

OREGON LIQUOR CONTROL COMMISSION
MINUTES
May 10, 2013

9:00 a.m. The Commissioners present by phone were Michael Harper, Rob Patridge, , Pamela Weatherspoon and Chair Cassandra Skinner. Interim Executive Director Merle Lindsey attended in person along with members of staff. Commissioner Bob Rice was not present.

MINUTES

Commissioner Patridge moved to approve the minutes of the April 25-26, 2013 commission meeting.

Passed 4/0 Commissioner Rice not present.

PUBLIC FORUM

No one from the public signed up to speak.

RETAIL SALES AGENT UPDATE

Denny Stoll, North Salem Liquor Agent appeared by phone to update commissioners on communication with legislators. Commissioners were having difficulty hearing Mr. Stoll on the phone so Chair Skinner asked Mr. Stoll to submit written comments. Mr. Stoll's written comments are attached.

COMPLIANCE

Stipulated Settlement Agreements

Becky Voelkel, Administrative Policy and Process Division presented.

There were fifteen stipulated settlement agreements before the Commissioners for ratification; Lil Pantry Market & Deli White City, Spuds N Suds, Sherwood Shell, Charley's BBQ, Farmers Supply CO OP, Sushi & Roll, Lucky Mart, Hog Rock Café, Players OTB & Lounge, Wild River Brewing & Pizza Co., Vault Martini, King's Wild Bar & Grill, Clubhouse Bar & Grill, Monte Carlo Sports Bar, The Lodge Bar & Grill.

Commissioner Harper clarified how drug situations are normally handled like the one in stipulated settlement number twelve. Ms. Voelkel said the investigators issued an administrative violation. Commissioner Patridge moved to ratify the fifteen stipulated settlement agreements as listed.

Passed 4/0 Commissioner Rice not present.

Service Permit Refusals

Gwenn McNeal, Enforcement & Field Services Division presented.

There were three service permit refusals before the Commissioners for ratification.

Chair Skinner did not receive the background information in her commission materials for the service permit refusals so she abstained from voting on this matter. Commissioner Harper moved to ratify the three service permit refusals.

Passed 3/0 Chair Skinner abstained, Commissioner Rice not present.

LICENSE MATTERS

Clarification of proposed restriction language for Hayden Island Renewals.

Farshad Allahdadi, License Services Director presented. Mr. Allahdadi explained that at the April 2013 Commission meeting, staff proposed language in restriction two that could be unclear to the licensees and make it difficult to comply. Mr. Allahdadi stated staff is proposing to revise restriction number two by removing the phrase "will ensure" and replacing it with "will patrol". The revised proposed restriction is as follows: **"When the premises is open to the public between 2:00 p.m. and close, licensee's DPSST-certified security person will patrol the areas adjacent to or outside the premises, including the parking lot at least every 15 minutes to discourage loitering and illegal activity. Licensee's DPPST-certified**

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security person will immediately report any violent or illegal activity observed within or outside the premises to the Portland police." For the following licensees:

CAFÉ DEL TORO #37 11935 N Center Ave Portland
CJ'S DELI 12055 N. Center Ave #300 Portland
DEDE'S DELI 12055 N. Center Ave #100 Portland
DOTTY'S #24 11955 N Center Ave Portland
HUDDY'S PLACE 12055 N. Center Ave #200 Portland
JB'S DELI 11975 N. Center Ave #300 Portland
PADDY'S OLD IRISH CAFÉ #28 11945 N Center Ave Portland
RACHEL'S KITCHEN #36 11919 N Center Ave Portland
THE ANCHOR BAR #35 11915 N Center Ave Portland
BRADLEY'S BAR & GRILL #40 11995 N Center Ave Portland
THE GALLEY SPORTS PUB 11979 N Center Ave Portland

Commissioner Patridge moved to amend the restriction language as stated above.
Passed 4/0 Commissioner Rice not present.

RULES

Annabelle Henry Administrative Policy & Process Division presented.

INITIAL ACTION

OAR 845-009-0140 Age Verification Equipment

Under certain circumstances, a licensee may elect to purchase age verification equipment in lieu of receiving the standard, first level Category III or Category III(a) sanction. To qualify for this credit, the licensee must purchase age verification equipment that meets the standards set forth in section (2) of the rule.

Section (1)(b) of the rule provides a definition of "equipment" that does not include the standards set forth in section (2). This omission could lead to confusion regarding the standards that age verification equipment must meet in order to qualify for the available credit.

The proposed amendment clarifies the standards that age verification equipment must meet by deleting the incomplete definition of "equipment" found in section (1)(b) of the rule.

Commissioner Patridge stated he has had recent conversations with local law enforcement, regarding AVE equipment being used by licensees today is not effective to detect the new fake ID's with bar codes. Commissioner Patridge would like staff to look into the effectiveness of the equipment. Ms. Henry said staff would explore this matter during rulemaking. Commissioner Harper clarified how licensees are required to use the equipment and the financial consequences of not using the equipment. Ms. Henry explained how the AVE requirements and expectations work. Commissioner Patridge moved to initiate rulemaking to amend OAR 845-009-0140, and to hold a rulemaking hearing at staff's discretion.

Commissioner Patridge asked Ms. Henry to keep the board apprised to the rulemaking actions.

Passed 3/1 Commissioner Harper, no. Commissioner Rice not present.

INITIAL ACTION/FINAL ACTION (TEMPORARY RULEMAKING)

OAR 845-009-0010 Service Permit Requirements

COMMISSION MEMBERS:

Michael Harper Rob Patridge Bob Rice Pamela Weatherspoon Chair Cassandra Skinner

This rule identifies the persons who are required to obtain a valid service permit under ORS 471.360. It also identifies the persons who may temporarily work without a valid service permit after submitting an indorsed application in accordance with ORS 471.375.

House Bill (HB) 2443 (addressing “Growlers”) amends ORS 471.360 to require any person who participates in the dispensing of malt beverages, wines or cider sold in securely covered containers provided by the consumer to possess a valid service permit. Prior to these amendments, ORS 471.360 did not require service permits for such persons.

On March 28, 2013, the Oregon Legislature passed HB 2443, and on April 11, 2013, the Governor signed HB 2443 into law. Because HB 2443 includes an emergency clause making it effective upon passage, the rule needs to be amended on both a temporary and a permanent basis to comply with the current statutory language.

Staff recommends amending sections (1) and (2) of the rule to reflect the additional category of persons now required to have a service permit under ORS 471.360.

However, HB 2443 does not amend ORS 471.375. This statute allows persons who mix, serve or sell alcoholic beverages for on-premises consumption to temporarily work without a valid service permit after submitting an indorsed application. ORS 471.375 does not grant the same privilege to persons who dispense malt beverages, wines or ciders into containers for off-premises consumption.

Staff recommends amending section (3) of the rule to reflect the absence of any provisions in ORS 471.375 that would allow persons whose duties are limited to filling Growlers for off-premises consumption to work while their service permit applications are pending.

Commissioner Harper moved to initiate rulemaking to amend OAR 845-009-0010, and to hold a rulemaking hearing at staff’s discretion.

Passed 4/0 Commissioner Rice not present.

Commissioner Patridge moved to temporarily amend OAR 845-009-0010, effective May 10, 2013 through November 6, 2013.

Passed 4/0 Commissioner Rice not present.

OAR 845-009-0015 Licensee and Authorized Person's Responsibility for Verifying Identification

This rule describes the licensee’s or other authorized person’s duty to verify a person’s identity and possession of a valid service permit if one is required under ORS 471.360. It also describes the licensee’s or other authorized person’s duties if an indorsed application is temporarily allowed in lieu of a valid service permit under ORS 471.375.

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Staff recommends amending section (1) of the rule to reflect the additional category of persons now required to have a valid service permit under ORS 471.360.

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However, HB 2443 does not amend ORS 471.375. This statute allows persons who mix, serve or sell alcoholic beverages for on-premises consumption to temporarily work without a valid service permit after submitting an indorsed application. ORS 471.375 does not grant the same privilege to persons who dispense malt beverages, wines or ciders into containers for off-premises consumption.

Staff recommends amending and relabeling sections (2) through (6) of the current rule to reflect the absence of any provisions in ORS 471.375 that would allow persons whose duties are limited to filling Growlers to work while their service permit applications are pending.

Commissioner Patridge moved to initiate rulemaking to amend OAR 845-009-0015, and to hold a rulemaking hearing at staff's discretion.

Passed 4/0 Commissioner Rice not present.

Commissioner Patridge also moved to temporarily amend OAR 845-009-0015, effective May 10, 2013 through November 6, 2013.

Passed 4/0 Commissioner Rice not present.

Commissioner Harper questioned the amended motion for the Hayden Island Renewals. He has a concern with the requirement that each licensee must have a staff member patrol the parking lot every 15 minutes which equates to eleven employees in the parking lot every 15 minutes. Mr. Allahdadi clarified that the amended motion did not change the intent and the effect of the restriction has not been altered from what was approved at the April Commission meeting. Commissioner Patridge said he understood the intent at the April meeting was the licensees were hiring a security company jointly so each individual licensee did not have to have a separate person in the parking lot however the requirement needs to be imposed on each licensee. Mr. Allahdadi stated restriction number one, which was voted on in April, requires each individual licensee to have an additional DPSST certified staff person on duty between the specified hours. That individual could have other duties, but part of their duties needed to be security, which includes patrolling the parking lot every fifteen minutes. Mr. Allahdadi said staff was waiting for this amendment before sending the restriction letters which inform the licensees of the restrictions and of their due process rights to request a hearing and contest the restrictions. Commissioner Harper asked to be kept apprised on these cases.

Commissioner Patridge said when he voted in April, his intent was to allow the licensees to collaborate on parking lot patrols. Mr. Allahdadi stated if the staff's interpretation is different than the Commissioners intent, this matter would need to come back as a whole at the commission meeting and take more substantive look at the restrictions the board would like to have on those businesses.

RECESSED 9:47

Adjourned:

Cassandra Skinner, Chair

Michael E Harper, Sr., Commissioner

COMMISSION MEMBERS:

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Rob Patridge, Commissioner

Bob Rice, Commissioner

Pamela Weatherspoon, Commissioner

Merle Lindsey, Interim Executive Director
and Secretary to the Commissioners

Michael Harper Rob Patridge **COMMISSION MEMBERS:** Bob Rice Pamela Weatherspoon Chair Cassandra Skinner

Written Testimony received from Denny Stoll, Agent 1141-North Salem, via email on May 10, 2013.

Wanted to update Commissioners on additional meetings I have had in Salem. I met with Rep. Buckley and Senator Hoyle last week and both indicated they were working on earmarking surcharge funds for additional Agents compensation.

Agents encourage The Commission to renew the sun setting .50 cent surcharge and bring forward the additional .25 cent surcharge.

Thank you,

Denny Stoll
ALSO President
Agent 1141
North Salem