



LAW ORIENTATION FOR RETAILERS

Promoting Responsible Alcohol Sales and Service

(rev. 09/2009)

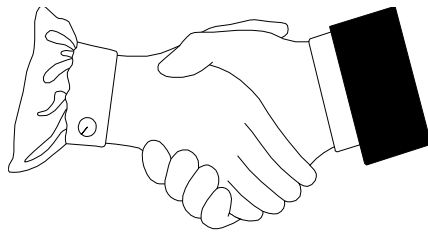
THE OLCC AND YOU

As a business owner and liquor licensee, you bring jobs to the community and provide valuable services to your neighbors. We at the Oregon Liquor Control Commission want to help you in your efforts to run a profitable business selling alcohol lawfully and responsibly.

The OLCC issues your license and regulates alcohol sales and use. Our goal is to provide quality service to all Oregonians and promote responsible alcohol use through the effective administration of the state's Liquor Control Act.

We developed this booklet to help you understand the liquor laws that are important to the success of your business. We encourage you to use it as a guide in training your employees and in the day-to-day operation of your business. The OLCC believes that we can achieve compliance with liquor laws primarily through educational efforts with licensees like you. Working together, we can make Oregon a safe and productive place to live.

If you ever have questions about liquor laws, do not hesitate to call your local OLCC office. A list of offices can be found on page H-4.



Visit our Web site at www.oregon.gov/OLCC



This booklet is not a legal reference and is not a complete statement of the laws or OLCC administrative rules. In any conflict between this booklet and Oregon laws or administrative rules, the laws and administrative rules shall prevail.



All retail licenses must post this warning sign about alcohol and pregnancy. At a minimum, you must post either a large sign (8½ x 11 inches) at the entrance to your business or a small sign (5 x 7 inches) at points of sale. The sign is also available in Spanish.

ORS 471.551

WHAT YOUR LICENSE ALLOWS

The following is a brief summary of the most common retail licenses. If your license is not listed below, ask your License Investigator for a copy of the law that describes what your license allows.



ALL RETAIL LICENSES

❶ Oregon law allows the sale, service and drinking of alcohol on licensed premises from: **7 a.m. to 2:30 a.m. every day.**

OAR 845-006-0425 (1)

❷ Oregon law defines “alcoholic beverage” as any beverage containing more than 0.5% alcohol by volume.

ORS 471.001 (1)

❸ You are allowed to have on your licensed premises only the kind of alcohol your license permits you to sell or serve. For example, if you have a license to sell only beer and wine, neither you nor your customers can bring hard liquor into your establishment.

ORS 471.405 (1) & OAR 845-006-0345 (6)

❹ During your business hours, you must have on your licensed premises someone who can communicate effectively with customers and Commission employees. “Communicate effectively” means knowing how to sell and serve alcohol lawfully and being able to explain this to customers and Commission employees. Usually, this will mean having someone who speaks English on your premises.

OAR 845-006-0426

❺ You must post the warning sign about alcohol and pregnancy shown on the opposite page.

ORS 471.551

❻ You must keep records of all alcohol delivered to your business. These records must include invoices and purchase particulars, and any discounts, rebates, or allowances given to you by a wholesaler, manufacturer, or importer. You must keep these records for a minimum of 2 years, and you must make these records available for OLCC inspection if requested.

OAR 845-006-0435

HARD LIQUOR LICENSES

FULL ON-PREMISES

ORS 471.175

A Full On-Premises license allows you to sell at retail by the drink: hard liquor (distilled spirits), beer (malt beverages), wine and cider for drinking only on your licensed premises.

You may be able to cater food and alcohol at temporary events held at a location other than your licensed premises. Talk to your License Investigator about this privilege because you will need prior OLCC approval to serve alcohol at other locations.

In all areas where alcohol is available, you must have food available **AT ALL TIMES** when alcohol is sold. You may have a separate bar or lounge area.

You may **NOT** sell alcohol to go (unless you also have an Off-Premises license). You may permit a customer to take a partially consumed bottle of wine from your premises **if the wine is served in conjunction with the patron's meal.**

You may sell malt beverages for consumption off the licensed premises in secured covered containers supplied by the customer. Containers may not hold more than two gallons.

You must purchase hard liquor (distilled spirits) from a retail sales agent appointed by the Commission. A copy of your license should be presented to the agent as proof of eligibility to receive a discount.

BEER & WINE LICENSES

LIMITED ON-PREMISES

ORS 471.178

A Limited On-Premises license allows you to sell:

- At retail by the drink: beer (malt beverages), wine and cider for drinking on your licensed premises.
- Malt beverages in factory-sealed containers holding **7 or more gallons** for consumption off the licensed premises (you may sell alcohol in containers holding less than 7 gallons if you also have an Off-Premises license).

You may be able to cater food and alcohol at temporary events held at a location other than your licensed premises. Talk to your License Investigator about this privilege because you will need prior OLCC approval to serve alcohol at other locations.

You may **NOT** sell or serve hard liquor.

You may permit a customer to take a partially consumed bottle of wine from the premises **if the wine is served in conjunction with the patron's meal.**

You may sell malt beverages for consumption off the licensed premises in secured covered containers supplied by the customer. Containers may not hold more than two gallons.

This license has no food requirements.

OFF-PREMISES**ORS 471.186**

An Off-Premises license allows you to sell beer (malt beverages), wine and cider in factory-sealed containers to go **ONLY**. You may **NOT** sell or serve hard liquor.

You may **NOT** sell beer in containers holding more than 2.25 gallons.

You may **NOT** permit the drinking of alcohol on your licensed premises except for tastings under certain conditions. Ask your License Investigator for information about the limitations and requirements regarding tastings.

Employees who sell alcohol must be at least 18 years old.

Before your employees sell alcohol, they must read, sign, and date the brochure “What Every Store Clerk Needs to Know About Selling Alcohol.” See box at below.

DELIVERIES: You may qualify for next-day delivery of beer and wine under certain conditions. Talk to your License Investigator if you are interested in making deliveries of beer and wine.

Alcohol training for package store clerks



Oregon law requires that your clerks be trained in how to sell alcohol responsibly. These are the requirements:

- You must require your clerks to read the OLCC brochure “What Every Store Clerk Needs to Know About Selling Alcohol.”
- Your clerks must sign and date the brochure, and you must keep the brochure on file at the store as long as the clerk works for you.
- If you want to keep the signed brochures at another location, you must keep a list at the store of all employees who sell alcohol, the date they read and signed the brochure, and the date the employee started selling alcohol.
- If an OLCC employee asks to see the signed brochures or list, you must be able to make it immediately available for inspection.

A brief optional quiz is also available to help your clerks review their understanding of the brochure. Contact your local OLCC office for free copies of the brochure and quiz. Some stores offer their own alcohol training. If you use training other than the OLCC brochure, you must ensure that the training covers all of the material in the OLCC brochure. You must also have your employees sign and date the training material, and you must keep the material on file as described above.

OAR 845-009-0130

FOOD SERVICE AND DINING SEATING REQUIREMENTS FOR FULL ON-PREMISES (COMMERCIAL ESTABLISHMENT) LICENSES

The most common type of Full On-Premises license is a **Full On-Premises Commercial Establishment (F-COM)** license. Listed below are the food and seating requirements for this license. Talk to your License Investigator about the requirements if you have another type of Full On-Premises license.

Food Requirements

F-COM licensees must have food service available service available during all times when alcohol service is available.

Minimum Food Requirements during meal periods: If your business is open after 5:00 p.m. you must make available to your patrons at least five **different meals** during a regular meal period which must last at least three hours. The meals must be available to your patrons in all areas where alcohol service is available.

If your business is not open after 5:00 p.m. you must make available to your patrons at least five different meals during a meal period that lasts at least two hours. You must make the meals available to patrons in all areas where alcohol service is available.

During meal periods required above, at least three of the five **different meals** used to meet the minimum meal requirement must include a main course or entrée (**substantial food item**) which has been prepared or cooked in some manner beyond the simple reheating of a pre-cooked frozen food or carry-out item obtained from another business.

You may offer less than five meals during your meal period if the clearly dominant emphasis in the premises is food service. One way to show that the clearly dominant emphasis is food service is to show that the gross sales of **meals** and **substantial food items** that will be eaten on the premises will exceed the gross sales of alcohol during the times when alcohol service is available.

Minimum Food Requirements at times other than the required meal periods: In all areas of your business where alcohol is available, you must offer your patrons at least five **different substantial food items**.

What are substantial food items? What are meals? What makes one substantial food item or meal “different” from another meal?

Substantial food items are food items prepared or cooked on your licensed premises that are typically served as a main course or entrée. Some examples are items such as fish, steak, chicken, pasta, pizza, sandwiches, dinner salads, hot dogs, soup, and sausages. These are examples, and other items may qualify. However, substantial food items don't include snack items like popcorn, peanuts, chips and crackers.

Meals are substantial food items offered together with at least one side dish. A substantial food item can also be considered a meal if there are at least two side dishes available. Examples of side dishes include vegetables, fruit, salad, rice, french fries, and bread. Other items may count as side dishes, but snack items like popcorn, peanuts, chips, and crackers would not.

Different means a substantial food item differs in their primary ingredients or method of preparation. For example, a turkey sandwich differs from a salami sandwich, a beef burger differs from a turkey burger, a pepperoni pizza differs from a cheese pizza, and fried chicken differs from baked chicken. Different sizes of the same item don't count as "different meals"—for example, a large cheese pizza is not different from a small cheese pizza, and a large hot dog is not different from a small hot dog. Offering different side dishes with the same substantial food item does not make a meal different. For example, a baked chicken with french fries does not count as a different meal than baked chicken with a side salad.

Food Service violations: Licensees who do not meet the minimum food service requirements, or who don't provide the minimum required dining seating during meal periods are subject to sanctions. You are also subject to the sanctions if you or your employees discourage a patron from ordering or obtaining food. Examples of discouraging food service include failing to take, prepare, cook, or deliver a food order in a timely manner, clearly over-pricing food for the clientele of your business, offering or serving unpalatable food, failing to provide required food service; and failing to provide a food service menu to a patron in a timely manner when a patron requests one. The sanctions could include fines, license suspensions, or even license cancellation or non-renewal for repeated violations.

Seating Requirements

You are required to have a minimum of **30 dining seats** during your required meal periods. The dining seats must be at indoor tables or indoor food counters. The tables or counters must be in areas of the premises regularly open to the public. Each dining seat must provide table or counter space that will accommodate a place setting consisting of a plate or dish, glassware, napkin, and utensils for each seat.

The following types of seating **do not** count as dining seating:

- seats in outdoor areas;
- seats at bars;
- seats at counters where the primary activity is preparing, serving, selling or consuming alcohol;
- seats at counters in entertainment areas;
- seats that do not provide enough space to accommodate a place setting consisting of a plate or dish, glassware, napkin, and utensils for each seat.

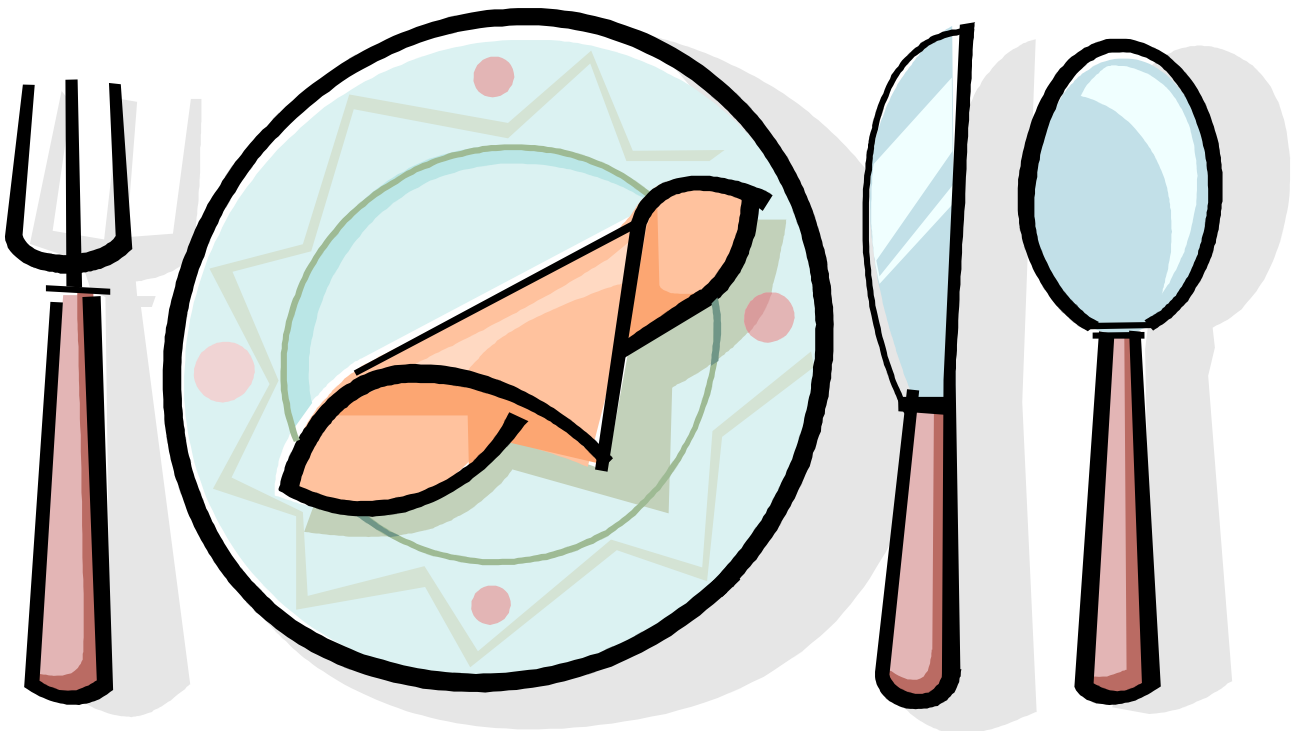
You may qualify for a license at a business that has fewer than 30 dining seats if the OLCC determines that the clearly dominant emphasis of your business is food service in all areas where alcohol service is available when your business is open to the public. One way to show that the clearly dominant emphasis is food service is to show that the gross sales of meals and substantial food items that will be eaten on the premises will exceed the gross sales of alcohol during the times when alcohol service is available.

Making Changes in Your Food Service

Your Full On-Premises license is granted based on the menu and operating information you submitted with your application. You must receive prior OLCC approval **BEFORE** you make any of the following changes in your food service:

- Increase the size of the area in which you sell or serve alcoholic beverages
- Change the principal use of an area (for example, from dining to lounge)
- Drop a meal period.
- Substantially reduce the number or variety of your regular meals.
- Substantially reduce your meal period hours.
- Substantially increase your lounge or bar hours.
- Remove or add walls or partitions or other than on a one-time basis for a particular activity.

OAR 845-006-0460, 845-006-0466, 845-006-0480



LIQUOR LIABILITY INSURANCE

\$300,000 Insurance or Bond

The following licenses must have a minimum of \$300,000 in liquor liability insurance. You may satisfy this requirement with either an insurance policy or a bond.

- Full On-Premises (F)
- Limited On-Premises (L)
- Brewery Public House (BP)
- Temporary Sales Licenses (TSL), Special Event Winery (SEW), and Special Events Grower Sales Privilege (SE-GSP) that are open to the public and have an expected attendance that will exceed 300 individuals per day
- Winery (W)*
- Brewery (B)*
- Grower Sales Privilege (GSP)

*Only if these licensees have on-premises consumption.

You must show proof of insurance or a bond before we will issue you a 90-Day Temporary Authority to Operate or a new license or renew your existing license.

For insurance, you must provide proof by naming the OLCC as Certificate Holder on the policy and giving us a copy of the certificate.

For a bond, you must provide proof by giving the OLCC a copy of the bond.

NOTICE: Failure to maintain insurance is a Category I violation which could result in the cancellation of your license.

ORS 471.168 & OAR 845-005-0400

RENEWING YOUR LICENSE

Liquor licenses are issued for one year. You must renew your license each year by completing a renewal application. Oregon is divided into four renewal districts.

| <i>COUNTIES</i> | <i>LICENSE YEAR</i> |
|--|---|
| <p><u>DISTRICT 1</u> >>> Multnomah & City of <u>PORTLAND NORTH</u> of Burnside Street center line</p> | <p><u>January 1 to December 31</u> We will mail your renewal application in October. Return the completed application by the date specified on the form to avoid late fees.</p> |
| <p><u>DISTRICT 2</u> >>> Clackamas, Clatsop, Columbia, Marion, Polk, Tillamook, Washington, & Yamhill</p> | <p><u>April 1 to March 31</u> We will mail your renewal application in January. Return the completed application by the date specified on the form to avoid late fees.</p> |
| <p><u>DISTRICT 3</u> >>> Benton, Coos, Curry, Douglas, Lane, Lincoln, Linn, & City of <u>PORTLAND SOUTH</u> of Burnside Street center line</p> | <p><u>July 1 to June 30</u> We will mail your renewal application in April. Return the completed application by the date specified on the form to avoid late fees.</p> |
| <p><u>DISTRICT 4</u> >>> Baker, Crook, Deschutes, Gilliam, Grant, Harney, Hood River, Jackson, Jefferson, Josephine, Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco & Wheeler</p> | <p><u>October 1 to September 30</u> We will mail your renewal application in July. Return the completed application by the date specified on the form to avoid late fees.</p> |

Read the application instructions carefully. Your renewal will be rejected if your application is not fully and properly completed.

COMMON PROBLEMS

Here are the most common reasons renewal applications are rejected:

UNANSWERED QUESTIONS Your renewal application will ask you several questions. You must answer all the questions clearly and completely.

LOCAL GOVERNMENT FEE You must pay your local government fee before you submit your renewal application to the OLCC. Indicate on the backside of the renewal form when you paid that fee. Failure to pay the fee could result in non-renewal or a delay in renewing your license.

WRONG SIGNATURES

All of the individuals listed as licensees at the top of the renewal form must sign the application.

If the licensees are a corporation, limited partnership, or limited liability company, a corporate officer, partner, or company member must sign for each organization. The officer, partner, or member must be someone the OLCC recognizes as a member of the organization. If you make changes in your corporation, limited partnership, or limited liability company during the year you must report the changes on the renewal application. OLCC may conduct an investigation if you have not obtained **prior** OLCC approval for the changes. (See page E-1.) Authorized representatives (such as your attorney) may sign on behalf of your corporation, partnership, or company only if we have a letter in our files naming that person as an authorized representative.

INCORRECT FEE

You must return the renewal application with the fee indicated on the application. If you miss the deadlines listed on the application, you must include the late fees.

If you have not renewed your license by the date of expiration, you must stop selling and serving alcohol until we issue you a new license. Selling or serving alcohol with an expired license is a violation of the law which will result in an administrative or criminal citation.



***If you have questions, call the renewal desk at
503-872-5138 or 1-800-452-6522.***

CHECKING ID

Who should be checked for ID?

The law requires you to ask anyone who looks under 26 years of age for proper identification.

Reasonable Doubt

The laws says you and your employees must check the age of a person when there is *any reasonable doubt* that the person is at least 21 years old. The laws says that *reasonable doubt* exists if the person looks to be under the age of 26.

What is acceptable ID?

In Oregon, there are only **4** kinds of ID you may accept **alone**:

1. a valid state **driver license** with a photo
2. a valid **passport**
3. a valid **state-issued DMV ID** card with all of the following: photo, name, date of birth and physical description;
4. a valid **U. S. Military ID** card with all of the following: photo, name and date of birth

Warning: Beware of mail order ID cards that say "State Resident" or "Personal ID." These cards are made to look like official IDs, but they are not. If you can't tell whether the card was issued by an official state agency, don't accept it.

What if the person does not have one of these four pieces of ID?

If the person does not have one of these pieces of ID, you must refuse to serve or sell alcohol to that person or you must fill out a Statement of Age card.

What identification do I need to record on the Statement of Age Card?

The person must have **two** pieces of ID:

1. One must be a **descriptive piece of ID** with the person's name, address, date of birth, signature, and a photo or physical description, such as:
 - Federal employee ID
2. The second piece must be **back-up ID** which has the person's name and, if possible, signature on it, such as:
 - Credit card
 - Social Security card
 - Checkbook

How do I fill out the card?

It is your responsibility to determine that the ID is valid and the physical description and signatures match the person presenting the ID to you.

- The person then fills out the top part of the card and signs it.
- Then you fill out the bottom part of the card and sign it.

How do I tell if the ID is valid?

**IF YOU HAVE
ANY DOUBT
ABOUT A
PERSON'S AGE
OR ID, DO NOT
SELL OR SERVE
ALCOHOL TO
THAT PERSON**

Here are some suggestions for checking ID:

- Ask the person to remove the ID from the wallet or plastic holder.
- Feel the ID for cuts, slits, bumps, uneven lamination, and other signs of alteration.
- Examine the ID in good light.
- Look for erasures, misaligned numbers, uneven lamination, and other signs of alteration.
- Compare the following with the person in front of you:
 - photograph
 - name
 - eye & hair color
 - height
 - weight
 - date of birth
 - signature
- Check the expiration date -- **expired ID is NOT valid.**
- Ask the person questions: *What's your address? What's your zip code? Spell your middle name.*

If, after you check the ID, you still believe the person is not at least 21 years old, do not sell or serve alcohol to that person.

What if I believe the ID is false? If the ID is false, altered, or looks illegally produced, refuse the sale of alcohol. You may try to keep the false ID and turn it over to the DMV or the OLCC. However, do not try to keep the false ID if the person resists or becomes threatening.

MINOR POSTINGS

Minor postings are signs the Commission places in licensed businesses to tell the public where minors are and are not allowed. It is against the law for minors to enter areas prohibited to them except for the reasons described on page B-4. Minor postings are in effect 24 hours a day.

You must use the signs provided by the OLCC, but you may frame them to match your business' decor.

Minor posting signs must be in full public view. Your district Investigator or Inspector will tell you where to place the signs. You may not remove or change minor postings without OLCC approval. You must immediately replace any altered, unreadable, or missing signs.

NO MINORS
PERMITTED ANYWHERE
ON THIS PREMISES

Except as authorized by rule or as necessitated in an emergency, no person under the age of 21 years shall enter or attempt to enter any portion of a licensed premises that is posted or otherwise identified as being prohibited to the use of minors.

ORS 471.430(3)

THIS SIGN MAY NOT BE ALTERED OR REMOVED WITHOUT PERMISSION OF THE OREGON LIQUOR CONTROL COMMISSION.

#1 Minor Posting

This posting is assigned to an entire business where the sale and service of alcohol is the main activity, such as a typical tavern. If your business is posted #1, you may not employ minors. See page B-4.

NO MINORS
Permitted in This Portion
of These Premises

Except as authorized by rule or as necessitated in an emergency, no person under the age of 21 years shall enter or attempt to enter any portion of a licensed premises that is posted or otherwise identified as being prohibited to the use of minors.

ORS 471.430(3)

OREGON LIQUOR CONTROL COMMISSION

THIS SIGN MAY NOT BE ALTERED OR REMOVED WITHOUT PERMISSION OF OREGON LIQUOR CONTROL COMMISSION

#2 Minor Posting

This posting is assigned to areas in a business where the sale and service of alcohol is the main activity, such as a lounge, bar, gambling room, or beer garden. See page B-4.

MINORS ALLOWED IN THIS
 AREA

#3 Minor Posting signs are not physically posted.

#3 Minor Posting

This posting is assigned to areas or an entire business where the sale and service of food or some other activity is the main activity and alcohol service is secondary, such as a restaurant, dining room, or golf course. No sign is physically posted in your business but OLCC records will show this posting. Minors may use entertainment devices in #3 areas.

MINORS ALLOWED

From: _____ To: _____

On: _____

Except as authorized by rule or as necessitated in an emergency, no person under the age of 21 years shall enter or attempt to enter any portion of a licensed premises that is posted or otherwise identified as being prohibited to the use of minors.

ORS 471.430(2)

#3-A Minor Posting

This posting is typically assigned to restaurants or dining rooms where eating is the main activity during meal periods but where drinking predominates after normal dinner hours. Minors may use entertainment devices in #3-A areas. Minors may be in a #3-A area only during the days and hours stated on the sign. During hours when minors are not allowed, you must treat a #3-A area as if it were posted a #2 area.

MINORS ALLOWED
during these hours only

On: _____
from: _____ to: _____

and for the purpose of consuming food.

Except as authorized by rule or as necessitated in an emergency, no person under the age of 21 years shall enter or attempt to enter any portion of a licensed premises that is posted or otherwise identified as being prohibited to the use of minors.
ORS 471.430(3)

#4 Minor Posting

This posting is assigned to areas or an entire business where food service is the main activity during certain hours of the day. The rest of the time the main activity is drinking. An example is a pub where eating is the main activity during lunch or dinner. Minors may be in a #4 area only during the days and hours stated on the sign and only for the purpose of eating. They may not use entertainment devices in a #4 area. During other hours, you must treat a #4 area as if it was a #2 area and a #4 premises as if it was a #1 premises.

NO MINORS
Permitted

Unless with a parent or spouse age 21 or over

#5 Minor Posting

This posting is assigned to tasting rooms in businesses such as wineries and breweries.

MINORS ALLOWED

IN THIS PREMISES OR IN THIS PORTION
OF THIS PREMISES IN ACCORDANCE WITH
THE LICENSEE'S MINOR CONTROL PLAN
APPROVED BY THE OLCC

The licensee must keep a copy of the approved minor control plan on this premises, and make it available at any time for immediate inspection by any OLCC employee or any peace officer.
ORS 471.430(3), OAR 845-266-0346

THIS SIGN MAY NOT BE ALTERED OR DAMAGED WITHOUT THE PERMISSION OF THE ORIGINAL OLCC SIGN MANUFACTURER.
1001-001 1001-001

#6 Minor Posting

This posting is assigned to areas or an entire business that has a variety of uses or events, and some of those uses are appropriate for minors. To qualify for the #6 minor posting, the licensee must have a minor control plan approved by the Commission. The minor control plan is developed by the licensee and the OLCC. Minors are allowed only during the days, times, or types of events approved in the minor control plan. Examples of areas that may be posted with a #6 Minor Posting include performing arts spaces, theaters, special events halls, dance halls, and banquet rooms.

GENERAL PROHIBITIONS

- Minors may **not** sit at a bar.
- Minors may **not** be in areas where there is video poker, nude entertainment, stage revues, or other forms of adult-oriented entertainment. Also, minors may not be in areas where this entertainment is visible.
- Minors **may** be in separate game rooms **if** no alcohol is allowed in the room and the room is part of or next to an area where minors are allowed.

MINOR EMPLOYEES & ENTERTAINERS



MINOR EMPLOYEES may enter #2 areas to perform limited work duties, such as restocking supplies, setting and clearing tables, or delivering food. However, they may **not** take orders for food from patrons in #2 areas.

MINOR SERVICE PERMITTEES may enter #2 areas to order and pick up drinks for service in unrestricted dining areas. They may also enter #2 areas to deliver food, but they may **not** take food orders from patrons in #2 areas.

MINOR ENTERTAINERS may perform in #1 and #2 areas. However, when not performing, they must stay in an area where minors are allowed or where alcohol is not served (such as a dressing room or an area approved by OLCC). Entertainers under 18 must have written permission from a juvenile court judge and those under 14 must also get a Bureau of Labor and Industries work permit.

ORS 471.430(3) & 471.482; OAR 845-006-0335(3) to (8) & 845-006-0340



THE LAW, YOU, AND VISIBLY INTOXICATED PERSONS

What does “visibly intoxicated” mean? Visible intoxication is intoxication you can see. If you can tell on sight that a person has been drinking or using other drugs, the person is visibly intoxicated.

What does the law say is my responsibility regarding visibly intoxicated persons? It is against the law to serve or sell alcohol to a visibly intoxicated person. The law says that you shall not “knowingly allow” a person to drink or **continue to drink** alcohol after you have observed that the person is visibly intoxicated. This means: **FIRST**, do not sell alcohol or serve an alcoholic drink to a visibly intoxicated person. **SECOND**, if a customer is in the middle of a drink and begins to show signs of visible intoxication, you must remove the drink or at least attempt to remove it.

What do you mean when you say I have to remove the drink? The law says you must make a **“good faith effort”** to remove the drink. The law defines this as: **Placing your hand on the drink and trying to remove it, or, if you have reason to believe that touching the patron's drink could cause a disturbance, you must make a verbal request for the drink.**

What if I try and fail? If you make a good faith effort, there is no violation, even if you are unsuccessful in removing the drink. If you have not made a good faith effort, as defined by the law, you will need to make that effort or you will be in violation.

What if I made a good faith effort and an Inspector comes in and the patron is still drinking? You need to tell the Inspector that you have made a good faith effort and what you did to make that effort. The Inspector must prove that you did not make a good faith effort in order for there to be a violation. In the absence of other evidence, the Inspector will take your word. The Inspector may ask you to try again. Our goal is to get the drink away from the visibly intoxicated person.

What if I cut someone off and take his drink, but another customer gives him another drink? If you see a patron with another drink after you cut him off, you need to immediately try again to get that drink away from him. You may wish to find out how the patron got the drink, so that you can take steps to avoid the patron getting another drink. A customer who provides alcoholic liquor to a visibly intoxicated person may be criminally and civilly liable for his action.

What will happen to me if I allow a visibly intoxicated person to continue to drink alcohol? You could be fined and your license or service permit suspended. Repeated violations could lead to the cancellation of your license or service permit. In addition, you could be held liable in a third party liability law suit if the visibly intoxicated person injures another person or damages someone else’s property.

50 SIGNS OF VISIBLE INTOXICATION

Serving alcohol to a **Visibly Intoxicated Person** (or VIP) is against the law. Visible intoxication is intoxication that other people can see. If you can tell on sight that a person has been drinking or using other drugs, the person is visibly intoxicated.

ORS 471.410 (1)

Here are some of the signs of visible intoxication. If a person shows just one or two of these signs, that does not necessarily mean the person is intoxicated. But if a person shows a combination of several of these signs, that could be a strong indication that the person is intoxicated.

If you are not sure, DON'T SERVE.

1. Slurred speech
2. Swaying, staggering, or stumbling
3. Unable to sit straight
4. Bloodshot, glassy eyes
5. Loud, noisy speech
6. Speaking loudly, then quietly
7. Drinking too fast
8. Ordering doubles
9. Careless with money
10. Buying rounds for strangers or the house
11. Annoying other guests and employees
12. Complaining about prices
13. Complaining about drink strength or preparation
14. Argumentative
15. Aggressive or belligerent
16. Obnoxious or mean
17. Making inappropriate comments about others
18. Crude behavior
19. Inappropriate sexual advances
20. Foul language
21. Making irrational statements
22. Depressed or sullen
23. Crying or moody
24. Extreme or sudden change in behavior
25. Overly animated or entertaining
26. Drowsiness
27. Drinking alone
28. Lack of focus and eye contact
29. Bravado, boasting
30. Difficulty remembering
31. Rambling train of thought
32. Slow response to questions or comments
33. Spilling drinks
34. Trouble making change
35. Difficulty handling money
36. Difficulty lighting cigarettes
37. Lighting more than one cigarette
38. Letting cigarette burn without smoking
39. Clumsy
40. Difficulty standing up
41. Unusual walk
42. Boisterous
43. Bumping into things
44. Falling off of chair
45. Falling asleep
46. Can't find mouth with glass
47. Falling down
48. Mussed hair
49. Disheveled clothing
50. Overly friendly to other guests or employees

MONITORING CUSTOMERS INSIDE AND OUTSIDE YOUR BUSINESS

Neighborhood Livability

In 1989, the Oregon Legislature passed a law that makes liquor licensees responsible for monitoring the behavior of customers **outside** as well as inside their businesses. The law is designed to insure that restaurants, taverns, and package stores that sell alcohol don't disturb their neighbors.

The majority of a licensee's customers do not cause problems for neighbors, but some licensees have occasional problems. Most often, prompt attention and cooperative efforts with the OLCC can help prevent continuing disturbances or resolve problems to the mutual satisfaction of those involved. If you are having difficulties with customers, we will be glad to help you develop a plan to correct the situation before it escalates.

The law focuses on businesses with serious and persistent problems caused by customers who are noisy, disorderly or involved in illegal activities and ***the disturbances are related to the sale or service of alcohol***. Licensees are responsible for customer disturbances in ***the immediate vicinity of the premises***. If the problems are not brought under control, the OLCC may issue violation tickets or may refuse to renew the license.

Licensees must be aware of, monitor, and avoid the following problems, specifically stated in the law: **Obtrusive or excessive noise, public drunkenness, fights, altercations, harassment, unlawful drug sales, music or sound vibrations, alcohol or related litter, trespassing on private property, public urination.**

If you run a restaurant, tavern, or lounge, you need to avoid these problems:

- Noise and other disturbances involving patrons outside the premises (shouting, fighting, revving car engines, loud car radios)
- Sounds or vibrations from music that interferes with normal living activities of neighbors
- Patrons drinking on the street, in the parking lot or in a park across the street where drinking is illegal
- Customers discarding alcohol containers or related litter on the street or in neighbors' yards.
- Patrons urinating in public or trespassing on private property
- Drug dealing or drug use in parking lot or nearby property

If you run a package store, you need to avoid these problems:

- Noise and other disturbances involving patrons outside the premises (shouting, fighting, revving car engines, loud car radios)
- Patrons drinking on the street, in the parking lot or in a park across the street where drinking is illegal
- Discarded alcohol containers or related litter on the street or in neighbors' yards
- Adults purchasing alcohol for minors after being contacted by the minor outside the store
- Cruisers who use the store parking lot for a place to park, play loud music, and consume alcohol or drugs
- Shoplifting and robberies involving alcohol
- Drug dealing or drug use in parking lot or nearby property

The OLCC will work with licensees to help them develop plans to correct problems created by customer behavior. Contact your local OLCC office for further information.

ORS 471.313 & 471.315

PROHIBITED CONDUCT

Here is a partial list of miscellaneous activities prohibited by liquor laws.

Noisy or Disorderly Activities: You or your employees must not permit noisy or disorderly activities **on the licensed premises or in areas you control that are adjacent to or outside the premises.** “Disorderly activities” are those that harass, threaten or physically harm another person. “Noisy Activities” include types of noise from inside your business or caused by patrons outside your business that a reasonable person would not expect to hear inside or outside of a business where alcohol is sold. If your business is located in a city or county that has local noise ordinances, you can be cited by OLCC if the noise violates those ordinances.

Unlawful Activities: You or your employees must not permit any unlawful activity **on the licensed premises or in areas you control that are adjacent to or outside the premises.** Examples of unlawful activities include: prostitution, illegal drug sales or use, illegal gambling, and anything else prohibited by state or local criminal codes.

Eviction of Patrons: You or your employees who know that a patron has engaged in noisy, disorderly or unlawful activities must evict that patron from the premises for at least a 24-hour period. The 24-hour period begins at the time the licensee evicts the patron.

Drinking Alcohol Outside the Premises: You or your employees must not permit anyone to drink alcohol in any parking lot you control that is associated with the licensed business unless the OLCC has approved the sale or service of alcohol in the area.

Open Containers: You or your employees must not permit a person to take an open container of alcoholic beverages from the licensed premises. *Exceptions:* FULL ON-PREMISES and LIMITED ON-PREMISES licenses allow a patron to take from the premises a partially consumed bottle of wine **if the wine is served in conjunction with the patron’s meal.** FULL ON-PREMISES, LIMITED ON-PREMISES, BREWERY-PUBLIC HOUSE licenses allow the sale of malt beverages “to go” in a securely covered container supplied by the customer.

Drinking On Duty: You, your employees, or your agents must not drink or be under the influence of intoxicants while on duty. *Definition:* “On duty” means from the beginning of a work shift to the end of the shift including coffee and meal breaks when the work shift involves the sale or service of alcoholic beverages, checking identification, or controlling conduct on the premises. A “work shift [that] involves the sale and service of alcoholic beverages” includes supervising those who sell or serve alcohol, check identification, or control the premises.

Liquor On Premises: You or your employees must not have or permit any alcoholic liquor on the licensed premises which your license does not allow you to sell or serve.

Drive-up Window: If you are licensed to sell alcohol for off-premises consumption, you or your employees must not sell or deliver any alcohol through a drive-up window.

Liquor as a Prize: You or your employees must not give or permit to be given any alcoholic beverage as a prize, premium, or consideration for any lottery, contest, game of chance or skill, or any competition of any kind on the licensed premises. Charitable, fraternal or religious organizations may offer alcohol as a prize in certain specific and narrow circumstances. Call your local OLCC office for more information.

Access to Premises: You or your employees must not deny entrance to the licensed premises to an OLCC regulatory employee or police officer who wants to conduct a reasonable search to ensure compliance with liquor laws. Once the OLCC employee or police officer is on the licensed premises, you or your employees may not ask the OLCC employee or officer to leave until they have had an opportunity to complete their search. Examinations of premises that are or appear closed occur only when there is reason to believe a liquor law violation is occurring.

Calling the Police: You or your employees must not fail to call the police if an OLCC regulatory employee directs you to.

Evidence: You or your employees must not destroy, damage, alter, remove, or conceal potential evidence, or refuse to give an OLCC regulatory employee or police officer this evidence when the employee or officer lawfully requests it.

NSF Checks: It is a violation to pay wholesalers for your alcohol with NSF checks ("not sufficient funds," bounced, or bad checks). It could be considered a form of "credit," and thus financial assistance. Wholesalers are required to report NSF checks to the OLCC.

✓ **Remember:** You are responsible for the activities of your employees. If they violate a liquor law, you may be held responsible. Be sure your employees understand and obey liquor laws.

KEEPING AN INCIDENT LOG

The OLCC encourages you to keep an Incident Log. Examples of when you should complete a log include anytime you or your employees intervene to prevent or stop patron conduct such as:

- Refusing someone alcohol service
- Cutting someone off or removing a drink
- Arranging safe transportation home for someone who appears intoxicated
- Stopping an argument, fight, or assault
- Stopping other illegal activities
- Asking a noisy patron to be quiet as they leave or drive away

Other activities to put in your log include whenever an incident is reported to the police or OLCC, whenever you receive a complaint from a neighbor, or any other time you think it necessary.

Sometimes, complaints, investigations, or lawsuits do not surface until weeks, months, or years after the incident occurred. Gathering complete and accurate information immediately after an incident is one of the best ways to document how you and your employees handled the problem.

Be sure your employees are instructed on the importance of filling out incident logs. Keep completed forms in a safe place and retain them for at least 5 years.

OAR 845-006-0345, 845-006-0347 & 845-006-0365

DPSST CERTIFICATION REQUIREMENTS FOR SECURITY PROFESSIONALS

The Oregon Department of Public Safety Standards and Training (DPSST) administers certification/licensure of private security constituents in accordance with ORS 181.870-991. The private security industry is regulated to ensure the interests of the public are adequately served and protected, and to uphold the professionalism and integrity of the industry.

What is a Private Security Professional?

A private security professional is an individual who performs, as the individual's primary responsibility, any one or combination of security services as described below. If these duties are performed for consideration, even if the individual is working part-time performing these security functions, the individual must be certified by the DPSST.

- The observation and reporting of any unlawful activity
- The prevention of theft or misappropriation of any goods, money or other items of value
- The protection of individuals or property, including but not limited to proprietary information, from harm or misappropriation
- The control of access to premises being protected
- The taking of enforcement action by lawfully detaining persons or placing persons under citizens arrest
- Providing canine services for the purposes of guarding or detection
- Taking enforcement action by detaining or placing persons under arrest as authorized by the person's employer as part of the person's employment. ORS 133.225

Types of certification

- Unarmed Security Professional
- Armed Security Professional
- Instructor
- Alarm Monitor

Types of licenses

- Executive Manager

- Supervisory Manager

How do I apply for a security professional certification or license?

An applicant must complete an application packet, attend required training and submit forms and fees to the Department for processing. Applications are available from the DPSST Private Security Unit via:

- The DPPST website at <http://oregon.gov/DPSST>
- DPPST phone 503-378-8531

The application packet includes an application and two fingerprint cards. Training can be obtained from certified Private Security Instructors. Upon request, a list of instructors will be sent to you.

The application packet submitted to the Department must include:

- A fully completed application, including the notarized Certificate of Accuracy, Notice to Applicant and Authority to Release Information
- Two full sets of fingerprints on the fingerprint cards supplied by DPSST
- An affidavit of completion of required training
- The appropriate fees

Applicants are subject to Federal Bureau of Investigation and Oregon State Police criminal history records checks to determine if the applicant has a disqualifying criminal history. Conviction for certain felony or misdemeanor crimes may disqualify a person from certification and licensure.

Any person applying for security professional certification must:

- Be at least 18 years of age, 21 if seeking armed certification
- Must have satisfactorily completed the training requirements as defined by law
- Demonstrate minimum standards
- Not be required to register or be registered as a sex offender
- Have no disqualifying criminal history
- Have no disqualifying history of mental illness

COMPLIANCE / VIOLATIONS

The following are examples of acts which are prohibited by law and may result in the listed sanctions.

The issuance of a citation for a Class A violation by any law enforcement officer for:

- Conducting security duties or services without proper certification
- Failure to carry certification card while performing security duties

Charges of a Class A Misdemeanor may be pursued for:

- Falsification of submitted documents, such as the application

Administrative action such as civil penalty, revocation or suspension of certification may be pursued for:

- Failure to complete training and apply for certification prior to beginning work as a security professional
- Operating without a licensed Executive Manager

Page C-8

- Failure of a certified security professional to report her/his own arrest
- Failure to complete any required annual or renewal training

WHO NEEDS TO TAKE SERVER EDUCATION & HAVE A SERVICE PERMIT

I. WHO MUST HAVE A SERVICE PERMIT?

EMPLOYEES – Any person employed by a licensee of the commission who participates in any manner in the mixing, selling or serving of alcohol for consumption on the licensed premises is required to have a service permit. This includes managers/supervisors, hostesses who take drink orders and cashiers who ring in drink orders.

The employees who do not need service permits are those who never mix, sell, serve alcohol or manage any person that does. This could include ID checkers, security guards, bouncers, bus people who clear and set up tables and cooks.

LICENSEES WITH THEIR NAMES ON THE LIQUOR LICENSE - If your individual name appears on the liquor license **as a licensee**, you do **NOT** need to have a service permit. Your liquor license is also your service permit. However, you still need to take and pass a server education class.

LEGAL ENTITIES (such as corporations & limited liability companies) - Any member who participates in the mixing, serving or selling of alcohol for drinking on the premises-or who manages workers who do-must have a service permit. To get a service permit, the member must take and pass a server education class, complete and submit the service permit application and pay the fee.

II. WHO MUST TAKE A SERVER EDUCATION CLASS?

EMPLOYEES -Any employee who needs a service permit and does not already have one must take and pass a server education class.

LICENSEES WITH THEIR NAMES ON THE LIQUOR LICENSE - If your individual name appears on the liquor license **as the licensee**, you must take and pass a server education class.

LEGAL ENTITIES (such as corporations & limited liability companies) - If a corporation or other business entity has its name on the liquor license, a designated person or persons must take and pass a server education class on behalf of the business entity.

III. HOW DO MY EMPLOYEES GET SERVICE PERMITS?

1) BEFORE YOU ALLOW YOUR EMPLOYEE TO MIX, SELL, OR SERVE ALCOHOL, OR MANAGE ANYONE WHO DOES your employee must fill out a Service Permit application form you provide or the online form at www.oregon.gov/OLCC. You must verify your employee's identity and age and you sign the application. **2)** You mail or deliver the application with the fee to the OLCC by the end of the next business day. **3)** Your employee keeps the yellow copy of the application form, or a duplicate

copy of the online form. This is your employee's temporary permit to serve alcohol. **4)** Your employee must take and pass a server education class within **45 days** of signing the application.

Remember:

- You are responsible for your employees' performance even before they take a server education class. You may be cited if they violate a liquor law.
- Your employees must have their service permits available for inspection any time they are working.
- The service permit is your employee's license to serve alcohol. It belongs to your employee, not to you.
- A service permit must be renewed every 5 years. The process for renewing a service permit is the same as applying for a new one.

You should create a service permit file in which you keep photocopies of your employees' service permits. Highlight the permit expiration date. Keep copies of the service permit applications that you signed and sent to the OLCC. Note the date the application was mailed and the date (**45 days** after mailing) when your employee should complete the server education class. Review the file regularly.

ORS 471.360, 471.365, 471.370, 471.375, OAR 845-009-0010, 009-0015, 009-0075

ALCOHOL SERVICE BY EMPLOYEES 18-20 YEARS OLD

You may employ 18 to 20 year olds to take orders for and serve alcohol in areas where food service is the primary activity and only subject to the following conditions.

Employees 18 to 20 years old **MAY**:

1. Take orders for and serve alcohol **only** in connection with food service in unrestricted dining areas.
2. Pour alcohol as a service to patrons at their tables.
3. Draw alcohol from the tap if the drawing is done in an area not prohibited to minors.
4. Enter areas prohibited to minors (such as the bar or lounge) to:
 - a) order and pick up drinks for service in unrestricted areas;
 - b) restock supplies;
 - c) set and clear tables; and
 - d) deliver food (but **not** take food orders).

Minor employees may remain in prohibited areas only as long as necessary to perform these specific duties.

Employees 18 to 20 years old may **NOT**:

1. Mix drinks.
2. Serve drinks in the bar or lounge area.
3. Take food orders in areas prohibited to minors.

Note: If your business has a #1 minor posting (“No Minors Permitted Anywhere on These Premises”) you will not be able to employ minor service permittees. See page B-3.

ORS 471.482 & OAR 845-006-0335(3)

OWNERSHIP OF YOUR BUSINESS

Declare All Owners - When you apply for your liquor license, you must specify the real and true names of all persons who own or have an interest in the business, and these persons must sign the application. In the case of corporations or other legal entities, a duly authorized officer or member must sign the application. **Corporations** must disclose all officers, directors, and stockholders. **Limited liability companies** must disclose all members. **Limited partnerships** must disclose all partners. Your license is granted only to the persons or legal entities specified in the application and only for the premises designated on the license.

Changes in Ownership - You must receive **prior** OLCC approval before you make any changes in who owns or has an interest in your business. **The Commission may suspend or cancel your license if you fail to obtain approval before someone acquires an interest in your business.**

Incorporation - If your license is granted to individual proprietors, and you later decide to incorporate or form some other legal entity, you must file a change of ownership application and receive prior approval before the corporation assumes ownership of the business.

Privately-held Corporation - You must receive prior approval whenever a person intends to acquire ownership or control of 10% or more of the corporation's stock. In addition, corporations must immediately notify the OLCC in writing when there has been a change in an officer or director of the corporation.

Publicly-traded Corporations - If you are a publicly-traded corporation, you must notify the OLCC within 60 days whenever a person acquires ownership or control of 10% or more of the corporation's stock. In addition, you must notify the OLCC by July 1 of each year of any changes in officers and directors.

Limited Partnerships - Limited partnerships must receive prior approval whenever a person intends to acquire ownership or control of 10% or more of the partnership. In addition, you must immediately notify the OLCC in writing when there has been a change in the general partners, regardless of their interest in the partnership, and whenever an existing general or limited partner increases or decreases their interest in the partnership.

Limited Liability Companies - Limited liability companies must receive prior approval if new members join the company. In addition, you must immediately notify the Commission an existing member increases or decreases their interest in the company.

Ownership Interest Defined - The OLCC defines "ownership interest" in the following way:

- Any person who receives or is entitled to receive, directly or indirectly, any of the profits of a licensed business is an owner.
- Any person who receives compensation that is out of the ordinary for the services rendered is an owner. "Out of the ordinary" includes both over and under compensation.
- Any person or firm who contracts to provide food service or to manage or operate any part the licensed premises, other than as an employee, is an owner.

- Any person who invests money or other property in the licensed business, other than as a stockholder, is an owner. A bona fide loan that entitles the lender to a return of only the principal and interest on the principal is not an investment.
- Any contract purchaser of a licensed business is an owner. A contract purchaser may not operate or invest prior to Commission approval. A contract purchaser may make contract payments into an escrow account prior to Commission approval of the change of ownership, but may not operate the business other than as an employee.

EXCEPTIONS: The following circumstances would exempt someone from consideration as an owner:

- A bonus paid to an employee, if the employee is on a fixed salary and the bonus is not more than 25% of the Employee's pre-bonus annual compensation, or the bonus is based on a written incentive/bonus program and is not unreasonable or out of the ordinary for the services rendered.
- Repayment of a loan or payment on a contract to purchase property unless the loan or contract holder exercises control over or participates in the management of the business.
- Reasonable payment for rent under a bona fide lease or rental agreement unless the lessor or property manager exercises control over or participates in the management of the business.
- Reasonable payment under a bona fide franchise agreement.
- Payment of dividends to corporate stockholders.

Unlicensable Persons: In addition to denying an application because the applicants or proposed operation is not qualified for a liquor license, Oregon law also says that the OLCC may deny, cancel or suspend a license "if an unlicensable person has any financial interest in the licensed business or place of business" (ORS 471.757). A person has a "financial interest" in the business if they:

- Rent or lease property for the licensed business
- Invest or loan money or other property for the licensed business
- Give money or property for the licensed business and exercise control over or participate in the management of the licensed business or are employed by the licensed business
- Are a spouse or domestic partner of the licensee or a license applicant

CHANGES IN OPERATION

The OLCC issues licenses with the understanding that you will operate your business as you proposed at the time of licensing. Before you make the following changes in your operation, you must receive OLCC approval or give us prior notice. We may cancel, suspend, fine or refuse to renew your license if you fail to get the required approval or give the required notice.

Prior Approval Necessary

All Retail Licenses That Sell Alcohol For Drinking On The Premises must receive prior approval before:

- Increasing the area where you serve or sell alcohol (including outdoor areas).
- Changing the main use of a room or an area except on a one-time basis for a particular event - for example, changing a dining area to a bar or entertainment area.

Full On-Premises Licenses must notify the Commission or have prior approval before:

- Making changes to your food service operation which require prior approval or notification.
- Adding a wall or partition (other than to accommodate a particular activity on a one-time basis).

Notification Necessary

All Licenses: You do not need approval to make these changes, but you do need to notify the OLCC within **30 days** if:

- You change the trade name of your business.

Corporations, Limited Partnerships, & Limited Liability Companies Who Sell Alcohol For Drinking On The Premises:

- If you change your server education designee, you must notify the OLCC in writing within **10 days**.

OAR 845-005-0311 & 845-006-0475 (4-7) & OAR 845-006-0480

CLOSING YOUR BUSINESS
Closing to Go on Vacation, Remodel, Etc.

Closing for less than 14 days: No notice is required.

Closing for more than 14 days: Written notice is required. You must write the OLCC a letter within **21 days** of the closure, and your letter must state your reason for closing and your estimated re-opening date.

Closing to Cater to Private Parties

Close Part Of Your Business: For ALL LICENSES, no notice is required.

Close Your Entire Business: For LIMITED ON-PREMISES LICENSES

- You may close your entire business any time as long as you give the OLCC **48-hour prior notice**.

Close Your Entire Business: For FULL ON-PREMISES LICENSES

- You may close your entire business only if you are open to the general public at least 5 days a week during your regular hours of operation, and you give the OLCC **48-hour prior notice**.

Whenever you close your business for a private party, at least one door, normally used as a public entrance, must remain unlocked so that OLCC inspectors may have unrestricted access to your business.

OAR 845-006-0482

ADVERTISING

The OLCC regulates the advertising of alcohol to encourage its moderate and responsible use, to discourage the appeal of alcohol to minors and to minimize health and safety problems caused by the misuse of alcohol.

Flyers - You may not advertise alcohol through handbills, flyers or leaflets that are posted or passed out on public property.

Number of Signs - You may not have more than 4 signs that refer to alcohol visible from outside your business. There is no limit to the number of signs you can have that are visible only from inside your business.

Exterior Signs - You may NOT accept free exterior signs referring to alcohol from a wholesaler or manufacturer that are larger than 630 square inches. You may accept a sign larger than 630 square inches if you pay a fair market price for it.

Coupons - You may not advertise alcoholic beverages through discount coupons.

Happy Hour - You may not advertise "happy hour" or any other temporary price reduction **outside** your business no matter what you call it: "dimers," "two-for-one," "social adjustment hour," "buck beverages," "specials," etc. This includes radio, television, newspapers, internet and phone messages. You may advertise "happy hour" inside your business as long as the reference to it is not visible from outside.

OAR 845 Division 7

FINANCIAL ASSISTANCE

To ensure that manufacturers and wholesalers (M/W) do not monopolize alcohol sales nor unduly influence or control retailers, Oregon law strictly regulates what types of services they can offer retailers. In the beginning, Oregon legislators passed laws that simply prohibited manufacturers and wholesalers from giving **anything** of value to alcohol retailers. However, over the past 60 years, the laws (now known as the financial assistance rules) have been gradually amended to adapt to changes in society and business. Now, under limited circumstances, manufacturers and wholesalers may provide certain services as part of doing business with you. The following pages describe these services.

The financial assistance rules are long, technical, and complicated. To aid in interpreting them, the Commission developed the following guiding principle.

The guiding principle states that manufacturers and wholesalers may promote their products but MAY NOT promote a retailer's business or underwrite a retailer's business expenses.

Note: The law does **not require** manufacturers and wholesalers to give you what is listed below; it simply **allows** them to do so if they choose.

GENERAL LIMITATIONS

- M/W may give or loan what's allowed for their products only.
- If M/W provide something, they must provide it to all retailers upon request subject to availability. However, M/W may give what's allowed based on the type of business involved (for example, a Limited On-Premises license vs. an Off-Premises license) or in proportion to the size of the account.
- M/W may not disturb or alter other M/W's products except when a retailer decides to do a general reset, in which case the retailer must first notify all M/W whose products are being moved and the retailer must move or help move the products of M/W who are not present.
- M/W may sell you items, labor or services that they are not allowed to give you if they charge you a **reasonable fee**. A **reasonable fee** is one that at least covers the cost to the M/W for the item, labor or service. Both you and the M/W must keep a record of the sale.

ITEMS

Here are the items M/W may give you:

Alcohol samples: Only of products you do not carry. The sample size may not exceed 1 gallon of beer, 5 liters of wine, or 50 ml of hard liquor. Beer and wine samples must be clearly marked: "Sample - not for resale."

Display bins or racks: Only one per business location at any given time under these restrictions: the M/W has permanently marked the bin or rack with a brand name or trade name of the M/W's products; only products from that brand name or trade name are displayed in it; the bin or rack is loaned for no more than 45 days; at least 45 days must elapse before the M/W loans you another bin or rack for products from the same trade name; if the cost (to the M/W) of the bin or rack exceeds \$30, the M/W must invoice you upon delivery and issue a credit upon removal.

Food and beverages: For immediate consumption at a business meeting between you and the M/W, at a convention when the food and beverages are offered to all participants, and at a sports or entertainment event that the M/W attends with you. See next item.

Tickets and admission fees: To athletic or entertainment events (including green, court, and lane fees) only if the M/W accompanies you. M/W may not pay associated costs, such as your airfare.

Items at a convention: As long as the items are offered to all convention participants.

Gifts: To acknowledge a special occasion, such as a grand opening, personal or business anniversary, death in the family, birthday, or holiday. The value of all gifts given to you by a M/W in a calendar year may not exceed \$30 fair market value. Gifts may not include cash or anything else prohibited by these rules.

On the following items, M/W may:

1. add your business name or logo
2. add your price for the product
3. leave a blank space for you to add only your price for the product.

Tavern head: One per calendar year.

Trade-in of a tavern head: At fair market value as partial payment for a new one when you replace an existing draft system.

Washers or Thomas valves: Only those necessary for the proper operation of your draft equipment.

Empty bags or shells: New or used in sufficient quantity, for returning empty beverage containers.

Paper items (or items made of similar inexpensive material): Only those that provide information to the retailer's customers but do not promote the retailer's business—such as: sports schedules; schedules for concerts, theater, and other similar entertainment events; calendars; recipes; informational pamphlets.

NOT ALLOWED

Napkins, coasters, and other such products that you use in the normal course of business.

Beer, wine, & distilled spirits lists of any products you sell, including other M/W's products. M/W may add generic food references to the list, for example, the list may say that a particular wine goes well with chicken, but it may not refer to a chicken dish on your menu.

SERVICES

Here are the services M/W may provide for you:

Inspect draft equipment, including coolers and cooling equipment, for sanitation and quality control.

Make emergency repairs on draft equipment.

Instruct you on the proper use, maintenance, and care of draft and cooling equipment.

Tap kegs during delivery calls.

Deliver products to a designated place on your premises.

Inspect, rearrange, and replenish the M/W's products.

Price the M/W's products. The M/W may not re-price products, including entering UPC information in your system, but the M/W may change shelf tags.

Exchange products delivered in error for the proper product. M/W may exchange products that are damaged, missing labels, or near or past their shelf date for an equal amount of the identical product. If the amount exchanged is one case or less of beer, M/W may substitute another beer of similar value. M/W may not exchange products which you or your customers damaged.

Rent to you picnic pumps, cold plates, tubs, refrigerated trailers, refrigerated vans, and refrigerated draft systems for a special event if a reasonable rental or service fee is charged and the rental period does not exceed 10 days.

ADVERTISING & POINT OF SALE MATERIALS

Here is the kind of advertising material M/W may provide for you:

On interior point of sale material, M/W may:

- 1. add your business name or logo***
- 2. add your price for the advertised product***
- 3. leave a blank space for you to add only your price for the advertised product***

General advertising: Only generic, off-premises references to M/W's products that mention no specific retailer--such as radio and television commercials and billboards.

Point of sale materials: Only for display at your licensed premises. M/W may install, clean, and repair the following allowable materials:

1. Materials that function only to advertise M/W's products such as: table tents, case cards, danglers, static-cling stickers, display mirrors, inflated plastic beer or wine bottles and neon beer or wine signs.
2. Materials that have another function in addition to advertising M/W's products such as: clocks, umbrellas, barbecues, etc. under the following limitations:
 - a. The cost of the material (to the M/W) in any one display does not exceed \$30.
 - b. The M/W loans, not gives, the items for no more than 45 days.
 - c. The M/W loans this type of material for no more than 4 displays per year per premises.
3. The M/W invoices the material upon delivery, describes on the invoice how it will be used, and issues a credit upon removal.
 - a. You use the items only as part of a promotional display for the M/W's products.
 - b. You make no minimum purchase in order to have the items.
4. Material that predominately advertises M/W's products but also advertises a generic food product such as pizza, fish, or cheese. The material may name a specific food product (such as cheese) or brand name (such as Joe's Cheese) if the food producer is not a retail licensee and you pay none of the costs associated with the promotion.
5. Material that predominately advertises M/W's products but also has generic words or symbols for activities such as basketball or skiing that M/W want to associate with their products.

Interior signs may use generic words or symbols relating to the activities; exterior signs may use only generic symbols relating to the activities.

Exterior advertising signs: M/W may give you exterior advertising signs that are no larger than 630 square inches. You may purchase a sign larger than 630 square inches if you pay a reasonable price which is at least what the M/W paid for the sign. The 630 square inch limitation applies to exterior point of sale material too. Inflatables or other point of sale material may not be displayed in parking lots or other outside areas if the material exceeds 630 square inches and you have not purchased it for a reasonable fee which is at least what the M/W paid for it.

Celebrities or performers: M/W may provide celebrities or performers to promote their products on your premises as long as:

- Neither you nor the M/W advertise or promote the celebrity or performer's visit.
- The celebrity or performer does only a brief performance, if any.
- The M/W does not provide alcohol to your customers.
- The M/W provides celebrities or performers no more than once per calendar year per retail premises.

CREDIT, CASH & DISCOUNTS

NSF Checks – Not Sufficient Funds, “bounced,” or bad checks: It is a violation to pay M/W with NSF checks. It could be considered a form of “credit” and thus financial assistance. M/W are required to report NSF checks to the OLCC. You must pay for all your alcohol purchases with cash or check. Credit is allowed only in the exceptions listed below.

Beer and wine returns: M/W may give you cash or credit when you return beer and wine but only with the Commission's prior written approval and only under the following circumstances:

- When you permanently close your business.
- When you temporarily close your business for more than 29 days, or you stop operating because of unforeseen circumstances, such as fire, flood, or other natural disasters.
- When you close for the season if you have a seasonal business.
- After an event at which you had a Temporary Sales License.
- When you exchange beer and wine as allowed under SERVICES above and the M/W has no product available. These restrictions apply:
 - M/W can give you credit only, not cash, and that credit must apply to your next purchase.
 - The credit must be limited to the price you originally paid for the product.
 - If the credit is for more than one case, the M/W must get the Commission's prior written approval.

Non-alcoholic merchandise: M/W may sell you non-alcoholic merchandise on credit. However, you must pay for credit purchases in full within 45 days of delivery.

Discounts: M/W may NOT offer you discounts of any kind. They must charge all their retail customers the same price for any alcoholic beverage. You may not contract for delivery of alcohol more than 10 days in the future except when purchasing existing vintage-dated wines for future delivery prior to winery releases.

Payment to Retail Liquor Agents:

- Must be made with cash or business check only
- Licensees are placed on a “Cash Only” basis when two checks to OLCC have been returned by the licensee’s bank within six months
- No business holding a license of **any type** issued by the Commission is allowed to use a bank card for any purchase of distilled spirits or related items

TASTINGS

Note: The following information applies to only Limited On-Premises, Full On-Premises, and Off-Premises licenses (but **not** Off-Premises with Gas Pumps) licensees. Other retail licensees should consult with their local OLCC offices.

Manufacturer-conducted tastings: M may conduct tastings at your business under the following conditions:

(Within this “Tasting” section: M (for Manufacturer) = Winery, Brewery, Brewery Public House, Grower Sales Privilege, & warehouse licensees, and Certificate of Approval holders (which includes some, but not all, Oregon wholesalers))

- M do not need a special license to conduct the tasting.
- M must provide the alcohol to be tasted and must remove any left over alcohol at the end of the tasting.
- Tastings must not exceed 2 consecutive days.
- Tastings must be at least 4 weeks apart.
- Number of tastings: M may be in each retail premises no more than 8 times per calendar year for tastings, including both M-conducted tastings and retail-conducted tastings at which the M assists (see below).
- Tasting sizes: The sample tastings may not be larger than 1.5 ounces for wine and 3 ounces for beer.
- Servers: M must provide or pay for a person to serve the wine or beer. These servers must be the M’s employee or agent. M may NOT pay or compensate any of your employees or agents to participate in the tasting. Servers must have a service permit.
- M may not advertise the tasting. You may advertise the tasting but only inside your business.
- M must keep records of each tasting they conduct, including the date, location, products served and names of servers.

Retailer-conducted tastings: As a retail licensee, you may sponsor or conduct your own tastings on your premises as often as you want as long as there is no M involved. M may be involved in a retailer-conducted tasting only under the following conditions:

- You provide your own alcohol (that is, the alcohol served is alcohol you have paid for).
- M provides only an employee to assist at the tasting. This assistance may include pouring tastings if the employee has a service permit.
- You pay for any advertising of the tasting.
- Number of tastings: M may be in each retail premises no more than 8 times per calendar year for tastings, including both M-conducted tastings (see above) and retail-conducted tastings at which the M assists.

MISCELLANEOUS

For information on the following subjects, contact your local OLCC office or call the Wholesalers and Manufacturers program coordinator at the numbers below:

- Schematics
- Winery or Brew-Pub Festivals held on a retailer's premises
- M/W conventions held on a retailer's premises
- M/W donation of prizes for a public event
- M/W assistance to non-profit special licenses
- Campaigns for the responsible use of alcohol.

***If you have questions about any of the information on Pages F-1 thru F-7,
call the Wholesalers and Manufacturers program coordinator
at 503-872-5188 in Portland or 1-800-452-6522 ext. 5188 from elsewhere.***

ORS 471.398, 471.400, 474.115(4)(a), OAR 845, Division 13, 845-006-0450

HEARINGS

The Oregon Liquor Control Commission holds two types of hearings:

Public hearings or meetings - Public hearings or meetings are open meetings or gatherings where the general public may comment and are not under oath. Examples are rule making hearings, where the Commission considers a proposed new rule or changes to an existing rule, and the Commissioners' monthly meetings, where there is a specific time set aside for people to talk directly to the Commissioners about whatever is on their minds.

Administrative or contested case hearings - Administrative or contested case hearings are held for violation cases and licensee denials. They are more formal and resemble a court proceeding. They are not open for public comment and testimony is sworn under oath.

ADMINISTRATIVE or CONTESTED CASE HEARINGS

Violations or License Denials - If we refuse your license request or if we issue you a ticket for violating a liquor law, you have the right to ask for a hearing. The purpose of a contested case hearing is to make a record of the facts and arguments surrounding a case. An impartial hearings officer, not employed by the OLCC, is the presiding officer. Contested case hearings are not as rigid as a court proceeding, but only people asked to testify as witnesses or those who are party to the proceedings may present information or speak on the record. Testimony is under oath and must be relevant to the issues of the case.

Representation at the hearing - You may represent yourself at the hearing or hire an attorney at your own expense. You or your attorney may call witnesses, make arguments and introduce evidence.

Proposed Order - After the hearing, the hearings officer prepares a report of the facts and makes a recommendation, called a Proposed Order, for the Commissioners to consider. If the hearing was on a violation ticket, the proposed order may dismiss the charge, uphold the proposed penalty, or alter it. If the hearing was on a license request, the order may reverse the decision, uphold it, or alter it.

Exceptions & Final Order - If you object to the Proposed Order, you may file written exceptions. Your exceptions, along with the hearings officer's Proposed Order, will then be considered by the Commissioners at their monthly meeting. You and your attorney will have the opportunity to make final remarks to the Commissioners. The Commissioners may accept, reject, or modify the Proposed Order. The Commissioners will then issue their decision in a report called a Final Order.

Court of Appeals - If you object to the Final Order, you may appeal the Commission's decision to the Oregon Court of Appeals within 60 days.

VIOLATION & PENALTY SCHEDULE

CHAPTER 845
 OAR 845-006-0500(7)
 Exhibit 1

SANCTIONS*

| Category | 1st | 2nd | 3rd | 4th | 5th | 6th | 7th |
|--|------------------------|----------------------|----------------------|----------------------|----------------------|---------|---------|
| I | Cancel | | | | | | |
| II | 30 days | Cancel | | | | | |
| II(a) Unlawful drug activity | 10 days | 30 days | Cancel | | | | |
| III | 10 days** or \$1650 | 30 days or \$4950 | 30 days | Cancel | | | |
| III(a) (Responsible Vendor Program only) | 7 days or \$1155 | 10 days or \$1650 | 20 days or \$3300 | 30 days or \$4950 | 30 days or \$4950 | 60 days | 90 days |
| IV | 7 days or \$1155 | 10 days or \$1650 | 20 days or \$3300 | 30 days | Cancel | | |
| V | 3 days or \$495 | 7 days or \$1155 | 10 days or \$1650 | 20 days or \$3300 | 30 days | Cancel | |

* *These are guidelines only. The Commission can impose a different sanction where appropriate.*

** *Amounts are retail, wholesale, and manufacturer licensee civil penalties (\$5000 maximum per violation). Service permittees and package store clerks: multiply days by \$25 (\$500 maximum per violation).*

EXAMPLES OF MOST COMMON VIOLATIONS

CATEGORY I -- Not operating as proposed, allowed ownership interest in the business without prior Commission approval, ceased Full On-Premises operation, operated while suspended.

CATEGORY II -- Made false statement to Commission, interfered with investigation, failed to call police at inspector's request, failed to promptly admit inspector or police officer.

CATEGORY III -- Sold alcohol to a minor, sold alcohol to a VIP, permitted a disorderly or noisy premises, permitted lewd or unlawful conduct, allowed a server to sell alcohol without a service permit.

CATEGORY IV -- Permitted a minor to enter or remain in a prohibited area, licensee failed to send service permit application & fee to Commission.

CATEGORY V -- Unlawfully permitted liquor to leave premises, NSF check, altered premises without Commission approval.

RESPONSIBLE VENDOR PROGRAM

The rule says . . .

- ❑ Licensees with “responsible vendor status,” with all criteria in place at the time of the violation, will not have licenses canceled or denied if any employee sells to a minor. Licensees will be eligible for reduced sanctions. Licensees must submit a completed Commission-provided application form if they would like to apply to the Responsible Vendor Program.

To qualify . . .

- ❑ On-premises licensees still must require employees to have service permits within 45 days of selling alcohol. Employees must also read and sign the Commission provided Off-Premises Sales Brochure while awaiting a permit.
- ❑ Off-Premises Sales licensees must require employees to read and sign the Off-Premises Sales Brochure before selling alcohol.
- ❑ All licensees must train employees who await, or are not required to have, a service permit within three days of selling alcohol, and follow other training requirements as outlined in the rule.
- ❑ House policies on alcohol sales and checking identification must be posted for employees, and each employee must read and sign your house policy.
- ❑ Signs must be permanently posted reminding patrons and employees of the legal requirements for selling alcohol.
- ❑ Licensees must have no personal Category I or II violations for the past five years, or have not personally committed a violation within the past year.

Qualifying licensees will receive a certificate to display in their businesses.

INTERESTED in the program? Contact your local OLCC office to obtain more information and an application form.

THE BOTTLE BILL

The kinds (types) of containers that are included in Oregon's Bottle bill as of Jan. 1, 2009 are:

- Water/flavored water
- Beer/malt beverages
- Carbonated beverages (including soda water/mineral water)

You must accept cans and bottles that have a little water, a little of the original liquid, or a little dust in them.

You must accept any product in the same container size you have sold within the last 6 months.

You must accept crushed cans if the Oregon refund value is visible.

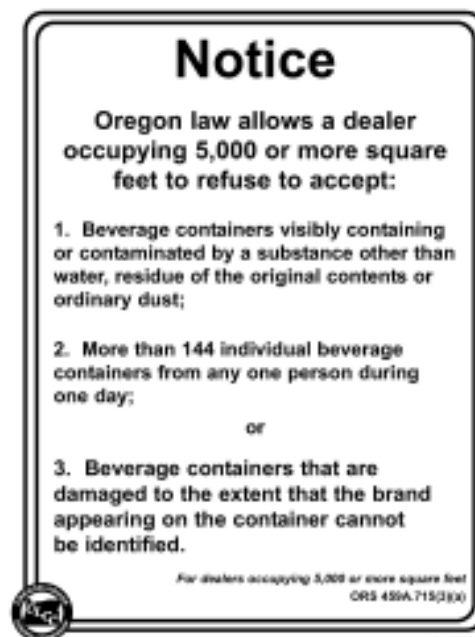
You may refuse to accept cans and bottles that do not have an Oregon refund value on them.

Retailers occupying 5,000 square feet or more:

- are required to accept bottle and can returns of all brands and sizes of beverage containers for each kind (type) they sell.
- must accept up to 144 containers per person per day

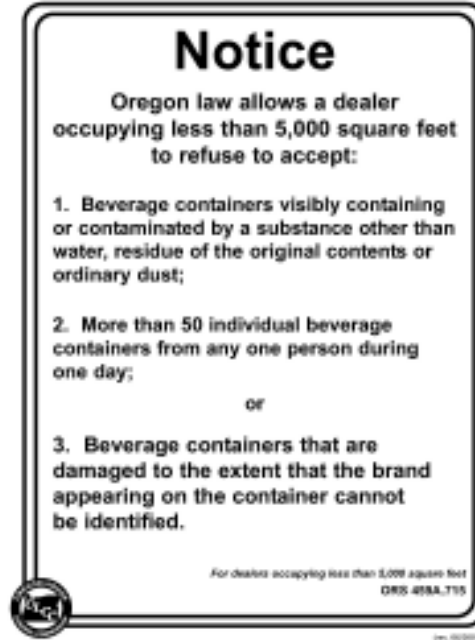
Example 1: If Joy's Supermarket (a store over 5,000 sq. feet) sells water, soft drinks and beer, then they are required to accept bottle returns of all brands and sizes of water, soft drinks and beer - even brand names that they don't carry in their stores.

Example 2: If Christie's Mega Food Warehouse (over 5,000 sq. feet) carries only soft drinks and water (but does not sell beer) then, they are only required to accept back all brands and sizes of soft drinks and water- even brands that they don't sell. However, they are not required to accept back any beer containers, because they do not sell that kind (type) of beverage.



Retailers occupying less than 5,000 square feet:

- may accept back only brands and sizes they sell.
- must accept up to 50 containers per person per day.



ORS 459A.710 & 715 & OAR 845-020-0035

THIRD PARTY LIABILITY

Third party liability is a civil matter which is decided in a court of law. The OLCC does not govern or judge third party liability lawsuits. However, the OLCC wants to help you and your employees avoid violations of liquor laws, so we provide the following explanation for your information.

I. What is third party liability?

If you sell or serve alcohol to a minor or to a visibly intoxicated person, you could be held responsible (or “liable”) for any injuries or damages that person causes.

Liquor liability is commonly called “third party liability” because the lawsuit involves 3 parties:

- | | | |
|------------------|---|-------------------------------------|
| 1st party | ➔ | the server and/or licensee |
| 2nd party | ➔ | the intoxicated person/minor |
| 3rd party | ➔ | the victim |

Third party liability lawsuits usually involve automobile accidents, but not always. Sometimes the lawsuit involves a fight or an assault.

II. When does third party liability exist?

LIABILITY EXISTS ONLY WHEN...
SERVERS AND LICENSEES VIOLATE THE LAW.

To be found responsible in a third party liability lawsuit, this is what must happen:

1. You must break the law by giving alcohol to a visibly intoxicated person or to a minor.
2. The person suing you must prove by clear and convincing evidence that you gave alcohol to a visibly intoxicated person or that you knowingly gave alcohol to a minor or to a person you should have known was a minor.

Remember, licensees are responsible for the actions of their employees, so if your employee breaks the law and is sued, you could also be sued.

III. How can I protect myself from third party liability?

If you and your employees do not sell or serve alcohol to visibly intoxicated persons or minors, you will protect yourselves from third party liability.

Your best protection against liability is to:

1. Know the law
2. Know the signs of visible intoxication
3. Not sell to or serve visibly intoxicated persons
4. Not sell to or serve minors
5. Ask anyone who appears to be 26 years old or younger for identification
6. Adopt house policies that ensure responsible alcohol use and service in your business;
7. Keep an incident log of such events as fights, disturbances, refusing service to a minor or intoxicated person, and calling the police (this will document the steps you took to handle the problem)
8. Be sure your employees know and follow these guidelines

OREGON LIQUOR CONTROL COMMISSION OFFICES

Portland Metro Office & Clackamas & Washington Counties

9079 SE McLoughlin Blvd.
Portland, OR 97222
Mail: PO Box 22297
Portland, OR 97269-2297
(503) 872-5070
(800) 452-6522
FAX (503) 872-5074

Bend

2146 NE 4th Street
Suite 160
Bend, OR 97701
(541) 388-6292/388-6299
FAX (541) 388-6321

Coos Bay

500 Central
Mail: PO Box 1176
Coos Bay, OR 97420
(541) 266-7601
FAX (541) 266-7234

Eugene

927 Country Club Road, Suite 200
Eugene, OR 97401
(541) 686-7739
FAX (541) 687-7381

Klamath Falls

107 S. 7th
Klamath Falls, OR 97601
(541) 883-5600/883-5601
FAX (541) 883-5507

Medford

15 Crater Lake Avenue
Medford, OR 97504
(541) 776-6191/776-6154
FAX (541) 776-6188

Newport

715 SW Fall Street
Newport, OR 97365
(541) 265-4522
FAX (541) 265-4521

Pendleton

State Office Bldg.
700 SE Emigrant, Suite 140, #12
Pendleton, OR 97801
(541) 276-7841
FAX (541) 278-4086

Roseburg

251 NE Garden Valley Blvd., Suite A-3
Roseburg, OR 97470
(541) 440-3362
FAX (541) 440-3361

Salem

200 Hawthorne Ave SE, Suite B-210
Salem, OR 97301
(503) 378-4871/378-3512
FAX (503) 378-4594

Warrenton

10050 Hwy 101; Ste A
Mail: PO Box 967
Warrenton, OR 97146
(503) 861-3912
FAX (503) 861-6074

Alcohol Server Education & Service Permits

9079 SE McLoughlin Blvd.
Portland, OR 97222
Mail: PO Box 22297
Portland, OR 97269-2297
Service Permits: (503) 872-5139
Alcohol Server Education: (503) 872-5133