acting under the direction of the Oregon Liquor Control Commission or under the direction of state or local law enforcement agencies for the purpose of investigating possible violations of laws prohibiting sales of alcoholic beverages to persons who are under 21 years of age.

(9) The prohibitions of this section do not apply to a person under 21 years of age who is acting under the direction of a licensee for the purpose of investigating possible violations by employees of the licensee of laws prohibiting sales of alcoholic beverages to persons who are under 21 years of age.

(10) (a) A person under 21 years of age is not in violation of, and is immune from prosecution under, this section if:

(A) The person contacted emergency medical services or a law enforcement agency in order to obtain medical assistance for another person who was in need of medical assistance due to alcohol consumption and the evidence of the violation of this section was obtained as a result of the person's having contacted emergency medical services or a law enforcement agency; or

(B) The person was in need of medical assistance due to alcohol consumption and the evidence of the violation of this section was obtained as a result of the person's having sought or obtained the medical assistance.

(b) Paragraph (a) of this subsection does not exclude the use of evidence obtained as a result of a person's having sought medical assistance in proceedings for crimes or offenses other than a violation of this section.

Amended by 1963 c.243 §2; 1965 c.166 §1; 1971 c.159 §6; 1975 c.493 §1; 1979 c.313 §8; 1991 c.860 §2; 1999 c.646 §1; 1999 c.1051 §186; 2001 c.791 §4; 2007 c.41 §1; 2007 c.298 §1; 2009 c.228 §1; 2011 c.355 §21; 2014 c.11 §1]

471.473

Liquor store business loss compensation.

(1) A person appointed to operate a store established by the Oregon Liquor Control Commission under ORS 471.750 qualifies for the payment of business loss compensation under this section if:

- (a) The system for selling containers of distilled liquor at retail in this state changes after the person assumes operation of the store; and
- (b) The system change results from a law that prohibits the commission from purchasing or selling distilled liquor.

(2) The purpose of business loss compensation is to offset the actual or presumed sales reduction and actual or perceived devaluation of a liquor store business following a system change described in subsection (1) of this section. The commission shall pay a person qualifying under this section business loss compensation equal to four percent of the average annual gross distilled liquor sales made by the store during the five years that preceded the system change, whether or not the person was the store operator during the entire five-year period. If the store has operated less than five years prior to the system change, the commission shall pay compensation equal to four percent of the average annual gross distilled liquor sales made by the store prior to the system change.

(3) (a) The commission shall pay any business loss compensation due under this section from the suspense account described in ORS 471.805. Except as otherwise required by federal or state law or by contract, the commission shall give the payment of business loss compensation priority over the payment of other debts from the suspense account.

(b) Notwithstanding ORS 279A.250 to 279A.290 or the revolving fund balance limit established in ORS 471.805, if a change in the system for selling containers of distilled liquor at retail in this state results in business loss compensation being payable under this section, and the commission declares within five years after the system change that a warehouse established by the commission under ORS 471.750 or the inventory of the commission is surplus property, the net proceeds from sale of the warehouse or inventory remaining after deduction of sales costs shall be deposited to the suspense account described in ORS 471.805. All moneys deposited under this paragraph shall be kept in a subaccount within the suspense account that indicates the source of the moneys. Notwithstanding ORS 471.805, moneys deposited to the suspense account under this paragraph may not be transferred to the Oregon Liquor Control Commission Account if any business loss compensation is owed and remains unpaid. This paragraph does not restrict the source for paying business loss compensation from the suspense account or alter the priority of business loss compensation payment established in paragraph (a) of this subsection.

(4) If a person that receives business loss compensation under this section brings any action against the commission for damages resulting from a change in the system for selling containers of distilled liquor at retail in this state, the business loss compensation received by the person as a result of that system change shall be an offset against any damages awarded the person in the action. This subsection does not create any new cause of action.

(5) Business loss compensation received by a person under this section does not affect the claiming of any tax deduction by the person for depreciation of equipment, fixtures or other property improvements, but is ordinary business income of the person, taxable as provided by law.

[2015 c.228 §2]

471.705

Oregon Liquor Control Commission; qualifications; compensation; term; confirmation

(1) There is created the Oregon Liquor Control Commission, consisting of five persons appointed by the Governor. One member shall be from among the bona fide residents of each congressional district of the state. One member shall be from the food and alcoholic beverage retail industry. Not more than three commissioners shall be of the same political party and one shall be designated by the Governor to be chairperson of the commission. The commissioners are entitled to compensation and expenses as provided in ORS 292.495. Each commissioner at the time of appointment and qualification shall be a resident of this state and shall have resided in this state for at least five years next preceding appointment and qualification. The commissioner shall be an elector therein and not less than 30 years of age. A commissioner shall cease to hold office if the commissioner ceases to possess the residency or industry qualification for appointment and the Governor shall appoint a qualified individual to complete the unexpired term.

(2) The term of office of a commissioner shall be four years from the time of appointment and qualification and until a successor qualifies. The terms of the commissioners shall commence April 1. In case any commissioner is allowed to hold over after the expiration of the term, the successor shall be appointed for the balance of the unexpired term. Vacancies in the commission shall be filled by the Governor for the unexpired term. Each commissioner is eligible for reappointment but no person shall be eligible to serve for more than two full terms.

(3) All appointments of commissioners by the Governor are subject to confirmation by the Senate pursuant to section 4, Article III, Oregon Constitution.

[Amended by 1967 c.577 §11; 1969 c.314 §50; 1973 c.792 §17; 1979 c.251 §1; 1981 c.545 §9]

471.710

Removal; prohibited interests of commissioner and employee

(1) The Governor may remove any commissioner for inefficiency, neglect of duty, or misconduct in office, giving to the commissioner a copy of the charges made and an opportunity of being publicly heard in person or by counsel, in the commissioner's own defense, upon not less than 10 days' notice. If such commissioner is removed, the Governor shall file in the office of the Secretary of State a complete statement of all charges made against such commissioner, the findings thereon, and a complete record of the proceedings.

(2) No person, other than the member appointed in accordance with ORS 471.705 who is designated from the food and alcoholic beverage retail industry, is eligible to hold the office of commissioner, or to be employed by the Oregon Liquor Control Commission if:

(a) The person has any financial interest in any business licensed by the commission or in any business which manufactures alcoholic beverages sold in Oregon;

(b) Anyone in the person's household or immediate family has a financial interest described in paragraph (a) of this subsection;

(c) Anyone in the person's household or immediate family is employed by a business licensed by the commission, unless the person is not in a position to take action or make decisions which could affect the licensed business; or

(d) The person or anyone in the person's household or immediate family has a business connection with any business licensed by the commission, unless the person is not in a position to take action or make decisions which could affect the licensed business.

(3) (a) A retail sales agent appointed by the commission, or a person in the household or immediate family of a retail sales agent, may not have any financial interest in or business connection with:

(A) A person or business that is licensed as a distillery;

(B) A person or business that holds a full on-premises sales license; or

(C) A distillery whose products are sold in Oregon.

(b) Paragraph (a) of this subsection does not apply to a distillery retail outlet agent appointed by the commission under ORS 471.230.

(4) Nothing in this section prohibits a person from having a financial interest resulting from investments made by the Public Employees Retirement System or through mutual funds, blind trusts or similar investments where the person does not exercise control over the nature, amount or timing of the investment.

(5) The commission by rule may establish additional restrictions to prohibit potential conflicts of interest. The commission by rule shall define "immediate family" and "business connection" as used in this section.

[Amended by 1979 c.251 §2; 1983 c.168 §1; 1987 c.511 §7; 2009 c.38 §4]

471.725

Buying, leasing, contracting and borrowing powers of commission

The function, duties and powers of the Oregon Liquor Control Commission include the following:

(1) To buy, have in its possession, bottle, blend, rectify, transport and sell, for present or future delivery, in its own name, alcoholic liquor in the manner set forth in this chapter.

(2) To purchase, acquire, rent, lease or occupy any building, rooms, stores or land and acquire, own, lease and sell equipment and fixtures required for its operations.

(3) To lease or sublet to others property which it acquires or owns and which is not immediately required for its operations. However, no real property shall be purchased without the consent and approval of the Governor.

(4) To borrow money, guarantee the payment thereof and of the interest thereon, by the transfer or pledge of goods or in any other manner required or permitted by law.

(5) To issue, sign, indorse and accept checks, promissory notes, bills of exchange and other negotiable instruments.

(6) In the event the United States Government provides any plan or method whereby the taxes upon alcoholic liquors are collected at the source, to enter into any and all contracts and comply with all regulations, even to the extent of partially or wholly abrogating any statutory provisions which might be in conflict with federal law or regulations, to the end that the commission receives the portion thereof allocated to this state, to be distributed as provided by statute.

(7) To secure and pay for such policies of insurance as may be necessary to adequately protect it from loss by fire, theft or other casualty.

[Amended by 1995 c.301 §44]

471.730 Regulatory powers of commission. The function, duties and powers of the Oregon Liquor Control Commission include the following:

(1) To control the manufacture, possession, sale, purchase, transportation, importation and delivery of alcoholic liquor in accordance with the provisions of this chapter and ORS 474.105 and 474.115.

(2) To grant, refuse, suspend or cancel licenses and permits for the sale or manufacture of alcoholic liquor, or other licenses and permits in regard thereto, and to permit, in its discretion, the transfer of a license of any person.

(3) To collect the taxes and duties imposed by statutes relating to alcoholic liquors, and to issue, and provide for cancellation, stamps and other devices as evidence of payment of such taxes or duties.

(4) To investigate and aid in the prosecution of every violation of statutes relating to alcoholic liquors, to seize alcoholic liquor manufactured, sold, kept, imported or transported in contravention of this chapter and ORS 474.105 and 474.115, and apply for the confiscation thereof, whenever required by statute, and cooperate in the prosecution of offenders before any court of competent jurisdiction.

(5) To adopt such regulations as are necessary and feasible for carrying out the provisions of this chapter and ORS 474.105 and 474.115 and to amend or repeal such regulations. When such regulations are adopted they shall have the full force and effect of law.

(6) To exercise all powers incidental, convenient or necessary to enable it to administer or carry out any of the provisions of this chapter and ORS 474.105 and 474.115.

(7) To control, regulate and prohibit any advertising by manufacturers, wholesalers or retailers of alcoholic liquor by the medium of newspapers, letters, billboards, radio or otherwise.

(8) To sell, license, regulate and control the use of alcohol for scientific, pharmaceutical, manufacturing, mechanical, industrial and other purposes, and to provide by regulation for the sale thereof for such uses.

471.740

Exclusive right of commission to handle certain liquors

Except as provided in this chapter, the Oregon Liquor Control Commission is vested with the exclusive right to purchase, sell, have in possession for sale, import or transport alcoholic beverages.

[Amended by 1953 c.120 §6; 1974 c.4 §6; 1999 c.351 §77]

471.745

Fixing prices and selling liquor

The Oregon Liquor Control Commission shall fix the prices at which alcoholic liquors containing over five percent alcohol by volume may be purchased from it, and has power to bottle, blend, rectify, manufacture or sell alcoholic liquors for itself, or for or to any person or commission within or without this state.

[Amended by 1995 c.301 §88]

471.750

Liquor stores and warehouses; operation; sales; advertising; rules

(1) The Oregon Liquor Control Commission shall establish such stores and warehouses in such places in the state as in its judgment are required by public convenience or necessity, for the sale of spirituous liquors, wines and other alcoholic liquors containing over five percent alcohol by volume, in sealed containers for consumption off the premises. The commission shall keep on hand in such stores or warehouses such quantities and kinds of alcoholic liquors as are reasonably required to supply the public demand.

(2) Any person qualified to purchase such liquors from the commission has the right to present to the commission, or at any of its stores, an application for any kind or brand of alcoholic liquor which the person may desire and which may be manufactured or obtainable in any place in the United States, and the commission shall obtain such liquor and sell it to the applicant. The commission may not require that an application for a kind or brand of alcoholic liquor include a commitment to purchase a minimum amount of the liquor or require that a purchase be for more than one container of a kind or brand of alcoholic liquor if the liquor:

(a) Except as provided in subsection (5) of this section, has a retail sales price of \$30 or more per container;

(b) Is available through a distributor in the United States that does not require the commission to acquire more than one case of the distilled liquor in a single transaction;

(c) Is not regularly stocked by the commission; and

(d) Is ordered in a 750 milliliter container size if available in that size.

(3) The commission may not establish a store in any county or incorporated city of this state where a local prohibitory law is in effect. The commission shall adopt rules governing advertising by stores operated by the commission. The commission may appoint agents in the sale of said liquor under such agreement as the commission may negotiate with said agents or their representative.

(4) Rules relating to advertising adopted by the commission under subsection (3) of this section shall allow signs and displays within its stores for the purpose of supplying consumer information to customers, including but not limited to discounts, sales and other specials. Commission discretion with respect to those signs and displays shall be limited to regulation of the content, size, number per brand, type and duration of the sign or display. Signs and displays may be supplied by manufacturers, wholesalers or distributors, and may bear the name of a particular distillery, supplier or brand of liquor. The use of signs and displays shall be optional with the agent appointed by the commission. In no event shall signs or displays authorized by the commission be placed in positions within the store where the sign or display would be readily visible from outside of the store.

(5) The commission may annually adjust the price threshold established in subsection (2)(a) of this section by a percentage equal to the percentage change in the Portland-Salem, OR-WA Consumer Price Index for All Urban Consumers for All Items as published by the Bureau of Labor Statistics of the United States Department of Labor. However, the commission may not adjust the price threshold to be less than \$30.

[Amended by 1977 c.321 §3; 1977 c.608 §2; 1991 c.379 §1; 1995 c.301 §89; 2001 c.785 §11; amendments by 2002 s.s.1 c.11 §1 repealed by 2002 s.s.2 c.1 §3; 2002 s.s.2 c.1 §1; 2011 c.180 §2]

471.752

Agent participation in programs for state employees; preference of spouse or child of deceased agent or agent with disability

(1) An agent appointed under ORS 471.750 may participate in a health benefit plan available to state employees pursuant to ORS 243.105 to 243.285 at the expense of the agent and may participate in the state deferred compensation plan established under ORS 243.401 to 243.507. For such purposes, agents shall be considered eligible state employees.

(2) A person who is the surviving spouse or child of a deceased agent or the spouse or child of an agent of the Oregon Liquor Control Commission who has a disability shall be given preference in the appointment of a successor agent, if otherwise qualified, the spouse having greater preference. The experience of such applicant in the business operation of the deceased agent or the agent who has a disability shall be the primary consideration in determining the qualifications of the applicant.

[1979 c.203 §3; 1983 c.624 §1; 1985 c.645 §4; 1997 c.179 §30; 1997 c.222 §53; 2007 c.70 §270]

Selected Oregon Administrative Rules

845-004-0005

Gifts Gratuities

(1) Purpose: The Commission expects employees and retail sales agents to do their jobs fairly and impartially and to avoid conduct that compromises or appears to compromise that fairness and impartiality. It is not the intent of this rule to prohibit Commissioners, retail sales agents or Commission employees from interacting with licensees and distillery representatives on the same basis as a customer or the general public.

(2) No Commissioner, employee or retail sales agent will accept any gift, gratuity or thing of value from any alcoholic beverage licensee, or any person representing a distillery which the licensee/representative does not also offer on an equal basis to his/her customers or the general public.

(3) No alcoholic beverage licensee or person representing a distillery will offer or give any gift, gratuity or thing of value to a Commissioner, employee or retail sales agent which the licensee/representative does not also offer on an equal basis to his/her customers or the general public.

(4) Despite sections (2) and (3) of this rule a Commissioner, employee or retail sales agent may accept:

(a) Food and beverages provided for immediate consumption at a convention or a business conference or business meeting that are offered to all participants irrespective of any connection to the Commission;

(b) A non-alcoholic beverage for immediate consumption that a licensee offers at a business meeting;

(c) Items offered to all participants at a convention irrespective of any connection to the Commission.

(5) Despite sections (2) and (3) of this rule, a Commissioner may accept:

(a) Food, beverages, lodging and travel when the Commissioner is participating in an event related to his/her official duties and when appearing in an official capacity, subject to the reporting requirements of ORS 244.060(6);

(b) Food or beverage that the Commissioner consumes in the presence of the purchaser or provider.

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

Stats. Implemented: ORS 471.710(5)

Hist.: LCC 26, f. 5-12-60; LCC 27, f. 9-15-60; LCC 28, f. 12-19-60; LCC 29, f. 5-21-64; LCC 34, f. 1-23-70, ef. 2-26-70; LCC 17-1979, f. 9-24-79, ef. 10-1-79; LCC 13-1980(Temp), f. & ef. 4-25-80; LCC 24-1980, f. 9-30-80, ef. 10-1-80; Renumbered from 845-010-0155(9); LCC 3-1981, f. & ef. 9-18-81; LCC 6-1982, f. 7-30-82, ef. 8-1-82; OLCC 7-1989, f. 7-28-89, cert. ef. 8-1-89; OLCC 1-2003, f. 1-27-03, cert. ef. 2-1-03; OLCC 17-2003, f. 10-27-03, cert. ef. 12-1-03

845-005-0424

Guidelines for Approval of a For-Hire Carrier's Plan for Delivery of Malt Beverages, Wine or Cider

The Commission will evaluate and may approve a for-hire carrier's plan to deliver malt beverages, wine and cider to a resident of Oregon and licensees of the Commission.

(1) Delivery to a resident of Oregon. In order to deliver malt beverages, wine or cider to a resident of Oregon, a for-hire carrier must make application to the Commission upon forms to be furnished by the Commission and receive approval from the Commission

before delivering any malt beverages, wine or cider to a resident of Oregon. The application shall include the for-hire carrier's plan for ensuring that:

- (a) Only persons age 18 or over will be used to deliver the alcohol to the resident;
- (b) The person used to deliver the alcohol will verify by inspecting government-issued photo identification that the person receiving the alcohol is at least 21 years of age;
- (c) The person used to deliver the alcohol will determine that the person receiving the alcohol is not visibly intoxicated;
- (d) If the alcohol is delivered on the same day the order is received, the alcohol must be delivered before 9:00 pm;
- (e) The alcohol is delivered only to a home or business where the home or business has a permanent street address;
- (f) Any package containing alcohol 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; and
- (g) Information is collected that must be retained by the for-hire carrier for a minimum of eighteen months from the date of delivering the alcohol. The information may be collected and retained electronically (if the carrier so chooses) and 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.

(2) Delivery to a licensee of the Commission. In order to deliver malt beverages, wine or cider to a licensee of the Commission, a for-hire carrier must make application to the Commission upon forms to be furnished by the Commission and receive approval from the Commission before delivering any malt beverages, wine or cider to a licensee.

(3) A for-hire carrier:

- (a) Must allow the Commission to audit the carrier's records which are directly related to alcohol deliveries in Oregon upon request and shall make those records available to the Commission in Oregon. The for-hire carrier must make these records available to the Commission no later than 60 days after the Commission mails the notice; and
- (b) 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.

(4) The Commission may revoke its approval of a for-hire carrier's plan if the for-hire carrier fails to follow the plan approved by the Commission or comply with the provisions of this rule. A revocation 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 471.282

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; 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

845-006-0335

Age Verification; Minors on Licensed Premises

(1) Age Verification:

(a) ORS 471.130 requires a licensee or permittee to verify the age of a person who wants to buy or be served alcoholic beverages when there is "any reasonable doubt" that the person is at least 21 years old. The Commission requires a licensee or permittee to verify the age of anyone who wants to drink alcoholic beverages, or is in an area prohibited to minors, if there is reasonable doubt that the person is at least 21 years old. "Reasonable doubt" exists if the person appears to be under the age of 26;

(b) Whenever a licensee or permittee verifies age, he/she must verify it as ORS 471.130 requires (statement of age card or the specified items of identification) and must reject any obviously altered document or one which obviously does not identify the person offering it;

(c) Licensees must require all their employees who sell, serve, oversee or control the sale or service of alcoholic beverages to verify age as subsection (a) of this section requires.

(d) Only the following forms of identification are acceptable alone as proof of age:

(A) An unexpired, unaltered, and legitimate driver license issued by a U.S. state or the District of Columbia.

(B) An unexpired, unaltered, and legitimate identification card or driver license that has a picture of the person, the name of the person, the person's date of birth, and a physical description of the person and is issued by a U.S. state, the District of Columbia, or a territory of the U.S..

(C) An unexpired, unaltered, and legitimate identification card that that has a picture of the person, the name of the person, the person's date of birth, and a physical description of the person and is issued by a federally recognized Indian tribe.

(D) An unexpired, unaltered, and legitimate passport or passport card; or

(E) An unexpired, unaltered, and legitimate U.S. military identification card.

(2) Sanctions for Failure to Verify Age:

(a) The Commission will sanction a licensee or permittee who does not verify the age of a person who appears to be under the age of 26 only if the person:

(A) Actually is a minor who buys, is served or drinks an alcoholic beverage at the licensed premises (Category III violation); or

(B) Actually is a minor who is in an area of the licensed premises prohibited to minors (Category IV violation).

(b) If the Commission sanctions a licensee or permittee for one or more of the following violations under this rule: Failure to verify the age of a minor; Allowing a minor to drink; or Allowing a minor in an area prohibited to minors, the Commission will not sanction the licensee or permittee separately under ORS 471.130 or 471.410(2) for the same conduct. The Commission may charge a licensee or permittee for one or more violations under this rule and also charge violation of one or more of the statutes in the alternative.

(c) Failure to verify age as ORS 471.130 requires or to reject obviously altered or false identification is a Category III violation.

(3) Minors on Premises: General Prohibitions. No licensee, permittee, or licensee's

employee will permit a minor:

(a) To drink any alcoholic beverage on licensed premises;

(b) To be on licensed premises or an area of the licensed premises prohibited to minors, except as provided in ORS 471.430, 471.480, 471.482, OAR 845-006-0340 and this rule. (The assigned minor posting(s) describes where on the premises minors are allowed or prohibited. See OAR 845-006-0340, Minor Postings.)

(5) Minor Vendor or Contractor. A minor, other than a licensee's employee, who has a legitimate business purpose, may be in the area of the licensed premises normally prohibited to minors. (For example, a minor who is a plumber may repair the plumbing in a prohibited area).

(7) Minor Patron. If the licensee permits it, a minor may be in the immediate company of his/her spouse or Domestic Partner who is at least 21 years old. "Domestic Partner" means an individual who, along with another individual of the same sex, has received a Certificate of Registered Domestic Partnership pursuant to the Oregon Family Fairness Act. The minor must not buy, possess or drink alcoholic beverages.

Statutory/Other Authority: ORS 471, 471.030, 471.040, 471.430, 471.482 & 471.730

Statutes/Other Implemented: ORS 471.130, 471.410, 471.430, 471.480 & 471.482

History:

OLCC 4-2018, amend filed 04/23/2018, effective 05/01/2018

OLCC 19-2016, f. 11-15-16, cert. ef. 12-1-16

OLCC 14-2013, f. 12-12-13, cert. ef. 1-1-14

OLCC 5-2013(Temp), f. 7-12-13, cert. ef. 7-15-13 thru 1-11-14

OLCC 3-2012, f. 4-10-12, cert. ef. 5-1-12

OLCC 2-2009, f. 3-17-09, cert. ef. 4-1-09

OLCC 9-2008, f. 6-12-08, cert. ef. 7-1-08

OLCC 9-2005, f. 11-21-05, cert. ef. 1-1-06

OLCC 4-2004, f. & cert. ef. 4-9-04

Reverted to OLCC 12-2002, f. 8-29-02, cert. ef. 1-2-03

OLCC 13-2003(Temp), f. & cert. ef. 9-23-03 thru 3-20-04

OLCC 12-2002, f. 8-29-02, cert. ef. 1-2-03

OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01

845-006-0345

Prohibited Conduct

The Commission holds licensees accountable for the acts of their agents and employees. (OAR 845-006-0362). No employee or agent of a licensee may violate any provision of this rule. A violation of any section of this rule by an employee or agent of a licensee is considered a violation by the licensee.

(1) Drinking on Duty: No licensee or permittee will drink or be under the influence of intoxicants while on duty.

(a) "On duty" means from the beginning of a work shift that involves the mixing, sale or service of alcoholic beverages, checking identification or controlling conduct on the premises, to the end of the shift including coffee and meal breaks.

(b) "On duty" also means, for those working outside a scheduled work shift, having the authority to put himself or herself on duty and performing acts on behalf of the licensee which involve the mixing, sale or service of alcoholic beverages, checking identification or controlling conduct on the premises. Whether a person is paid or scheduled for work is not determinative of whether the person is considered "on duty" under this subsection.

- (c) "A work shift that involves the sale and service of alcoholic beverages" includes supervising those who mix, sell or serve, check identification or control the premises.
 - (d) Being under the influence of intoxicants on duty is a Category II violation.
 - (e) Drinking on duty is a Category III violation.
- (2) No licensee or permittee will fail to call the police when a Commission regulatory employee directs the licensee or permittee to call. Violation of this section is a Category II violation.
- (3) Evidence:
- (a) No licensee or permittee will:
 - (A) Destroy, damage, alter, remove, or conceal potential evidence, or attempt to do so;
 - (B) Refuse to give a Commission regulatory employee or police officer this evidence when the employee or officer lawfully requests it; or
 - (C) Ask or encourage another person to do subsections (a) or (b) of this section.
 - (b) Violation of this section is a Category III violation.
- (4) Access to Premises:
- (a) Both during regular business hours and when a premises is closed, no licensee or permittee will refuse to admit or fail to promptly admit to the licensed premises a Commission regulatory employee or police officer who identifies him/herself and who enters or wants to enter to conduct a reasonable search to ensure compliance with alcoholic beverage law. Examination of premises that are or appear closed occurs only when there is reason to believe an alcoholic beverage law violation is occurring.
 - (b) Once the regulatory employee or police officer is on the licensed premises, no licensee or permittee will ask the regulatory employee or officer to leave until the regulatory employee or officer has had an opportunity to conduct a reasonable search to ensure compliance with the alcoholic beverage laws.
 - (c) Violation of this section is a Category II violation.
- (5) Open Containers: No licensee or permittee will permit a person to take an open container of alcoholic beverages from the licensed premises, except as ORS 471.175, 471.178, 471.186, 471.200, 471.223 and 471.227 allow. Except for tastings as allowed in OAR 845-006-0450, no Off-Premises Sales licensee will permit an open container of alcoholic beverages on the licensed premises unless the licensee also holds another license at the premises that allows on-premises consumption. Violation of this section is a Category V violation.
- (6) Liquor on Premises: No licensee or permittee will have or permit any alcoholic liquor on the licensed premises which the license does not allow the licensee to sell or serve. Notwithstanding this requirement, a limited on-premises or brewery-public house sales licensee may have distilled spirits on the premises if the distilled spirits are used only for cooking, are kept in a container only in the food preparation area, and the container is clearly marked "for cooking only." Violation of this section is a Category V violation.
- (7) Drive-up Window: No licensee or permittee will sell or deliver any alcoholic beverages through a drive-up window. Violation of this section is a Category III violation.

(8) Liquor as a Prize: Except as allowed in ORS 471.408, no licensee or permittee will give or permit any alcoholic beverage as a prize, premium, or consideration for any lottery, contest, game of chance or skill, exhibition, or any competition of any kind on the licensed premises. Violation of this section is a Category V violation.

(9) "Good Faith Effort": ORS 471.315(1)(a)(H), and 471.412(1) prohibit a licensee or permittee from allowing a visibly intoxicated person to drink alcoholic beverages. A licensee or permittee who makes a good faith effort to remove the alcoholic beverage does not violate these statutes.

(a) As used in ORS 471.412(2) and this rule, "good faith effort" means:

(A) Placing a hand on the drink and trying to remove it; or

(B) Making a verbal request for the drink, if the server has reason to believe that touching the patron's drink could cause a disturbance.

(b) The Commission will issue letters of reprimand for the first three violations of this section within a two-year period. A fourth violation within a two-year period is a Category III violation assessed at the fourth level (cancellation).

(10) Promotions.

(a) The following practices are prohibited:

(A) The sale, offer or service to any person of an unlimited number of alcoholic beverage(s) during any set period of time for a fixed price;

(B) The sale, offer or service of alcoholic beverages by the drink for a price per drink that is less than the licensee's cost for the alcohol to any person paying a fixed "buy in" price, entry fee, cover or door charge;

(C) Price reductions on alcoholic beverages by the drink from 12:00 midnight until 2:30 a.m. A price reduction is a lower price as compared to the usual, customary, or established non-discounted price the licensee charges for a drink of that type on the licensed premises;

(D) The sale, offer or service of distilled spirits by the bottle for consumption on the premises, except as allowed in OAR 845-006-0433 (Minibars in Hotel Guest Rooms) and 845-006-0434 (Minibars in Arena Suites). This subsection does not prohibit a Full On-Premises Public Location Sales Licensee (F-PL) or Full On-Premises Catering Sales Licensee (F-Cat) from charging clients by the bottle for distilled spirits that are served by the drink at hotel suites, banquets, receptions or catered events where the reasonably projected attendance is at least 20 patrons;

(E) Operating, encouraging or permitting games of chance or skill, contests, exhibitions, or competitions of any kind on the licensed premises that involve drinking alcoholic beverages, (e.g., beer pong, "21 for 21");

(F) Dispensing, pouring or otherwise serving any alcoholic beverage directly into a person's mouth, including through any device such as a "bong"; and

(G) The use of any device or serving technique that produces an alcoholic mist or vapor for consumption by inhalation. An alcohol vaporization device, for example, also called an alcohol without liquid machine, is a device, machine or process which mixes spirits, alcoholic liquors or any product containing alcoholic liquor with oxygen or any other gas to produce a vaporized product for consumption by humans by inhalation.

(b) Violation of this section is a Category III violation.

(11) Self-Service. No licensee or permittee will permit any patron to mix, dispense or serve an alcoholic beverage for or to himself or herself for on-premises or off-premises consumption. Violation of this section is a Category III violation.

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

Stats. Implemented: ORS 471.030, 471.040 471.175, 471.178, 471.186, 471.200, 471.223, 471.227, 471.315(1)(a)(H), 471.351(1), 471.405(1), 471.408, 471.412, 471.675 & 471.730

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 6-2001, f. 8-15-01, cert. ef. 9-1-01; OLCC 4-2003, f. 3-31-03 cert. ef. 4-1-03; OLCC 5-2007, f. 3-22-07, cert. ef. 4-1-07; OLCC 3-2009, f. 4-21-09, cert. ef. 5-1-09; OLCC 18-2010, f. 12-22-10, cert. ef. 1-1-11; OLCC 8-2011, f. 11-1-11, cert. ef. 1-1-12; OLCC 2-2013, f. 3-15-13, cert. ef. 4-1-13; OLCC 10-2013, f. 11-14-13, cert. ef. 12-1-13

845-006-0365

Payment for Alcoholic Beverages; NSF Checks, Including Third Party Checks

(4) No Full On-Premises Sales licensee will pay for distilled spirits purchased from or through the Commission with an NSF check.

(6) As used in this rule:

(a) NSF check includes any check or other instrument that is not immediately paid upon presentation or that is later dishonored;

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

Stats. Implemented: ORS 471.398

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 10-2004, f. 10-15-04 cert. ef. 11-1-04

845-006-0370

Financial Assistance; Retailer Responsibility

(1) Manufacturer and wholesaler have the same meaning as in ORS 471.392.

(2) Retailer has the same meaning as in OAR 845-013-0001.

(3) The Commission interprets ORS 471.392 to also prohibit a retailer from soliciting from a manufacturer or wholesaler any item or service these statutes prohibit, except as OAR 845-013-0001 through 845-013-0110 allow.

(4) A retailer does not violate ORS 471.398 if the retailer accepts the items or services that OAR 845-013-0001 through 845-013-0110 allow.

(5) A retailer may not sell the samples a wholesaler or manufacturer gives the retailer under OAR 845-013-0060.

(6) No Full On-Premises Sales licensee or officer, director, manager, agent, or employee of a Full On-Premises Sales licensee will solicit or accept any gift, gratuity, special individualized discount, or other incentive from any retail sales agent of the Commission, or anyone representing the retail sales agent, if such may be reasonably construed to be an enticement to obtain, maintain or increase the recipients business with the retail sales agent.

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

Stats. Implemented: ORS 471.398

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01

845-006-0445

Nonbeverage Food Products Containing Alcoholic Beverages

(1) ORS 471.038 authorizes any licensee whose license allows the sale of alcoholic liquor at retail and any retail liquor agent to sell nonbeverage food products containing alcohol, such as fruits preserved in brandy or candies filled with alcoholic liquor. This rule regulates the sale and delivery of those nonbeverage food products, and clarifies which licensees may sell nonbeverage food products containing alcohol.

(2) For this rule, licensee means any licensee authorized to sell alcoholic liquor at retail for consumption either on or off the licensed premises.

- (3) ORS 471.038 requires licensees and retail liquor agents to clearly label:
 - (a) The product to show the alcohol content; and
 - (b) The front of the package to say that it may not be sold to persons under 21 years.
- (4) Licensees may deliver nonbeverage food products containing alcoholic beverages to Oregon residents only under the following conditions:
 - (a) The product must be clearly labeled to show the alcohol content and clearly labeled on the front of the package to say the product may not be sold to minors or visibly intoxicated persons;
 - (b) Licensees must not deliver nonbeverage food products containing alcohol to minors or visibly intoxicated persons;
 - (c) If the licensee delivers through a common carrier, the licensee may use only a common carrier who has a Commission-approved delivery plan. The Commission requires plan approval to assure appropriate alcoholic beverage delivery.
- (5) This rule applies only to nonbeverage food products that contain not more than five percent alcohol by weight or 10 percent alcohol by volume, whichever is greater.
- (6) Nonbeverage food products containing alcoholic beverages may not be sent from outside the State of Oregon to residents in the state.

Stat. Auth.: ORS 471, including ORS 471.030, ORS 471.040, ORS 471.730(1), ORS 471.730(5) & ORS 471.730(6)
Stats. Implemented: ORS 471.038 & ORS 471.305
Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01

845-009-0145

Clerk Training Courses

- (1) ORS 471.341 requires an Off-Premises Sales clerk to complete a Commission-approved training course if the clerk sold alcohol to a minor or if the clerk failed to properly verify identification of a person who purchased alcohol. The clerk must complete the training within the time specified in this rule as a condition of continuing to make alcohol sales. Based on 471.030, 471.040, and 471.750, the Commission requires a liquor store clerk to complete a Commission-approved training course within the time frames specified in this rule if the clerk sold alcohol to a minor or failed to properly verify identification, and requires a liquor agent to comply with the requirements of this rule if a clerk sold alcohol to a minor or failed to properly verify identification. ORS 471.341 requires the Commission to establish timelines for completing the training and to approve all training courses offered for purposes of this rule. This rule establishes notice requirements and times for completing the training, sets standards and approval procedures for training courses, and sets an administrative fee for the expenses incurred by the Commission.
- (2) As used in this rule,
 - (a) "Clerk," "Off-Premises Sales clerk," "liquor store clerk," or "employee" means an Off-Premises Sales or liquor store employee, corporate officer, manager, or any other person whose job includes selling packaged alcohol, but does not include an individual named on the license or on the liquor agent contract;
 - (b) "Alcohol" means alcoholic beverages;
 - (c) "Clerk Training Courses," "course," or "approved training course" means a course approved by the Commission for the purposes of ORS 471.341.
- (3) Clerk Responsibilities. If the Commission determines that a clerk sold alcohol to a minor or failed to properly verify identification, the clerk must complete a Commission-

approved Clerk Training Course within 45 days of the date the Commission notifies the licensee or liquor agent of the clerk's act. If the clerk does not complete the training within 45 days, the clerk may not continue to sell alcohol.

(4) Licensee and Liquor Agent Responsibilities. If the Commission determines that an Off-Premises Sales licensee's employee or a liquor agent's employee sold alcohol to a minor or failed to properly verify identification, the licensee or liquor agent may not allow that employee to sell alcohol if the employee has not completed an approved training course within the required time.

(5) Notice and Reporting Requirements.

(a) When the Commission determines that a clerk sold alcohol to a minor or failed to properly verify identification, the Commission will notify the licensee or liquor agent in writing that the clerk must complete a Commission-approved training course within 45 days of the notice as a condition of continuing to sell alcohol.

(b) When the clerk has completed the required training, the licensee or liquor agent must:

(A) Notify the Commission within seven days on a Commission-provided form that the employee has completed the training;

(B) Attach a copy of written certification of course completion; and

(C) Include a \$10 administrative fee.

(c) The licensee or liquor agent must notify the Commission using the Commission-provided form if:

(A) The clerk does not complete the training; or

(B) The clerk is no longer employed by the licensee or liquor agent to sell alcohol.

(d) The Commission will put the notification from the licensee or liquor agent in the licensee or liquor agent's Commission file.

(6) Administrative Fee. The Commission assesses a \$10 administrative fee for each employee who completes an approved Clerk Training Course.

(7) Course Approval Standards and Process. A licensee or liquor agent may use a Commission-approved course, or may apply for Commission approval of their own course.

(a) For a course to be approved, a Clerk Training Course applicant must:

(A) Submit a completed application packet provided by the Commission;

(B) Have a course that meets the Commission's Clerk Training Course Minimum Standards (published December 21, 1999, and available at the Commission's main office at 9079 SE McLoughlin, Portland, OR);

(C) Explain in writing how the course will provide written certification of course completion to each student who completes the course.

(b) Commission staff will review the application, and will:

(A) Approve a completed application that meets the requirements in Section (7)(a) of this rule. The Commission will notify the applicant in writing if the Commission approves the course; or

(B) Return an incomplete application or one that does not meet the requirements of Section (7)(a).

(8) Penalties.

(a) Violation of Section (3) of this rule is a Category III violation.

(b) Violation of Section (4) of this rule is a Category III violation. For a liquor agent, violation of Section (4) may result in a Notice of Violation.

(c) Violation of Section (5)(b), (5)(c)(A), or (5)(c)(B) of this rule is a Category I Violation.

Stat. Auth.: ORS 471, including 471.030, 471.040 & 471.730(1) & (5) & 471.750

Stats. Implemented: ORS 471.341 & ORS 471.750

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

845-015-0101

Definitions

As used in OAR chapter 845, division 015:

(1) "Commission" includes the 7 member body of Commissioners appointed by the Governor, the administrator (executive director) and agency staff. Any of the actions or decisions specified in this division may be delegated to the administrator (executive director) as provided in ORS 471.040(2).

(2) "Disabled Retail Sales Agent" is one who has a physical or mental impairment that has continued more than one year or is permanent that prevents a retail sales agent from properly performing contractual duties. The Commission determines retail sales agent disability after reviewing medical reports from the retail sales agent's physician. The Commission may require additional medical information from a Commission-selected physician.

(3) "Full On-Premises Sales Licensee" means any person or entity holding a Full On-Premises Sales license.

(4) "Retail Liquor Store" is a premises or a specific area in a premises the Commission approves for the sale of packaged distilled spirits for off-premises consumption, other than an Oregon licensed distillery or portion of such a distillery which has been approved for the sale of packaged distilled spirits manufactured by the distillery.

(5) "Retail Sales Agent" or "Agent" is an individual person or legal entity appointed by the Commission who enters into a retail sales agent agreement to sell packaged distilled spirits on behalf of the Commission in a retail liquor store. When a retail sales agent is a legal entity, the following persons shall also be considered a retail sales agent:

(a) Each individual person who owns 10% or more of the entity; such as stock, membership, or other investment; and

(b) Each individual person who has been designated by the entity to exercise control over, or be entitled to exercise control over, the entity; such as directors, officers, managing members, and general partners.

(6) "Retail Sales Agent Agreement" is a written contract between the Commission and a retail sales agent that specifies the terms, conditions, and obligations between both parties.

(7) "Temporary Retail Sales Agent" or "Temporary Agent" is an individual person or legal entity selected by the Commission to temporarily operate a retail liquor store.

Statutory/Other Authority: ORS 471.030 & 471.730

Statutes/Other Implemented: 471.750, 471.752, ORS 471.705 & 471.040

History:

OLCC 13-2018, amend filed 10/30/2018, effective 11/01/2018

OLCC 1-2012, f. 3-20-12, cert. ef. 4-1-12

LCC 25-1980, f. 9-30-85, ef. 1-1-81; LCC 9-1985, f. 11-6-85, ef. 1-1-86; Renumbered from 845-015-0040; LCC 23-1986, f. 10-16-86, ef. 1-1-87; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0007; OLCC 10-2006, f. 7-19-06, cert. ef. 8-1-06; OLCC 15-2011, f. 12-6-11, cert. ef. 1-1-12

845-015-0105

Types of Retail Liquor Stores

(1) A retail liquor store is either exclusive or non-exclusive. In an exclusive retail liquor store, a retail sales agent sells only distilled spirits and related items authorized by OAR 845-015-0143. In a non-exclusive retail liquor store, a retail sales agent operates a retail liquor store as an adjunct to another business. A retail sales agent must secure Commission approval for a retail liquor store's association with another business.

(2) The Commission may change the type of a retail liquor store from exclusive to non-exclusive or non-exclusive to exclusive. In making a type change, the Commission evaluates various factors, including retail liquor store sales, business plan and customer service. The procedures in OAR 845-015-0110 apply to such changes.

(3) When the Commission changes a retail liquor store from one type to another, the retail sales agent has the right to continue as retail sales agent after the change.

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

Stats. Implemented: ORS 471.750(1)

Hist.: LCC 21-1986, f. 10-16-86, ef. 1-1-87; OLCC 7-2002, f. 5-10-02, cert. ef. 6-1-02; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0012; OLCC 1-2012, f. 3-20-12, cert. ef. 4-1-12

845-015-0110

Establishment of a Retail Liquor Store

(1) When the Commission decides to establish a new retail liquor store, the Commission:

- (a) Determines the criteria for location and premises;
- (b) Determines a geographic location in which to locate a retail liquor store or a precise location;
- (c) Sets a target date for a retail liquor store to begin operation; and
- (d) Follows the procedure described in OAR 845-015-0120 and 845-015-0125 for selecting and appointing a retail sales agent.

(2) The Commission may discontinue a retail liquor store that has a retail sales agent vacancy. If the Commission continues a retail liquor store, it evaluates whether the existing premises satisfactorily meets the standards for location and premises set forth in the Site Evaluation Form. If it does not meet the minimum standards, the Commission follows the procedure described in section (1) of this rule.

(3) The Commission may arrange for a particular location for a retail liquor store, before appointing a retail sales agent. The Commission may sign an option to lease or enter into a lease that is assignable to a retail sales agent without recourse by the lessor against the Commission. A retail sales agent must reimburse the Commission, on its terms, for appropriate expenses associated with establishing a retail liquor store.

Stat. Auth.: ORS 471, 471.030, 471.730(1) & (5), 472.030, 472.060(1) & (2)(d)

Stats. Implemented: ORS 471.750(1)

Hist.: LCC 14-1978, f. & ef. 10-26-78; Renumbered from 845-010-0343; LCC 15-1986, f. 10-16-86, ef. 1-1-87; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0020

845-015-0115

Retail Sales Agent Eligibility

(1) A retail sales agent who is an individual person must be at least 21 years old. Retail sales agents must devote enough time to a retail liquor store to ensure its efficient operation and reasonable service to the public.

- (2) A retail sales agent may not have a financial interest or business connection that ORS 471.710(3) or OAR 845-015-0118 prohibits.
- (3) A retail sales agent may not be a Commission licensee, except that:
- (a) A non-exclusive retail sales agent may be an Off-Premises Sales licensee.
 - (b) A non-exclusive retail sales agent may be a Limited On-Premises Sales licensee provided that the premises with the Limited On-Premises Sales license is in a different physical location and address from the retail liquor store.
 - (c) An exclusive retail sales agent may be an Off-Premises Sales licensee and a Limited On-Premises Sales licensee provided that the premises with the Limited On-Premises Sales license or Off-Premises Sales license is in a different physical location and address from the retail liquor store.

Statutory/Other Authority: ORS 471.030 & 471.730

Statutes/Other Implemented: ORS 471.750

History:

OLCC 2-2019, amend filed 01/22/2019, effective 02/01/2019

OLCC 1-2012, f. 3-20-12, cert. ef. 4-1-12

OLCC 10-2004, f. 10-15-04 cert. ef. 11-1-04

OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0027

OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01

OLCC 19-1999, f. 11-2-99, cert. ef. 11-28-99

OLCC 7-1999(Temp), f. 5-25-99, cert. ef. 6-1-99 thru 11-27-99

OLCC 15-1989, f. 10-31-89, cert. ef. 11-1-89

OLCC 19-1987, f. 6-10-87, ef. 7-1-87

845-015-0118

Retail Sales Agent Prohibited Interests, ORS 471.710(3)

- (1) Definitions: As used in ORS 471.710(3) and this rule:
- (a) "Liquor Store Agent" has the same meaning as a retail sales agent, as defined in OAR 845-015-0101(5);
 - (b) "Financial Interest" means knowingly having an ownership interest, as a sole proprietor, partner, limited partner or stockholder or any direct or indirect ownership interest through a device such as a holding company, in a business licensed with a Distillery or Full On-Premises Sales license or any distillery whose products are sold in Oregon;
 - (c) "Business Connections" include, but are not limited to:
 - (A) Knowingly providing anything of value to a person or business licensed with a Distillery or Full On-Premises Sales license or to any distillery whose products are sold in Oregon, in return for something of value. This rule does not, however, prohibit persons and licensees from providing commodities and services to each other that they routinely provide to the general public under the same terms;
 - (B) Partnerships with a person or business licensed with a Distillery or Full On-Premises Sales license, or to any distillery whose products are sold in Oregon, and similar ventures formed for the purpose of making profit,
 - (d) "Knowingly" means a person actually knew or reasonably should have known;
 - (e) "Household" means all persons living as a family unit in the same dwelling;
 - (f) "Immediate Family" means spouse or Domestic Partner, and minor dependent children.
 - (g) "Domestic Partner" means an individual who, along with another individual of the same sex, has received a Certificate of Registered Domestic Partnership pursuant to the Oregon Family Fairness Act.

(h) "Company Principal" means a person who holds any of the following interests in a legal entity that is a retail sales agent or an applicant for appointment as a retail sales agent:

(A) An officer;

(B) A director;

(C) A person who owns or controls 10% or more stock in the entity or holds 10% or more of the total membership interests in the entity or whose investment interest is 10% or more of the total investment interests in the entity;

(D) A manager of a limited liability corporation or limited liability partnership or the general partner of a limited partnership.

(2) Prohibited Interests. No retail sales agent, company principal, or member of the agent's household or immediate family may hold a Financial Interest or Business Connection as those terms are defined in section (1) of this rule.

(3) Additional Prohibitions:

(a) No retail sales agent, company principal or member of the agent's household or immediate family may be employed by a business that is licensed with a Distillery or Full On-Premises Sales license unless:

(A) The person's job duties do not include involvement with that portion of the business that requires an alcoholic beverage license to operate; or

(B) The person exercises no management control over that portion of the business that requires an alcoholic beverage license to operate.

(b) No retail sales agent, company principal or member of the agent's household or immediate family may be employed by any distillery whose products are sold in Oregon.

(4) Reporting Requirements:

(a) All retail sales agent applicants must complete and sign a form describing any financial interest or business connection the applicant, company principal or any person in the applicant's household or immediate family has, that the applicant would reasonably know of, with a Distillery or Full On-Premises Sales licensee, or with a distillery whose products are sold in Oregon. The Commission will determine whether any prohibited interest or connection exists. An applicant, company principal or person in the applicant's household or immediate family who has a prohibited interest or connection must divest the interest or connection before the Commission appoints the applicant;

(b) A retail sales agent must report, to the agent's district manager, any prohibited interest or connection with a Distillery, Full On-Premises Sales licensee or a distillery whose products are sold in Oregon as soon as the agent would reasonably know of the interest or connection. If ORS 471.710(3) or this rule prohibits the interest or connection, the Commission will set a reasonable time period for divestiture. If the retail sales agent, company principal, household member or immediate family member fails to divest, the Commission will terminate the agent's contract.

(5) Gifts and Gratuities: No retail sales agent will accept any gift, gratuity or thing of value from any Distillery or Full On-Premises Sales licensee or any distillery or any person representing a distillery, except that a retail sales agent may accept:

- (a) Items totaling \$25 or less per year per licensee or distillery offered to retail sales agents as customers of the licensee or distillery as long as the items are offered on an equal basis to all customers irrespective of any connection to the Commission;
- (b) Food and beverages provided for immediate consumption at a convention or a business conference or meeting that are offered to all participants irrespective of any connection to the Commission;
- (c) A non-alcoholic beverage for immediate consumption that a licensee offers at a business meeting;
- (d) Items offered to all participants at a convention irrespective of any connection to the Commission.

(6) Disciplinary Actions: The Commission will appropriately discipline a retail sales agent who:

- (a) Fails to report a prohibited interest or connection as section (4) of this rule requires;
- (b) Knowingly acquires an interest or establishes a connection that ORS 471.710 or this rule prohibits; and
- (c) Accepts a gift or gratuity that section (5) of this rule prohibits.

Stat. Auth.: ORS 471, including 471.030, 471.040, 471.710 & 471.730(1) & (5)

Stats. Implemented: ORS 471.710

Hist.: OLCC 15-1989, f. 10-31-89, cert. ef. 11-1-89; OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0028; OLCC 10-2006, f. 7-19-06, cert. ef. 8-1-06; OLCC 9-2008, f. 6-12-08, cert. ef. 7-1-08; OLCC 1-2012, f. 3-20-12, cert. ef. 4-1-12

845-015-0120

Retail Sales Agent Selection Procedure

(1) When the Commission fills a retail sales agent vacancy other than as OAR 845-015-0125(2) describes, the Commission seeks applications from the public.

(2) When seeking applications from the public, the Commission advertises to fill a vacancy. The Commission may publish its intent to fill a vacancy via a variety of methods, i.e. internet postings, other online media, or newspapers.

(3) After an application deadline, all applications will be screened according to selection criteria in OAR 845-015-0125 and qualified applicants will be selected for interview. After reviewing applications and screening results, an interview committee conducts personal interviews. The interview committee scores the applicants and recommends finalists who are most qualified based on the selection criteria in 845-015-0125. From the finalists, the Commission appoints a retail sales agent using the criteria in 845-015-0125. A public presentation at a Commission meeting may be required. Advance notice of the public meeting date will be given to all finalists.

(4) An appointed retail sales agent must submit a retail liquor store improvement plan for approval, enter into a Retail Sales Agent Agreement, purchase fixtures and equipment at an established price or provide fixtures and equipment where none are available for purchase, and begin operation of a retail liquor store on the date the Commission specifies. If an appointed retail sales agent cannot purchase, rent or lease, and equip an approved location and begin operation by the required date, the Commission(ers) may select another applicant from the list of finalists.

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

Stats. Implemented: ORS 471.750(1)

Hist.: LCC 20-1986, f. 10-16-86, ef. 1-1-87; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0022; OLCC 10-2006, f. 7-19-06, cert. ef. 8-1-06, OLCC 13-2011, f. 12-6-11, cert. ef. 1-1-12

845-015-0125

Retail Sales Agent Selection Criteria

(1) When the Commission selects a retail sales agent using the procedure in OAR 845-015-0120, the Commission evaluates the knowledge, skills and abilities of all applicants in the following areas:

- (a) Retail business experience including, but not limited to, responsibility for inventory control, cash accountability, supervision of personnel and customer service;
- (b) Knowledge of retail operations or business management, including study or training in those or related fields;
- (c) Customer service skills and ability to communicate and work effectively with the public;
- (d) Whether the applicant's health permits full-time supervision of a retail liquor store;
- (e) The applicant's record of felony conviction, conviction of crime relating to money management fraud, or a history of conviction of crimes relating to the abuse of alcohol or controlled substances;
- (f) The applicant's financial ability to purchase or lease and equip the retail liquor store at a Commission approved location. The applicant's ability to provide the necessary funds to meet the operating expenses of the retail liquor store and be bonded under the Commission's blanket position fidelity bond.

(2) In appointing a successor to a deceased or disabled retail sales agent, the Commission gives the preference in ORS 471.752. The Commission evaluates the qualifications of the applicant. After review of the application documents and personal interviews, the Commissioners decide if the applicant is qualified.

Stat. Auth.: ORS 471, 471.030, 471.730(1) & (5), 472.030, 472.060(1) & (2)(d)

Stats. Implemented: ORS 471.750(1)

Hist.: LCC 14-1978, f. & ef. 10-26-78; Renumbered from 845-010-0344; LCC 6-1981, f. 11-2-81, ef. 1-1-82; LCC 16-1983, f. 12-27-83, ef. 1-1-84; OLCC 18-1987, f. 6-10-87, ef. 7-1-87; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0025

845-015-0135

Public Opinion on Retail Liquor Store Location

(1) The Commission considers public opinion when it evaluates establishing or relocating a retail liquor store. The Commission seeks public opinion by:

- (a) Posting a public notice at the proposed location and at the existing location, if any; and
- (b) Providing a written notice to any residence, business, pre-elementary, elementary or secondary school, house of worship or alcoholic treatment facility within a minimum of a 500 foot radius of the proposed location and to the local governing body when the Commission is considering relocating a store to another governing body's jurisdiction, or when it establishes a new retail liquor store in the jurisdiction.

(2) These notices will ask for opinions on the proposed location and identify when, where and how the public can comment.

(3) The Commission will consider liquor-related public opinions. It considers these liquor-related comments together with its criteria for liquor store establishment and relocation. OAR 845-015-0110 sets out these criteria.

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

Stats. Implemented: ORS 471.750(1)

Hist.: OLCC 20-1987, f. 9-2-87, ef. 10-1-87; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03; Renumbered from 845-015-0086; OLCC 10-2006, f. 7-19-06, cert. ef. 8-1-06

845-015-0138

Retail Price for Distilled Spirits

Before the Commission implements a surcharge or change in the mark-up formula for distilled spirits that would result in an increase in the retail price of distilled spirits sold to the public, the Commission shall:

- (1) Provide at least 45 days public notice before such a price increase takes effect;
- (2) Provide the opportunity for submission of written comments regarding the proposed price increase;
- (3) Conduct a public meeting for the purpose of receiving verbal comment regarding the proposed price increase; and
- (4) Consider any written or verbal comments before implementing such a price increase.

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

Stats. Implemented: ORS 471.745

Hist.: OLCC 20-2010, f. 12-22-10, cert. ef. 1-1-11

845-015-0140

Hours and Days of Operation

To ensure adequate service to the public, the Commission requires retail liquor stores to maintain convenient hours of operation:

- (1) Except for Sundays and holidays, all retail liquor stores must be open between the hours of 12 noon and 6 p.m. Retail liquor stores may not open earlier than 7 a.m. or close later than 10 p.m.
- (2) Except for Sundays and holidays, retail liquor stores will be open a minimum of eight hours each day.
- (3) On Sundays or holidays, retail liquor stores may be open for any number of hours, but may not be open before 7 a.m. or after 10 p.m. Sunday and holiday openings are optional for Retail Sales Agents.

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

Stats. Implemented: ORS 471.750(1)

Hist.: LCC 1-1978(Temp), f. & ef. 1-25-78; LCC 5-1978, f. 5-24-78, ef. 5-25-78; Renumbered from 845-010-0350; LCC 12-1983, f. 11-14-83, ef. 1-1-84; LCC 3-1985, f. 2-28-85, ef. 4-1-85; OLCC 4-2002(Temp), f. & cert. ef. 4-12-02 thru 10-8-02; OLCC 11-2002, f. 8-29-02, cert. ef. 10-9-02; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03; Renumbered from 845-015-0035; OLCC 16-2003(Temp), f. & cert. ef. 9-23-03 thru 3-20-04; OLCC 1-2004, f. 1-21-04, cert. ef. 3-21-04

845-015-0141

Shipment of Distilled Spirits

All sales of distilled spirits to individual consumers must be made in-person at a retail liquor store location. A retail sales agent may ship distilled spirits purchased in-person to a resident of Oregon who is at least 21 years of age. In-person purchases may be shipped to a resident of a state other than Oregon only in accordance with the laws of that state.

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

Stats. Implemented: ORS 471.740 & ORS 471.750

Hist.: 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

845-015-0143

Sale of Related Items

(1) In an exclusive retail liquor store, the retail sales agent may sell only distilled spirits distributed by the Commission and related items.

(2) Related items are:

- (a) Ice and mixers;
- (b) Foods used in drinks, such as olives, onions and cherries;
- (c) Bartender's guides, shakers, strainers, mixing spoons, swizzle sticks and similar tools used in preparing drinks;
- (d) Glassware, coasters, straws, napkins and other such items associated with drinking alcoholic liquor;
- (e) Liquor branded logo giftware and apparel; and
- (f) Items such as chewing gum, breath mints and tobacco products.

(3) Only the retail sales agent may conduct business out of an exclusive retail liquor store. This business must be authorized by statute or Commission rule.

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

Stats. Implemented: ORS 471.750(1)

Hist.: LCC 25-1980, f. 9-30-80, ef. 1-1-81; LCC 19-1986, f. 10-16-86, ef. 1-1-87; OLCC 24-1987, f. 12-9-87, cert. ef. 1-1-88; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03; Renumbered from 845-015-0045; OLCC 3-2005, f. 5-16-05, cert. ef. 6-1-05

845-015-0145

Solicitation; Incentives

(1) A retail sales agent may seek business from any business or Full On-Premises Sales licensee, including any employee or representative by:

- (a) Describing a retail liquor store and its services orally, by flyer, personal letter or business card; and
- (b) Inviting a potential business or Full On-Premises Sales licensee customer to visit a retail liquor store.

(2) A retail sales agent must not:

- (a) Solicit, ask, suggest or urge anyone except a Full On-Premises Sales licensee or other business to make a purchase at a particular retail liquor store;
- (b) Give or offer any gift, gratuity, special individualized discount or other incentive to any person if such can be reasonably construed to be an enticement to obtain, maintain, or increase the recipient's business with the retail sales agent.

(3) An exclusive retail sales agent must charge the same price for related items of identical brand, type, size and number. An exclusive retail sales agent must keep accurate records of purchases and sales of related items and must make those records available for Commission audit as provided in the Agency Agreement. The Commission may inspect the books and records of the associated business of a non-exclusive retail sales agent.

(4) A retail sales agent must sell Commission merchandise at the Commission's established price.

(5) A retail sales agent may deliver alcoholic liquor or related items only to a Full On-Premises Sales licensee's premises as provided in and consistent with the Agency Agreement and the Commission's Retail Operations Manual.

Stat. Auth.: ORS 471.730(5)

Stats. Implemented: ORS 471.750

Hist.: LCC 25-1980, f. 9-30-80, ef. 1-1-81; LCC 6-1983, f. 6-27-83, ef. 7-1-83; LCC 18-1986, f. 10-16-86, ef. 1-1-87; OLCC 9-1996, 5-16-96, cert. ef. 6-1-96; OLCC 15-2000 f. 9-13-00, cert. ef. 10-1-00; OLCC 19-2000, f. 12-6-00, cert.

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ef. 1-1-01; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-0; Renumbered from 845-015-0050; OLCC 10-2006, f. 7-19-06, cert. ef. 8-1-06

845-015-0148

Minors in Liquor Stores

(1) Except as provided in (2) below, only people 21 years of age or older may enter a retail liquor store, unless accompanied by a parent, spouse or Domestic Partner who is at least 21 years old. "Domestic Partner" means an individual who, along with another individual of the same sex, has received a Certificate of Registered Domestic Partnership pursuant to the Oregon Family Fairness Act. Nevertheless, people 18 years or older may be employed in liquor stores to sell distilled spirits and people under the age of 18 may be employed but may not participate in the sale of distilled spirits.

(2) Non-exclusive retail sales agents may apply to the Commission for an exception to the requirements of (1) of this rule by submitting a control plan to the Commission. The Commission may approve such a control plan if it contains sufficient measures to ensure that minors will not have access to distilled spirits. The Commission may revoke the exception by providing written notice that the previously approved control plan is no longer sufficient.

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

Stats. Implemented: ORS 471.750(1)

Hist.: LCC 4-1985, f. 2-28-85, ef. 4-1-85; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0060; OLCC 9-2008, f. 6-12-08, cert. ef. 7-1-08; OLCC 5-2016, f. 4-26-16, cert. ef. 5-2-16

845-015-0150

Service Refusal in a Retail Liquor Store

(1) A customer who meets the age and identification requirements in ORS 471.130 has the right to purchase alcoholic liquor in a retail liquor store.

(2) Despite section (1) of this rule, a retail sales agent must refuse to sell alcoholic liquor to anyone who is visibly intoxicated, and may refuse service to anyone who is disruptive or abusive in a retail liquor store.

Stat. Auth.: ORS 471, 471.030, 471.730(1) & (5), 472.030, 472.060(1) & (2)(d)

Stats. Implemented: ORS 471.750(1)

Hist.: LCC 25-1986, f. 11-20-86, ef. 1-1-87; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0080

845-015-0155

Distilled Spirit Tasting in a Retail Liquor Store

(1) The Commission allows sponsors to conduct distilled spirits tastings in retail liquor stores at the sole discretion of the retail sales agent for the purpose of promoting the sponsor's products. For purposes of this rule, "sponsors" are: Oregon Distillery licensees, out-of-state manufacturers of distilled spirits, importers of distilled spirits, distillery representatives, and the employees or agents of Distillery licensees, out-of-state manufacturers, importers, and distillery representatives. Tastings are subject to the requirements and limits described in this rule.

(2) Tasting Sizes, Number of Samples per Customer. The size of each distilled spirits 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 sponsor may not provide more than one-half ounce total of distilled spirits per customer per day.

(3) The distilled spirits product(s) provided for tastings must be available for sale at the retail liquor store where and when the tasting occurs.

(4) Identified Tasting Area. Retail sales agents who allow tastings at their retail liquor store must identify a specific tasting area. The area 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 until they have finished consuming the sample(s). In exclusive retail liquor stores, the tasting area may be the entire retail liquor store. In non-exclusive retail liquor stores, the retail sales agent must identify a tasting area, and keep on file at the retail liquor store a floor plan sketch identifying the tasting area.

(5) Duration of Tastings Allowed. Tastings are limited to a maximum of three consecutive hours per sponsor per retail liquor store per day. Only one sponsor at a time may conduct sample tastings in a retail liquor store.

(6) Server Requirements. Alcohol servers must have valid Oregon service permits.

(7) Record Keeping. The sponsor 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. The sponsor must retain records of tastings for one year.

(8) Sponsor responsibilities. Sponsors must:

(a) Provide the distilled spirits 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 distilled spirits being tasted. The server must be a sponsor or an employee or agent of the sponsor;

(c) Not compensate the retail sales agent, or any employee or agent of the retail sales agent to participate in the tasting.

(9) Retail Sales Agent Responsibilities. Retail sales agents are responsible for liquor law violations occurring in the retail liquor store which are not related to tastings.

(10) Violations Associated with the Tasting. In the case of a liquor law violation associated with tasting (for example, service of a sample to a minor or a visibly intoxicated person), both the server and the sponsor may be held responsible for violations of Oregon liquor laws which occur due to or during the tasting. Violations which occur due to a sponsor or server violating the law will not be charged to the retail sales agent.

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

Stats. Implemented: ORS 471.750

Hist.: LCC 27-1986, f. 11-20-86, ef. 1-1-87; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0095; OLCC 9-2004, f. 6-29-04 cert. ef. 7-1-04; OLCC 5-2011, f. 8-15-11, cert. ef. 9-1-11, (Effective 06/29/16)

845-015-0160

Sale of Lottery Tickets

Despite OAR 845-015-0143(1) (sale of related items), retail sales agents may contract with the Oregon State Lottery Commission to sell Oregon State Lottery Tickets in retail liquor stores.

Stat. Auth.: ORS 471, 471.030, 471.730(1) & (5), 472.030, 472.060(1) & (2)(d)

Stats. Implemented: ORS 471.750(1)

Hist.: LCC 5-1985, f. 3-28-85, ef. 4-1-85; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0065

845-015-0165

Supplier Rebates on Distilled Spirits

(1) The Commission allows suppliers to give consumer rebates on distilled spirits. Progressive-type coupons which provide a larger rebate when progressively more alcohol is purchased are permitted. An example of this would be a rebate that offers \$5 for the purchase of one bottle but \$12 for two.

(2) Suppliers will distribute distilled spirits rebate coupons only through retail liquor stores or by publishing them in newspapers or magazines. Any newspaper or magazine advertising associated with rebate coupons must comply with OAR 845-015-0175, 845-015-0177, and any other applicable state and federal regulations.

(3) All rebate coupons offered in the State of Oregon must meet the following requirements:

- (a) Rebate coupons must be redeemable only by mail;
- (b) Rebate coupon offers must bear an expiration date;
- (c) The supplier must require proof of purchase;
- (d) Rebate coupons must be valid only for adults of legal drinking age. The Commission may require withdrawal of the rebate coupon if the supplier does not comply with the conditions of the rebate coupon or Commission rules.

(4) The supplier must furnish rebate coupons to all retail liquor stores carrying the product. Any advertising materials such as posters, signs, banners, or display racks the supplier provides to promote rebate coupons in a retail liquor store must comply with OAR 845-015-0175, 845-015-0177, and any other applicable state and federal regulations.

(5) The supplier is responsible for the redemption of rebate coupons. The supplier and the retail customer are responsible for settling any disagreement about the supplier's coupon.

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

Stats. Implemented: ORS 471.750(1)

Hist.: LCC 2-1983, f. 3-8-83, ef. 7-1-83; LCC 2-1985, f. 2-28-85, ef. 4-1-85; OLCC 19-1991, f. 10-31-91, cert. ef. 11-1-91; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0055; OLCC 10-2003, f. 7-22-03, cert. ef. 9-1-03; OLCC 3-2006, f. 2-22-06, cert. ef. 3-1-06; OLCC 26-2007, f. 12-17-07, cert. ef. 1-1-08

845-015-0168

Full On-Premises Sales Licensee Refund

A Full On-Premises Sales licensee who is going out of business may make a written request to the Commission to return resalable merchandise for a refund. If the Commission approves the request, the Commission will issue a refund after it determines that the merchandise is resalable.

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

Stats. Implemented: ORS 471.740 & 471.750

Hist.: LCC 8-1985, f. 10-9-85, ef. 3-1-86; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0070; OLCC 10-2006, f. 7-19-06, cert. ef. 8-1-06

845-015-0170

Payment for Distilled Spirits

(1) Timing of Payment for Distilled Spirits Purchases. Payment for distilled spirits must be made at the time of purchase. If the purchaser is a Full On-Premises Sales licensee, and the distilled spirits being purchased are to be delivered, payment must be received at the liquor store not later than the store's close of business on the same day that the product was delivered to the licensee.

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- (2) A retail sales agent accepts these forms of payment:
- (a) United States currency or a United States traveler's check;
 - (b) A cashier's check or money order;
 - (c) A licensee's business check for the amount of the purchase only, properly dated, personalized and free of alterations;
 - (d) A personal check from a non-licensee with either a valid driver's license with photo or valid DMV Identification card with photo, name, date of birth and physical description. The check must be under \$200, payable to the OLCC, for the amount of purchase only, properly dated, personalized and free of alterations; and
 - (e) Exclusive retail sales agents shall accept debit and credit cards from non-licensees using equipment that meets or exceeds Commission approved standards as set forth in the Retail Operations Manual. At a non-exclusive retail sales agent's option, they may also accept these same debit and credit card transactions.
- (3) A retail sales agent must not accept a check for purchases by a licensee who has given the Commission two checks or other instruments that could not be paid upon presentation.
- (4) Despite section (2) of this rule, a retail sales agent is not required to accept payment if a sale is contrary to law, if a customer lacks necessary age identification or if there is a reasonable basis to believe a customer is not lawfully presenting payment.
- (5) A retail sales agent may elect to not take personal checks from non-licensees only if the retail sales agent accepts debit and credit cards using equipment that meets or exceeds Commission approved standards as set forth in the Retail Operations Manual. A retail sales agent must pay the Commission for any uncollected check from a non-licensee.

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

Stats. Implemented: ORS 471.740 & 471.750(1)

Hist.: LCC 32-1986, f. 12-4-86, ef. 4-1-87; OLCC 10-1989, f. 10-2-89, cert. ef. 10-1-89; OLCC 2-1993(Temp), f. 6-25-93, cert. ef. 7-1-93; OLCC 4-1995, f. 5-2-95, cert. ef. 6-1-95; OLCC 16-2000, f. 11-9-00, cert. ef. 12-1-00; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0075; OLCC 5-2005, f. 8-16-05, cert. ef. 9-1-05; OLCC 10-2006, f. 7-19-06, cert. ef. 8-1-06; OLCC 10-2012, f. 12-18-12, cert. ef. 1-1-13

845-015-0173

Discount for Full On Premises Sales Licensees' Distilled Spirits Purchases

Full On-Premises Sales licensees will purchase distilled spirits from a retail sales agent at a discount of five percent off the listed price fixed by the Commission. Licensees will receive the discount only on distilled spirits purchased for use in their Full On-Premises Sales businesses. The discount will be given at the time of purchase.

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

Stats. Implemented: ORS 471.745 & 471.750(1)

Hist.: OLCC 4-1993, f. 11-1-93, cert. ef. 11-4-93; OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0078; OLCC 10-2006, f. 7-19-06, cert. ef. 8-1-06

845-015-0175

Advertising by a Retail Sales Agent

- (1) The Commission allows advertising by retail sales agents through media and other forms that are not prohibited by statute or rule.
- (2) Advertising may not:
- (a) Be false, misleading or discriminatory;
 - (b) Make claims that any government agency endorses or supports the distilled spirits product;

- (c) Include materials so appealing to minors that it encourages them to purchase, possess or drink distilled spirits;
 - (d) Be included in any material that is for the purpose of youth or minor viewership (i.e. school yearbooks)
 - (e) Use a person appearing to be under 26 years of age displayed drinking distilled spirits;
 - (f) Use material that encourages the use of distilled spirits because of its intoxicating effect;
 - (g) Include the words, "OLCC" or "State of Oregon";
 - (h) Include material that encourages excessive or rapid consumption;
 - (i) Be purchased or given by a manufacturer, wholesaler, distributor, or a person representing a distillery, or a Full On-Premises licensee on behalf of a retail sales agent, except as otherwise allowed by statute or rule. (See ORS 471.750(4) and OAR 845-015-0177);
 - (j) Be placed in media that is being purchased by a Full On-Premises licensee or material advertising a Full On-Premises licensee in a liquor store.
 - (k) Promote a licensee, sweepstake, premium, on-pack or non-tasting distilled spirit events as those terms are defined in OAR 845-015-0177.
- (3) To inform the public of distilled spirit access, retail liquor stores must have exterior "Liquor" sign(s) that are highly visible, attractive, easy to read, compatible with the location and that conform to local ordinances.
- (a) Retail liquor stores located within another retail business or building may place an exterior sign at the immediate entrance to the retail liquor store.
 - (b) Exterior signs may be placed off the property that the retail liquor store occupies with written permission from the owner of the property where the sign will be located. Upon request from the Commission, retail sales agents will need to provide evidence of the property owner's permission.
 - (c) Signs and sign hardware must be maintained, clean, fully functional, undamaged and freshly painted. Signs and hardware that appear worn or faded must be replaced.
- (4) All distilled spirit advertising that a retail sales agent uses must conform to this rule. Prior approval of advertising material is not normally required. However, a retail sales agent who fails to comply with this rule may be required to submit future distilled spirit advertising material to the Commission for prior approval to ensure compliance with OLCC rules. The Commission will specify a reasonable period of time during which prior approval is required.
- (5) Retail sales agents must remove any sign, display, or advertisement found by the Commission to violate this rule or OAR 845-015-0177, or both rules. The Commission will specify a reasonable time by which the retail sales agent must remove the objectionable advertising.
- (6) Retail sales agents may advertise distilled spirits tasting promotions.
- (7) Retail sales agents may advertise lottery sales in their retail liquor store advertisements.

Stat. Auth.: ORS 471, including 471.030, 471.730(1)&(5) & 471.750

Stats. Implemented: ORS 471.750(2)

Hist.: OLCC 15-1991, f. 9-30-91, cert. ef. 10-1-91; OLCC 13-1996, f. 9-30-96, cert. ef. 10-7-96; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0091; OLCC 10-2003, f. 7-22-03, cert. ef. 9-1-03; OLCC 17-2004, f. 12-22-04, cert. ef. 1-1-05; OLCC 11-2008, f. 8-18-08, cert. ef. 9-1-08, (Amended 06/29/16)

845-015-0177

Advertising in a Retail Liquor Store

- (1) Definitions: As used in this rule:
 - (a) "Sweepstake" means a contest for prizes not prohibited by law and offered by a manufacturer or a person representing a distillery.
 - (b) "Premium" means an item, offered to promote a product, which a person may order from a manufacturer or person representing a distillery. Examples of a premium include t-shirts, watches, and personalized bottle labeling.
 - (c) "On-pack" means any item approved by the commission that is attached to or packaged with a distilled spirits product.
- (2) The Commission allows product signs and displays that:
 - (a) Comply with this rule, ORS 471.750(4), OAR 845-015-0175(2) and Alcohol and Tobacco Tax and Trade Bureau (TTB) regulations;
 - (b) Do not obstruct another distillery's products;
 - (c) Are not placed in a window;
 - (d) Advertise or display a manufacturer's, wholesaler's, distributor's, or the distillery's product in conjunction with the approved items described in OAR 845-015-0143; and
 - (e) Advertise a rebate (as allowed by OAR 845-015-0165), sweepstake or offer a premium or an on-pack for the consumer when the sign or display meets the requirements of (a), (b), (c), and (d).
- (3) If a retail sales agent chooses to allow signs and displays in the retail liquor store, each manufacturer, wholesaler, distributor, or distillery must be given a reasonable opportunity to advertise.
- (4) If the total value of the sign or display in section (3) is \$500 or more, then the item can only be loaned to the retail sales agent, must be clearly marked as the property of the manufacturer, wholesaler, distributor, or distillery representative, marked with the date the loan begins, and can only be loaned for a maximum of 90 days per calendar year. At no time can a loan period exceed more than 90 consecutive days. The manufacturer, wholesaler, distributor, or distillery representative can only have one such sign or display at any one time in any one liquor store. The value of a sign or display is the actual cost to the supplier who initially purchased it. Transportation and installation costs are excluded.
- (5) Nothing in this rule requires a retail sales agent to order distilled spirits for use in a display, sweepstake or promotion. Empty case boxes may be used, if necessary.
- (6) A retail sales agent may not request, accept, give away or remove on-packs or sweepstake, or premium items from the store at any time or otherwise use the items for personal or business gain. Displays and signs may be removed by the manufacturer, wholesaler, distributor, or a person representing a distillery. Retail sales agents may dispose of old and unused displays and signs, but retail sales agents must not use these items for personal or business gain.
- (7) The Commission provides price tags which retail sales agents shall place in front of each brand and size of distilled liquor. If a brand is displayed in more than one area, the retail sales agent must provide tags comparable in quality and style as the price tags OLCC provides and that they be placed in front of each brand and size.

(8) A sweepstake or premium offer must not require the purchase of liquor in order to receive a prize, merchandise or other thing(s) of value, unless the manufacturer, wholesaler, distributor, or distillery representative donates the prize or merchandise to a charitable cause or community non-profit entity. A sweepstake participant may complete an entry blank at a retail liquor store, but a person representing a manufacturer, wholesaler, distributor, or distillery must draw the entry at the end of the promotion and contact the winner. Any sweepstake or premium must be delivered to the winner at a location other than a retail liquor store. Retail sales agents, liquor store personnel, commission staff or their immediate family living in the same household cannot participate in a sweepstake.

(9) When an on-pack is offered, the on-pack item must not be removed or sold separately from the original bottle unless directed by OLCC. Unless an exception is approved by Commission staff, on-packs of liquor must:

- (a) Not exceed two 50 ml per original bottle;
- (b) Not be a size that has a current listing; and
- (c) Be attached only to original bottles 750 ml in size or larger.

(10) The Commission retains the right to remove signs and displays the Commission finds objectionable or are inappropriate for use in a retail liquor store.

Stat. Auth.: ORS 471, including 471.030, 471.730(1)&(5) & 471.750

Stats. Implemented: ORS 471.750(2)

Hist.: OLCC 15-1991, f. 9-30-91, cert. ef. 10-1-91; OLCC 5-1994, f. 10-31-94, cert. ef. 11-1-94; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0092; OLCC 10-2003, f. 7-22-03, cert. ef. 9-1-03; OLCC 11-2008, f. 8-18-08, cert. ef. 9-1-08 (Amended 08/23/16)

845-015-0180

Distilled Spirits Samples Offered to Retail Sales Agents

(1) Distillery representatives may not give samples to retail sales agents, their employees or customers in a retail liquor store.

(2) Despite section (1) of this rule, a retail sales agent may accept samples from distillery representatives or OLCC staff of not more than four 50 ml manufacturer-sealed containers of distilled spirits one time per brand. The sample must be a Commission-approved brand. If a product is not available in a 50 ml container, the retail sales agent may accept a single sample in the next larger available size if the distillery representative has written approval from the Listing Committee of the Commission to offer samples in a larger size. Samples may not be consumed in a retail liquor store or within its immediate vicinity. All samples must be sealed bottles. Samples as described in this rule are not sample tastings as described in OAR 845-015-0155.

(3) Retail sales agents may give samples received according to section (2) of this rule to their employees that are at least 21 years of age.

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

Stat. Implemented: ORS 471.750

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0096; OLCC 10-2006, f. 7-19-06, cert. ef. 8-1-06

845-015-0185

Special Orders for Distilled Spirits

Customers may order distilled spirits products or container sizes that the Commission does not carry in the regular product line. Minimum order quantities may apply. For special orders, the customer pays the wholesale cost, the average handling and freight

costs per case and the regular markup. The Commission sets the average handling and freight costs from an annual review of these costs for special orders.

Stat. Auth.: ORS 471, including 471.030, 471.175, 471.730(1) & (5)

Stats. Implemented: ORS 471.175 & 471.750

Hist.: LCC 30-1986, f. 11-20-86, ef. 1-1-87; OLCC 21-1991, f. 12-19-91, cert. ef. 1-1-92; OLCC 5-1992, f. 4-30-92, cert. ef. 5-1-92; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0100; OLCC 14-2011, f. 12-6-11, cert. ef. 1-1-12

845-015-0190

Resignation Buy-Out Program for Retail Sales Agents

(1) Purpose. The purpose of the Resignation Buy-Out Program is to provide a monetary benefit to all retail sales agents when they resign. Retail sales agents receive the buy-out, in part, to recognize their contribution in building a successful business.

(2) Definitions.

(a) "Solicit," "solicitation" and "soliciting" have the meaning given them under OAR 845-015-0145. These terms also include any act or contact directed at a specific business, Full On-Premises Sales licensee or other like entity for the purpose of asking, encouraging, suggesting, urging or persuading a specific business, Full On-Premises Sales licensee or other entity to purchase distilled spirits from a particular retail liquor store.

(b) "Full On-Premises Sales licensee" means any person or entity holding a Full On-Premises Sales license.

(c) "Commercial Accounts" means any business or association that purchases more than fifty 750 ml bottles of distilled spirits from the store in the twelve months immediately preceding turnover of the store to the incoming agent.

(d) "Domestic Partner" means an individual who, along with another individual of the same sex, has received a Certificate of Registered Domestic Partnership pursuant to the Oregon Family Fairness Act.

(3) Calculating the Buy-Out. The Resignation Buy-Out Program requires the incoming retail sales agent to pay the outgoing agent, or the agent's estate, an amount of money (called the buy-out). Except as provided in section (4), the Commission calculates the buy-out by taking three percent of the stores average annual gross distilled spirits sales for the last five years. If a Retail Sales Agent's most current Annual Evaluation is outstanding, they will be eligible for a four percent buy-out percentage. The Commission includes the buy-out amount as part of the financial requirement in the information sheet that all applicants receive.

(4) Recruiting Qualified Applicants. The outgoing agent may supplement the Commission's recruiting process to assure finding qualified applicants. If the Commission's recruiting process does not generate a qualified applicant the outgoing agent will choose to postpone the resignation or to accept a lower buy-out amount. If the agent chooses to accept a lower buy-out, then the outgoing agent and the Commission will agree on a reasonable buy-out amount reduction. The Commission will then re-advertise the store vacancy with the reduced buy-out amount.

(5) Paying the Buy-Out. An incoming agent must pay a buy-out if the effective date of the incoming agent's appointment occurs when the program is in effect. The incoming agent provides payment to the outgoing agent once the Commission has estimated any debt reimbursements to the Commission or the State of Oregon. As a condition of eligibility for the buy-out, the outgoing agent must allow the incoming agent to spend a minimum of 12 working days at the store working productively together before the store

takeover, unless the incoming agent declines the opportunity in writing. During the 12-day period, the outgoing agent will introduce the incoming agent to Full On-Premises Sales licensees and commercial accounts, and orient the incoming agent to all aspects of the store operation except the required training and information provided by Commission staff. The Commission may waive the buy-out requirement at the written request of the outgoing agent.

(6) Family Transfer of Retail Liquor Store When Agent Dies or is Disabled. If an agent dies or becomes unable to operate a retail liquor store due to the agent's disability, ORS 471.752(2) allows the Commission to give preference to a qualified surviving spouse, Domestic Partner, or child, or a qualified spouse, Domestic Partner, or child of the disabled agent, in the appointment of a successor agent. If the Commission does appoint a spouse, Domestic Partner, or child in this situation, the Commission may waive the buy-out requirement at the request of the outgoing agent or the agent's estate after the Commission has estimated any debt reimbursements to the Commission or the State of Oregon.

(7) Probationary Agents. Except as provided in section (9), an agent who resigns during their probationary period is eligible for a buy-out.

(8) Relocating, Adding, or Closing Stores. The Commission reserves the right to relocate any store, and to add or close stores. Neither the State of Oregon nor the Commission is liable for any changes in the volume of distilled spirits sales that may occur following the relocation of one or more stores, or from the addition or closure of one or more stores.

(9) Exceptions. Despite sections (1) and (3), a retail sales agent is not eligible for a buy-out if:

- (a) The Commission has terminated the agent for cause relating to fiscal irresponsibility, a history of high shortages exists, or the final estimated audit shortage exceeds the estimated amount of compensation due that agent. In these situations, the incoming agent will be instructed to hold payment until the Commission calculates any dollars owed the Commission or the State of Oregon. At that time the Commission will instruct the incoming agent as to the disbursement of the buy-out fund to the outgoing agent and the Commission. Any amount sent to the Commission in excess of the amount due to the Commission or the State of Oregon will be returned to the outgoing agent upon final financial settlement;
- (b) The agent is under suspension;
- (c) The agent is a temporary retail sales agent;
- (d) The Commission takes over a store for reasons other than suspension or termination. In this situation, the outgoing agent is not eligible for a buy-out until the agent resigns and a permanent incoming agent is appointed and takes over the store; or
- (e) The store does not turn over during the time the program is in effect; turnover occurs on the date the Commission conducts the final audit of the permanent outgoing agent.

(10) Non-Compete Provision. If an outgoing agent participates in the buy-out program, the outgoing agent shall not solicit any Full On-Premises Sales licensee or commercial account (customers) of the retail liquor store the outgoing agent is leaving (store) for the purpose of selling or attempting to sell distilled spirits to such customers. The outgoing agent is also prohibited from using a customer list or any other information

about the stores customers to assist any agent (other than the incoming agent) in soliciting the stores customers for the purpose of selling distilled spirits. The outgoing agent recognizes that she/he receives consideration for compliance with this section. The prohibitions in this section:

- (a) Are limited to a two-year period. The Commission calculates the two-year prohibition beginning on the date the store is turned over to the incoming agent;
 - (b) Relate only to Full On-Premises Sales licensees and commercial accounts that have made a purchase from the store within the twelve months immediately preceding turnover of the store to the incoming agent;
 - (c) Apply only within:
 - (A) A geographic radius of ten miles from the location of the store if the store is located in a metropolitan or suburban area;
 - (B) A geographic radius of twenty-five miles from the location of the store for all other areas of the state;
 - (d) Do not prohibit an agent's ability to advertise under OAR 845-015-0175.
- (11) Violation of Section (10). If, during the two-year period:
- (a) An outgoing agent violates section (10) of this rule, the incoming agent may take legal action against the outgoing agent;
 - (b) An outgoing agent violates section (10) of this rule, the Commission may take legal action against the outgoing agent;
 - (c) The Commission terminates the Resignation Buy-Out Program, the non-compete provisions in section (10) remain in effect.
- (12) No Contract Rights in Buy-Out. No agent shall have any entitlement to, or expectation of receiving, any buy-out. The institution and continuation or termination of the buy-out program constitutes unilateral regulatory action by the Commission, and gives no agent any contractual right or expectation in any buy-out payment. The Commission reserves the right to repeal or modify this rule, or otherwise terminate the buy-out program at any time.

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

Stats. Implemented: ORS 471.750 & 471.752(2)

Hist.: OLCC 14-1996, f. 10-1-96, cert. ef. 1-1-97; OLCC 8-1998(Temp), f. & cert. ef. 9-18-98 thru 3-16-99; OLCC 4-1999, f. 2-16-99, cert. ef. 3-17-99; OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0032; OLCC 9-2008, f. 6-12-08, cert. ef. 7-1-08; OLCC 15-2011, f. 12-6-11, cert. ef. 1-1-12; (Amended 06/29/16)

845-015-0193

Terminating an Agency Agreement

- (1) A retail sales agent may terminate an Agency Agreement with at least 120 days written notice to the Commission. The termination date must be the last day of a calendar month unless otherwise agreed to by the retail sales agent and the Commission.
- (2) The Commission terminates the Agency Agreement of a retail sales agent who dies or becomes indefinitely unable to operate the retail liquor store, on the last day of the fifth month after the death or disability occurs, unless otherwise agreed to by the Commission. The Commission may appoint a temporary agent to operate the retail liquor store until the Commissioners appoint a new retail sales agent.
- (3) The Commission may terminate an Agency Agreement for good cause as defined in the Agency Agreement. The Commission may appoint a temporary agent to operate

the retail liquor store until it completes the termination procedure. The Commission provides the termination date to the retail sales agent in writing.

Stat. Auth.: ORS 471, ORS 472, ORS 471.030, ORS 471.730(1), ORS 471.730(5), ORS 472.030, ORS 472.060(1) & ORS 472.060(2)(d)

Stats. Implemented: ORS 471.750(1)

Hist.: LCC 14-1978, f. & ef. 10-26-78; LCC 24-1979, f. 10-26-79, ef. 10-29-79; Renumbered from 845-010-0341; LCC 5-1981, f. 9-25-81, ef. 1-1-82; LCC 16-1983, f. 12-27-83, ef. 1-1-84; LCC 22-1986, f. 10-16-86, ef. 1-1-87; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0010

845-015-0196

Appointment of a Temporary Retail Sales Agent or Operation by Commission Staff

(1) The Commission may appoint a temporary agent or operate a store temporarily with Commission staff when the Commission determines a retail sales agent is unable to operate a retail liquor store, is suspended, or a retail sales agent agreement is proposed for termination. In these circumstances the Commission considers any candidate for temporary agent nominated by a retail sales agent but may choose someone else. A temporary agent or Commission staff operates a retail liquor store until the Commission determines the current retail sales agent can resume store duties or until a new retail sales agent is appointed and can assume retail liquor store operations.

(2) The Commission may also appoint a temporary agent or may operate a store temporarily with Commission staff when a new store has been established and the retail sales agent has not yet been selected or has been selected but is unable to begin operating the store, or in other similar circumstances where the Commission finds it necessary to do so.

(3) All of the rules that apply to a retail sales agent apply to a temporary agent except OAR 845-015-0110, 845-015-0120 and 845-015-0125.

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

Stats. Implemented: ORS 471.750(1)

Hist.: LCC 15-1978, f. 11-30-78, ef. 12-1-78; Renumbered from 845-010-0347; LCC 16-1986, f. 10-16-86, ef. 1-1-87; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0030; OLCC 15-2011, f. 12-6-11, cert. ef. 1-1-12

845-015-0200

Satellite Liquor Stores Pilot Program

(1) Purpose. The Satellite Liquor Stores Pilot Program is a program wherein the Oregon Liquor Control Commission (Commission) appoints retail sales agents on a temporary basis to operate Pilot Satellite Liquor Stores under the terms set forth in this rule. Pilot Satellite Liquor Stores are non-exclusive retail liquor stores located in smaller communities where there is a fluctuating, seasonal demand for an additional small outlet due to tourism or other similar factors. The purpose of the Pilot Program is to obtain data on the efficacy of operating such satellite stores in these areas. In connection with the Pilot Program, the Commission will collect data on a variety of subjects, including but not limited to: the economic viability (profitability) of the Pilot Program business model for the Pilot Program Agent and the state of Oregon; public safety impacts on the community; and public response to the program including customer satisfaction and convenience.

(2) Definitions. The following definitions apply only to this rule:

(a) The Satellite Liquor Stores Pilot Program is called the Pilot Program.

(b) The agent appointed to the pilot agency is called a Pilot Program Retail Sales Agent, or Pilot Program Agent. Pilot Program Agent is a retail agent who currently operates a Liquor Store (the “Primary Liquor Store”) in the community where the Pilot Satellite Liquor Store is located.

(c) Pilot Program Retail Sales Agent Agreement or Pilot Program Agreement is the agreement between the Pilot Program Agent and the Oregon Liquor Control Commission.

(d) The location where the Commission appoints a retail sales agent on a temporary basis to operate a Liquor Store is called a Pilot Satellite Liquor Store.

(e) Liquor Store means a retail sales agency of the Oregon Liquor Control Commission.

(3) Number of Pilot Liquor Stores; Factors Considered when Siting Pilot Liquor Stores. The Pilot Program will consist of up to six new Pilot Satellite Liquor Stores to be selected within 12 months of the start of the Pilot Program. The Commission will consider the following factors in determining the locations of Pilot Satellite Liquor Stores:

(a) Population fluctuations, changes in consumer traffic patterns, and/or increased demand within a community during seasonal or peak periods due to tourism or other similar factors;

(b) Distance of the proposed Satellite Liquor Store from existing Liquor Store(s);

(c) Community proximity of the proposed Satellite Liquor Store to the Pilot Program Agent’s Primary Liquor Store;

(d) Sales volume of the Pilot Program Agent’s primary Liquor Store;

(e) Anticipated ability of the Pilot Satellite Liquor Store to accommodate seasonal, fluctuating demand (through operating days/hours, product mix, etc);

(f) Size of Pilot Satellite Liquor Store, including retail floor space and storage space. A Pilot Satellite Liquor Store may carry no more than 50 percent of the products carried in the Primary Liquor Store, as measured by SKUs;

(g) The ability of the Pilot Program Agent to negotiate acceptable terms for the Satellite Liquor Store location.

(4) Length of Pilot Program Retail Sales Agent Agreements. Each Pilot Program Agent and the Commission will execute a Pilot Program Agent Agreement, the duration of which will not exceed three years from the effective date of the Pilot Program Agent’s appointment at the Pilot Satellite Liquor Store. Six months before the expiration of each Pilot Program Retail Sales Agent Agreement, the performance of the applicable Pilot Liquor Store will be evaluated. The Commission will evaluate performance consistent with section (9)(a)-(d) of this rule, the terms of the applicable Pilot Program Retail Sales Agent Agreement, and the Retail Operations Manual. A process to create a permanent Satellite Liquor Store at the applicable location will be initiated by the Commission if it determines the applicable Pilot Satellite Liquor Store is a success.

(5) All statutes and administrative rules governing retail liquor agents will apply to this Pilot Program, with the following exceptions:

(a) OAR 845-015-0110 Establishment of a Retail Liquor Store;

(b) OAR 845-015-0120 Retail Sales Agent Selection Procedure;

(c) OAR 845-015-0135 Public Opinion on Retail Liquor Store Location;

(d) OAR 845-015-0140 Hours and Days of Operation;

(e) OAR 845-015-0190 Resignation Buy-Out Program for Retail Liquor Agents;

- (f) OAR 845-015-0193(1) & (2) Terminating an Agency Agreement;
- (g) OAR 845-015-0196 Appointment of a Temporary Agent.
- (6) The Retail Operations Manual, including any Pilot Program Appendix, and other relevant Commission policies will apply to the Pilot Program, unless otherwise provided in the Pilot Program Agreement.
- (7) All personnel working in the Pilot Satellite Liquor Store must meet all the standards and requirements for liquor store clerks which are required by the Pilot Program Agreement and the Retail Operations Manual.
- (8) Pilot Program Agents will provide the Commission with any and all data related to the operation of the Pilot Satellite Liquor Store as specified in the Pilot Program Agreement and the Retail Operations Manual.
- (9) Measuring Success of the Pilot Program. Factors the Commission will consider in measuring the success of the Pilot Program include but are not limited to:
 - (a) Economic viability of the Pilot Program business model for Pilot Program Agents and the Commission;
 - (b) Increase in total seasonal revenue from liquor sales in the community;
 - (c) Effects on the public safety of the surrounding community;
 - (d) Public response to the Satellite Liquor Stores, including customer satisfaction and convenience.

Stat. Auth.: ORS 471, including 471.030, 471.040 & 471.730(1) & (5)
Stats. Implemented: ORS 471.750
Hist.: OLCC 10-2010, f. 8-23-10, cert. ef. 9-1-10

845-015-0205

Satellite Liquor Stores

- (1) Satellite Liquor Stores are non-exclusive retail liquor stores located in smaller communities where there is a fluctuating, seasonal demand for an additional small outlet due to tourism or other similar factors.
- (2) A Satellite Retail Sales Agent is an agent who currently operates a retail liquor store (the Primary Liquor Store) in proximity to the community where a Satellite Liquor Store is located and who is appointed to operate the Satellite Liquor Store.
- (3) Factors Considered when Siting Satellite Liquor Stores. The Commission will consider the following factors in determining the locations of Satellite Liquor Stores:
 - (a) Population fluctuations, changes in consumer traffic patterns, and/or increased demand within a community during seasonal or peak periods due to tourism or other similar factors;
 - (b) Distance of the proposed Satellite Liquor Store from existing liquor store(s);
 - (c) Community proximity of the proposed Satellite Liquor Store to the Primary Liquor Store;
 - (d) Sales volume of the Satellite Retail Sales Agent's Primary Liquor Store;
 - (e) Anticipated ability of the Satellite Liquor Store to accommodate seasonal, fluctuating demand (through operating days/hours, product mix, etc);
 - (f) Size of Satellite Liquor Store, including retail floor space and storage space. A Satellite Liquor Store may carry no more than 70 percent of the products carried in the Primary Liquor Store, as measured by SKUs;
 - (g) The ability of the Satellite Retail Sales Agent to negotiate acceptable terms for the Satellite Liquor Store location.

- (4) All statutes and administrative rules governing retail sales agents will apply to a Satellite Liquor Store, with the following exceptions:
- (a) OAR 845-015-0110 (1)(d) Establishment of a Retail Liquor Store;
 - (b) OAR 845-015-0120 Retail Sales Agent Selection Procedure;
 - (c) OAR 845-015-0140 Hours and Days of Operation;
 - (d) OAR 845-015-0190 Resignation Buy-Out Program for Retail Liquor Agents does not apply if a Satellite Liquor Store Agent ceases to operate the Satellite Liquor Store but continues to operate the Primary Liquor Store. However, if the agent resigns from both the Primary Liquor Store and the Satellite Liquor Store, the buy-out shall apply to both stores.
- (5) The Retail Operations Manual, including any Satellite Liquor Store Appendix, and all other relevant Commission policies will apply to a Satellite Liquor Store unless otherwise provided in the Retail Sales Agent Agreement.
- (6) Satellite Retail Sales Agents will promptly provide the Commission with any and all data related to the operation of the Satellite Liquor Store as specified in the Retail Sales Agent Agreement and the Retail Operations Manual.

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

Stats. Implemented: ORS 471.750

Hist.: OLCC 6-2013, f. 8-26-13, cert. ef. 9-1-13

845-015-0210

Pilot Programs

- (1) The Commission may establish pilot programs of up to three years duration in order to test new marketing concepts or retail sales models or to respond to fluctuations in customer demand for distilled spirits products. As part of a pilot program the Commission may establish pilot liquor stores and may appoint retail sales agents to operate the pilot liquor stores.
- (2) All statutes and administrative rules governing retail liquor agents will apply to such pilot programs, with the following exceptions:
- (a) OAR 845-015-0110 Establishment of a Retail Liquor Store;
 - (b) OAR 845-015-0120 Retail Sales Agent Selection Procedure;
 - (c) OAR 845-015-0135 Public Opinion on Retail Liquor Store Location;
 - (d) OAR 845-015-0140 Hours and Days of Operation;
 - (e) OAR 845-015-0190 Resignation Buy-Out Program for Retail Liquor Agents;
 - (f) OAR 845-015-0193(1) & (2) Terminating an Agency Agreement.
- (3) The Retail Operations Manual, including any Pilot Program Appendix, and other relevant Commission policies will apply to the pilot program, unless otherwise provided in the Pilot Program Agreement.
- (4) Measuring Success of a Pilot Program. Factors the Commission will consider in measuring the success of a pilot program include but are not limited to:
- (a) Economic viability of the pilot program's retail sales model, for both retail sales agents and the Commission;
 - (b) Public safety impacts;
 - (c) Public response to the pilot program, including customer satisfaction and convenience.

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

Stats. Implemented: ORS 471.750(1)

Hist.: OLCC 15-2011, f. 12-6-11, cert. ef. 1-1-12

SECTION 8.
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SECTION 9.

EXHIBITS

List of Exhibits

- 1-1 Retail Sales Agent Agreement- Exhibit 1-1 is an example of a Retail Sales Agent Agreement. Agents should refer to their individual Retail Sales Agent Agreement for the contract language that governs the Agent's contractual relationship with OLCC.
- 1-2 Related Items
- 1-3 Agent Evaluation
- 1-4 Agent Evaluation Grading Criteria
- 1-5 Floor Plan and Shelf Spacing
- 5-1 Straight Bill of Lading
- 5-2 Packing List
- 5-3 Store Audit Report

RETAIL SALES AGENT AGREEMENT FOR STORE NO. _____

This Retail Sales Agent Agreement ("Agreement") is made between the State of Oregon by and through its Oregon Liquor Control Commission ("Commission") and the Retail Sales Agent ("Agent") appointed below.

DEFINITIONS

- "Administrator" means the Administrator of the Commission appointed pursuant to ORS 471.720, and as referred to as Executive Director or Director in OLCC rules and in this Agreement. The term "Directors" in section 14 refers to all State of Oregon Directors, including the Administrator.
- "Commissioners" means the individuals appointed to the Commission pursuant to ORS 471.705 and meeting pursuant to ORS 471.715.
- "Commission" means the Oregon Liquor Control Commission including Commissioners and any employee of the Commission acting within the course and scope of the duties delegated to that employee by the duly appointed Commissioners.
- "Retail Sales Agent" means an individual person or legal entity appointed by the Commission pursuant to ORS 471.750 and which enters into an Agent Agreement as an independent contractor to sell packaged distilled spirits on behalf of the Commission in a Retail Liquor Store. The term "Agent" is used interchangeably with "Retail Sales Agent" throughout this Agreement, except in section 14.
- "Retail Liquor Store" or "Store" is a premises or a specific area in a premises the Commission approves under section 4 for the sale of packaged distilled liquor (also referred to as distilled spirits or liquor) for off-premises consumption.
- "Agent Agreement" or "Agreement" is a written contract, which includes all addenda, amendments and the Retail Operations Manual, between the Commission and a Retail Sales Agent that specifies the terms, conditions, and obligations between the parties.
- "Retail Operations Manual" or "Manual" means the Manual described in section 8 including all revisions adopted by the Commission that governs the operations of a Retail Liquor Store.
- "Proposal" means a new Agent's plan for a Store which is presented during the application process.
- "New Appointment Period" means the first 12 months of this Agreement, but does not apply in the case of a reappointment of Agent.
- "Agent's Representative" means an individual who represents a legal entity in the operations of the Store, and can either be a regional, district or area manager, managing member, member or a premises manager.

AGREEMENT

1. **AGREEMENT APPOINTS AGENT AS A RETAIL SALES AGENT.** Pursuant to its authority under ORS 471.750, the Commission hereby appoints _____ as a Retail Sales Agent for the purpose of selling distilled spirits at the Retail Liquor Store location set forth below.
2. **DURATION OF AGREEMENT.** Unless terminated earlier in accordance with its terms, the duration of this Agreement is from Agent's start date on _____ to _____. This Agreement is effective on _____, which is on or after the date this Agreement has been signed by each party and all necessary State approvals have been obtained.
3. **TYPE OF RETAIL LIQUOR STORE.** Agent is appointed to operate a Retail Liquor Store for the Commission, to be known as Store No. _____. This Store will be classified as: _____ Exclusive Retail Liquor Store or _____ Non-Exclusive Retail Liquor Store or _____ Non-Exclusive Satellite Retail Liquor Store. If this appointment is to operate a non-exclusive Retail Liquor Store, the nature of the adjunct business is _____. A non-exclusive Agent shall not change the nature of the adjunct business without prior written approval of the Commission.
4. **LOCATION OF STORE.** The location of the Store shall be _____ in the City of _____, County of _____, State of Oregon, consisting of about _____ square feet in area; or at such different location as may be subsequently approved by the Commission.
5. **STORE OPERATIONS.** Agent or Agent's Representative, or both, shall manage in accord with good business practices and operate the Store and perform all services required by the Commission in a professional and competent manner and in accord with this Agreement including the Retail Operations Manual and applicable laws, rules and regulations.
6. **BEST EFFORTS.** Agent shall devote the Agent's best efforts and skills to the operation and success of the Agent's Store, including the proper training and management of Agent's employees, compliance with all applicable laws and regulations, and the taking of all reasonable measures to ensure the success and viability of the Store. Agent shall not engage in any other activities which would substantially interfere or materially conflict with Agent's obligations hereunder. Agent may make and manage any other personal business investments/operations of Agent's choice, provided such activities and services do not substantially interfere or materially conflict with the performance of obligations hereunder, or create a conflict of interest with such obligations.

7. **CONDITION AND APPEARANCE OF STORE.** Agent shall, at Agent's expense, maintain the condition and appearance of the Store and premises in accordance with the written standards of the Commission, consistent with the image of the Store as a clean, sanitary, attractive, safe and efficiently operated Store offering sufficient liquor inventory and providing courteous and helpful service.
8. **RETAIL OPERATIONS MANUAL.** The Commission has created the Retail Operations Manual, which is incorporated by reference and made part of this Agreement. THE COMMISSION MAY REVISE OR AMEND THE MANUAL AT ANY TIME. AGENT UNDERSTANDS AND AGREES THAT THE COMMISSION MAY REVISE OR AMEND THE RETAIL OPERATIONS MANUAL AND THAT SUCH MODIFICATIONS AND AMENDMENTS REQUIRE CHANGES FROM TIME TO TIME IN THE OPERATION OF THE SUBJECT RETAIL LIQUOR STORE. Agent agrees to operate Agent's Retail Liquor Store in strict full and complete conformance with any future modifications in or amendments to the Retail Operations Manual provided that such changes are reasonable or designated to promote business or the interests of the Commission. Agent shall keep informed of and in a timely manner instruct the Agent's employees on all applicable laws, policies and procedures including the provisions of the Retail Operations Manual. The Commission shall notify Agent in writing of all revisions or amendments to the Manual or any interpretation of the Commission based thereon. Notice may be provided by regular mail, personal delivery or email. Such notice shall be effective and enforceable under this Agreement fourteen (14) calendar days from the date it is sent unless a specified time is otherwise stated in the notice. Within 30 calendar days of the date the notice is sent, Agent may elect to terminate this Agreement pursuant to section 30(a). The minimum 120 calendar days notice period required by section 30(a) begins on the day Agent notifies the Commission that Agent elects to terminate this Agreement. Rescission of Agent's election to terminate this Agreement is not valid unless the Commission agrees to Agent's rescission. During the minimum 120 calendar days notice period required by section 30(a), the changes to the Manual will not apply to Agent. If the Commission does not receive a notice of termination from Agent within 30 calendar days, then this Agreement continues.
9. **COMPLIANCE WITH STATUTES AND RULES.** Agent shall comply with and be subject to all statutes of the United States, statutes and applicable rules of the State of Oregon and all applicable rules and policies and procedures of the Commission including, but not limited to the current edition of the Retail Operations Manual and any future revisions thereof, which Manual is by this reference incorporated herein. Agent understands and agrees that select statutes and rules that use the terms "licensee" or "permittee," or both, that are identified in the Retail Operations Manual also apply to Agent. The rules in OAR Chapter 845, Division 15, trump any conflicting rules that apply to licensees or permittees. The Commission's performance under this Agreement is conditioned upon Agent's compliance with the clauses required in every public contract as set forth in ORS 279B.220, 279B.225, 279B.230, 279B.235 and 279B.270 which are hereby incorporated by reference. Agent, Agent's subcontractors, if any, and all employers providing work, labor or materials under this Agreement that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required workers' compensation coverage, unless such employers are exempt under ORS 656.126. Agent shall ensure that each of Agent's subcontractors, if any, comply with these requirements.
10. **SCOPE OF AGENCY.** Agent shall have no authority to act for or represent the Commission except in the retail sale of the Commission's liquor.
11. **INDEPENDENT CONTRACTOR; RESPONSIBILITY FOR TAXES AND WITHHOLDINGS.** The services to be rendered by Agent under this Agreement are those of an independent contractor. Agent is not an officer or employee of the State. Agent shall act at all times as an independent contractor and not as an officer or employee of the Commission. Although the Commission reserves the right to evaluate the quality of the performance, the Commission cannot and will not control the means or manner by which Agent performs the services, except to the extent the means and manner in which the services are to be provided is specifically set forth in this Agreement, which includes the Retail Operations Manual. Agent is responsible for determining the appropriate means and manner of performing the services. When required to comply with federal law or mandates, or for public health or safety reasons, the Commission may provide directives to Agent. Agent shall comply with the federal compliance, health, or safety directives of the Commission. If Agent does not comply, Agent assumes the risk and consequences from noncompliance with said directives. Agent shall be responsible for all federal or state taxes applicable to compensation or payments paid to Agent under this Agreement, and, the Commission will not withhold federal or state taxes from such compensation or payments unless Agent is subject to back-up withholding or unless otherwise required by law. Agent is not a contributing member of the Public Employees' Retirement System and is responsible for any federal or state taxes applicable to payment under this Agreement. Agent will not be eligible for any federal social security, unemployment insurance, workers' compensation or Public Employees' Retirement System benefits from these Agreement payments, except as a self-employed individual. Agent understands and agrees that it is not an "officer", "employee", or "agent," as those terms are used in ORS 30.265, of the Commission, or any other agency, office, or department of the State of Oregon.
12. **NO PARTNERSHIP.** Nothing in this Agreement shall be construed to make Agent and the Commission partners or joint venture participants.
13. **AGENT'S STATUS.** From funds available in that portion of the Insurance Fund dedicated for state insurance programs, the state of Oregon, acting by and through its Department of Administrative Services (DAS), shall defend and indemnify Agent up to the limits for tort claims against the state of Oregon, as specified in ORS 30.271 and 30.273 (including the costs of defense), for all claims for torts committed or alleged to have been committed by Agent (or Agent's employees) when performing under this Agreement. Notwithstanding the foregoing, the state of Oregon shall have no obligation to indemnify Agent to the extent the claims arise from the gross negligence or willful misconduct of Agent (or Agent's employees) under this Agreement, acts outside the scope of work of this Agreement, or punitive damages. Subject to the monetary limits stated above, Agent is entitled to the same defense and indemnification rights afforded to qualifying agents of the Commission under ORS 30.260 to 30.300. However, none of the terms of this Agreement are intended to, and none do, make Agent an agent or employee of the Commission, DAS, or the state of Oregon generally. As a condition to the application of this section, Agent shall: (1) promptly report any such claim or occurrence that could give rise to a claim in writing to Risk Management Division, 1225 Ferry St. S.E., U150, Salem, OR 97301-7337 (or any subsequent address of such division); and (2) cooperate fully in the investigation and defense of any claim.

14. **INDEMNITY.**

- (a) **GENERAL INDEMNITY.** RETAIL SALES AGENT SHALL DEFEND, SAVE, HOLD HARMLESS, AND INDEMNIFY THE STATE OF OREGON, THE COMMISSION, AND THEIR OFFICERS, EMPLOYEES, AND AGENTS FROM AND AGAINST ALL CLAIMS, DEMANDS, SUITS, ACTIONS, LOSSES, DAMAGES, LIABILITIES, PENALTIES, COSTS, AND EXPENSES OF ANY NATURE WHATSOEVER, INCLUDING ATTORNEY FEES AND EXPENSES (TOGETHER "CLAIMS"), RESULTING FROM, ARISING OUT OF, OR RELATING TO THE ACTIVITIES OF RETAIL SALES AGENT OR ITS OFFICERS, MEMBERS, EMPLOYEES, SUBCONTRACTORS, OR AGENTS UNDER THIS AGREEMENT. HOWEVER, THIS INDEMNITY OBLIGATION IS NOT EFFECTIVE WITH RESPECT TO SUCH CLAIMS TO THE EXTENT THEY REGARD TORTS WHICH ARISE OUT OF OR RELATE TO SERVICES PERFORMED BY RETAIL SALES AGENT UNDER THIS AGREEMENT AND ARE OTHERWISE COVERED BY SECTION 13 OF THIS AGREEMENT.
- (b) **INDEMNITY FOR INFRINGEMENT CLAIMS.** WITHOUT LIMITING THE GENERALITY OF SECTION 14(A), RETAIL SALES AGENT EXPRESSLY AGREES TO DEFEND, INDEMNIFY, SAVE, AND HOLD THE COMMISSION, THE STATE OF OREGON AND THEIR AGENCIES, SUBDIVISIONS, OFFICERS, DIRECTORS, AGENTS, AND EMPLOYEES HARMLESS FROM ANY AND ALL CLAIMS, DEMANDS, SUITS, ACTIONS, LOSSES, LIABILITIES, DAMAGES, PENALTIES, COSTS, AND EXPENSES OF ANY NATURE WHATSOEVER INCLUDING ATTORNEY FEES AND EXPENSES, ARISING OUT OF OR RELATED TO ANY CLAIMS THAT THE WORK, THE WORK PRODUCT OR ANY OTHER TANGIBLE OR INTANGIBLE ITEMS DELIVERED TO THE COMMISSION BY RETAIL SALES AGENT THAT MAY BE THE SUBJECT OF PROTECTION UNDER ANY STATE OR FEDERAL INTELLECTUAL PROPERTY LAW OR DOCTRINE, OR THE COMMISSION'S USE THEREOF, INFRINGES ANY PATENT, COPYRIGHT, TRADE SECRET, TRADEMARK, TRADE DRESS, MASK WORK, UTILITY DESIGN, OR OTHER PROPRIETARY RIGHT OF ANY THIRD PARTY; PROVIDED, THAT STATE SHALL PROVIDE RETAIL SALES AGENT WITH PROMPT WRITTEN NOTICE OF ANY INFRINGEMENT CLAIM.
- (c) **CONTROL OF DEFENSE AND SETTLEMENT.** RETAIL SALES AGENT SHALL HAVE CONTROL OF THE DEFENSE AND SETTLEMENT OF ANY CLAIM THAT IS SUBJECT TO SECTIONS 14(A) OR (B); HOWEVER, NEITHER RETAIL SALES AGENT NOR ANY ATTORNEY ENGAGED BY RETAIL SALES AGENT SHALL DEFEND THE CLAIM IN THE NAME OF THE COMMISSION, THE STATE OF OREGON OR ANY AGENCY OF THE STATE OF OREGON, NOR PURPORT TO ACT AS LEGAL REPRESENTATIVE OF THE STATE OF OREGON OR ANY OF ITS AGENCIES, WITHOUT FIRST RECEIVING FROM THE OREGON ATTORNEY GENERAL, IN A FORM AND MANNER DETERMINED APPROPRIATE BY THE ATTORNEY GENERAL, AUTHORITY TO ACT AS LEGAL COUNSEL FOR THE STATE OF OREGON, NOR SHALL RETAIL SALES AGENT SETTLE ANY CLAIM ON BEHALF OF THE STATE OF OREGON WITHOUT THE APPROVAL OF THE ATTORNEY GENERAL. THE STATE OF OREGON MAY, AT ITS ELECTION AND EXPENSE, ASSUME ITS OWN DEFENSE AND SETTLEMENT IN THE EVENT THAT THE STATE OF OREGON DETERMINES THAT RETAIL SALES AGENT IS PROHIBITED FROM DEFENDING THE STATE OF OREGON, OR IS NOT ADEQUATELY DEFENDING THE STATE OF OREGON'S INTERESTS, OR THAT AN IMPORTANT GOVERNMENTAL PRINCIPLE IS AT ISSUE, AND THE STATE OF OREGON DESIRES TO ASSUME ITS OWN DEFENSE.

15. **INSURANCE.** At all times during the term of this Agreement including any extensions and for any period of Agent liability continuing after the expiration or termination of this Agreement, Agent shall maintain at Agent's own expense all of the insurance set forth below:

- (a) **Commercial General Liability.** Agent shall maintain insurance covering bodily injury and property damage in a form and with coverage limits that are satisfactory to the State. This insurance shall include liquor liability, personal injury liability, products and completed operations, and contractual liability coverage for the indemnity provided under this Agreement. Agent shall procure this coverage on an occurrence basis. Combined single limit per occurrence may not be less than \$1,000,000 (one million dollars) for each job site or location. Each annual aggregate limit shall not be less than \$2,000,000 (two million dollars).
- (b) **Workers' Compensation.** All employers, including Agent, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Agent shall ensure that each of its subcontractors complies with these requirements.
- (c) **Automobile Liability.** Insurance covering all owned, non-owned, or hired vehicles used in connection with operation of Agent's Store. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits of coverage). Combined single limit per occurrence shall be not less than \$1,000,000 (one million dollars).

16. ADDITIONAL INSURANCE REQUIREMENTS.

- (a) **Certificate(s) of Insurance.** As evidence of the insurance coverage required by this Agreement, the Agent shall furnish acceptable Certificate(s) of Insurance to the Commission prior to Agent's commencement of work under this Agreement. The Certificate(s) must specify all of the parties endorsed on the policy as Additional Insureds (or Loss Payees). All insurance required under this Agreement shall be obtained from insurance companies authorized to do business in the State of Oregon. The Agent shall pay for all deductibles, self-insured retention, and self-insurance included hereunder. Throughout the life of this Agreement, Agent shall submit updated Certificates of Insurance prior to the policy expiration date(s) indicated for the required coverages.
- (b) **Notice of Cancellation or Change.** Agent shall not cancel, materially change, or potentially exhaust the aggregate limits of insurance coverage(s) without thirty (30) calendar days' written notice from the Agent or its insurer(s) to the Commission. Any failure to comply with the reporting provisions of this section shall constitute a material breach of this Agreement and shall be grounds for immediate termination of the Agreement by the Commission.
- (c) **Additional Insureds.** With the exception of workers' compensation coverage, the insurance coverages required for performance of this Agreement shall include the State of Oregon, the Commission, and their subdivisions, officers, and employees, as Additional Insureds, but only with respect to the Agent's activities to be performed under this Agreement. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

17. EQUIPMENT. Agent shall, at Agent's expense, furnish and install suitable shelving, display counters, point of sale systems, and other equipment necessary to operate the Store. As set forth in the Retail Operations Manual, the Commission requires certain standards for Store equipment. Agent agrees to meet or surpass those standards. No significant alteration of equipment at the Store location shall be made without prior approval of the Commission. The Commission will approve alterations, which maintain or enhance efficiency or public convenience in operation of the Store. Should termination occur under section 30(a), or Agent not be reappointed under section 44, the unencumbered Retail Liquor Store equipment that the Agent chooses to sell will be purchased as follows.

- (a) Should an Agent appointed prior to 5/1/88 terminate this Agreement under section 30(a), (b), or (c), or not be reappointed under section 44 and a successor Agent is appointed, the Commission will require the successor Agent to purchase from Agent for the value set as the arithmetic mean between replacement cost new and fair market value, any of Agent's shelving, display counters, point of sale systems, and other equipment for the retail sale of liquor which are in use and reasonably required for the continued operation of the Store.
- (b) Should an Agent who was appointed after 5/1/88 terminate this Agreement under section 30(a), (b), or (c), or not be reappointed under section 4 and a successor Agent is appointed, the Commission will require the successor Agent to purchase from Agent for its fair market value, any of Agent's shelving, display counters, point of sale systems, and other equipment for the retail sale of liquor which are in use and reasonably required for the continued operation of the Store.
- (c) Should termination occur during the New Appointment Period pursuant to section 37, the Commission will require the successor Agent to purchase from Agent shelving, display counters, point of sale systems, and other equipment for the retail sale of liquor in use by Agent at the time notice of termination is given at the full purchase price initially specified by the Commission which was paid by Agent for such equipment. However, that Agent will receive only the fair market value of such equipment which has suffered more than reasonable wear and tear in Agent's possession. Agent will be paid the fair market value of any additional shelving, display counters, point of sale systems, and other equipment in use and reasonably required for the continued operation of the Retail Liquor Store which were purchased by the Agent during the New Appointment Period. If a successor Agent is not appointed or an appointed Agent does not sign an Agreement with the Commission, the Commission may purchase, subject to the limitations of Article XI, § 7 of the Oregon Constitution, the above mentioned equipment.

"Fair market value" and "replacement cost new" under subsections (a) or (b) or (c) shall be defined and determined by a licensed and certified independent appraiser who has professional standing with a nationally recognized association of appraisers and who is familiar with the values of such property. "Fair market value" and "replacement cost new" are values of equipment as established by the appraiser as of the time of appraisal. The Commission will select the appraiser. The appraiser's decision will be binding on Agent and the successor Agent, but the appraiser's decision will not be binding on the Commission if the Commission purchases equipment from Agent. Under subsections (a) or (b) or (c) Agent shall be responsible to pay one-half the cost of the appraisal and the successor Agent shall be responsible for the second-half of the cost of the appraisal. As set forth in the Retail Operations manual, if within 120 calendar days a successor Agent is not appointed or an appointed Agent does not sign an Agreement with the Commission, then Agent is responsible for the entire cost of the appraisal. If the Commission chooses to purchase equipment under subsection (c), then Agent shall be responsible to pay one-half the cost of the appraisal and the Commission shall be responsible for the second-half of the cost of the appraisal.

18. PREMISES. Agent shall, at Agent's expense, provide the premises which contains sufficient selling area and storage space for Store operations. In any new or renegotiated lease of a Store premises by an exclusive Agent, Agent shall use Agent's best efforts to obtain an agreement with the lessor that the lease may be assigned on termination of this Agreement or suspension of Agent upon the same terms and conditions to any successor Agent designated by the Commission or to the Commission. Commission must approve language regarding assignability. The Agent must furnish a copy of any lease and

any amendments to the Commission. In addition to all other remedies in this Agreement, upon termination or suspension, the Agent, upon request of the Commission, shall assign to the Commission or successor Agent, the Agent's interest in the lease. Upon request of the Commission the Agent shall execute all reasonably necessary documents including assignment documents and financing statements to protect and perfect the Commission's interest in the Agent's lease.

19. **UTILITIES.** Agent shall supply, at Agent's expense, necessary heat, light, phone, and other utilities and services for Store operations.
20. **OTHER EXPENSES.** In addition to the cost of the premises and utilities, Agent is responsible for all other expenses of Store operations.
21. **STORE PERSONNEL.** Agent shall, at Agent's expense, employ a sufficient number of personnel to operate the Store efficiently and without unreasonable inconvenience to the public and in compliance with this Agreement. Agent is responsible for supervising the conduct of Agent's personnel. Unless the Commission suspends or terminates Agent under sections 30 or 34, the Commission does not have the legal right to direct Agent's personnel in the operation of the Store. Agent is responsible for the acts or omissions of such personnel within the course and scope of Agent's duties in violation of this Agreement whether willful or negligent. Agent shall train all personnel prior to their assumption of duties and shall specifically train all personnel with regard to liquor statutes of the State of Oregon and Commission rules, policies and procedures and the federal compliance, health, or safety directives of the Commission as are applicable to their respective duties.
22. **SALE OF LIQUOR.** Agent acknowledges that title to the liquor in Agent's custody remains in the Commission until sold by the Agent to the purchaser. Agent further acknowledges that the proceeds from the sale of liquor belong to the State of Oregon. Agent agrees to execute documentation reasonably requested by the Commission to evidence its ownership interest in the liquor and proceeds there from. Agent shall not sell any liquor or other merchandise furnished by the Commission except upon the terms and conditions and for the amounts prescribed by the Commission, and shall not store for a purchaser any such merchandise other than at the Store location, and shall sell liquor only at the times permitted or required by the Commission.
23. **OTHER RESPONSIBILITIES OF AGENT.** Agent shall maintain inventory and records, and shall transmit within the required time all inventory reports and records as required by the Commission. Agent shall be responsible for and account to the Commission for all liquor furnished Agent by the Commission and for all proceeds received from the sale of the Commission's liquor. Agent shall deposit to the Commission's bank account or transmit to the Commission all proceeds received from the sale of the Commission's liquor within the time required by the Commission. Agent shall prepare and transmit to the Commission within the time required all sales reports and any other report or record required by the Commission.
24. **RESPONSIBILITY FOR SHORTAGES.** If the Commission determines, through audit or otherwise, that a shortage in inventory or proceeds from liquor sales occurred in operation of the Store, the Commission shall give notice of such shortage to the Agent by personal delivery, registered mail, certified mail, or any other delivery method permitted for notices under Oregon's Administrative Procedures Act (ORS Chapter 183). The notice of shortage shall show the Commission's calculation of the shortage.
 - (a) **Repayment by Agent.** Agent shall pay the amount of the shortage to the Commission within 30 calendar days after the effective date of the notice of shortage.
 - (b) **Good Cause.** If the Agent contends that the shortage resulted from a cause that could not have been prevented or avoided in the exercise of reasonable care, the burden is upon Agent to prove such a cause.
 - (c) **Right to a Hearing.** If the Agent disputes the responsibility for a shortage or disputes the amount of the shortage, the Agent may request a contested case hearing before the Commission under Oregon statutes and rules. Such a request shall be made within 14 calendar days after the effective date of the notice of shortage.
 - (d) **Payment Pending Hearing.** Payment shall be made to the Commission within the 30-day period described above regardless of the request for a hearing. Payment shall be refunded to the Agent in whole or in part if the Commission determines after hearing that good cause exists and that Agent is not responsible for all or part of the shortage as provided in section 24(b). If the Commissioners, acting on the hearing record, find that the Agent is not responsible for all or part of the shortage amount, the Commission will refund to the Agent the overpaid portion together with the legal interest rate commencing at the date that the money was deposited in the Commission's bank account.
 - (e) **Nonpayment.** Should payment of a shortage not be made by Agent within 30 days as provided herein, the Commission shall deduct such amount from the payment of compensation owed to the Agent and apply the deduction towards payment of the shortage.
25. **AUDIT.** Agent shall maintain all fiscal records relating to this Agreement in accordance with generally accepted accounting principles. In addition, Agent shall maintain any other records pertinent to this Agreement in such a manner as to clearly document Agent's performance. The Commission, the Oregon Secretary of State and their duly authorized representatives shall have access to inventory and the right to inspect and remove all liquor sales book, documents, papers and records which are pertinent to the Store operations and in the case of a non-exclusive Retail Liquor Store the right to inspect, the books, documents, papers and records which are also pertinent to the adjunct business, for the purpose of making audits, examinations and reproductions. The Commission will safeguard and promptly return the books, documents, papers and records to the Store. The Commission will use reasonable care to avoid interference with the Agent's service to the public and business operation while carrying out such audit or inspection. Agent shall cooperate in such audit or examination. Agent shall retain and keep accessible all such fiscal records, books, documents, papers, plans, and writings for a minimum of three (3) years, or such longer period as may be required by applicable law, following final payment and termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later.

26. **OPERATING COSTS.** Agent shall prepare and transmit to the Commission within the time frame required by the Commission reports and documents which accurately reflect the true costs of operating the Retail Liquor Store.
27. **COMPENSATION.** As compensation for all services under this Agreement, the Commission will pay Agent the monthly sum provided in the agents compensation rate formula established by the Commissioners. AGENT UNDERSTANDS THAT THIS FORMULA MAY CHANGE PERIODICALLY DURING THE AGREEMENT PERIOD IN ACCORDANCE WITH BUDGETARY PROVISIONS ENACTED BY THE LEGISLATURE AND ANY OTHER REQUIREMENTS OF LAW. OLCC must send notice of a compensation rate formula change to Agent prior to the change. Within 30 calendar days of the date the notice is sent, Agent may elect to terminate this Agreement pursuant to section 30(a). The minimum 120 calendar days notice period required by section 30(a) begins on the day Agent notifies the Commission that Agent elects to terminate this Agreement. Rescission of Agent's election to terminate this Agreement is not valid unless the Commission agrees to Agent's rescission. During the minimum 120 days notice period required by section 30(a), unless a shorter amount of time is agreed to in writing by the Commission and Agent, Agent's compensation rate will be based on the formula in effect prior to the change in the compensation rate formula. If the Commission does not receive a notice of termination from Agent within 30 calendar days, then this Agreement continues.
28. **CHANGE OF STORE TYPE OR LOCATION.**
- (a) **Change by Agent.** The Agent shall not change the Store location, nor alter or reduce its sales area or storage space without prior written approval of the Commission. The approval will constitute a modification to section 4 of this Agreement.
 - (b) **Change by the Commission.** The Commission, after notice and an opportunity to be heard, may change a non-exclusive Retail Liquor Store to an exclusive Retail Liquor Store, and vice versa, in accordance with standards set forth in its rules and the Retail Operations Manual. The Commission, after notice and an opportunity to be heard, may also require a Store to be relocated in order to serve the public's convenience. In any such change of type or location, Agent will have the right to continue as such after the change unless good cause exists for termination of this Agreement as hereinafter provided. The opportunity to be heard under this section is not a contested case hearing.

The Commission will reimburse Agent for reasonable out-of-pocket expenses incurred in moving the Retail Liquor Store from one location to another at the written order of the Commission. Upon assignment of the Agent's lease obligation to the Commission, the Commission will assume the remaining lease liability at the former Store location. The Commission shall attempt to coordinate the effective date of a change of location with the expiration of the Agent's lease at the original location.

29. **CHANGE OF LEGAL ENTITY.** If Agent is a legal entity, Agent may not assign this Agreement, in whole or in part, when there is a change in legal entity without the prior written consent of the Commission. Any attempt to make such an assignment shall be void. Agent must notify the Commission and submit required documentation to the Commission for any change of entity as used in ORS 63.470 to 63.497 and 60.470 to 60.501 and as filed with the Secretary of State. Agent must notify the Commission and submit required documentation to the Commission within five calendar days of a change in premises manager, regional, district, or area manager, managing members, or member share changes of 10% or greater, or corporate officers.
30. **TERMINATION.**
- (a) **By Agent.** Agent may voluntarily terminate this Agreement with not less than 120 calendar days notice in writing to the Commission specifying a proposed date of termination.
 - (b) **By Mutual Consent.** This Agreement may be terminated by the mutual consent of the parties in writing.
 - (c) **By Death.** This Agreement is terminated automatically by death of Agent. The Commission may appoint a temporary Agent to operate the Retail Liquor Store until the Commission appoints a new Retail Sales Agent. A surviving spouse or child may apply for appointment as Agent pursuant to ORS 471.752 (2).
 - (d) **By The Commission "for cause".** The Commission may terminate this Agreement for good cause including defaults of Agent set forth in section 30(iii)-(xi). Good cause includes, but is not limited to the following.
 - (i) The Commission may, in its reasonable discretion, terminate this Agreement immediately in the event the legislature does not continue funding at levels sufficient to allow the Commission to continue to fulfill its obligations under this Agreement.
 - (ii) The Commission may, in its reasonable discretion, terminate this Agreement immediately in the event that a statute, ordinance or regulation is enacted, changed or interpreted in such a way that the services called for under this Agreement are prohibited or no longer allowable or appropriate for purchase or are no longer eligible for the funding contemplated for payments authorized by this Agreement.
 - (iii) The Commission may terminate this Agreement in the event of voluntary, administrative or judicial dissolution of the Agent, Agent becomes insolvent, unable or unwilling to pay Retail Liquor Store debts, is adjudged bankrupt, applies for or consents to the appointment of a receiver or trustee or makes a general assignment for the benefit of creditors.

- (iv) The Commission may terminate this Agreement in the event that Agent or Agent's Representative, or both, commits a substantial and deliberate violation of any term of this Agreement, any applicable statute or rule, or any policy or procedure of the Commission.
- (v) The Commission may terminate this Agreement in the event that Agent or Agent's Representative, or both, commits a violation of any term of this Agreement, or any applicable Oregon statute, or applicable rule, or any policy or procedure, after having been issued two written Notices of Violation to the Agent from the Commission within a 36-month period.
- (vi) The Commission may terminate this Agreement in the event that Agent or Agent's Representative, or both, fails to adhere to the standards set forth by any policy or procedure of the Commission in the areas of customer services, or Store appearance, or inventory management, or cash handling, or record keeping, or professional courtesy, after having been issued two written Notices of Violation to the Agent from the Commission within a 36-month period.
- (vii) The Commission may terminate this Agreement in the event that Agent or Agent's Representative, or both, misappropriates or participates in misappropriation of money or other property of the Commission, or intentionally or negligently violates any policy or procedure of the Commission with regard to liquor sale proceeds or inventory which causes or is likely to cause a financial loss to the Commission, including, but not limited to, losses covered in whole or in part by insurance or bond.
- (viii) The Commission may terminate this Agreement in the event that Agent, Agent's Representative, or Agent's company principle, or any combination thereof, commits any felony, or commits a misdemeanor which is related to the Agent's fitness to operate a Retail Liquor Store including, but not limited to a violation of ORS 471.410.
- (ix) The Commission may terminate this Agreement in the event that Agent becomes physically or mentally impaired to the extent that Agent can no longer operate the Store in a manner consistent with the terms of this Agreement, which includes the provisions of the Retail Operations Manual.
- (x) The Commission may terminate this Agreement if it determines that Agent, Agent's company principles or Agent's Representative, or any combination thereof, is in the habit of using alcoholic beverages, habit-forming drugs or controlled substances to excess.
- (xi) The Commission may terminate this Agreement if Agent provided false information to the Commission in Agent's application or Agent's Proposal.

31. REMEDIES.

- (a) Agent's Remedies. In the event of termination of this Agreement pursuant to sections 30(d)(i) and (ii), Agent's sole remedy shall be (1) a claim for compensation due to Agent through the date of termination and, (2) if the statute applies, business loss compensation due to Agent under the version of Oregon Laws 2015, chapter 228, section 2, as that statute may be periodically amended, that is in effect at the time termination of this Agreement occurs because of the Oregon Laws 2015, chapter 228, section 2, system change. The State of Oregon's payment obligations under Oregon Laws 2015, chapter 228, section 2, are payable only from moneys in the suspense account described in ORS 471.805 and are conditioned upon the existence of sufficient tax revenue in the suspense account and the Commission receiving sufficient expenditure limitation and allotments to pay its outstanding obligations under ORS 471.810. Agent is not entitled to receive business loss compensation from any part of Oregon state government other than the suspense account described in ORS 471.805. Nothing in this Agreement is to be construed as permitting any violation of Article XI, section 7 of the Oregon Constitution or any other law regulating liabilities or monetary obligations of the State of Oregon. In the event that it is determined for any reason that Agent was not in default under section 30(d)(iii)-(xi) the rights and obligations of the parties shall be the same as if the Agreement was terminated pursuant to section 30(d)(i), although Agent shall retain, in such event, the option of seeking reinstatement.
- (b) Commission's Remedies. In the event of termination of this Agreement pursuant to sections 30(d)(iii) - (xi), the Commission shall have any remedy available to it in law or equity including, but not limited to, temporary restraining orders and preliminary injunctions, the appointment of a receiver, provisional process, attachment, claim and delivery and set-off. The Commission shall be entitled to the appointment of a receiver as a matter of right. Employment by the Commission shall not disqualify a person from serving as receiver. Agent consents to the appointment of a receiver at the Commission's option and waives any and all defenses to such an appointment. In the event of a material breach of this Agreement which results in termination or suspension, the Commission shall at its option have an immediate right to enter and take possession of the premises in order to maintain continuous operation of the Retail Liquor Store and to provide for orderly change of operations.
- (c) Effect of Termination. In the event of a termination of this Agreement, emergency suspension or a suspension

in lieu of termination of Agent for any reason, the Commission is entitled to receive all of its property that is in the possession and under the control of the Agent. The Commission is entitled to seek all remedies.

32. **LIMITATION OF LIABILITIES.** Except for liability arising under or related to section 14(a), neither party to this Agreement shall be liable to the other party for (i) any direct, indirect, incidental, special or consequential damages including, but not limited to, lost profits, under the Agreement or (ii) any damages of any sort arising solely from the termination of this Agreement in accordance with its terms.
33. **NOTICE OF VIOLATION.** If the Commission determines that Agent or Agent's Representative, or both, has committed one or more of the violations described in section 30(d), the Commission may issue a Notice of Violation by certified mail, return receipt requested or personal delivery. The decision not to send a Notice of Violation does not constitute a waiver by the Commission. Any waiver by the Commission of any default or breach does not excuse any subsequent default or breach, and shall not be considered a change to the terms of this Agreement. If the Agent disputes the Notice of Violation, the Agent may request a contested case hearing before the Commission under Oregon statutes and rules. Such a request shall be made within 14 calendar days of the effective date of the Notice of Violation.
34. **SUSPENSION IN LIEU OF TERMINATION.** Upon a finding of good cause pursuant to section 30(d), which would otherwise justify termination, the Commission may elect, in its sole discretion, to suspend the Agent's appointment in lieu of termination. In the event of suspension under this section, the Commission may appoint a temporary Agent to operate the Store or may order the Store temporarily closed. If the Commission appoints a temporary Agent, the suspended Agent shall permit Store operations to continue at the same location and shall permit the temporary Agent to have access to all inventory, books and records of the Retail Liquor Store. The Commission may assume the expenses of the Retail Liquor Store during the period of suspension.
35. **PROCEDURE FOR TERMINATION OR SUSPENSION IN LIEU OF TERMINATION BY COMMISSION.** In the event that the Commission desires to terminate the Agreement for good cause under section 30(d) or suspend the Agent under section 34, the Commission shall notify the Agent in writing by certified mail return receipt requested or by personal delivery, specifying the grounds and effective date of the proposed action. If Agent wishes to dispute the action, the Agent may request in writing a contested case hearing before the Commission under Oregon statutes and rules. Such a request shall be made within 14 calendar days of the effective date of the notice of termination or suspension in lieu of termination. During the term of such suspension, Agent shall cease all retail operations at the Store, unless otherwise directed by the Commission. Nothing in this Agreement shall preclude the parties from pursuing settlement of any alleged violation of the Agreement.
36. **EMERGENCY SUSPENSION; APPOINTMENT OF TEMPORARY AGENT.** In the event of a termination proposed under section 30(d)(iii)-(iv) and (vii)-(xi), the Administrator may suspend the Agent's appointment under this Agreement pending final determination of the proposed termination under section 35. During such suspension period, the Commission may appoint a temporary Agent to operate the Store as provided in the Retail Operations Manual and shall notify the Agent of the effective date of the appointment of a temporary Agent. Agent is required to leave in the Store all records, fixtures, and equipment necessary to operate the Store during the suspension period. The Commission in its discretion will decide what records, fixtures, and equipment is necessary to operate the Store. The Commission may assume the expenses of the Retail Liquor Store during the period of suspension. If the Agent disputes the Emergency Suspension, the Agent may request a contested case hearing before the Commission under Oregon statutes and rules. Such a request shall be made within 14 calendar days of the effective date of the notice of termination.
37. **NEW APPOINTMENT ASSISTANCE AND REVIEW.** A newly appointed Agent will be evaluated during the New Appointment Period by the Commission to ensure their ability to successfully operate the Store as set forth below. The Commission will evaluate the Agent's performance under the terms of this Agreement including section 37(b). Notwithstanding any other provision of this Agreement, the Agreement may be terminated by the Commission during the New Appointment Period upon written notice provided to Agent by certified mail, return receipt requested or personal delivery. This section shall not apply in the case of a reappointment of Agent.
- (a) At any time during the New Appointment Period, the Commission may terminate this Agreement if, in the opinion of the Commission, the Agent's performance during the New Appointment Period indicates that Agent or Agent's Representative, or both, is unable or unwilling to perform duties satisfactorily or that the habits and dependability of the Agent or Agent's Representative, or both, do not merit continuance.
 - (b) The Commission's evaluation of whether to continue this Agreement beyond the New Appointment period will consider how well the Agent complied with: the terms of this Agreement, which includes the Retail Operations Manual; the applicable laws of the State of Oregon; the federal compliance, health, or safety directives of the Commission; and the applicable policies and procedures of the Commission.

Approximately three months after the appointment the Commission will perform an operational review of Agent's compliance with the conditions set forth in section 37(b). The Commission will advise the Agent or Agent's Representative in writing of the operational areas needing improvement. The Commission will provide the Agent or Agent's Representative with a status report three months thereafter specifying any areas that continue to require improvement.

The Commission will inform the Agent at least 90 calendar days prior to the end of the New Appointment Period of its intention whether or not to continue the Agreement beyond the New Appointment Period. If an exclusive Agent who is terminated under section 30(a), (b), (c), or (d) chooses to assign the Store lease and the lease contains an agreement with the lessor that the lease may be assigned upon the same terms and conditions and meets any requirements in the Retail Operations Manual, the Commission will require the new Agent to assume the lease to the extent the Agent's lease may be assigned and assumed by the new Agent.

38. **NONWAIVER.** The failure of the Commission to enforce any provision of this Agreement shall not constitute a waiver by the Commission of that or any other provision nor is it a waiver of any subsequent violation or nonperformance.

- 39. **RETURN OF PROPERTY.** Upon termination of this Agreement, the Commission will be permitted to secure or obtain all property owned by the Commission including inventory, sales proceeds, books and records. Any compensation owing to Agent will be paid only after the Commission has determined that there is no shortage in inventory or sales proceeds, or if a shortage exists, only after payment of the shortage has been made or the amount deducted under section 24.
- 40. **NON-ASSIGNMENT.** Except when OLCC agrees to continue this Agreement after a change in legal entity under section 29, this Agreement is not assignable.
- 41. **NONDISCRIMINATION.** Agent shall comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
- 42. **NOTICE.** Any notice or communication to the Commission required by this Agreement must be in writing and directed to one of the following addresses:

Physical Address	Mailing Address	Email Address
OLCC 9079 SE McLoughlin Blvd. Portland, OR 97222-7355	OLCC Retail Services P.O. Box 22297 Milwaukie, OR 97269-2297	OLCC.RetailServices@oregon.gov

The Commission shall send all communications and notices provided for in this Agreement to the Agent (or Agent's Representative) at one of the following addresses:

Email: _____

Any communications between the parties or notices to be given under this Agreement, are effective only if given in writing by certified mail, return receipt requested or personal delivery or as otherwise provided for in this Agreement to Agent, Agent's Representative, or the Commission at one of the addresses set forth in this section, or to such other address as either party provides effective written notice of pursuant to this section. Unless otherwise specified in this Agreement or in the notice or communication, and except for timelines pertaining to contested case notices which are governed by the law pertaining to contested case notices, any such communication or notice is effective the day of personal delivery or on the day it is sent. Each party must notify the other when an address is changed at least 14 calendar days prior to the change.

- 43. **SEVERABILITY.** If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Agreement. A provision that is held to be invalid or unenforceable shall be deemed to be restated to reflect as nearly as possible the original intentions of the parties in accordance with applicable law.
- 44. **REAPPOINTMENT.** The Commission will reappoint Agent to an additional term if the Commission determines that reappointment is appropriate based on policy expressed in the Retail Operations Manual. The Commissioners or any employee of the Commission acting within the course and scope of the duties delegated to that employee by the duly appointed Commissioners will reappoint if the Commission finds in its evaluation that the following conditions have been met: (1) The Agent has satisfactorily adhered to the terms of this Agreement, which includes the Retail Operations Manual; the applicable laws of the State of Oregon; the federal compliance, health, or safety directives of the Commission; the applicable policies and procedures of the Commission contained in the Retail Operations Manual and; (2) the Agent has satisfactorily met the Commission's performance standards as detailed in the Retail Operations Manual.
 - (a) At least 120 calendar days before the end of the term of this Agreement the Commission shall notify Agent whether in the Commission's determination, Agent has met the reappointment conditions and whether or not the Commission intends to reappoint. If the Commission gives notice of reappointment, the Agent shall sign a new Agreement approved by the Commissioners prior to the expiration of the term of this Agreement. The Commission may place conditions on the reappointment, including, but not limited to, Store location, type, and improvements and Agent's performance and practices. As used in this section, "type" refers to exclusive or non-exclusive or self-service or counter service.
 - (b) If the Commission gives notice of its intention not to reappoint or if an Agent does not sign a new Agreement the Commission shall select an Agent pursuant to the rules and procedures adopted by the Commission for Store vacancies. The Agent may apply for reappointment in the Agent selection process. If an exclusive Agent who is not reappointed chooses to assign the Store lease and the lease contains an agreement with the lessor that the lease may be assigned upon the same terms and conditions and meets any requirements in the Retail Operations Manual, the Commission will require the successor Agent to assume the lease.
- 45. **GOVERNING LAW; VENUE; CONSENT TO JURISDICTION.** The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Agreement, including, without limitation, its validity, interpretation, construction, performance, and enforcement. Any court claim, action, suit or proceeding (collectively, "Claim")

between the Commission (or any other agency or department of the State of Oregon, or any combination thereof) and Agent that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether it is sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. AGENT, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE PERSONAL JURISDICTION OF SAID COURTS.

- 46. **NO THIRD PARTY BENEFICIARIES.** The State of Oregon, by and through the Commission, and Agent are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.
- 47. **FUNDS AVAILABLE AND AUTHORIZED; PAYMENTS.** Agent shall not be compensated for work performed under this Agreement by any other agency or department of the State of Oregon. The Commission certifies that it has sufficient funds currently authorized for expenditure to finance the costs of this Agreement within the Commission's current biennial appropriation or limitation. Agent understands and agrees that the Commission's payment of amounts under this Agreement is contingent on the Commission receiving appropriations, limitations, allotments or other expenditure authority sufficient to allow the Commission, in the exercise of its reasonable administrative discretion, to continue to make payments under this Agreement.
- 48. **TERMINATION OF PRIOR AGREEMENT.** This Agreement supersedes and terminates any other Agent Agreement between the parties previously in force on the effective date stated in section 2.
- 49. **SURVIVAL.** All rights and obligations shall cease upon termination or expiration of this Agreement, except for the rights and obligations set forth in sections 14-18, 22-27, 30-38, 39, 43, 45, and 49.
- 50. **ENTIRE AGREEMENT.** This Agreement, including the Retail Operations Manual, which is incorporated into this Agreement constitutes the entire Agreement between the parties. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. Only the Commission and Agent may amend the provisions of this Agreement. Valid changes to the Store type or location under sections 4 and 28, Retail Operations Manual under section 9, legal entity under section 29, and addresses for sending notices or communications under section 42 are anticipated by the parties. No waiver, consent, modification or amendment of this Agreement, except valid changes as set forth in the proceeding sentence, is valid unless it is in writing and signed by both parties and all necessary State approvals have been obtained, and if required by law, approved by the Department of Justice. Such waiver, consent, modification or amendment, if made, shall be effective only in the specific instance and for the specific purpose given.
- 51. **CERTIFICATION OF COMPLIANCE WITH TAX LAWS.** By signature on this Agreement, the undersigned hereby certifies under penalty of perjury that the undersigned is authorized to act on behalf of Agent and that Agent is, to the best of the undersigned's knowledge, not in violation of any Oregon Tax Laws and shall remain in compliance therewith for the term of this Agreement. For purposes of this certification, "Oregon Tax Laws" means a state tax imposed by ORS 320.005 to 320.150 (Amusement Device Taxes), 403.200 to 403.250 (Tax For Emergency Communications), ORS Chapters 118 (Inheritance Tax), 314 (Income Tax), 316 (Personal Income Tax), 317 (Corporation Excise Tax), 318 (Corporation Income Tax), 321 (Timber and Forest Land Taxation) and 323 (Cigarettes and Tobacco Products), the elderly rental assistance program under ORS 310.630 to 310.706, and any local taxes administered by the Department of Revenue under ORS 305.620.
- 52. **CERTIFICATION AND WARRANTIES.** Agent represents and warrants that (a) Agent has the authority to enter into and perform in accordance with this Agreement and that this Agreement, when executed and delivered, is a valid and binding obligation of Agent that is enforceable in accordance with its terms, and (b) Agent is and shall be, at all times during the term of this Agreement, qualified and professionally competent to perform services and do business in the State of Oregon. If Agent is a legal entity, then the undersigned also certifies under penalty of perjury both individually and on behalf of Agent that the undersigned is a duly authorized representative of Agent, has been authorized by Agent to make all representations, attestations, and certifications contained in this Agreement and to execute this Agreement on behalf of Agent.
- 53. **ORDER OF PRECEDENCE.** Unless a different order is required by law, this Agreement shall be interpreted in the following order of precedence: 1) Any Addendum or Amendment to this Agreement in the order of the effective date of each addendum or amendment, 2) This Agreement.

AGENT

COMMISSION

Signed: _____

Signed: _____

Name: _____

Name: _____

Title: _____

Title: Executive Director,
Oregon Liquor Control Commission

Date: _____

Date: _____



RELATED ITEMS AUTHORIZED FOR SALE BY EXCLUSIVE LIQUOR STORES

The following rules are interpreted to allow exclusive stores to sell the following related items:

OAR 845-006-0445 Food Products Containing Alcohol

Product must contain not more than five percent alcohol by weight or ten percent alcohol by volume, whichever is greater. Product must be clearly labeled showing the alcohol content and state on the front of the package it may not be sold to persons under 21 years.

Candies Filled with Alcoholic Liquor

Fruits Preserved in Brandy

OAR 845-015-0143 (2.a) Ice and Mixers

Ice
Soda Pop
Mixers - bottled, canned, powdered
Juices - bottled, canned, frozen
Syrups
Bitters
Waters

Sauces
Batters
Egg Nog
Cream
Milk
Tea
Coffee

OAR 845-015-0143 (2.b) Foods such as olives, onions, and cherries which are used in drinks

Olives
Onions
Pickled Vegetables
Cherries
Limes
Lemons
Salt

Pepper
Spices
Cinnamon Sticks
Coconut Snow
Butter
Sugar
Eggs

OAR 845-015-0143 (2.c) Bartender's guides, shakers, strainers, mixing spoons, swizzle sticks and similar paraphernalia used in the preparation of drinks

Bartenders' Guide
Ice Buckets
Ice Crushers
Liquor Dispensers
Blenders
Ice Picks
Ice Tongs
Bottle Openers
Mixing Spoons
Muddlers

Swizzle Sticks
Cocktail Shakers
Strainers
Bottle Caps
Bottle Pourers
Corkscrews
Glass Rimmer
Seltzer Bottle (CO2)
Salt and Pepper Shakers

RELATED ITEMS (cont.)**OAR 845-015-0143 (2.d) Glassware, coasters, straws, napkins and other such items associated with the drinking of alcoholic liquors**

Glassware	Corks	Wine Racks
Glassware Charms	Napkins	Stemware Racks
Glass Decanters	Toothpicks/Cocktail Picks	Liquor Cabinets
Beer Steins/Mugs	Portable Ice Chest/Coolers	Bottle Covers
Assorted Glasses/Cups	Travel Kits/Flasks	Playing Cards
Beverage Server Sets	Brandy Warmers	Poker Chips
Punch Bowls/Sets	Candles	Dice
Pitchers	Bar Pictures/Mirrors/Lamps	Breathalyzers
Par-T-Forks/Spoons	Portable Bars	Liquor Specific Greeting Cards
Coasters	Bar Towels	Liquor Gift Baskets/Bags/Boxes
Straws		

OAR 845-015-0143 (2.e) Liquor branded logo giftware and apparel

Caps	Decanters	Cigarette Holders
Visors	Pitchers	Key Rings
Shirts	Punch Bowl Sets	Books/Cookbooks
Jackets	Ice Buckets	Board Games
Vests	Cocktail Shakers	Poker Chips
Ties	Liquor Dispensers	Playing Cards
Wallets	Coasters	Dice
Watches	Napkins	Playing Card Holders
Gloves	Bar Towels	Ornaments
Belts and Buckles	Aprons	Calendars
Flasks	Bar Pictures/Mirrors/Lamps	Clocks
Cups	Golf Balls	Barbecue Accessories
Mugs	Golf Towels	(excludes BBQ Grills)
Glasses	Golf Gloves	Sauces, Syrups,
Shot Glasses	Lighters	Condiments

OAR 845-015-0143 (2.f) Items such as chewing gum, breath mints, and tobacco products

Cigarettes	Small Cigarette/Cigar Accessories
Cigars	Cigarette Lighters and Fluid
Chewing Tobacco/Snuff	Ashtrays
Bulk Tobacco/Papers	Chewing Gum
Portable Humidor	Breath Mints/Sprays/Lifesavers type candy
Cigar Cutters	Antacids

OAR 845-015-0160 Sale of Lottery Tickets



AGENT EVALUATION

Evaluation Period: _____

This review is a written evaluation by Retail Services Division on how the agent is following and complying with the operating procedures, laws, rules and policies governing the sale of liquor in Oregon.

Store No.: _____ Location: _____

Agent: _____ Date: _____

Overall Score: _____
(Outstanding, Satisfactory or Unsatisfactory)

Prior Period Score: _____

Corrective Action Required for Unsatisfactory Categories		
Category with Unsatisfactory Score	Action Plan	Target Date

Comments:

Agent Signature
(Agent acknowledges having reviewed this

Date

District Manager

Date

Director of Retail Services Division

Date

EVALUATION SCORING

	Unsatisfactory	Satisfactory	Outstanding
Customer Service			
Interior Store Appearance			
Exterior Store Appearance			
Merchandising			
Records & Reports			
Cash Handling			
Inventory Management			
Laws & Policies			
Letter of Warning			
Notice of Violation			
Totals			

(Performance objectives in all categories are rated utilizing the grading criteria for agent evaluations)

Score:

- To receive an outstanding, at least 5 categories must be outstanding, two of which must be inventory management and interior store appearance.
- If four categories are unsatisfactory, the overall score must be unsatisfactory.
- Otherwise, the overall evaluation score is satisfactory.
- If any category is unsatisfactory the overall review can not be outstanding.

Overall Score: _____
 (Unsatisfactory, Satisfactory or Outstanding)

CUSTOMER SERVICE: An outstanding score in at least 2 out of the 3 areas and 1 satisfactory score in one area results in an outstanding score for the category. An unsatisfactory score in 2 or more areas results in an unsatisfactory score. All other combinations result in a satisfactory score.

	Unsatisfactory	Satisfactory	Outstanding
Prompt, Efficient, Courteous Service			
Customer Satisfaction			
Bank Card and Check Acceptance			
Totals			
Category Score			
Comments:			

INTERIOR STORE APPEARANCE: An outstanding score in at least 6 out of the 8 areas results in an outstanding score for the category. An unsatisfactory score in 3 or more areas results in an unsatisfactory score. All other combinations result in a satisfactory score.

	Unsatisfactory	Satisfactory	Outstanding
Shelving			
Counter			
Floor			
Walls			
Ceiling			
Lighting			
Sales Floor and Aisles			
Back Room and Office Area			
Totals			
Category Score			
Comments:			

EXTERIOR STORE APPEARANCE: An outstanding score in at least 5 out of the 7 areas results in an outstanding score for the category. An unsatisfactory score in 3 or more areas results in an unsatisfactory score. All other combinations result in a satisfactory score.

	Unsatisfactory	Satisfactory	Outstanding
Building Appearance			
Exterior Signage			
Windows			
Doors			
Parking and Landscape			
Location			
Good Visibility, Inviting Atmosphere			
Totals			
Category Score			
Comments:			

MERCHANDISING: An outstanding score in at least 5 out of the 7 areas results in an outstanding score for the category. An unsatisfactory score in 3 or more areas results in an unsatisfactory score. All other combinations result in a satisfactory score.

	Unsatisfactory	Satisfactory	Outstanding
Product Selection			
Post-Offs			
Close-Outs			
Stock Arrangements			
Category Signs			
Related Items			
Displays			
Totals			
Category Score			
Comments:			

RECORDS AND REPORTS: An outstanding score in 3 out of the 3 areas results in an outstanding score for the category. An unsatisfactory score in 2 or more areas results in an unsatisfactory score. All other combinations result in a satisfactory score.				
		Unsatisfactory	Satisfactory	Outstanding
Weekly Sales Report	# Late: 0			
Liquor Orders	# Late: 0			
Inventory Reports	# Late: 0			
Totals				
Category Score				
Comments:				

CASH HANDLING: An outstanding score in 2 out of the 2 areas results in an outstanding score for the category. An unsatisfactory score in 1 or more areas results in an unsatisfactory score. All other combinations result in a satisfactory score.				
		Unsatisfactory	Satisfactory	Outstanding
Timely Deposits	# Late: 0			
Excess Cash Security				
Totals				
Category Score				
Comments:				

INVENTORY MANAGEMENT: An outstanding score in 2 out of the 2 areas results in an outstanding score for the category. An unsatisfactory score in 1 or more areas results in an unsatisfactory score. All other combinations result in a satisfactory score.			
	Unsatisfactory	Satisfactory	Outstanding
Inventory Goal			
Audit Shortages/Overages			
Totals			
Category Score			

Inventory Management Summary Worksheet	
Inventory Goal	Audit Shortages/Overages
<u>Average Inventory Goal</u>	Audit Period: through
Forecasted: \$	Gross Sales for Period: \$
Actual: \$	Shortage/Overage for Period: \$
% Over/Under Forecast: %	0.2% of Gross Sales: \$
	0.1% of Gross Sales: \$
Comments:	

LAWS AND POLICIES: An outstanding score in 3 out of the 3 areas results in an outstanding score for the category. An unsatisfactory score in 1 or more areas results in an unsatisfactory score. All other combinations result in a satisfactory score.				
		Unsatisfactory	Satisfactory	Outstanding
Sale to Minor	Date:			
Sale to VIP	Date:			
Minor Training Verification				
Totals				
Category Score				
Comments:				

LETTER OF WARNING/REPRIMAND: No Letters of Warning/Reprimand results in a satisfactory score for the category. One (1) Letter of Warning / Reprimand or more results in an unsatisfactory score.			
		Unsatisfactory	Satisfactory
Letter of Warning/Reprimand	# Received: 0		
Total			
Category Score			
Comments: (Briefly describe the circumstances for each letter received.)			

NOTICE OF VIOLATION: No Notices of Violation results in a satisfactory score for the category. 1 Notice of Violation or more results in an unsatisfactory score.			
		Unsatisfactory	Satisfactory
Notice of Violation	# Received: 0		
Total			
Category Score			
Comments:			



AGENT EVALUATION CRITERIA

CUSTOMER SERVICE

Unsatisfactory
(Any single item qualifies)

Satisfactory

Outstanding
(assumes Satisfactory criteria met)

Gives prompt, efficient, courteous service	Agent/staff appears distracted, is rude or abrupt, is slow or reluctant to offer help, reluctant to accept refund or exchanges	Agent/staff as cashier only, offers limited assistance, has little interaction with customer	Agent/staff consistently greets customers promptly, offers assistance, readily accepts legitimate refunds and exchanges
Customer satisfaction	One or more sustained complaints from customers during the evaluation period	Agent/staff have only unsustained complaints on file	Agent/staff have one or more letters or comment cards from customers complimenting the service received
Bank card and check acceptance	Not following OLCC's check acceptance policy	Follows OLCC's check acceptance policy	Accepts debit and credit cards Follows OLCC's check acceptance policy.

Need at least 2 out of 3 scored outstanding and one satisfactory for overall outstanding score. Two or more unsatisfactory makes the category unsatisfactory.

INTERIOR STORE APPEARANCE

Unsatisfactory
(Any single item qualifies)

Satisfactory

Outstanding
(assumes Satisfactory criteria met)

Shelving Condition	Paint peeling/faded, broken/damaged, unpainted/rusting, no moldings for price labels, dirty	Paint is unblemished, free of rust, free of damage, free of dirt or stains; has moldings for price labels	In like new condition
Counter Condition	Top is broken/damaged, cluttered surface, customer space less than case width, worn surface, dirty	Top is undamaged, adequate customer space, clean, surface clear & unworn	In like new condition
Floor Condition	Surface torn/chipped/broken surface is cement, dirty, appears unwashed, garbage on floor, tile-not stripped, buffed, or waxed, carpet - stained or worn	Tile is stripped & buffed/waxed, carpet is free of stains or signs of wear, surfaces clean & free of garbage	In like new condition
Walls	Dirty, appears unwashed, visible flaws/damage, surface unfinished, graffiti/marks on surface	Surfaces are clean, no visible flaws or damage or marks	In like new condition
Ceiling	Stained, surface damaged/chipped, tiles missing, vents dusty	Unstained, free of damage or chips, all tiles intact, vents clean	In like new condition
Lighting	Fixture damaged, bulbs burned out/missing, not turned on	Undamaged, intact, turned on	In like new condition
Sales Floor & Aisles	Cases in aisle (not display), aisle narrow (less than 36" wide), empty boxes in aisle	Aisles are free of clutter, adequate space	Wide, uncluttered aisles
Back Room & Office	Unorganized case stacks, unstable, visible from sales floor	Organized, separate from sales floor, stacks safe & stable	Clean & neatly organized, free of trash, separate from sales floor, stacks safe & stable. Consistently ready for audit.

Need at least 6 out of 8 scored outstanding for overall outstanding score. Three or more unsatisfactory makes the category unsatisfactory.

EXTERIOR STORE APPEARANCE

	Unsatisfactory (Any single item qualifies)	Satisfactory	Outstanding (assumes Satisfactory criteria met)
Building Appearance	Paint peeling/faded, broken/damaged, fixtures dirty, or graffiti	Paint intact, fixtures intact & undamaged, clean	Building appearance is in like new condition, or freshly refinished and restored or washed
Exterior Signage	Not turned on, letters missing, bulbs burned out, unapproved or violates restrictions, broken/damaged	Intact, fully functional, turned on, approved	In like new condition
Windows	Dirty damaged/cracked, cluttered w/signs, unable to easily see in store	Undamaged, Minimal signs	Undamaged, clean, very few signs, unobstructed view into & out of store
Doors/Entrance	Dirty, damaged/cracked, paint peeling/faded, rusty, doesn't open smoothly	Clean, undamaged, no sign of peeling/faded paint, no rust, opens easily, clear access path to sales floor	In like new condition, Posted No Minors Sign and Hours of Operations sign
Parking Lots, Curbs, & Landscaping	Lot in poor condition, lot or curb dirty, garbage strewn, landscape unkept	In good condition, clean, no garbage, landscape well kept	Lot looks newly paved, extra landscape features such as flowers or shrubs
Location	Not near shopping/business center, not visible from major street, not near stop light, poor ingress/egress	Near shopping/business center, or visible from major street, easy to enter or leave lot	In shopping/business center, or on major street
Visibility Atmosphere	Cannot see from street, cannot see from sidewalk	Visible from street or sidewalk	In prominent enough location it will catch attention even if not shopping destination

Need at least 5 out of 7 scored outstanding for overall outstanding. Three or more unsatisfactory makes the category unsatisfactory.

MERCHANDISING

	Unsatisfactory (Any single item qualifies)	Satisfactory	Outstanding (assumes Satisfactory criteria met)
Product Selection	Carries less than recommended, too heavily weighted to one category, too heavily weighed to one price range	Carries recommended stock, evenly distributed among categories & price ranges, merchandise dusted	Product closely managed. Uses computerized system to manage product selection
Post-offs	Not accurately priced, not accurately signed, no group displays, not readily identifiable, no case stacks	Accurately priced, signs accurate, post-offs readily identified	Appropriate number of case stacks, uses group displays
Close-outs	Not accurately priced, not accurately posted, illegible, not readily visible	Accurately priced, signs accurate, legible, easily identified	Uses group displays, Readily visible
Stock Arrangements	Product not easily reachable, inconsistent shelf management, not faced & stocked	Uses consistent shelf management	Reachable, uses consistent shelf management, faced & stocked
Category Signs	Not visible or don't exist, dirty/damaged, don't match product placement	Visible, clean & undamaged, matches product placement	Modern, creative, unusual, coordinates with and enhances store decor
Related Items	Unauthorized items sold, offers little or no related items	Minimal number of related items, sells only authorized items	Merchandised as secondary to distilled spirits. Good related item selection
Displays	Broken/damaged, dirty	Clean, undamaged	Creative, unique, appealing, eye-catching. Uses end-caps and counters effectively

Need at least 5 out of 7 scored outstanding for overall outstanding. Three or more unsatisfactory makes the category unsatisfactory.

Exhibit 1-4 cont.

RECORDS & REPORTS	Unsatisfactory	Satisfactory	Outstanding
Weekly Sales Reports	7 or more late	3 to 6 late	Two or fewer late
Liquor Orders	6 or more bi-weekly OR 9 or more weekly late	3 to 5 biweekly or 3 to 8 weekly late	Two or fewer late
Inventory Reports	4 or more late	2 to 3 late	One or fewer late

Note - electronic errors not the fault of the agent are not counted against the agent.

Need 3 out of 3 scored outstanding for overall outstanding. Two or more unsatisfactory makes the category unsatisfactory.

CASH HANDLING	Unsatisfactory	Satisfactory	Outstanding
Timely Deposits	7 or more late	3 to 6 late	Two of fewer late
Excess Cash Security	Shortage or theft occurred due to unsecured cash	No shortage/theft due to unsecured cash	Secures excess cash in compliance with manual

Need 2 out of 2 scored outstanding for overall outstanding. One or more unsatisfactory makes the category unsatisfactory

INVENTORY MANAGEMENT	Unsatisfactory	Satisfactory	Outstanding
Inventory Goals	Less than 85% of goal	No less than 85% of goal	Meets or exceeds goal
Audit Shortages	Exceeds 0.2% of gross sales	Shortage is less that 0.2% of gross sales	Shortage is less than 0.1% of gross sales

Need 2 out of 2 scored outstanding for overall outstanding. One or more unsatisfactory makes the category unsatisfactory.

LAW & POLICIES	Unsatisfactory	Satisfactory	Outstanding
Minors	One or more sales to minors during the current evaluation period	No sales to minors during the current evaluation period	No sales to minors during the last 36 months or since agent began (whichever is shorter)
VIP's	One or more sales to VIP's during the current evaluation period	No sales to VIP's during the current evaluation period	No sales to VIP's during the last 36 months or since agent began (whichever is shorter)
Minor Training Verification on File	Not all employees have training verification on file		All employees have training verification on file

Need 3 out of 3 scored outstanding for overall outstanding. One or more unsatisfactory makes the category unsatisfactory.

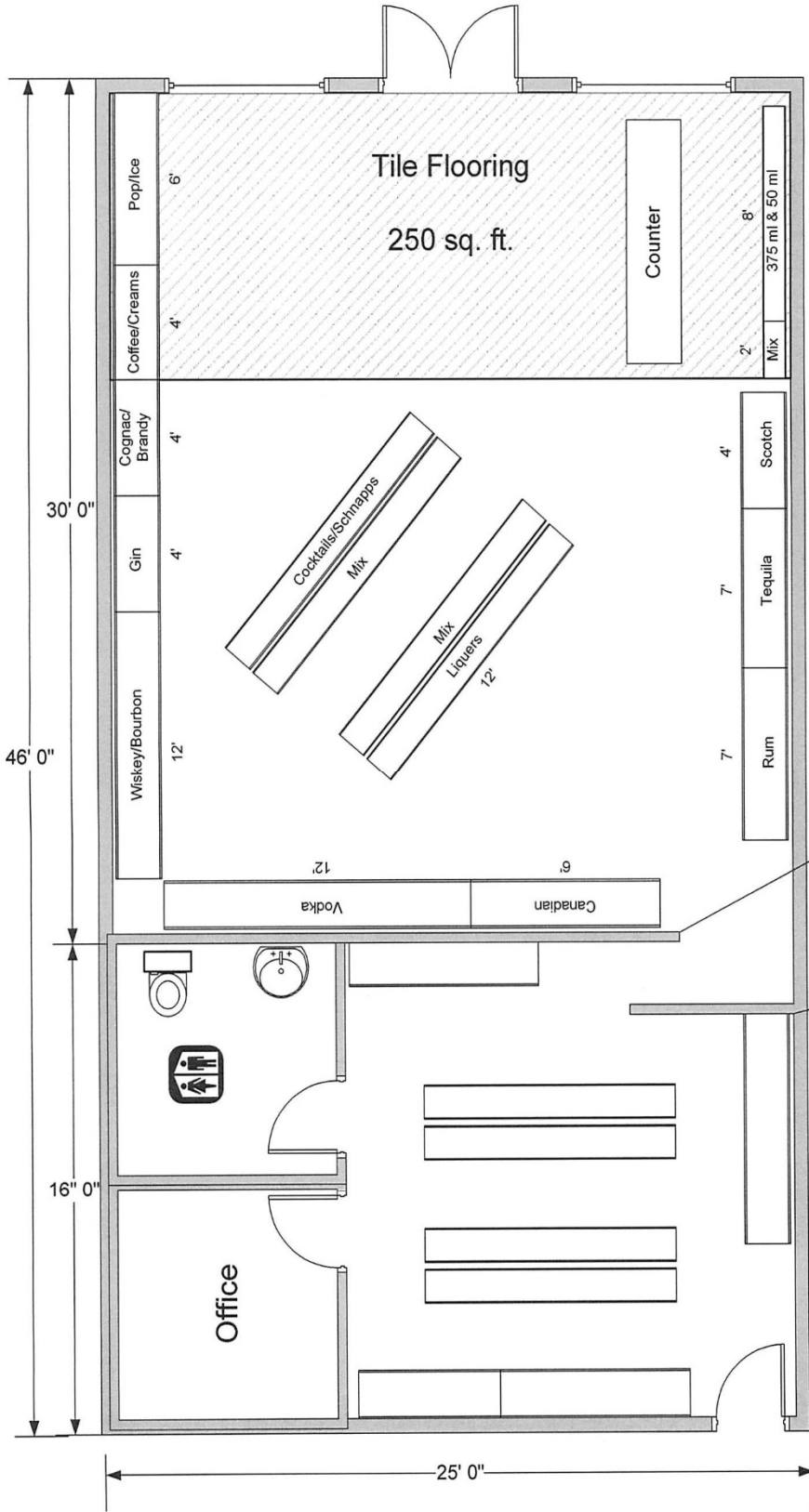
LETTER OF WARNING/REPRIMAND

One Letter of Warning/Reprimand or more during the current evaluation period will result in an unsatisfactory rating.

NOTICE OF VIOLATION

One Notice of Violation or more during the current evaluation period will result in an unsatisfactory rating.

SAMPLE INTERIOR LAYOUT



Counter: Oak front, marble top.

Floors: Ceramic entryway remainder wood laminate.

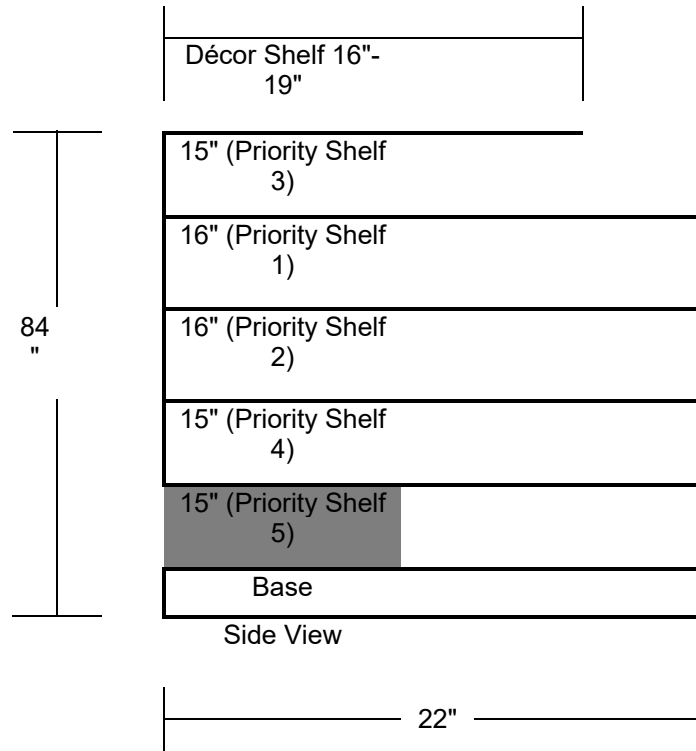
NOTE: Floor to Ceiling Wall

Wall Color: Tan with light brown accent wall.

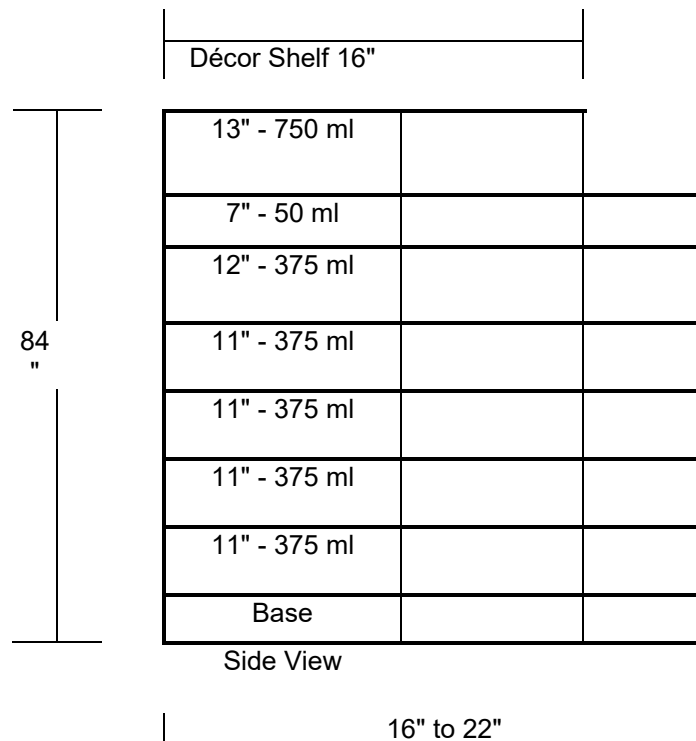
Finger Wall

Shelving: 84" high, 22" deep, black heavy duty uprights with platinum shelves.

Shelf Spacing for Wall Units



Shelf Spacing for 50 ml, 375 ml, and plastic 750 ml



Oregon Liquor Control Commission
 9079 SE McLoughlin Blvd
 Portland, Oregon 97222-7355
 Tel: (503) 872-5033

Routing
 TIL
 B/L: 87330

STRAIGHT BILL OF LADING - PREPAID

To: O L C C Store 1999
 1234 SE Somewhere
 Portland, OR 97000

Account: 1999 Order: 87330
 Date: 05/23/2014

#Cases	Description	Weight
13	LIQUOR - FULL CASES	386
7	LIQUOR - REPACK	186
20	LIQUOR - TOTAL	572

PREPAID

It is understood by the OLCC that freight tendered under this shipping order is governed by all the rules and provisions of a standard bill of lading. Subject to the classifications and tariffs in effect on the date of the issue of this Bill of Lading between Milwaukie, Oregon and points in Oregon for National Motor Freight Classification 100. The property described in apparent good order, except as noted.

Carrier:

Total Cases: 20

Driver:

Date:

REPACK PACKING LIST

Oregon Liquor Control Commission
 9079 SE McLoughlin Blvd
 Portland, Oregon 97222-7355

Routing
 TIL

To: O L C C Store 1999
 1234 SE Somewhere
 Portland, OR 97000

Account: 1999
 Date: 05/23/2014
 Page #: 1

Order:
 87330

Bottles								
CODE#	Order	Allot	Ship	Description	#Btls	Price/Btl	Ttl. Price	
0199B	6	6	6	GEORGE DICKEL #8	6	19.95	119.70	
0226E	12	12	12	MCCORMICK BLEND	12	4.70	56.40	
0383B	6	6	6	CHIVAS REGAL SCOTCH	6	29.95	179.70	
0436B	3	3	3	HENNESSY VS COGNAC	3	31.95	95.85	
0485E	6	6	6	MONARCH GOLD RUM	6	5.00	30.00	
0525B	6	0	0	GORDONS DRY GIN	0	9.95	0.00	
0527H	3	0	0	SEAGRAMS LIME TWISTED GIN	0	19.95	0.00	
0636B	3	3	3	GREY GOOSE VODKA	3	35.95	107.85	
0918E	6	6	6	KAHLUA COFFEE LIQUEUR	6	11.95	71.70	
0929B	6	6	6	SAUZA HORNITOS REPOSADO TE	6	23.95	143.70	
1064F	10	10	10	MALIBU RUM	10	2.00	20.00	
2008F	10	10	10	RUMPLE MINZE	10	3.00	30.00	
2098B	1	1	1	TRES GENERACIONES ANEJO	1	44.95	44.95	
2132B	1	0	0	LAPHROAIG SCOTCH	0	49.95	0.00	
6086B	6	6	6	PALLINI LIMONCELLO	6	26.95	161.70	
6235B	6	6	6	SMIRNOFF CHERRY	6	13.95	83.70	
6393B	3	3	3	SAUZA HORNITOS PLATA	3	23.95	71.85	
6925B	6	6	6	MCCLELLAND'S ISLAY	6	22.95	137.70	
7107B	6	6	6	PINNACLE TROPICAL PUNCH	6	14.95	89.70	
8506E	12	0	0	FIREBALL CINNAMON WHISKEY	0	8.95	0.00	
Total	118	96	96		Total 96	Subtotal	1444.50	

Legend:

- A = LITER
- B = 750ML
- E = 375ML
- D = 200ML
- F = 50ML
- H = 1.75L

Repack Cases 7

ATTENTION: Important Note on Pricing

Prices on this PACKING LIST are as of the shipment date. The INVOICE for this shipment, mailed separately, reflects the prices charged to the agent based on the expected receipt date. Agents should verify the prices on the INVOICE if the month has changed since the shipment date.

FULL CASE PACKING LIST

Oregon Liquor Control Commission
 9079 SE McLoughlin Blvd
 Portland, Oregon 97222-7355

Routing
 TIL

To: O L C C Store 1999
 1234 SE Somewhere
 Portland, OR 97000

Account: 1999
 Date: 05/23/2014
 Page #: 2

Order:
 87330

CODE#	Order	Cases Allot	Ship	Description	#Btls	Price/Btl	Ttl. Price
0146B	1	1	1	JACK DANIELS #7 BL LABEL	12	24.95	299.40
0153B	1	0	0	OLD CROW LT. WGT.	0	9.95	0.00
0173H	1	1	1	BEAM'S CHOICE	6	41.95	251.70
0226B	1	1	1	MCCORMICK BLEND	12	8.25	99.00
0267E	1	1	1	BROKERS RESERVE BLEND	24	4.75	114.00
0305H	1	1	1	CANADIAN MIST	6	19.95	119.70
0525B	0	1	1	GORDONS DRY GIN	12	9.95	119.40
0527H	0	1	1	SEAGRAMS LIME TWISTED GIN	6	19.95	119.70
0668B	1	1	1	FLEISCHMANN'S ROYAL VODKA	12	6.85	82.20
0668H	1	1	1	FLEISCHMANN'S ROYAL VODKA	6	13.80	82.80
0687B	1	1	1	BARON ROTHSCHILD VOD. 100	12	8.75	105.00
0687H	1	1	1	BARON ROTHSCHILD VOD. 100	6	18.35	110.10
8221B	1	1	1	LUNAZUL BLANCO TEQUILA	12	16.95	203.40
8506E	0	1	1	FIREBALL CINNAMON WHISKEY	24	8.95	214.80
Total	11	13	13	Cases	150	Subtotal	1921.20

Legend:

- A = LITER
- B = 750ML
- E = 375ML
- D = 200ML
- F = 50ML
- H = 1.75L

Grand Total Weight
 571

GrandTotal
 3365.70

ATTENTION: Important Note on Pricing

Prices on this PACKING LIST are as of the shipment date. The INVOICE for this shipment, mailed separately, reflects the prices charged to the agent based on the expected receipt date. Agents should verify the prices on the INVOICE if the month has changed since the shipment date.

OREGON LIQUOR CONTROL COMMISSION
STORE AUDIT REPORT

John Doe
STORE NO. 1999
Anytown
Oregon

AUDIT REPORT NO.: 1234
DATE OF AUDIT: January 1, 2014
PERIOD COVERED: February 28, 2013 – December 31, 2013
AUDITORS: J. Smith, D. Jones

MERCHANDISE TRANSACTIONS

BEGINNING BALANCE:	179,566.80
CHARGES:	
Shipments From Warehouse	2,286,765.95
Transfers In	-
Markup	31,054.35
Inventory Adjustments	-
Total to Account for	<u>2,497,387.10</u>
CREDITS:	
Liquor Sales	2,251,823.00
Transfers Out	77,303.00
Claims	2,948.35
Markdown	32,410.95
Inventory Adjustments	258.90
Total Credits	<u>2,364,744.20</u>
Balance to Account for	<u>132,642.90</u>
ACCOUNTED FOR AS FOLLOWS:	
Ending Liquor Inventory	132,502.80
Liquor Inventory - SHORT	39.95
Pending Burglary	100.15
TOTAL ACCOUNTED FOR	132,642.90

CASH TRANSACTIONS

Balance From Previous Audit:		
AUDIT REPORT NO.: 5678	Over	(38.45)
Sales Receipts in Transit to Bank		-
Cash		-
NSF checks		-
CHARGES:		
Total Liquor Sales	2,251,823.00	
Less: Dispenser Discounts	(26,544.52)	
Less: Refunds	-	
Net Sales Receipts	<u>2,225,278.48</u>	
Gains on Merchandise Refunds		-
Other		-
Total to Account for		<u>2,225,240.03</u>
CREDITS:		
Deposits		1,205,814.56
Loss on Merchandise Refunds		-
Robbery Loss		-
Audit Payment Withheld from Comp		-
Bank Card Transactions		1,019,425.47
Other		-
Total Cash Accounted for		<u>2,225,240.03</u>
Balance to Account for		<u>0.00</u>
ACCOUNTED FOR AS FOLLOWS:		
Sales Receipts In Transit To Bank		-
NSF Checks		-
ENDING Cash Over Deposited		-
Prior Audit(s)		-
Other		-
TOTAL ACCOUNTED FOR		<u>0.00</u>

SUMMARY	
Agent SHORT	-39.95
TOTAL AMOUNT DUE	-39.95

Within 30 days of receipt of this Audit Report, enter \$ 39.95 on line 8 of your Store Sales Report and INCREASE your deposit accordingly. Explain the entry on line 8 by inserting the words, Audit Report #1234. If you dispute the amount of or responsibility for this shortage, you may request a hearing in accordance with the Retail Sales Agent Agreement.

cc: Financial Services Division (1)
Stores Division (1)

Certified Correct at the Time of Audit.

Audit Processed by: D. Jones

K. Lewis
Assistant Director, Financial Services
Oregon Liquor Control Commission



Oregon

John A. Kitzhaber, MD, Governor

Liquor Control Commission

9079 SE McLoughlin Blvd

Portland, OR 97222-7355

(503) 872-5000

1 (800) 452-6522

**STATE OF OREGON
OREGON LIQUOR CONTROL COMMISSION**

STORE NO. 1999
John Doe
6789 Circle Rd
Anytown, OR

-) Notice of Audit Shortage
-) Opportunity to Request a Hearing
-) Audit Report # 1234

To: John Doe

The Oregon Liquor Control Commission has completed an Store Audit Report #1234 for store #1999

A copy of the report is attached to this notice. The report shows a shortage in the amount of \$ 39.95

Within 30 days after the effective date (see your Retail Sales Agent Agreement) of this audit report, you must enter the shortage amount on line 8 of your Store Sales Report

and INCREASE your deposit accordingly. Explain the entry on line 8 by inserting the words. Audit Report #1234

Delinquent audits will be deducted from compensation pursuant to the Retail Operations Manual.

If you dispute the amount of the shortfall or dispute your responsibility for this shortage, you may request a hearing in accordance with your Retail Sales Agent Agreement. If you want a hearing, you must file a written request for hearing with the Commission within 14 days after the effective date of this notice. If a request for a hearing is not received within this 14 day period, your right to a hearing shall be considered waived. The Commission's address for this hearing request is:

Oregon Liquor Control Commission
Administrative Process Division
P O BOX 22297
Milwaukie, Oregon 97222
FAX: 503-872-5110

If you request a hearing, you will be notified of the time and place of the hearing. You may be represented by legal counsel at the hearing at your own expense. You will be provided information on the procedures, right of representation, and other rights of parties relating to the conduct of the hearing before the start of the hearing.

If you do not request a hearing within 14 days, or if you withdraw a request for a hearing, notify the Commission or the administrative law judge that you will not appear or fail to appear at a scheduled hearing, the Commission may issue a final order by default confirming the amount of the shortage. If the Commission issues a final order by default, the Commission designates its files on this matter as the record for purpose of proving a prima facie case upon default.

"NOTICE TO ACTIVE DUTY SERVICEMEMBERS: Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 800-452-7500 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>."

Dated: 1/14/2014

K. Lewis
Assistant Director, Financial Services
Oregon Liquor Control Commission