

Petition to Promulgate an Administrative Rule or Rules

Before the
Oregon Liquor Control Commission (OLCC)
of the State of Oregon

In the Matter of the Promulgation of certain OARs to allow the OLCC to institute two year renewal licensing for OLCC Licensees.

1. OAR to be promulgated: OAR number(s) to be designated by the OLCC
2. Petitioner's Relevant Facts and Standings: Petitioner Oregon Restaurant Association ("ORA") is an inline trade association representing approximately 3,000 establishments in the state of Oregon, many of which are licensees of the OLCC and who presently renew their licenses on an annual basis.

Petitioner' address is 8565 SW Salish Lane, #120, Wilsonville, Or 97070, and Petitioners telephone number is 503-682-4422.
3. Intent of Rule: To allow licensees of the OLCC, as described, to renew their OLCC licenses every two years rather than annually as now required.
4. Need for the Rule: ORS 183.705 (1) *et. seq.* authorizes this rule.
5. Statutory Authority: ORS 183.705 (1) *et. seq.*
6. Proposed Effective Date: As soon as possible after due notice of promulgation and public hearings.
7. Documents Relied On: None.
8. Impact on State Agencies: The OLCC should experience less administrative and staff time on renewal issues since it will be done on a two year basis rather than annually.
9. Fiscal and Economic Impact: This petition takes into account the fiscal impact on "(a) local governments", "(b) the public", and (c) Licensees
 - (a) Local governments. No significant impact expected. It is possible that local governments' administrative costs presently associated with approving renewal licenses on an annual basis might be reduced.
 - (b) The public. No financial impact on the public expected. The rule will be consistent with public safety and with the objectives of the original license issue requirements.

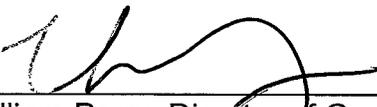
(c) Licensees of the OLCC. Licenses should experience a decrease in paperwork and efforts to renew if renewal duration is increased.

Although little financial data is available, there are no significant fiscal impacts anticipated for the impact of this rules, except a possible positive impact (reduction) on administrative costs of the OLCC. ORS 183.705 (6) requires that there be no negative impact on the OLCC as the result of passage if this rule.

10. Administrative Rule Advisory Commission (ARAC)?: No.
11. Continued need for the existing rule(s): All existing rules regarding licensing standards not directly affected by this rule will remain in effect.
12. The complexity of the existing rule: The rule is not expected to be complex.
13. Extent to which rule overlaps or otherwise conflicts with other Federal / State / Local regulations: Not applicable
14. Factors (economic or otherwise) that have changed since Agency adoption of the existing rule; and alternative options of how to achieve existing rules' substantive goals while reducing impact on business: Not applicable.

DATED: 7/15/08

Respectfully Submitted:



William Perry, Director of Governmental Affairs
Oregon Restaurant Association

**Exhibit 1 to The Oregon Restaurant Association's
Petition to Amend an Administrative Rule or Rules**

845-004-0022

Annual License Fee Definition and Refund

(1) Annual license fee is the amount ORS 471.311(5) requires for the use of an annual license.

(2) The Commission considers an annual license used when a licensee allows any sale, service, or consumption of alcoholic beverages on the premises after the effective date of the license.

(3) The Commission refunds the annual license fee, when the licensee verifies that he/she has not used the license as described in section (2) of this rule.

(4) Biennial license fee is the amount the Commission charges for a biennial license authorized under ORS 183.705(1)

(5) The Commission considers an biennial license used when a licensee allows any sale, service, or consumption of alcoholic beverages on the premises after the effective date of the license.

(6) The Commission refunds the biennial license fee, when the licensee verifies that he/she has not used the license as described in section (2) of this rule.

845-005-0302

Regular License

As used in OAR chapter 845, regular license means any license that may be issued for an annual **or biennial** period.

1.

845-005-0360

License Renewal: Requirements for Applicants

(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, issue a letter of authority 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, issue a letter of authority 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 signed by the applicant and includes the appropriate fee(s), the bond or equivalent that ORS 471.155 requires and the liquor liability insurance or bond that ORS 471.168 and OAR 845-005-0400 require.

(3) Local government body 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 acquire the recommendation of their local governing body, and pay to the local governing body 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.

(5) A biennial license authorized under the provisions of ORS 183.705(1) may be issued upon application for renewal requesting such a biennial license.

(a) An applicant for a biennial license must meet all qualifications established by the Commission that pertain to an annual license.

(b) The Commission may not offer a biennial license if:

(A) Another agency or a local government, as defined by ORS 174.116, is authorized by statute to make a recommendation on the issuance of the renewal license;

(B) The agency or the local government, as defined by ORS 174.116, that has authority to make a recommendation on the issuance of the renewal license has recommended against the issuance of the renewal license; and

(C) The recommendation of the agency or the local

government, as defined by ORS 174.116, is based on licensing criteria established by statute or by rule.

(6) The fee for such a biennial renewal license shall be twice the amount for an annual renewal license.

(7) An application for a biennial license renewal shall be subject to the same requirements on the part of the applicant as an application for annual renewal, including, but not limited to a consideration of prior license discipline of an applicant.

(8)The biennial license shall have all attributes of an annual license and may be suspended or revoked for the same reasons and in the same manner as an annual license.