

DIVISION 9 SERVICE PERMITS

845-009-0005

Return of Applications

The Commission may return an application and any accompanying fee if:

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

- (a) Applicant's name;
- (b) Applicant's mailing address;
- (c) Applicant's Social Security Number;
- (d) Applicant's date of birth;
- (e) Applicant's signature;
- (f) Applicant's response to conviction history questions;
- (g) Authorized Person's business name;
- (h) Authorized Person's business address; or
- (i) Authorized Person's signature.

(2) The applicant has not included at least the appropriate fee(s) with the application.

(3) The applicant used an outdated application form.

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

(5) The applicant is under 21 years of age, but applying for a service permit at licensed premises where 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 is limited to a state issued driver's license, state issued identification card or a passport. For purposes of this rule, "state issued" is defined as one of the fifty states in the United States of America.

Stat. Auth.: ORS 471, ORS 471.030, 471.730(1) & (5)

Stats. Implemented: ORS 471.375

Hist.: OLCC 2-1989, f. 3-1-89, cert. ef. 4-1-89; OLCC 3-1991, f. 3-1-91, cert. ef. 4-1-91; OLCC 10-2001(Temp), f. 10-12-01, cert. ef. 11-1-01 thru 4-29-02; OLCC 5-2002, f. 4-12-02, cert. ef. 4-29-02; OLCC 9-2003, f. 6-27-03, cert. ef. 7-1-03

845-009-0010

Service Permit Requirements

(1) Who Needs a Service Permit. ORS 471.360 requires the following persons to have service permits:

(a) Any person who mixes, sells or serves alcoholic beverages for consumption on licensed premises;

(b) Any person who directly supervises persons who mix, sell or serve alcoholic beverages for consumption on licensed premises;

(c) The individual principals of a licensed corporation or partnership who mix, sell or serve alcoholic beverages for consumption on licensed premises or who directly supervise those who do;

(d) Any licensee's employee who delivers wine, cider, or malt beverages as OAR 845-005-0420, 845-005-0422, 845-006-0396, and 845-006-0398 allow.

(2) Exceptions. The following are exceptions to the service permit requirement:

(a) An individual named on the license as a licensee does not need a service permit;

(b) ORS 471.360 allows the Commission to waive the service permit requirement if the licensee's primary business is not the sale or service of alcoholic beverages or food. Under this authority, the Commission waives the service permit requirement for Public Passenger Carriers whose primary business is transportation (for example airlines, and most trains), and 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). The Commission waives the service permit requirement for some temporary licenses (see OAR 845-005-0440(9), Temporary Sales Licenses). Employees must, however, be at least 21 years old to sell or serve alcoholic beverages on

these licensed premises.

(3) Authority to Sell and Serve Based on an Application:

(a) ORS 471.375 allows some service permit applicants to begin selling or serving alcoholic beverages after the applicant completes an official service permit application and an authorized person as defined by ORS 471.375 endorses and sends the application to the Commission;

(b) The authority to sell or serve alcoholic beverages based on an application does not apply to any applicant:

- (A) Who has had a service permit denied or cancelled within the three years before the current application;
- (B) Who has had a service permit denied because they failed to complete the required alcohol server education program. When the applicant completes an alcohol server education course and passes the exam, the applicant may then sell and serve alcoholic beverages;
- (C) Whose service permit application meets the criteria in OAR 845-009-0005, Return of Applications;
- (D) Whose service permit is currently suspended.

Stat. Auth.: ORS 471, 471.030, 471.040, 471.730(1) & (5)

Stats. Implemented: ORS 471.360, 471.365(2) & 471.375

Hist.: OLCC 2-1989, f. 3-1-89, cert. ef. 4-1-89; OLCC 3-1991, f. 3-1-91, cert. ef. 4-1-91; OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 10-2001(Temp), f. 10-12-01, cert. ef. 11-1-01 thru 4-29-02; OLCC 5-2002, f. 4-12-02, cert. ef. 4-29-02; OLCC 9-2003, f. 6-27-03, cert. ef. 7-1-03; OLCC 10-2004, f. 10-15-04 cert. ef. 11-1-04; OLCC 4-2005, f. 6-7-05, cert. ef. 7-1-05

845-009-0015

Licensee and Authorized Person's Responsibility for Verifying Identification

(1) Before allowing anyone who is required to have a service permit to mix, sell, serve

or to supervise those who mix, sell or serve alcoholic beverages for on-premises consumption, a licensee must:

(a) Make sure the person has a valid service permit; and

(b) Verify the person's identity (for example, make sure the person's physical description matches the person's driver's license photo and description).

(2) If the person does not have a service permit but has filed an application with the Commission, the licensee must, before allowing the person to mix, sell or serve alcoholic beverages for on-premises consumption:

(a) Verify that the person has a pending application (for example, see a copy of the service permit application the person filed or call the person's former employer);

(b) Verify the person's identity (for example, make sure the person's physical description matches the person's driver's license photo and description); and

(c) Verify the person's age.

(3) If the person does not have a service permit or a pending application, the licensee must:

(a) Verify the person's identity (for example, make sure the person's physical description matches the person's driver's license photo and description);

(b) Verify the person's age; and

(c) Mail or personally deliver a completed service permit application, with the appropriate fee, to the Commission by the end of the first work day following the person's first work shift.

(4) If the person does not have a service permit or has a pending application, the licensee has a continuing duty to verify that the person has taken and passed a Server Education course, and that the person's service permit has been issued.

(5) All other persons authorized to endorse applications under ORS 471.375 must:

(a) Verify the person's identity (for example, make sure the person's physical description matches the

person's driver's license photo and description);

(b) Verify the person's age; and

(c) Mail or personally deliver a completed service permit application, with the appropriate fee, to the Commission within 36 hours of indorsement. Holidays and weekends are not included in counting the 36 hours.

(6) If a company authorized by ORS 471.375(2)(b) fails to follow the standards of OAR 845-009-0015(5), the Commission will rescind the company's approval to indorse service permit applications.

Stat. Auth.: ORS 471, 471.030, 471.040 & 471.730(1)

Stats. Implemented: ORS 471.360(1), 471.365(2) & 471.375

Hist.: OLCC 3-1991, f. 3-1-91, cert. ef. 4-1-91; OLCC 10-2001(Temp), f. 10-12-01, cert. ef. 11-1-01 thru 4-29-02; OLCC 5-2002, f. 4-12-02, cert. ef. 4-29-02; OLCC 9-2003, f. 6-27-03, cert. ef. 7-1-03; OLCC 20-2003, f. 11-24-03, cert. ef. 12-1-03; OLCC 10-2004, f. 10-15-04 cert. ef. 11-1-04; OLCC 4-2005, f. 6-7-05, cert. ef. 7-1-05

845-009-0020

Service Permit Denial Criteria

(1) ORS 471.380(1)(a) and (d) allow the Commission to deny a service permit based on the applicant's habit of using alcohol or controlled substances to excess and on the applicant's law violation history. This rule describes how the Commission applies these statutory provisions.

(2) For this rule, references to a period of time mean a period of time ending on the date the Commission receives the application. For example, "within two years" means within two years of the date the Commission receives the application.

(3) To be qualified for good cause under this rule:

(a) An applicant must have had a drug addiction disability or alcohol addiction disability at the time of:

(A) Felony drug conviction(s)

(OAR 845-009-0020(4));

(B) A felony conviction involving the commission of a violent crime

where alcohol or controlled substances were involved (OAR 845-009-0020(5));

(C) Felony Driving While Suspended (DWS) conviction(s) resulting from Driving Under the Influence of Intoxicants (DUII) convictions or diversions (OAR 845-009-0020(6)); or

(D) DUII convictions or diversions which form the denial basis under OAR 845-009-0020(7) and (8); or

(b) The applicant was diagnosed as drug or alcohol addicted at the time of or as a result of the incidents described above.

(4) Felony Drug Conviction:

(a) The Commission will deny a service permit if the applicant has had:

(A) A felony conviction within 12 months for possession of a controlled substance or any other drug related felony as described in ORS Chapter 475 or similar laws in other jurisdictions;

(B) A felony conviction within two years for manufacture, delivery or distribution of a controlled substance or any other drug related felony as described in ORS Chapter 475 or similar laws in other jurisdictions (except possession of a controlled substance).

(C) Two controlled substance felony convictions, one of which was within three years;

(D) Three or more controlled substance felony convictions, any one of which was within six years.

(b) The only good cause to overcome the criteria in this section is the applicant's sworn statement on a Commission-supplied form that:

(A) He/she has not used or consumed controlled substances within 24 months; and

(B) He/she has successfully completed a state certified drug treatment program or is actively involved in a state certified drug

treatment or recovery program, and is following treatment recommendations. If a completion certificate or other proof that the applicant successfully completed a treatment program is available, the applicant will provide a copy to the Commission; and

(C) He/she has completed all parole or probation requirements.

(5) Felony Involving the Commission of a Violent Crime:

(a) The Commission will deny a service permit if the applicant has had:

(A) A felony conviction within two years for the commission of a violent crime where alcohol or controlled substances were involved;

(B) Two felony convictions for the commission of violent crimes, any one of which was within three years;

(C) Three felony convictions for the commission of violent crimes, any one of which was within six years;

(b) If the felony conviction(s) involving the commission of a violent crime in (5)(a)(A), (B), or (C) involved alcohol or controlled substances, good cause may apply. The only good cause to overcome the criteria in this section is the applicant's sworn statement on a Commission-supplied form that:

(A) He/she has not used or consumed alcohol or controlled substances within 24 months; and

(B) He/she has successfully completed a state certified alcohol or drug treatment program or is actively involved in a state certified treatment or recovery program, and is following treatment

recommendations. If a completion certificate or other proof that the applicant successfully completed a treatment program is available, the applicant will provide a copy to the Commission; and

(C) He/she has completed all parole or probation requirements.

(c) "Violent crime" means crimes which cause, attempt to cause, or threaten physical injury or harm to another person. Examples are: Murder, rape, assault, sodomy, armed robbery.

(6) Felony Driving While Suspended (DWS) Convictions:

(a) The Commission will deny a service permit if the applicant has had:

(A) One felony DWS conviction within 12 months;

(B) Two felony DWS convictions, either one of which was within three years;

(C) Three felony DWS convictions, any one of which was within six years.

(b) If the convictions for DWS were the result of DUII convictions or diversions, good cause may apply. Good cause to overcome the criteria in this section is the applicant's sworn statement on a Commission-supplied form that:

(A) He/she has not used or consumed alcohol or controlled substances within 24 months; and

(B) He/she has successfully completed a state certified alcohol or drug treatment program or is actively involved in a state certified treatment or recovery program, and is following treatment

recommendations. If a completion certificate or other proof that the applicant successfully completed a treatment program is available, the applicant will provide a copy to the Commission; and

(C) He/she has completed all parole or probation requirements.

(7) Driving Under the Influence of Intoxicants (DUII)/Furnishing Alcohol to Minors/Liquor Law Violations:

(a) The Commission will deny a service permit if:

(A) Within three years the applicant has had two DUII

convictions or one diversion and one conviction, any one of which was within 12 months;

(B) Within seven years the applicant has had a combination of three diversions and convictions for DUII or Furnishing Alcohol to Minors, any one of which was within 18 months;

(C) Within ten years the applicant has had a combination of four or more diversions and convictions for DUII or Furnishing Alcohol to Minors, any one of which was within three years.

(D) Within five years the applicant has had a liquor license or service permit canceled for liquor law violations. The Commission may grant the permit in less than five years if the violations did not involve threats to public safety or demonstrate that the applicant would be a poor compliance risk as an alcohol server.

(b) If applicant has DUII convictions or diversions, good cause may apply. Good cause to overcome the criteria in subsection (a)(A) through (C) above is the applicant's sworn statement on a Commission-supplied form that:

(A) He/she has not used or consumed alcohol or controlled substances within 24 months; and

(B) He/she has successfully completed a state certified alcohol or drug treatment program or is actively involved in a state certified treatment or recovery program, and is following treatment

recommendations. If a completion certificate or other proof that the applicant successfully completed a treatment program is available, the applicant will provide a copy to the Commission; and

(C) He/she has completed all parole or probation requirements.

(8) Habit of Using to Excess. The Commission will deny a service permit if within

ten years the applicant has had a combination of four or more diversions or convictions for DUII or felony drug related convictions or diversions, if the most recent conviction/ diversion was within two years. The only good cause to overcome the criterion in this section is the applicant's sworn statement on a Commission-supplied form that:

(a) He/she has not used or consumed any alcohol or controlled substances within 24 months; and

(b) He/she has successfully completed a state certified alcohol or drug treatment program or is actively involved in a state certified alcohol or drug treatment or recovery program, and is following treatment recommendations. If a completion certificate or other proof that the applicant successfully completed a treatment program is available, the applicant will provide a copy to the Commission; and

(c) He/she has completed all parole or probation requirements.

(9) Pending Charges. If otherwise eligible, the Commission may grant a service permit to an applicant who has any drug/alcohol related charges pending on the date the Commission receives the application. The Commission will issue the permit with a restriction that the permittee must notify the Commission, in writing, of the disposition of the charge(s).

Stat. Auth.: ORS 471 including ORS 471.030, ORS 471.730(1) & (5)

Stats. Implemented: ORS 471.380

Hist.: OLCC 1-1993, f. 1-27-93, cert. ef. 7-1-93; OLCC 6-1999(Temp), f. 4-23-99, cert. ef. 4-26-99 thru 10-22-99; OLCC 18-1999, f. 11-2-99, cert. ef. 11-3-99; OLCC 15-2003, f. 9-23-03 cert. ef. 11-1-03; OLCC 10-2004, f. 10-15-04 cert. ef. 11-1-04

845-009-0075

Licensee Requirements

(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.

(3) A license applicant must include the alcohol server education administrative fee with each initial application and with each renewal application. The alcohol server education administrative fee for annual licenses is \$2.60.

Stat. Auth.: ORS 471, including
ORS 471.030, ORS 471.040,
471.730(1) & (5)

Stats. Implemented: ORS 471.542

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 14-2002, f. 10-25-02 cert. ef. 11-1-02

845-009-0080

Extensions and Exemptions

(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 licensee's family is seriously ill, injured or has died;

(c) There is no course available within 100 miles of an applicant or licensee's residence;

(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 Hearing Referee 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.

Stat. Auth.: ORS 471, including ORS 471.030, ORS 471.040, ORS 471.730(1) & ORS 471.730(5)

Stats. Implemented: ORS 471.542

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01

845-009-0085

The Examination (Licensees and License Applicants)

(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 in writing.

(3) A license applicant or licensee who does not pass this exam may retake the exam at a Commission field office up to two times within 90 days of the date the license applicant or licensee took the course. If he/she does not take and pass the exam as this section requires, he/she must complete a course again and pass the exam before the Commission will issue or renew his/her license.

(4) The license applicant or licensee must pay a \$5 fee to retake the exam. The Commission accepts a check or money order payable to the Oregon Liquor Control Commission.

Stat. Auth.: ORS 471, including ORS 471.030, ORS 471.040, 471.730(1) & (5)

Stats. Implemented: ORS 471.542

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 9-2003, f. 6-27-03, cert. ef. 7-1-03

845-009-0090

Oral Option

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.

Stat. Auth.: ORS 471 & ORS 472, including ORS 471.030, ORS 471.730(1), ORS 471.730(5), ORS 472.030, ORS 472.060(1) & ORS 472.060(2)(d)

Stats. Implemented: ORS 471.542

Hist.: LCC 31-1986(Temp), f. 12-1-86, ef. 12-8-86; OLCC 17-1987, f. 4-30-87, ef. 5-1-87; OLCC 5-1991, f. 3-1-91, cert. ef. 4-1-91; Renumbered from 845-016-0125; OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01, Renumbered from 845-005-0215 Alcohol Server Education Program Service Permittee Requirements

845-009-0100

Service Permittee Requirements

(1) The Commission may 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 Commission receives the person's completed service permit application. The Commission will deny the application 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 completed 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 completed 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) A service permittee:

- (a) May complete the course and exam anytime within two years before his/her service permit expires to qualify for renewal; or
- (b) May complete the course and exam at anytime and apply for a new service permit.

(6) A service permit applicant must include \$13 alcohol server education administrative fee with the service permit application. An application that does not include this administrative fee is incomplete. The Commission may return the application. The applicant must also include the \$10 service permit application fee.

(7) Sections (3) and (4) apply to all completed service permit applications received by the Commission on or after March 1, 1999. The rest of the rule applies to all completed service permit applications received by the Commission.

Stat. Auth.: ORS 471 & 472, including ORS 471.030, 471.730(1) & (5), 472.030, 472.060(1) &

(2)(d)

Stats. Implemented: ORS 471.542 & ORS 471.547

Hist.: LCC 31-1986(Temp), f. 12-1-86, ef. 12-8-86; OLCC 17-1987, f. 4-30-87, ef. 5-1-87; OLCC 7-1988, f. 9-13-88, cert. ef. 10-1-88; OLCC 8-1988(Temp), f. 11-8-88, cert. ef. 12-1-88; OLCC 5-1989, f. 5-24-89, cert. ef. 5-29-89; OLCC 5-1991, f. 3-1-91, cert. ef. 4-1-91; Renumbered from 845-016-0110; OLCC 1-1999, f. 1-25-99, cert. ef. 3-1-99; OLCC 14-2002, f. 10-25-02 cert. ef. 11-1-02

845-009-0105

The Examination (Service Permittees and Service Permit Applicants)

(1) A passing grade on the 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 in writing.

(3) A service permit applicant, who does not pass this exam, may retake the exam at a Commission field office up to two times within 90 days of the date the applicant took the course. If the applicant fails to pass both retake exams, he/she must retake the server education course and 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 deny the application. When the applicant receives the denial letter, the applicant must stop selling and serving alcoholic beverages immediately. If the applicant still wants a service permit, he/she must:

(a) Retake the server education course and pass the exam, if it has been 90 or more days since the date the person took the course or if the person has failed both exam retakes at a Commission field office; or

(b) Retake the exam at a Commission field office, if it is within 90 days of the date the person took the course and the person has not taken or failed the two exam retakes; and

(c) First, pass the server education course, and then complete and file a new application along with the

appropriate fee.

(5) The applicant, or permittee must pay a \$5 fee to retake the exam. The Commission accepts a check or money order payable to the Oregon Liquor Control Commission.

Stat. Auth.: ORS 471 & 472, including ORS 471.030, 471.730(1) & (5), 472.030, ORS 472.060(1) & (2)(d)

Stats. Implemented: ORS 471.542

Hist.: LCC 31-1986(Temp), f. 12-1-86, ef. 12-8-86; OLCC 17-1987, f. 4-30-87, ef. 5-1-87; OLCC 5-1991, f. 3-1-91, cert. ef. 4-1-91; Renumbered from 845-016-0120; OLCC 9-2003, f. 6-27-03, cert. ef. 7-1-03

845-009-0110

Oral Option

An applicant or permittee 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 permittee must make arrangements with the provider or field office for an oral exam.

Stat. Auth.: ORS 471 & ORS 472, including ORS 471.030, ORS 471.730(1), ORS 471.730(5), ORS 472.030, ORS 472.060(1) & ORS 472.060(2)(d)

Stats. Implemented: ORS 471.542

Hist.: LCC 31-1986(Temp), f. 12-1-86, ef. 12-8-86; OLCC 17-1987, f. 4-30-87, ef. 5-1-87; OLCC 5-1991, f. 3-1-91, cert. ef. 4-1-91; Renumbered from 845-016-0125

845-009-0115

Server Education Hearings: Licensees, Service Permittees, and Applicants

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

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

Stat. Auth.: ORS 471, including ORS 471.030, ORS 471.040, ORS 471.730(1) & ORS 471.730(5)

Stats. Implemented: ORS 471.542 & ORS 183

Hist.: OLCC 17-1987, f. 4-30-87, ef. 5-1-87; OLCC 5-1991, f. 3-1-91, cert. ef. 4-1-91; Renumbered from 845-016-0130; OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01

845-009-0130

Training Brochure Requirement for Off-Premises Sales Employees

(1) Purpose. The Commission is charged with regulating the sale of alcoholic beverages in a manner which protects the safety and welfare of the citizens, and ensures that alcoholic beverages are used legally. One of the ways the Commission accomplishes this is to educate Off-Premises Sales employees about liquor laws and the risks involved in violating those laws. The purpose of this rule is to help Off-Premises Sales licensees educate their employees to help ensure that they do not sell alcoholic beverages to minors and visibly intoxicated persons.

(2) Before allowing an employee to sell alcoholic beverages, the licensee must have the employee read, sign and date the Commission-provided brochure, What Every Store Clerk Needs to Know About Selling Alcohol. The licensee must retain a record according to section (6) of this rule.

(3) To help ensure legal alcohol sales, the brochure explains:

- (a) Why it is important not to sell to minors and visibly intoxicated persons;
- (b) How to recognize minors and visibly intoxicated persons;
- (c) How to check identification; and
- (d) How to refuse a sale to a minor or visibly intoxicated person.

(4) As an added tool to help licensees, the Commission provides a test of the material covered in the brochure. Licensees may choose to give the test to an employee to help determine if the employee is qualified to sell alcoholic beverages.

(5) Despite section (2) of this rule, the Commission does not require a licensee to have each employee read and sign the Commission-provided brochure if the licensee requires each employee to complete a licensee-provided brochure or other alcohol management training

material. A licensee who chooses not to use the Commission-provided brochure must:

- (a) Ensure that the material the licensee uses clearly and completely covers, at a minimum, all the material in the Commission brochure;
 - (b) Ensure that each employee completes and signs the brochure or other training material before selling alcoholic beverages; and
 - (c) Retain a record according to section (6) of this rule.
- (6) Record Keeping.
- (a) The licensee must maintain the signed Commission-provided brochure, or the licensees training brochure/material, on the licensed premises as long as the person is employed by the licensee;
 - (b) Despite section (6)(a), a licensee may maintain the signed brochure/training material off the licensed premises if the licensee also maintains a current list on the licensed premises of trained employees. The list must include the name of each current employee who sells alcoholic beverages, the date the employee read and signed the brochure and the date the employee started selling alcoholic beverages;
 - (c) The licensee or person on duty must make the signed training brochure or list immediately available upon request for inspection by a Commission employee;
 - (d) The licensee must retain the record for an employee as long as the person is employed by the licensee.

(7) Violation of section (2) or (5) of this rule is a Category IV violation.

(8) The requirements of sections (1) through (7) of this rule apply to Package Store licenses issued under former ORS 471.260. This section expires October 1, 2001.

Statutory Authority: ORS 471, including ORS 471.030, ORS 471.949, ORS 471.730(1) & ORS 471.730(5)

Stats. Implemented: ORS 471.730(1)

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01

845-009-0135

Responsible Vendor Program

(1) Purpose. ORS 471.344 requires the Commission to establish a Responsible Vendor Program for retail licensees, including the positive measures a licensee must take to participate in the program. The purpose of this rule is to set standards and procedures for program participation.

(2) Definitions. For purposes of this rule,

- (a) "Retail licensee" and "licensee" mean a retail licensee as defined in ORS 471.392;
- (b) "Program" means "Responsible Vendor Program;"
- (c) "Alcohol" means alcoholic beverages;
- (d) "Employee" means any employee, corporate officer, volunteer, or other person whose responsibilities include the sale or service of alcohol.

(3) Application Process. Any retail licensee who meets the program standards may participate. To apply for the program, the licensee must complete and submit a Commission-provided application form. Commission staff will review the application for completeness, and will:

- (a) Approve a completed application that clearly indicates the licensee has all program standards in place; put the application in the licensee's file; and send a certificate to the licensee acknowledging the licensee as an approved Responsible Vendor. The Responsible Vendor Program is a self-certifying program. The approval means only that staff has reviewed the application to confirm that it is complete and that the licensee states in writing that he/she has all the program standards in place. The Commission may take administrative action if it learns that the licensee did not meet all the standards at the time of application; or
- (b) Return an incomplete application that does not clearly indicate the licensee has all program standards in place. Staff will include a letter highlighting the reason/s the

- application is being returned.
- (4) Program Standards. To qualify as a Responsible Vendor, a licensee must:
- (a) Train each employee in alcohol sales. Except for an on-premises employee who has a valid service permit, each employee must:
- (A) Before selling alcohol, read and sign the Commission-provided off-premises brochure or, at the licensee's discretion, meet the alternative requirements of OAR 845-009-0130, Training Brochure Requirement for Off-Premises Sales Employees. Licensees must comply with the record keeping requirements of OAR 845-009-0130; and
- (B) Within three days of beginning to sell alcohol, receive training that covers at a minimum the topics listed in Section (5) of this rule. Licensees may train their employees themselves; licensee's trainings do not require Commission approval. Licensees may also choose to use any clerk training course approved by the Commission under OAR 845-009-0145, Clerk Training Courses. Additionally, servers who have not completed a Server Education course must do so within the time required in OAR 845-009-0100, Service Permittee Requirements.
- (b) Accept only identification allowed in ORS 471.130.
- (c) In an area visible to employees, post the house policies on alcohol sales and checking identification. The licensee must have each employee read and sign the house policies which must include at a minimum:
- (A) A list of valid types of identification which are accepted at the premises;
- (B) Directions for properly checking identification, including the requirement to check anyone who appears to be under the age of

- 26 years. A licensee may have a house policy to check customers who appear to be older than 26 years; and
- (C) Consequences for selling alcohol to a minor.
- (d) Permanently post signs reminding patrons and employees of the legal requirements for selling alcohol. The signs must include:
- (A) A list of valid types of identification which are accepted at the premises;
- (B) A notice that anyone who appears to be under the age of 26 years must show valid identification. A licensee may post that their house policy is to check customers who appear to be older than 26 years.
- (e) At a minimum, provide four employee trainings spaced at regular intervals within each 12-month period. The licensee must ensure that employees attend the trainings. The licensee must keep a record of each training which includes the date of the training, names of the employees who participated, and a summary of the training. Examples of training include computer based training, video training, classroom instruction, and meetings. The training may be done individually or in a group. At a minimum, each training must cover the topics listed in Section (5) of this rule.
- (f) Have no prior Category I or II violation within the last five years for the licensee personally.
- (g) Have no significant aggravating circumstances surrounding a violation by the licensee personally within the last year for selling alcohol to a minor. Aggravating circumstances include, but are not limited to, the licensee participating in or committing the violation (except as provided for under Section (6)(e) of this rule); an intentional sale to a minor; multiple employees or patrons involved in the

violation; the violation results in death or personal injury; the sale was made to a person under age 18 who appeared to be under the age of 21 when the sale was made.

(5) Topics to be Covered in Responsible Vendor Training. All training required by this rule must include at a minimum the following topics:

- (a) Guidelines for recognizing minors and visibly intoxicated persons;
- (b) Legal forms of identification for purchasing alcohol;
- (c) How to properly check identification, and how to recognize false or altered identification;
- (d) The requirement that anyone who appears to be under the age of 26 years must show valid identification. If the licensee's house policy requires that they check customers who appear to be older than 26 years, the licensee must include that information;
- (e) Recommended approaches for refusing sales of alcohol to minors or visibly intoxicated persons;
- (f) A review of the consequences for selling to minors, and the importance of not selling alcohol to minors or visibly intoxicated persons; and
- (g) A review of house policies on alcohol sales. Each licensee must ensure that his/her employees receive training that covers the licensee's own house policies.

(6) Maintenance of Responsible Vendor Status. To retain Responsible Vendor certification, a licensee must:

- (a) Continue to meet all of the qualifying standards listed in Section (4) of this rule;
- (b) Continue to have no Category I or II violation by the licensee personally;
- (c) Require an Off-Premises Sales employee who sold alcohol to a minor or failed to properly verify identification to complete a clerk training course as required by OAR 845-009-0145, Clerk Training Courses; require an on-premises employee who sold alcohol to a minor or failed to properly verify

identification to complete a training course that covers all the topics listed in Section (5) of this rule or a Commission-approved Alcohol Server Education course within 45 days of official Commission notification of the violation;

(d) Have had all Responsible Vendor standards in place at the time an employee or licensee sold alcohol to a minor or failed to properly verify identification; and

(e) Not personally sell alcohol to a minor more than one time in a two year period. There can be no significant aggravation surrounding the violation and all other elements of the program must remain in place.

(7) Sanctions. If the licensee's employee sells to a minor and the licensee is a certified Responsible Vendor who has all program standards in place, the Commission will not cancel the license of the licensee, or deny issuance of a license to the person who holds the retail license. The licensee will be eligible for reduced sanctions based on OAR 845-006-0500, Suspensions and Civil Penalties.

(8) Removal from Program and Reinstatement.

(a) For a sale to a minor or failure to properly verify identification by an employee, if the licensee did not have all of the Responsible Vendor standards in place at the time of the violation, the licensee is removed from the program. The licensee may reapply for the program one year after the violation is ratified.

(b) For a first sale to a minor or first failure to properly verify identification by a licensee personally, if there is aggravation, the licensee is removed from the program. The licensee may reapply for the program in one year.

(c) For a second violation involving a minor, whether for sale of alcohol or failure to properly verify identification by a licensee personally within a two year period, and irrespective of which of the two formed the first violation, the

licensee is removed from the program. The licensee may reapply for the program in one year.

(d) For a Category I or II violation by the licensee personally, the licensee is removed from the program. The licensee may not reapply for the program. For a Category I or II violation by an employee, the licensee is removed from the program, but may reapply for the program in one year.

(e) If aggravating circumstances are involved in a sale to a minor or failure to properly verify identification by the licensee personally or by an employee, the licensee is removed from the program. The licensee may reapply for the program in one year.

Stat. Auth.: ORS 471, including 471.030, 471.040 & 471.730(1) & (5)

Stats. Implemented: ORS 471.344

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 14-2002, f. 10-25-02 cert. ef. 11-1-02; OLCC 1-2005, f. 4-21-05, cert. ef. 5-1-05; OLCC 1-2005, f. 4-21-05, cert. ef. 5-1-05

845-009-0140

Age Verification Equipment

(1) As used in this rule:

(a) "Retail licensee" and "licensee" mean a retail licensee as defined in ORS 471.392;

(b) "Equipment" and "age verification equipment" mean equipment that verifies the age of customers who purchase alcoholic beverages. The equipment must trigger an age verification process or the equipment itself must verify the age. In either case, the equipment must indicate to the licensee or employee if the customer is of legal age to purchase alcoholic beverages.

(2) For the first or second violation of ORS 471.410(2) or 845-006-0335(1) in a two-year period, the licensee may choose to purchase age verification equipment in lieu of the standard first level Category III sanction, not to exceed 10 days of the suspension or \$1650 of the civil

penalty. The licensee is responsible for paying or serving any portion of the sanction charged in excess of the standard sanction.

(3) For the first or second violation of ORS 471.410(2) or 845-006-0335(1) in a two-year period by a member of the Responsible Vendor Program, the licensee may choose to purchase age verification equipment in lieu of the standard Category III(a) sanction. The licensee is responsible for paying or serving any portion of the sanction charged in excess of the standard sanction.

(4) A licensee may choose this option only one time per license. If the licensee previously purchased equipment, the Commission may allow the licensee to use the purchase of the equipment in lieu of paying up to \$1650 of the civil penalty or serving up to 10 days of the suspension, if the licensee has not previously received this option.

(5) The licensee must notify the Commission within 15 days of receiving the Commission's Notice of Violation of their intention to obtain and use the equipment. The licensee must be using the equipment within 30 days of receiving the Notice of Violation.

(6) The licensee must use the equipment at every point of sale used to sell alcoholic beverages.

Stat. Auth.: ORS 471, including 471.030, 471.040 & 471.730(1) & (5)

Stats. Implemented: ORS 471.342

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 5-2003, f. 3-31-03 cert. ef. 4-1-03; OLCC 9-2006, f. 7-19-06, cert. ef. 8-1-06

845-009-0145

Clerk Training Courses

(1) ORS 471.341 requires an Off-Premises Sales clerk to complete a Commission-approved training course if the clerk sold alcohol to a minor or if the clerk failed to properly verify identification of a person who purchased alcohol. The clerk must complete the training within the time specified in this rule as a condition of continuing to make alcohol sales. Based on ORS 471.030, 471.040, and 471.750, the Commission requires a liquor store clerk to complete a Commission-approved training course within the time frames specified in this rule if the clerk sold

alcohol to a minor or failed to properly verify identification, and requires a liquor agent to comply with the requirements of this rule if a clerk sold alcohol to a minor or failed to properly verify identification. ORS 471.341 requires the Commission to establish timelines for completing the training and to approve all training courses offered for purposes of this rule. This rule establishes notice requirements and times for completing the training, sets standards and approval procedures for training courses, and sets an administrative fee for the expenses incurred by the Commission.

(2) As used in this rule,

- (a) "Clerk," "Off-Premises Sales clerk," "liquor store clerk," or "employee" means an Off-Premises Sales or liquor store employee, corporate officer, manager, or any other person whose job includes selling packaged alcohol, but does not include an individual named on the license or on the liquor agent contract;
- (b) "Alcohol" means alcoholic beverages;
- (c) "Clerk Training Courses," "course," or "approved training course" means a course approved by the Commission for the purposes of ORS 471.341.

(3) Clerk Responsibilities. If the Commission determines that a clerk sold alcohol to a minor or failed to properly verify identification, the clerk must complete a Commission-approved Clerk Training Course within 45 days of the date the Commission notifies the licensee or liquor agent of the clerk's act. If the clerk does not complete the training within 45 days, the clerk may not continue to sell alcohol.

(4) Licensee and Liquor Agent Responsibilities. If the Commission determines that an Off-Premises Sales licensee's employee or a liquor agent's employee sold alcohol to a minor or failed to properly verify identification, the licensee or liquor agent may not allow that employee to sell alcohol if the employee has not completed an approved training course within the required time.

(5) Notice and Reporting Requirements.

- (a) When the Commission determines that a clerk sold alcohol to a minor or

failed to properly verify identification, the Commission will notify the licensee or liquor agent in writing that the clerk must complete a Commission-approved training course within 45 days of the notice as a condition of continuing to sell alcohol.

(b) When the clerk has completed the required training, the licensee or liquor agent must:

- (A) Notify the Commission within seven days on a Commission-provided form that the employee has completed the training;
- (B) Attach a copy of written certification of course completion; and
- (C) Include a \$10 administrative fee.

(c) The licensee or liquor agent must notify the Commission using the Commission-provided form if:

- (A) The clerk does not complete the training; or
- (B) The clerk is no longer employed by the licensee or liquor agent to sell alcohol.

(d) The Commission will put the notification from the licensee or liquor agent in the licensee or liquor agent's Commission file.

(6) Administrative Fee. The Commission assesses a \$10 administrative fee for each employee who completes an approved Clerk Training Course.

(7) Course Approval Standards and Process. A licensee or liquor agent may use a Commission-approved course, or may apply for Commission approval of their own course.

(a) For a course to be approved, a Clerk Training Course applicant must:

- (A) Submit a completed application packet provided by the Commission;
- (B) Have a course 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 course will provide written certification of course completion to each student who completes the course.

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

(A) Approve a completed application that meets the requirements in Section

(7)(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 (7)(a).

(8) Penalties.

(a) Violation of Section (3) of this rule is a Category III violation.

(b) Violation of Section (4) of this rule is a Category III violation. For a liquor agent, violation of Section (4) may result in a Notice of Violation.

(c) Violation of Section (5)(b), (5)(c)(A), or (5)(c)(B) of this rule is a Category IV violation.

Stat. Auth.: ORS 471, including 471.030, 471.040 & 471.730(1) & (5) & 471.750

Stats. Implemented: ORS 471.341 & ORS 471.750

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 14-2002, f. 10-25-02 cert. ef. 11-1-02

845-009-0200

Uniform Standards for Minor Decoy Operations

(1) Purpose. ORS 471.346 directs the Oregon Liquor Control Commission to develop, through rulemaking, uniform standards for minor decoy operations used to investigate licensees and agents operating stores on behalf of the Commission under ORS 471.750 for violations of the laws of this state prohibiting sales of alcoholic beverages. It is the Oregon Liquor Control Commission's intention that decoy operations are to be an impartial test of a licensee or agent's ability and willingness to obey laws on preventing

sale or service of alcoholic beverages to minors.

(2) Uniform standards for minors used in minor decoy operations:

(a) The minor must be under 21 years of age; and

(b) The minor may not use false identification; and

(c) The minor must look under the age of 26 years; and

(d) The minor may not lie about their age.

(3) Uniform standards for operations. In cities with populations of 20,000 or more, minor decoy operations must be conducted on either a random or targeted basis.

(a) "Random" decoy operations. Selection of the agent(s) or licensee(s) to be visited will be done using simple random sampling which ensures to the greatest extent possible that each licensee or agent has an equal chance of being selected. The simple random sampling may be performed using a variety of generally accepted simple random sampling tools, such as a random number table, a random number generator, or other method.

(b) "Targeted" minor decoy operations may be conducted for a single licensee or agent, but may be used only if there is a documented compliance problem with the specific licensee or agent that is the target of the operation.

(4) Uniform standards for coordination with law enforcement agencies. The Oregon Liquor Control Commission will coordinate with law enforcement agencies to ensure, to the greatest extent possible, that:

(a) Law enforcement agencies are informed of the Commission's uniform standards for minor decoy operations; and

(b) Law enforcement agencies provide the Commission with copies of their minor decoy policies;

(c) In order for the Commission to process violation cases in a timely manner, law enforcement agencies will be encouraged to provide the Commission with the results of their

- minor decoy operation(s).
- (5) DEFINITIONS: Documented compliance problem. For purposes of this rule, “documented compliance problem” means:
- (a) OLCC or Law Enforcement has received one or more documented complaints about an agent, licensee or license applicant alleging one or more of the following occurred at the retail sales agency or on the licensed premises:
 - (A) Failed to check, or failed to properly check identification;
 - (B) Allowed minors in prohibited areas;
 - (C) Allowed minors to consume alcohol;
 - (D) Sold alcohol to minors; or
 - (b) The agent, licensee or license applicant has received one or more citations, or administrative Notice of Warning or Notice of Violation tickets for one or more of the following:
 - (A) Failed to check, or failed to properly check identification;
 - (B) Allowed minors in prohibited areas;
 - (C) Allowed minors to consume alcohol;
 - (D) Sold alcohol to minors.
- (6) Uniform standards for licensees. A licensee using a person under the age of 21 years for the purpose of investigating possible violations by employees of the licensee for sale of alcoholic beverages to a person or persons who are under the age of 21 years must:
- (a) Comply with the uniform standards for minors used in minor decoy operations; and
 - (b) Notify the Director of OLCC’s Regulatory Program and the Chief or Sheriff of their local law enforcement agency of the minor decoy’s name, date of birth, provide a current photograph of the minor decoy, and the date(s) and location(s) of the minor decoy operation(s) at least 24 hours prior to the use of the minor decoy.
- (7) Licensees, service permittees,

licensee’s employee(s), agents, and agent’s employee(s) must immediately return identification presented by the minor decoy upon request of law enforcement or an OLCC representative.

Stat. Auth: ORS 471, 471.030, 471.040, 471.730(1) & (5)

Stats. Implemented: ORS 30.960, 165.805 & 471.430

Hist.: OLCC 11-2001(Temp), f. 12-14-01, cert. ef. 1-1-02 thru 6-29-02; OLCC 8-2002, f. 6-12-02 cert. ef. 6-30-02; OLCC 15-2004, f. 12-22-04, cert. ef. 1-1-05