

# GUIDE TO COMMON REGULATIONS

A legal resource for the Oregon Winegrowers Association



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**Davis Wright Tremaine LLP** is a full service law firm providing services to the wine industry in the areas of mergers and acquisitions and other business transactions, land use and real estate, alcohol regulatory and licensing, intellectual property, employment, and litigation.



# INTRODUCTION

Before Oregon wineries may operate commercially, they are required to complete numerous regulatory requirements, including obtaining applicable licenses and permits from both state and federal governments. The following is a general reference guide for navigating the requirements for new wineries and grower sales privilege licensees (GSPs). However, it is not intended to be legal advice. If you have a particular question or issue, please contact your attorney for advice.

If you are an OWA member, you may contact the OWA General Counsel, Jesse D. Lyon, of Davis Wright Tremaine LLP, for general inquiries: [jesselyon@dwt.com](mailto:jesselyon@dwt.com) or 503.778.5268.

Under Oregon law, there are two different types of OLCC licenses that in-state industry members most commonly obtain: winery licenses and grower sales privilege licenses. v



## Winery Licensee

“Winery” is a license given to an entity that either possesses a TTB Producer and Blender Basic Permit or a TTB Wholesaler Basic Permit and has a written contract with a licensed winery, and has control of the wine brand. “Control” means that the applicant either owns the brand, or has at least a 3 year trademark license with the brand owner. ORS 471.223

*Note that an applicant should file an OLCC Winery license application and a TTB Winery Basic Permit as a producer and blender application at the same time.*



## Grower Sales Privilege Licensee (GSP)

“Grower Sales Privilege” is a license given to entities that grow all of the grapes or fruit used for wine or cider in Oregon on land they “control” (e.g., land they rent or own). A GSP cannot purchase grapes or fruit from other growers in order to supplement its own stock. A GSP cannot produce the wine themselves, but may have their grapes custom crushed and bottled by another licensed winery. ORS 471.227

*Note that an applicant should file the GSP license application and the TTB Basic Permit as a Wholesaler at the same time.*

1 Wholesale Malt Beverage and Wine (WMBW) Licenses may be obtained by custom crush customers who do not produce all their own grapes as required by the GSP license, nor have their own premises as required by winery license. Please note that there are no retail privileges for WMBW Licenses except limited dock sales.

[OLCC LINK](#)

Access winery and GSP licensee information from the Oregon Liquor Control Commission (OLCC) at the link above.



# LICENSE SUMMARY CHART

	Winery License	Grower Sales Privilege Licensee (GSP)
<b>License basics— license allows the licensee to do the following:</b>	<ul style="list-style-type: none"> <li>• Import*, bottle, produce, blend, store, transport or export wine or cider;</li> <li>• Sell wine or cider at wholesale to the OLCC or to licensees of the OLCC;</li> <li>• Sell wine or cider at retail directly to consumers at up to 3 locations;</li> <li>• Obtain special event license**;</li> <li>• Purchase liquor from the OLCC to fortify and</li> <li>• More than one winery licensee can occupy the same premises.</li> <li>• <b>FEE:</b> \$250/year (plus \$2.60 if there will be on-premises consumption).</li> </ul>	<ul style="list-style-type: none"> <li>• A GSP can perform any of the following, but only for wine made from fruit grown in Oregon under the GSP's control (i.e. own or lease vineyard):</li> <li>• Import, store, transport or export wine or cider;</li> <li>• Sell wine or cider at wholesale to the OLCC or retail, wholesale or other licensees; and</li> <li>• Sell wine or cider at retail directly to consumer for on/off premises consumption.</li> <li>• <b>FEE:</b> \$250.00/year (plus \$2.60 if there will be on-premises consumption)</li> </ul>
<b>Direct Shipping</b>	<ul style="list-style-type: none"> <li>• Yes, with a Direct Shipper Permit.</li> <li>• May sell to retailers, wholesalers, and Oregon consumers (up to 2 Cases per month for personal use).</li> <li>• May ship out-of-state, where permitted.</li> </ul>	<ul style="list-style-type: none"> <li>• Yes, with a Direct Shipper Permit.</li> <li>• May sell to retailers, wholesalers, and Oregon consumers (up to 2 cases per month for personal use).</li> <li>• May ship out-of-state, where permitted. Many states only allow shipment of wine by the winery that produced it.</li> </ul>
<b>Licensee may NOT:</b>	<ul style="list-style-type: none"> <li>• Import wine or cider in bottles unless the brand is owned by licensee; and</li> <li>• Hold a full on-premises sales license if the winery holds a distillery or brewery license and produces more than 200,000 gallons of wine or cider annually.</li> </ul>	<ul style="list-style-type: none"> <li>• Hold a winery license in another state; and</li> <li>• Obtain a limited on-premises sales license or off-premises sales license.</li> </ul>
<b>Licensee MAY do this if permitted by OLCC:</b>	<ul style="list-style-type: none"> <li>• Provide on-premises tastings;</li> <li>• Hold a full on-premises sales license (subject to conditional limit above); and</li> <li>• Apply for a special events license.</li> </ul>	<ul style="list-style-type: none"> <li>• Provide on-premises tastings; and</li> <li>• Apply for a special events license.</li> </ul>

\* A winery may import in containers > 4 liters or in containers ≤ 4 liters if the imported wine/cider brand is under control of the licensee.

\*\* If the winery licensee does not hold a TTB Winery Basic Permit to blend and produce wine, it may only exercise the above privileges for wine or cider brands it controls.

## LICENSE SUMMARY CHART (CONTINUED)

	Winery License	Grower Sales Privilege Licensee (GSP)
<b>Special Event License</b>	<ul style="list-style-type: none"> <li>A winery may obtain a special events license, which allows the winery to sell wine or cider for consumption at a location other than the one(s) listed in its winery license; and</li> <li>The event cannot exceed 5 days</li> </ul>	<ul style="list-style-type: none"> <li>A GSP may obtain a special events license, which allows the GSP to sell wine or cider at retail directly to consumers at a location other than the one(s) listed in its GSP license; and</li> <li>The event cannot exceed 5 days.</li> </ul>
<b>Tasting at Retail Premises (e.g. grocery stores)</b>	<p>A winery may provide on-premises tastings if it:</p> <ul style="list-style-type: none"> <li>Provides the product to be tasted, and removes the remaining product at the end of the tasting; and</li> <li>Provides for the server</li> </ul>	<p>A GSP may provide for on-premises tastings if it:</p> <ul style="list-style-type: none"> <li>Provides the product to be tasted, and removes the remaining product at the end of the tasting; and</li> <li>Provides for the server.</li> </ul>
<b>Wine Compliance with Standards</b>	<ul style="list-style-type: none"> <li>Wine must comply with OLCC regulations, including labeling and quality standards;</li> <li>Labeling must also comply with TTB standards; and</li> <li>A COLA must be obtained for each label.</li> </ul>	<ul style="list-style-type: none"> <li>Wine must comply with OLCC regulations, including labeling and quality standards.</li> <li>Labels must also comply with TTB standards.</li> <li>The bottler must obtain a COLA for each label.</li> </ul>
<b>Taxes on Wine: Privilege Tax and Grape Tax</b>	<p><b>Privilege tax</b>—wineries must pay privilege tax for wine sold. However, there is no privilege tax on the first 40,000 gallons of wine removed from bond for sale in Oregon by small producers (produces at least 1 gallon of wine per year but not more than 100,000 gal/yr.).</p> <p><b>Grape tonnage tax</b>—must pay \$25 per ton of grapes or other agricultural product used to make wine, and the winery pays \$12.50/ton (deducts \$12.50/ton from amount due grower).</p>	<p><b>Privilege tax</b>— The removing winery pays the privilege tax.</p> <p><b>Grape tonnage tax</b>—The winery pays \$25 per ton of grapes or other agricultural product used to make wine. Many producing wineries charge this through to GSPs.</p>
<b>Surety Bond</b>	<p>A winery must ensure payment of privilege tax, license fees, alcohol tax, penalties and interest with a surety bond. The bond requirement may be waived if certain criteria are met and a waiver form is completed. As of Jan. 1, 2017, the TTB surety bond will be waived if an annual or quarterly filer.</p>	<p>A GSP must ensure payment of grape tax, license fees, and penalties and interest with a surety bond. The bond requirement may be waived if certain criteria are met.</p>

# ONLINE SOURCES FOR LAW AND REGULATION

**\*\*RIGHT CLICK TO OPEN LINKS\*\***

## Oregon State Legislature: online search page

- Go to Oregon Legislature's webpage for [Oregon Revised Statutes Chapter 473](#)

## Oregon State Liquor Control Commission

- Links to the [OLCC website](#).
- Numerous Useful Links, including:
  - All Oregon State Statutes and Administrative Rules specific to alcohol [here](#), and
  - ["Apply for a Liquor License"](#)



# LICENSING & REGISTRATION REQUIREMENTS (FEDERAL & STATE): THE TTB

Agency/Forms/Issues	Resources	Description/Comments
<b>The Alcohol and Tobacco Tax and Trade Bureau (TTB)</b>	<ul style="list-style-type: none"> <li>• <a href="#">TTB site</a></li> <li>• <a href="#">Wine Laws and Regulations</a> (27 CFR specifically deals with wine)</li> <li>• <a href="#">TTB forms homepage</a> (see most frequently downloaded forms) TTB Regional Office: (513) 684-2491.</li> <li>• TTB online application system: <a href="#">"Permits Online"</a>.</li> </ul>	<p>The TTB qualifies wineries and wholesalers and sets general regulations governing their licensing, operation and taxation.</p> <p>To qualify and operate as an OLCC winery, it needs a TTB Basic Permit. To qualify and operate as a GSP, it needs a TTB Basic Permit as a wine wholesaler. See 27 U.S.C. 103(c)(1). Although specifically paying for the producer's services under a custom crush agreement, the TTB treats this as if the grape grower has purchased wine at wholesale for resale.</p>
<b>Basic Permit Application:</b>	<a href="#">Download Form</a>	<p>Required for any business that produces, processes, or warehouses distilled spirits or wine. Requires personal and financial investment information from the members/officers.</p>
<b>Application to Establish and Operate Wine Premises: Form 5120.25</b>	<a href="#">Download Form</a>	<ul style="list-style-type: none"> <li>• Requires disclosure of basic information, such as name, address, and type of business entity (Corp, LLC, etc.).</li> <li>• It also requires specific information about the premises to be licensed and the applicant's proposed operations.</li> </ul>
<b>Environmental Information Form 5000.29</b>	<a href="#">Download Form</a>	<p>Requires disclosure of power sources, amounts and disposal methods of any materials that could be considered environmentally hazardous, and related information.</p>
<b>Supplemental Information on Water Quality Form 5000.30</b>	<a href="#">Download Form</a>	<p>Requires disclosure of any discharge into navigable water and how the applicant proposes to monitor such discharge.</p>

## LICENSING & REGISTRATION REQUIREMENTS (FEDERAL & STATE): THE TTB

Agency/Forms/Issues	Resources	Description/Comments
<b>Power of Attorney: Form 5000.8</b>	<a href="#">Download Form</a>	Required by any individual that is not an authorized agent of the company in order to sign and discuss the application with the TTB. (2 originals required)
<b>Wine Bond: Form 5120.36</b>	<a href="#">Download Form</a> (also through <a href="#">Permits Online</a> )	Requires the provision of a bond, or cash, to cover the liability of excise taxes on wines produced or received by the proprietor. There is discretionary waiver for certain small producers who do not owe tax.
<b>Report of Wine Premises Operations: Form 5120.17</b>	<a href="#">Download Form</a> <a href="#">Click here for more information about the process</a>	Summary of daily records.
<b>Special Occupational Tax: Form 5630.5("d")</b>	<a href="#">Download Forms</a>	Applies to retail and wholesale dealers, importers and manufacturers of beverage alcohol products. The tax was repealed, but wineries still need to register and report tax liability as zero.
<b>Certification/Exemption of Label/Bottle Approval (COLA): Form 5100.31</b>	<a href="#">COLAs Approval</a> <a href="#">COLAs Online</a>	Wine labels must conform to standards for proper labeling and bottling.
<b>FDA Bioterrorism Registration under the "Public Health Security and Bioterrorism Preparedness and Response Act of 2002"</b>	<a href="#">Register your winery with the FDA</a>	FDA required food facility registration for safety tracking purposes.



# LICENSING & REGISTRATION REQUIREMENTS (FEDERAL & STATE): THE OLCC

Agency/Forms/Issues	Resources	Description/Comments
<b>The Oregon Liquor Control Commission License Applicant</b>	<ul style="list-style-type: none"> <li>• <a href="#">Download</a> the License Application Guide, Supplement for Winery License, and Required Forms</li> <li>• 800.452.6522 (toll free) or 503.872.5000</li> </ul>	<p>Required licenses for Full On-Premises Sales, Winery, and Grower Sales Privilege. Application requires local government endorsement. Some cities (e.g. Portland) require the filing of liquor outlet description and personal history forms. Some counties/cities also require their own business license forms be filed, along with the applicable fees.</p>
<b>Liquor License Application</b>	<a href="#">Download</a> Guide, Supplement, and Forms from OLCC	<p>General Application for All Applicants.</p>
<b>Individual History</b>	<a href="#">Download</a> Guide, Supplement, and Forms from OLCC	<p>Individual history forms are required for each person whose name is listed on the Liquor License Application and for certain managers; corporate officers, directors and stockholders, LLC members and managers, and limited and general partners.</p>
<b>Statement of Funding Sources</b>	<a href="#">Download</a> Guide, Supplement, and Forms from OLCC	<p>This form must be completed by each individual who invests money in the winery. The form requires information concerning startup costs, down payments, inventory, fees, and equipment. After reviewing the form, OLCC staff may request additional financial information and documentation.</p>
<b>Business Questionnaires</b>	<a href="#">Download</a> Guide, Supplement, and Forms from OLCC	<p>There are specific forms for the various corporate entities: Corporations, Limited Liability Companies, and Limited Partnerships.</p>
<b>Liquor Liability Insurance</b>	Request Information Directly from OLCC	<p>The OLCC requires \$300,000 in liquor liability insurance for operations involving on-premises alcohol service, such as a tasting room. Wineries with on-premises consumption must provide a certificate of liquor liability insurance. If there is no on-premises consumption, complete the exemption form (next page).</p>

# LICENSING & REGISTRATION REQUIREMENTS (FEDERAL & STATE): THE OLCC

Agency/Forms/Issues	Resources	Description/Comments
Education/Liquor Liability Insurance Exemption Request	<a href="#">Download</a> Guide, Supplement, and Forms from OLCC website	Required when there will not be on-premises alcohol service.
Servers: Education and Permits	<a href="#">Download</a> application and instructions The Oregon Restaurant and Lodging Association offers an <a href="#">online course</a>	All individuals who mix, sell or serve alcohol must have a current, valid service permit. This requirement applies to owners, managers and anyone who will be involved with on premises alcohol service. To obtain a service permit, the applicant must attend an approved alcohol server education course, file the appropriate forms and pay the required fees. A schedule of classes and locations is available at the OLCC website.
Business Information	<a href="#">Download</a> Guide, Supplement, and Forms from OLCC website	This form requires information about the business, such as hours of operation, entertainment, and seating count. See also table below concerning "Business."
Law Orientation	<a href="#">See Guide</a> for information concerning local contacts	Completion of the law orientation is required before the OLCC will issue a license or temporary authority to operate.
Local Government Recommendation	<a href="#">See Guide</a> for information concerning licensing process	After the OLCC completes its initial review of the license application and determines that the application is complete, the OLCC will return the completed application to the applicant. The applicant must send it to the local governmental authority with the requisite fee before the OLCC will assign the application to a license investigator. The local governing authority has 45 days to review the application and issue its recommendation. If the winery is located within city limits, contact city government. If the winery is located outside city limits, contact the county.
Wine Bond Waiver Form	<a href="#">Bond waiver certification</a>	The applicant must meet the criteria set on the form. Generally, any small winery that is in good standing with the OLCC and does not expect to be liable for any Oregon wine privilege tax is eligible to seek a bond waiver.

# BUSINESS ISSUES

Agency/Forms/Issues	Resources	Description/Comments
Oregon Secretary Of State	<a href="#">Secretary of State</a> 503.986.2200 ext. 8.	All businesses must register with the Secretary of State, including tradenames.
Miscellaneous Business Filings	<a href="#">"How To Start A Business in Oregon"</a> <a href="#">Business Wizard</a> <a href="#">Get Permits</a>	Numerous requirements must be satisfied with respect to the business entity selected for the business. Contact counsel for guidance specific to your circumstances.
Trademarks	<a href="#">Oregon SOS trademarks</a> or <a href="#">uspto.gov</a>	Contact counsel to ensure trademark clearance and for assistance with properly registering and maintaining your trademark.
Americans with Disabilities Act (ADA)	<a href="#">ada.gov</a> 800-514-0301	Ensure compliance with ADA requirements concerning public accommodation.
Music Use at facility	<ul style="list-style-type: none"> <li>• <a href="#">Broadcast Music Inc.</a></li> <li>• <a href="#">The American Society of Composers, Authors &amp; Publishers</a></li> <li>• <a href="#">SESAC</a></li> </ul>	If playing music on-premises, the winery must obtain a license from a BMI, ASCAP, or SESAC representative.
Oregon Tax issues: Oregon Dept of Revenue	<a href="#">Form 20</a>	Some personal property is taxable – contact local county assessor.
County Tax	<ul style="list-style-type: none"> <li>• <a href="#">Oregon Department of Revenue – County Tax</a></li> <li>• <a href="#">Trimet Tax</a></li> </ul>	Contact county and city for complete information on local taxes (e.g. TriMet Tax in Multnomah County).
City/County Business Issues	<ul style="list-style-type: none"> <li>• Portland: <a href="#">pdxbl.org</a></li> <li>• <a href="#">Salem business licenses</a></li> <li>• <a href="#">Eugene business license</a></li> <li>• <a href="#">Medford business license</a></li> </ul>	County or City Business Licenses may apply. Check with county or city offices.

# EMPLOYER ISSUES

Agency/Forms/Issues	Resources	Description/Comments
Oregon Bureau of Labor and Industries (BOLI)	<a href="#">Employer's Guide for Doing Business in Oregon</a>	Review the employment guide and BOLI regulations concerning wage and hour laws, employment of minors, family leave, and civil rights laws.
Workers' Compensation	<a href="http://cbs.state.or.us/wcd/">cbs.state.or.us/wcd/</a>	Verify which employees are covered, obtain insurance and Notice of Compliance, and complete Guaranty Contract. Note that insurance can be obtained through an insurance company or a winery may qualify as self-insurance plan employer.
Oregon Combined Employer's Registration	BIN: <a href="http://oregon.gov/DOR">oregon.gov/DOR</a> or <a href="http://oregon.gov/DOR/BUS/forms-payroll.shtml">oregon.gov/DOR/BUS/forms-payroll.shtml</a> Registration: Form 150-211-055 <a href="#">Worker's Benefit Fund</a>	Obtain Business Identification Number (BIN) for tax purposes and in order to issue paychecks.
Immigration and Naturalization	<a href="http://uscis.gov/graphics/lawsregs/handbook/hand_emp.pdf">uscis.gov/graphics/lawsregs/handbook/hand_emp.pdf</a>	Complete I-9 Form for immigrant employees.
Division of Child Support	Oregon <a href="#">Employers</a>	All Oregon employers are required to report new and rehired employees in connection with the Welfare Reform Act.
Americans with Disabilities Act (ADA)	<a href="http://ada.gov">ada.gov</a>	Ensure compliance with ADA concerning employment matters.
Occupational Safety and Health Standards	<a href="http://cbs.state.or.us/external/osha/">cbs.state.or.us/external/osha/</a>	Ensure compliance with employment safety and health standards.

# ENVIRONMENTAL & HEALTH ISSUES

Agency/Forms/Issues	Resources	Description/Comments
Zoning	Check with local city or county officials.	Comply with local zoning regulations, including Exclusive Farm Use (EFU) zones.
Oregon Department of Environmental Quality (DEQ) Permits	<a href="http://deq.state.or.us">deq.state.or.us</a> 800.452.4011 <a href="#">Download Permits</a>	Ensure compliance with environmental standards. Obtain permits for the following activities: <ul style="list-style-type: none"> <li>• Putting wastewater into rivers and streams;</li> <li>• Disposal of wastes on land or into the ground;</li> <li>• Storm water runoff;</li> <li>• Air pollutants;</li> <li>• Underground storage tanks; and</li> <li>• Storage of hazardous waste.</li> </ul>
Oregon Department of Agriculture	<a href="#">Licenses</a> Contact Food Safety Division to locate local inspector: 503.986.4720.	Obtain Food Establishment Licensing.
County Health Permit	Contact county health department office.	Obtain health permit and/or food handler's permit from county health department.

# AGRICULTURAL ISSUES

Agency/Forms/Issues	Resources	Description/Comments
Perishable Agricultural Commodities Act (PACA)	<a href="#">PACA information</a> <a href="#">Download application</a>	Anyone buying or selling commercial quantities of fruit must be licensed by the U.S. Department of Agriculture. (Licensing is optional for growers who sell only their own fruit.) License Restrictions: The PACA imposes licensing and employment restrictions on a person who has been found to be responsibly connected with a firm that has had its PACA license suspended or revoked, has failed to pay a reparation award, or has been found to have committed repeated and flagrant violations of the PACA.

## ABOUT US

### Davis Wright Tremaine LLP

An international full-service law firm representing a diverse range of clients around the world. Our team includes more than 500 attorneys covering a variety of practice areas with strong substantive teams in areas such as real estate, intellectual property, franchise and distribution, business transactions, employment, banking, environmental, tax, corporate finance, M&A, advertising, and litigation. The firm was founded in Seattle in 1908 on a simple guiding principle—to provide clients with quality legal services in a manner that would exceed their expectations. DWT was the first American law firm in China, opening a Shanghai office in 1993. We are ranked among the AmLaw 200.

If you are an OWA member, you may contact the OWA General Counsel, Jesse D. Lyon, of Davis Wright Tremaine LLP, for general inquiries: [jesselyon@dwt.com](mailto:jesselyon@dwt.com) or (503) 778-5268.

[dwt.com](http://dwt.com)

### The Oregon Winegrowers Association (OWA)

A voluntary membership-based organization that provides legislative and regulatory advocacy and lobbying for the Oregon wine grape and wine industry. The OWA provides a unified voice on key industry issues before state and federal government agencies, legislative bodies and related associations. We work to develop a positive and favorable environment for Oregon's wineries and wine grape growers.

[oregonwine.org](http://oregonwine.org)

