

ALCOHOL RISK CONTROL STANDARD

NUMBER: 125-7-401

EFFECTIVE DATE: 7/2/1993 Effective until cancelled

POLICY OWNER: Risk Management

DIVISION: Enterprise Goods and Services

INTERNAL OR STATEWIDE POLICY: Statewide

LAST REVIEWED DATE: 7/20/2026

SUPERSEDES: Original Version: 7/2/1993

PAGE NUMBER: 1 of 6

REFERENCE/AUTHORITY:

- ORS 278.405

APPROVED SIGNATURE:

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I. Applicability

This policy applies to all state agencies not directly headed by an elected official. It is recommended for adoption by all other agencies of the state. If any law gives an agency duties or powers specific to alcoholic beverages and those laws or any related rules conflict with any part of this policy, the laws and rules prevail.

II. Authority

ORS 278.405

III. Definitions

As used in the policy:

- A. Official state business means activities that are authorized or undertaken by a state agency to achieve or contribute to achieving a state agency's statutory mission or responsibilities. Official state business, for this policy, does not include and this policy

does not apply to alcohol regulation and law enforcement, alcohol wholesaling, nor academic research authorized by a state college or university.

B. State property means buildings and their premises and vehicles of any kind owned by or leased to the state. State property, for this policy, does not include and this policy does not apply to property in the control of others by lease, state-owned private residences, forests and range lands, state parks, state fair grounds, nor college or university sports facilities, student unions, and dorms.

IV. General Policy

The only uses of alcoholic beverages that state agencies may provide or permit in state activities or on state property are those that are necessary to conduct or support official state business. Official state business does not require alcohol consumption by state officers, employees, or agents. State agencies which serve or sell alcohol or permit its service or sale on state property are responsible to adopt suitable alcohol risk control rules or policies.

V. Alcohol Risk Control Plans

A. The provision, distribution, or consumption of alcoholic beverages on state property or at events sponsored or co-sponsored by state agencies shall only be permitted by an agency under a risk control plan written, implemented, enforced, and retained by the agency.

B. Agencies are advised to include in their risk control plans:

1. A brief explanation of the statutory mission, the conduct or support of which requires alcoholic beverages.
2. A description of the intended use of alcoholic beverages. This might include the event, time, location, and expected participants in terms of numbers and type. Examples of "type" include agency clients, general public, foreign dignitaries, trade mission members, etc.
3. A risk control plan. Recommended minimum risk control standards are included in this policy. The plan could simply say the event will conform to those minimum standards.

VI. Employees, Agents, and Volunteers on Duty

A. There are several reasons to keep the consumption and influence of alcohol off the job:

1. The public does not perceive any benefit from public officials consuming alcohol on the job. Instead, the public must pay the costs of injury, liability, and impaired performance that can and have resulted.
2. It is the policy of the state government to provide its employees a sober and drug-free workplace.
3. By state law, an employee's compensable injury does not include injury caused by consumption of alcoholic beverages unless the employer permitted, encouraged, or had actual knowledge of such consumption.

B. Therefore, except as provided under paragraph C of this section, agencies shall not allow alcohol consumption by employees, officers, or volunteers during working hours or while on duty or on official state business, whether on state property or elsewhere. Alcohol consumption is outside the scope of state employment or duties and shall be limited to after work hours, after state duties have actually ended, and off of state property. At that point, the decision to drink belongs solely to the individual. This precludes alcohol consumption at conferences and on travel during working hours, while on duty, or while representing the agency. It precludes alcohol consumption at employee parties controlled or funded in full or in part by the agency even if the alcohol is not brought or provided by agency funds. Co-worker or work team parties off-work, if attendance is not urged by management and no state funds or resources are used, are not state business and are not subject to this policy.

Note: As employers, most agencies may not prohibit an employee's drinking during an off-premises, off-duty, lunch break. They can do so under most conditions for an agent or volunteer who will return to state duties. However, all employees should be asked or advised not to consume alcohol at lunch if they will drive, meet with people who might smell alcohol on their breath, or engage in hazardous or critical duties upon their return to work. If any consumption of alcohol impairs an employee's ability to perform work duties, the supervisor has a duty to act. Personnel and legal advisors can assist the supervisor. Assistance programs exist to help the employee.

C. If an agency, subject to this policy, determines that exceptions to this policy are necessary, its appointing authority, in position descriptions or other official records, shall identify in advance:

1. The employees or positions excepted from this rule: and
2. The situations and conditions under which they are required or permitted to act contrary to this policy.

VII. Recommended Minimum Risk Control Standards

These standards are recommended for state agencies to use when they serve alcohol or permit alcohol to be served at state functions or on state property. They are the result of advice and comment from experts at several state agencies.

A. Large Functions. For functions larger than a typical residential party, the agency will:

1. Hire a vendor licensed to serve alcoholic beverages. The OLCC Special Dispenser and Caterer Dispenser licensees are equally acceptable (ORS 471.542).
2. Verify that all alcohol servers hold service permits and have passed the Server Education course.
3. Assure that enough alcohol servers will be present and will be instructed to observe patron behavior; not just mix and serve drinks.
4. Inform the servers of the agency's standards and expectations for alcohol service and control, empowering them to cut off drinkers. Make clear that the licensee is to adhere to its responsibilities. There are no privileged drinkers.
5. Share this policy and any specific risk control plan with vendors and co-sponsors.
6. Assure that the licensee's plan to deal with alcohol over-service problems is adequate.
7. Appoint an agency employee to observe the performance of the vendor, and assist in observing guests' behavior. The staff person must also have successfully completed the Server Education course. All employees on duty or representing the state will drink non-alcoholic beverages.
8. Provide plentiful nonalcoholic beverages and a varied and steady supply of the sort of foods that delay absorption of alcohol into the blood stream. Fatty foods, such as cheese, nuts, or deep-fried items are not what one would usually promote. However, they are needed because they digest slowly, decreasing the alcohol absorption rate.
9. Do not allow open, self-service, bars.
10. Limit container sizes to no greater than these normal commercial standards:

- a. One ounce, hard liquor;
- b. Ten ounce beer; and
- c. Six ounce wine servings.

11. Limit the number of drinks to two. An exception is an event for tasting or sampling of Oregon products. Do not allow "sampling" of large quantities. Tasting containers and servings must be much smaller than normal size.

12. Limit alcohol consumption to the immediate premises where alcohol is being served.

13. For receptions, limit the time alcohol is served to no more than 60-90 minutes. Stop service at least 30 minutes before the reception is over. The last drinks provided at the reception should be nonalcoholic. Arrange some activity to keep people on site for that last 30 minutes.

14. Select sites that require minimal travel for the participants. Consider availability of taxi service or overnight lodging. Arrange designated, non-drinking drivers or provide a "limousine" service to transport people home as needed. Assign the clear responsibility to staff, the licensed vendor, or contracted security to see that any attendee who is intoxicated is identified and taken home safely.

15. The licensee's premises are preferred to reduce liability risk. Licensees are most clearly responsible for the conduct of patrons on the licensee's premises. Avoid sites with long flights of stairs, wading pools, or any other hazard that could place a careless drinker at risk.

16. The contract with the licensed vendor must:

- a. Require that the vendor indemnify and hold harmless the agency for any claim made against the agency due to the vendor's negligence. Use this wording in your contract: "Vendor shall indemnify, defend and hold harmless the State of Oregon and the Department of its officers, divisions, agents and employees from all claims, suits or actions of any nature arising out of the activities of the contractor, its officers, subcontractors, agents or employees under this contract"

- b. Require the vendor to have workers' compensation insurance and general liability insurance (including contractual liability). The latter must include a liquor liability endorsement with a coverage limit of at

least \$1,000,000. The liability insurance must be endorsed to name the agency and the State of Oregon as additional insureds. A vendor or caterer who cannot readily meet this common requirement bears careful investigation before an exception is considered.

c. Prior to the event, obtain certificates of insurance from the vendor to verify all required insurance coverages. Give the vendor this wording to be placed on the certificate by its insurance agent: It is agreed that the State of Oregon, the Department of _____ and their divisions, officers, and employees are Additional Insureds but only with respect to the vendor's activities under this contract

B. Smaller Functions: For roughly residential size functions, the agency is advised to select and follow any applicable parts of the Large Functions recommended standards. If a licensed vendor is used for a small function, the insurance elements for Large Functions are recommended.

If you have risk control questions or need assistance with insurance or related risk management services, please call us at (503) 373-RISK.