

For your information

The Oregon Liquor Control Commission has:

Amended
 Adopted
 Repealed

OAR 845-005-0311

Effective: 7/1/19

Note: **Bold and underlined** = new text; ~~*italics and strikethrough*~~ = deleted text

845-005-0311

True Name on Application; Interest in Business

(1) Definitions. As used in this rule:

(a) “Licensee of record” means an individual or entity who the Commission has listed on the license certificate as a license holder for a license. There may be more than one licensee of record for the same license.

(b) “Entity” means an association, corporation, limited liability company, partnership, trust, or any similar entity that has legal standing under the laws of Oregon or another state within the United States.

~~(1)~~ **(2)** True name on application. An application for a license must specify the real and true names of all persons and ~~legal~~ entities that have an ownership interest in the business proposed to be licensed. **However, the Commission may waive an ownership interest in the business to be licensed in accordance with (6) of this rule and may waive any materials required by the Commission to accept or process an application in accordance with (7) of this rule.**

~~(2)~~ **(3)** License privileges. License privileges are available only to ~~the persons and legal entities specified in the application~~ **a licensee of record** and only for the premises designated on the license.

~~(3)~~ **(4)** Ownership Interest. Under ORS 471.313(4)(h), the Commission may refuse to issue a license if the applicant is not the owner of the business proposed to be licensed or an undisclosed ownership interest exists. For purposes of this rule, an “ownership interest” is indicated by the following behaviors, benefits or obligations:

(a) Unless allowed by a waiver of the ownership interest under (6) of this rule, any person or legal entity, other than an employee, agent, or representative acting under

the direction of the owner, that exercises control over, or is entitled to exercise control over, the business **or the premises;**

(b) Any person or ~~legal~~ entity, other than an employee, **agent, or representative** acting under the direction of the owner, that incurs, or is entitled to incur, debt or similar obligations on behalf of the business;

(c) Any person or ~~legal~~ entity, other than an employee, **agent, or representative** acting under the direction of the owner, that enters into, or is entitled to enter into, a contract or similar obligations on behalf of the business; ~~or~~

(d) Unless allowed by a waiver of the ownership interest under (6) of this rule, any person or entity, other than an employee, agent, or representative acting under the direction of the owner, who sells or manufactures alcoholic beverages at the premises or who imports alcoholic beverages to the premises or is entitled to sell or manufacture alcoholic beverages at the premises or import alcoholic beverages to the premises;

~~(d)~~ **(e) Unless allowed by a waiver of the ownership interest under (6) of this rule, any person or legal entity identified as a lessee, tenant, or renter (or similar term) of the premises proposed to be licensed;**

(f) Unless allowed by a waiver of the ownership interest under (6) of this rule, any person or entity owning the real or personal property of the premises proposed to be licensed, unless the owner of the property has given control over the property to another party via a lease or rental agreement or similar agreement; or

(g) When an applicant is an entity, any person or entity defined as an applicant or licensee as per OAR 845-006-0301.

~~(4)~~ **(5)** Financial Interest. Under ORS 471.757, the Commission may require the licensee or applicant to identify the persons and ~~legal~~ entities with a financial interest in the business. The Commission may evaluate any such person as if ~~he or she~~ **the person** were the actual licensee or license applicant. If that evaluation reveals any circumstances that would support grounds for the denial, cancellation or suspension of such a license or license application, the Commission may deny, cancel or suspend the license of the actual licensee or issue the license with restrictions. For purposes of this rule, a “financial interest” exists if the performance of the business causes, or is capable of causing, a person or ~~legal~~ entity to benefit or suffer financially. Examples of a financial interest include, but are not limited to:

(a) A licensee;

(b) An employee or agent who receives out-of-the-ordinary compensation. “Out-of-the-ordinary compensation” includes both over- and under- compensation;

(c) Any person who rents or leases real property to a licensee or applicant for use by the business;

- (d) Any person who rents or leases personal property to a licensee or applicant for use in the business for a commercially unreasonable rate;
- (e) Any person who lends money, real property or personal property to a licensee or applicant for use in the business;
- (f) Any person who gives money, real property or personal property to a licensee or applicant for use in the business.
- (g) A spouse or domestic partner of the licensee or license applicant. For purposes of this subsection, “domestic partners” includes adults who share the same regular and permanent address and would be financially effected by the success or failure of the business as well as adults who qualify for a “domestic partnership” as defined under ORS 106.310.

~~(5)~~ **(6)** ~~For good cause shown, the~~ The Commission may waive the **ownership interest** requirements in this rule. ~~to take into account unusual or extraordinary circumstances.~~
Examples of waivers include, but are not limited to:

(a) The ownership interest of non-applicants fitting under subsection (4)(e) or (4)(f) of this rule when the only area of the proposed licensed premises that the non-applicant has a right of access to is a common area and the owner of the property has given the applicant or licensee the exclusive right to engage in alcohol sales and service and permit individuals to consume alcohol in the licensed portion of the common area. A common area is an area shared by more than one tenant, including the applicant for the license, that is appurtenant, adjacent, or in the immediate vicinity of an area leased or rented exclusively by the applicant(s) and that is also part of the licensed premises. The right of multiple tenants to use the area in common is typically described in the lease or rental agreement.

(b) The ownership interest of non-applicants who manage or control the premises or aspects of the business at the premises provided the management or control does not involve the sale, service, or manufacture of alcoholic beverages at the premises, or importation of alcoholic beverages to the premises, and there is at least one other party licensed at the premises who is or will be a licensee of record. Examples of non-applicants who may qualify for a waiver under this section include:

(A) Operators selling and serving food, nonalcoholic beverages, and other nonalcoholic items on the premises,

(B) Operators who lease, rent, or otherwise occupy a portion of the licensed premises in order to provide services as a part of the business that don't involve the sale, service, or manufacture of alcoholic beverages on the license premises.

(c) The ownership interest of non-applicants fitting under subsections 4(a) or 4(d)-(f) of this rule who hold their own manufacturer or wholesaler liquor licenses, or who are eligible to hold such licenses, at the premises to be licensed. For

purposes of this subsection, a brewery-public licensee is a manufacturer. Examples of this include, but are not limited to, licensees operating under an alternation of proprietors, custom crush, or other similar agreement.

(7) The Commission may waive the requirement to submit certain application materials identified in OAR 845-005-0312 when the applicant has provided written documentation to the Commission that control of the day-to-day operation of the business has been relinquished through a management agreement, or similar written agreement, to one or more parties who are also applying for the same license at the same premises. Relinquishing control over the day-to-day operation of the business includes not managing or controlling the sale or service of alcohol or directly supervising any person who sells or serves alcohol. Examples of materials waived for the applicant who has relinquished control of the day-to-day operation of the business include, but are not limited to, the Individual History form and the Statement of Funding form.

Statutory/Other Authority: ORS 471, including 471.030, 471.040, 471.730(1), ~~(5)~~
Statutes/Other Implemented: ORS 471.757

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