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RULES:

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AMEND: 845-005-0304

RULE TITLE: Local Government Recommendations: Requirements for Local Governments and License Applicants for Issuance of a License

NOTICE FILED DATE: 10/28/2024

RULE SUMMARY: Allows the Commission to consider a local government's timely written recommendation on the issuance of a license. The proposed amendments are technical to align with OLCC's online licensing system.

RULE TEXT:

- (1) ORS 471.166 provides that the Commission may take into consideration a local government's timely written recommendation on the issuance of a license, and allows the Commission to extend by rule the time allowed a local government to render its written recommendation.
- (2) If the local government has not provided a written recommendation to the Commission within the time frames allowed by section (4) of this rule, the Commission shall proceed as if the local government has made a favorable recommendation.
- (3) The Commission requires an applicant for issuance of a new license issued under ORS chapter 471 to provide written notice of the application to the local government in the form of a complete, accurate, and legible Commission's local government recommendation form or in a format approved by the local government that meets Commission standards. The local government is as follows:
 - (a) If the address of the premises proposed to be licensed is within a city's limits, the local government is the city.
 - (b) If the address of the premises proposed to be licensed is not within a city's limits, the local government is the county.

(4) A local government has up to 45 days from the date it receives the notice pursuant to section (3) to provide a written recommendation to the Commission. If within the 45 day time period the local government files with the Commission a written request that meets the requirements of section (5) this rule, the Commission shall allow the local government an additional 45 days within which to render its written recommendation on the license application.

(5) The local government's written request must set forth the reason additional time is needed, state that the local government is considering making an unfavorable recommendation, and state the specific grounds being considered toward an unfavorable recommendation. Valid grounds for an unfavorable recommendation are stated in OAR 845-005-0308(3).

(6) For the purposes of this rule an unfavorable recommendation is a recommendation to deny a license or to issue a restricted license.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730(1) & (5)

STATUTES/OTHER IMPLEMENTED: ORS 471.166

AMEND: 845-005-0311

RULE TITLE: True Name on Application; Interest in Business

NOTICE FILED DATE: 10/28/2024

RULE SUMMARY: Provides for the disclosure of all persons who have an ownership or financial interest in the business. The proposed amendment adds that an individual holds a financial interest when they sell a licensee or applicant a business interest on an installment purchase agreement or one that gives the seller a continuing interest in the business.

RULE TEXT:

(1) Definitions.

(a) "Licensee of record" means an individual or entity who the Commission has listed on the license certificate as a license holder for a license. There may be more than one licensee of record for the same license.

(b) "Entity" means an association, corporation, limited liability company, partnership, trust, or any similar entity that has legal standing under the laws of Oregon or another state within the United States.

(2) True name on application. An application for a license must include as an applicant all persons who have an ownership interest in the business as defined in this rule. Despite this requirement, the Commission may waive the type of ownership interests specified in section (6) of this rule.

(3) License privileges. License privileges are available only to a licensee of record and only for the premises designated on the license certificate

(4) Ownership Interest. Under ORS 471.313(1)(d)(H), the Commission may refuse to issue a license if an applicant is not the owner of the business proposed to be licensed or an undisclosed ownership interest exists. For purposes of this rule, an "ownership interest" is indicated by the following behaviors, benefits or obligations:

(a) Unless allowed by a waiver of the ownership interest under (6) of this rule, any person or entity, other than an employee, agent, or representative of the applicant or licensee acting under the direction of the applicant or licensee, that exercises control or responsibility over, or is entitled to exercise control or responsibility over, the business or the premises;

(b) Any person or entity, other than an employee, agent, or representative of the applicant or licensee acting under the direction of the applicant or licensee, that incurs, or is entitled to incur, debt or similar obligations on behalf of the business;

(c) Any person or entity, other than an employee, agent, or representative of the applicant or licensee acting under the direction of the applicant or licensee, that enters into, or is entitled to enter into, a contract or similar obligations on behalf of the business;

(d) Unless allowed by a waiver of the ownership interest under (6) of this rule, any person or entity, other than an employee, agent, or representative of the applicant or licensee acting under the direction of the applicant or licensee, who exercises or is entitled to exercise at the premises any activity requiring a license under ORS chapter 471;

(e) Unless allowed by a waiver of the ownership interest under (6) of this rule, any person or entity identified as a lessee, tenant, or renter (or similar term) of the premises proposed to be licensed;

(f) Unless allowed by a waiver of the ownership interest under (6) of this rule, any person or entity owning the real or personal property of the premises proposed to be licensed, unless the owner of the property has given control over the property to another party via a lease or rental agreement or similar agreement; or

(g) When an applicant is an entity, any person in that entity defined as an applicant or licensee under Commission rules.

(5) Financial Interest. Under ORS 471.757, the Commission may require the licensee or applicant to identify the persons and entities with a financial interest in the business. The Commission may evaluate any such person as if the person were the actual licensee or license applicant. If that evaluation reveals any circumstances that would support grounds for the denial, cancellation or suspension of such a license or license application, the Commission may deny, cancel or suspend the license of the actual licensee or issue the license with restrictions. For purposes of this rule, a "financial interest" exists if the performance of the business causes, or is capable of causing, a person or entity to benefit or suffer financially. Examples of a financial interest include, but are not limited to:

- (a) A licensee;
 - (b) An employee or agent who receives out-of-the-ordinary compensation. "Out-of-the-ordinary compensation" includes both over- and under- compensation;
 - (c) Any person who rents or leases real property to a licensee or applicant for use by the business;
 - (d) Any person who rents or leases personal property to a licensee or applicant for use in the business for a commercially unreasonable rate;
 - (e) Any person who lends money, real property or personal property to a licensee or applicant for use in the business;
 - (f) Any person who gives money, real property or personal property to a licensee or applicant for use in the business.
 - (g) A spouse or domestic partner of a licensee, or individual with a financial interest. For purposes of this subsection, "domestic partners" includes adults who share the same regular and permanent address and would be financially affected by the success or failure of the business as well as adults who qualify for a "domestic partnership" as defined under ORS 106.310.
 - (h) Any person with any ownership of an entity who is an applicant or licensee under Commission rules.
 - (i) Any person who sells a business interest to a licensee or applicant where the licensee or applicant has a purchase agreement which includes that the licensee or applicant is purchasing the business interest on an installment basis or that gives the seller a continuing interest in the business's property, income, sales, or debts.
- (6) Despite subsections (3) – (4) of this rule, the Commission may waive:
- (a) The ownership interest of a non-applicant who has a right of access to a common area shared with an applicant or licensee; however, the non-applicant does not manage or control the sale, service, or manufacturer of alcoholic beverages in the common area. For purposes of this rule, "common area" means an area on private property that is adjacent to or in the immediate vicinity of an area leased or rented by one or more tenants and it is an area that is equally available to multiple tenants and/or the landlord for various uses.
 - (b) The ownership interest of a non-applicant who manages or controls, or is responsible for managing or controlling, the premises or aspects of the business at the premises provided the management or control does not involve, directly or indirectly, the sale, service, or manufacture of alcoholic beverages at the premises, or importation of alcoholic beverages to the premises, and there is at least one other party licensed at the premises who is listed by the Commission on the license certificate as a license holder for a license. Examples of non-applicants who may qualify for a waiver under this section include:
 - (A) Operators selling and serving food, nonalcoholic beverages, and other nonalcoholic items on the premises; or
 - (B) Operators who lease, rent, or otherwise occupy a portion of the licensed premises in order to provide services as a part of the business that don't involve the sale, service, or manufacture of alcoholic beverages on the license premises.
 - (c) The ownership interest of a non-applicant who holds, or will hold, its own manufacturing or wholesaling license issued under ORS chapter 471 at the premises. For purposes of this subsection, a brewery-public licensee is a manufacturer.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730 (1) & (5)

STATUTES/OTHER IMPLEMENTED: ORS 471.757, 471.313

AMEND: 845-005-0320

RULE TITLE: License Refusal Reasons that Can Not Be Overcome

NOTICE FILED DATE: 10/28/2024

RULE SUMMARY: Describes the criteria that preclude issuing or renewing a license. The proposed amendments implement the requirement for applicants who apply for licenses that allow on-premises consumption of alcohol to possess a service permit, temporary service permit or to designate a service permit designee.

RULE TEXT:

The following criteria will preclude issuing or renewing a license. Intervening circumstances do not apply to these criteria.

(1) The applicant has or would have an interest in another liquor business that ORS 471.313(1)(c), 471.394, or 471.396 prohibits and no exception applies.

(2) The applicant seeks a license that requires food service and is unable to show in writing that the applicant will comply with the food service requirements set by the rules of the Commission for that license.

(3) The applicant seeks a Full On-Premises Sales license as an "other public location" as allowed by ORS 471.175(2)(d) and will not allow public access to its premises.

(4) The applicant is a retail sales agent of the Commission. Despite this requirement, a retail sales agent may obtain a license as allowed by Commission rules.

(5) The applicant for a license that authorizes the sale or service of alcoholic beverages for consumption on the premises and intends to do so; and

(a) Does not hold a valid service permit or a valid temporary service permit under ORS 471.375; and

(b) Has not designated as part of their initial application an alcohol service permit designee, defined as an individual who holds a valid service permit or valid temporary service permit and is authorized by the applicant to exercise control or responsibility over setting, implementing and changing the applicant's practices for selling and serving alcoholic beverages at the premises.

(6) The applicant has not paid an outstanding fine to the Commission.

(7) The applicant who is subject to the bonding requirements of ORS 471.155(1) has failed to post a tax bond or the equivalent as required.

(8) The applicant who is subject to the liquor liability insurance requirements of OAR 845-005-0400 has failed to obtain or maintain liquor liability insurance or bond as required.

(9) The applicant for an initial license has not completed Commission-given law orientation or been granted a waiver by the Commission

(10) An applicant or licensee has failed to define the boundaries of the licensed premises as required by ORS 471.159(1).

(11) An applicant or licensee holds a full on-premises, caterer license issued under ORS 471.175(2)(e) and serves, or will serve, alcoholic beverages for consumption on the annually licensed premises.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730 (1) & (5)

STATUTES/OTHER IMPLEMENTED: ORS 471.168, 471.313, 2024 OL Ch. 40 Sec. 8 & 9

AMEND: 845-005-0325

RULE TITLE: License Refusal Reasons: Applicant Qualifications

NOTICE FILED DATE: 10/28/2024

RULE SUMMARY: Describes criteria the Commission relies on to refuse to issue a license and the intervening circumstances considered to support or overcome a refusal. The proposed amendment updates a statutory citation.

RULE TEXT:

The Commission may refuse to license an applicant if any of the criteria in this rule apply. Upon a finding that a license should be refused, the Commission will consider intervening circumstances to determine whether the refusal basis is supported or overcome. The intervening circumstances may have occurred before or after the incident or incidents that are relevant to the specific criterion. The intervening circumstances may be weighed in favor of the applicant, weighed against the applicant, or weighed neither for nor against the applicant. The criteria are as follows:

(1) The applicant has a recent history or record of using alcohol or controlled substances to excess. Some of the records the Commission may use to evaluate this criterion include: court documents; Department of Motor Vehicles reports; police records; or medical records. Some of the intervening circumstances the Commission considers in determining whether the refusal basis is supported or overcome include: successful participation in treatment program(s); severity of the applicant's record; passage of time since last relevant incident; and the applicant's previous record of compliance with the laws and rules of the Commission.

(2) The applicant has been convicted of violating any general or local law of this state, or any other state, or of violating a federal law, if the conviction is substantially related to the fitness and ability of the applicant to lawfully carry out activities under the license. In determining whether the applicant presents an acceptable future risk of compliance, the Commission will consider applicable intervening circumstances that have occurred before or after the relevant incident or incidents.

(a) Definitions. For this subsection:

(A) "Compliance risk factors" means factors related to the individual's moral character or that show the individual's tendency to disobey laws, rules, and regulations; such as probation and parole violations and non-relevant convictions.

(B) "Relevant conviction" means a conviction that involved violence or the threat of violence; dishonesty or deception; drugs, alcohol, or other regulated substances; or a conviction as a felon in possession of a weapon.

(C) "Successful treatment" means:

(i) The Commission receives written confirmation from the individual's licensed treatment provider that the individual completed treatment that is related to a relevant conviction and the Commission has determined that the individual has not had another conviction for a similar incident since the completion of the treatment; or

(ii) The individual is still in a treatment program that is related to a relevant conviction; however, the Commission receives written confirmation from the individual's licensed treatment provider that the individual has demonstrated sufficient success towards stopping the behavior that led to the conviction and the Commission has determined that the individual has not had another conviction for a similar incident since the date the provider determined that the individual demonstrated sufficient success towards stopping the behavior that led to the conviction.

(b) Upon the Commission's determination that a basis to refuse the application has been established under this criterion, the Commission may consider the following intervening circumstances and may consider other intervening circumstances, depending on the facts of the case:

(A) Passage of time from the date of the most recent incident that led to a relevant conviction or from the date of the most recent compliance risk factor, whichever date is later. In calculating the passage of time, the Commission does not count time spent incarcerated after the date of the most recent incident that led to a relevant conviction or after the date of the most recent compliance risk factor, whichever date is later.

(B) Compliance risk factors.

(C) Successful treatment.

(D) The severity of the individual's relevant conviction record as shown by both the number of convictions and whether

a conviction was a felony or non-felony.

(E) The individual's record of compliance with the Commission.

(3) The applicant provides material false or misleading information to the Commission or omits material information that should have been provided to the Commission. Upon the Commission's determination that a basis to refuse the application has been established under this criterion, the Commission may consider the following intervening circumstances and may consider other intervening circumstances, depending on the facts of the case:

(a) The number of false statements or omissions.

(b) Whether or not false statements or omission were repeated.

(c) The applicant's provision of conflicting reasons for a false statement or omission.

(d) If there are language or other communication issues between the applicant and the Commission.

(e) If the applicant has been warned or cautioned about the need for truthfulness.

(4) The applicant is under 21 years of age. The applicant may establish a basis to overcome this criterion by demonstrating that the applicant will not participate in the management or control of any alcohol-related business decisions or any employees responsible for the sale or service of alcoholic beverages.

(5) The applicant does not have a good record of compliance with ORS Chapter 471, 473, 474, 475C, or any rules adopted thereunder. Upon the Commission's determination that a basis to refuse the application has been established under this criterion, the Commission may consider the following intervening circumstances and may consider other intervening circumstances, depending on the facts of the case:

(a) The passage of time since the most recent violation.

(b) The seriousness of the applicant's violation record.

(c) The personal involvement in a violation by the applicant.

(d) Whether the applicant immediately implemented control measures that effectively prevented future violations.

(e) Whether a violation was aggravated or mitigated.

(f) The applicant's acceptance of any relevant license restriction.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730 (1) & (5)

STATUTES/OTHER IMPLEMENTED: ORS 471.313

AMEND: 845-005-0332

RULE TITLE: Tour Boat License

NOTICE FILED DATE: 10/28/2024

RULE SUMMARY: Describes the requirements for issuing a Full On-Premises Sales license to a tour boat operator. The proposed amendments implement the requirement that an applicant or their service permit designee possess a service permit or temporary service permit, as well as alcohol servers on boats that will be in the water over 90 days.

RULE TEXT:

(1) ORS 471.182 allows the Commission to issue a Full On-Premises Sales license to a tour boat owner or operator. The statute also allows the Commission to waive a regulation for a tour boat operator or owner that would otherwise apply to a commercial establishment.

(2) The Commission may allow more than one tour boat to be operated under one Full On-Premises Sales license if:

(a) The licensee owns or leases the tour boats. The Commission does not license a tour boat operator's agent or representative;

(b) Each boat is a "tour boat" as defined by ORS 471.182(2)(c);

(c) The licensee notifies the Commission in writing at least 10 days before adding an additional tour boat to be operated under the license;

(d) The licensee meets all applicable licensing criteria.

(3) Requirements for boats that will be in Oregon waters 90 days or less in a calendar year:

(a) Law Orientation. The applicant or their legal representative must affirm in writing that they have read the OLCC Law Orientation for Retailers.

(b) The applicant or service permit designee, as defined in OAR 845-005-0320, must possess a valid service permit or a valid temporary service permit.

(c) Except for those covered by subsection (3)(b), the Commission waives the service permit requirement for alcohol servers on tour boats and for those who supervise the sale or service of alcohol, as long as the applicant, licensee or service permit designee has affirmed in writing that all alcohol servers, and those who supervise the sale or service of alcohol, have read the OLCC brochure, "What Every Volunteer Alcohol Server Needs to Know" prior to serving or selling alcohol on the tour boat.

(d) Minor Postings. The Commission generally does not assign minor postings. However, the Commission instructs tour boat licensees that minors must not be in areas with drinking environments during the hours that drinking predominates.

(4) Requirements for boats that will be in Oregon waters over 90 days in a calendar year:

(a) Law Orientation. The applicant or their legal representative must affirm in writing that they have read the OLCC Law Orientation for Retailers.

(b) The applicant or their service permit designee, as defined in OAR 845-005-0320, must possess a valid service permit or temporary service permit.

(c) The licensee, applicant, or their service permit designee must ensure that all employees or persons engaged in the sale or service of alcohol, or supervising the sale or service of alcohol, possess a service permit or a temporary service permit.

(d) Minor Postings. The Commission assigns minor postings according to the Minor Posting rule, OAR 845-006-0340.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730 (1) & (5)

STATUTES/OTHER IMPLEMENTED: ORS 471.182

AMEND: 845-005-0355

RULE TITLE: Restricting License Privileges and Conduct of Operations

NOTICE FILED DATE: 10/28/2024

RULE SUMMARY: Describes the bases for restricting a license or permit. The proposed amendments add the term temporary service permit.

RULE TEXT:

(1) The Commission may restrict a license, service permit, or temporary service permit when:

(a) In the absence of a restriction, the Commission has a basis to cancel, suspend/fine or deny the license, service permit, or temporary service permit;

(b) In addition to all or part of a suspension or fine, a restriction may prevent the recurrence of the problem(s) that caused the violation(s);

(c) The Commission determines that a restriction is in the public interest or convenience; or

(d) The Commission has a basis to refuse the license and the applicant or licensee has submitted a qualifying control or operating plan as good cause to overcome the refusal basis. In these circumstances the Commission shall impose as restrictions those elements of the control or operating plan that the Commission determines are essential to overcoming the refusal basis.

(2) In determining public interest or convenience reasons to restrict a license or permit, the Commission considers factors that include but are not limited to:

(a) The character or environment of the neighborhood in which the licensed premises operate;

(b) The need to eliminate or prevent conditions that have contributed to or that the Commission reasonably believes will contribute to liquor or criminal law violations by the licensee, patrons of the licensed premises or the public, including conditions that have or are likely to contribute to noise, music or sound vibrations from inside or outside the premises that a reasonable person would consider excessive or obtrusive; or

(c) The need to limit the availability of alcohol to minors, visibly intoxicated persons or street drinkers.

(3) The Commission has determined that it is not in the public interest or convenience to issue or renew:

(a) A license that allows off-premises sales in an area frequented by street drinkers, unless the Commission restricts the sales of the alcoholic beverages associated with street drinkers;

(b) A license to a relative or associate of a person whose license was cancelled, surrendered or not renewed because of problems at the premises that involved the person, unless the Commission restricts the relative or associate from permitting the person from being on the premises;

(c) A license or permit to a person who has a recent history or record of alcohol or drug problems, unless the Commission requires the person to complete an alcohol/drug treatment program and follow the program's recommendations regarding alcohol/drug use or to abstain from alcohol/drug use.

(4) When the Commission restricts a license, service permit, or temporary service permit, it notifies the licensee or permittee. If the licensee or permittee disagrees with the license or permit restriction, the licensee or permittee has the right to a hearing under the procedures in ORS Chapter 183; OAR chapter 137, division 3; and chapter 845, division 3.

(5) A licensee or permittee who has a restricted license or permit must exercise license or permit privileges only in compliance with the restriction(s). Failure to comply with the restriction(s) is a Category I violation.

(6) A restriction remains in effect until the Commission removes it. The licensee or permittee may ask the Commission to remove or modify a restriction. The written request must explain why the licensee or permittee believes the Commission should remove or modify the restriction. The Commission will notify the licensee or permittee, in writing, of its decision to approve or deny the request and the basis for its decision. If the Commission denies the request, the licensee or permittee has the right to a hearing under the procedures in ORS Chapter 183; OAR chapter 137, division 003; and chapter 845, division 003.

(7) As used in subsections (2)(c) and (3)(a) of this rule, "street drinkers" means people who drink unlawfully in streets, alleys, parks and other similar public places.

(8) As used in subsection (2)(b) of this rule, "conditions" means conditions in the immediate vicinity of the premises that are related to the exercise of the license privileges and conditions in the premises or in the areas around the premises that the applicant/licensee controls.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730 (1) & (5), 471.385, 2024 OL Ch.40 Sec. 13

STATUTES/OTHER IMPLEMENTED: ORS 471.313, 471.405(1)

AMEND: 845-005-0360

RULE TITLE: License Renewal: Requirement for Applicants

NOTICE FILED DATE: 10/28/2024

RULE SUMMARY: Describes the requirements and timelines for renewing a license. The proposed amendments are technical to provide clarity.

RULE TEXT:

(1) Filing a Renewal Application:

(a) Any licensee who files a completed renewal application with the Commission at least 20 days before the date the license expires may continue to operate as if the license were renewed, pending a decision by the Commission;

(b) Any licensee who does not file a completed renewal application at least 20 days before the existing license expires must stop selling or serving alcoholic beverages when the license expires. However:

(A) If the Commission receives a completed license renewal application less than 20 days before the date the existing license expires, the Commission will, upon receipt of the appropriate late renewal fee that ORS 471.311(3) requires, allow the licensee to continue to operate beyond the expiration of the license, pending a decision by the Commission;

(B) A licensee must not sell or serve alcoholic beverages after the license expires; a violation of this subsection is a Category III violation. If the Commission receives a completed license renewal application within 30 days after the date the existing license expires, the Commission will, upon receipt of the appropriate late renewal fee that ORS 471.311(3) requires, allow the licensee to resume operation, pending a decision by the Commission.

(c) The Commission will not renew a license if the Commission receives the renewal application more than 30 days after the license expires. A person who wants to resume selling or serving alcoholic beverages in this circumstance:

(A) Must submit a completed new application, including the documents and information required by the Commission.

(B) Must not sell or serve alcoholic beverages unless and until they receive authority to operate from the Commission after submitting the completed new application.

(d) A person relicensed under section (1)(c) of this rule who sold or served alcoholic beverages in violation of section (1)(b)(B) of this rule is subject to administrative sanctions.

(e) A person who sells or serves alcoholic beverages without a liquor license is in violation of ORS 471.475, a misdemeanor, and is subject to criminal prosecution.

(f) For purposes of this rule, a completed application is considered filed or received according to its postmark date, if legible, or according to the date the Commission actually receives the completed application, whichever is earlier.

(2) Completed Application: As used in this rule, a completed application is one that is completely filled out, is submitted and affirmed by the applicant or authorized representative, and includes the appropriate fee(s), the bond or equivalent that ORS 471.155 requires and the liquor liability insurance or bond that 471.168 and OAR 845-005-0400 require.

(3) Local government recommendation. The Commission requires all applicants seeking renewal of Full On-Premises Sales, Limited On-Premises Sales, Off-Premises Sales, and Brewery-Public House licenses to pay to the local government all fees as established by ORS 471.166(7) and (8).

(4) Late Renewal Fee:

(a) ORS 471.311(3) requires the Commission to charge a late fee for renewal applications received less than 20 days before the license expires or not more than 30 days after the license expires. In computing this 20 or 30 day period, the Commission does not count the day the license expires. For example, a license expires on the 31st. The 20 day period ends on the 11th unless the 11th is a Saturday, Sunday or legal holiday. If the 20th or 30th day is a Saturday, Sunday or legal holiday, the period ends at 5 p.m. on the first working day after the Saturday, Sunday or legal holiday;

(b) The Commission may waive the late renewal fee if the licensee fails to file a timely application due to unforeseen circumstances, such as a death or illness of the licensee or to a delay in Commission processing of the application through no fault of the licensee.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730 (1) & (5)

STATUTES/OTHER IMPLEMENTED: ORS 471.155, 183.430, 471.311, 471.313, 471.168

AMEND: 845-005-0365

RULE TITLE: Change of Licensee; Change of Location; Change of Service Permit Designee

NOTICE FILED DATE: 10/28/2024

RULE SUMMARY: Describes when an application for a new license is required. The proposed amendment describes a requirement to notify the Commission of changes to a licensee's service permit designee.

RULE TEXT:

- (1) The Commission may allow a change of licensee at a licensed business. The proposed new owner must apply for a new license.
- (2) The Commission may allow a change of location of a licensed operation. The licensee must apply for a new license for the new location.
- (3) The Commission may allow a change to a licensee's service permit designee. To change the service permit designee, the licensee must appoint a new designee and give the Commission written notification of the change within 10 days of the appointment. All service permit designees must comply with all service permit designee statutes, rules and policies.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730 (1) & (5)

STATUTES/OTHER IMPLEMENTED: ORS 471.313, 471.292(1)(e), 471.292(2)(d), 471.311, 2024 OL Ch. 40 Sec. 9

AMEND: 845-005-0428

RULE TITLE: Retail On-Premises Distilled Spirits Sampling Involving Distillery Representative

NOTICE FILED DATE: 10/28/2024

RULE SUMMARY: Describes requirements for a Full On-Premises Sales licensee to sponsor sample tasting events at their annually licensed premises, with a distillery to provide distilled spirit samples. The proposed amendments add the term temporary service permit.

RULE TEXT:

(1) Full On-Premises Sales licensees may allow a distillery with products approved for sale in Oregon (distillery) and its representatives, employees, contractors, and agents to participate in distilled spirits sample tasting events. These events must be sponsored by the Full On-Premises Sales licensee and be held on the Full On-Premises Sales licensee's annually (not temporarily) licensed premises.

(2) Sample Tasting Events. These are events sponsored by the Full On-Premises Sales licensee where a distillery and its representatives, employees, contractors, and agents visit the Full On-Premises Sales licensee's annually licensed premises for the purpose of offering free sample tastings of the distillery's product to customers of the Full On-Premises Sales licensee. At any event allowed by this rule, the Full On-Premises Sales licensee is responsible for ensuring that the distillery and its representatives, employees, contractors, and agents:

(a) Provide or pay for the person to serve the distilled spirit tasting. The server must be the distillery's representative, employee, contractor, or agent. The server may not be an employee or agent of the Full On-Premises licensee. The server may provide education to patrons and staff. All servers must have valid Oregon Service Permits or Temporary Service Permits;

(b) Do not compensate the Full On-Premises Sales licensee or its employees or agents in order to conduct the tasting event;

(c) Do not provide any other service normally provided by the Full On-Premises Sales licensee (for example: taking orders for alcohol or food, serving anything other than sample tastings to customers, promoting alcohol beyond service of the sample tasting);

(d) Provide the distilled spirits product to be sampled, and remove any remaining product at the end of the tasting;

(e) Provide only distilled spirits product approved for sale in Oregon;

(f) Do not give anything prohibited by division 13 of chapter 845 of the Commission's administrative rules to a retailer or its customers;

(g) Comply with ORS 471.398, and division 13 of chapter 845 of the Commission's administrative rules.

(3) Sample tasting sizes, number of samples per customer. At sample tasting events allowed under this rule, a tasting shall be no more than one-half fluid ounce of distilled spirits in a single container. The container may also contain nonalcoholic beverages; however, the total amount of liquid in the container may be no more than two ounces. A distillery and its representatives, employees, contractors, and agents may not provide more than two and one-half fluid ounces total of distilled spirits per customer per day. For purposes of this rule, a day is from 7:00 a.m. until 2:30 a.m. on the succeeding calendar day.

(4) Number of sample tasting events allowed. Each Full On-Premises Sales licensee shall sponsor no more than eight sample tasting events per calendar year on its premises.

(5) Violations associated with sample tastings. In the case of a liquor law violation associated with a sample tasting allowed under this rule, the Full On-Premises Sales licensee will be held responsible. When the violation also involves a server (for example, service of a sample to a minor or a visibly intoxicated person), both the server and the Full On-Premises Sales licensee will be held responsible.

(6) Record keeping. The Full On-Premises Sales licensee must keep a record of each tasting event it sponsors, including the date and location of each event, the products served, and the names of the servers. Records of tasting events must be retained for one year from the date of the tasting.

(7) Advertising. The retailer may advertise these events. The distillery may advertise these events as allowed in OAR

845-013-0040.

(8) Violation of this rule are Category III violations.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730 (1) & (5)

STATUTES/OTHER IMPLEMENTED: ORS 471.398

AMEND: 845-005-0440

RULE TITLE: Temporary Sales Licenses

NOTICE FILED DATE: 10/28/2024

RULE SUMMARY: Describes the process for obtaining a temporary sales license. The proposed amendments add the term temporary service permit and conform with changes in 2024 HB 4138.

RULE TEXT:

- (1) A person must obtain from the Commission a license or authority to sell alcoholic beverages. ORS 471.405 establishes a prohibition on sale of alcoholic beverages without a license or authority. ORS 471.406 defines sale of alcoholic beverages. This rule sets the requirements for obtaining a Temporary Sales License.
- (2) Definitions. For this rule:
- (a) "Bar" means a counter at which the preparation, pouring, serving, sale, or consumption of alcoholic beverages is the primary activity.
- (b) "Food counter" means a counter in an area in which minors are allowed and at which the primary activity at all times is the preparation, serving, sale, or consumption of food.
- (c) "License day" means from 7:00 am until 2:30 am on the succeeding calendar day, or any part of a license day. The license fee as required by ORS 471.311 is per license day or any part of a license day.
- (d) "Nonprofit trade association" means an organization comprised of individual or business members where the organization represents the interests of the members and is registered with the state of Oregon as a nonprofit association.
- (e) "Serious violation history" means:
- (A) Two or more category III or IIIa administrative violations of any type, or category IV violations involving minors. However, if the circumstances of a violation include aggravation, one violation may be sufficient; or
- (B) One category I, II or IIa administrative violation; or
- (C) Two or more crimes or offenses involving liquor laws.
- (f) "Social game" means a game other than a lottery, if authorized by a local county or city ordinance pursuant to ORS 167.121, between players in a private business, private club, or place of public accommodation where no house player, house bank, or house odds exist and there is no house income from the operation of the social game.
- (g) "Video lottery game" means a video lottery game terminal authorized by the Oregon State Lottery. Examples include but are not limited to video poker and video slots. Keno monitors are not considered a video lottery game.
- (3) ORS 471.190 authorizes the Commission to issue a Temporary Sales License. Temporary Sales Licenses are issued in increments of one license day. The Commission may issue a Temporary Sales License only to applicants that qualify under the Commission's licensing standards and that are:
- (a) A nonprofit or charitable organization that is registered with the state; or
- (b) A political committee that has a current statement of organization filed under ORS 260.039 or 260.042; or
- (c) An agency of the State; or
- (d) A local government or an agency or department of a local government; or
- (e) Any applicant not described in (3)(a)–(3)(d) of this subsection, including eligible licensees of the Commission.
- (4) The Commission will not approve more than thirty license days on a single application submitted by an applicant identified in (3) (a), (c) or (d). The Commission may limit approval of any application to a single license day or to any number of license days fewer than thirty days.
- (5) The Commission will not approve more than seven license days on a single application submitted by an applicant identified in (3) (b) or (e). The Commission may limit approval of any application to a single license day or to any number of license days fewer than seven days.
- (6) A Temporary Sales License authorizes the licensee to sell wine, malt beverages and cider at retail for consumption on the licensed premises and for consumption off the licensed premises. All wine, malt beverages and cider sold for consumption off the licensed premises must be in either:

- (a) Factory-sealed containers; or
- (b) Securely covered containers provided by the consumer that do not hold more than two gallons each.
- (7) A Temporary Sales License authorizes the licensee to sell distilled liquor by the drink at retail for consumption on the licensed premises.
- (8) An applicant for Temporary Sales License must submit the following forms, documents, information, or fees to the Commission:
 - (a) A complete application provided by the Commission containing all information required by the form, including but not limited to:
 - (A) The local government recommendation;
 - (B) Documentation from the local government that the applicant provided written notice to the local government; or
 - (C) Documentation from the local government that the applicant is not required to submit the application to the local government.
 - (b) The license fee as described in ORS Chapter 471.311.
 - (c) Proof of liquor liability insurance or bond as required by ORS 471.168 or Commission rules.
 - (d) A written plan the Commission determines adequately manages events to:
 - (A) Prevent problems and violations;
 - (B) Control patronage by minors as set out in this rule; and
 - (C) Prevent over-service of alcoholic beverages to patrons.
 - (e) Identification of at least one individual responsible for managing the licensed premises.
 - (f) Identification of the premises or area proposed to be licensed.
 - (g) Confirmation of compliance with the food service standards of OAR 845-006-0465.
 - (h) Information regarding the type of event to be licensed, type and extent of entertainment to be offered, expected patronage overall and by minors, proposed hours of food service, and proposed hours of operation.
- (9) After an applicant has submitted the application materials required by subsection (8) of this rule, the Commission may:
 - (a) Require additional forms, documents, information, or fees from an applicant, licensee, or other persons where there is reason to believe that the forms, documents, information, or fees are required by law or rule or may help the Commission determine the merits of an application or to otherwise perform its statutory duties.
 - (b) At any time, inactivate the application, and the inactivation is not subject to the requirements of ORS Chapter 183, when the Commission determines:
 - (A) One or more of the materials, forms, documents, information, or fees required by law or rule are missing or are not complete, accurate, legible, or correct;
 - (B) The applicant or licensee fails to provide to the Commission all required materials, forms, documents, information, or fees in a manner that are complete, accurate, legible, and correct within 10 calendar days of the Commission's notice to the applicant or licensee;
 - (C) The plan submitted by the applicant to manage the event is not adequate; or
 - (D) The applicant's submission of the application materials did not allow the Commission sufficient processing time prior to the event date.
- (10) A plan for managing patronage by minors under this rule must meet the following requirements:
 - (a) If the Temporary Sales License will be on any part of a premises, room, or area with an annual license issued by the Commission, the Commission must be convinced that the plan will follow the minor posting and control plan, including any temporary relaxation or tightening of the minor posting, assigned to that premises, room, or area under the annual license. The Commission must also be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises prohibited to minors.
 - (b) If the Temporary Sales License will not be on any part of a premises, room, or area with an annual license issued by the Commission, the Commission must be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises the Commission prohibits to minors.

- (11) Minors are prohibited from the licensed premises or portions of the licensed premises as follows:
- (a) Minors may not sit or stand at a bar; however, minors may sit or stand at a food counter;
 - (b) Minors may not be in an area where there is video lottery games, social games, or nude entertainment or where such activities are visible.
 - (c) Minors may not be in an area where the licensee's approved written plan designates that minors will be excluded.
- (12) Minimum Age of Servers. Alcohol servers at temporary sales licensed locations must be at least 21 years of age to sell or serve alcoholic beverages, with the following exceptions:
- (a) In areas of the licensed premises not prohibited to minors, persons who are 18, 19, and 20 years of age may:
 - (A) Take orders for, serve and sell alcoholic beverages for on-premises consumption if the activity is incidental to the selling or serving of food in that area of the licensed premises, and may sell alcoholic beverages in factory-sealed containers for off-premises consumption; or
 - (B) Sell items, such as tokens or scrip, to be redeemed for alcoholic beverages or food at the event.
 - (b) In areas of the licensed premises prohibited to minors, persons who are 18, 19, and 20 years of age may deliver food, restock non-alcohol supplies and perform other non-alcohol related duties, however the person shall not remain in the prohibited area longer than is necessary to perform these duties.
- (13) Alcohol servers at locations licensed under subsections (3)(b)–(e) of this rule must hold valid service permits or temporary service permits unless specifically exempted under authority of subsection (14) of this rule.
- (14) The Commission may waive the service permit and temporary service permit requirement for the holder of a Temporary Sales License issued under subsections (3)(b)–(e) of this rule, and the licensee's alcohol servers, if:
- (a) The license is used only for package sales; or if
 - (b) The Commission concludes alcohol service by individuals who do not hold a service permit does not pose a significant risk for public safety problems or non-compliance with liquor laws; and
 - (c) Each alcoholic beverage point-of-sale at the licensed location is staffed, at all times alcoholic beverages are being sold or served, by an individual who holds a valid service permit or a valid temporary service permit.
- (15) At events licensed under subsection (3)(a) of this rule, before allowing alcohol servers to sell or serve alcoholic beverages, the licensee must ensure that all alcohol servers have met one of the following standards:
- (a) The alcohol server has a valid service permit or temporary service permit;
 - (b) The alcohol server has attended training provided by the licensee, and has read, signed and dated the Commission-provided brochure, "What Every Volunteer Alcohol Server Needs to Know." The licensee-provided training must address the topics included in the brochure, including but not limited to: minors and proper checking of identification, and how to recognize and respond appropriately to visibly intoxicated persons. At any time while on duty, the alcohol server shall make the signed brochure available for immediate inspection by any inspector or investigator employed by the Commission or by any other peace officer.
- (16) If there are compliance problems with an operator or an event, the Commission may add other requirements for the education of servers at events licensed under this rule.
- (17) The Commission may deny, cancel or restrict a Temporary Sales License for any reason for which the Commission may deny, cancel or restrict a regular license.
- (18) The Commission may deny or restrict a Temporary Sales License if the applicant has a serious violation history at events previously licensed with a Temporary Sales License within the past 36 months.
- (19) When the Commission approves a written plan under this rule, the licensee must follow that written plan. Failure to follow that written plan is a category III violation.
- (20) If the licensee fails to prevent minors from gaining access to alcoholic beverages or fails to prevent minors from gaining access to any portion of the licensed premises prohibited to minors, the Commission may immediately prohibit minors from the licensed premises or portion(s) of the premises.
- (21) A Temporary Sales License may authorize the licensee to deliver, or cause to be delivered, factory-sealed and securely-covered containers of malt beverages, wine, or cider direct to a resident of Oregon.
- (a) Malt beverages, wine, or cider may only be delivered on a licensed day.

(b) A temporary sales licensee must comply with OAR 845-006-0392 for the delivery of wine or cider and must comply with OAR 845-006-0396 for the delivery of malt beverages.

(22) A Temporary Sales License issued under subsections (3)(a)(c) or (d) of this rule may have more than one address on a single license application as part of a single licensed premises, provided that all addresses are located within the same local government jurisdiction. The Commission may refuse to process an application containing addresses for more than one local government jurisdiction.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.190, 471.730 (1) & (5)

STATUTES/OTHER IMPLEMENTED: ORS 471.190, 471.360, 471.482

AMEND: 845-005-0450

RULE TITLE: Standards for Authority to Operate a Licensed Business as a Trustee, a Receiver, a Personal Representative or a Secured Party

NOTICE FILED DATE: 10/28/2024

RULE SUMMARY: Discusses the standards and requirements the Commission follows to grant or deny a request for temporary authority to operate a licensed business. The proposed amendments remove language to clarify the rule and give the Commission discretion on the timeframe an authority to operate is issued.

RULE TEXT:

(1) ORS 471.292(2)(b) and (c) allow the Commission to issue a temporary authority to operate a licensed business to a trustee, the receiver of a licensed business, the personal representative of a deceased licensee, or a person holding a security interest in the business. The purpose of this authority is to provide for the operation of the licensed business for a reasonable period of time to allow orderly disposition of the business.

(a) The trustee, receiver or personal representative must provide the Commission with the following information:

(A) Proof that the person is the legal trustee, receiver or personal representative for the business; and

(B) A written request for authority to operate as a trustee, receiver or personal representative, listing the address and telephone number of the trustee, receiver or personal representative.

(b) The secured party must provide the Commission with the following information:

(A) Proof of a security interest in the licensed business;

(B) Proof of the licensee's default on the secured debt;

(C) Proof of legal access to the real property; and

(D) A written request for authority to operate as a secured party listing the secured party's address and telephone number.

(2) The Commission may revoke or refuse to issue or extend authority for the trustee, receiver, personal representative, or secured party to operate:

(a) If the trustee, receiver, personal representative or secured party does not propose to operate the business immediately or does not begin to operate the business immediately upon receiving the temporary authority;

(b) For any of the reasons that the Commission may revoke or refuse to issue or renew a license;

(c) If the trustee, receiver, personal representative or secured party operates the business in violation of ORS Chapter 471 or OAR chapter 845; or

(d) If a reasonable time for disposition of the business has elapsed.

(3) No person or entity described in section (1) of this rule may operate the business until a certificate of authority has been issued under this rule, except that the personal representative of a deceased licensee may operate the business for up to 10 days after the death provided that the personal representative submits the information required in section (1)(a) and obtains a certificate of authority within that time period.

(4) A certificate of authority under this rule may be issued at the Commission's discretion for a minimum duration of 60 days and may be extended as reasonably necessary to allow for the disposition of the business.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730 (1) & (5)

STATUTES/OTHER IMPLEMENTED: ORS 471.292(2)

AMEND: 845-006-0335

RULE TITLE: Age Verification, Minors on Licensed Premises

NOTICE FILED DATE: 10/28/2024

RULE SUMMARY: Describes age verification requirements and the circumstances under which minors are allowed on a premises or portion of a premises that is prohibited to minors. The proposed amendments add temporary service permits.

RULE TEXT:

(1) Age Verification:

(a) ORS 471.130 requires a licensee or permittee to verify the age of a person who wants to buy or be served alcoholic beverages when there is "any reasonable doubt" that the person is at least 21 years old. The Commission requires a licensee or permittee to verify the age of anyone who wants to drink alcoholic beverages, or is in an area prohibited to minors, if there is reasonable doubt that the person is at least 21 years old. "Reasonable doubt" exists if the person appears to be under the age of 26;

(b) Whenever a licensee or permittee verifies age, he/she must verify it as ORS 471.130 requires (statement of age card or the specified items of identification) and must reject any obviously altered document or one which obviously does not identify the person offering it;

(c) Licensees must require all their employees who sell, serve, oversee or control the sale or service of alcoholic beverages to verify age as subsection (a) of this section requires.

(d) Only the following forms of unexpired, unaltered, and legitimate identification that have the person's name, picture, and date of birth are acceptable alone as proof of age:

(A) A driver license issued by a U.S. state, the District of Columbia, or a province or territory of Canada;

(B) An identification card that includes a physical description of the person and is issued by a U.S. state, the District of Columbia, or a territory of the U.S., or a province or territory of Canada;

(C) An identification card that has a picture of the person, the name of the person, the person's date of birth, and a physical description of the person and is issued by a federally recognized Indian tribe;

(D) A passport or passport card

(E) A U.S. military identification card; or

(F) An identification card that is proof of the person's participation in the Secure Electronic Network for Travelers Rapid Inspection (SENTRI) program operated by United States Customs and Border Protection, the NEXUS program jointly operated by that agency and the Canada Border Services Agency, or a successor to either of those programs that is recognized by the Commission.

(2) Sanctions for Failure to Verify Age:

(a) The Commission will sanction a licensee or permittee who does not verify the age of a person who appears to be under the age of 26 only if the person:

(A) Actually is a minor who buys, is served or drinks an alcoholic beverage at the licensed premises (Category (IIb) violation); or

(B) Actually is a minor who is in an area of the licensed premises prohibited to minors (Category IV violation).

(b) If the Commission sanctions a licensee or permittee for one or more of the following violations under this rule: Failure to verify the age of a minor; Allowing a minor to drink; or Allowing a minor in an area prohibited to minors, the Commission will not sanction the licensee or permittee separately under ORS 471.130 or 471.410(2) for the same conduct. The Commission may charge a licensee or permittee for one or more violations under this rule and also charge violation of one or more of the statutes in the alternative.

(c) Failure to verify age as ORS 471.130 requires or to reject obviously altered or false identification is a Category (IIb) violation.

(3) Minors on Premises: General Prohibitions.

(a) No licensee, permittee, or licensee's employee will permit a minor:

- (A) To drink any alcoholic beverage on licensed premises; or
- (B) To be on licensed premises or an area of the licensed premises prohibited to minors, except as provided in ORS 471.430, 471.480, 471.482, OAR 845-006-0340 and this rule.
- (b) The assigned minor posting(s) describes where on the premises minors are allowed or prohibited. See OAR 845-006-0340, Minor Postings.
- (4) Minor Employee and Minor Service Permittee:
- (a) A Number 1 minor posting. Minor employees and minor service permittees are prohibited from the entire licensed premises at all times.
- (b) A Number 2 minor posting. Minor employees and minor service permittees may be in this area of the premises only if they are performing work duties or going to or returning from a rest room. The minor employee or minor service permittee may not remain in the prohibited area longer than is necessary to perform the work duties or go to or return from a rest room and while in the area may not check identification, control conduct in the area, or mix, sell, or serve alcoholic beverages or directly supervise any person who does mix, sell, or serve alcoholic beverages.
- (c) A Number 3A, 4, 6, and 7 minor posting during the times when minors are prohibited. Minor employees and minor service permittees may be in areas of the premises during the times prohibited to them only if they are performing work duties or going to or returning from a rest room. The minor employee or minor service permittee may not remain in the prohibited area longer than is necessary to perform the work duties or go to or return from a rest room and while in the area may not check identification, control conduct in the area, or mix, sell, or serve alcoholic beverages or directly supervise any person who does mix, sell, or serve alcoholic beverages.
- (d) A Number 3A, 4, 6, and 7 minor posting in the areas and during the times when minors are permitted. Minor employees and minor service permittees are permitted in the areas and during the times when minors are allowed. The primary duty of minor service permittees must be food service.
- (e) A Number 3 minor posting. Minor employees and minor service permittees are allowed at all times in the area. The primary duty of minor service permittees must be food service.
- (f) A Number 5 minor posting. Minor employees and minor service permittees are allowed at all times in the area.
- (g) If a premises has one or more areas where minors are prohibited and one or more areas where minors are allowed, minor employees and minor service permittees may be in areas of the premises prohibited to them during the times prohibited to them only if they are performing work duties or going to or returning from a rest room. The minor employee or minor service permittee may not remain in the prohibited area longer than is necessary to perform the work duties or go to or return from a rest room and while in the area may not check identification, control conduct on the premises, or mix, sell, or serve alcoholic beverages or directly supervise any person who does mix, sell, or serve alcoholic beverages.
- (h) Section 4 of this rule includes as a minor service permittee, a minor that has a service permit, or temporary service permit.
- (5) Minor Vendor or Contractor. A minor, other than a licensee's employee, who has a legitimate business purpose, may be in the area of the licensed premises normally prohibited to minors. (For example, a minor who is a plumber may repair the plumbing in a prohibited area).
- (6) Minor Entertainers:
- (a) A minor entertainer may perform on a licensed premises, including in areas that are prohibited to minors, provided the requirements in this rule are followed. "Performing" means when a minor entertainer is entertaining. Examples include dancing, playing a musical instrument, and singing. Performing does not include when a minor entertainer is not entertaining; such as, but not limited to, soliciting dances, selling merchandise, and mingling with patrons or employees.
- (b) Licensees allowing minor entertainers to perform on the licensed premises where minors would normally be prohibited must verify the minor's identification and age, maintain proof of the minor entertainer's identification and age on the premises, and make this information available for Commission inspection upon request. Licensees may accept only the forms of identification that are set forth in Section 1(d) of this rule.
- (c) If the minor entertainer stays on the premises when not performing, the minor entertainer must stay in an area

where minors are permitted under OAR 845-006-0340 or in an approved designated area set forth in subsection (6)(d). If a minor entertainer is not performing and is not in an area permitted to minors or in a Commission-approved designated area on the licensed premises, then the minor entertainer is prohibited from being on the licensed premises.

(d) In order for licensees to allow minor entertainers in areas of the licensed premises that are prohibited to minors, the licensee must first obtain approval from the Commission.

(A) To obtain approval, licensee must submit a plan to the Commission, in a form and manner prescribed by the Commission, showing all areas where minors will perform, and all areas designated for minors when not performing.

(B) When minor entertainers are on the premises as allowed under this subsection, but are not performing and are in a Commission-approved designated area, alcoholic beverages are prohibited in the Commission-approved designated area.

(C) The Commission may refuse to provide approval for minor entertainers to perform at a licensed premises in areas prohibited to minors, and may revoke such approval, if the licensee fails to follow the requirements of this rule or the Commission has a reasonable belief that conditions exist which do or could cause or contribute to a serious danger to the health and safety of minors. Examples of a serious danger to the health and safety of minors include, but are not limited to, when the Commission reasonably believes that the following activities are happening in the premises or in the near vicinity of the premises: sex or labor trafficking, unlawful drug activity, violence or the threat of violence, minors obtaining access to alcoholic beverages, and minors unlawfully in an area prohibited to minors. The Commission's refusal or revocation of approval under this rule is not subject to the requirements of ORS Chapter 183.

(e) Before allowing a minor who is under 18 years old to conduct or assist in conducting any public dance, including but not limited to dancing by the child as a public performance, or to assist in or furnish music for public dancing, the licensee must first verify that the minor has the written permission of the appropriate juvenile court judge as required by ORS 167.840(2). Licensees must maintain this verification on the premises and make it available for Commission inspection upon request.

(f) Before allowing a minor who is under 18 years old to perform or entertain on the licensed premises in a capacity other than described in (6)(e) of this rule, the licensee must first receive prior written permission from the Commission's Administrator or the Administrator's designee for each minor. The licensee must apply to the Commission on a form and manner prescribed by the Commission. The Administrator or designee shall grant such permission only if:

(A) A parent or legal guardian of the minor has consented to the child's participation in such activity; and

(B) The Administrator or designee has found that participation in such activity will not be inconsistent with the health, safety and morals of the minor.

(g) Minors under 14 years old must also get a work permit if one is required by the Oregon Bureau of Labor and Industries.

(7) Minor Patron. If the licensee permits it, a minor may be in the immediate company of his/her spouse or Domestic Partner who is at least 21 years old. "Domestic Partner" means an individual who, along with another individual of the same sex, has received a Certificate of Registered Domestic Partnership pursuant to the Oregon Family Fairness Act. The minor must not buy, possess or drink alcoholic beverages.

(8) Sanctions: A violation of subsection (3)(a)(A) of this rule is a Category III violation. A violation of subsection (3)(a)(B) through section (7) of this rule is a Category IV violation.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, ORS 471.430, 471.482, 471.730

STATUTES/OTHER IMPLEMENTED: ORS 471.430, 471.482, ORS 471.130, 471.410, 471.480

AMEND: 845-006-0345

RULE TITLE: Prohibited Conduct

NOTICE FILED DATE: 10/28/2024

RULE SUMMARY: Describes licensee and permittee conduct that is prohibited. The proposed amendment adds temporary service permit.

RULE TEXT:

The Commission holds licensees accountable for the acts of their agents and employees. (OAR 845-006-0362). No employee or agent of a licensee may violate any provision of this rule. A violation of any section of this rule by an employee or agent of a licensee is considered a violation by the licensee.

(1) Definitions. For this rule:

(a) "On-duty" means from the beginning of a work shift that involves the mixing, sale or service of alcoholic beverages, checking identification or controlling conduct on the premises, to the end of the shift including any breaks.

(b) "On-duty" also means, for those working outside a scheduled work shift, having the authority to put himself or herself on-duty and performing acts on behalf of the licensee which involve the mixing, sale or service of alcoholic beverages, checking identification or controlling conduct on the premises. Whether a person is paid or scheduled for work is not determinative of whether the person is considered "on-duty" under this subsection.

(c) "A work shift that involves the sale and service of alcoholic beverages" includes supervising those who mix, sell or serve, check identification or control the premises.

(2) Under the Influence of an Intoxicating Substance On-Duty.

(a) No licensee, permittee, or agent of a licensee will be under the influence of an intoxicating substance while on-duty.

(b) A violation of this section is a Category II violation.

3) Consuming an Intoxicating Substance On-Duty.

(a) No licensee, permittee, or agent of a licensee will consume any intoxicating substance while on-duty. Despite this requirement, a licensee, permittee, or agent of a licensee:

(A) May consume an intoxicating substance while on-duty provided:

(i) An attending provider licensed to dispense the intoxicating substance has determined the substance is medically necessary for the individual and has prescribed the substance for the individual

(ii) The individual is consuming the substance pursuant to the prescription

(iii) The individual is not visibly intoxicated while on-duty; and

(iv) The individual is not smoking, combusting, inhaling, vaporizing, or aerosolizing a marijuana item.

(B) May consume tastes of alcoholic beverages as allowed by subsection (4) of this rule.

(b) A violation of this section is a Category III violation.

(4) Despite subsection (3) of this rule, a person may self-serve and may taste malt beverages, wine, or cider while on-duty or as an agent of a licensee only under the following conditions:

(a) The person is not a minor.

(b) The person is not visibly intoxicated.

(c) The time the alcoholic beverage is consumed is between 7:00 a.m. and 2:30 a.m. on the succeeding calendar day.

(d) The alcoholic beverage consumed is only malt beverages, wine, or cider.

(e) The amount of alcoholic beverage consumed per serving does not exceed one ounce.

(f) The person does not consume more than a total of six ounces of alcoholic beverages pursuant to this section between 7:00 a.m. and 2:30 a.m. on the succeeding calendar day.

(g) The purpose of the consumption is for educational purposes or to test the quality of the alcoholic beverage to ensure the product is not flawed or deteriorated.

(5) No licensee or permittee will fail to call the police when a Commission regulatory employee directs the licensee or permittee to call. Violation of this section is a Category II violation.

(6) Evidence:

(a) No licensee or permittee will:

(A) Destroy, damage, alter, remove, or conceal potential evidence, or attempt to do so;

(B) Refuse to give a Commission regulatory employee or police officer this evidence when the employee or officer lawfully requests it; or

(C) Ask or encourage another person to do subsections (a) or (b) of this section.

(b) Violation of this section is a Category III violation.

(7) Access to Premises:

(a) Both during regular business hours and when a premises is closed, no licensee or permittee will refuse to admit or fail to immediately admit to the licensed premises a Commission regulatory employee or police officer who identifies him/herself and who enters or wants to enter to conduct a reasonable search to ensure compliance with alcoholic beverage law. Examination of premises that are or appear closed occurs only when there is reason to believe an alcoholic beverage law violation is occurring.

(b) Once the regulatory employee or police officer is on the licensed premises, no licensee or permittee will ask the regulatory employee or officer to leave until the regulatory employee or officer has had an opportunity to conduct a reasonable search to ensure compliance with the alcoholic beverage laws.

(c) Violation of this section is a Category II violation.

(8) Open Containers: No licensee or permittee will permit a patron to take an open container of alcoholic beverages from the licensed premises or through an unlicensed area, except as ORS 471.175, 471.176, 471.178, 471.186, 471.190, 471.200, 471.221, 471.223 and 471.227 allow. Except for tastings as allowed in OAR 845-006-0450, no Off-Premises Sales licensee will permit an open container of alcoholic beverages on the licensed premises unless the licensee also holds another license at the premises that allows on-premises consumption. Violation of this section is a Category V violation.

(9) Liquor on Premises: No licensee or permittee will have or permit any alcoholic liquor on the licensed premises which the license does not allow the licensee to sell or serve. Notwithstanding this requirement, a limited on-premises or brewery-public house sales licensee may have distilled spirits on the premises if the distilled spirits are used only for cooking, are kept in a container only in the food preparation area, and the container is clearly marked "for cooking only." Violation of this section is a Category V violation.

(10) Drive-up Window: No licensee or permittee will sell or deliver any alcoholic beverages through a drive-up window. Violation of this section is a Category III violation.

(11) Liquor as a Prize: Except as allowed in ORS 471.408, no licensee or permittee will give or permit any alcoholic beverage as a prize, premium, or consideration for any lottery, contest, game of chance or skill, exhibition, or any competition of any kind on the licensed premises. Violation of this section is a Category V violation.

(12) "Good Faith Effort": ORS 471.315(1)(a)(H), and 471.412(1) prohibit a licensee or permittee from allowing a visibly intoxicated person to drink alcoholic beverages. A licensee or permittee who makes a good faith effort to remove the alcoholic beverage does not violate these statutes.

(a) As used in ORS 471.412(2) and this rule, "good faith effort" means:

(A) Placing a hand on the drink and trying to remove it; or

(B) Making a verbal request for the drink, if the server has reason to believe that touching the patron's drink could cause a disturbance;

(b) The Commission will issue letters of reprimand for the first three violations of this section within a two-year period. A fourth violation within a two-year period is a Category III violation assessed at the fourth level (cancellation).

(13) Promotions.

(a) The following practices are prohibited:

(A) The sale, offer or service to any person of an unlimited number of alcoholic beverage(s) during any set period of time for a fixed price;

(B) The sale, offer or service of alcoholic beverages by the drink for a price per drink that is less than the licensee's cost for the alcohol to any person paying a fixed "buy in" price, entry fee, cover or door charge;

(C) Price reductions on alcoholic beverages by the drink from 12:00 midnight until 2:30 a.m. A price reduction is a lower price as compared to the usual, customary, or established non-discounted price the licensee charges for a drink of that type on the licensed premises;

(D) The sale, offer or service of distilled spirits by the bottle for consumption on the premises, except as allowed in OAR 845-006-0433 (Minibars in Hotel Guest Rooms) and 845-006-0434 (Minibars in Arena Suites). This subsection does not prohibit a Full On-Premises Public Location Sales Licensee (F-PL) or Full On-Premises Catering Sales Licensee (F-Cat) from charging clients by the bottle for distilled spirits that are served by the drink at hotel suites, banquets, receptions or catered events where the reasonably projected attendance is at least 20 patrons;

(E) Operating, encouraging or permitting games of chance or skill, contests, exhibitions, or competitions of any kind on the licensed premises that involve drinking alcoholic beverages, (e.g., beer pong, "21 for 21");

(F) Dispensing, pouring or otherwise serving any alcoholic beverage directly into a person's mouth, including through any device such as a "bong"; and

(G) The use of any device or serving technique that produces an alcoholic mist or vapor for consumption by inhalation. An alcohol vaporization device, for example, also called an alcohol without liquid machine, is a device, machine or process which mixes spirits, alcoholic liquors or any product containing alcoholic liquor with oxygen or any other gas to produce a vaporized product for consumption by humans by inhalation.

(b) Violation of this section is a Category III violation.

(14) Self-Service. No licensee, permittee, or agent of a licensee will permit any patron to mix, dispense or serve an alcoholic beverage for or to himself or herself or to another patron for on-premises consumption. Despite this requirement, a patron may mix or serve alcoholic beverages for or to himself or herself or for or to another patron, and the patron is not required to have a Commission-issued service permit or temporary service permit, provided:

(a) An on-duty licensee, permittee, or agent of the licensee served or provided the alcoholic beverages to the patron;

(b) The alcoholic beverages are served or provided to the patron in an open container that is not an open bottle of distilled spirits or a securely covered container of malt beverages, wine, or cider;

(c) The alcoholic beverages are only for on-premises consumption; and

(d) The licensee, permittee, and agent of the licensee follow all other regulations pursuant to the sale and service of alcoholic beverages.

(e) A violation of (a) – (c) of this section is a Category III violation

(15) Marijuana Use. No licensee or permittee will permit the use, consumption, ingestion, or inhalation of marijuana items as defined in ORS 475C.009 and OAR 845-025-1015 on a premises licensed to sell or serve alcoholic beverages. Violation of this section is a Category III violation.

(16) No licensee or permittee will manufacture, store, transport, sell, or offer to sell an alcoholic beverage that is manufactured with any substance derived from cannabis, or cannabinoids derived from any source, unless the substance has been approved for use in alcoholic beverages by the Alcohol and Tobacco Tax and Trade Bureau (TTB) and the U.S. Food and Drug Administration (FDA). Violation of this section is a Category III violation.

(17) No licensee or permittee will engage in or permit any activity relating to the manufacture, possession, sale, purchase, transportation, importation or delivery of alcoholic liquor that violates an order issued by the Governor. A licensee's or permittee's failure to follow this rule creates an immediate and serious danger to the health and safety of all patrons and employees on the premises. Violation of this section is a Category II violation.

(18) No licensee or permittee will engage in or permit any activity relating to the manufacture, possession, sale, purchase, transportation, importation or delivery of alcoholic liquor that violates a public health law, as defined in ORS 431A.005, that is created pursuant to an order issued by the Governor. This rule only applies to activity that occurs during a state of emergency declared by the Governor. A licensee's or permittee's failure to follow this rule creates an immediate and serious danger to the health and safety of all patrons and employees on the premises. Violation of this section is a Category II violation.

(19) No licensee or permittee will mix or combine an adult use cannabinoid as defined in OAR 845-026-0100, an industrial hemp commodity as defined in OAR 845-026-0300, or a product that contains cannabinoids and is intended

for human consumption with an alcoholic beverage. Violation of this section is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730 (1), 471.175

STATUTES/OTHER IMPLEMENTED: ORS 471.030, 471.040, ORS 471.178, 471.186, 471.200, 471.223, 471.227, 471.315(1)(a)(H), 471.351(1), 471.405(1), 471.408, 471.412, 471.675, 471.730, 471.446

AMEND: 845-006-0350

RULE TITLE: Service Permittee Required Reporting of Trafficking and Unlawful Employment of Minors

NOTICE FILED DATE: 10/28/2024

RULE SUMMARY: Describes the conditions under which a service permittee at a premises with a full on-premises sales or limited on-premises sales must report sex trafficking that is occurring at the premises to law enforcement and the Commission. The proposed amendment adds temporary service permit.

RULE TEXT:

Permittee Required Reporting of Trafficking and Unlawful Employment of Minors

(1) Definitions.

(a) "Commercial sex act" means any sex act on account of which anything of value is given to or received by any individual.

(b) "Human trafficking" means the recruitment, enticement, intimidation, harboring, transportation, provision, or obtaining of a person for the purpose of subjecting the person to involuntary servitude.

(c) "Sex trafficking" means the recruitment, enticement, intimidation, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act. "Sex Trafficking" also includes such actions by means of force or fraud.

(2) An employee of a full on-premises sales or limited on-premises sales licensee who holds a service permit or temporary service permit issued under ORS 471.360 to 471.385 and who has a reasonable belief that sex trafficking or other human trafficking is occurring at the premises must report that belief in a timely manner to:

(a) A law enforcement agency; and

(b) The Oregon Liquor and Cannabis Commission.

(3) An employee of a full on-premises sales or limited on-premises sales licensee who holds a service permit or temporary service permit issued under ORS 471.360 to 471.385 and who has a reasonable belief that an individual who is employed or contracted as a performer at the premises is under the age of 18 and who conducts any public dance at the premises but does not have the written permission of a juvenile court judge as required in ORS 167.840 must report that belief in a timely manner to the Oregon Liquor and Cannabis Commission.

STATUTORY/OTHER AUTHORITY: ORS 471.385, 471.217

STATUTES/OTHER IMPLEMENTED: ORS 471.385, 471.217

AMEND: 845-006-0392

RULE TITLE: Requirements for Delivery of Manufacturer-Sealed and Securely-Covered Containers of Wine and Cider to a Final Consumer

NOTICE FILED DATE: 10/28/2024

RULE SUMMARY: This rule describes the requirements for delivery of manufacturer-sealed and securely covered containers of wine and cider directly to a final consumer. The proposed amendment adds temporary service permit.

RULE TEXT:

(1) Definitions

(a) "Manufacturer-sealed container of wine or cider" means a container holding wine or cider that:

(A) Was sealed by the manufacturer upon removal from federal bond; and

(B) Has a label that complies with Commission regulations, including federal labeling regulations, prior to being sold in Oregon.

(b) "Securely covered container of wine or cider" means:

(A) An empty container with a capacity of no more than two gallons filled by a Full On-Premises Sales, Limited On-Premises Sales, Off-Premises Sales, Brewery-Public House, Brewery, Winery, Grower Sales Privilege, or Temporary Sales licensee with wine or cider that was removed from federal bond prior to filling the container and then securely covered so that liquid doesn't leak from it; and

(B) The empty container was supplied by a final consumer to the licensee, or sold by the licensee to the final consumer, prior to or at the time of filling with wine or cider.

(2) An eligible business may sell for delivery directly to a final consumer the following:

(a) Manufacturer-sealed containers of wine or cider only if the eligible business is a Full On-Premises Sales, Limited On-Premises Sales, Off-Premises Sales, Brewery-Public House, Brewery, Winery, Grower Sales Privilege, Temporary Sales licensee or a Direct Shipper permittee.

(b) Securely covered containers of wine or cider only if the eligible business is a Full On-Premises Sales, Limited On-Premises Sales, Off-Premises Sales, Brewery-Public House, Brewery, Winery, Grower Sales Privilege, or Temporary Sales licensee.

(3) An eligible business may deliver or cause the delivery of wine and cider directly to a final consumer only as allowed by this rule.

(4) To deliver, or cause the delivery of, wine or cider directly to a final consumer, an eligible business, in addition to complying with all other requirements of this rule, must use:

(a) A third-party delivery facilitator permittee; or

(b) An individual who is an employee or agent under the direct control of the eligible business.

(5) When an eligible business uses a third-party delivery facilitator permittee to deliver wine or cider on behalf of the eligible business:

(a) The eligible business must collect and retain for a minimum of two years from the date of delivery the following information:

(A) The name of the third-party delivery facilitator permittee;

(B) The date and time the wine or cider was transferred to the third-party delivery facilitator permittee; and

(C) The name and delivery address of the final consumer receiving the wine or cider.

(b) After transferring the wine or cider to the physical possession of the third-party delivery facilitator permittee, or any delivery person used by the third-party delivery facilitator permittee, the eligible business is not responsible for any failure of the third-party delivery facilitator permittee, or any delivery person used by the third-party delivery facilitator permittee, to follow regulations or rules specific to third-party delivery facilitator permittees.

(6) When an eligible business uses an individual who is an employee or agent under its direct control to deliver wine or cider directly to a final consumer, in addition to complying with all other requirements of this rule, the eligible business must:

- (a) Use an individual who is at least 18 years of age and has a valid driver license or other state-issued identification.
- (b) Use an individual who has a valid Commission-issued service permit, temporary service permit or has completed a training program within the last five years that includes training on at least:
 - (A) Forms of identification required by ORS 471.130 and Commission rules and methods for identifying, inspecting, accepting or rejecting identification;
 - (B) Signs of visible intoxication and methods for recognizing these signs and for refusing to deliver alcoholic beverages to a final consumer; and
 - (C) Rules adopted by the Commission relating to the delivery of alcoholic beverages to a final consumer.
- (c) Collect information that must be retained by the eligible business for a minimum of two years from the date of delivery of the wine or cider to the final consumer. The information retained must include:
 - (A) The date and time the wine or cider was delivered to the final consumer;
 - (B) The amount of wine or cider contained in each delivery to the final consumer;
 - (C) The name, or information that can be used to determine the name, of the individual delivering the wine or cider to the final consumer; and
 - (D) The name and delivery address of the final consumer receiving the wine or cider.
- (7) An eligible business, in addition to complying with all other requirements of this rule, may deliver, or cause the delivery of, wine or cider direct to a final consumer only if:
 - (a) the wine or cider is transferred to the physical possession of a final consumer at a delivery address;
 - (b) Is in a container not exceeding two gallons;
 - (c) it is transferred to a final consumer who is at least 21 years of age, and only if the wine or cider is for personal use and not for the purpose of resale;
 - (d) it is transferred to a final consumer who is not visibly intoxicated at the time the individual takes physical possession of the wine or cider;
 - (e) the wine or cider is in a container conspicuously labeled with the words "Contains alcohol: signature of person age 21 years or older required for delivery" or similar language approved by the Commission;
 - (f) it is transferred pursuant to an order and payment for wine or cider that are received by the eligible business prior to removal from the eligible business for delivery to the final consumer;
 - (g) it is transferred to a delivery address or to a location, as long as that location is within 100 feet of the boundary of the eligible business; and
 - (h) if the time of transfer is between the hours of 7:00 am and 10:00 pm. Notwithstanding this requirement, an off-premises sales licensee may transfer the wine or cider to the physical possession of a final consumer at a delivery address between the hours of 6:00 am and 10:00 pm.
- (8) When the eligible business holds a license or permit issued under ORS 471.200, 471.221, 471.223, 471.227, or 471.282, it must not:
 - (a) Deliver or cause the delivery of more than a total of two cases of cider containing not more than nine liters per case per day to a final consumer and may not deliver or cause the delivery of more than a total of two cases of cider containing not more than nine liters per case per month to the same final consumer; or
 - (b) Deliver or cause the delivery of more than a total of five cases of wine containing not more than nine liters per case per day to a final consumer and may not deliver or cause the delivery of more than a total of five cases of wine containing not more than nine liters per case per month to the same final consumer.
- (9) When the eligible business holds a license issued under ORS 471.175, 471.178, 471.186, or 471.190, it must not:
 - (a) Deliver or cause the delivery of more than a total of two cases of cider containing not more than nine liters per case per day to a final consumer; or
 - (b) Deliver or cause the delivery of more than a total of five cases of wine containing not more than nine liters per case per day to a final consumer.
- (10) An eligible business who holds a direct shipper permit issued under ORS 471.282 must:
 - (a) Allow the Commission to audit the direct shipper permit holder's records of wine and cider delivered to Oregon

residents upon request and shall make those records available to the Commission in Oregon no later than 14 days after the Commission mails the notice;

(b) Report to the Commission all deliveries of wine or cider made to a final consumer under the permit as required by ORS Chapter 473. The report must be made in a form prescribed by the Commission; and

(c) Timely pay to the Commission all taxes imposed under ORS Chapter 473 on wine and cider sold and delivered directly to a final consumer under the permit. For the purpose of the privilege tax imposed under ORS Chapter 473, all wine or cider sold and delivered pursuant to a direct shipper permit is sold in this state. The permit holder, not the purchaser, is responsible for paying the tax to the Commission.

(11) An eligible business who holds a direct shipper permit issued under ORS 471.282 and who is located in a state outside of Oregon, consents to the jurisdiction of the Commission and the courts of this state for the purpose of enforcing the provisions of this rule and any related laws or rules.

(12) A violation of section (9) of this rule is a Category IV violation. A violation of any other section of this rule is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, ORS 471.186, 471.730 (1) & (5)

STATUTES/OTHER IMPLEMENTED: ORS 471.186, 471.282, 471.534, 473, 2021 OL Ch. 180, 2021 OL Ch. 78

AMEND: 845-006-0396

RULE TITLE: Requirements for Delivery of Manufacturer-Sealed and Securely-Covered Containers of Malt Beverages to a Final Consumer

NOTICE FILED DATE: 10/28/2024

RULE SUMMARY: This rule describes the requirements for delivery of manufacturer-sealed and securely covered containers of malt beverages directly to a final consumer. The proposed amendment adds temporary service permit.

RULE TEXT:

(1) Definitions. For this rule:

(a) "Manufacturer-sealed container of malt beverages" means a container holding malt beverages that:

(A) Was sealed by the manufacturer upon removal from federal bond; and

(B) Has a label that complies with Commission regulations, including federal labeling regulations, prior to being sold in Oregon.

(b) "Securely covered container of malt beverages" means:

(A) An empty container with a capacity of no more than two gallons filled by a Full On-Premises Sales, Limited On-Premises Sales, Off-Premises Sales, Brewery-Public House, Brewery, Winery, Grower Sales Privilege, or Temporary Sales licensee with malt beverages, that was removed from federal bond prior to filling the container, and then securely covered so that liquid doesn't leak from it; and

(B) The empty container was supplied by a final consumer to the licensee, or sold by the licensee to the final consumer, prior to or at the time of filling with wine or cider.

(2) An eligible business may sell for delivery directly to a final consumer:

(a) Manufacturer-sealed containers of malt beverages only if the person is a Full On-Premises Sales, Limited On-Premises Sales, Off-Premises Sales, Brewery-Public House, Brewery, Winery, Grower Sales Privilege, Temporary Sales licensee or a Direct Shipper permittee

(b) Securely covered containers of malt beverages only if the person is a Full On-Premises Sales, Limited On-Premises Sales, Off-Premises Sales, Brewery-Public House, Brewery, Winery, Grower Sales Privilege, or Temporary Sales licensee.

(3) An eligible business may deliver or cause the delivery of malt beverages directly to a final consumer only as allowed by this rule.

(4) To deliver, or cause the delivery of, malt beverages directly to a final consumer, an eligible business, in addition to complying with all other requirements of this rule, must use:

(a) A third-party delivery facilitator permittee; or

(b) An individual who is an employee or agent under the direct control of the eligible business.

(5) When an eligible business uses a third-party delivery facilitator permittee to deliver malt beverages on behalf of the eligible business:

(a) The eligible business must collect information that must be retained by the eligible business for a minimum of two years from the date of transferring the malt beverages to the physical possession of the third-party delivery facilitator permittee or any delivery person used by the third-party delivery facilitator permittee. The information retained must include:

(A) The name of the third-party delivery facilitator permittee;

(B) The date and time the malt beverages were transferred to the third-party delivery facilitator permittee; and

(C) The name and delivery address of the final consumer receiving the malt beverages.

(b) After transferring the malt beverages to the physical possession of the third-party delivery facilitator permittee, or any delivery person used by the third-party delivery facilitator permittee, the eligible business is not responsible for any failure of the third-party delivery facilitator permittee, or any delivery person used by the third-party delivery facilitator permittee, to follow regulations or rules specific to third-party delivery facilitator permittees.

(6) When an eligible business uses an individual who is an employee or agent under its direct control to deliver malt

beverages directly to a final consumer, in addition to complying with all other requirements of this rule, the eligible business must:

- (a) Use an individual who is at least 18 years of age and has a valid driver license or other state-issued identification;
- (b) Use an individual who has a valid Commission-issued service permit, a temporary service permit or has completed a training program within the last five years that includes training on at least:
 - (A) Forms of identification required by ORS 471.130 and Commission rules and methods for identifying, inspecting, accepting or rejecting identification;
 - (B) Signs of visible intoxication and methods for recognizing these signs and for refusing to deliver alcoholic beverages to a final consumer; and
 - (C) Rules adopted by the Commission relating to the delivery of alcoholic beverages to a final consumer.
- (c) Collect information that must be retained by the eligible business for a minimum of two years from the date of delivery of the malt beverages to the final consumer. The information retained must include:
 - (A) The date and time the malt beverages were delivered to the final consumer;
 - (B) The amount of malt beverages contained in each delivery to the final consumer;
 - (C) The name, or information that can be used to determine the name, of the individual delivering the malt beverages to the final consumer; and
 - (D) The name and delivery address of the final consumer receiving the malt beverages.
- (7) An eligible business, in addition to complying with all other requirements of this rule, may deliver, or cause the delivery of, malt beverages direct to final consumer only:
 - (a) If the malt beverages are transferred to the physical possession of a final consumer at a delivery address
 - (b) In a container that complies with these rules and does not exceed two gallons;
 - (c) To a final consumer who is at least 21 years of age, and only if the malt beverages are for personal use and not for the purpose of resale;
 - (d) To a final consumer who is not visibly intoxicated at the time the final consumer takes physical possession of the malt beverages;
 - (e) When the malt beverages is in a container conspicuously labeled with the words "Contains alcohol: signature of person age 21 years or older required for delivery" or similar language approved by the Commission;
 - (f) Pursuant to an order and payment for malt beverages that are received by the eligible business prior to removal from the eligible business for delivery to the final consumer;
 - (g) To a delivery address or to a location that is within 100 feet of the boundary of the eligible business;
 - (h) When the time of transferring the malt beverages to the physical possession of a final consumer at a delivery address is between the hours of 7:00 am and 10:00 pm. Despite this requirement, an off-premises sales licensee may transfer the malt beverages to the physical possession of a final consumer at a delivery address between the hours of 6:00 am and 10:00 pm.
 - (i) When the eligible business holds a license or permit issued under ORS 471.200, 471.221, 471.223, 471.227, or 471.282, it must not deliver or cause the delivery of more than two cases of malt beverages containing not more than nine liters per case per day to a final consumer and may not deliver more than a total of two cases of malt beverage containing not more than nine liters per case per month to the same final consumer.
 - (j) When the eligible business holds a license issued under ORS 471.175, 471.178, 471.186, or 471.190, it must not deliver more than a total of two cases of malt beverages containing not more than nine liters per case per day to a final consumer.
- (8) An eligible business who holds a direct shipper permit issued under ORS 471.282 must:
 - (a) Allow the Commission to audit the permit holder's records of wine and cider delivered to Oregon residents upon request and shall make those records available to the Commission in Oregon no later than 14 days after the Commission mails the notice;
 - (b) Report to the Commission all deliveries of wine or cider made to a final consumer under the permit as required by ORS Chapter 473. The report must be made in a form prescribed by the Commission; and

(c) Timely pay to the Commission all taxes imposed under ORS Chapter 473 on wine and cider sold and delivered directly to a final consumer under the permit.

(d) For the purpose of the privilege tax imposed under ORS Chapter 473, all wine or cider sold and delivered pursuant to a direct shipper permit is sold in this state. The permit holder, not the purchaser, is responsible for paying the tax to the Commission.

(9) An eligible business who holds a direct shipper permit issued under ORS 471.282 and who is located in a state outside of Oregon, consents to the jurisdiction of the Commission and the courts of this state for the purpose of enforcing the provisions of this rule and any related laws or rules.

(10) A violation of section (8) of this rule is a Category IV violation. A violation of any other section of this rule is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730 (1) & (5), E.O. 20-07

STATUTES/OTHER IMPLEMENTED: ORS 471.305, 471.534, 2021 OL Ch. 180

AMEND: 845-006-0399

RULE TITLE: Sale of Mixed Drinks and Single Servings of Wine by Full On-Premises Sales Licensees for Off-Premises Consumption and Delivery to a Final Consumer

NOTICE FILED DATE: 10/28/2024

RULE SUMMARY: This rule describes the requirements for the sale and delivery of mixed drinks and single servings of wine by full on-premises sales licensees for off-premises consumption to a final consumer. The proposed amendment adds the term temporary service permit.

RULE TEXT:

(1) Definitions. For the purposes of this rule:

(a) "Manufacturer-sealed container" means a container holding an alcoholic beverage that was sealed upon removal from federal bond.

(b) "Mixed drink" means a beverage that is combined on a licensed premises and sold in a sealed container for consumption off of the licensed premises and is:

(A) A drink where the principal alcoholic liquor is distilled liquor and one or more mixers, and contains no more than three ounces of distilled liquor; or

(B) A drink where the principal alcoholic liquor is wine combined with one or more mixers or distilled liquor that contains no more than six ounces of liquid.

(c) "Mixer" means malt beverages, wine, cider, or nonalcoholic ingredients.

(d) "Sealed container" means a container with a secure cap or lid that completely covers the opening for the container and a seal designed to make it evident when the seal has been removed or broken. The seal is affixed to the container by the licensee after the container is filled pursuant to a consumer order for the mixed drink.

(e) "Serving of wine" means a container holding six ounces or less of wine with no mixer and no distilled liquor.

(2) A Full On-Premises Sales licensee may sell or provide for off-premises consumption and delivery to a final consumer no more than: two containers of a mixed drink, two servings of wine, or one mixed drink and one serving of wine per meal as defined in OAR 845-006-0459.

(3) A Full On-Premises Sales licensee that sells mixed drinks or servings of wine to a final consumer for off-premises consumption and delivery must prominently post a notice provided by the Commission relating to Oregon's open container laws. The notice must be prominently displayed on the premises and be presented in whatever manner is necessary to ensure that the consumer purchasing, or a delivery person transporting, such beverages is given notice of this warning. Violation of this section is a Category IV violation.

(4) Mixed drinks and servings of wine may be delivered, or caused to be delivered, to a final consumer by a Full On-Premises Sales licensee only as follows:

(a) To a final consumer who is at least 21 years of age and only if the mixed drink or serving of wine is for personal use and not for the purpose of resale;

(b) To a final consumer who is not visibly intoxicated at the time of receiving the mixed drink or serving of wine;

(c) The mixed drink or serving of wine is in a container or packaging that is conspicuously labeled with the words "Contains alcohol: deliver only to a person age 21 years or older." This message may be directly on the container, on the packaging, or accompanying the container. Examples that meet this labeling requirement include but are not limited to a card, adhesive label or notice, or other medium approved by the Commission.

(d) Pursuant to an order for a mixed drink or serving of wine that is received by the licensee and paid for by the final consumer prior to removal from the licensed premises for delivery to the final consumer;

(e) The mixed drink or serving of wine is delivered between the hours of 7:00 am and 10:00 pm; and

(f) To a delivery address or to a location, as long as the location is within 100 feet of the boundary of the eligible business.

(5) To deliver mixed drinks and servings of wine directly to a final consumer, a Full On Premises Sales licensee, in addition to complying with all other requirements of this rule, must use:

- (a) A third-party delivery facilitator permittee; or
- (b) An individual who is an employee or agent under the direct control of the licensee.
- (6) When a licensee uses an individual who is an employee or agent under its direct control to deliver mixed drinks and servings of wine directly to a final consumer, the licensee is responsible for:
 - (a) Using an individual who is at least 18 years of age and has a valid driver license or other state-issued identification;
 - (b) Using an individual who has a valid Commission-issued service permit, a temporary service permit or has completed a training program within the last five years that includes training on at least:
 - (A) Forms of identification required by ORS 471.130 and Commission rule and methods for identifying, inspecting, accepting or rejecting identification
 - (B) Signs of visible intoxication and methods for recognizing these signs and for refusing to deliver alcoholic beverages to a final consumer; and
 - (C) Rules adopted by the Commission relating to the delivery of alcoholic beverages to a final consumer.
 - (c) Collecting information that must be retained by the eligible business for a minimum of two years from the date of delivery of the mixed drink or serving of wine to the final consumer. The information retained must include:
 - (A) The date and time the mixed drinks and servings of wine were delivered to the final consumer;
 - (B) The amount of mixed drinks and servings of wine contained in each delivery to the final consumer;
 - (C) The name, or information that can be used to determine the name, of the individual delivering the mixed drinks and servings of wine to the final consumer; and
 - (D) The name and delivery address of the final consumer receiving the mixed drinks and servings of wine.
- (7) A Full On-Premises Sales licensee who does not receive orders and payment for mixed drinks and servings of wine directly from a final consumer may receive orders and payment for mixed drinks and servings of wine only through a third-party delivery facilitator permittee.
- (8) A Full On-Premises Sales licensee may not sell manufacturer-sealed containers of distilled liquor of any size. Violation of this subsection is a Category I violation.
- (9) This rule does not apply to sales of manufacturer-sealed containers or securely covered containers of malt beverages, wine, or cider for off-premises consumption.
- (10) Unless otherwise specified, violation of this rule is a Category III violation
- (11) A Full On-Premises Sales licensee may deliver, or cause the delivery of, mixed drinks and servings of wine only to a final consumer and only as allowed by Commission rule. When a Full On-Premises Sales licensee uses a third-party delivery facilitator permittee to deliver mixed drinks and servings of wine on behalf of the Full On-Premises Sales licensee, and after the eligible business has transferred the mixed drinks and servings of wine to the physical possession of the third-party delivery facilitator permittee, or any delivery person used by the third-party delivery facilitator permittee, the Full On-Premises Sales licensee is not responsible for any failure of the third-party delivery facilitator permittee, or any delivery person used by the third-party delivery facilitator permittee, to follow regulations or rules specific to third-party delivery facilitator permittees.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730 (1) & (5)

STATUTES/OTHER IMPLEMENTED: ORS 471.175, 471.176, 471.534

AMEND: 845-006-0428

RULE TITLE: Exemptions for Certain Tour Boats

NOTICE FILED DATE: 10/28/2024

RULE SUMMARY: Discusses the circumstances for waiver of the service permit requirement. The proposed amendments add the term temporary service permit and removes language to conform with 2024 HB 4138.

RULE TEXT:

For boats that will be in Oregon waters 30 days or less in a calendar year:

(1) The Commission waives the service permit and the temporary service permit requirements for alcohol servers and for those who supervise the sale or service of alcohol. However, the applicant, licensee or service permit designee must affirm in writing that all alcohol servers and those who supervise the sale or service of alcohol have read the OLCC brochure, "What Every Alcohol Server Needs to Know." (This brochure is available from the Commission);

(2) The Commission generally does not assign minor postings; however, minor patrons are not permitted in areas with drinking environments during the hours that drinking predominates. Drinking environment is defined in OAR 845-006-0340.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730 (1) & (5)

STATUTES/OTHER IMPLEMENTED: ORS 471.182

AMEND: 845-006-0433

RULE TITLE: Minibars in Hotel Guest Rooms

NOTICE FILED DATE: 10/28/2024

RULE SUMMARY: Discusses the conditions in which Limited On-Premises Sales and Full On-Premises Sales licensees may provide alcoholic beverages to hotel guests. The proposed amendments add the term temporary service permit.

RULE TEXT:

ORS 471.180 allows a Limited On-Premises Sales or Full On-Premises Sales licensee who operates a hotel to make alcoholic beverages, stored in locked cabinets (minibars) in individual guest rooms, available to guests. Licensees may provide these alcoholic beverages under the conditions identified in this rule.

(1) Only a service permittee, a temporary service permittee or trained employee may give guests the key to minibars. A trained employee is one who has participated in a training program that meets, at least, the requirements in the Commission's Alcohol Server Education Model Curriculum on identifying minors and recognizing the signs of visible intoxication.

(2) The licensee must not give a minibar key to minors or visibly intoxicated persons. The licensee may not give a minibar key to a guest if the licensee has reason to believe the guest is accompanied by a minor and is not the minor's parent or caretaker.

(3) Restocking:

(a) Any employee who is at least 18 years old may restock a minibar when restocking is not in response to a guest request for immediate restocking;

(b) Only a service permittee or a temporary service permittee may restock a minibar in response to guest request for immediate restocking (restocking is the same as selling/serving in this instance);

(c) In response to a guest request for restocking, employees will not restock a minibar:

(A) If there are visibly intoxicated persons or minors unaccompanied by their parents in the room;

(B) After 2 a.m.;

(C) With amounts of alcohol that the people in the room cannot reasonably consume by 2:30 a.m.

(4) Limitations:

(a) On container size: The individual containers in a minibar may be no larger than 50 milliliters for distilled spirits, 12 ounces for malt beverages and 375 milliliters for wine or cider;

(b) On number of containers: The total number of alcoholic beverage containers in a minibar may not exceed 30.

(5) Each minibar will have a clearly visible sign on the outside or inside of the minibar. The sign will explain the following liquor laws: minors and visibly intoxicated persons may not drink alcohol from the minibar; guests/visitors may not drink alcohol from the minibar between 2:30 a.m. and 7 a.m.; and guests/visitors may not take alcohol from a minibar off the premises.

(6) Food: At a minimum, the licensee must have a variety of snacks available during the hours that a guest may lawfully access the minibar.

(7) The Commission will hold a licensee responsible for liquor law violations that occur in guest rooms only if the licensee or employee permitted the violation.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730 (1) & (5)

STATUTES/OTHER IMPLEMENTED: ORS 471.180

AMEND: 845-006-0434

RULE TITLE: Minibars in Arena Suites

NOTICE FILED DATE: 10/28/2024

RULE SUMMARY: Discusses the conditions in which Limited On-Premises Sales and Full On-Premises Sales licensees who operate suites in an arena may provide alcoholic beverages in a minibar for arena suite guests. The proposed amendment adds the term temporary service permit.

RULE TEXT:

(1) ORS 471.180 allows a Limited On-Premises or Full On-Premises Sales licensee who operates suites in an arena to store alcoholic beverages in a minibar and to make those beverages available to guests of arena suites. The purpose of this rule is to regulate the use of minibars in arena suites. The Commission reserves the right to add restrictions regarding the service of alcohol from minibars to the license of any arena licensee when those restrictions are considered by the Commission to be a reasonable response to a potential public safety problem or concern.

(2) Definitions:

(a) "Adults": Persons 21 years of age or older;

(b) "Arena suite": An enclosed, leased, private suite which is separate from the general admission area in an arena. The Commission considers an arena suite as a part of the arena;

(c) "Containers": For purposes of this rule, an individual container of each alcoholic beverage listed below must contain no more than the following amount of alcohol:

(A) Distilled spirits: 1.7 ounces or 50 milliliters;

(B) Bottles or cans of malt beverage: 12 ounces or approximately 355 milliliters;

(C) Malt beverage in kegs: 8 liters;

(D) Wine or cider: 25.4 ounces or 750 milliliters;

(d) "Licensee": For purposes of this rule, licensee refers to an arena which has been issued a Limited On-Premises or Full On-Premises Sales license under the provisions of ORS Chapter 471;

(e) "Minibar": A locked cabinet or locked refrigerator used to store alcoholic beverages;

(f) "Monitoring": An observation of suite guests for a reasonable amount of time by a service permittee who must serve food, alcoholic beverages, non-alcoholic beverages, or perform related duties in the suite during the period of monitoring to provide an opportunity for the permittee to observe whether minors are consuming alcohol, whether guests show any signs of visible intoxication and whether any unlawful acts are occurring;

(g) "Service Permittee": An individual who has a valid service permit or a valid temporary service permit;

(h) "Suite Holder": A person or entity that has entered an agreement to occupy an arena suite. Where such suite holder is a business or a corporation, that suite holder will designate at least one adult as the suite holder's representative for each event.

(3) Operational Rules for Arena Suites: The licensee may provide alcoholic beverages only under the following conditions in arena suites:

(a) Maximum Containers Allowed Per Suite:

(A) Each suite must be stocked with no more than:

(i) One 8 liter keg of malt beverage and 60 additional containers of a variety of alcoholic beverages; or

(ii) Eighty (80) containers of a variety of alcoholic beverages; no keg of malt beverage is permitted.

(B) Only one 8 liter keg of malt beverage may be present in a suite at any one time. Alcoholic beverages which are brought into the suite from other areas in the arena for immediate consumption by suite guests will not be counted in the maximum number of containers of alcohol allowed in the arena suite.

(b) Responsibilities of Suite Holder and Suite Guests:

(A) When the suite holder will not be present for an event, the suite holder must designate one adult as the suite holder's representative for that event. The suite holder or suite holder's representative must be present in the suite throughout each event;

(B) For purposes of OAR 845-006-0362 and 845-006-0345, the suite holder or suite holder's representative and suite guests are deemed to be the licensee's agents or representatives. The Commission holds the suite holder, the suite holder's representative and suite guests to the same standard of care in serving alcohol as the licensee.

(c) Responsibilities of the Licensee:

(A) A service permittee must monitor each suite for alcohol-related problems a minimum of four times each hour while the suite is occupied. However, the Commission may enter an agreement with a licensee to defer enforcement of this provision and to require less frequent monitoring when the Commission has reason to believe that less frequent monitoring will be adequate to insure that alcohol-related problems will not occur. The Commission will reserve the right to revoke the agreement and to require compliance with this subsection of the rule if the Commission has reason to believe more frequent monitoring is necessary to prevent alcohol-related problems;

(B) No alcohol may be consumed in an arena suite from one hour after an arena event has ended until 7:00 a.m.

Notwithstanding this portion of the rule, if the arena suite is used for a private party when no arena event is occurring, no alcohol may be consumed in the arena suite from 12:00 midnight until 7:00 a.m. Under no circumstances may alcohol be served or consumed between 2:30 and 7:00 a.m.

(C) If a service permittee observes a minor or visibly intoxicated person being served or consuming alcoholic beverages, the service permittee must:

(i) Remove the alcohol from the minor or visibly intoxicated person;

(ii) Lock the minibar;

(iii) Notify the licensee about the minor or visibly intoxicated person who was consuming alcohol;

(iv) Call arena security to carry out the arena's operational plan with regard to minors or visibly intoxicated persons; and

(v) Serve all alcohol in the suite during the remainder of the event. After locking the minibar, a service permittee may either remain in the suite to serve alcohol throughout the remainder of the event or a permittee may serve alcohol to suite guests when monitoring the suite.

(D) If a minor has consumed alcohol in an arena suite, the minor must be removed from the arena suite.

(d) Keys to a Minibar: Only the licensee or a service permittee may unlock a minibar. The licensee or a service permittee must unlock a minibar only for a suite holder or suite holder's representative.

(e) Restocking a Minibar:

(A) Any employee who is at least 18 years old may restock a minibar when there are no suite guests present and no event is occurring;

(B) Only a service permittee may restock a minibar during an event or when guests are present in the suite;

(C) Before restocking a minibar during an event or when guests are present in the suite, the service permittee must observe the guests to insure that there are no visibly intoxicated persons or minors consuming alcohol in the suite. A service permittee must not restock after 10 p.m.

(f) Posted Signs: Each minibar must have a clearly visible sign on the outside or inside of the minibar. The sign must explain the following liquor laws and rules: minors and visibly intoxicated persons must not drink alcohol; the suite holder, suite holder's representative and suite guests must remove the alcohol from any visibly intoxicated person; and no alcohol may be consumed in the suite from one hour after an event in the arena has ended until 7:00 a.m., or if no event is occurring in the arena, between 12 midnight and 7:00 a.m.

(g) Food in Arena Suites: At a minimum, each suite must contain a variety of snacks for guests to eat during the hours the minibar is unlocked.

(4) Records:

(a) The licensee must keep records of all sales of alcohol and food for each suite during the license term and must maintain the records for a period of at least two years;

(b) The licensee must make available for inspection by Commission staff on an annual basis the average total food and total alcohol sales for all arena suites.

(5) Violations: Violation of the provisions of paragraph (3)(c)(C) (response to minor or visibly intoxicated person consuming) and subsection (3)(e) (restocking minibar) of this rule are Category III violations in the Commission's

sanction schedule. All other violations of sections (3) and (4) of this rule are Category IV violations under the Commission's sanction schedule:

(a) The licensee is responsible for knowing when minors and visibly intoxicated persons are present in arena suites and for taking reasonable steps to insure that they do not consume alcohol. If a minor or visibly intoxicated person consumes alcohol in an arena suite, the licensee is responsible for permitting the minor or visibly intoxicated person to consume alcohol in violation of liquor laws;

(b) Adherence to the provisions of this rule is not a defense to a charge of violating liquor laws. If the Commission determines that minibar use causes or creates liquor law violations or a public safety problem, the Commission reserves the right to require the licensee to use service permittees to serve all alcohol in arena suites.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730 (1) & (5)

STATUTES/OTHER IMPLEMENTED: ORS 471.180

AMEND: 845-006-0446

RULE TITLE: Promotional Events at a Retailer Licensed Premises Involving Suppliers

NOTICE FILED DATE: 10/28/2024

RULE SUMMARY: Describes the requirements and rules that apply to promotional events at a retailer's licensed premises involving suppliers. The proposed amendments add the term temporary service permit.

RULE TEXT:

(1) Definitions. For the purposes of this rule:

(a) "Retailer Licensed Premises" means a premises licensed with a full on-premises sales issued under ORS 471.175, limited on-premises sales issued under ORS 471.178, or brewery-public house licensed issued under ORS 471.200.

(b) "Supplier" means a Winery, Grower Sales Privilege, Brewery, Brewery-Public House, Warehouse, and Distillery licensee. It also means an Oregon Certificate of Approval (CERA) holder and an Oregon Certificate of Approval Distillery (CERD) but only for the product for which it holds the certificate. Further, a supplier does not mean an Oregon Wholesale Malt Beverage and Wine licensee; however, a Wholesale Malt Beverage and Wine licensee may represent a CERA holder.

(c) "Promotional Event" means an event sponsored by a retailer at a retailer licensed premises where the retailer accepts assistance as per section (3) of this rule from one or more suppliers. Examples include winemaker dinners, food and alcohol pairings, and product releases.

(2) Retail Licensee Responsibilities. The retail licensee is responsible for:

(a) All sale and service of alcohol at the event.

(b) Ensuring that a supplier who serves alcoholic beverages at the event has a valid Oregon service permit or a valid temporary service permit.

(c) Ensuring that the supplier does not compensate the retailer or any employee or agent of the retailer to participate in any event as described in this section.

(d) Ensuring that the supplier does not donate alcohol or sell alcohol at a discount to the retail licensee and the retail licensee does not accept donated alcohol or discounted alcohol from a supplier (the retail licensee must obtain the alcohol from a retail sales agent of the Commission or a supplier authorized to sell alcohol directly to retail licensees of the Commission).

(e) Meeting all applicable food service requirements.

(3) Supplier Assistance. OAR 845-013-0001 to 845-013-0110 apply to these events; however, at these events a supplier may provide to a retailer and a retailer may accept from a supplier:

(a) Education to patrons and staff.

(b) Staff or agents of the supplier to serve alcoholic beverages for the products it represents provided the server has a valid Oregon service permit or a valid temporary service permit.

(4) Record Keeping. The retail licensee must keep a record of each event it sponsors, including the date and location of each event, the products served, and the names of suppliers. Records of events must be retained for at least one year from the date of the event.

(5) Advertising. The retailer may advertise these events. The supplier may advertise these events as allowed in OAR 845-013-0040.

(6) Number of Promotional Events. A supplier may be in each retail premises no more than 12 days per calendar year for the purpose of a promotional event.

(7) This rule does not apply to items or services a supplier provides under OAR 845-013-0090 to a nonprofit or governmental temporary sales licensee as described in OAR 845-013-0090(4)(a).

(8) Violation of sections (2) through (4) of this rule are Category III violations.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730 (1) & (5)

STATUTES/OTHER IMPLEMENTED: ORS 471.398, 471.400

AMEND: 845-006-0450

RULE TITLE: Retail On-Premises Malt Beverage, Wine, or Cider Tastings Involving Suppliers

NOTICE FILED DATE: 10/28/2024

RULE SUMMARY: Describes the requirements and rules that apply to tastings involving suppliers that are conducted on Full On-Premises Sales, Limited On-Premises Sales, and Off-Premises Sales licensed premises. The proposed amendments add the term temporary service permit.

RULE TEXT:

The Commission allows certain other Oregon licensees to conduct or participate in malt beverage, cider, or wine sample tasting on Full On-Premises Sales, Limited On-Premises Sales, and Off-Premises Sales licensed premises as specified in OAR 845-005-0427, subject to the requirements and limits identified in this rule.

(1) Sample Sizes. The size of each sample must not exceed one and a half ounces for wine or cider and three ounces for malt beverages.

(2) Identified Tasting Area.

(a) Any Off-Premises Sales retailer who conducts tastings or who allows manufacturers to conduct tastings on the retail premises must identify a specific tasting area or areas.

(b) The area/s must be of a size and design such that the person(s) conducting the tasting can observe and control persons in the area to ensure no minors or visibly intoxicated persons possess or consume alcohol.

(c) Customers must remain in the tasting area or areas until they have finished consuming the sample.

(d) The retailer must keep on file at the premises a floor plan identifying the tasting area(s).

(e) If a retailer does not have an identified tasting area or areas, the Commission may require prior approval of an area or areas before the retailer conducts any more tastings or allows any more manufacturer-conducted tastings on the premises.

(3) Number of In-Store Tastings.

(a) A manufacturer may be in each retail premises no more than 12 days per calendar year for the purpose of tastings.

(b) There is no limit on the number of tastings a retailer may conduct, but the retailer must not allow a manufacturer on the retailer's premises more than 12 days per calendar year for the purpose of tastings.

(4) Server Requirements. Alcohol servers must have a valid Oregon service permit or a valid temporary service permit.

(5) Record Keeping. The manufacturer or wholesaler must keep a record of each tasting they conduct, including the date and location of each event, the products served and the names of the servers.

(6) Manufacturer-Conducted Sample Tastings: Oregon law allows Oregon Winery, Grower Sales Privilege, Brewery, Brewery-Public House and Warehouse licensees and Oregon Certificate of Approval holders, for the product for which they hold the certificate, to conduct tastings:

(a) These license holders must provide the product to be tasted, and remove any remaining product at the end of the tasting;

(b) These license holders must provide or pay for a person to serve the wine, cider, or malt beverages. The server must be the manufacturer's employee or agent. The manufacturer may not compensate any employee or agent of the retail licensee to participate in the tasting;

(c) The retailer may advertise these events. These license holders may advertise these events as allowed in OAR 845-013-0040;

(d) An Oregon Wholesale Malt Beverage and Wine licensee may conduct tastings under this section only if representing a Certificate of Approval holder.

(7) Retailer-Conducted Tastings. Retailers with Full On-Premises Sales, Limited On-Premises Sales and Off-Premises Sales licenses may conduct tastings on their licensed premises only as follows:

(a) The retail licensee must provide the product to be tasted.

(b) The retail licensee must provide the person to serve the wine, cider, or malt beverage. The server must be the retail licensee's employee or agent and may not be an employee or agent of an Oregon Winery, Grower Sales Privilege,

Brewery, Brewery-Public House, Warehouse, Wholesale Malt Beverage and Wine licensee or an Oregon Certificate of Approval holder.

(c) The retail licensee may not accept any financial assistance from an Oregon Winery, Grower Sales Privilege, Brewery, Brewery-Public House, Warehouse, Wholesale Malt Beverage and Wine licensee or an Oregon Certificate of Approval holder.

(d) The retailer may advertise the tasting.

(e) The retailer may hold an unlimited number of retailer-conducted tastings.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730 (1) & (5)

STATUTES/OTHER IMPLEMENTED: ORS 471.398, 471.402

AMEND: 845-006-0452

RULE TITLE: Requirements for Distilled Liquor Tastings Provided by Oregon Distillery Licensee

NOTICE FILED DATE: 10/28/2024

RULE SUMMARY: Describes definitions and the requirements for a distillery to provide tastings of distilled liquor that the distillery manufactures. The proposed amendments add the term temporary service permit.

RULE TEXT:

OAR 845-005-0431 sets the qualifications for an Oregon distillery licensee to obtain approval to provide tastings of distilled liquor manufactured by the distillery licensee for consumption on the distillery licensee's premises and on no more than five other premises owned or leased by the distillery licensee. This rule sets the requirements to provide these tastings.

(1) Definitions.

(a) "Identified tasting area" means a specific defined area where tastings of alcohol occur. The area must be of a size and design such that the person(s) serving the taste(s) can observe and control persons in the area to ensure no minors or visibly intoxicated persons possess or consume alcohol and that other liquor laws are followed.

(b) "Manufactured by the distillery licensee" means the licensee distills, rectifies, blends, or otherwise produces the distilled liquor product in Oregon on the distillery's licensed premises.

(c) "Other premises owned or leased by the distillery licensee" means any other licensed location that is owned or leased by the distillery licensee and separate from its annually licensed location. To qualify under this definition, the distillery licensee must provide proof of ownership or a written contract entitling it to exclusive use and possession of the other location.

(d) "Per day" means from 7:00 am until 2:30 am on the succeeding calendar day.

(e) "Primary Location" means the location where distilled liquor is manufactured by the distillery licensee.

(f) "Trade visitor" means a person whose job includes the purchase or recommended purchase of distilled spirits by a licensee of the Commission or distributors and others in the commercial distribution chain; or a person representing an agency of mass communication, such as television, radio, newspaper, magazine, and internet.

(2) Tastings of distilled liquor are allowed only within the identified tasting area or areas approved by the Commission. The identified tasting area or areas may be on the distillery licensee's primary location and on no more than five other premises owned or leased by the distillery licensee. Customers may not remove the tastings from the identified tasting area or areas.

(3) A distillery licensee may provide only tastings as described in this rule.

(4) The distilled liquor in a taste must be approved by the Commission for sale in Oregon. The taste must contain distilled liquor manufactured in Oregon by the distillery licensee or another distillery licensee. Once the taste contains distilled liquor manufactured in Oregon by the distillery licensee or another distillery licensee, the taste may contain other distilled liquor approved by the Commission for sale in Oregon and may also include malt beverages, wine, cider, and non-alcoholic liquids.

(a) The distillery licensee must pay the Commission a processing fee for any distilled liquor in the taste that is manufactured by the distillery licensee and is obtained from the inventory of the Commission.

(b) The distillery licensee must purchase at the retail price set by the Commission any distilled liquor that was not manufactured by the distillery licensee.

(5) Tastings provided to the general public.

(a) A tasting provided to the general public shall be no more than one-half fluid ounce of distilled liquor in a single container. The container may also contain malt beverage, wine, cider, and nonalcoholic beverages; however, the total amount of liquid in the container may be no more than two ounces. A licensee may charge a member of the general public a fee for tastings.

(b) A distillery licensee shall not provide more than two and one-half fluid ounces of distilled liquor per person per day.

(6) Tastings provided to a trade visitor.

(a) A tasting provided to a trade visitor shall be no more than one fluid ounce of distilled liquor in a single container. The container may also contain malt beverage, wine, cider, and nonalcoholic beverages; however, the total amount of liquid in the container may be no more than three ounces. A licensee may not charge a trade visitor a fee for tastings.

(b) There is no daily limit on distilled liquor tastings provided to a trade visitor.

(c) Trade visitors must be distinguished from members of the general public. For example, providing tastings for trade visitors in separate areas or at separate times from tastings for the general public, using distinctive glassware for trade visitors, or using badges or name tags to identify trade visitors could be ways a licensee complies with this requirement.

(7) Minors are permitted in the identified tasting area only if allowed by the Commission's rule on minor postings (see OAR 845-006-0340).

(8) Alcohol servers who pour tastings must have a valid service permit or a valid temporary service permit; and must be at least 21 years of age.

(9) Failing to obtain Commission approval as required by OAR 845-005-0431 prior to providing the service of distilled liquor tastings is a Category I violation. A violation of sections (1)–(8) of this rule is a Category III violation.

(10) A violation of a liquor law at any premises owned or leased by the distillery licensee is the responsibility of the distillery licensee.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730 (1) & (5)

STATUTES/OTHER IMPLEMENTED: ORS 471.230

AMEND: 845-006-0462

RULE TITLE: Food Service Requirements for Off-Premises Events with a Full or Limited On-Premises Sales License

NOTICE FILED DATE: 10/28/2024

RULE SUMMARY: Describes the food service requirements for off-premises events with a full or limited on-premises sales license. The proposed amendment includes changing the requirement to have at least three different meals for consistency with other Commission food requirements.

RULE TEXT:

(1) Purpose: ORS 471.184 allows Full and Limited On-Premises Sales licensees to have off-premises events under the license privilege. This rule sets the food service requirements for off-premises events with a Full or Limited On-Premises Sales license.

(2) If the off-premises event would qualify for general pre-approval under OAR 845-005-0405, the licensee must provide at all times and in all areas where alcohol service is available at least two different meals, some of which the licensee prepares and cooks in sufficient quantity to provide at least one serving for each person at the event. A contractor may not provide this food service. A licensee may provide one meal in the area where alcohol service is available if the Commission determines that the clearly dominant emphasis in this area is food service as described in 845-006-0460.

(3) If the off-premises event is not of a type that would qualify for general pre-approval granted by the Commission but has been approved under the standards of OAR 845-005-0410 and:

(a) Distilled spirits are provided at the event, the licensee or a contract food service provider must provide at least three different meals on the off-premises event's licensed premises at all times and in all areas where alcohol service is available; or

(b) Distilled spirits are not provided at the event, the licensee or a contract food service provider must provide at least two different meals on the off-premises event's licensed premises at all times and in all areas where alcohol service is available.

(4) If the licensee does not directly provide the food service required under subsection (3) this rule, the food service must be provided by a contractor or contractors. The contract may be with the licensee or with the organizer of the event. The licensee may sell or serve alcohol only when food service that meets the requirements of this rule is provided to patrons at all times and in all areas where alcohol service is available. The Commission may waive the OAR 845-005-0311 requirement that a contract food service provider be a co-licensee at the event if the contract food provider does not provide any alcohol service and does not directly or indirectly manage people who sell or serve alcohol. A licensee may have fewer than the different meals required under this rule in the area where alcohol service is available if the Commission determines that the clearly dominant emphasis in this area is food service as described in 845-006-0460.

(5) Violation of any section of this rule is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730 (1) & (5)

STATUTES/OTHER IMPLEMENTED: ORS 471.175, 471.184

AMEND: 845-006-0500

RULE TITLE: Suspensions and Civil Penalties

NOTICE FILED DATE: 10/28/2024

RULE SUMMARY: This rule describes sanctions and civil penalties. The proposed amendments add reference to temporary service permits.

RULE TEXT:

(1) The Commission cancels or suspends a license under its authority in:

(a) ORS 471.315 for violations of any provision of ORS Chapter 471 or any administrative rule (chapter 845) the Commission adopts pursuant to these chapters;

(b) ORS 459.992(4) for violations of any provision of 459A.705, 459A.710 or 459A.720 or any administrative rule the Commission adopts pursuant to these statutes;

(c) ORS 471.315(1)(d) for public interest or necessity reasons.

(2) The Commission cancels or suspends a service permit or a temporary service permit under its authority in ORS 471.385 for violations of Chapter 471 or any administrative rule (chapter 845) the Commission adopts pursuant to these chapters.

(3) The Commission cancels or suspends an alcohol server education provider certificate under its authority in ORS 471.547.

(4) ORS 471.322 and 471.327 allow the Commission to impose a civil penalty instead of suspension. In most cases, the Commission allows the licensee or permittee the option of serving the suspension or paying the civil penalty.

(5) ORS 471.315 allows the Commission to impose either a suspension or a civil penalty or both. The Commission imposes mandatory suspensions when necessary to ensure future licensee, permittee, or patron compliance.

(6) ORS 471.322 and 471.327 limit the amount of a civil penalty the Commission may impose. To stay within these limits, the Commission usually computes civil penalties by multiplying the number of days in the suspension by \$165 for retail, manufacturer, and wholesale licensees, and by \$25 for service permittees and temporary service permittees, unless computed differently in section (7) of this rule.

(7) The Commission uses the following violation categories:

(a) I – Violations that make licensee ineligible for a license;

(b) II – Violations that create an immediate threat to public health or safety;

(c) II(a) – Violations for unlawful drug activity;

(d) II(b) – Violations for the sale of alcohol to a minor or failure to check identification. For the first offense in this category, the Commission computes the civil penalty by multiplying the number of days in the suspension by \$250 for retail, manufacturer, and wholesale licensees, and by \$35 for service permittees and temporary service permittees;

(e) III – Violations that create a potential threat to public health or safety OR violations of the tied house or financial assistance prohibitions;

(f) III(a) – Violations for the sale of alcohol to a minor or failure to check identification when the retail licensee qualifies under the Responsible Vendor Program;

(g) IV – Violations that create a climate conducive to abuses associated with the sale or service of alcoholic beverages;

(h) V – Violations inconsistent with the orderly regulation of the sale or service of alcoholic beverages.

(8) Violation sanctions

(a) The Commission may sanction a licensee or permittee in accordance with the guidelines set forth in Exhibit 1. Exhibit 1 also gives the categories for the most common violations.

(b) Exhibit 1 lists the proposed sanctions for single or multiple violations that occur within a two year period for each category described in subsection (7) of this rule. The Commission may allege multiple violations in a single notice or may count violations alleged in notices issued within the previous two year period toward the total number of violations. In calculating the total number of violations, the Commission may consider a proposed violation for which the Commission has not yet issued a final order.

(c) The proposed sanctions in Exhibit 1 are guidelines. If the Commission finds one or more mitigating or aggravating circumstances, it may assess a lesser or greater sanction, up to and including cancellation. The Commission may decrease or increase a sanction to prevent inequity or to take account of particular circumstances in the case.

(d) Mitigating circumstances include, but are not limited to:

(A) Making a good faith effort to prevent a violation.

(B) Extraordinary cooperation in the violation investigation demonstrating the licensee or permittee accepts responsibility.

(e) Aggravating circumstances include, but are not limited to:

(A) Receiving a prior warning about one or more compliance problems.

(B) Repeated failure to comply with laws.

(C) Failure to use age verification equipment purchased as an offset to a previous penalty.

(D) Efforts by licensee or permittee to conceal a violation.

(E) Intentionally committing a violation.

(F) A violation involving more than one patron or employee.

(G) A violation involving a juvenile.

(H) A violation resulting in injury or death.

(I) Three or more violations within a two-year-period, regardless of the category, where the number of the proposed or final violations indicate a disregard for the law or failure to control the premises.

(9) A licensee may not avoid the sanction for a violation or the application of the provision for successive violations by merely adding or dropping a partner or converting to another form of legal entity when the individuals who own, operate, or control the business are substantially similar.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730 (1) & (5)

STATUTES/OTHER IMPLEMENTED: ORS 471.315, 471.322, 471.327, 2024 OL Ch. 40 Sec. 9



OAR 845-006-0500 Exhibit 1

Category	1 violation in a 2-year period	2 violations in a 2-year period	3 violations in a 2-year period	4 violations in a 2-year period	5 violations in a 2-year period	6 violations in a 2-year period	7 violations in a 2-year period
I	Cancel						
II	30 days	Cancel					
II(a)	10 days	30 days	Cancel				
II(b)	10 days or \$2500	30 days or \$4950	30 days	Cancel			
III	10 days or \$1650	30 days or \$4950	30 days	Cancel			
III(a)	10 days or \$1650	20 days or \$3300	30 days or \$4950	30 days and \$4950	30 days	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	

AMEND: 845-009-0005

RULE TITLE: Service Permit Application Requirements

NOTICE FILED DATE: 10/28/2024

RULE SUMMARY: This rule describes service permit application requirements and the circumstances under which the Commission will consider an application incomplete. The proposed amendments add the term temporary service permit and conform with changes made in 2024 HB 4138.

RULE TEXT:

The Commission will review an application to determine if it is complete. An application is considered incomplete if:

(1) Any of the following information is missing or illegible:

(a) Applicant's full name;

(b) Applicant's mailing address;

(c) Applicant's Social Security Number, or an affirmation that the individual does not have one;

(d) Applicant's date of birth;

(e) Applicant's response to conviction history questions.

(2) The applicant has not paid the \$23 service permit application fee and, if applicable, a \$3 administrative fee charged by the vendor. Such a fee may be increased by the Commission from time to time.

(3) The applicant has not used the Commission's approved and most recent application form.

(4) The applicant is under 18 years of age.

(5) The applicant is under 21 years of age and is applying for a service permit at a licensed premises where service permittees and temporary service permittees must be at least 21 years of age.

(6) The applicant has not provided valid identification. Valid identification for the purpose of obtaining a service permit or a temporary service permit is limited to the identification set forth in ORS 471.130(1) and OAR 845-006-0335(1)(d).

(7) The applicant is ineligible for a service permit or a temporary service permit under OAR 845-009-0010(3).

(8) Incomplete Applications. The Commission may, at its discretion, assess applications to determine their completion status. Incomplete applications will not be accepted for submission. The Commission may also require additional information if there is a reason to believe that the information is needed to determine the merits of the application. The Commission will generally notify an applicant that an application is incomplete within 30 days of submission, although this timeframe may be periodically delayed upon Commission workload and priorities. If additional information is requested and is not provided within 14 days, the application will be considered incomplete and will not be accepted. An applicant will be notified in writing regarding an incomplete application. Such notice will inform the applicant to provide the missing and required information and will inform the applicant that they may re-submit a completed application.

(9) The Commission may give the applicant the opportunity to be heard if an application is inactivated. An applicant may submit a written request for reconsideration of a decision that an application is incomplete. Such a request must be received by the Commission within 10 calendar days of the date the incomplete notice was sent or the application will be inactivated. A hearing under this subsection is not subject to the requirements for contested case proceedings under ORS 183.310 to 183.550.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.730(1)

STATUTES/OTHER IMPLEMENTED: ORS 471.375, 2024 OL Ch. 40 Sec. 12

AMEND: 845-009-0010

RULE TITLE: Service Permit and Temporary Service Permit Requirements

NOTICE FILED DATE: 10/28/2024

RULE SUMMARY: Describes the requirements for holding a service permit and circumstances in which a waiver is allowed. Amendments add the temporary service permit process, conditions for eligibility and applicable rules.

RULE TEXT:

(1) Who Needs a Service Permit. ORS 471.360 requires a valid service permit or temporary service permit for any individual licensee or any person employed by a licensee who performs the following duties:

- (a) Mixes, sells or serves alcoholic beverages for consumption on licensed premises;
- (b) Dispenses malt beverages, wines or cider into securely covered containers provided by the consumer;
- (c) Directly supervises persons described in subsection (a) or (b) of this rule; or
- (d) The above-listed requirements also apply to the individual principals of any licensed legal entity who perform the duties described in subsections (a), (b) or (c) of this rule.

(2) Exceptions. ORS 471.360(5) allows the Commission to establish conditions under which it may waive the requirement to hold a service permit or temporary service permit. The following persons are not required to have a valid service permit or temporary service permit:

- (a) The holders of Public Passenger Carriers licensees and their alcohol servers whose primary business is transportation (for example airlines and most trains), but it does not waive the requirement for Public Passenger Carriers whose primary business is touring (for example tour boats in Oregon waters more than 30 days per calendar year and small excursion-type railroads);
- (b) The holders of some temporary sales licenses pursuant to OAR 845-005-0440, and their alcohol servers, including employees and volunteers serving alcoholic beverages for a nonprofit or charitable organization with a temporary sales license; and
- (c) Persons serving or providing alcoholic beverages for on-premises consumption at a location that does not have a Commission-issued liquor license and the activity does not require a Commission-issued liquor license.

(3) Temporary Service Permits.

(a) An individual is eligible for a temporary service permit if the individual meets the following conditions:

- (A) Submits a completed application and the required application fee in compliance with ORS 471 and Commission rules, including but not limited to OAR 845-009-0005 and OAR 845-009-0010 and is not otherwise ineligible for a temporary service permit under ORS 471 and Commission rules;
- (B) Submits applicant's proof of completion of an alcohol server education course;
- (C) Submits applicant's proof of having taken and passed the Commission-proctored alcohol server exam;
- (D) Has no other pending service permit applications, and does not hold any other service permit or temporary service permit, notwithstanding temporary service permits issued for service permit renewal applications described in OAR 845-009-0100(5); and
- (E) Has not had a service permit application denied within three years of the date the Commission received the current application.
- (F) Has not had a service permit or temporary service permit revoked within three years of the date the Commission received the current application.

(b) The Commission will notify the applicant in writing when a temporary service permit is issued.

(c) A temporary service permit is valid until the date the applicant is issued or denied a service permit or until it expires pursuant to section (4) of this rule. If a temporary service permit was inadvertently issued to an applicant and OLCC later determines that the application was incomplete, the application will be deemed incomplete pursuant to OAR 845-009-0005(8), the applicant will be notified, and the temporary service permit will be deemed invalid.

(d) Temporary service permits are subject to the same revocation criteria as service permits.

(4) A service permit or temporary service permit is valid for a period of five years from the date of issuance. If a

temporary service permit is issued prior to issuance of the service permit, the five-year period includes the timeframe in which the temporary service permit is held.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730 (1), ORS 471.190

STATUTES/OTHER IMPLEMENTED: ORS 471.190, 471.360, 471.365 (2), 471.375, 2024 OL Ch. 40 Sec. 3, 10, 11 & 12

AMEND: 845-009-0015

RULE TITLE: Licensee and Authorized Person's Responsibility for Verifying Identification

NOTICE FILED DATE: 10/28/2024

RULE SUMMARY: Describes the requirements for verifying that an individual holds a service permit or temporary service permit. Amendments add the term temporary service permit and removes language to conform with 2024 HB 4138.

RULE TEXT:

Before allowing anyone who is required to have a service permit or temporary service permit under ORS 471.360 to perform the duties described in OAR 845-009-0010(1), a licensee must:

- (1) Make sure the person has a valid service permit or a valid temporary service permit; and
- (2) Verify the person's age and identity (for example, make sure the person's physical description matches the person's driver's license photo and description).

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730(1)

STATUTES/OTHER IMPLEMENTED: ORS 471.360(1), 471.365(2), 471.375, 2024 OL Ch. 40 Sec. 10, 11 & 12

AMEND: 845-009-0020

RULE TITLE: Service Permit Denial and Cancellation Criteria

NOTICE FILED DATE: 10/28/2024

RULE SUMMARY: Describes the denial and cancellation criteria for a service permit. The proposed amendments add the term temporary service permit and a provision that an applicant may not withdraw an application once the Commission proposes denial.

RULE TEXT:

(1) Under ORS 471.380 and 471.385, the Commission may deny or cancel a service permit and/or cancel a temporary service permit if the applicant or permittee violates certain laws, uses alcohol or controlled substances to excess or has a poor record of compliance. This rule describes how the Commission applies these statutory provisions.

(2) Permit Cancellation. The Commission will cancel a service permit or a temporary service permit if, on the date it sends the Notice of Proposed Cancellation, the Commission would have a valid basis to deny a service permit application submitted by the same permittee.

(3) Felony Convictions.

(a) Definitions. As used in this rule:

(A) A "felony drug conviction" means a felony conviction for possession, manufacture, delivery or distribution of a controlled substance, or any other drug-related felony as described in ORS 475 or similar laws in other jurisdictions.

(B) A "felony violent crimes conviction" means a felony conviction for a crime which causes, attempts to cause, or threatens to cause physical injury or harm to another person irrespective of the jurisdiction.

(b) The Commission will deny a service permit if the applicant has one felony conviction of the types listed above and the incident leading to this conviction occurred within two years of the date the Commission received the application or the applicant has two or more felony convictions of the types listed above and at least two of the incidents leading to these convictions occurred within four years of the date the Commission received the application.

(4) Liquor Law Convictions.

(a) Definitions. As used in this rule, "liquor law conviction" means a misdemeanor or felony conviction for violation of any Oregon law regulating alcohol. Examples of such laws include, but are not limited to: DUII; Providing Alcohol to a Visibly Intoxicated Person; and Sale of Alcohol to a Minor.

(b) The Commission will deny a service permit if the applicant has had two or more liquor law convictions, or one conviction and one diversion, and at least two of the incidents leading to these convictions or diversions occurred within four years of the date the Commission received the application.

(5) The Commission will deny a service permit if the applicant has had a combination of four or more felony or liquor law convictions or diversions of the types described in this rule and at least four of the incidents leading to these convictions or diversions occurred within ten years of the date the Commission received the application and at least one of the incidents leading to these convictions or diversions occurred within 2 years of the date the Commission received the application.

(6) Poor Record of Compliance. The Commission will deny a service permit if the applicant has had a liquor license or a service permit canceled for a violation of ORS chapter 471 or any rule of the Commission except those set forth in sections (3), (4) or (5) of this rule within two years of the date the Commission received the application,

(7) Applicability. The denial bases set forth in sections (3), (4) and (5) of this rule do not apply if the applicant or permittee demonstrates that all of the following circumstances exist:

(a) The applicant or permittee provides written proof that a medical professional diagnosed the applicant with a drug or alcohol addiction prior to, or as a result of, the incident(s) leading to at least one of the relevant convictions or diversions;

(b) The applicant or permittee provides a sworn statement that he or she has not used or consumed any alcohol or controlled substances, as appropriate to the denial basis, for a minimum of 12 consecutive months prior to the date the Commission received his or her application;

(c) The applicant or permittee provides written proof that after the relevant incident(s) he or she has successfully completed an alcohol or drug treatment or recovery program, as appropriate to the refusal basis, and is following treatment recommendations; is participating in an ongoing alcohol or drug treatment or recovery program, as appropriate to the refusal basis, and is following treatment recommendations; or, has otherwise been successfully rehabilitated, AND

(d) The applicant or permittee has substantially complied and continues to comply with all post-prison supervision or probation requirements, if any, imposed as a result of the underlying incident(s).

(8) When the Commission proposes to deny a service permit application pursuant to this rule, the applicant may not withdraw the application.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.730 (1) & (5)

STATUTES/OTHER IMPLEMENTED: ORS 471.380 (1)(a) & (d), 471.385 (1)(b) & (c)

REPEAL: 845-009-0075

RULE TITLE: Licensee Requirements

NOTICE FILED DATE: 10/28/2024

RULE SUMMARY: This rule describes the alcohol server education course requirements for licensees.

RULE TEXT:

(1) ORS 471.542 requires applicants to complete an approved alcohol server education course to qualify or requalify for certain licenses. After an applicant completes an approved alcohol server education course and passes the exam, the applicant has met the alcohol server education requirement for any license issued within five years from the completion date. The licensee must again complete an approved course and pass the exam before the Commission will issue any license for a licensing period that begins after the date this five year period expires.

(2) When the Commission issues a license in the name of a corporation, limited partnership or business entity other than individual persons, the licensee must designate a person or persons (depending on business structure) to take the course and pass the exam on the licensee's behalf. The designee must have the authority to set, implement or change the licensee's practices for selling and serving alcoholic beverages. The licensee may change its designee. If the designee no longer qualifies to act on the licensee's behalf, the licensee must appoint a new designee within 20 days. The licensee must give the Commission written notification within ten days of the appointment. The new designee must take the course and pass the exam within 45 days of appointment.

STATUTORY/OTHER AUTHORITY: ORS 471, including 471.030, 471.040, 471.730(1), (5)

STATUTES/OTHER IMPLEMENTED: ORS 471.542

REPEAL: 845-009-0080

RULE TITLE: Extensions and Exemptions

NOTICE FILED DATE: 10/28/2024

RULE SUMMARY: Describes the extensions and exemptions for completing server education course and passing the exam.

RULE TEXT:

(1) ORS 471.542 allows the Commission:

- (a) To extend the time limit for completing the course and passing the exam for hardship reasons; and
- (b) To exempt licensees who do not participate in the management of the business.

(2) The Commission may grant an extension to an applicant or licensee for a length of time less than the licensing period but no more than 360 days if:

- (a) An applicant or licensee is seriously ill or injured;
- (b) A member of an applicant or licensees family is seriously ill, injured or has died;
- (c) There is no course available within 100 miles of an applicant or licensee residence and applicant or licensee does not have access to an online alcohol server education course;
- (d) The Commission approved the applicant as a security interest holder within 30 days before the license expiration; or
- (e) An applicant or licensee shows other good cause to grant a hardship extension.

(3) The Commission may exempt an applicant or licensee who:

- (a) Does not participate in the sale or service of alcoholic beverages;
- (b) Does not participate in setting, implementing or changing the business alcoholic beverage sales or service practices; and
- (c) Has a co-licensee or manager who meets the alcohol server education requirement.

(4) An applicant or licensee must send the Commission a written request for an extension or exemption that explains the reason for the request. Requests for extensions should include the amount of time needed. The Commission will notify the applicant or licensee in writing of its approval or denial. Extension approval notices will include the length of the extension.

(5) The Commission may deny, cancel or suspend the license:

- (a) If the applicant or licensee fails to complete an approved alcohol server education course and pass the exam by the date the extension expires; or
 - (b) If the licensee fails to complete an approved alcohol server education course and pass the exam within 45 days of the date the exemption no longer applies.
- (6) If the applicant or licensee requests a contested case hearing:
- (a) The Commission will not deny, cancel or suspend the license if the applicant or licensee completes an approved alcohol server education course before the hearing;
 - (b) The Administrative Law Judge will consider whether the length of the extension the Commission granted was appropriate if the extension granted was less than the applicant or licensee requested.

STATUTORY/OTHER AUTHORITY: ORS 471, 471.030, 471.040, 471.730(1)

STATUTES/OTHER IMPLEMENTED: ORS 471.542

REPEAL: 845-009-0085

RULE TITLE: The Examination (Licensees and License Applicants)

NOTICE FILED DATE: 10/28/2024

RULE SUMMARY: This rule describes the required grade to pass the exam and that it may be retaken.

RULE TEXT:

(1) A passing grade on the exam is 70 percent.

(2) After the license applicant or licensee takes the course and exam, the Commission will give him/her the examination results.

(3) A license applicant or licensee who does not pass this exam may retake the exam.

STATUTORY/OTHER AUTHORITY: ORS 471, including 471.030, 471.040, 471.730(1)

STATUTES/OTHER IMPLEMENTED: ORS 471.542

REPEAL: 845-009-0090

RULE TITLE: Oral Option

NOTICE FILED DATE: 10/28/2024

RULE SUMMARY: This rule describes the option to take the exam orally or in writing.

RULE TEXT:

An applicant or licensee may take the exam either in writing or orally at the completion of the course. He/she may also take the retake exams either in writing or orally. The applicant or licensee must make arrangements with the provider or field office for an oral exam.

STATUTORY/OTHER AUTHORITY: ORS 471, including 471.030, 471.730(1), (5)

STATUTES/OTHER IMPLEMENTED: ORS 471.542

AMEND: 845-009-0100

RULE TITLE: Service Permittee Requirements; Requalification and Renewal Requirements

NOTICE FILED DATE: 10/28/2024

RULE SUMMARY: Describes the requirements for holding a service permit and the renewal requirements. The proposed amendments add reference to the requalification requirements every five years as a condition of renewal and includes the term temporary service permit.

RULE TEXT:

(1) The Commission will not issue or renew a service permit unless the applicant or permittee has complied with the requirements of ORS 471.542 and Commission rules related to the completion of an approved alcohol server education course.

(2) An applicant:

(a) May take the course and pass the exam anytime within two years before the date the Commission receives the person's completed service permit application; or

(b) Must take the course and pass the exam no later than 45 days after the applicant submits the service permit application to the Commission and pays the fee in section (6) of this rule. The Commission will return the application as incomplete if the applicant has not completed the course and passed the exam within the 45 day limit unless the Commission has approved a hardship extension as described in Sections (3) and (4) of this rule.

(3) ORS 471.542(3) allows the Commission to extend the time limit for completing the course and passing the exam for hardship reasons. The only hardship extensions the Commission will approve are ones for applicants:

(a) Living in counties with a population under 100,000; and

(b) Who demonstrate in writing unusual circumstances beyond the applicant's ability to control or prevent that keep the applicant from completing the course and exam within 45 days.

(4) A hardship extension may not exceed 75 days from the date the Commission received the applicant's service permit application. An applicant must submit an extension request within 45 days from the date the Commission received the application. The request must include:

(a) The name of the county that the applicant lives in, and a statement that the population of the county is under 100,000; and

(b) A detailed description of the unusual circumstances that keep the applicant from completing the course and exam within 45 days; the description must demonstrate that the circumstances are beyond the applicant's ability to control or prevent. The applicant must also include the amount of time needed, and the time requested may not exceed 75 days from the date the Commission received the person's service permit application. The Commission will notify the applicant in writing of its approval or denial; an approval will include the length of the hardship extension.

(5) Service Permit Requalification and Renewal. A service permittee must renew their service permit every five years. As a condition of renewal, ORS 471.542(2) requires that a permittee retake the alcohol server education course and pass the examination every five years. Renewal of a service permit includes the following:

(a) Submission of a renewal application;

(b) Payment of the applicable fee(s) as described in section (6) of this rule; and

(c) Completion of the alcohol server education course and exam within two years prior to the service permit expiration date.

(d) Renewal applications will be reviewed in accordance with Commission rules, including but not limited to: OAR 845-009-0005 through OAR 845-009-0105.

(e) If the Commission issues a temporary service permit for the renewal application, it is effective no earlier than the first date after the expiration of the prior permit.

(f) If the Commission approves the renewal application, the new service permit will be effective no earlier than the first date after the expiration of the prior permit.

(6) A service permit applicant must include a \$23 service permit application fee. An application that does not include the

application fee and, if applicable, a convenience fee charged by the vendor will be considered incomplete under OAR 845-009-0005.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.730(1)

STATUTES/OTHER IMPLEMENTED: ORS 471.542, 471.547, 2024 OL Ch. 40 Sec. 15

AMEND: 845-009-0105

RULE TITLE: The Examination (Service Permittees and Service Permit Applicants)

NOTICE FILED DATE: 10/28/2024

RULE SUMMARY: Describes the grade required to pass the exam and deadlines for taking the exam. The proposed amendments remove language to conform with 2024 HB 4138 and adds that an applicant has 45 days to pass the test, or the application will be deemed incomplete.

RULE TEXT:

- (1) A passing grade on the Commission-issued exam is 70 percent.
- (2) After the service permit applicant or permittee takes the course and exam, the Commission will give him/her the examination results.
- (3) A service permit applicant, who does not pass this exam, may retake the exam.
- (4) If the applicant does not take and pass the exam within 45 days of the date their application was received, the Commission will deem the application incomplete under OAR 845-009-0005.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.730 (1) & (5), 472.030, 472.060(1)

STATUTES/OTHER IMPLEMENTED: ORS 471.542, 2024 OL Ch. 40 Sec. 15

AMEND: 845-009-0115

RULE TITLE: Server Education Hearings: Service Permittees and Applicants

NOTICE FILED DATE: 10/28/2024

RULE SUMMARY: Describes hearing rights in circumstances when an applicant, licensee or permittee has failed to meet alcohol server education requirements. The proposed amendments remove language to conform with 2024 HB 4138.

RULE TEXT:

(1) If the Commission denies a service permit because the applicant, licensee, or permittee fails to meet the alcohol server education requirement, the applicant or permittee is entitled to a hearing under the procedures in OAR 137, division 003 and OAR 845, division 003.

(2) Despite section (1) of this rule, the applicant or permittee is not entitled to a hearing if the applicant or permittee fails to pass the alcohol server exam.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730 (1) & (5)

STATUTES/OTHER IMPLEMENTED: ORS 471.542, 183, 2024 OL Ch. 40 Sec. 15

AMEND: 845-009-0150

RULE TITLE: Approved Seller Training Programs

NOTICE FILED DATE: 10/28/2024

RULE SUMMARY: Describes the Commission's standards and procedures for approving seller training programs and recordkeeping responsibilities. The proposed amendments add the term temporary service permit.

RULE TEXT:

(1) ORS 471.410 provides that an employee of a liquor licensee or retail sales agent who has sold, given or otherwise made available alcohol to a minor may receive a reduced criminal penalty if the employee either holds a valid Oregon service permit, a temporary service permit, or has completed a Commission-approved training program. This rule sets the standards and procedures the Commission uses when approving seller training programs and clarifies recordkeeping responsibilities.

(2) As used in this rule,

(a) "Approved seller training program" means a program approved by the Commission for the purposes of ORS 471.410.

(b) "Seller" means an employee of a liquor licensee or retail sales agent who sells or serves alcohol for on or off-premises consumption.

(3) Program Approval Standards and Process. A licensee or liquor agent may offer a Commission-approved seller training program to its employees. The licensee or agent may apply for Commission approval of their own program or use a Commission-approved seller training program from another source.

(a) To obtain Commission approval of a seller training program, an applicant must:

(A) Submit a completed application packet provided by the Commission;

(B) Have a program that meets the Commission's Clerk Training Course Minimum Standards (published December 21, 1999, and available at the Commission's main office at 9079 SE McLoughlin, Portland, OR);

(C) Explain in writing how the program will provide a written certification of program completion to each seller who completes the training program.

(b) Commission staff will review the application, and will:

(A) Approve a seller training program that meets the requirements in Section (3)(a) of this rule and all other applicable rules. The Commission will notify the applicant in writing if the Commission approves the course; or

(B) Return an incomplete application or one that does not meet the requirements of Section (3)(a).

(c) At its discretion, the Commission may periodically conduct a review of a Commission-approved training program to ensure it still meets the Commission's Clerk Training Course Minimum Standards. To conduct the review, the Commission may ask an approved program to submit copies of all current materials used in the program. If a training program is found to fall below minimum standards then program approval may be withdrawn.

(4) Record Keeping.

(a) The liquor licensee or retail sales agent should provide written certification of program completion to each seller who completes their Commission-approved seller training program.

(b) It is the seller's responsibility to verify that a training program, whether offered by their employer or from another source, has been Commission-approved, and they may do so by contacting the Commission.

(c) It is the seller who is responsible for keeping their own records regarding completion of an approved training program. The seller should take these records with them from one employer to the next. It will be up to the seller to provide such records to receive the reduced criminal penalty available under ORS 471.410.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730 (1) & (5)

STATUTES/OTHER IMPLEMENTED: ORS 471.410

REPEAL: 845-016-0068

RULE TITLE: Alcohol Server Education Renewal Requirements for Service Permittees and Licensees; Examination; Approval Standards and Process

NOTICE FILED DATE: 10/28/2024

RULE SUMMARY: The Commission is charged with issuing Service Permits to persons who dispense and sell alcoholic beverages. For many years, this process was completed in a paper format. Service permit applicants were required to obtain an endorsement from their employer, exam provider, or Commission staff before the Commission would issue a license. This requirement was removed by SB 1044 which passed during the 2017 Legislative session. The amendments to Division 16 reflect the fact that the service permit exam will not be provided by an online third-party provider.

RULE TEXT:

(1) ORS 471.542(1) requires applicants for any license that authorizes the sale or service of alcoholic beverages for consumption on the premises and service permits to complete an approved alcohol server education course and examination in order to qualify for a license or permit. ORS 471.542(3) requires the Commission to establish by rule the requirements that licensees and permittees must comply with as a condition of requalifying for a license or permit every five years.

(2) Once every five years after completing the initial alcohol server education course and examination required in ORS 471.542(1), licensees and permittees may satisfy the requirement of 471.542(3) by:

(a) Repeating the initial alcohol server education course and examination; or

(b) Completing a renewal alcohol server education course and examination.

(3) Renewal Course Examination

(a) Despite OAR 845-009-0085(1) and 845-009-0105(1), a passing grade on a renewal course exam is 80 percent.

(b) Despite OAR 845-009-0085(3) and (4) and 845-009-0105(3), a student who does not pass a renewal course exam must repeat the initial alcohol server education course and examination to meet the renewal requirement.

(4) Renewal Course Approval Standards and Process

(a) For a course to be approved, an applicant must:

(A) Submit a completed application packet provided by the Commission; and

(B) Have a course that meets the Commission's Minimum Curriculum and Instruction Standards for an Alcohol Server Education Renewal Course (published June 22, 2000, and available at the Commission's main office at 9079 SE McLoughlin Blvd., Portland, Oregon).

(b) Commission staff will review the application and will:

(A) Approve a completed application that meets the requirements in section (4)(a) of this rule. The Commission will notify the applicant in writing if the Commission approves the course; or

(B) Return an incomplete application or one that does not meet the requirements of section (4)(a).

STATUTORY/OTHER AUTHORITY: ORS 471, 471.030, 471.040, 471.730(5)

STATUTES/OTHER IMPLEMENTED: ORS 471.542