



LPRO: LEGISLATIVE POLICY AND RESEARCH OFFICE

ALCOHOL REGULATION

BACKGROUND BRIEF

The Oregon Liquor Control Commission (OLCC) oversees the sale of alcoholic beverages and recreational marijuana to allow access to responsible adults while protecting Oregon’s public health, safety, and community livability. Oregon operates a “control” system, which gives the state the exclusive right to sell packaged, distilled spirits through retail liquor stores operated by contracted agents. It is one of 17 states that either sell distilled spirits through government-operated stores or designated outlets that the state supervises under a sales agent contract.

The OLCC advocates responsible alcohol consumption by managing and distributing distilled spirits, licensing and regulating businesses that sell and serve alcohol, and training and issuing permits for alcohol servers.

OREGON LIQUOR CONTROL ACT

In 1933, national prohibition ended with the repeal of the 18th amendment to the U.S. Constitution. The Legislative Assembly held a special session that created the OLCC just four days after national prohibition was repealed.¹ Oregon's Liquor Control Act: (1) gave the state exclusive rights to sell distilled spirits and fortified wine; (2) authorized the OLCC to license private businesses to sell beer and table wine (less than 17 percent alcohol) by the bottle and the glass; and (3) authorized the collection of taxes for operating a business that sells beer and wine.

The statutory purpose of the Liquor Control Act is to:

- Prevent the recurrence of abuses associated with saloons or resorts for the consumption of alcoholic beverages;
- Eliminate the evils of unlicensed and unlawful manufacture, sale, and disposal of such

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¹ Oregon Liquor Control Commission, *Administrative Overview August 2000*, available at <https://digital.osl.state.or.us/islandora/object/osl%3A150464/datastream/OBJ/view> (last visited August 20, 2020).

beverages and to promote temperance in the use and consumption of alcoholic beverages; and

- Protect the safety, welfare, health, peace, and morals of the people of the state.²

Consistent with this statutory purpose, it is also the policy of the state to encourage the development of all Oregon industry.³ This language has not been amended since 1953.

COMMISSION AND AGENCY

The OLCC is overseen by seven citizen commissioners who are appointed to four-year terms by the Governor and subject to Senate confirmation. Each of the five congressional districts must be represented, with an additional commissioner from western Oregon and one from eastern Oregon. One of the commissioners must represent the food and beverage industry. No more than four commissioners can be of the same political party.

Commissioners provide policy direction for the OLCC and make decisions regarding liquor licenses, marijuana licenses, agency rules, contested case hearings, and the appointment of liquor store agents. The commissioners appoint the Executive Director, who oversees the agency's headquarters and distilled spirits distribution center in Milwaukie. The OLCC has 12 offices statewide with regional offices in Salem, Bend, Eugene, and Medford. It employs 364 permanent employees, divided between the alcohol and marijuana programs.

The OLCC's current mission statement is to support businesses, public safety, and community livability through education and the enforcement of liquor and marijuana laws.⁴ The agency is currently comprised of four major operational programs: Distilled Spirits Program, Recreational Marijuana Program, Public Safety Program, and Medical Marijuana Program. All four programs are supported by the Administration, Financial Services, and Support Services divisions.⁵

ALCOHOL LICENSING

As of October 1, 2020, the OLCC has issued 14,496 in-state and 4,024 out-of-state licenses for the purposes of manufacturing, storing, distributing, and retailing distilled spirits, wine, cider, and malt beverages. The OLCC also issues licenses for alcohol sales at special events and permits for 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 that want to deliver beer, wine, or cider directly to a resident of

² [ORS 471.030 \(2019\)](#).

³ *Id.*

⁴ Oregon Liquor Control Commission, *About Us*, <https://www.oregon.gov/olcc/Pages/About_Us.aspx> (last visited August 17, 2020).

⁵ *Id.*

Oregon must apply for a direct shipper permit, while Oregon-based businesses with the appropriate alcohol license may ship to residents. Likewise, while a caterer or private club receives the same privileges as a bar or restaurant under a full on-premises sales license to serve distilled spirits, each business type must meet specific criteria to obtain the license.

Annual license fees range from \$200 to \$1,000 as shown in Table 1. Many license fees were increased for the first time since 1949 during the 2019 legislative session.⁶ Special event licenses for wineries, grower sales privilege licensees, brew pubs, breweries, and distilleries remain at \$10 per day. Temporary sales licenses that are not connected to an annual license are also still \$50 per day. A fee for the temporary use of an annual license was added in 2019 at \$10 per day. As of June 2020, the annual number of special event licenses was about 16,000. Examples of special events include festivals, rodeos, fundraisers, and concerts.

Table 1: Common OLCC License Types and Fees

License Type (fees set in statute)	Current Annual or Daily Fee	License Type (fees set in statute)	Current Annual or Daily Fee
Brewery-Public House	\$500	Grower Sales Privilege	\$500
Brewery	\$1,000	Wholesale Malt & Wine Distributor	\$550
Winery	\$500	Wine Self Distribution Permit	\$200
Distillery	\$200	Warehouse	\$200
Direct Shipper	\$100	Temporary Sales License Events (per day)	\$50
Full On-Premises Sales	\$800	Special Event Winery License (per day)	\$10
Limited On-Premises Sales	\$400	Special Event Distillery License (per day)	\$10
Off-Premises Sales	\$200		

Source: Legislative Policy and Research Office

Data: [ORS 471.282 \(3\)\(d\)](#) (2019), [ORS 471.311 \(6\)](#) (2019), [ORS 471.311 \(8\)](#) (2019), [ORS 471.311 \(10\)](#)(2019)

Prior to issuing an annual liquor license related to the sale of alcoholic beverages, the applicant posts a public notice on the building or property that is to be licensed. In addition to receiving public comments, the local governing body can also make a recommendation to the OLCC regarding licensure. The applicant(s) and the proposed location are investigated by an OLCC investigator who makes a recommendation based on application materials, OLCC statutes and administrative rules, case history, and OLCC policy.

The OLCC commissioners have delegated to OLCC staff the authority to grant most liquor licenses. A license may be suspended, revoked, or fined for actions such as selling alcohol to minors or visibly intoxicated patrons or for a history of serious and persistent problems involving disturbances, unlawful activities, or noise either on the premises or involving patrons in the immediate vicinity of the premises.

⁶ [Senate Bill 248](#) (2019).

ALCOHOL SERVICE PERMITS AND SERVER EDUCATION

Service permits are required for servers (i.e., wait staff or bartenders) who work for a business that allows customers to drink alcohol on the premises; managers who directly supervise servers who mix, serve, or sell alcohol to customers for drinking on their premises; owners who mix, serve, or sell alcohol, or manage services at that business; and any person who fills growlers. There are more than 165,000 active service permit holders in Oregon.

Applicants must be at least 18 years old and pass an in-person or online alcohol server education course certified by the OLCC. Oregon was the first state in the country to require all alcohol servers to be trained. The purpose of the course is to enhance public health and safety by developing the knowledge and skills that support responsible alcohol service.

A service permit costs \$23.00 plus a \$5.65 portal provider fee and is good for five years. Employers may pay the fees for their employees. As of May 2018, all alcohol server permit applications are submitted through a web-based portal. The applications are processed, and tests are administered through the web-based portal, however, the course is still administered separately. A person can serve alcohol while their service permit application is being processed by the OLCC, but they must have taken the server education class within 45 days of submitting the application.

The OLCC may deny permits to people who have felony drug or felony crimes of violence convictions; diversions or convictions for driving under the influence of intoxicants (DUI) or furnishing alcohol to minors; or a combination of diversions or convictions.

PUBLIC SAFETY SERVICES PROGRAM

The OLCC emphasizes the prohibition of selling to minors and visibly intoxicated people. Its Public Safety Services Program regulates the manufacture, distribution, and sale of alcoholic beverages, and provides education to licensees and service permit holders. Liquor regulatory inspectors deal with issues including over-service of alcohol, alcohol service permit violations, problem premises, community livability issues, and the sale and/or service to minors.

Staff try to balance community and licensee concerns in partnership with diverse groups such as local governments, law enforcement, and neighborhood associations to provide service to all Oregonians while promoting responsible sales and service of alcohol.

Responsible Vendor Program

Several programs are available to help licensed businesses be compliant with state regulations. OLCC retail licensees may choose to join the voluntary Responsible Vendor Program (RVP), the purpose of which is to reduce underage drinking, encourage participants to adopt best practices in preventing sales to minors, and

provide licensees an incentive to give their employees ongoing training in responsible alcohol sales and service. Licensees who join the RVP and follow all the requirements are eligible for reduced sanctions if their employees sell alcohol to a minor or fail to properly check identification.

Participants in the RVP are required to provide responsible alcohol sales training and quarterly refresher training sessions to employees; adopt house policies on alcohol sales and ID checks; accept only certain forms of ID for alcohol sales; post signs regarding ID checks; and keep records verifying compliance.

First Call Program

The OLCC also offers the First Call program, which is designed to help new licensees be successful in their operation and maintain excellent records of compliance. An OLCC staff person visits newly licensed businesses within 90 days of issuing the license to review common violations and offer suggestions on how to avoid them. This is an opportunity for new licensees to ask questions of their regulatory inspectors and develop a relationship prior to any enforcement issues.

Other Programs

A free ID checking class is available at all regional offices for anyone in the alcohol service industry. The class offers in-depth education on how to identify fake ID and best practices on verifying identification. A public complaint process is also available as part of the public safety initiatives. Identified and anonymous complaints are made by filling out a form and returning it to the nearest OLCC office.

LIQUOR STORES AND AGENTS

Liquor Stores

The OLCC sells distilled spirits through 282 approved retail liquor stores that are independently owned and operated by individuals or corporations. This number is up sharply from the 248 stores that existed in 2016. In 2015, the OLCC started an open recruitment process for new retail liquor agents to increase the total number of retail liquor locations through phased, geographically specific recruitments.

Of the 282 stores, 69 operate as exclusive liquor stores, in which their primary function is to sell liquor, but they can also sell specified items such as glassware, mixers, and tobacco products. There are currently 213 non-exclusive liquor stores, which operate in conjunction with other businesses like pharmacies and general stores that typically serve smaller communities. Several exclusive stores in urban areas have chosen to convert to the non-exclusive model, allowing them to sell beer and wine. The recent trend has been to locate liquor stores within grocery and convenience stores.

Agents

Agents are selected by the OLCC through a competitive application process, with openings occurring when an operator resigns or retires, a contract is terminated, the

OLCC establishes a new location, or proposals for specific areas are sought through an open recruitment process.

Applicants are evaluated based upon their level of retail business experience, ability to operate the store on a full-time basis, and adequate finances to operate the store. They also are subject to a criminal background check. 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, if they are an OLCC licensee, or a director, officer, or substantial stock holder in a business licensed by the OLCC. However, the owner of a non-exclusive liquor store (one that sells items other than alcoholic beverages) can also hold an off-premises sales license.

Agents work under contract and are not considered state employees. Total compensation to agents is set through the budget process by the Legislative Assembly; the formula for distributing compensation to agents is determined by the OLCC. The compensation formula includes both a fixed rate determined by the type of store and annual sales volume and a variable rate based on sales. Agents pay most operating expenses, including rent, staffing, and their own salaries and benefits. They do not purchase the inventory, as the OLCC owns the distilled spirits.

Distillery Tasting Rooms

Licensed distilleries may sell bottles of their own liquor products at their tasting rooms if they have a distillery retail outlet agent agreement with the OLCC. When bottle sales are made, the distiller is compensated the same as a non-exclusive retail liquor agent. There are currently 64 distillers operating a total of 93 tasting rooms. Licensed distilleries can conduct tastings at up to five locations they lease or own in addition to the tasting room at the distillery.

DISTILLED SPIRITS DISTRIBUTION

The OLCC oversees the distribution and sale of distilled spirits in the state. The program centrally warehouses and distributes distilled spirits to Oregon's 282 liquor stores. With few exceptions, all distilled liquor sold in Oregon moves through the Milwaukie distribution center.

In addition to the 2,600 regularly stocked items, customers special order over 2,100 additional products through their local liquor stores. These products are securely stored in the distribution center until they are ordered by liquor stores. Suppliers own most of the product inventoried in the warehouses, which as of June 30, 2020 was valued at \$100.1 million; the state pays the supplier for the inventory when it is shipped to a retail store. The state maintains ownership of the inventory in the retail liquor stores.

The distribution center is comprised of a warehouse for shipping products and an additional warehouse for storage. The warehouse, built in 1954, has a capacity of 555,600 cases of liquor and can currently ship 1,230 cases per hour. In the 2019-2021 biennium, the agency expects to ship 6.87 million cases.

Although the OLCC added on to the current facility in 1977 and added additional warehouse space in 2007, almost 98 percent of the current warehouse space is being utilized throughout the year. The industry standard for distribution facilities is between 80 and 85 percent storage utilization. During the peak holiday sales season, the warehouse is at 100 percent capacity and must limit the number of items in inventory. With the expected five percent annual increase in liquor shipments, the current OLCC warehouses are expected to run out of storage capacity in 2021, which will put future liquor sales and state revenues at risk.⁷

The Governor's 2021-2023 Recommended Budget includes the sale of XI-Q General Obligation Bonds for a new OLCC warehouse and office facility and to replace warehouse distribution center equipment. The proposed total is \$62.5 million.⁸

ALCOHOL DELIVERY

The Oregon legislature contemplated and allowed for alcohol delivery to consumers from the OLCC or its licensees in the 1933 Oregon Liquor Control Act and expanded on the concept in the years following and in 1949.⁹ The first rules on alcohol delivery were adopted by the OLCC in 1988 and allowed for retail delivery of wine and malt beverages to Oregon consumers by licensees' employees or common carriers. Between 1988 and 2007, further statutory or rule changes addressed interstate shipping, same-day and next-day deliveries, delivery limits, and common carriers. OLCC rules also allowed shipment of distilled spirits purchased in person at a retail liquor store location to a resident of Oregon who is at least 21 years of age.

In 2007-2008, in response to the 2005 U.S.S.C. case, *Granholm v. Heald*, the Legislative Assembly and the OLCC restructured the way alcohol delivery to consumers was allowed in Oregon. Oregon wineries, breweries, brewery-public houses, and grower sales privilege licensees received a direct shipper permit automatically with their license, which allowed wine to be shipped or delivered to consumers in Oregon. Off-premises sales licensees were given shipping or delivery privileges through statute and could ship an unlimited amount of wine to Oregon consumers each month. Malt beverages were added in 2015.¹⁰

COVID-19 PROGRAM AND RULE CHANGES

In 2020, the OLCC modified its operations to safely accommodate licensees and the general public during the COVID-19 outbreak, including extending the payment of taxes

⁷ Oregon Liquor Control Commission, *Business Case, Policy Option Package No. 101, Increasing OLCC Warehouse Storage Capacity; Construction of a "Turnkey" Warehouse and Administrative Office Building* (2020).

⁸ Governor Kate Brown, *Governor's Budget 2021-2023*, <https://www.oregon.gov/das/financial/documents/2021-23_gb.pdf> (last visited December 8, 2020)

⁹ Oregon Liquor Control Commission, *Alcohol Delivery in Oregon: Major Historical Milestones* (2020), available at <https://www.oregon.gov/olcc/Docs/administrative_process/proposed_rulemaking/alcohol_delivery/Alcohol_Delivery_History.pdf> (last visited October 20, 2020).

¹⁰ *Id.*

and postponing the license renewal fee due date for certain licensees.¹¹ The following actions were first implemented as temporary rules, but were then adopted as permanent rules in the fall as the pandemic and its impacts on licensees continued.

Sales Hours

OLCC amended its rules to allow off-premises sales licensees to sell malt beverages, wine, and cider to consumers beginning at 6:00 am. The OLCC took this action to accommodate the interest in creating space for off-premises sales licensees (i.e., grocery stores) to offer a “vulnerable populations-only” shopping period prior to the standard legal hours for sale of 7:00 am – 2:30 am.¹²

Distilled Spirits Delivery

Authorized distillery agents (distilleries with tasting rooms) may deliver the distilled spirits they manufacture to consumers at their homes and curbside by outlet personnel or an approved for-hire carrier. Liquor store agents may deliver distilled spirits curbside and to consumers at their homes after an in-person, in-store purchase.

Beer, Wine, and Cider Delivery

In March 2020, the OLCC created a streamlined application process for existing limited on-premises sales and full on-premises sales licensees (restaurants & bars) to sell malt beverages, wine, and cider “to go.” In September 2020, the OLCC amended rules to streamline the regulatory framework allowing for delivery of beer, wine, and cider to consumers, including eliminating the distinction between “same-day” and “next-day” deliveries and allowing “curbside” delivery of beer, wine, and cider to consumers.

REVENUE SOURCES AND DISTRIBUTION

The OLCC is an “other funds” agency that receives no General Fund support. The alcohol program is financed entirely from sales of distilled spirits; a privilege tax on beer, wine, and cider; license fees; and miscellaneous revenues including fines received from administrative sanctions.

A 50-cent surcharge per bottle on distilled spirit products was imposed in April 2009 and has since been renewed by the OLCC in each subsequent biennium, including in October of 2020. The surcharge is expected to generate \$41.1 million for the State General Fund during the 2021-2023 biennium.

After subtracting the cost of purchasing liquor from distilleries, freight, liquor agent compensation, and other expenditures related to OLCC operations, an estimated \$605.5 million will be distributed during the 2019-2021 biennium as shown in Table 2.

¹¹ Oregon Liquor Control Commission, *COVID-19 Business Continuity Information – Alcohol*, <https://www.oregon.gov/olcc/Pages/COVID19_Alcohol.aspx> (last visited October 20, 2020).

¹² [OAR 845-006-0425 - Hours of Sale](#)

Table 2: OLCC Revenue Distributions for 2019-2021

Distribution Point	Amount	Percent
General Fund	\$345.0 million	57%
Cities	\$185.6 million	30%
Counties	\$54.6 million	9%
Mental Health, Alcoholism, and Drug Services	\$19.7 million	3%
Oregon Wine Board	\$0.7 million	<.1%

Source: Legislative Policy and Research Office

Data: Oregon Liquor Control Commission

OLCC staff are responsible for tax collection and auditing for the privilege tax on wine, cider, and malt beverages. The OLCC also collects the grape tonnage tax for the Oregon Wine Board.

RECENT LEGISLATION

A summary of select landmark legislation and key legislation enacted since 2010 is available in a companion Background Brief prepared by the Legislative Policy and Research Office, entitled Recent Alcoholic Beverage Industry Legislation.¹³

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¹³ Legislative Policy and Research Office, *Recent Alcoholic Beverage Industry Legislation Background Brief (2020)*, available at <<https://www.oregonlegislature.gov/lpro#>> (last visited December 8, 2020).