



OREGON LIQUOR CONTROL COMMISSION

The Commission proposes to adopt the following
Oregon Administrative Rules:

Special Events Package
(OAR 845-005-0413 & OAR 845-005-0414)

PUBLIC HEARING:

Commission staff will hold a public hearing on this proposed action:

Date: December 8, 2009
Time: 10:00 am
Location: Oregon Liquor Control Commission
9079 SE McLoughlin Boulevard
Portland, OR 97222

Phone: (503) 872-5004 (toll free within Oregon 1-800-452-6522)

Fax: (503) 872-5110

Presiding Officer: Jennifer Huntsman

(Auxiliary aids for persons with disabilities are available upon advance request)

CAPTION: Adopt two rules governing new special events licenses for Oregon Distillery and Brewery-Public House licensees

The Commission is proposing the adoption of 2 new rules, OAR 845-005-0413 & OAR 845-005-0414. These two rules will describe the Special Events licenses that will soon be available to current Oregon Distillery licensees and Brewery-Public House licensees. The 2009 legislature passed Senate Bill (SB) 802 and House Bill (HB) 2528, effective January 1, 2010. SB 802 amends ORS 471.230 creating a new Special Events Distillery license. This new license would authorize providing only tastings of the distilled liquor manufactured by the licensee at a location other than that designated as the Distillery licensee's annually licensed premises for a period not to exceed five days. HB 2528 amends ORS 471.200 creating a new Special Events Brewery-Public House license. This new license would authorize the sale of wine, malt beverages and cider at retail for consumption on or off the licensed premises at a location other than that designated as the Brewery-Public House licensee's annually licensed premises for a period not to exceed five days. Adopting OAR 845-005-0413 Special Events Distillery License and OAR 845-005-0414 Special Events Brewery-Public House License will implement the new statutory language regarding these two new special events licenses.

You can obtain a copy of the proposed amendments by calling Laura Paul at 503-872-5105, or the toll-free number listed above. Rule drafts are also available on the OLCC web site: <http://oregon.gov/OLCC/> - go to the "Liquor Laws and Rules" button, then follow the link to "OLCC Proposed Rulemaking", then "Special Event (Brewery-Public House/Distillery) Rulemaking", and finally "Final Staff Rule Draft". If you wish to give your views, arguments, or information on this matter, you may do so at the public hearing, or

you can submit comments by December 22, 2009. You can also email your comments to: jennifer.huntsman@state.or.us.

Documents faxed, mailed or emailed must be received by 5:00 pm on December 22, 2009.

ORS 183.335(2)(G) requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business. That comment must also be received by 5:00 pm on December 22, 2009.

The Commission reserves the right to request and receive additional comments at any time on or before the date the Commission takes final action on the proposed rule.

Statutory Authority: ORS 471, including ORS 471.030, 471.040, 471.730(1) & (5)

Other Authority: None

Statutes Implemented: ORS 471.200 & 471.230

Need for the Rule(s): The Commission is proposing the adoption of 2 new rules, OAR 845-005-0413 & OAR 845-005-0414. These two rules will describe the Special Events licenses that will soon be available to current Oregon Distillery licensees and Brewery-Public House licensees. The 2009 legislature passed Senate Bill (SB) 802 and House Bill (HB) 2528, effective January 1, 2010. SB 802 amends ORS 471.230 creating a new Special Events Distillery license. This new license would authorize providing only tastings of the distilled liquor manufactured by the licensee at a location other than that designated as the Distillery licensee's annually licensed premises for a period not to exceed five days. HB 2528 amends ORS 471.200 creating a new Special Events Brewery-Public House license. This new license would authorize the sale of wine, malt beverages and cider at retail for consumption on or off the licensed premises at a location other than that designated as the Brewery-Public House licensee's annually licensed premises for a period not to exceed five days. Adopting OAR 845-005-0413 Special Events Distillery License and OAR 845-005-0414 Special Events Brewery-Public House License will implement the new statutory language regarding these two new special events licenses.

Documents Relied Upon, and where they are available: Minutes of Advisory Committee meeting of September 15, 2009 available from the Commission's rules coordinator, Jennifer Huntsman, at 9079 SE McLoughlin Boulevard Portland, OR 97222.

Or Laws 2009, ch 237 (SB 802) & ch 140 (HB 2528)
(The laws are available at the website of the Oregon Legislative Counsel at http://www.leg.state.or.us/bills_laws/home.htm.)

Fiscal and Economic Impact, including Statement of Cost of Compliance: This statement takes into account the fiscal impact on **(a)** Distillery licensees; **(b)** Brewery-Public House licensees; **(c)** local government; **(d)** state agencies; and **(e)** the public.

(a) Distillery licensees. The Commission anticipates only minimal fiscal impact from the proposed rule adoptions. Overall, the new special events license for distilleries that will be allowed as of January 1, 2010 is a positive for the distillery industry, in that it supports them getting their products exposed to more consumers. While the proposed rules will implement this new license, it is really the statutory changes implemented by the 2009 legislature that are providing the positive fiscal impact, not the rules per se. Some Advisory Committee members also anticipated some potential negative impact from the time and resources needed to complete the special event license application form and process, particularly the

requirements related to obtaining local government endorsements and completing minor control plans.

(b) Brewery-Public House licensees. The Commission anticipates only minimal fiscal impact from the proposed rule adoptions. Overall, the new special events license for brewery-public houses that will be allowed as of January 1, 2010 is a positive for the brew-pub industry, in that it supports them getting their products exposed to more consumers. While the proposed rules will implement this new license, it is really the statutory changes implemented by the 2009 legislature that are providing the positive fiscal impact, not the rules per say. For these licensees the application process and requirements for special events would remain the same with the new rule, but there would be a positive fiscal impact in that the new special event license is \$10 per day where as the TSL (Temporary Sales License) that they have been obtaining for special events is \$50 per day.

(c) Local government. The Commission does not anticipate any significant fiscal impact on local government from the proposed rule adoptions, although local jurisdictions could see more (mainly distillery) special event license applications submitted for their endorsement.

(d) State agencies. The Commission does not anticipate any fiscal impact on state agencies from the proposed rule adoptions.

(e) The public. The Commission does not anticipate any significant fiscal impact on the public from the proposed rule adoptions.

Cost of Compliance: There should only be minimal costs for licensees to comply with these rule adoptions. There are no additional reporting or recordkeeping requirements required for compliance. There is no requirement for additional equipment. There could be a minimal cost in time and resources to complete the special events application process; however this is not an ongoing cost of compliance. Rather, this cost will only be realized when and if a licensee chooses to obtain a special events license. (This is the same as for TSL's (Temporary Sales Licenses) currently being used by Brewery-Public House licensees.) Under already existing rules, licensees are still able to participate in tastings at private retailer educational seminars, at annually licensed premises, at retail liquor stores, and at non-profit TSL's without obtaining a Special Events license.

Because there is not adequate information available to accurately project the fiscal impact, the Commission is unable to calculate the potential fiscal impacts.

How were small businesses involved in the development of this rule? The Commission assumes the majority of its licensees are small businesses. We invited licensees, industry representatives, and public safety representatives, including moderation groups, to the Advisory Committee meeting where this matter was discussed.

Administrative Rule Advisory Committee consulted? Yes. An Advisory Committee met on September 15, 2009. Members included industry representatives, licensees, and members representing moderation and public safety concerns. The Committee assisted in writing this Fiscal Impact Statement.

(This notice mailed October 30, 2009)