

OREGON LIQUOR CONTROL COMMISSION
MINUTES
November 15, 2013

Friday November 15, 2013

9:00 a.m. The Commissioners present were Michael Harper, Bob Rice, Pamela Weatherspoon and Chairman Rob Patridge. Executive Director, Steve Marks, attended along with members of staff.

MINUTES

Commissioner Rice moved to approve the minutes of the October 24, 2013 Commission Meeting.

Passed 3/0 Commissioner Harper abstained from voting.

PUBLIC FORUM

There were no members of the public to address the Commission.

RETAIL SALES AGENT UPDATE

Steve Brown, ALSO President and North Lincoln City 1091 / Salem Battlecreek 1198 Agent, did not appear before the board.

ADMINISTRATION

There were no items that Commissioners wanted to for discussion.

COMPLIANCE

Stipulated Settlement Agreements

Becky Voelkel, Administrative Policy and Process Division presented.

There were eighteen stipulated settlement agreements before the Commissioners for ratification; Monte Carlo Sports Bar, Eastside Grocery, Metzger Mart, Benny Huie's Restaurant Lounge, BC's Bar & Grill, Eastmoreland Golf Course, Tarasco Mexican Restaurant, McCool's Pub & Grill, Cooper's Coffee Esplanade, Guadalajara Family Mexican Restaurant, Harlem, Rusty's Pancake & Steak, Stark Street Station, Shonna's, Gemini Lounge, The Spot Sports Bar & Grill, The Hoppy Brewer, How How Restaurant & Lounge.

Commissioner Weatherspoon asked when an individual who is cited for not having a service permit and then can go and get one; are there were any consequences for not having one in the first place. Ms. Voelkel stated the individual receives a criminal citation for not having a permit.

Commissioner Harper moved to ratify the eighteen settlement agreements as listed.

Passed 4/0

Ratification of Service Permit Refusals

Gwenn McNeal, Enforcement & Field Services Division presented.

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

Commissioner Weatherspoon moved to ratify the service permit refusals as listed.

Passed 4/0

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RULES

Annabelle Henry, Administrative Policy & Process Division presented.

INITIAL ACTION

OAR 845-009-0130 Training Brochure Requirement

This rule describes training requirements for Off-Premises Sales employees. Specifically, it requires an Off-Premises Sales licensee to ensure that each employee read, sign and date a Commission-provided training brochure, or a comparable licensee-provided training brochure, before allowing the employee to sell alcoholic beverages.

The proposed amendments would allow a service permit to satisfy this training requirement, effectively creating a third training option, which would eliminate training redundancies among employees now required to hold a service permit to dispense securely covered containers provided by the consumer and employees who elect to obtain a service permit for other reasons.

The proposed amendments also extend the training requirements described in this rule to all other employees who sell alcohol for off-premises consumption and restructure the rule to improve its clarity.

Commissioner Harper asked for clarity on where an individual will receive the training. Ms. Henry stated this rule applies to off-premise retailers for off-premises consumption. The rule change would allow an individual to use their service permit (a higher standard of training), if they have one, instead of the brochure "training", which is provided by the employer. For employees filling growlers, which are required to have a service permit, they will not be required to have a service permit and also read and sign the brochure.

Commissioner Weatherspoon moved to initiate rulemaking to amend OAR 845-009-0130, and to hold a rulemaking hearing at staff's discretion.

Passed 4/0

OAR 845-020-0020 Redemption Centers

This rule describes the criteria for approving redemption centers for the return of empty beverage containers. The proposed amendments would delegate the authority to approve redemption centers to the Executive Director (Administrator).

Commissioner Harper moved to initiate rulemaking to amend OAR 845-020-0020, and to hold a rulemaking hearing at staff's discretion.

Passed 4/0

FINAL ACTION

OAR 845-004-0001 Prohibited Interests in the Alcoholic Beverage Industry

ORS 471.710(2) sets forth the interests that a person is prohibited from holding while serving as a commissioner or an employee of the Commission. This rule defines and describes these interests. However, it omits the statutory exemption that excuses the commissioner designated as the food and alcoholic beverage retail industry representative from compliance with its prohibitions.

The proposed amendments correct this omission and clarify the rule by alphabetizing the terms in section (1) and revising the language in sections (2) - (4).

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Commissioner Harper moved to amend OAR 845-004-0001, effective January 1, 2014.

Passed 4/0

OAR 845-013-0001 Financial Assistance

Manufacturers and wholesalers are generally prohibited from giving services and other gifts to retailers. This rule defines and explains some of the exceptions to this general prohibition. The proposed amendments add one new definition (for "supplier") to section (2).

Commissioner Weatherspoon moved to amend OAR 845-013-0001, effective January 1, 2014.

Passed 4/0

RETAIL SERVICES

Brian Flemming, Retail Services Director, presented one applicant for store conversion from exclusive to non-exclusive status. Mr. Flemming said the agent from the Molalla liquor store decided to postpone his application for store conversion for a future meeting. Mr. Flemming stated the agency has proposed contract amendments for the exclusion of certain products discussed at the October Commission meeting. Those amendments are being reviewed by DOJ.

Portland, Tenth Ave. / 1200

Vance Burghard came to present his application for conversion and his business plans. Mr. Burghard described his store location and current / future store layout.

Commissioner Rice asked if the agency is sending a message to agents encouraging them to feature Oregon wines in liquor stores. Mr. Burghard said his plan is for good marketing and customers are asking for certain brands but he has not felt pressure from the agency to carry Oregon brands. Mr. Flemming said while agents want to promote Oregon products, they can't do it without carrying other brands as well in order to attract all customers. Commissioner Weatherspoon asked for clarity on what a counter store is. Mr. Burghard said it means all the product is behind the counter because of his location, this decreases theft tremendously. Mr. Flemming stated the agency does not advocate for behind the counter stores but there are a few circumstances in which it is a good idea. Commissioner Harper asked Mr. Burghard if the agency has provided him best practices to ensure he is successful and are there other things we can provide you to help. Mr. Burghard stated he appreciates not having too much direction as a 40 year businessman and entrepreneur; staff points him to the resources he needs but allows him to employ his own ideas.

Chairman Patridge wanted to clarify that the motion made at the October meeting which authorized staff to amend the contract to limit the availability of high alcohol/low cost wines, malt beverages and ciders was still in affect for all future applicants. Staff agreed the motion is in affect until the amendments are made.

Commissioner Harper moved to amend Mr. Burghard's contract from exclusive to non-exclusive.

Passed 4/0

COMMISSIONER WORKING LUNCH

Commissioners and Executive staff worked on planning out topics for discussion in 2014.

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JOINT RETAIL INNOVATIONS AND COMMISSION MEETING

1:00 p.m. Chairman Patridge convened the joint meeting of the Retail Innovations and the OLCC Commission meeting. Introductions were made around the room. Chairman Patridge thanked the members for their participation and said his intention is to have the Retail Innovation group continue to meet annually to have conversations about improvements and how the agency can better serve consumers while balancing public safety and state revenue.

Chairman Patridge read the proposed motion: In order to increase consumer access to distilled spirits and maintain revenue for the state. I move to authorize the Chair to request that the legislature take action to either invest in the current system of distribution and sale of distilled spirits or modify the system.

In addition to the motion, the agency has put together three draft models for the November 26th legislative bill deadline. The group will plan to meet in December to give their input on the model.

Chairman Patridge invited each member to speak to the process and/or the conclusion the group has come to. A summary of each representative's perspective is as follows:

- Counties and local government are interested in protecting their revenue stream and ensuring sufficient funding for enforcement.
- Law enforcement agencies expect to have an increased need for resources if outlets are increased and if distilled spirits are sold in retail outlets where minors are allowed.
- Small Off-Premises are interested in a level playing field and would like to see some exceptions to the 10,000 square feet.
- Large Manufacturers are neutral but are interested in access, a quality shopping experience and selection.
- The representative for liquor agents appreciated the plan for growth and change. They want to see current agents, as small business owners protected.
- Small Manufactures are interested in continued access to their products at reasonable prices. Also noted was the limited financial resource to support agent growth -- and the belief that the current licensee discount at 5% is not much of an incentive in the current system compared to what a licensee would enjoy in a private system where they would get product at wholesale prices.
- Beer and Wine Wholesaler/Distributors believe the system works fine but could benefit from some small changes.
- Wholesalers/Brokers are interested in accessibility to their products and a level playing field.
- Large Off-Premises are interested in modernizing the system to the retailer and the consumer and noted the private market is already setup to handle distribution.
- The Oregon Brewers Guild representative said they would like any changes to the system to be weighed against our current model as it is one of the most successful in the United States.

Research Analyst, Bill Schuette, distributed the agencies draft of three possible models. Chairman Patridge wants to define the revenue pieces and public policy pieces which do not

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directly affect revenue. The proposed pricing, outlined in the hybrid system, was discussed at length.

With the threat of an initiative, Chairman Patridge stated it is the agencies job to begin educating the legislature so they can address the issue, either in the February session or during the interim work session. Oregon is at a cross roads to either make the investment in the current system or modify the system to optimize availability to the consumer and to maximize revenue to the State of Oregon.

Commissioner Harper said he knows this conversation is important and appreciates the opportunity to be a part of it. Commissioner Harper noted changes to the system could potentially not benefit current liquor agents.

Chairman Patridge thanked the group for taking the time to participate in this project.

In order to increase consumer access to distilled spirits and maintain revenue for the state, Commissioner Rice moved to authorize the Chair to request that the legislature take action to either invest in the current system of distribution and sale of distilled spirits or modify the system.

Passed 4/0

Chairman Patridge said the group will meet again in December to go over the model. He told the group, if they have specific tweaks to the proposed models; submit them to Laura at Laura.paul@state.or.us.

ADJOURNED 2:15 PM

Michael E Harper, Sr., Commissioner

Rob Patridge, Chairman

Bob Rice, Commissioner

Pamela Weatherspoon, Commissioner

Steve Marks, Executive Director
and Secretary to the Commissioners

NOTE: The next Commission Meeting will be in Portland on December 12 & 13, 2013

For more information, please telephone Toll Free 1-800-452-6522 or

COMMISSION MEMBERS:

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Portland 503-872-5006

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