Background Brief on …

Oregon Liquor Control

June 2010

Inside this Brief

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 eight states that sell distilled spirits through state-controlled stores.

Commission and Agency

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

Licensing

The OLCC issues 13 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, temporary sales (i.e., special events), and serving alcoholic beverages.

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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, commercial establishment, 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 – each business type must meet specific criteria to obtain the license.

Prior to issuing a liquor license (any of the license types related to the sale of alcoholic beverages, such as for restaurants and retail establishments), the OLCC posts public notices on the building/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). 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 Education

Oregon was the first state in the country to require training for all of its alcohol servers. This not only includes those who mix, sell, or serve alcohol by the drink, but managers who supervise employees with these duties. 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. The Commission 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.

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.

Liquor Agents and Stores

The OLCC sells distilled spirits through 243 retail liquor stores operated by contracted agents. 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. Agent 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. Applicants 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.

Agent compensation is set through the budget process by the Legislature and is distributed from revenues by the OLCC. From the liquor agents' compensation limitation, 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 have the option of being open on holidays and Sundays.

The majority of the 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 and drink garnishments. There are more than 80 non-exclusive liquor stores which are operated in conjunction with other businesses like hardware and drug stores.

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.

Responsible Vendor Program

Certain classes of OLCC 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. Licensees can apply if they hold one of four types of sales licenses and they have not personally committed a major law violation within the last five years, such as felony convictions or making false statements to the Commission, or personally sold 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. If a RVP member receives a violation for a sale to a minor or failure to properly check identification, a reduced fine is issued, and the OLCC will not cancel their liquor license.

Bottle Bill

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

Under this law, any malt or carbonated beverage of three or less fluid liters sold in Oregon must have a refund value of five cents. The 2007 Legislature expanded the Oregon Bottle Bill by adding a five cent refund value to bottled water or flavored water containers of three fluid liters or less. The refund value has not changed since the bill was first enacted in 1972.

Manufacturers, importers, or distributors who sell beverages covered in the Oregon Bottle Bill must label the container so the five-cent refund value is clearly visible. Retailers must pay a five-cent refund for each redeemed empty container, but are allowed to refuse containers that are damaged or visibly contain or are contaminated by a substance other than water, residue from the original beverage contents or dust. In turn, distributors must pay stores the five-cent refund value for each covered container returned to the distributor for recycling. Distributors keep unredeemed deposits.

Starting on January 1, 2009, smaller retailers (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. Retailers of 5,000 square feet and over 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.

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. There is no tax, fee, or other government income that is associated with the Oregon Bottle Bill.

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 2009-2011 biennium, and is projected to generate $27 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 the 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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