



OREGON LIQUOR CONTROL COMMISSION
The Commission proposes to amend the following
Oregon Administrative Rule:

OAR 845-006-0500 Suspensions and Civil Penalties

PUBLIC HEARING:

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

Date: February 4, 2009
Time: 10:00 am - Noon
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: Amendment increasing sanction for financial assistance violations and modifying list of possible mitigation/aggravation reasons

Staff proposes amendments to achieve three goals. The first is to raise Financial Assistance violations from a Category IV to a Category III violation. The second is to remove “previous lengthy history of compliance” as a possible reason for mitigating a sanction. And the third is to add “failure to use age verification equipment which was purchased as an offset to a previous penalty” as a possible reason for aggravating a sanction. While not part of the formal rulemaking process with the Secretary of State (SOS), staff also proposes revising Exhibit 1, both to make the corresponding change in the Category level for Financial Assistance violations and to also update language and rule citations to reflect rule amendments the Commission has adopted in the past year.

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 “Penalties Rulemaking”, and finally “Initial Proposed 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 February 18, 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 February 18, 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 February 18, 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 Chapter 471, including 471.030, 471.040, and 471.730(1) & (5)

Other Authority: None

Statutes Implemented: ORS 471.315, ORS 471.322 & ORS 471.327

Need for the Rule(s): This rule describes the various sanctions the Commission imposes on licensees, including cancellation or suspension of a license, and civil penalties. This rule also references Exhibit 1, which lists the proposed sanctions for the first and subsequent violations within each violation category and also provides the categories for the most common violations. This Exhibit is not part of the Oregon Administrative Rule (OAR) compilation. Staff proposes amendments to achieve three goals. The first is to raise Financial Assistance violations from a Category IV to a Category III violation. The second is to remove "previous lengthy history of compliance" as a possible reason for mitigating a sanction. And the third is to add "failure to use age verification equipment which was purchased as an offset to a previous penalty" as a possible reason for aggravating a sanction. While not part of the formal rulemaking process with the Secretary of State (SOS), staff also proposes revising Exhibit 1, both to make the corresponding change in the Category level for Financial Assistance violations and to also update language and rule citations to reflect rule amendments the Commission has adopted in the past year.

Documents Relied Upon, and where they are available: None.

Fiscal and Economic Impact, including Statement of Cost of Compliance: This statement takes into account the fiscal impact on **a)** all liquor licensees and service permittees; **(b)** local government; **(c)** state agencies; and **(d)** the public.

(a) All Liquor Licensees and Service Permittees. Any potential fiscal impact on liquor licensees or service permittees from the proposed rule amendments should be minimal. The proposed rule amendment to add non-use of age verification equipment as a possible reason for aggravation if the equipment was purchased to offset a previous penalty will simply reflect in rule what is already the Commission's current practice. The proposed rule amendment to remove previous lengthy history of compliance from the list of possible mitigation reasons would mean the loss of a potential 2 days suspension or \$330 in mitigation for those who would have qualified, however it is impossible to know what percentage of licensees would have qualified for this type of mitigation. And finally, the proposed rule amendment to raise Financial Assistance violations from a Category IV to a Category III - while hopefully its main impact would be to act as a violation deterrent, it could mean a potential increased sanction of 3 days suspension or \$495 for a first violation by those licensees who commit such violations.

(b) Local government. The Commission does not anticipate any fiscal impact on local government from the proposed rule amendment.

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

(d) The public. The Commission does not anticipate any fiscal impact on the public from the proposed rule amendments.

Cost of Compliance: There should be no costs for anyone to comply with these amendments. There are no reporting or recordkeeping requirements required for compliance. There is no requirement for equipment, supplies, labor or administration.

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 all licensed businesses are small businesses. Because we consider the proposed amendments to be consistent with penalties set by the Commission for other liquor law violations, we anticipate little fiscal or other impacts on any small business.

Administrative Rule Advisory Committee consulted? No. Because the proposed amendments are consistent with penalties set by the Commission for other liquor law violations, we did not consult an advisory committee. There will however be a Public Hearing on February 4, 2009 with a written public comment period ending on February 18, 2009.

(This notice mailed December 31, 2008)