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Legislative Committee Services
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Background Brief on …

Oregon Liquor Control

The Oregon Liquor Control Commission **(OLCC)** regulates the sale, distribution, and use of alcoholic beverages in order to protect Oregon's public health, safety, and community livability. The OLCC was created in 1933 by a special session of the Oregon Legislature following the end of national Prohibition. Oregon chose a "control" system, giving the state the exclusive right to sell packaged distilled spirits through retail liquor stores operated by contracted agents, and is one of twelve states that sell distilled spirits through government-operated stores or designated outlets that the state supervises a sales agency relationship.

Commission and Agency

The agency is overseen by five citizen commissioners, who are appointed to four-year terms by the Governor and subject to Senate confirmation. Commissioners provide policy direction for the OLCC. Each commissioner represents one of the state's congressional districts, and one commissioner is from the food and beverage industry. The commission appoints the OLCC Executive Director, who oversees the agency's headquarters, distilled liquor distribution center and two storage facilities in Portland, and regional offices in Salem, Bend, Eugene, and Medford.

Licensing

The OLCC issues various types of licenses for the purposes of manufacturing, storing, and distributing distilled spirits, wine and cider, and malt beverages, as well as wholesale and retail sales, sales at special events, and serving alcoholic beverages.

The type of license an individual or business needs to obtain depends on the types of activities they will perform and where the business is physically located. For instance, out-of-state businesses who want to deliver beer, wine or cider into Oregon must apply for a different classification of a direct shipper permit than a similar business that is based in Oregon. Likewise, while a caterer or private club all receive the same privileges under a full on-premises sales license (the ability to serve distilled spirits as well as beer and wine) as a bar or restaurant, each business type must meet specific criteria to obtain the license.

Prior to issuing a liquor license related to the sale of alcoholic beverages, such as for restaurants, upon submission of the application, the OLCC posts public notices on the building or property that is to be licensed and delivers notice to neighborhood associations, schools, and other entities located within either 500 feet or 1,500 feet of the proposed location, depending on whether the location is in an urban or rural area. Beyond allowing public comments, the local governing body also makes a recommendation to the OLCC regarding licensure. The applicant(s) and the proposed location are also investigated by an OLCC investigator who in turn makes a recommendation based on law, case history, and OLCC policy.

OLCC staff and the executive director have the authority to grant or deny most liquor licenses, but the OLCC commissioners must review and deny or approve an application under circumstances such as a negative local government recommendation, significant public opposition, recent record of an applicant's alcohol or drug abuse, or a determination by the OLCC Executive Director of the potential for future law violations. A license can be suspended or revoked for actions such as knowingly selling alcohol to minors or visibly intoxicated patrons; or for a history of serious and persistent problems involving disturbances, lewd, or unlawful activities or noise either in the premises or involving patrons in the immediate vicinity of the premises (and the problems are related to the sale or service of alcohol by the licensee).

Alcohol Server Permits and Education

Service permits are required for servers (i.e. waitstaff or bartenders) who work for a business that allows customers to drink alcoholic beverages on the premises; managers who directly supervise servers who mix, serve, or sell alcohol to customers for drinking at their premises; and owners who mix, serve, or sell alcohol or manages services at that business and their name is not individually listed on the liquor license.

Applicants must be at least 18 years old, and take and pass an education class. Oregon was the first state in the country to require training for all of its alcohol servers. The purpose of the Alcohol Server Education course, which must be completed every five years, is to enhance public health and safety by developing the knowledge and skills that support responsible alcohol service.

The OLCC administers the server course by certifying community colleges and private trainers to teach the classes; and is also responsible for designing, reviewing, and updating model curriculum and test grading. The course must cover a number of topics including the effects of alcohol on the body and mind, including its interaction with other drugs; Oregon's alcohol sale and service and drunk driving laws; intervention techniques for dealing with intoxicated and underage customers; and responsible advertising, marketing, and management procedures. Students must pass the test with at least a 70 percent score; more than 98 percent of students pass the test the first time they take it. The test can be taken twice before having to retake the class.

Servers who have passed a server education class in Oregon, and have to renew their permit and/or the server education requirement, have the option to either repeat the initial class or take a shorter renewal class if they passed the initial class within the past seven years. This does not exempt the server from the five-year renewal requirement, but applies only to the qualification of taking a renewal class.

The OLCC can deny service permits to individuals who have felony drug convictions, certain types of felony crime of violence convictions, diversions or convictions for driving under the influence of intoxicants (DUII) or furnishing alcohol to minors, or felony driving while suspended (DWS) or revoked (DWR) convictions. A server permit can be issued to someone otherwise denied if they have been clinically diagnosed with an alcohol or drug addiction; have completed treatment; have not taken alcohol or drugs (whichever applies) in the last two years, and have completed all parole or probation requirements.

Liquor Agents and Stores

The OLCC sells distilled spirits through 246 retail liquor stores that are independently owned and operated. Agents are selected by the OLCC through a competitive application process, with openings occurring when an operator resigns or retires, or if a contract is terminated. Applicants are evaluated by a number of criteria, such as their level of retail business experience, ability to operate the store on a full-time basis, and adequate finances to manage and operate the store. They also are evaluated for their criminal history, particularly if they have been convicted of a felony or a crime related to money management fraud or crimes related to abuse of alcohol and/or a controlled substance. A person is prohibited from being a liquor store operator if they or anyone in their household or immediate family has a financial interest or business connection with the distilled spirits industry; or, in general, if they are a licensee or a director, officer, or substantial stock holder in a business licensed by the OLCC.

Agents are independent contractors and are not considered as state employees. Compensation is set through the budget process by the Legislature and is distributed from revenues by the OLCC. From their compensation, agents pay most store operating expenses, including rent, staffing, and their own salaries and benefits. Agents are to keep their store open a minimum of eight hours per day, except for Sundays and legal holidays. They cannot open before 7:00 a.m. or close later than 10:00 p.m. and must be open between noon to 6 p.m. Liquor store operations have the option of being open on holidays and Sundays, with hours of operation varying from store to store.

New locations for liquor stores are selected by the OLCC. Criteria for determining a potential area for a store include population, demographics, zoning and land-use changes, and distance to existing liquor stores. The majority of OLCC agents run exclusive liquor stores, in which their primary function is to sell liquor but are able to sell some related items such as glassware, mixers, and garnishments. There are currently 93 non-exclusive liquor stores which are operated in conjunction with other businesses like hardware and drug stores, and usually serve smaller communities.

Under a pilot program to establish a few state liquor stores within existing grocery stores, the OLCC opened its first “store in a store” in August 2004 in a Thriftway supermarket in Garden Home in Southwest Portland. First year sales at the pilot store exceeded projections by 8.25 percent and the addition of the liquor store is credited with increasing foot traffic to the grocery store as well as beer and wine sales there. The two other stores in the pilot opened in October 2004, in Bend (Ray’s Food Place) and in the Bethany area of Portland (Quality Food Center). In April 2006, the OLCC declared the first pilot successful and voted to make the store permanent; the other two stores were converted to permanent status in June 2006.

In 2011, another pilot program established four retail liquor stores to convert from exclusive liquor stores to non-exclusive liquor stores (selling beer and wine in addition to distilled spirits), and for up to four corporations to apply to be liquor agents.

Responsible Vendor Program

OLCC retail licensees have an option of joining the Responsible Vendor Program (RVP), whose purpose is to reduce underage drinking and encourage participants to utilize specific practices in preventing sales to minors, and provide incentive to give employees on-going training in responsible alcohol sales and service. Benefits for program participants include being eligible for reduced fines if an employee sells alcohol to a minor or fails to properly check identification, an increased protection against civil actions in liability lawsuits involving minors, and protection from having a liquor license cancelled or denied if an employee sells alcohol to a minor or fails to properly check for identification.

Licensees can apply for the program if they have not personally committed a major liquor law violation within the last five years, such as felony convictions, making false statements to the Commission, or personally selling alcohol to a minor that included "significant aggravating circumstances," i.e., an intentional sale to a minor or a sale to a minor which resulted in death or personal injury.

The basic requirements for the participant include providing responsible alcohol sales training and quarterly refresher training sessions to employees, adopting house policies on alcohol sales and checking identification and what will happen if they sell alcohol to a minor, accepting only the allowable forms of identification for alcohol sales as stated in Oregon statute, and posting signs that list the valid types of identification accepted at the business and the requirement for any customer who looks younger than 26 (or older, if that is the established house policy) to show valid identification.

The Oregon Bottle Bill

The OLCC is also responsible for the majority of the administration and enforcement of the Oregon Bottle Bill (ORS 459A.700 to 459A.740), which was the very first legislated beverage container deposit system enacted in the United States. Today, ten other states operate similar programs.

Under this law, Oregon retail stores pay a five cent deposit on bottled water, and malt and carbonated beverage containers (up to 3 fluid liters, with the container labeled so the five-cent refund value is clearly visible) to the beverage distributor. In turn, consumers pay the five cent container deposit to the retailer when purchasing these items, and redeem the deposit when returning the containers to retail stores in Oregon. Upon returning containers to the distributor for recycling, the retailer is reimbursed for redeemed containers. Deposits on containers not returned for refund are kept by the distributors.

The five cent value has not changed since the bill was first enacted in 1972. Legislation from 2011 increases the deposit/refund value to ten cents after January 2016 if the redemption rate for malt and carbonated beverage containers fall below 80% for two consecutive years; or if the rate for all types of redeemable containers fall below that same rate after 2021. No later than January 1, 2018, all beverages except wine, liquor, dairy, or milk substitutes are added to the Bottle Bill container parameters. While beer, soft drinks, and water containers of up to three liters will still be recyclable, the new beverages will be covered only if they are in bottles or cans from between four ounces to 1.5 liters.

Retailers whose facility is less than 5,000 square feet are required to accept back only the brands and sizes that they sell, and can limit the number of redeemed containers to a maximum of 50 per person per day. Larger retailers are required to accept bottle and can returns of all brands and sizes of beverage containers for each type they sell, and can limit the amount of redeemed containers to 144 containers per person per day.

Revisions to the Bottle Bill allow distributors to form cooperatives to simplify the process of collecting containers and issuing refunds. House Bill 3145 (2011) created a pilot program to establish redemption centers in cities with less than 300,000 in population. The newest pilot project redemption center is in Salem, and establishes two convenience zones around the center. Participating stores within the first zone, a 1.5 mile radius around the center, are no longer required to accept containers for redemption; and stores from a 1.5 to 3 mile radius around the center are required to accept up to 24 bottles and cans for redemption daily per person. Nonparticipating stores are required to accept containers for redemption at levels depending upon their square footage (up to 24 containers daily for stores less than 5000 square feet and up to 500 containers for stores over 5000 square feet). This is in addition to two other redemption centers in Wood Village and Oregon City, which are also pilot projects.

The Department of Agriculture is responsible for enforcing the cleanliness of retailer recycling areas, while the Department of Environmental Quality is responsible for collecting data associated with solid waste and container return rates. Although there are three state agencies that administer components of the Bottle Bill, the government does not receive any income, tax, or fee for services associated with the law.

Revenue Sources and Distribution

The OLCC is financed entirely from several sources: gross sales on distilled spirits, a privilege tax on beer and wine, a tax on the sale or use of all agricultural products used in a winery to make wine as well as specific types of grapes or grape products exported out of Oregon, license fees, and other miscellaneous revenues including civil penalties and fines. A 50-cent surcharge per bottle on distilled spirit products was imposed in April 2009 to generate funds to offset compensation cuts to liquor agents as a result of rebalancing the state's 2007-2009 biennium budget. The surcharge is continued through the 2011-2013 biennium, and is projected to generate $29 million in additional gross revenue.

After subtracting the cost of purchasing liquor from distilleries, freight, liquor agent compensation, and other expenditures related to OLCC operations, remaining revenues are allocated as follows:

Beer and Wine Sales:

50 percent - Mental Health, Alcoholism, and Drug Services account for treatment services provided through counties
50 percent - Distributed with the other revenues

Distilled Spirits/50 percent Allocation from Beer and Wine Sales/Miscellaneous Revenues:

General Fund – 56 percent
Cities – 20 percent
Counties – 10 percent
City revenue sharing – 14 percent

Also, $0.02 per gallon of wine tax is distributed to the Oregon Wine Board for purposes of promoting the development and marketing of Oregon wines.

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