OREGON LIQUOR CONTROL COMMISSION
CHAPTER 845
PROPOSED AMENDMENTS

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

845-006-0396
Requirements for Direct Shipment and Delivery of Malt Beverages to a Resident of Oregon

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

(a) A valid Direct Shipper Permit and holds a license issued by this state or another state that authorizes the person to hold a Direct Shipper Permit; or

(b) An off-premises sales license issued by the Commission.

(2) A person may ship:

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

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

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

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

(e) Only pursuant to an order for the malt beverage that is received by the licensee prior to shipment of the alcohol;

(f) Only for next-day delivery unless the licensee has been approved for same-day delivery by the Commission; ~~*and*~~

(g) ~~*Only t*~~**T**o a home or business where the home or business has a permanent street address; or
(h) To a location that is within 100 feet of the boundary of the licensed premises.

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

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

(4) If the licensee ships via a for-hire carrier, in addition to complying with sections (1), (2), and

(3) of this rule, the licensee must use a for-hire carrier with a plan approved by the Commission under OAR 845-005-0424.

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

(a) Be age 18 or over;

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

(c) Determine that the person receiving the alcohol is not visibly intoxicated; and

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

(A) The date and time the alcohol was delivered to the resident;

(B) The name or information which can be used to determine the name of the person delivering the alcohol to the resident; and

(C) The name~~, signature,~~ and delivery address of the person receiving the alcohol.

(6) Same-day delivery for a permit holder. If a permit holder has also obtained approval to make same-day delivery of malt beverages, in addition to complying with sections (2) and (3) and either (4) or (5) of this rule, the permit holder must **ensure that the malt beverage is delivered between the hours of 7:00 am and 2:30 am** ~~*receive the order from the resident no later than 4:00 pm on the day the order is delivered, ensure that the malt beverage is delivered before 9:00 pm,*~~ and deliver not more than a total of five gallons of malt beverage per day per Oregon residence.

(7) Same-day delivery for an off-premises sales licensee. If the licensee is approved to make same-day delivery of malt beverages, in addition to complying with sections (1), (2), and (3) and either (4) or (5) of this rule, the licensee must **ensure that the malt beverage is delivered between the hours of 7:00 am and 2:30 am and deliver not more than a total of five gallons of malt beverage per day per Oregon residence.**

~~*(a) Receive the order from the resident no later than 4:00 pm on the day the order is delivered, ensure that the malt beverage is delivered before 9:00 pm, and deliver not more than a total of five gallons of malt beverage per day per Oregon residence;*~~

~~*(b) Receive the order from the resident no later than 4:00 pm on the day the order is delivered, ensure that the malt beverage is delivered before 9:00 pm, and may deliver an unlimited amount of malt beverage if the alcohol accounts for no more than 25 percent of the retail cost of the order (i.e. at least 75 percent of the retail cost of the order must be items other than alcohol);*~~

~~*(c) Receive the order from the resident no later than 9:00 am on the day the order is delivered, ensure that the malt beverage is delivered before 9:00 pm, and may deliver an unlimited amount of malt beverage;*~~

~~*(d) Receive the order from the resident no later than 7:00 pm on the day the order is delivered, ensure that the malt beverage is delivered before 9:00 pm, and deliver not more than a total of 160 ounces of malt beverage (approximately two standard six-packs) per day per Oregon residence; or*~~

~~*(e) Receive the order from the resident between 7:01 pm and 9:00 pm on the day the order is delivered, ensure that the malt beverage is delivered before 10:00 pm, and deliver not more than a total of 80 ounces of malt beverage (approximately one standard six-pack) per day per Oregon residence.*~~

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

(9) A permit holder must:

(a) Allow the Commission to audit the permit holder's records of malt beverage shipments to Oregon residents upon request and shall make those records available to the Commission in Oregon no later than 60 days after the Commission mails the notice;

(b) Report to the Commission all shipments of malt beverage made to a resident of Oregon under the permit as required by ORS Chapter 473. The report must be made in a form prescribed by the Commission; and

(c) Timely pay to the Commission all taxes imposed under ORS Chapter 473 on malt beverage sold and shipped directly to a resident of Oregon under the permit. For the purpose of the privilege tax imposed under ORS Chapter 473, all malt beverage sold and shipped pursuant to a direct shipper permit is sold in this state. The permit holder, not the purchaser, is responsible for the tax.

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

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

Statutory/Other Authority: ORS 471, 471.030, 471.040, 471.730(1) & (5), **E.O. 20-07**
Statutes/Other Implemented: ORS 471.305