

For your information

The Oregon Liquor Control Commission has:

Amended
 Adopted
 Repealed

OAR 845-005-0325

Effective: 9/1/19

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

845-005-0325

License Refusal Reasons: Applicant Qualifications

~~*The Commission will refuse to license an applicant if any of the following criteria apply unless the applicant shows good cause that overcomes each relevant criterion:*~~

The Commission may refuse to license an applicant if any of the criteria in this rule apply. Upon a finding that a license should be refused, the Commission will consider intervening circumstances to determine whether the refusal basis is supported or overcome. The intervening circumstances may have occurred before or after the incident or incidents that are relevant to the specific criterion. The intervening circumstances may be weighed in favor of the applicant, weighed against the applicant, or weighed neither for nor against the applicant. The criteria are as follows:

(1) The applicant has inadequate financial resources to build or operate the premises proposed to be licensed, or has inadequate financial resources to meet the financial obligations of the proposed business. This section does not apply to license renewal applications.

(2) The applicant has not built the licensed premises, or has not operated the licensed business, substantially as proposed by the applicant and previously approved by the Commission.

(3) The applicant cannot or will not provide an employee who can communicate effectively with customers and Commission employees. This person must be on the licensed premises during the licensee's business hours. "Communicate effectively" means:

(a) Knowing how to lawfully sell and serve alcoholic beverages and being able to explain these practices to customers; and

(b) Understanding a Commission employee when he or she explains lawful sale and service of alcoholic beverages and responding in a way that the employee can reasonably understand.

(4) The applicant has a recent history or record of using alcohol or controlled substances to excess. Some of the records the Commission may use to evaluate this criterion include: court documents; Department of Motor Vehicles reports; police records; or medical records. ~~The applicant may establish sufficient good cause to overcome this criterion by demonstrating that he or she no longer uses alcohol or controlled substances to excess and is not likely to do so in the future.~~ Some of the **intervening circumstances** the Commission considers in determining ~~good cause~~ **whether the refusal basis is supported or overcome** include: successful participation in treatment program(s); ~~counselor, employer or probation officer recommendations;~~ severity of the applicant's record; passage of time since last relevant incident; and the applicant's previous record of compliance **with the laws and rules of the Commission.**

(5) The applicant has been convicted of violating any general or local law of this state, or any other state, or of violating a federal law, if the conviction is substantially related to the fitness and ability of the applicant to lawfully carry out activities under the license. In determining whether the applicant presents an acceptable future risk of compliance, the Commission will consider **applicable** ~~any~~ **intervening circumstances** ~~that occur after the incident or incidents that resulted in the conviction~~ **that have occurred before or after the relevant incident or incidents.**

(a) Definitions. For this subsection:

(A) "Compliance risk factors" means factors that show the individual's tendency to disobey laws, rules, and regulations; such as probation and parole violations and non-relevant convictions.

(B) "Relevant conviction" means a conviction that involved violence or the threat of violence; dishonesty or deception; drugs, alcohol, or other regulated substances; non-compliance with driver license requirements; or a conviction as a felon in possession of a weapon.

(C) "Successful treatment" means:

(i) The Commission receives written confirmation from the individual's licensed treatment provider that the individual completed treatment that is related to a relevant conviction and the Commission has determined that the individual has not had another conviction for a similar incident since the completion of the treatment; or

(ii) The individual is still in a treatment program that is related to a relevant conviction; however, the Commission receives written confirmation from the

individual's licensed treatment provider that the individual has demonstrated sufficient success towards stopping the behavior that led to the conviction and the Commission has determined that the individual has not had another conviction for a similar incident since the date the provider determined that the individual demonstrated sufficient success towards stopping the behavior that led to the conviction.

(b) Upon the Commission's determination that a basis to refuse the application has been established under this criterion, the Commission may consider the following intervening circumstances and may consider other intervening circumstances, depending on the facts of the case:

(A) Passage of time from the date of the most recent incident that led to a relevant conviction or from the date of the most recent compliance risk factor, whichever date is later. In calculating the passage of time, the Commission does not count time spent incarcerated after the date of the most recent incident that led to a relevant conviction or after the date of the most recent compliance risk factor, whichever date is later.

(B) Compliance risk factors.

(C) Successful treatment.

(D) The severity of the individual's relevant conviction record as shown by both the number of convictions and whether a conviction was a felony or non-felony.

(E) The individual's record of compliance with the Commission.

(6) The applicant provides material false or misleading information to the Commission.

(7) The applicant is under 21 years of age. The applicant may establish *sufficient good cause* **a basis** to overcome this criterion by demonstrating that ~~he or she~~ **the applicant** will not participate in the management or control of any alcohol-related business decisions or any employees responsible for the sale or service of alcoholic beverages.

(8) The applicant does not have a good record of compliance with ORS Chapter 471, 473, 474, 475B, or any rules adopted thereunder.

Statutory/Other Authority: ORS 471, 471.030, 471.040, ~~471.730(1), (5)~~
Statutes/Other Implemented: ORS 471.313

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