



Oregon

Kate Brown, Governor

Liquor Control Commission

9079 SE McLoughlin Blvd.

Portland, Oregon 97222-7355

503-872-5000

800-452-6522

www.oregon.gov/olcc

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Botanist House LLC
3615 SW Hillside Dr.
Portland, OR 97221

Matt and Rob:

I applaud your decision to pull back from your proposed cocktails-to-go civil disobedience activity and to instead pursue a better path securing the change you seek for your business, and the hospitality industry as a whole. Defying the law by selling mixed drinks containing distilled liquor for off-premises consumption and delivery was a path that offered no opportunity for discussion. The OLCC simply could not have turned away and not paid attention.

We can help you navigate the path you're now on, and have already shared information with several legislators who have taken the preliminary steps to draft legislation for cocktails-to-go to be considered during a special or regular session. Should the legislature pass cocktails to go legislation we are prepared to implement a temporary rule the moment the law becomes effective (see attachment on statute and rule outline).

I describe our rule outline as a Washington state style rule; it provides a solid framework for safe regulation and can be implemented with the addition of minimal resources by licensees and the OLCC. This framework should be viewed as a temporary one. Permanent action (through rulemaking) should be supported with compliance authority focused on greater accountability for training and permitting of alcohol delivery (businesses and individuals).

A permanent rule should be complimented by resources to support a fully fleshed-out program designed to achieve compliance with sale and service standards; this obligation is at the core of OLCC's safety responsibilities. However, given the extraordinary challenges of the COVID-19 pandemic and the challenges to support commerce, existing regulatory boundaries are sufficient for now to address any public safety issues and allow for an immediate and temporary implementation of cocktail delivery. The OLCC is prepared to move quickly to implement legislation.

We are also prepared to work with the legislature on options to provide fee relief if this targeted means of financial assistance is of interest to policy makers; we know it is of interest to some licensees and some legislators have voiced support for fee deferment. Currently, the OLCC is allowing licensees to defer fee payments for their licenses, but the inevitable collection of full payment remains required by law. At some point, as the law currently stands, the OLCC will

have to collect payment or revoke the authority for a business to operate. Given this, fee relief may merit consideration *if the legislature desires to target assistance to the hospitality industry.*

Last, the OLCC is carefully monitoring whether the federal government will provide an additional assistance package and whether they will act on legislation targeting relief to the hospitality industry. This would be a welcome business and job saving assistance for our hard hit licensees.

From the outset of the pandemic OLCC Chairman Paul Rosenbaum made clear the OLCC should do all we can, within our authority and consistent with public health emergency restrictions, to assist our economically challenged licensees. There is no question that every member of the commission is committed to that direction. There is no question the OLCC has taken this direction to heart, as reflected in our actions to support all of our partners; our motivation is rooted in our mission to “*support businesses, public safety and community livability.*”

The OLCC understands the cruel math of COVID as it relates to jobs and the survival of our business partners. We have always appreciated our responsibility for regulating a large and vibrant engine of the Oregon economy that is a great contributor to local jobs and regional economies. We will do all we can to sustain it during this challenging time and then assist in its recovery.

Thank you for putting the OLCC in a position to be an advocate for continuing your business activity rather than the object of enforcement action. Your frustration is understandable and the OLCC is grateful to you for listening, and sharing your concerns.

We certainly hope to earn your confidence in our commitment to solutions that work for our business partners and also encompass the public interest responsibilities we carry out on behalf of the citizens of Oregon.

Thankfully,



Steve Marks

Executive Director

Oregon Liquor Control Commission.



Cocktails-to-Go: Background & Rule Concept

November 24, 2020

This document is intended to provide information about sales of distilled liquor by the drink for off-premises consumption (cocktails-to-go) by full on-premises sales licensees. Cocktails-to-go may NOT be sold by any Oregon alcohol licensees under current law. This [chart outlines](#) what may be sold to go by license type.

Information about the current state of Oregon law with respect to “cocktails-to-go”

In Oregon, the privileges of alcohol licenses are set forth in statute. There is one annual license category that allows for sales of distilled liquor by the drink to consumers—the full on-premises sales license category. The statute addressing the full on-premises sales license privileges is ORS 471.175.

The statute expressly states that all alcoholic beverages sold under a full on-premises sales license must be consumed on the licensed premises, unless there is a specific exception in the statute. There are two exceptions identified in the statute and *neither* allows licensees to offer distilled liquor in any form (mixed drink, canned, bottled, etc.) for off-premises consumption

Extending privileges for full on-premises licensees related to cocktails-to-go is an action that must be taken up by the Oregon legislature.

Information about OLCC’s proposed framework for implementation of legislation addressing “cocktails-to-go”

If the legislature passed a law allowing full on-premises sales licensees to sell distilled liquor by the drink for off-premises consumption (cocktails-to-go), the regulatory framework for implementing the legislative change would likely include the following elements:

- The drink may not contain more than three ounces of distilled liquor. The drink may also contain beer, wine, cider, and non-alcoholic beverages, provided that the total amount of liquid in a single container is no more than six ounces.
- The drink must be in a container that is securely covered. This means the container should be covered in a manner designed to prevent consumption without removal of the lid or cap.
- Full on-premises sales licensees may not pre-fill a securely covered container (must be filled on-demand, such as upon receipt of an order by a consumer).
- Full on-premises sales licensees may not put the drink in a container with labels that violate federal or state law.

- Full on-premises sales licensees may not sell manufacturer-sealed containers of distilled liquor of any size.
- The drink must be accompanied by a substantial food item, as defined in OAR 845-006-0459, that was prepared or cooked on the licensed premises.
- An order shall be limited to no more than two containers of alcohol per substantial food item.
- The drink may be delivered only as allowed by OLCC rule
- The above information does not apply to a securely covered container with an alcoholic beverage in it that does not include distilled liquor.

Licensees would be required to prominently post the following warning in a manner that puts consumers on notice of limitations regarding open container laws:

CUSTOMER NOTICE

Alcoholic drinks that are prepared and securely covered by this establishment may not be consumed in a motor vehicle or transported in a motor vehicle except in the vehicle's trunk; or, if there is no trunk, in some other area of the vehicle not normally occupied by the driver or passengers (this does not include a utility compartment or glove compartment, but may include underneath a seat outside of the driver's reach). ORS 811.170 (violation open container law); 801.305 (definition of highway).

Note: "Post" means to prominently display on the premises, in the online purchasing environment (if applicable), or present in whatever manner is necessary to ensure that the consumer purchasing, or a delivery person transporting, such beverages is given notice of this warning.