TITLE 37

ALCOHOLIC LIQUORS; CONTROLLED SUBSTANCES; DRUGS

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Chapter 471

2003 EDITION

Alcoholic Liquors Generally

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GENERAL PROVISIONS

471.001 Definitions for ORS chapters 471 and 473. As used in this chapter and ORS chapter 473:

(1) "Alcoholic beverage" and "alcoholic liquor" mean any liquid or solid containing more than one-half of one percent alcohol by volume and capable of being consumed by a human being.

(2) "Commercial establishment" means a place of business where food is cooked and served and having adequate kitchen facilities for the preparation and serving of meals and having for that purpose proper dining space. "Commercial establishment" includes athletic clubs and golf clubs operated for profit. A commercial establishment must serve meals to the general public or, if the commercial establishment is an athletic club or golf club, must serve meals to the club's members and guests.

(3) "Commission" means the Oregon Liquor Control Commission.

(4) "Distilled liquor" means any alcoholic beverage other than a wine, cider or malt beverage. "Distilled liquor" includes distilled spirits.

(5) "Licensee" means any person holding a license issued under this chapter.

(6) "Malt beverage" means an alcoholic beverage obtained by the fermentation of grain that contains not more than 14 percent alcohol by volume. "Malt beverage" includes beer, ale, porter, stout and similar alcoholic beverages containing not more than 14 percent alcohol by volume. "Malt beverage" does not include cider or an alcoholic beverage obtained by fermentation of rice.

(7) "Manufacturer" means every person who produces, brews, ferments, manufactures or blends an alcoholic beverage within this state or who imports or causes to be imported into this state an alcoholic beverage for sale or distribution within the state.

(8) "Permittee" means a person holding a permit issued under ORS 471.360 to 471.390.

(9) "Premises" or "licensed premises" means a location licensed under this chapter and includes all enclosed areas at the location that are used in the business operated at the location, including offices, kitchens, rest rooms and storerooms, including all public and private areas where patrons are permitted to be present. "Premises" or "licensed premises" includes areas outside of a building that the commission has specifically designated as approved for alcoholic beverage service or consumption.

(10) "Wine" means any fermented vinous liquor or fruit juice, or other fermented beverage fit for beverage purposes that is not a malt beverage, containing more than one-half of one percent of alcohol by volume and not more than 21 percent of alcohol by volume. "Wine" includes fortified wine. "Wine" does not include cider. [1995 c.301 §2; 1999 c.351 §42]

Note: Section 2, chapter 551, Oregon Laws 2003, provides:

Sec. 2. Notwithstanding any other provision of this chapter [ORS chapter 471] or ORS chapter 473, any alcoholic beverage being sold by off-premises sales licensees as a malt beverage on the effective date of this 2003 Act [July 8, 2003] may continue to be sold as a malt beverage until December 31, 2004, and shall be taxed as a malt beverage under ORS chapter 473 until December 31, 2004, even though the alcoholic beverage contains more than one-half of one percent of distilled liquor. [2003 c.551 §2]

471.005 [Amended by 1965 c.280 §1; repealed by 1995 c.301 §33]

471.010 [Amended by 1979 c.236 §5; repealed by 1995 c.301 §33]

471.015 [Amended by 1975 c.207 §1; 1979 c.236 §6; repealed by 1995 c.301 §33]

471.017 [1975 c.207 §4; 1995 c.301 §53; repealed by 1999 c.351 §13 (471.159 enacted in lieu of 471.017)]

471.020 [Repealed by 1979 c.264 §14]

471.022 [1979 c.264 §3; 1995 c.301 §13; repealed by 1999 c.351 §41]

471.023 "Cider" defined. For the purposes of this chapter, "cider" means an alcoholic beverage made from the fermentation of the juice of apples or pears that contains not more than 10 percent of alcohol by volume, including, but not limited to, flavored, sparkling or carbonated cider. [1999 c.351 §66]

471.025 [Repealed by 1995 c.301 §7 (471.406 enacted in lieu of 471.025)]

471.027 Short title. This chapter and ORS 474.105 and 474.115 shall be known and may be cited as the "Liquor Control Act." [Amended by 1965 c.165 §1]

471.030 Purpose of Liquor Control Act. (1) The Liquor Control Act shall be liberally construed so as:

(a) To prevent the recurrence of abuses associated with saloons or resorts for the consumption of alcoholic beverages.

(b) To eliminate the evils of unlicensed and unlawful manufacture, selling and disposing of such beverages and to promote temperance in the use and consumption of alcoholic beverages.

(c) To protect the safety, welfare, health, peace and morals of the people of the state.

(2) Consistent with subsection (1) of this section, it is the policy of this state to encourage the development of all Oregon industry.

471.035 Certain products excepted from liquor laws. No provision of the Liquor Control Act shall, by reason only that such product contains alcoholic liquor, prevent the sale of any perfume, lotion, tincture,

varnish, dressing fluid, extracts, acid vinegar, or of any official medicinal or pharmaceutical preparations, or of any patent or proprietary medicine intended solely for medicinal purposes.

471.038 Nonbeverage food products. (1) Nonbeverage food products described in subsection (6) of this section may be sold at retail by any holder of a license issued by the Oregon Liquor Control Commission that authorizes the sale of alcoholic liquor at retail, or in any store operated by the commission under the provisions of ORS 471.750. Any nonbeverage food product containing more than one-half of one percent of alcohol by volume must be clearly labeled to reflect the alcohol content of the product and clearly labeled on the front of the package to indicate that the product may not be sold to persons under 21 years of age.

(2) Except as provided by this section, sales of nonbeverage food products described in subsection (6) of this section are subject to all provisions of this chapter, including the prohibitions on sales to persons under 21 years of age and the prohibitions on sales to persons who are visibly intoxicated.

(3) Nonbeverage food products described in subsection (6) of this section may be imported, stored and distributed in this state without a license issued by the commission. Nonbeverage food products described in subsection (6) of this section are not subject to the privilege taxes imposed by ORS chapter 473.

(4) Manufacturers of nonbeverage food products described in subsection (6) of this section are not subject to the provisions of ORS 471.392 to 471.400, 471.485, 471.490 or 471.495 or any other provision of this chapter relating to manufacturers of alcoholic liquor. A manufacturer of nonbeverage food products described in subsection (6) of this section may sell and deliver the product directly to a licensee authorized under this section to sell the product at retail.

(5) The holder of a distillery license issued under ORS 471.230 who is also a manufacturer of nonbeverage food products described in subsection (6) of this section may purchase distilled liquor directly from other distilleries.

(6) The provisions of this section apply only to nonbeverage food products that contain not more than five percent alcohol by weight or 10 percent alcohol by volume, whichever is greater. [1995 c.250 §2; 1997 c.249 §169; 1997 c.258 §1; 1999 c.351 §43]

471.039 Certain cruise ships exempt from liquor laws. (1) Notwithstanding any provision of this chapter, the Oregon Liquor Control Commission may not require the owners, operators and employees of a cruise ship to have a license or permit issued under the provisions of this chapter for the purpose of possessing, transporting, storing, selling or serving alcoholic beverages that are described in subsection (3) of this section.

(2) The provisions of ORS 471.740 do not apply to alcoholic beverages that are described in subsection (3) of this section.

(3) The provisions of this section apply only to alcoholic beverages that are served aboard a cruise ship and that are served solely for the purpose of onboard consumption by a cruise ship's passengers, guests, officers and employees.

(4) For the purposes of this section, "cruise ship" means a marine vessel used primarily for nonfishing purposes that is licensed to carry at least 500 passengers, provides overnight accommodations for those passengers and operates on the rivers or waterways within the boundaries of the State of Oregon, including docking and dry docking, fewer than 45 days during a calendar year. [1997 c.256 §2; 1999 c.351 §44]

471.040 General powers and duties of the commission; rules; delegation. (1) The Oregon Liquor Control Commission has the powers and duties specified in this chapter and ORS 474.105 and 474.115, and also the powers necessary or proper to enable it to carry out fully and effectually all the purposes of this chapter and ORS 474.105 and 474.115. It shall make such rules and regulations pertaining to natural and fortified wines as will prevent the importation and sale in Oregon of blended, rectified, adulterated or low-quality wines. The jurisdiction, supervision, powers and duties of the commission extend to any person who buys, sells, manufactures, imports or transports any alcoholic liquor within this state. The commission may sue and be sued.

(2) Except for the power to adopt rules, the commission may delegate any of the commission's powers or duties to the administrator appointed under ORS 471.720. [Amended by 2001 c.785 §10]

471.045 Liquor laws supersede and repeal inconsistent charters and ordinances. The Liquor Control Act, designed to operate uniformly throughout the state, shall be paramount and superior to and shall fully replace and supersede any and all municipal charter enactments or local ordinances inconsistent with it. Such charters and ordinances hereby are repealed.

PURCHASER'S QUALIFICATIONS AND IDENTIFICATION

471.105 Purchaser's qualifications. Before being qualified to purchase alcoholic liquor from the Oregon Liquor Control Commission, a person must be over 21 years of age. [Amended by 1961 c.687 §5; 1967 c.577 §1; 1971 c.159 §1]

471.110 [Amended by 1961 c.259 §3; repealed by 1967 c.577 §10]

471.115 Limitations on purchasing may be imposed. The Oregon Liquor Control Commission may limit the quantity of alcoholic liquor purchased at any one time by any person. It may limit the amount of purchases within any length of time so as effectually to prevent the resale of such liquors.

471.120 [Repealed by 1967 c.577 §10]

471.125 [Amended by 1967 c.577 §2; repealed by 1971 c.159 §9]

471.130 Requiring statement of age or identification from certain purchasers. (1) All licensees and permittees of the Oregon Liquor Control Commission, before selling or serving alcoholic liquor to any person about whom there is any reasonable doubt of the person's having reached 21 years of age, shall require such person to produce one of the following pieces of identification:

(a) The person's passport.

(b) The person's motor vehicle operator's license, whether issued in this state or by any other state, so long as the license has a picture of the person.

(c) An identification card issued under ORS 807.400.

(d) A United States military identification card.

(e) Any other identification card issued by a state that bears a picture of the person, the name of the person, the person's date of birth and a physical description of the person.

(2) If a person does not have identification as described in subsection (1) of this section, the permittee or licensee shall require such person to make a written statement of age and furnish evidence of the person's true age and identity. The written statement of age shall be on a form furnished or approved by the commission, including but not limited to the following information:

Date _____

I am 21 years of age or over. _____
Signature

Description of evidence in support of age and identity:

_____ Identification No. (if any) _____

_____ Identification No. (if any) _____

(Fill in information pertaining to any two or more pieces of evidence submitted by the person.)

I hereby certify that I have accurately recorded identification of the evidence submitted to complete this form.

_____
Signature of permittee or licensee

ORS 165.805 provides as follows:

165.805. (1) A person commits the crime of misrepresentation of age by a minor if:

(a) Being less than a certain, specified age, the person knowingly purports to be of any age other than the person's true age with the intent of securing a right, benefit or privilege which by law is denied to persons under that certain, specified age; or

(b) (Not applicable.)

(2) Misrepresentation of age by a minor is a Class C misdemeanor.

[Amended by 1955 c.525 §1; 1961 c.687 §4; 1967 c.171 §1; 1967 c.577 §7; 1979 c.313 §1; 1983 c.338 §939; 1995 c.44 §1; 1999 c.526 §1; 2001 c.785 §6; 2003 c.225 §1]

471.135 False statement of age; statement of age as defense. (1) No person shall make a written statement of age under ORS 471.130 that is false in whole or in part, or produce any evidence that would falsely indicate the person's age.

(2) If a written statement of age and the information pertaining to the evidence which was exhibited to the permittee or licensee at the time the statement was made that is entered in writing on the statement, are offered as evidence in any administrative or criminal prosecution for sale or service of alcoholic liquor to a person not having reached 21 years of age, the permittee or licensee shall be found to have committed no crime or other wrong unless it is demonstrated that a reasonable person would have determined that the identification exhibited was altered or did not accurately describe the person to whom the alcoholic liquor was sold or served. [Amended by 1955 c.525 §2; 1967 c.53 §1; 1979 c.313 §2]

471.140 [1961 c.687 §2; 1963 c.93 §3; 1971 c.433 §1; repealed by 1979 c.313 §10]

471.143 [1963 c.93 §2; 1967 c.569 §1; 1971 c.159 §2; 1979 c.313 §4; repealed by 1979 c.313 §11]

471.145 [1961 c.687 §§3,6; 1963 c.93 §4; repealed by 1979 c.313 §11]

471.150 [1961 c.687 §7; 1963 c.93 §5; 1967 c.569 §2; 1971 c.159 §3; repealed by 1979 c.313 §11]

LIQUOR LICENSES

(Generally)

471.155 Commission's licensing duties; bonds. (1) The Oregon Liquor Control Commission shall provide for the licensing of persons and cities within the state to manufacture, distribute, take orders for and sell

spirits, wines, beer and other alcoholic liquors. Except as provided in subsection (2) of this section, every licensee or applicant for a brewery, winery, wholesale, warehouse, grower sales privilege or brewery-public house license shall give, and at all times maintain on file with the commission, a bond with a corporate surety authorized to transact business in this state. The bond shall be in form and amount acceptable to the commission, shall be payable to the commission and conditioned that such licensee or applicant will pay any fine imposed for any violation of any provision of the Liquor Control Act and that the licensee or applicant will pay all license fees, privilege taxes, taxes on alcoholic liquors, together with penalties and interest thereon, levied or assessed against the licensee or applicant under statutes relating to the importation, manufacture, distribution, sale or taxation of alcoholic liquors in the State of Oregon.

(2) Under such conditions as the commission may prescribe, a brewery, winery, wholesale, warehouse, grower sales privilege or brewery-public house licensee or applicant may deposit in lieu of the bond required by subsection (1) of this section, the equivalent value in cash, bank letters of credit recognized by the State Treasurer or negotiable securities of a character approved by the State Treasurer. The deposit is to be made in a bank or trust company for the benefit of the commission. Interest on deposited funds or securities shall accrue to the depositor. [Formerly 471.210]

471.157 Licenses issuable. The licenses described in this chapter may be issued by the Oregon Liquor Control Commission, subject to its regulations and restrictions and the provisions of the Liquor Control Act and the Oregon Distilled Liquor Control Act. [Formerly 471.215]

471.159 Enclosure of licensed premises. (1) The Oregon Liquor Control Commission may not license a location that does not have defined boundaries.

(2) A licensed premises need not be enclosed by a wall, fence or other structure, but the commission may require that any licensed premises be enclosed as a condition of issuing or renewing a license.

(3) Except as provided in ORS 471.182, the commission may not license premises that are mobile. [1999 c.351 §14 (enacted in lieu of 471.017)]

471.162 Persons exempted from license requirement. (1) Hospitals, sanitariums, convalescent homes, rest homes, retirement homes and facilities for the care of the elderly that have been licensed or registered by the state may sell and serve alcoholic beverages to patients, inmates and residents, and to bona fide visitors and guests of patients, inmates and residents, without a license issued under this chapter. Facilities authorized to sell and serve alcoholic beverages without a license under this subsection may not sell or serve alcoholic beverages after 10 p.m. except upon a physician's prescription.

(2) A person who operates a private residence that is not a boarding house but that accommodates transient guests for a limited duration may sell and serve wine, malt beverages and cider to registered overnight guests without a license. Facilities authorized to sell and serve alcoholic beverages without a license under this subsection must have six or fewer guest units.

(3) A person who is an employee or agent of the holder of a license issued under this chapter that authorizes wholesale distribution of alcoholic beverages may, on behalf of the licensee, sell alcoholic beverages in factory-sealed containers to retail licensees and wholesalers.

(4) A pharmacist licensed under the laws of this state may sell alcoholic beverages without a license. Pharmacists may only sell alcoholic beverages under the provisions of this section if the alcoholic beverages are drugs as defined in ORS 689.005. A pharmacist may sell alcoholic beverages under the provisions of this subsection pursuant to a prescription, in containers of not more than one quart capacity.

(5) A wine collector, or the agent of a wine collector, may sell wine in factory-sealed containers at auction without a license. Any wine sold under this subsection must have been held by the collector for at least a six-month period. A wine collector must receive written approval from the Oregon Liquor Control Commission before conducting a sale under this subsection. No more than one sale in a 12-month period may be conducted by a wine collector under the provisions of this subsection.

(6) A nonprofit or charitable organization registered with the state may sell wine and malt beverages in factory-sealed containers at auction without a license. The organization must receive written approval from the commission before conducting a sale under this subsection. No more than one sale in a 12-month period may be conducted by an organization under the provisions of this subsection.

(7) A manufacturer may sell proprietary or patent medicines, perfumes, lotions, flavoring extracts, medicinal tinctures and other preparations unfit for beverage purposes without a license. [1999 c.351 §10]

(Authority of Cities and Counties)

471.164 Authority of cities and counties over establishments that offer entertainment or serve alcoholic beverages. (1) Cities and counties may adopt reasonable time, place and manner regulations of the nuisance aspects of establishments that offer entertainment or serve alcoholic beverages if the city or county makes specific findings that the establishment would cause adverse effects to occur.

(2) The authority granted to cities and counties by this section is in addition to, and not in lieu of, the authority granted to a city or county under its charter and the statutes and Constitution of this state. [Formerly 471.213]

471.166 Local government recommendations on license issuance and renewal; rules; fees. (1) The Oregon Liquor Control Commission may require that every applicant for issuance or renewal of a license under this chapter acquire a written recommendation from the governing body of the county if the place of business of the applicant is outside an incorporated city, and from the city council if the place of business of the applicant is within an incorporated city. The commission may take such written recommendation into consideration before granting or refusing the license.

(2) If the commission requires that an applicant for issuance of a new license acquire the written recommendation of a local government, the applicant must give notice to the local government when an application is made for issuance of the license. If the local government files a favorable recommendation with the commission within 45 days after the notice is given, the commission shall proceed with consideration of the application. The commission shall proceed with consideration of the application as though the local government had made a favorable recommendation unless, within 45 days after notice is given to the local government:

(a) The local government files an unfavorable recommendation with the commission with a statement of the grounds for the unfavorable recommendation; or

(b) The local government files a request for additional time with the commission that sets forth the reason additional time is needed by the local government, a statement that the local government is considering making an unfavorable recommendation on the application, and the specific grounds on which the local government is considering making an unfavorable recommendation.

(3) If the commission requires that an applicant for renewal of a license acquire the written recommendation of a local government under this section, the commission shall give notice to the local government when an application is due for renewal of the license. If the local government files a favorable recommendation with the commission within 60 days after the notice is given, the commission shall proceed with consideration of the application. The commission shall proceed with consideration of the application as though the local government had made a favorable recommendation unless within 60 days after notice is given to the local government:

(a) The local government files an unfavorable recommendation with the commission with a statement of the grounds for the unfavorable recommendation; or

(b) The local government files a request for additional time with the commission that sets forth the reason additional time is needed by the local government, a statement that the local government is considering making an unfavorable recommendation on the application, and the specific grounds on which the local government is considering making an unfavorable recommendation.

(4) The commission shall suspend consideration of an application subject to this section for a reasonable period of time if a local government requests additional time under subsection (2)(b) or (3)(b) of this section and the grounds given by the local government are valid grounds for an unfavorable determination under this chapter or rules adopted by the commission. The commission shall by rule establish the period of time that shall be granted to a local government pursuant to a request under subsections (2)(b) and (3)(b) of this section.

(5) The commission shall by rule establish valid grounds for unfavorable recommendations by local governments under this section. Valid grounds established by the commission under this section for an unfavorable recommendation by a local government must be limited to those grounds considered by the commission in making an unfavorable determination on a license application.

(6) A person filing an application for issuance or renewal of a license that is subject to this section must remit to the local government the fees established under subsections (7) and (8) of this section. The commission shall give notice to the applicant for license renewal of the amount of the fees and the name of the local government collecting the fees. The commission is not responsible for collecting the fees charged by the local government or for ensuring that the fees have been paid. An applicant for a license renewal shall certify in the application

form filed with the commission that the applicant has paid any fees required under this section.

(7) An applicant required to seek a written recommendation from a local government must pay an application fee to the local government, in an amount determined by the governing body of the city or county, for each application for a license. The application fee established by a local government under this subsection may not exceed $25.

(8) After public notice and hearing, the governing body of a city or county may adopt an ordinance, rule or resolution prescribing licensing guidelines to be followed in making recommendations on license applications under this chapter and in allowing opportunity for public comment on applications. If the guidelines are approved by the commission as consistent with commission rules, after public notice and hearing the governing body may adopt an ordinance, rule or regulation establishing a system of fees that is reasonable and necessary to pay expenses of processing the written recommendation. Processing fees under this subsection are in lieu of fees under subsection (7) of this section. In no case shall the processing fee under this subsection be greater than $100 for an original application, $75 for a change in ownership, change in location or change in privilege application, and $35 for a renewal or temporary application. [1999 c.351 §20; 2003 c.337 §1]

(Mandatory Liability Insurance)

471.168 Certain licensees required to maintain liquor liability insurance or bond. (1) For the purpose of providing coverage for injuries suffered by persons by reason of the conduct of intoxicated persons who were served alcoholic beverages on licensed premises while visibly intoxicated, all persons holding a license described in this section must either:

(a) Maintain liquor liability insurance of not less than $300,000; or

(b) Maintain a bond with a corporate surety authorized to transact business in this state in the amount of not less than $300,000.

(2) The Oregon Liquor Control Commission may by rule require liquor liability insurance or bond in an amount larger than the minimum amount provided for in subsection (1) of this section.

(3) The requirements of this section apply to full on-premises sales licenses, limited on-premises sales licenses and brewery-public house licenses. The requirements of this section apply to temporary sales licenses, special events winery licenses and special events grower sales privilege licenses if the event that is licensed is open to the public and attendance at the event is anticipated to exceed 300 individuals per day.

(4) The requirements of this section apply to winery licenses, brewery licenses and grower sales privilege licenses unless an applicant for issuance of the license or renewal of the license submits with the application for issuance or renewal of the license an affidavit that states that the licensee will not allow consumption of alcoholic beverages on the premises.

(5) All licensees subject to the requirements of this section must supply proof of compliance at the time the license is issued or renewed. The commission by rule shall determine the manner in which proof of compliance may be made under the provisions of this subsection. [Formerly 471.218]

(Retail Licenses)

471.175 Full on-premises sales license. (1) The holder of a full on-premises sales license may sell by the drink at retail wine, malt beverages, cider and distilled liquor. Except as provided in this section, all alcoholic beverages sold under a full on-premises sales license must be consumed on the licensed premises.

(2) A full on-premises sales license may be issued only to:

(a) Private clubs as described in subsection (8) of this section.

(b) Public passenger carriers as provided in ORS 471.182.

(c) Commercial establishments as defined in ORS 471.001 (2).

(d) Public locations, other than those described in paragraphs (a) to (c) of this subsection, where food is cooked and served, and other food service amenities are provided, as prescribed by rules of the Oregon Liquor Control Commission.

(e) A caterer, subject to the requirements of ORS 471.184.

(3) The holder of a full on-premises sales license shall allow a patron to remove a partially consumed bottle of wine from the licensed premises if the wine is served in conjunction with the patron's meal, the patron is not a minor and the patron is not visibly intoxicated.

(4) The holder of a full on-premises sales license is entitled to purchase any distilled liquor from an agent of the commission appointed pursuant to ORS 471.750 at a discount of not more than five percent off the regular listed price fixed by the commission, together with all taxes, in a manner prescribed by commission rule. For purposes of compensation by the commission, the ap-

pointed agent shall be credited with such sales at full retail cost.

(5) The holder of a full on-premises sales license may purchase distilled liquor only from a retail sales agent of the commission or from another person licensed under this section who has purchased the distilled liquor from a retail sales agent of the commission.

(6) The holder of a full on-premises sales license may sell factory-sealed containers of wine to a person who organizes a private gathering on the licensee's premises if the wine was acquired as part of a larger purchase of wine by the licensee for the purpose of the gathering and only part of the larger purchase was consumed at the gathering. Wine sold under this subsection may be sold only for an amount adequate to compensate the licensee for the amounts paid by the licensee for the wine.

(7) The holder of a full on-premises sales license may sell malt beverages for consumption off the licensed premises in securely covered containers provided by the purchaser. Containers that hold beverages sold under this subsection may not hold more than two gallons.

(8) A private club, including fraternal and veterans organizations, may qualify for a full on-premises sales license under this section only if the club meets minimum membership, charter time and food service requirements set by commission rule and the club is an association of persons, whether incorporated or unincorporated, for the promotion of some common object, not including associations organized for any commercial or business purpose the object of which is money profit, owning, hiring or leasing a building or space in a building, of such extent and character as in the judgment of the commission may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests and provided with suitable and adequate space and equipment, implements and facilities, and employing a sufficient number of servants or employees for serving food and meals for its members and their guests; provided that no member or any officer, agent or employee of the club is paid, or directly or indirectly receives in the form of salary or other compensation, any profits from the disposition or sale of alcoholic liquor to the club or to the members of the club or its guests introduced by members, beyond the amount of such salary as may be fixed and voted on at annual meetings by the members, directors or other governing body of the club, and that, in the judgment of the commission, shall be reasonable and proper compensation for the services of such member, officer, agent or employee. [1999 c.351 §2; 2001 c.104 §213; 2001 c.154 §1]

471.178 Limited on-premises sales license. (1) The holder of a limited on-premises sales license may sell by the drink at retail wine, malt beverages and cider. Except as provided in this section, all alcoholic beverages sold under a limited on-premises sales license must be consumed on the licensed premises.

(2) The holder of a limited on-premises sales license may sell malt beverages in factory-sealed containers for consumption off the licensed premises. Containers sold under this subsection may not hold less than seven gallons per container.

(3) The holder of a limited on-premises sales license may sell malt beverages for consumption off the licensed premises in securely covered containers provided by the purchaser. Containers that hold beverages sold under this subsection may not hold more than two gallons.

(4) The holder of a limited on-premises sales license shall allow a patron to remove a partially consumed bottle of wine from the licensed premises if the wine is served in conjunction with the patron's meal, the patron is not a minor and the patron is not visibly intoxicated.

(5) Sales of alcoholic beverages under a limited on-premises sales license must consist principally of sales by the drink for consumption on the licensed premises. [1999 c.351 §3; 2001 c.154 §2]

471.180 In-room supply of alcoholic beverages by hotel or arena. A full or limited on-premises sales license issued to a hotel or arena under the provisions of this chapter authorizes the person to whom the license is issued to provide for in-room supplies of the alcoholic beverages otherwise authorized to be sold under the license. Any in-room supply of alcoholic beverages that are available for purchase by patrons of the hotel or arena shall be kept in a locked cabinet, and shall conform with any rules that the Oregon Liquor Control Commission may promulgate to ensure the enforcement of other provisions of this chapter. [Formerly 471.307]

471.182 Issuance of full or limited on-premises sales license to public passenger carrier. (1) The Oregon Liquor Control Commission may grant a full or limited on-premises sales license to the owner or operator of a licensed public passenger carrier only as specified in this section. A public passenger carrier licensed by the commission under this section must serve food as required by rules of the commission.

(2) The commission may issue a full on-premises sales license to:

(a) An airline for use in operating aircraft that are licensed to carry at least 40 passengers and that arrive at or depart from an airport in this state.

(b) A railroad corporation for use in operating passenger trains in this state.

(c) The owner or operator of one or more tour boats that are licensed to carry at least 40 passengers to or from any port of this state and that are primarily used for non-fishing purposes.

(3) The commission may issue a limited on-premises sales license to any of the persons specified in subsection (2) of this section. In addition, the commission may issue a limited on-premises sales license to the owner or operator of a licensed public passenger carrier not described in subsection (2) of this section if the carrier is a mobile vehicle that is licensed to carry at least 40 passengers. [1999 c.351 §4]

471.184 Catering and other temporary off-premises service under full or limited on-premises sales license. (1) The holder of a full or limited on-premises sales license may cater a temporary event at a location other than the licensed premises if the event is not open to the general public. Catering of an event under this subsection must be pursuant to a contract with a client. The contract must provide that the licensee will furnish food and beverage services for no more than 100 patrons. The licensee must serve food as required by rules of the commission. The licensee may cater events under this subsection without giving advance notice to the Oregon Liquor Control Commission if, before the event occurs, the commission gives written approval to the licensee authorizing catering pursuant to this subsection. Events catered under the provisions of this subsection must meet all requirements for enclosure of premises that may be imposed by the commission for the purposes of this section. Notwithstanding ORS 471.175 (3) and (7) and 471.178 (2) to (4), the licensee may not permit patrons of the event to remove any alcoholic beverages from the premises of the event.

(2) In addition to catered events under subsection (1) of this section, the commission may by rule allow the exercise of the privileges of a full or limited on-premises sales license at temporary events held at locations other than the licensed premises. The commission may:

(a) Require notice to the commission before the exercise of license privileges at temporary events under this subsection;

(b) Require that written approval by the commission be obtained before the exercise of license privileges at temporary events under this subsection;

(c) Establish eligibility criteria for the exercise of license privileges at temporary events under this subsection; and

(d) Establish fees reasonably calculated to cover administrative expenses incurred by the commission in administering this subsection. [1999 c.351 §5; 2001 c.154 §3]

471.186 Off-premises sales license. (1) The holder of an off-premises sales license may sell factory-sealed containers of wine, malt beverages and cider. Containers of malt beverages sold under the license may not hold more than two and one-quarter gallons.

(2) The holder of an off-premises sales license may provide sample tasting of alcoholic beverages on the licensed premises if the licensee makes written application to the Oregon Liquor Control Commission and receives approval from the commission to conduct tastings on the premises. Tastings must be limited to the alcoholic beverages that may be sold under the privileges of the license.

(3) An off-premises sales license may not be issued for use at a premises that is mobile.

(4) Except as provided in ORS 471.402, a manufacturer or wholesaler may not provide or pay for sample tastings of alcoholic beverages for the public on premises licensed under an off-premises sales license. [1999 c.351 §6]

471.190 Temporary sales license; rules. (1) The holder of a temporary sales license may sell at retail by the drink wine, malt beverages, cider and distilled liquor. Distilled liquor served by the holder of a temporary sales license must be purchased from a retail sales agent of the Oregon Liquor Control Commission. The holder of a temporary sales license must provide food service as required by commission rule.

(2) A temporary sales license may be issued only to:

(a) Nonprofit or charitable organizations that are registered with the state.

(b) A political committee that has filed a statement of organization under ORS 260.039 or 260.042.

(c) State agencies.

(d) Local governments, and agencies and departments of local governments.

(e) Persons not otherwise described in this subsection if, under the rules of the commission applicable to the presence of minor patrons on licensed premises, minor pa-

trons would be allowed to be anywhere on the licensed premises during the time that the event is occurring.

(3) The holder of a temporary sales license may sell or raffle wine, malt beverages or cider in factory-sealed containers for consumption off the licensed premises.

(4) The commission may by rule establish additional eligibility requirements for temporary sales licenses.

(5) Subject to such qualifications as the commission may establish by rule, persons who hold a full or limited on-premises sales license are eligible for temporary sales licenses.

(6) A person holding a temporary sales license is not required to obtain a temporary restaurant license or mobile unit license under ORS chapter 624 if only wine, malt beverages and cider in single-service containers are served and only nonperishable food items that are exempted from licensure by the Department of Human Services are served.

(7) Employees and volunteers serving alcoholic beverages for a nonprofit or charitable organization licensed under this section are not required to have server permits nor to complete an alcohol server education program and examination under ORS 471.542. The commission by rule may establish education requirements for servers described in this subsection. [1999 c.351 §7; 2001 c.263 §1]

(Brewery-Public House License)

471.200 Brewery-public house license. (1) A brewery-public house license shall allow the licensee:

(a) To manufacture annually on the licensed premises, store, transport, sell to wholesale malt beverage and wine licensees of the Oregon Liquor Control Commission and export malt beverages;

(b) To sell malt beverages manufactured on or off the licensed premises at retail for consumption on or off the premises;

(c) To sell malt beverages in brewery-sealed packages at retail directly to the consumer for consumption off the premises;

(d) To sell on the licensed premises at retail malt beverages manufactured on or off the licensed premises in unpasteurized or pasteurized form directly to the consumer for consumption off the premises, delivery of which may be made in a securely covered container supplied by the consumer;

(e) To sell wine and cider at retail for consumption on or off the premises; and

(f) To conduct the activities described in paragraphs (b) to (e) of this subsection at one location other than the premises where the manufacturing occurs.

(2) In addition to the privileges specified in subsection (1) of this section, in any calendar year a brewery-public house licensee may sell at wholesale to licensees of the commission malt beverages produced by the brewery-public house licensee if the brewery-public house licensee produced 1,000 barrels or less of malt beverages in the immediately preceding calendar year.

(3) A brewery-public house licensee, or any person having an interest in the licensee, is a retail licensee for the purposes of ORS 471.394 and, except as otherwise provided by this section and ORS 471.396, may not acquire or hold any right, title, lien, claim or other interest, financial or otherwise, in, upon or to the premises, equipment, business or merchandise of any manufacturer or wholesaler, as defined in ORS 471.392. A brewery-public house licensee, or any person having an interest in the licensee, is also a manufacturer for the purposes of ORS 471.398 and, except as otherwise provided by this section and ORS 471.400, may not acquire or hold any right, title, lien, claim or other interest, financial or otherwise, in, upon or to the premises, equipment, business or merchandise of any other retail licensee, as defined in ORS 471.392.

(4) A brewery-public house licensee, or any person having an interest in the licensee, is a retail licensee for the purposes of ORS 471.398 and, except as otherwise provided by this section and ORS 471.400, may not accept directly or indirectly any financial assistance described in ORS 471.398 from any manufacturer or wholesaler, as defined in ORS 471.392. A brewery-public house licensee, or any person having an interest in the licensee, is also a manufacturer for the purposes of ORS 471.398 and, except as otherwise provided by this section and ORS 471.400, may not provide directly or indirectly any financial assistance described in ORS 471.398 to any retail licensee, as defined in ORS 471.392. The prohibitions on financial assistance in ORS 471.398 do not apply to financial assistance between manufacturing and retail businesses licensed to the same person under the provisions of this section.

(5) Notwithstanding subsection (3) of this section, a brewery-public house licensee, or any person having an interest in the licensee, may also hold a winery license authorized by ORS 471.223. A brewery-public house licensee, or any person having an interest in the licensee, may also hold a warehouse license authorized by ORS 471.242.

(6) Notwithstanding subsection (3) of this section, a brewery-public house licensee is

eligible for limited on-premises sales licenses and temporary sales licenses.

(7)(a) Notwithstanding subsection (3) of this section, and except as provided in this subsection, a brewery-public house licensee, or any person having an interest in the licensee, may also hold a full on-premises sales license. If a person holds both a brewery-public house license and a full on-premises sales license, nothing in this chapter shall prevent the sale by the licensee of both distilled liquor and malt beverages manufactured under the brewery-public house license.

(b) The commission may not issue a full on-premises sales license to a brewery-public house licensee under the provisions of this subsection if the brewery-public house licensee, or any person having an interest in the licensee or exercising control over the licensee, is a brewery that brews more than 200,000 barrels of malt beverages annually or a winery that produces more than 200,000 gallons of wine annually.

(c) The commission may not issue a full on-premises sales license to a brewery-public house licensee under the provisions of this subsection if the brewery-public house licensee, or any person having an interest in the licensee or exercising control over the licensee, is a distillery, unless the distillery produces only pot distilled liquor and produces no more than 12,000 gallons of pot distilled liquor annually.

(8) Notwithstanding any other provision of this chapter, a brewery-public house licensee, or any person having an interest in the licensee, may also hold a distillery license if the licensee produces only pot distilled liquor, and produces no more than 12,000 gallons of pot distilled liquor annually. No provision of this chapter prevents a brewery-public house licensee from becoming a retail sales agent of the commission for the purpose of selling distilled liquors.

(9) Notwithstanding subsection (3) of this section, the commission by rule may authorize a brewery-public house licensee to coproduce special events with other manufacturers.

(10)(a) Notwithstanding subsection (3) of this section, a brewery-public house licensee may hold, directly or indirectly, an interest in a manufacturer or wholesaler, provided that the interest does not result in exercise of control over, or participation in the management of, the manufacturer's or wholesaler's business or business decisions and does not result in exclusion of any competitor's brand of alcoholic liquor.

(b) Notwithstanding subsection (3) of this section, a manufacturer or wholesaler, and any officer, director or substantial stockholder of any corporate manufacturer or wholesaler, may hold, directly or indirectly, an interest in a brewery-public house licensee, provided that the interest does not result in exercise of control over, or participation in the management of, the licensee's business or business decisions and does not result in exclusion of any competitor's brand of alcoholic liquor.

(11) For purposes of ORS chapter 473, a brewery-public house licensee shall be considered to be a manufacturer. [Formerly 471.253; 2003 c.15 §1]

471.205 [Amended by 1999 c.351 §15; renumbered 471.403 in 1999]

471.210 [Amended by 1967 c.359 §693; 1977 c.518 §3; 1979 c.45 §1; 1979 c.264 §5a; 1983 c.691 §1; 1983 c.740 §187; 1985 c.591 §1; 1987 c.511 §1; 1989 c.48 §1; 1995 c.301 §54; 1999 c.351 §21; renumbered 471.155 in 1999]

471.213 [1989 c.846 §16; renumbered 471.164 in 1999]

471.215 [Amended by 1957 c.223 §1; 1995 c.301 §55; 1999 c.351 §45; renumbered 471.157 in 1999]

471.217 [1967 c.173 §2; 1974 c.4 §1; 1977 c.332 §3; repealed by 1979 c.264 §14]

471.218 [1997 c.841 §4; 1999 c.351 §22; renumbered 471.168 in 1999]

(Manufacturing and Wholesale Licenses)

471.220 Brewery license. (1) A brewery license shall allow the manufacture, importation, storage, transportation, wholesale sale and distribution to licensees of the Oregon Liquor Control Commission, and the export of malt beverages. Except as specifically provided in this section, no brewery licensee shall sell any malt beverages to be consumed on the licensed premises. No brewery licensee shall sell within the State of Oregon any beer containing more than six percent alcohol by volume.

(2) A brewery licensee may:

(a) Sell malt beverages brewed on the licensed premises for consumption on the licensed premises; and

(b) Sell malt beverages brewed on the licensed premises and containing not more than eight percent alcohol by volume, in quantities of not less than five gallons, to an unlicensed organization, lodge, picnic party or private gathering. Such malt beverages shall not be sold by any such unlicensed group. [Amended by 1955 c.657 §1; 1977 c.332 §4; 1979 c.264 §4; 1987 c.608 §5; 1989 c.785 §11; 1991 c.545 §1; 1993 c.663 §1; 1995 c.301 §14; 1997 c.257 §1; 1999 c.351 §15b]

471.223 Winery license. (1) A winery license shall allow the licensee:

(a) To import, bottle, produce, blend, store, transport or export wines or cider.

(b) To sell wines or cider at wholesale to the Oregon Liquor Control Commission or to licensees of the commission.

(c) To sell wines or cider at retail directly to the consumer for consumption on or off the licensed premises.

(d) To sell malt beverages at retail for consumption on or off the licensed premises.

(e) To conduct the activities allowed under paragraph (a), (b), (c) or (d), or all, of this subsection at a second or third premises as may be designated by the commission.

(f) To purchase from or through the commission brandy or other distilled liquors for fortifying wines.

(g) To obtain a special events winery license that shall entitle the holder to conduct the activities allowed under paragraph (c) of this subsection at a designated location other than the one set forth in the winery license for a period not to exceed five days.

(2) In order to hold a winery license the licensee shall principally produce wine or cider in this state.

(3) On and after July 1, 1990, a winery licensee is not authorized to import wine or cider in bottles unless the brand of wine or cider is owned by the licensee.

(4) A winery licensee is authorized to ship not more than two cases of wine or cider per month for personal use and not for resale, containing not more than nine liters per case to any resident of this state who is at least 21 years of age. The shipping container of any wine or cider shipped under this subsection must be clearly labeled to indicate that the container contains alcoholic beverages and cannot be delivered to a person who is not at least 21 years of age or to a person who is visibly intoxicated. Orders for shipments under this subsection may be taken by phone, mail or any other form of communication.

(5)(a) Except as provided in paragraph (b) of this subsection, a winery licensee, or any person having an interest in the licensee, may also hold a full on-premises sales license. If a person holds both a winery license and a full on-premises sales license, nothing in this chapter shall prevent the sale by the licensee of both distilled liquor and wine or cider bottled and produced under the winery license.

(b) The commission may not issue a full on-premises sales license to a winery licensee under the provisions of this subsection if the winery licensee, or any person having an interest in the licensee or exercising control over the licensee, is a distillery, a brewery that brews more than 200,000 barrels of malt beverages annually or a winery that produces more than 200,000 gallons of wine or cider annually.

(6) More than one winery licensee may exercise the privileges of a winery license at a single location. The commission may not refuse to issue a winery license to a person for the production of wine or cider on specified premises based on the fact that other winery licensees also produce wine or cider on those premises. [1979 c.264 §2; 1981 c.201 §1; 1989 c.511 §5; 1993 c.202 §1; 1993 c.663 §3; 1995 c.34 §1; 1995 c.188 §1; 1995 c.301 §15; 1999 c.431 §§1,3; 2003 c.44 §1]

471.225 [Amended by 1977 c.332 §5; repealed by 1979 c.264 §14]

471.227 Grower sales privilege license. (1) A grower sales privilege license shall allow the licensee to perform the following activities only for fruit or grape wine or cider where all of the fruit or grapes used to make the wine or cider are grown in Oregon under the control of the licensee:

(a) To import, store, transport or export such wines or cider.

(b) To sell such wines or cider at wholesale to the Oregon Liquor Control Commission or licensees of the commission.

(c) To sell such wines or cider at retail directly to the consumer for consumption on or off the licensed premises.

(d) To conduct the activities allowed under paragraph (a), (b) or (c), or all, of this subsection at a second or third premises as may be designated by the commission.

(e) To obtain a special events grower sales privilege license which shall entitle the holder to conduct the activities allowed under paragraph (c) of this subsection at a designated location other than the one set forth in the grower sales privilege license for a period not to exceed five days.

(2) For purposes of ORS 471.392 to 471.400, a grower sales privilege licensee shall be considered a manufacturer.

(3) A person holding a winery license in another state is not eligible for a license under this section.

(4) A person licensed under this section is not eligible for a limited on-premises sales license or an off-premises sales license.

(5) As used in this section, "control" means the grower either owns the land upon which the fruit or grapes are grown or has a legal right to perform or does perform all of the acts common to fruit farming or viticulture under terms of a lease or similar agreement of at least three years' duration.

(6) For the purposes of tax reporting, payment and record keeping, the provisions of law that shall apply to a manufacturer under ORS chapter 473 shall apply to a grower sales privilege licensee, but such a licensee is not a manufacturer for purposes of ORS 473.050 (5). [1989 c.740 §2; 1995 c.58 §2; 1995 c.301 §82; 1999 c.351 §23a]

471.229 Reciprocal interstate shipment and receipt of wine or cider authorized; labeling; license requirement for out-of-state shippers. (1) Any resident of this state who is at least 21 years of age is entitled to receive not more than two cases of wine or cider per month for personal use, containing not more than nine liters per case, from another state without payment of additional state tax, fees or charges if the state from which the wine or cider is sent allows its residents to receive wine or cider from this state without imposition of state tax, fees or charges. For privilege tax purposes, receipt of a shipment into this state under this subsection shall not be considered to constitute a sale in this state. No person who transports wine or cider pursuant to this section shall deliver more than two cases of wine or cider to the same address at one time. No person who receives wine or cider pursuant to this section shall resell any of the wine or cider.

(2) A licensee who holds an off-premises sales license or any other license that authorizes retail sale of wine or cider for consumption off the licensed premises may ship not more than two cases of wine or cider, containing not more than nine liters per case, per shipment, for personal use and not for resale, directly to a resident of another state if the state to which the wine or cider is sent allows residents of this state to receive wine or cider sent from that state without payment of additional state tax, fees or charges. The sale shall be considered to have occurred in this state.

(3) The shipping container of any wine or cider sent into or out of this state under this section must be clearly labeled to indicate that the container contains alcoholic beverages and cannot be delivered to a person who is not at least 21 years of age or to a person who is visibly intoxicated.

(4) For purposes of ORS 471.305, an order for wine or cider that is received in writing is a bona fide order.

(5) Sales authorized by this section are sales made by a retailer who is not authorized to sell at wholesale or sales by a winery of wine or cider produced or bottled by the winery.

(6) Out-of-state wine or cider suppliers that supply wine or cider under subsection (1) of this section must obtain a license from the Oregon Liquor Control Commission under procedures prescribed by rule of the commission before selling or soliciting sales of wine or cider in Oregon.

(7) Any person who knowingly or negligently delivers wine or cider under the provisions of this section to a person under 21 years of age, or who knowingly or negligently delivers wine or cider under the provisions of this section to a visibly intoxicated person, violates ORS 471.410, whether or not the person is licensed or appointed under the provisions of this chapter. [1989 c.511 §2; 1995 c.188 §3; 1999 c.351 §24; 2003 c.44 §3]

471.230 Distillery license. (1) A distillery license shall allow the holder thereof to import, manufacture, distill, rectify, blend, denature and store spirits of an alcoholic content greater than 17 percent alcohol by weight, to sell the same to the Oregon Liquor Control Commission, and to transport the same out of this state for sale outside this state. Distillery licensees shall be permitted to purchase from and through the commission alcoholic beverages for blending and manufacturing purposes upon such terms and conditions as the commission may provide. No such licensee shall sell any alcoholic beverage within this state except to the commission or as provided in subsection (2) of this section. However, any agricultural producer or association of agricultural producers or legal agents thereof who manufacture and convert agricultural surpluses, by-products and wastes into denatured ethyl and industrial alcohol for use in the arts and industry shall not be required to obtain a license from the commission.

(2) A distillery licensee that distills brandy or pot distilled liquor may:

(a) Permit tastings of such brandy or pot distilled liquor by visitors on the premises and on at least one other premises owned or leased by the licensee. The licensee must purchase the brandy or pot distilled liquor from the commission.

(b) Apply for appointment as a retail sales agent of the commission for purposes of retailing only brandy or pot distilled liquor that the licensee distilled in Oregon at the two locations at which tastings are permitted pursuant to paragraph (a) of this subsection. [Amended by 1987 c.558 §1; 1995 c.301 §16; 1997 c.803 §1]

471.235 Wholesale malt beverage and wine license. (1) A wholesale malt beverage and wine license shall allow the importation, storage, transportation, wholesale sale and distribution to licensees of the Oregon Liquor Control Commission, and the export of wine, cider and malt beverages, and the importation and sale to the commission and the export of wine of alcoholic content in excess of 21 percent alcohol by volume. No such licensee shall sell any alcoholic liquor for consumption upon the licensed premises. However, a wholesale malt beverage and wine licensee may sell naturally fermented wine or cider in quantities of not less than four gallons nor more than 55 gallons at any one time to consumers for consumption not

on the licensed premises. Wholesale malt beverage and wine licensees may sell malt beverages containing not more than eight percent alcohol by volume in quantities not less than five gallons to any unlicensed organization, lodge, picnic party or private gathering. Such malt beverages shall not be sold by such unlicensed group. A wholesale malt beverage and wine license shall permit the licensee also to sell malt beverages at wholesale only, to persons holding licenses authorizing them to resell such beverages at retail. Employees of wholesale malt beverage and wine licensees may serve sample tastings of malt beverages, cider and wine at alcoholic beverage industry trade shows, seminars and conventions and at alcoholic beverage industry sample tastings for employees of retail licensees.

(2) Nothing in subsection (1) of this section shall be considered to prohibit the transportation or wholesale sale or distribution of malt beverage or wine by a wholesale malt beverage and wine licensee to any alcoholic treatment center licensed by the Department of Human Services.

(3) A wholesale malt beverage and wine licensee may impose an additional handling fee on any wine sold to any retailer in this state if the quantity of wine sold to the retailer is less than the smallest multiple-package case available to be sold and the handling fee is uniform for all licensees. [Amended by 1955 c.657 §2; 1973 c.395 §1; 1974 c.4 §2; 1975 c.123 §1; 1985 c.378 §1; 1987 c.608 §4; 1989 c.178 §8; 1995 c.301 §17; 1999 c.351 §25]

471.240 [Amended by 1955 c.657 §3; 1957 c.223 §2; repealed by 1973 c.395 §10]

471.242 Warehouse license. (1) A warehouse license shall allow the licensee to store, import, bottle, produce, blend, transport and export nontax paid, bonded wine or wine on which the tax is paid and to store, import and export nontax paid malt beverages and cider, or malt beverages and cider on which the tax is paid. Wine, cider and malt beverages may be removed from the licensed premises only for:

(a) Sale for export;

(b) Sale or shipment to a wholesale malt beverage and wine licensee;

(c) Sale or shipment to another warehouse licensee;

(d) Sale or shipment to a winery licensee; or

(e) Shipment of wine or cider produced by a winery licensee to a licensee of the Oregon Liquor Control Commission authorized to sell wine or cider at retail if the shipment is made pursuant to a sale to the retail licensee by a winery licensed under ORS 471.223.

(2) A license applicant must hold an approved registration for a bonded wine cellar or winery under federal law.

(3) For the purposes of tax reporting, payment and record keeping, the provisions that shall apply to a manufacturer under ORS chapter 473 shall apply to a warehouse licensee.

(4) A warehouse must be physically secure in an area zoned for the intended use and be physically separated from any other use.

(5) For purposes of ORS 471.392 to 471.400, a warehouse licensee shall be considered a manufacturer.

(6) For purposes of ORS 473.045, a warehouse licensee shall be considered a winery licensee. [1985 c.628 §2; 1989 c.553 §1; 1995 c.35 §1; 1995 c.301 §83; 1999 c.351 §67]

471.245 [Amended by 1979 c.236 §7; 1981 c.199 §1; repealed by 1999 c.351 §11]

471.250 [Amended by 1965 c.280 §2; 1973 c.395 §2; 1977 c.332 §6; 1981 c.328 §1; 1987 c.608 §6; 1995 c.301 §17a; repealed by 1999 c.351 §8]

471.253 [1985 c.649 §4; 1987 c.608 §1; 1989 c.785 §10; 1991 c.545 §2; 1993 c.418 §1; 1993 c.663 §2; 1995 c.35 §2; 1995 c.301 §84; 1995 c.598 §1; 1995 c.599 §3; 1997 c.803 §2; 1999 c.59 §142; 1999 c.351 §26; renumbered 471.200 in 1999]

471.255 [Repealed by 1965 c.280 §5]

471.257 [1975 c.494 §2; 1987 c.608 §7; 1995 c.301 §17b; repealed by 1999 c.351 §11]

471.259 [1985 c.649 §1; 1987 c.608 §8; 1989 c.171 §65; 1995 c.301 §17c; repealed by 1999 c.351 §11]

471.260 [Amended by 1973 c.395 §3; 1974 c.4 §3; 1985 c.546 §1; 1987 c.608 §9; 1989 c.178 §1; 1993 c.663 §4; 1995 c.58 §1; 1995 c.103 §4; 1995 c.301 §18; 1995 c.791 §1; 1996 c.18 §1; repealed by 1999 c.351 §8]

471.262 [1979 c.172 §2; 1995 c.301 §56; 1999 c.351 §27; renumbered 471.302 in 1999]

471.264 [1981 c.200 §1; 1995 c.301 §38; repealed by 1999 c.351 §8]

471.265 [Amended by 1967 c.580 §1; 1967 c.614 §§1,2; 1971 c.324 §1; 1973 c.103 §1; 1973 c.395 §4; 1985 c.546 §2; 1987 c.558 §2; 1987 c.608 §2; 1995 c.301 §18a; 1997 c.803 §5; repealed by 1999 c.351 §8]

471.267 [1995 c.599 §2; repealed by 1999 c.351 §8]

471.270 [Repealed by 1999 c.351 §11]

471.275 [Amended by 1987 c.608 §10; 1995 c.301 §18b; repealed by 1999 c.351 §8]

471.280 [Repealed by 1999 c.351 §11]

471.285 [Amended by 1955 c.657 §4; 1957 c.221 §1; 1989 c.178 §2; 1997 c.249 §170; repealed by 1999 c.351 §11]

471.287 [1955 c.657 §8; 1957 c.221 §2; 1975 c.470 §1; 1983 c.228 §1; 1987 c.511 §2; 1989 c.178 §3; 1995 c.301 §86; 1997 c.79 §1; repealed by 1999 c.351 §11]

(Certificates of Approval)

471.289 Certificates of approval; special certificates of approval. (1) No licensee of the Oregon Liquor Control Commission shall manufacture, import into, or purchase in the State of Oregon for resale therein any malt beverages, cider or wine unless the manufacturer of such malt bever-

ages, cider or wine has first obtained from the commission a certificate of approval, except that with respect to malt beverages, cider or wine manufactured outside the United States, the certificate of approval may be obtained by the person importing same into the United States. Such certificate of approval shall be granted only to manufacturers or importers who shall have entered into an agreement with the commission to furnish a report to the commission, on or before the 20th day of each month, showing the quantity of malt beverages, cider or wine delivered to each licensee of the commission during the preceding calendar month, and to faithfully comply with all laws of the State of Oregon pertaining to traffic in malt beverages, cider or wine. If any holder of such certificate, or any officer, agent or employee of such holder, shall violate any term or provision of such agreement, or submit any false or fictitious report, the commission may, in its discretion, suspend or revoke such certificate.

(2) The commission may grant special certificates of approval to manufacturers and importers of malt beverages, cider or wine. A special certificate of approval has the effect of a certificate of approval granted under subsection (1) of this section, but is valid only for a period of 30 days. [1955 c.657 §6; 1957 c.111 §1; 1973 c.131 §1; 1979 c.264 §6; 1995 c.103 §1; 1999 c.351 §68]

471.290 [Amended by 1955 c.657 §9; 1957 c.111 §2; 1965 c.280 §3; 1967 c.28 §1; 1967 c.448 §1; 1971 c.470 §1; 1973 c.313 §1; 1973 c.395 §5; 1975 c.494 §3; 1979 c.264 §7; 1981 c.598 §1; 1985 c.360 §1; 1985 c.591 §2; 1985 c.628 §3; 1985 c.649 §2; 1989 c.178 §4; 1989 c.553 §2; 1989 c.740 §3; 1995 c.58 §3; 1995 c.103 §2; 1995 c.301 §57; 1995 c.363 §3; 1997 c.249 §171; 1997 c.284 §3; 1999 c.351 §18; renumbered 471.311 in 1999]

LICENSING PROCEDURES

(Generally)

471.292 Characteristics of license. (1) A license granted under the Liquor Control Act or the Oregon Distilled Liquor Control Act shall:

(a) Be a purely personal privilege.

(b) Be valid for the period stated in the license.

(c) Be renewable in the manner provided in ORS 471.311, except for a cause which would be grounds for refusal to issue such license under ORS 471.313.

(d) Be revocable or suspendible as provided in ORS 471.315.

(e) Be transferable from the place for which the license was originally issued to another location subject to the provisions of the Liquor Control Act, the Oregon Distilled Liquor Control Act, any rules of the Oregon Liquor Control Commission and any municipal ordinance or local regulation.

(f) Cease upon the death of the licensee, except as provided in subsection (2) of this section.

(g) Not constitute property.

(h) Not be alienable.

(i) Not be subject to attachment or execution.

(j) Not descend by the laws of testate or intestate devolution.

(2) The commission may, by order, provide for the manner and conditions under which:

(a) Alcoholic liquors left by any deceased, insolvent or bankrupt person or licensee, or subject to a security interest, may be foreclosed, sold under execution or otherwise disposed of.

(b) The business of any deceased, insolvent or bankrupt licensee may be operated for a reasonable period following the death, insolvency or bankruptcy.

(c) A business licensed pursuant to this chapter subject to a security interest may be continued in business by a secured party as defined in ORS 79.0102 for a reasonable period after default on the indebtedness by the debtor.

(d) A license granted under this chapter may be transferred from the place for which the license was originally issued to another location. [Formerly 471.301; 2001 c.445 §175]

471.294 License terms; licenses issued for less than year; determination of fees. (1) Except as otherwise provided in this section, all licenses under this chapter and renewals thereof shall be issued for a period of one year which shall expire at 12 midnight on March 31, June 30, September 30 or December 31 of each year.

(2) Notwithstanding subsection (1) of this section, a license issued for the first time to an applicant may be issued for less than a year. The license fee for the first license issued to an applicant, if the license is issued for a fraction of a year, shall be proportionate to the annual license computed on a quarterly basis, counting a major fraction of a quarter as a whole quarter.

(3) The term of a temporary letter of authority or license issued under ORS 471.302 or any temporary sales license is the period fixed by the Oregon Liquor Control Commission when the letter or license is issued. [Formerly 471.355]

471.295 [Amended by 1953 c.14 §2; 1979 c.744 §33a; 1979 c.881 §3; 1989 c.785 §8; 1995 c.301 §58; 1997 c.841 §5; 1999 c.351 §46; renumbered 471.313 in 1999]

471.297 Temporary letter of authority on change of ownership; fee; revocation. (1) The Oregon Liquor Control Commission may grant a temporary letter of authority for a period not to exceed 90 days on change of ownership applications for licenses granted under this chapter if the applicant pays the fee prescribed by the commission for a temporary letter of authority. The administrator appointed by the commission under ORS 471.720 may extend a temporary letter of authority granted under the provisions of this section for a period not to exceed 30 days if the commission has not granted or denied the application at the end of the 90-day period. A temporary letter of authority issued under this section does not constitute a license for the purposes of ORS chapter 183.

(2) The commission summarily and without prior administrative proceedings may revoke a temporary letter of authority any time if the commission finds that any of the grounds for refusing a license under ORS 471.313 or canceling or suspending a license under ORS 471.315 exist.

(3) A person subject to subsection (2) of this section shall be given an interview under the direction of the commission if the person requests an interview prior to revocation of a temporary letter of authority. However, the proceedings are not a contested case under ORS chapter 183. [1987 c.511 §5; 1995 c.301 §59; 1999 c.351 §47; 2003 c.337 §3]

471.300 [Amended by 1953 c.130 §2; repealed by 1957 c.220 §1 (471.301 enacted in lieu of 471.300)]

471.301 [1957 c.220 §2 (enacted in lieu of 471.300); 1971 c.470 §2; 1973 c.311 §1; 1977 c.332 §1; 1977 c.360 §2; 1979 c.264 §9; 1995 c.301 §60; 1999 c.351 §48; renumbered 471.292 in 1999]

471.302 Temporary letter of authority for off-premises sales license applicant; revocation. (1) Upon receiving an application for an off-premises sales license, the Oregon Liquor Control Commission may grant a temporary letter of authority for a period not exceeding 90 days, if it finds:

(a) The applicant is located in an area presently zoned for commercial use and presents documentation of such zoning to the commission.

(b) The applicant pays the fee prescribed by the commission for a temporary letter of authority.

(2) The administrator appointed by the commission under ORS 471.720 may extend a temporary letter of authority granted under the provisions of this section for a period not to exceed 30 days if the commission has not granted or denied the application at the end of the 90-day period provided for in subsection (1) of this section.

(3) A temporary letter of authority issued under this section does not constitute a license for the purposes of ORS chapter 183. The commission summarily and without prior administrative proceedings may revoke a temporary letter of authority at any time if:

(a) The commission finds that any of the grounds for refusing a license under ORS 471.313 exist; or

(b) The city or county in which the applicant is located provides evidence of reasonable grounds to the commission:

(A) That the temporary letter of authority should be revoked; or

(B) That an off-premises sales license should not be issued. [Formerly 471.262; 2003 c.337 §4]

471.305 Delivery of alcoholic beverages. A brewery or a wholesale malt beverage and wine licensee shall deliver malt beverages only to or on a licensed premises. The sale of alcoholic liquors under any license issued by the Oregon Liquor Control Commission authorizing retail sales by a licensee shall be restricted to the premises described in the license, but deliveries may be made by the licensee to customers pursuant to bona fide orders received on the licensed premises prior to delivery. [Amended by 1981 c.199 §2]

471.307 [1991 c.273 §2; 1993 c.663 §5; 1999 c.351 §28; renumbered 471.180 in 1999]

471.310 Cities as licensees. Any city may, without further charter authority, become a licensee under this chapter. [Amended by 1995 c.301 §61; 1999 c.351 §49]

(Application for License)

471.311 Application for license; rules; fees. (1) Any person desiring a license or renewal of a license under this chapter shall make application to the Oregon Liquor Control Commission upon forms to be furnished by the commission showing the name and address of the applicant, location of the place of business which is to be operated under the license, and such other pertinent information as the commission may require. No license shall be granted or renewed until the applicant has complied with the provisions of the Liquor Control Act, the provisions of the Oregon Distilled Liquor Control Act and the rules of the commission.

(2) The commission may reject any application that is not submitted in the form required by rule. The commission shall give applicants an opportunity to be heard if an application is rejected. A hearing under this subsection is not subject to the requirements for contested case proceedings under ORS chapter 183.

(3) Subject to subsection (4) of this section, the commission shall assess a nonrefundable fee for processing a renewal

application for any license authorized by this chapter only if the renewal application is received by the commission less than 20 days before expiration of the license. If the renewal application is received prior to expiration of the license but less than 20 days prior to expiration, this fee shall be 25 percent of the annual license fee. If a renewal application is received by the commission after expiration of the license but no more than 30 days after expiration, this fee shall be 40 percent of the annual license fee. This subsection shall not apply to a certificate of approval, a brewery-public house license or to any license which is issued for a period of less than 30 days.

(4) The commission may waive the fee imposed under subsection (3) of this section if it finds that failure to submit a timely application was due to unforeseen circumstances or to a delay in processing the application by the local governing authority that is no fault of the licensee.

(5) The annual license fee is nonrefundable and shall be paid by each applicant upon the granting or committing of a license. The annual license fee and the minimum bond required of each class of license under this chapter are as follows:

License	Fee	Minimum Bond
Brewery, including Certificate of Approval	$ 500	$ 1,000
Winery	250	1,000
Distillery	100	None
Wholesale Malt Beverage and Wine	275	1,000
Warehouse	100	1,000
Special events winery license may be issued to a winery licensee at	$ 10 per day	
Brewery-Public House, including Certificate of Approval	$ 250	$ 1,000
Limited On-Premises Sales	$ 200	None
Off-Premises Sales	$ 100	None
Temporary Sales	$ 25 for events lasting five hours or less and $25 for each additional period of five hours or less	
Grower sales privilege license	$ 250	$ 1,000
Special events grower sales privilege license	$ 10 per day	

(6) The fee for a certificate of approval or special certificate of approval granted under ORS 471.289 is nonrefundable and must be paid by each applicant upon the granting or committing of a certificate of approval or special certificate of approval. No bond is required for the granting of a certificate of approval or special certificate of approval. Certificates of approval are valid for a period commencing on the date of issuance and ending on December 31 of the fifth calendar year following the calendar year of issuance. The fee for a certificate of approval is $175. Special certificates of approval are valid for a period of 30 days. The fee for a special certificate of approval is $10.

(7) Except as provided in subsection (8) of this section, the annual license fee for a full on-premises sales license is $400. No bond is required for any full on-premises sales license.

(8) The annual license fee for a full on-premises sales license held by a private club as described in ORS 471.175 (7), or held by a nonprofit or charitable organization that is registered with the state, is $200. [Formerly 471.290; 2001 c.785 §2]

471.312 [1989 c.785 §§6,7; 1991 c.734 §39; 1995 c.301 §62; 1999 c.351 §50; renumbered 471.331 in 1999]

471.313 Grounds for refusing to issue license. The Oregon Liquor Control Commission may refuse to license any applicant under the provisions of this chapter if the commission has reasonable ground to believe any of the following to be true:

(1) That there are sufficient licensed premises in the locality set out in the application, or that the granting of a license in the locality set out in the application is not demanded by public interest or convenience. In determining whether there are sufficient licensed premises in the locality, the commission shall consider seasonal fluctuations in the population of the locality and shall ensure that there are adequate licensed premises to serve the needs of the locality during the peak seasons.

(2) That the applicant has not furnished an acceptable bond as required by ORS 471.311 or is not maintaining the insurance or bond required by ORS 471.168.

(3) That, except as allowed by ORS 471.392 to 471.400, any applicant to sell at retail for consumption on the premises has been financed or furnished with money or property by, or has any connection with, or is a manufacturer of, or wholesale dealer in, alcoholic liquor.

(4) That the applicant:

(a) Is in the habit of using alcoholic beverages, habit-forming drugs or controlled substances to excess.

(b) Has made false statements to the commission.

(c) Is incompetent or physically unable to carry on the management of the establishment proposed to be licensed.

(d) Has been convicted of violating any of the alcoholic liquor laws of this state, general or local, or has been convicted at any time of a felony.

(e) Has maintained an insanitary establishment.

(f) Is not of good repute and moral character.

(g) Did not have a good record of compliance with the alcoholic liquor laws of this state and the rules of the commission when previously licensed.

(h) Is not the legitimate owner of the business proposed to be licensed, or other persons have ownership interests in the business which have not been disclosed.

(i) Is not possessed of or has not demonstrated financial responsibility sufficient to adequately meet the requirements of the business proposed to be licensed.

(j) Is unable to read or write the English language or to understand the laws of Oregon relating to alcoholic liquor or the rules of the commission.

(5) That there is a history of serious and persistent problems involving disturbances, lewd or unlawful activities or noise either in the premises proposed to be licensed or involving patrons of the establishment in the immediate vicinity of the premises if the activities in the immediate vicinity of the premises are related to the sale or service of alcohol under the exercise of the license privilege. Behavior which is grounds for refusal of a license under this section, where so related to the sale or service of alcohol, includes, but is not limited to obtrusive or excessive noise, music or sound vibrations; public drunkenness; fights; altercations; harassment; unlawful drug sales; alcohol or related litter; trespassing on private property; and public urination. Histories from premises currently or previously operated by the applicant may be considered when reasonable inference may be made that similar activities will occur as to the premises proposed to be licensed. The applicant may overcome the history by showing that the problems are not serious or persistent or that the applicant demonstrates a willingness and ability to control adequately the premises proposed to be licensed and patrons' behavior in the immediate vicinity of the premises which is related to the licensee's sale or service of alcohol under the licensee's exercise of the license privilege. [Formerly 471.295; 2001 c.785 §1]

(Suspension or Cancellation of License; Civil Penalties)

471.315 Grounds for cancellation or suspension of license or imposition of civil penalty. (1) The Oregon Liquor Control Commission may cancel or suspend any license issued under this chapter, or impose a civil penalty in lieu of or in addition to suspension as provided by ORS 471.322, if it finds or has reasonable ground to believe any of the following to be true:

(a) That the licensee:

(A) Has violated any provision of this chapter or ORS 474.115 or any rule of the commission adopted pursuant thereto.

(B) Has made any false representation or statement to the commission in order to induce or prevent action by the commission.

(C) Is not maintaining an acceptable bond as required by ORS 471.311 or is not maintaining the insurance or bond required by ORS 471.168.

(D) Has maintained an insanitary establishment.

(E) Is insolvent or incompetent or physically unable to carry on the management of the establishment of the licensee.

(F) Is in the habit of using alcoholic liquor, habit-forming drugs or controlled substances to excess.

(G) Knowingly has sold alcoholic liquor to persons under 21 years of age or to persons visibly intoxicated at the time of sale or has knowingly allowed the consumption of alcoholic liquor on the licensed premises by a person who is visibly intoxicated at the time of consumption.

(H) Has misrepresented to a customer or the public any alcoholic liquor sold by the licensee.

(I) Since the granting of the license, has been convicted of a felony, of violating any of the liquor laws of this state, general or local, or of any misdemeanor or violation of any municipal ordinance committed on the licensed premises.

(b) That any person licensed to sell at retail for consumption on the premises is acting as an agent of, or is a manufacturer or wholesaler of alcoholic liquors, or has borrowed money or property, or has accepted gratuities or rebates, or has obtained the use of equipment from any manufacturer or wholesaler of alcoholic liquor or any agent thereof.

(c) That there is a history of serious and persistent problems involving disturbances, lewd or unlawful activities or noise either in the premises or involving patrons of the establishment in the immediate vicinity of the

premises if the activities in the immediate vicinity of the premises are related to the sale or service of alcohol under the exercise of the license privilege. Behavior which is grounds for cancellation or suspension of a license under this section, where so related to the sale or service of alcohol, includes, but is not limited to obtrusive or excessive noise, music or sound vibrations; public drunkenness; fights; altercations; harassment or unlawful drug sales; alcohol or related litter; trespassing on private property; and public urination. Mitigating factors include a showing by the licensee that the problems are not serious or persistent or that the licensee has demonstrated a willingness and ability to control adequately the licensed premises and patrons' behavior in the immediate vicinity of the premises which is related to the licensee's sale or service of alcohol under the licensee's exercise of the license privilege.

(d) That there is any other reason which, in the opinion of the commission, based on public convenience or necessity, warrants canceling or suspending such license.

(2) Civil penalties under this section shall be imposed as provided in ORS 183.745. [Amended by 1953 c.107 §2; 1971 c.159 §4; 1979 c.744 §34; 1981 c.599 §1; 1989 c.785 §3; 1991 c.734 §40; 1995 c.301 §63; 1997 c.841 §6; 1999 c.351 §51]

471.316 Mandatory suspension if licensee fails to prevent certain unlawful drug use or sales on premises; civil penalty. (1) Notwithstanding any other provision of this chapter, the Oregon Liquor Control Commission shall suspend the license of a licensed premises listed in subsection (4) of this section if the commission determines that:

(a) Unlawful drug use or sales are occurring on the licensed premises;

(b) The licensee is aware of the unlawful drug use or sales because of arrests for unlawful drug sales on the licensed premises or seizures of unlawful drugs on the licensed premises, or because the licensee or employees of the licensee have personally witnessed unlawful drug use or sales on the licensed premises; and

(c) The licensee fails to take immediate and effective action to prevent unlawful drug use or sales on the licensed premises.

(2) In addition to any suspension imposed under this section, the commission may impose a civil penalty under the circumstances described in subsection (1) of this section not to exceed the maximum amount established under ORS 471.322 (2). Notwithstanding ORS 471.322 (1), the commission shall not allow payment of a civil penalty under this subsection in lieu of the suspension provided for in subsection (1) of this section. A civil penalty under this section shall be imposed in the manner provided by ORS 183.745.

(3) The commission may cancel a license listed in subsection (4) of this section if the license is suspended under the provisions of this section two or more times within a two-year period.

(4) This section applies only to premises licensed under:

(a) A full on-premises sales license.

(b) A limited on-premises sales license.

(c) A brewery-public house license. [1997 c.815 §2; 1999 c.351 §29]

471.317 [1975 c.373 §2; 1979 c.236 §8; 1995 c.301 §64; renumbered 471.333 in 1999]

471.320 [Amended by 1957 c.220 §3; repealed by 1971 c.734 §21]

471.322 Civil penalty in lieu of or in addition to short-term suspension of certain licenses and permits; limits on amount. (1) If a license issued under this chapter or a service permit issued under ORS 471.360 is suspended for a period of 30 days or less, the Oregon Liquor Control Commission may impose against the affected licensee or permittee in lieu of or in addition to the suspension a civil penalty fixed by the commission in accordance with subsection (2) of this section if the commission is satisfied that such a penalty in lieu of or in addition to suspension is consistent with the purposes of the Liquor Control Act and the Oregon Distilled Liquor Control Act. Upon payment of the penalty in lieu of suspension, the commission shall cancel the suspension.

(2) Except as provided in ORS 471.327, the penalty which the commission may impose pursuant to subsection (1) of this section against a licensee shall not be less than $100 nor more than $5,000. The penalty which the commission may impose pursuant to subsection (1) of this section against a service permittee shall not be less than $25 nor more than $500.

(3) Civil penalties under this section shall be imposed as provided in ORS 183.745. [1969 c.67 §§2,3; 1973 c.144 §1; 1975 c.735 §1; 1979 c.264 §10; 1981 c.599 §2; 1991 c.61 §1; 1991 c.734 §41; 1995 c.301 §65; 1999 c.351 §52; 1999 c.1062 §1]

471.325 [Amended by 1953 c.19 §2; 1957 c.220 §4; 1969 c.205 §1; repealed by 1971 c.734 §21]

471.326 Refund of civil penalty if suspension not sustained on judicial review. If the action of the Oregon Liquor Control Commission in suspending a license or permit issued under this chapter is not sustained upon judicial review under ORS chapter 183, the commission shall promptly refund the amount paid pursuant to ORS 471.322 (1) by check or order drawn on the State Treasurer from the Oregon Liquor Control Commission Account. [1969 c.67 §4; 1973

c.144 §2; 1975 c.735 §2; 1979 c.264 §11; 1991 c.61 §2; 1995 c.301 §66; 1999 c.351 §53]

471.327 Civil penalty in addition to or in lieu of suspending certain other licenses or certificates. (1) The Oregon Liquor Control Commission, in suspending any brewery license, wholesale wine license, wholesale malt beverage license, or certificate of approval, may further impose against the licensee or the holder of the certificate of approval a civil penalty not to exceed $5,000, or, in its discretion, may impose such civil penalty without suspending the license or the certificate of approval.

(2) Civil penalties under this section shall be imposed as provided in ORS 183.745. [1955 c.657 §7; 1973 c.311 §3; 1991 c.734 §42]

(Miscellaneous Provisions Relating to Denial, Suspension or Cancellation of License)

471.329 Serious and persistent problems involving noise as grounds for discipline of licensee or applicant. (1) For the purpose of determining whether there is a history of serious and persistent problems involving noise under the provisions of ORS 471.313 (5) and 471.315 (1)(c), or whether the licensee maintains a noisy establishment in violation of the provisions of ORS 471.425:

(a) Noise from the inside of a licensed premises located within the boundaries of a city or county that has an ordinance regulating excessive noise may be considered obtrusive or excessive only if the noise violates the ordinance;

(b) Noise caused by patrons outside a licensed premises located within the boundaries of a city or county that has an ordinance regulating excessive noise may be considered obtrusive or excessive only if the noise violates the ordinance or if the noise is of a type that a reasonable person would not expect to hear outside a premises licensed for the sale of alcoholic beverages; and

(c) Noise caused by patrons inside or outside a licensed premises located within the boundaries of a city or county that does not have an ordinance regulating excessive noise may be considered obtrusive or excessive only if the noise is of the type that a reasonable person would not expect to hear inside or outside a premises licensed for the sale of alcoholic beverages.

(2) For the purpose of determining whether noise is obtrusive under the provisions of ORS 471.313 (5) and 471.315 (1)(c), or whether the licensee maintains a noisy establishment in violation of the provisions of ORS 471.425, the Oregon Liquor Control Commission shall consider whether persons complaining about the noise have taken any action to mitigate the disturbance alleged to have been caused by the noise. [1999 c.646 §10; 2001 c.785 §4]

471.330 [Amended by 1977 c.215 §1; 1995 c.301 §67; 1999 c.351 §54; renumbered 471.351 in 1999]

471.331 Notice to licensee when refusal to renew or suspension or cancellation of license based on adverse neighborhood impact; no stay of order. (1) Whenever the Oregon Liquor Control Commission proposes to refuse to renew or to suspend or cancel any license issued under this chapter because of adverse neighborhood impact of the licensee's operation, notwithstanding ORS 183.435, the commission shall grant the affected licensee 20 days from notification of the proposed commission action to request a hearing.

(2) Notwithstanding ORS 183.482 (3), the Oregon Liquor Control Commission shall not stay any order refusing a license or suspending or canceling any license if the order was entered on grounds stated in ORS 471.313 (5) or 471.315 (1)(c). [Formerly 471.312]

471.333 Effect of sanitation violations. (1) Except as provided in subsections (2) and (3) of this section, the Oregon Liquor Control Commission shall not refuse to issue, cancel or suspend a license under ORS 471.313, 471.315 or 471.425 for maintaining an insanitary establishment.

(2) The commission may refuse to issue, cancel or suspend a license under ORS 471.313, 471.315 or 471.425 for maintaining an insanitary establishment in violation of a city ordinance relating to sanitation only if the licensee is convicted of violating the ordinance.

(3) The commission may refuse to issue, cancel or suspend a license under ORS 471.313, 471.315 or 471.425 for maintaining an insanitary establishment in violation of ORS 447.010 to 447.156 and 447.992 or the laws, orders or rules relating to public health of the Department of Human Services or the State Department of Agriculture only when the agency charged with enforcing those laws, orders or rules finds that the licensee is in violation of them and renders a final order adverse to the licensee. [Formerly 471.317; 2001 c.900 §204]

471.335 [Amended by 1953 c.120 §6; 1974 c.4 §4; 1985 c.592 §3; renumbered 471.404 in 1999]

471.340 [Amended by 1983 c.316 §1; 1999 c.351 §69; renumbered 471.442 in 1999]

(Sales of Alcoholic Beverages to Minors by Licensees)

471.341 Mandatory clerk training course for employees of off-premises sales licensees; rules; fees; civil penalty. (1) An employee of an off-premises sales li-

censee who has been found by the Oregon Liquor Control Commission to have sold alcoholic beverages to a minor, or to have failed to properly verify identification of a person who purchased alcoholic beverages, must attend a clerk training course approved by the commission as a condition of making sales of alcoholic beverages to members of the public under an off-premises sales license.

(2) The commission shall by rule establish times for employees to complete a required clerk training course under this section. An employee required to complete a clerk training course under this section may continue to make sales of alcoholic beverages to members of the public until taking such training, but may not make any sales of alcoholic beverages after the expiration of the time allowed by commission rule if the employee has not completed the training before the expiration of that time.

(3) Except as provided in subsection (2) of this section, the holder of an off-premises sales license may not allow an employee who has been found by the Oregon Liquor Control Commission to have sold alcoholic beverages to a minor, or to have failed to properly verify identification of a person who purchased alcoholic beverages, to sell alcoholic beverages under the license unless the employee completes a clerk training course as required by this section.

(4) The Oregon Liquor Control Commission, as part of the Alcohol Education Program established under ORS 471.541, shall approve all clerk training courses offered for the purpose of this section. The holder of an off-premises sales license may establish a clerk training course for employees of the licensee, but the course must be approved by the commission to meet the requirements of this section. Clerk training courses approved under this section must address at least the following topics:

(a) The importance of not selling alcoholic beverages to minors and visibly intoxicated persons.

(b) Guidelines for recognizing minors and visibly intoxicated persons.

(c) Guidelines for checking and verifying identification, and for recognizing false or altered identification.

(d) Recommended approaches for refusing sales of alcoholic beverages to minors and visibly intoxicated persons.

(5) If an employee of an off-premises sales licensee is found to have sold alcoholic beverages to a minor, or to have failed to properly verify identification of a person who purchased alcoholic beverages, the commission shall notify the licensee that the employee must complete a clerk training course approved under this section and may not sell alcoholic beverages to members of the public after the time established by the commission unless the employee completes the training within the time allowed. If the off-premises sales licensee offers a clerk training course to new employees, and the employee has previously completed that course, the requirements of this section may be met by retaking the clerk training course if the course has been approved by the commission for the purposes of this section.

(6) Upon completion of a clerk training course by an employee of an off-premises sales licensee pursuant to the requirements of this section, the off-premises sales licensee that employs the person must notify the commission in writing that the employee has successfully completed the training. The notification must include the name and address of the employee, the name of the clerk training course attended by the employee, and the date or dates on which the course was attended. The notification shall be kept by the commission in the licensee's file.

(7) The commission shall assess and collect a fee not to exceed $13 from each person required to attend a clerk training course under this section. Amounts collected under this section shall be used for the administrative expenses incurred by the commission in the performance of the commission's duties under the Alcohol Education Program.

(8) In addition to any other penalty provided for by law, the commission may impose a civil penalty against any employee of an off-premises sales licensee who sells alcoholic beverages to members of the public and who is prohibited from making those sales under this section. A civil penalty under this subsection may not exceed $500. Civil penalties under this subsection shall be imposed by the commission in the manner provided by ORS 183.745. [1999 c.1062 §§3,9; 2001 c.785 §15]

471.342 Acquisition and use of age verification equipment in lieu of other penalty. Upon finding that a retail licensee, as defined in ORS 471.392, or an employee of a retail licensee has sold alcoholic beverages to a minor, or has failed to properly verify identification of a person who purchased alcoholic beverages, the Oregon Liquor Control Commission may allow the licensee, in lieu of a civil penalty or denial, suspension or cancellation of the license, to acquire and use equipment designed to prevent sales of alcoholic beverages to minors. [1999 c.1062 §5]

471.344 Responsible vendor program; rules. (1) The Oregon Liquor Control Commission shall by rule establish a responsible vendor program. The program shall include a list of positive measures that a retail li-

censee, as defined in ORS 471.392, must take to avoid sales of alcoholic beverages to minors. Any retail licensee may participate in the program.

(2) If a retail licensee, as defined in ORS 471.392, participates in the responsible vendor program established under this section, and the licensee takes all measures specified by the program as necessary to prevent sales of alcoholic beverages to minors, the commission shall not cancel the license of the licensee, or deny issuance of a license to the person that holds the retail license, based on sales of alcoholic beverages to minors by employees of the licensee. [1999 c.1062 §7]

471.345 [Amended by 1999 c.351 §70; renumbered 471.446 in 1999]

471.346 Uniform standards for minor decoy operations; rules. (1) The Oregon Liquor Control Commission shall by rule develop uniform standards for minor decoy operations used to investigate licensees and agents operating stores on behalf of the commission under ORS 471.750 for violations of the laws of this state prohibiting sales of alcoholic beverages to minors. Uniform standards established by the commission under this section apply to all investigations conducted by the commission that use minor decoys. The commission shall encourage all law enforcement agencies of this state to use the uniform standards established under this section for minor decoy operations conducted by the law enforcement agencies.

(2) To the greatest extent possible, the uniform standards established by the commission under this section:

(a) Shall be the same for minor decoy operations conducted by the commission and for minor decoy operations conducted by law enforcement agencies of this state; and

(b) Shall provide for coordination between the commission and law enforcement agencies of this state in conducting minor decoy operations.

(3) The uniform standards established by the commission under this section shall provide that minor decoy operations must be conducted on either a random or a targeted basis in cities with populations of 20,000 or more. Random minor decoy operations shall cover a range of retail outlets. Targeted minor decoy operations may be conducted for a single licensee or agent, but may be used only if there is a documented compliance problem with the specific licensee or agent that is the target of the operation. For the purpose of implementing standards for random minor decoy operations under this subsection, the commission shall by rule adopt a methodology that produces, to the greatest extent possible, an equal chance that any licensee or agent will be subject to a minor decoy operation.

(4) Except as provided in subsection (5) of this section, the failure of the commission or of a law enforcement agency to follow uniform standards established by the commission under this section is not grounds for challenging any complaint, citation or conviction for violation of the laws prohibiting the sale of alcoholic beverages to minors.

(5) In determining whether to impose sanctions based on multiple violations of the laws of this state prohibiting sales of alcoholic beverages to minors, the commission may not consider any complaint filed against a licensee for selling alcoholic beverages to a minor, citation issued to a licensee for selling alcoholic beverages to a minor or conviction of a licensee for selling alcoholic beverages to a minor if the complaint, citation or conviction arose out of a minor decoy operation that was not conducted pursuant to the uniform standards established by the commission under this section.

(6) Notwithstanding any other provision of this chapter, the commission may not consider any sale of alcoholic beverages to a minor that results from a minor decoy operation that is not conducted in compliance with the standards established under this section for the purpose of imposing any civil penalty against a licensee, making a decision on the renewal, suspension or cancellation of a license issued under this chapter or otherwise sanctioning a licensee for the sale of alcoholic beverages to a minor.

(7) The commission shall give notice of the uniform standards established under this section to all law enforcement agencies of this state that conduct minor decoy operations. [2001 c.791 §2]

471.350 [Repealed by 1967 c.577 §10]

(Examination of Books and Premises of Licensees)

471.351 Examination of books and premises of licensees. (1) The Oregon Liquor Control Commission has the right after 72 hours' notice to the owner or the agent of the owner to make an examination of the books and may at any time make an examination of the premises of any person licensed under this chapter, or to check the alcoholic content of liquors carried by the licensee, for the purpose of determining compliance with this chapter and the rules of the commission.

(2) The commission shall not require the books of any licensee to be maintained on the premises of the licensee. [Formerly 471.330]

471.355 [1971 c.470 §4; 1981 c.199 §3; 1989 c.178 §5; 1995 c.301 §68; 1997 c.79 §2; 1999 c.351 §30; renumbered 471.294 in 1999]

SERVICE PERMITS

471.360 Service permit required; waiver. (1) Except as otherwise provided in ORS 471.375:

(a) Any person employed by a licensee of the Oregon Liquor Control Commission who participates in any manner in the mixing, selling or service of alcoholic liquor for consumption on the premises where served or sold shall have a valid service permit issued by the commission.

(b) No licensee of the commission shall permit any person to mix, sell or serve any alcoholic liquor for consumption on licensed premises unless such person has a valid service permit issued by the commission.

(c) A permittee shall make the service permit available at any time while on duty for immediate inspection by any inspector or investigator employed by the commission or by any other peace officer.

(2) The commission may waive the requirement for a service permit for an employee of a licensee whose primary function is not the sale of alcoholic liquor or food, including but not limited to public passenger carriers, hospitals, or convalescent, nursing or retirement homes. [1979 c.788 §2]

471.365 Characteristics of permit; verification of identity of permittee. (1) A service permit shall be a purely personal privilege, valid only upon licensed premises, for the period of time stated thereon, and may be suspended or revoked for any reason set forth in ORS 471.360 to 471.390.

(2) No service permit shall be used by any person other than the person to whom it is issued. Except as provided in ORS 471.375, the licensee shall verify the identification of the permittee and determine that the permittee has in possession a service permit before allowing the permittee to mix, sell or serve alcoholic liquor for consumption on the licensed premises. [1979 c.788 §3]

471.370 Expiration. Unless sooner suspended or revoked, a service permit issued after November 1, 1981, shall expire on the anniversary date of the permittee's birthday five years after the date of issuance of the permit. [1979 c.788 §3a; 1981 c.599 §3]

471.375 Application; requirements; fee. (1) Any person who has not had a permit refused or revoked or whose permit is not under suspension may mix, sell or serve alcoholic beverages for consumption on licensed premises if the person prepares in duplicate an application for a service permit prior to mixing, selling or serving any alcoholic beverage for consumption on licensed premises and the application is indorsed as required under subsection (2) of this section. A copy of the indorsed application must be kept on the licensed premises by any licensee for whom the person mixes, sells or serves alcoholic beverages and must be made available for immediate inspection by any inspector or investigator employed by the Oregon Liquor Control Commission or by any other peace officer until the applicant receives the service permit.

(2) An application for a service permit under subsection (1) of this section must be indorsed by one of the following persons:

(a) The licensee under whose license the applicant will mix, sell or serve alcoholic beverages. If a licensee indorses an application, the licensee must immediately transmit the application to the commission with the fee required by subsection (4) of this section.

(b) An officer or employee of a company that provides servers to licensees on a temporary basis. The commission must give a company written approval to indorse service permit applications before an application may be indorsed under this paragraph.

(c) An employee of the commission designated by the commission to accept and indorse applications under this section.

(d) An employee of an alcohol server education course provider that has been certified by the commission under ORS 471.542 (8). The employee must be specifically designated by the provider to indorse applications under this section.

(3) An application for a service permit may be indorsed by an employee of the commission under subsection (2)(c) of this section only if:

(a) The applicant is not employed by a licensee of the commission;

(b) The applicant completes the alcohol server education course required by ORS 471.542 before making the application; and

(c) The applicant personally appears before the employee of the commission and provides such identification as may be required by commission rule.

(4) An applicant for a service permit must be 18 years of age or over. Application for a service permit shall be made on a form supplied by the commission. The applicant shall truly answer all questions, provide any further information required, and pay a fee not to exceed $10. The commission shall either set the fee to cover only the administrative costs of the service permit program, or apply any excess to the Alcohol Education Program established under ORS 471.541. [1979 c.788 §4; 1981 c.610 §5; 1987 c.511 §6; 1989 c.271 §2; 2001 c.785 §7]

471.380 Grounds for refusing to issue permit; request for hearing. (1) The Oregon Liquor Control Commission may refuse to grant a service permit if it has reasonable grounds to believe any of the following to be true:

(a) That the applicant is in the habit of using alcoholic beverages or controlled substances to excess.

(b) That the applicant has made false statements to the commission in the permit application.

(c) That the applicant is incompetent or physically incapable of performing the duties of a permittee.

(d) That the applicant has been convicted of violating any of the alcoholic liquor laws of this state, general or local, or has been convicted at any time of a felony.

(e) That the application has not been indorsed as required by ORS 471.375.

(f) That the applicant has not completed the alcohol server education course and examination required by ORS 471.542.

(2) Notwithstanding ORS 183.435, if the commission refuses to grant a service permit, an applicant who seeks review of the refusal must request a hearing within 15 days after notification of the refusal. [1979 c.788 §5; 1997 c.79 §3; 2001 c.785 §8]

471.385 Grounds for revoking or suspending permit or imposing civil penalty; responsibility of licensee. (1) The Oregon Liquor Control Commission may revoke or suspend a service permit, or impose a civil penalty in lieu of or in addition to suspension as provided by ORS 471.322, if it finds or has reasonable grounds to believe any of the following to be true:

(a) That the permittee has made any false statement in the application for the permit.

(b) That the permittee has been convicted of a felony, of violating any of the liquor laws of the state, general or local, or any misdemeanor or violation of any municipal ordinance committed on the licensed premises.

(c) That the permittee has performed or permitted any act which would constitute a violation of any provision of this chapter or any rule of the commission, if the act were performed or permitted by any licensee of the commission.

(2) The issuance, suspension or revocation of a permit under ORS 471.360 to 471.390 does not relieve a licensee from responsibility for any act of an employee on the licensee's premises.

(3) When there has been a violation of this chapter or any rule adopted thereunder upon any premises licensed by the commission, the commission may revoke or suspend either the service permit of the employee who violated the law or rule or the license of the licensee upon whose premises the violation occurred, or both the permit and the license.

(4) The commission may revoke or suspend any license issued by the commission if the licensee knowingly indorses a person's application for a permit when the person has been refused a permit or has had a permit suspended or revoked, or when the licensee fails to comply with any provision to be performed by the licensee under ORS 471.360 to 471.390.

(5) Civil penalties under this section shall be imposed as provided in ORS 183.745. [1979 c.788 §§6,8; 1981 c.599 §5; 1991 c.734 §43; 1995 c.301 §39; 1999 c.351 §55]

471.390 Duplicate or new permit; fee. (1) If a service permit issued under ORS 471.360 to 471.390 is lost, mutilated or destroyed, the permittee shall apply immediately for a duplicate permit on a form to be supplied by the Oregon Liquor Control Commission and submit a fee of $5.

(2) If a permittee changes name by marriage or otherwise, the permittee shall apply immediately for a new service permit by forwarding the permit and evidence of the change of name to the commission with an application and a fee of $5. [1979 c.788 §7]

"TIED HOUSE" PROHIBITIONS

471.392 Definitions for ORS 471.392 to 471.400. For the purposes of ORS 471.392 to 471.400:

(1) "Manufacturer or wholesaler" means:

(a) A person holding a brewery license issued under ORS 471.220, a winery license issued under ORS 471.223, a grower sales privilege license issued under ORS 471.227, a distillery license issued under ORS 471.230, a wholesale malt beverage and wine license issued under ORS 471.235 or a warehouse license issued under ORS 471.242.

(b) Any manufacturer of alcoholic liquors whose products are sold in the State of Oregon.

(2) "Retail licensee" means the holder of a full or limited on-premises sales license, an off-premises sales license or a temporary sales license. "Retail licensee" does not include a bona fide trade association that represents retail licensees and that is open to all persons licensed under at least one type of retail license. [1995 c.301 §76; 1997 c.249 §172; 1999 c.351 §31]

471.394 Prohibition on sales at both wholesale and retail; prohibition on financial connection between retailer and wholesaler. (1) Except as provided in ORS 471.396, a person licensed under the provisions of this chapter may not sell alcoholic liquor at both retail and wholesale.

(2) Except as provided in ORS 471.396, a manufacturer or wholesaler may not acquire or hold any right, title, lien, claim or other interest, financial or otherwise, in, upon or to the premises, equipment, business or merchandise of a retail licensee.

(3) Except as provided in ORS 471.396, a retail licensee may not acquire or hold any right, title, lien, claim or other interest, financial or otherwise, in, upon or to the premises, equipment, business or merchandise of any manufacturer or wholesaler. [1995 c.301 §77; 1999 c.351 §56]

471.396 Exceptions to prohibition on financial connection between wholesaler and retailer. (1) The prohibitions of ORS 471.394 (1) do not apply to persons holding winery licenses, grower sales privilege licenses, brewery-public house licenses or brewery licenses, to the extent that retail sales are authorized by the statutes establishing the privileges of each license.

(2)(a) The prohibitions of ORS 471.394 (2) and (3) do not apply to a person who wholesales alcoholic liquor and who is not required to be licensed under the provisions of this chapter if the retail licensee does not sell any brand of alcoholic liquor sold or distributed by the person and does not sell any brand of alcoholic liquor produced by any manufacturer doing business with the person selling at wholesale.

(b) The prohibitions of ORS 471.394 (2) and (3) do not apply to a manufacturer of alcoholic liquor if the retail licensee does not sell any brand of alcoholic liquor sold, distributed or produced by the manufacturer and does not sell any brand of alcoholic liquor sold, distributed or produced by any subsidiary or other business entity that the manufacturer owns or manages, or that the manufacturer exercises control over.

(3) The prohibitions of ORS 471.394 do not apply solely by reason of the family relationship of a spouse or family member to a manufacturer or wholesaler if:

(a) The manufacturer or wholesaler is licensed by the Oregon Liquor Control Commission to sell alcoholic liquor at wholesale;

(b) The license authorizing sale of alcoholic liquor at wholesale was first issued before January 1, 1965, and has been held continuously since that date;

(c) The spouse or family member holds or seeks a license that authorizes the retail sale of alcoholic liquor for off-premises consumption only; and

(d) The manufacturer or wholesaler does not directly or indirectly sell alcoholic liquor to the spouse or family member.

(4) The prohibitions of ORS 471.394 do not apply solely by reason of the family relationship of a spouse or family member to the retail licensee if the manufacturer or wholesaler is licensed by the commission to sell alcoholic liquor at wholesale and does not directly or indirectly sell alcoholic liquor to the spouse or family member.

(5) Notwithstanding ORS 471.394, a manufacturer or wholesaler, and any officer, director or substantial stockholder of any corporate manufacturer or wholesaler, may hold, directly or indirectly, an interest in a full or limited on-premises sales licensee, provided that the interest does not result in exercise of control over, or participation in the management of, the licensee's business or business decisions, and does not result in exclusion of any competitor's brand of alcoholic liquor.

(6) Notwithstanding ORS 471.394, a full or limited on-premises sales licensee, and any officer, director or substantial stockholder of any corporate full or limited on-premises sales licensee, may hold, directly or indirectly, an interest in a manufacturer or wholesaler, provided that the interest does not result in exercise of control over, or participation in the management of, the manufacturer's or wholesaler's business or business decisions, and does not result in exclusion of any competitor's brand of alcoholic liquor.

(7) Notwithstanding ORS 471.394, an institutional investor with a financial interest in a wholesaler or manufacturer may hold, directly or indirectly, an interest in a retail licensee unless the institutional investor controls, is controlled by, or is under common control with, a wholesaler or manufacturer. Notwithstanding ORS 471.394, an institutional investor with a financial interest in a retail licensee may hold, directly or indirectly, an interest in a wholesaler or manufacturer unless the institutional investor controls, is controlled by, or is under common control with, a retail licensee. The provisions of this subsection apply only to an institutional investor that is a state or federally chartered bank, a state or federally chartered mutual savings bank, a mutual fund or pension fund, or a private investment firm. The principal business activity of the institutional investor must be the investment of capital provided by depositors, participants or investors. The institutional investor must maintain a diversified portfolio of investments. The majority of the institutional in-

vestor's investments may not be in businesses that manufacture, distribute or otherwise sell alcoholic beverages. The institutional investor, and the officers, directors, substantial shareholders, partners, employees and agents of the institutional investor, may not participate in management decisions relating to the sale or purchase of alcoholic beverages made by a licensee in which the institutional investor holds an interest.

(8) Notwithstanding ORS 471.394, a member of the board of directors of a parent company of a corporation that is a manufacturer may serve on the board of directors of a parent company of a corporation that is a retail licensee if:

(a) The manufacturer or parent company of a manufacturer is listed on a national security exchange;

(b) All purchases of alcoholic beverages by the retail licensee are made from holders of wholesale malt beverage and wine licenses, brewery licenses or winery licenses in this state;

(c) The interest of the member of the board of directors does not result in the exclusion of any competitor's brand of alcoholic beverages on the licensed premises of the retail licensee; and

(d) The sale of goods and services other than alcoholic beverages by the retail licensee exceeds 50 percent of the gross receipts of the business conducted by the retail licensee on the licensed premises. [1995 c.301 §78; 1997 c.257 §2; 1997 c.803 §4; 1999 c.351 §32; 1999 c.442 §1]

471.398 Prohibition of financial assistance from wholesaler to retailer. Except as otherwise specifically provided by law, a person holding a retail license may not accept directly or indirectly from a manufacturer or wholesaler, and a manufacturer or wholesaler may not provide directly or indirectly to the retail licensee, any of the following:

(1) Any substantial gratuities;

(2) Any finances, money, credit, discounts or rebates;

(3) Any fixtures, furniture or furnishings;

(4) Any equipment other than advertising and point of sale material and other items of nominal value supplied to all retail licensees without discrimination; or

(5) Any services other than the inspection of equipment, the inspection and rotation of stock, the building of displays and other services of nominal value incidental to merchandising in the usual course of business furnished to all retail licensees without discrimination. [1995 c.301 §79; 1997 c.79 §4]

471.400 Exceptions to prohibition of financial assistance; rules. (1) Notwithstanding ORS 471.394 and 471.398, a manufacturer or wholesaler may lease or furnish picnic pumps, cold plates, tubs, refrigerated trailers, refrigerated vans and refrigerated draft systems to a retail licensee if the equipment is leased or furnished for a special event, if a reasonable rental or service fee is charged for the equipment and if the period that the equipment is leased or furnished does not exceed 10 days.

(2) Notwithstanding ORS 471.394 and 471.398, the Oregon Liquor Control Commission may specify by rule the manner and circumstances under which a manufacturer or wholesaler may provide products and services to a nonprofit special licensee.

(3)(a) Notwithstanding ORS 471.394 and 471.398, the commission shall allow the sale of nonalcoholic products in the manner in which the nonalcoholic product is sold by a manufacturer or wholesaler not licensed by the commission. The commission may limit merchandising practices involving nonalcoholic products if the commission finds that the limitations are necessary to prevent abuses of ORS 471.394 and 471.398 by the industry as a whole.

(b) Any fixtures, equipment or furnishings provided by a manufacturer or wholesaler in furtherance of the sale of nonalcoholic products may not be used by the retail licensee to store, service, display, advertise, furnish or sell, or aid in the sale of, alcoholic products regulated by the commission. All such fixtures, equipment or furnishings must be identified by the retail licensee as being furnished by a licensed manufacturer or wholesaler. [1995 c.301 §80]

471.401 Exception from tied house prohibition for sale of advertising to arena. (1) Notwithstanding any other provision of this chapter, a manufacturer or wholesaler of alcoholic liquor may purchase advertising space and time from a licensee authorized to sell alcoholic liquors at retail if:

(a) The retail licensee operates an arena with a fixed seating capacity of more than 10,000 seats;

(b) The advertising space or time is purchased only in connection with events to be held on the premises of the arena; and

(c) The retail licensee serves other brands of distilled liquors, malt beverages, cider or wine in addition to the brand manufactured or sold by the manufacturer or wholesaler purchasing advertising space or time.

(2) A purchase of advertising space or time under the provisions of this section

must be made by written agreement. [1995 c.51 §2; 1999 c.351 §71]

471.402 Sample tastings authorized. The holder of a brewery license issued under ORS 471.220, a winery license issued under ORS 471.223, a grower sales privilege license issued under ORS 471.227, a brewery-public house license issued under ORS 471.200, a warehouse license issued under ORS 471.242 or a manufacturer certificate of approval issued under ORS 471.289 may provide or pay for sample tastings of wine, cider or malt beverages for the public on premises licensed under a full or limited on-premises sales license or under an off-premises sales license. [1995 c.58 §4; 1999 c.351 §33]

Note: 471.402 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 471 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

PROHIBITIONS RELATING TO LIQUOR

471.403 License required to produce alcoholic liquor; exception. (1) No person shall brew, ferment, distill, blend or rectify any alcoholic liquor unless licensed so to do by the Oregon Liquor Control Commission. However, the Liquor Control Act does not apply to the making or keeping of naturally fermented wines and fruit juices or beer in the home, for home consumption and not for sale.

(2) Notwithstanding subsection (1) of this section, the holder of a brewery-public house license or a brewery license may allow patrons to brew malt beverages not to exceed 14 percent alcoholic content by volume if the brewing is conducted under the direct supervision of the licensee or employees of the licensee. Malt beverages produced under this subsection may not be sold by the patron or consumed on the licensed premises. [Formerly 471.205]

471.404 Importing liquor without license prohibited; exceptions; fee. (1) No alcoholic liquor shall be imported into this state by any person not holding a brewery, winery, distillery or wholesaler's license, except as follows:

(a) Alcoholic liquor ordered by and en route to the Oregon Liquor Control Commission.

(b) Wines for sacramental purposes according to rules adopted by the commission.

(c) Alcoholic liquor that is in transit on a common carrier to a destination outside Oregon.

(d) Alcoholic liquor coming into Oregon on a common carrier according to orders placed by a licensed brewery, winery or wholesaler.

(e) Imported alcoholic liquor pursuant to a permit issued under subsection (2) of this section.

(2) The commission may require importers of alcoholic liquor to secure a permit for each importation and may charge a reasonable fee based on quantity and type for the permit. [Formerly 471.335]

471.405 Prohibited sales, purchases, possession, transportation, importation or solicitation in general; forfeiture upon conviction. (1) No person shall peddle or deliver alcoholic beverages to or at any place, where, without a license, alcoholic beverages are sold or offered for sale. No licensee shall sell or offer for sale any alcoholic beverage in a manner, or to a person, other than the license permits the licensee to sell.

(2) No person shall purchase, possess, transport or import, except for sacramental purposes, an alcoholic beverage unless it is procured from or through the Oregon Liquor Control Commission, except as provided otherwise in the Liquor Control Act.

(3) No person not licensed under the Liquor Control Act shall sell, solicit, take orders for or peddle alcoholic beverages.

(4) Notwithstanding the provisions of subsection (2) of this section, an individual entering the state may have in possession an amount not to exceed four liters (135.2 fluid ounces) of distilled liquor, two cases of wine or cider (620 fluid ounces) and two cases of malt beverages (576 fluid ounces). These quantities of alcoholic beverages are exempt from fees collected by the commission.

(5) Upon conviction for unlawfully purchasing or importing alcoholic beverages into this state, the person convicted shall forfeit to the commission the alcoholic beverage so purchased or imported. The commission shall thereupon seize the forfeited beverage and it shall then become the commission's property. [Amended by 1953 c.120 §6; 1974 c.4 §5; 1981 c.600 §1; 1985 c.592 §2; 1987 c.608 §11; 1995 c.301 §19; 1999 c.351 §72]

471.406 Activities covered by prohibitions on sale of alcoholic beverages. Any prohibition on the sale of alcoholic beverages provided for in this chapter includes:

(1) Soliciting orders for alcoholic beverages or receiving orders for alcoholic beverages.

(2) Keeping alcoholic beverages for sale or exposing alcoholic beverages for sale.

(3) Delivering alcoholic beverages for value or in any way other than purely gratuitously.

(4) Peddling alcoholic beverages.

(5) Keeping alcoholic beverages with intent to sell.

(6) Trafficking in alcoholic beverages.

(7) For any consideration, promised or obtained, directly or indirectly, or under any pretext or by any means, procuring alcoholic beverages, or allowing alcoholic beverages to be procured, for any other person. [1995 c.301 §8 (enacted in lieu of 471.025); 1999 c.351 §57]

471.407 Offer of alcoholic beverages as inducement to make purchases. Except as specifically provided in this chapter, a person who owns, operates or controls a business establishment that sells food or beverages for consumption at the establishment or that offers entertainment to the public for consideration may not provide alcoholic beverages to members of the public for consumption at the establishment, without regard to whether the beverages are offered on a purely gratuitous basis, if:

(1) The alcoholic beverages are offered for the purpose of inducing members of the public to purchase food or beverages or to pay for entertainment; and

(2) The person providing the alcoholic beverages does not hold a license issued under this chapter that authorizes the retail sale of alcoholic beverages. [1999 c.646 §8; 2001 c.104 §214]

471.408 Alcoholic liquor may not be given as prize; exception. (1) Except as otherwise provided in this section, alcoholic liquor may not be given as a prize, premium or consideration for a lottery, contest, game of chance or skill, or competition of any kind.

(2) A charitable, nonprofit corporation may conduct raffles for wine and arrange for delivery of the wine to the residence of the person winning a raffle.

(3) A charitable, fraternal or religious organization may offer alcoholic liquor as a prize, premium or consideration in a contest of chance described in ORS 167.117 (7)(b) or conducted as part of a Monte Carlo event as defined in ORS 167.117. [1995 c.363 §2; 1997 c.191 §1; 1997 c.867 §25]

471.410 Providing liquor to person under 21 or to intoxicated person; allowing consumption by minor on property; mandatory minimum penalties. (1) No person shall sell, give or otherwise make available any alcoholic liquor to any person who is visibly intoxicated.

(2) No one other than the person's parent or guardian shall sell, give or otherwise make available any alcoholic liquor to a person under the age of 21 years. A person violates this subsection who sells, gives or otherwise makes available alcoholic liquor to a person with the knowledge that the person to whom the liquor is made available will violate this subsection.

(3) No person who exercises control over private real property may knowingly allow any other person under the age of 21 years who is not a child or minor ward of the person to consume alcoholic liquor on the property, or allow any other person under the age of 21 years who is not a child or minor ward of the person to remain on the property if the person under the age of 21 years consumes alcoholic liquor on the property. The prohibitions of this subsection apply only to a person who is present and in control of the location at the time the consumption occurs. The prohibitions of this subsection do not apply to the owner of rental property, or the agent of an owner of rental property, unless the consumption occurs in the individual unit in which the owner or agent resides.

(4) A person who violates subsection (1) or (2) of this section commits a Class A misdemeanor. Upon violation of subsection (2) of this section, the court shall impose at least a mandatory minimum sentence as follows:

(a) Upon a first conviction, a fine of $350.

(b) Upon a second conviction, a fine of $1,000.

(c) Upon a third or subsequent conviction, a fine of $1,000 and not less than 30 days of imprisonment.

(5) The court shall not waive or suspend imposition or execution of the mandatory minimum sentence required by subsection (4) of this section. In addition to the mandatory sentence the court may require the violator to make restitution for any damages to property where the alcoholic liquor was illegally consumed or may require participation in volunteer service to a community service agency.

(6) The mandatory minimum penalty provisions of subsection (4) of this section shall not apply to persons licensed or appointed under the provisions of this chapter.

(7) A person who violates subsection (3) of this section commits a violation. Upon violation of subsection (3) of this section, the court shall impose at least a mandatory minimum fine as follows:

(a) Upon a first conviction, a fine of $350.

(b) Upon a second or subsequent conviction, a fine of $1,000.

(8) Nothing in this section prohibits any licensee under this chapter from allowing a person who is visibly intoxicated from remaining on the licensed premises so long as the person is not sold or served any alcoholic liquor. [Amended by 1963 c.243 §1; 1971 c.159 §5; 1977 c.458 §1; 1977 c.814 §1; 1983 cor. c.736 §1; 1995 c.301 §40; 1995 c.599 §5; 1995 c.756 §1; 1999 c.351 §58]

471.412 Allowing visibly intoxicated person to consume alcoholic beverages; good faith effort; effect on other liability; letters of reprimand. (1) No licensee or permittee shall knowingly allow a person to consume or to continue to consume alcoholic beverages on the licensed premises after observing that the person is visibly intoxicated.

(2) A licensee or permittee is not in violation of subsection (1) of this section if the licensee or permittee makes a good faith effort to remove any unconsumed alcoholic beverages from the person's possession when the licensee or permittee observes that the person is visibly intoxicated.

(3) Nothing in this section applies to determining liability under ORS 471.565.

(4) Notwithstanding any other provision of law, the Oregon Liquor Control Commission shall only impose letters of reprimand for the first three violations of this section within a two-year period. For license renewal purposes, the first three violations of this section in a two-year period shall not apply in determining the past record of compliance under ORS 471.313 (4)(g). [1989 c.785 §2; 1995 c.301 §69]

471.415 [Amended by 1955 c.657 §10; 1957 c.297 §1; repealed by 1995 c.301 §81]

471.417 [1985 c.306 §2; 1989 c.471 §1; repealed by 1995 c.301 §81]

471.420 [Amended by 1959 c.399 §1; 1971 c.680 §2; repealed by 1979 c.43 §1 and by 1979 c.190 §431]

471.425 Misrepresentations by licensee and others; maintenance of disorderly establishment. (1) No person shall make false representations or statements to the Oregon Liquor Control Commission in order to induce or prevent action by the commission.

(2) No licensee of the commission shall maintain a noisy, lewd, disorderly or insanitary establishment or supply impure or otherwise deleterious alcoholic beverages.

(3) No licensee of the commission shall misrepresent to a customer or to the public any alcoholic liquor sold by such licensee.

471.430 Purchase or possession of liquor by person under 21; entry of licensed premises by person under 21; community service and suspension of driving privileges; assessment and treatment. (1) No person under the age of 21 years shall attempt to purchase, purchase or acquire alcoholic liquor. Except when such minor is in a private residence accompanied by the parent or guardian of the minor and with such parent's or guardian's consent, no person under the age of 21 years shall have personal possession of alcoholic liquor.

(2) For the purposes of this section, personal possession of alcoholic liquor includes the acceptance or consumption of a bottle of such liquor, or any portion thereof or a drink of such liquor. However, this section does not prohibit the acceptance or consumption by any person of sacramental wine as part of a religious rite or service.

(3) Except as authorized by rule or as necessitated in an emergency, no person under the age of 21 years shall enter or attempt to enter any portion of a licensed premises that is posted or otherwise identified as being prohibited to the use of minors.

(4) Any person who violates subsection (1) or (3) of this section commits a Class B violation.

(5) In addition to and not in lieu of any other penalty established by law, a person under the age of 21 years who violates subsection (1) of this section through misrepresentation of age may be required to perform community service and the court shall order that the person's driving privileges and right to apply for driving privileges be suspended for a period not to exceed one year. If a court has issued an order denying driving privileges under this section, the court, upon petition of the person, may withdraw the order at any time the court deems appropriate. The court notification to the Department of Transportation under this subsection may include a recommendation that the person be granted a hardship permit under ORS 807.240 if the person is otherwise eligible for the permit.

(6) In addition to and not in lieu of any penalty established by law, the court:

(a) Shall order a person who is at least 18 years of age and not more than 21 years of age, who is convicted of violation of this section and who has been convicted of violation of this section at least once before when the person was at least 18 years of age, to undergo assessment and treatment as provided in ORS 471.432.

(b) May order a person who is at least 18 years of age and not more than 21 years of age and who is convicted of violation of this section to undergo assessment and treatment as provided in ORS 471.432.

(7) The prohibitions of this section do not apply to a person under the age of 21 years who is acting under the direction of the Oregon Liquor Control Commission or under the direction of state or local law enforcement agencies for the purpose of investigating possible violations of laws prohibiting sales of alcoholic beverages to persons who are under the age of 21 years.

(8) The prohibitions of this section do not apply to a person under the age of 21 years who is acting under the direction of a licensee for the purpose of investigating possi-

ble violations by employees of the licensee of laws prohibiting sales of alcoholic beverages to persons who are under the age of 21 years. [Amended by 1963 c.243 §2; 1965 c.166 §1; 1971 c.159 §6; 1975 c.493 §1; 1979 c.313 §8; 1991 c.860 §2; 1999 c.646 §1; 1999 c.1051 §186; 2001 c.791 §4]

471.432 Examination for problem condition involving alcohol upon conviction; treatment program. When a person is ordered to undergo assessment and treatment as provided in ORS 471.430, the court shall require the person to do all of the following:

(1) Pay to the court the fee described under ORS 813.030 in addition to any fine imposed under ORS 471.430.

(2) Complete an examination by an agency or organization designated by the court to determine whether the person has a problem condition involving alcohol as described in ORS 813.040. The designated agencies or organizations must meet the standards set by the Director of Human Services to perform the diagnostic assessment and treatment of problem drinking and alcoholism and must be certified by the Director of Human Services.

(3) Complete a treatment program, paid at the expense of the person convicted, as follows:

(a) If the examination required under this section shows that the person has a problem condition involving alcohol, a program for rehabilitation for alcoholism approved by the Director of Human Services.

(b) If the examination required by this section shows that the person does not have a problem condition involving alcohol, an alcohol information program approved by the Director of Human Services. [1999 c.646 §2]

Note: 471.432 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 471 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

471.435 [Repealed by 1953 c.120 §6]

471.440 Manufacture, fermentation or possession of mash, wort or wash; establishment or operation of distillery without license; prima facie evidence. (1) No mash, wort or wash fit for distillation or for the manufacture of spirituous alcoholic liquors, shall be made, fermented or possessed within this state by any person who does not at the time own a distillery license under the Liquor Control Act. This section does not prevent the possession of mash for the purpose of manufacturing wine, cider or beer for home consumption as provided for in ORS 471.403.

(2) No distillery shall be set up or operated in this state for the purpose of manufacturing alcoholic liquor for beverage purposes except by a person duly licensed under the Liquor Control Act to operate a distillery. Any device or process which separates alcoholic spirits from any fermented substance shall be regarded as a distillery. A distillery is set up when the still is in position over a furnace, or is connected with a boiler, so that heat may be applied, although the worm or worm tank is not in position.

(3) The finding of any mash, wort, wash or distillery in any house, on any premises or within any enclosure, is prima facie evidence that it was made and fermented by, or set up by, and the property of, the person who is in possession of such house, premises or enclosure. [Amended by 1999 c.351 §73]

471.442 Wine compliance with standards. (1) No wine or cider shall be sold or offered for sale within this state unless it complies with the minimum standards fixed pursuant to law.

(2) The Oregon Liquor Control Commission may require a manufacturer, importer or wholesaler to provide samples of a particular wine or cider, and to provide a laboratory analysis demonstrating to the satisfaction of the commission that the particular wine or cider complies with the minimum standards in this state.

(3) No wine or cider offered for sale within this state may be altered or tampered with in any way by any person not licensed to do so by the commission.

(4) The commission may prohibit the sale of any wine or cider for a reasonable period of time while it is determining whether the wine or cider complies with minimum standards in this state. [Formerly 471.340]

471.445 Use of misleading mark or label on container; mixing liquors. (1) No licensee shall use or allow the use of any mark or label on the container of alcoholic liquor which is kept for sale, if the container does not precisely and clearly indicate the nature of its contents or in any way might deceive any customer as to the nature, composition, quantity, age or quality of such liquor.

(2) No licensee other than a winery licensee may mix or permit the mixing of any alcoholic liquor which the licensee is authorized to sell with any other alcoholic liquor which the licensee is not authorized by license to sell.

471.446 Seals on wine and cider containers; improper labeling; injurious or adulterated ingredients. (1) No retail licensee shall purchase any wine or cider for resale except in sealed containers, the seals of which shall remain unbroken when it is sold for consumption off the premises.

(2) The Oregon Liquor Control Commission may refuse to sell, or may prohibit any licensee from selling, any brand of alcoholic liquor which in its judgment is deceptively labeled or branded as to content, or contains injurious or adulterated ingredients. [Formerly 471.345]

471.448 Sale of malt beverage as beer. Malt beverages may not be labeled or otherwise designated as beer for purposes of retail sale in this state unless the malt beverage contains six percent or less alcohol by volume. [1995 c.301 §12; 1999 c.351 §15a]

471.450 [Repealed by 1971 c.116 §1]

471.452 [Amended by 1979 c.264 §8; 1989 c.178 §6; 1989 c.740 §4; 1989 c.785 §12; repealed by 1995 c.301 §81]

471.455 [Amended by 1957 c.297 §2; 1979 c.881 §4; 1981 c.80 §1; repealed by 1995 c.301 §81]

471.456 [1979 c.881 §7; 1987 c.511 §3; repealed by 1995 c.301 §81]

471.457 [1965 c.277 §1; repealed by 1995 c.301 §81]

471.460 [Amended by 1981 c.80 §2; repealed by 1995 c.301 §81]

471.463 [1965 c.277 §2; repealed by 1995 c.301 §81]

471.465 [Amended by 1955 c.657 §11; 1957 c.297 §3; 1981 c.435 §1; 1987 c.501 §1; repealed by 1995 c.301 §81]

471.470 [Amended by 1957 c.297 §4; repealed by 1995 c.301 §81]

471.475 Mixing, storing or serving of liquor without license. No person who owns, operates or conducts a private or public club or place and who is not in possession of a license issued by the Oregon Liquor Control Commission permitting the mixing, storing and serving of alcoholic liquor at said premises, and no agent, servant or employee of such person, for a financial consideration by way of a charge for service, membership fee, admission fee, initiation fee, club dues, contributions, or other fee or charge, shall serve or permit to be served, or use or permit to be used, any room, place, bar, glasses, mixers, locker, storage place, chairs, tables, cash registers, music devices, furniture, furnishings, equipment or facilities, for the mixing, storing, serving or drinking of alcoholic liquor.

471.478 Sale of kegs of malt beverages; rules; penalty. On and after January 1, 1978:

(1) The Oregon Liquor Control Commission by rule shall require the identification of kegs of malt beverages sold directly to consumers who are not licensees of the commission and the signing of a receipt therefor by the purchaser in order to allow the kegs to be traced if the contents are consumed in violation of the Liquor Control Act. The keg identification shall be in the form of a numbered label prescribed and supplied by the commission which identifies the seller and which is removable or obliterated when the keg is processed for refilling. The receipt shall be on a form prescribed and supplied by the commission and shall include the name and address of the purchaser; motor vehicle operator's license number, if any; the automobile registration of the motor vehicle in which the keg was removed from the seller's premises, if any; and such other identification as the commission by rule may require. The receipt shall contain a statement that must be signed by the purchaser that, under penalty of false swearing, the purchaser will not allow consumption of any malt beverage in the keg in violation of ORS 471.410. A copy of the receipt shall be given to the purchaser and the seller shall retain the original receipt for such period as the commission by rule may require.

(2) Possession of a keg containing malt beverages which is not identified as required by subsection (1) of this section is a Class A misdemeanor.

(3) A person who signs a receipt described in subsection (1) of this section in order to obtain a keg, knowing the receipt to be false, or who falsifies any information required on the receipt, is guilty of false swearing as prescribed by ORS 162.075.

(4) As used in this section, "keg" means any brewery-sealed, individual container of malt beverage having a liquid capacity of more than seven gallons. [1977 c.551 §2; 1997 c.249 §173]

471.480 Sale of liquor by certain employees 18 years of age or older. (1) Any employee 18 years of age or older of a person who holds an off-premises sales license from the Oregon Liquor Control Commission may sell any alcoholic liquor authorized by such license on the licensed premises.

(2) Any employee 18 years of age or older of a person who holds a wholesale malt beverage and wine license from the Oregon Liquor Control Commission may assist the licensee in the delivery of any alcoholic liquor authorized by such license. [1971 c.490 §1; 1985 c.378 §2; 1999 c.351 §34]

471.482 Sale or service of liquor by employees 18 years of age or older generally; rules. (1) The holder of a license issued under this chapter may employ persons 18, 19 and 20 years of age who may take orders for, serve and sell alcoholic liquor in any part of the licensed premises when that activity is incidental to the serving of food except in those areas classified by the Oregon Liquor Control Commission as being prohibited to the use of minors. However, no person who is 18, 19 or 20 years of age shall be permitted to mix, pour or draw alcoholic liquor except when pouring is done as a service to the patron at the patron's table or drawing is done in a portion of the premises not prohibited to minors.

(2) A person who is 18, 19 or 20 years of age may enter areas classified by the commission as being prohibited to the use of minors only for the purpose of ordering and picking up alcoholic liquor for service in other parts of the premises. However, the person shall not remain in the areas longer than is necessary to perform those duties.

(3) The commission by rule may permit access to prohibited areas by any minor for nonalcoholic liquor employment purposes as long as the minor does not remain longer than is necessary to perform the duties. [1981 c.610 §2; 1993 c.128 §2; 1995 c.301 §70; 1999 c.351 §59]

471.485 Payment required on or before delivery of liquor. No wholesale licensee or agent or employee thereof shall sell or deliver, nor shall any retail licensee purchase or receive any malt beverages, cider or wine for currency on delivery, but such malt beverages, cider or wine shall be paid for prior to delivery thereof, by electronic fund transfer initiated on or before the date of delivery, or by valid check, order, negotiable instrument or voucher payable on the date of delivery. The wholesale licensee may accept cash at the time of delivery if such acceptance does not create or increase the licensee's, or the agents' or employees' of the licensee, exposure to or risk of being victimized by criminal activity. [1971 c.694 §2; 1995 c.525 §1; 1999 c.351 §74]

471.490 Delivery or acceptance of instrument drawn upon insufficient funds or not payable according to terms; use of credit. No retail licensee shall deliver any check, order, negotiable instrument or voucher in payment for malt beverages, cider or wine, knowing at the time of such delivery that the maker or drawer has not sufficient funds in the bank or depository to pay the instrument on presentation, nor shall any wholesale licensee accept any such instrument knowing that said instrument is not payable according to its terms, or that there are not sufficient funds to pay such instrument on presentation. Any extension or acceptance of credit under this section shall constitute a violation of ORS 471.398. [1971 c.694 §3; 1995 c.301 §85; 1999 c.351 §75]

471.495 Report by wholesaler of instruments not paid on presentment required. Any wholesale licensee who receives a check, order, negotiable instrument or voucher in payment for malt beverages, cider or wine, who receives an instrument from a retail licensee which, upon presentation, is not paid by the party on whom it is drawn, shall report such fact forthwith to the Oregon Liquor Control Commission. [1971 c.694 §4; 1999 c.351 §76]

471.500 Application of ORS 471.485 to 471.495. The provisions of ORS 471.485, 471.490 and 471.495 shall not apply to any common carrier licensed by the Oregon Liquor Control Commission. [1971 c.694 §5; 1995 c.301 §41]

471.501 Brewery or brewery-public house authorized to pay bottle refund in excess of five cents. Nothing in this chapter prevents a brewery licensed under ORS 471.220 or a brewery-public house licensed under ORS 471.200 from establishing a refund value for malt beverage containers under the provisions of ORS 459A.705 that is in excess of five cents per container for the purpose of encouraging purchasers to return the containers directly to the brewery or brewery-public house. A refund value in excess of five cents per container may be paid under this section only to persons who are not licensed under this chapter and who return the containers directly to the brewery or brewery-public house. [1997 c.803 §10; 1999 c.351 §60]

471.502 [1981 c.917 §2; renumbered 474.105 in 1989]

471.503 [1981 c.917 §3; renumbered 474.115 in 1989]

471.505 [Repealed by 1983 c.350 §276 (471.506 enacted in lieu of 471.505)]

LOCAL OPTION

471.506 Petition and election for local option. (1) The governing body of a city or a county, when a petition is filed as provided in this section, shall order an election on the question whether the sale, for beverage purposes, of alcoholic liquors of any of the classes described in this section shall be prohibited in the city or county. The classes of alcoholic liquor to which this section applies are:

(a) Alcoholic liquors containing more than five percent alcohol by volume;

(b) Alcoholic liquors containing more than 14 percent alcohol by volume; and

(c) All alcoholic liquors.

(2) Except as provided in subsections (3), (4) and (5) of this section, the requirements for preparing, circulating and filing a petition under this section:

(a) In the case of a city, shall be as provided for an initiative petition under ORS 250.265 to 250.346.

(b) In the case of a county, shall be as provided for an initiative petition under ORS 250.165 to 250.235.

(3) A petition under subsection (2) of this section:

(a) Must be filed not less than 60 days before the day of the election;

(b) Must specify whether the prohibition would apply to the sale of all alcoholic liq-

uors or only to alcoholic liquors containing more than five percent alcohol by volume or more than 14 percent alcohol by volume; and

(c) Must be signed by not less than 10 percent of the electors registered in the city or county.

(4) If ORS 250.155 makes ORS 250.165 to 250.235 inapplicable to a county or if ORS 250.255 makes ORS 250.265 to 250.346 inapplicable to a city, the requirements for preparing, circulating and filing a petition under this section shall be as provided for an initiative petition under the county or city charter or an ordinance adopted under the county or city charter.

(5) No signature is valid unless signed within 180 days before the petition is filed.

(6) An election under this section shall be held at the time of the next statewide general election.

(7) An election under this section shall be conducted under ORS chapters 246 to 260. [1983 c.350 §277 (471.506 enacted in lieu of 471.505); 1995 c.301 §87]

471.510 Sales not affected by local option laws. ORS 471.506 shall not prohibit the sale of pure alcohol for scientific or manufacturing purposes, or of wines to church officials for sacramental purposes, nor shall it prevent any person residing in the county or city from ordering and having delivered to the home of the person, for the personal use of self and family, alcoholic liquors purchased from the Oregon Liquor Control Commission or from persons duly licensed to sell them under the Liquor Control Act. [Amended by 1999 c.351 §35]

471.515 Effective date of local option. In each county or city that returns a majority vote for or against prohibition, as to any classes of alcoholic liquor, the law shall take effect on January 1 following the day of election. [Amended by 1983 c.350 §278]

471.520 [Amended by 1979 c.190 §422; repealed by 1983 c.350 §331a]

471.525 [Repealed by 1983 c.350 §331a]

471.530 [Amended by 1957 c.231 §1; repealed by 1983 c.350 §331a]

471.535 [Repealed by 1983 c.350 §331a]

471.540 [Amended by 1983 c.83 §93; repealed by 1983 c.350 §331a]

ALCOHOL EDUCATION PROGRAM

471.541 Alcohol Education Program. The Oregon Liquor Control Commission shall establish an Alcohol Education Program. The Alcohol Education Program shall consist of all the duties of the commission in administering clerk training courses under ORS 471.341 and alcohol server education courses under ORS 471.542. [2001 c.785 §14]

471.542 Alcohol server education course required; content; fees; how course provided; rules. (1) Except as provided in subsection (2) of this section, the Oregon Liquor Control Commission shall require a person applying for issuance or renewal of a server permit or any license that authorizes the sale or service of alcoholic beverages for consumption on the premises to complete an approved alcohol server education course and examination as a condition of the issuance or renewal of the permit or license.

(2) A person applying for issuance or renewal of a license that authorizes the sale or service of alcoholic beverages for consumption on the premises need not complete an approved alcohol server education course and examination as a condition of the issuance or renewal of the license if:

(a) The license has been restricted by the commission to prohibit sale or service of alcoholic beverages for consumption on the premises; or

(b) The person applying for issuance or renewal of the license submits a sworn statement to the commission stating that the person will not engage in sale or service of alcoholic beverages for consumption on the premises, will not directly supervise or manage persons who sell or serve alcoholic beverages on the premises, and will not participate in establishing policies governing the sale or service of alcoholic beverages on the premises.

(3) The commission by rule shall establish requirements that licensees and permittees must comply with as a condition of requalifying for a license or permit. The licensee or permittee must comply with those requirements once every five years after completing the initial alcohol server education course and examination. The requirements established by the commission may include retaking the alcohol server education course and examination.

(4) The commission may extend the time periods established by this section upon a showing of hardship. The commission by rule may exempt a licensee from the requirements of this section if the licensee does not participate in the management of the business.

(5) The standards and curriculum of alcohol server education courses shall include but not be limited to the following:

(a) Alcohol as a drug and its effects on the body and behavior, especially driving ability.

(b) Effects of alcohol in combination with commonly used legal, prescription or nonprescription, drugs and illegal drugs.

(c) Recognizing the problem drinker and community treatment programs and agencies.

(d) State alcohol beverage laws such as prohibition of sale to minors and sale to intoxicated persons, sale for on-premises or off-premises consumption, hours of operation and penalties for violation of the laws.

(e) Drunk driving laws and liquor liability statutes.

(f) Intervention with the problem customer including ways to cut off service, ways to deal with the belligerent customer and alternative means of transportation to get the customer safely home.

(g) Advertising and marketing for safe and responsible drinking patterns and standard operating procedures for dealing with customers.

(6) The commission shall impose a fee not to exceed $2.60 a year for each license subject to the alcohol server education requirement, and a fee not to exceed $13 for each service permit application. These fees shall be used for administrative costs of the Alcohol Education Program established under ORS 471.541 and shall be in addition to any other license or permit fees required by law or rule.

(7) The commission shall adopt rules to impose reasonable fees for administrative costs on alcohol server education course instructors and providers.

(8) The commission shall provide alcohol server education courses and examinations through independent contractors, private persons or private or public schools certified by the commission. The commission shall adopt rules governing the manner in which alcohol server education courses and examinations are made available to persons required to take the course. In adopting rules under this subsection, the commission shall consider alternative means of providing courses, including but not limited to providing courses through audiotapes, videotapes, the Internet and other electronic media. [1985 c.658 §§2,3; 1987 c.851 §3; 1989 c.120 §6; 1989 c.178 §7; 1989 c.271 §1; 1997 c.803 §7; 1999 c.351 §36; 1999 c.1062 §8; 2001 c.785 §16]

471.545 [Repealed by 1983 c.350 §331a]

471.547 Alcohol Server Education Advisory Committee; members; duties. The Oregon Liquor Control Commission shall establish an Alcohol Server Education Advisory Committee consisting of persons representing the commission, the Oregon State Police, the Oregon District Attorneys Association, the Department of Human Services, the Department of Transportation, at least one person who is a service permittee under ORS 471.360, a nonprofit organization the purpose of which is to reduce the incidence of drunk driving, and not more than three associations representing retail licensees and two associations representing insurance companies to assist in:

(1) The development of the standards, curriculum and materials for the alcohol server education courses required under ORS 471.542;

(2) The examination required by ORS 471.542, and procedures for administering that examination;

(3) The certification procedures, enforcement policies and penalties for alcohol server education course instructors and providers; and

(4) The development of time requirements for completion of an alcohol server education course and examination and conditions for probationary extension. [1985 c.658 §1; 1987 c.679 §1; 1991 c.67 §143; 1991 c.453 §3; 2001 c.785 §17]

471.549 Civil penalty. In addition to such other sanctions as may be authorized by law, the Oregon Liquor Control Commission may impose a civil penalty not to exceed $1,000 against any alcohol server education course instructor or provider who violates a rule promulgated by the commission pursuant to ORS 471.542. The civil penalty may be in addition to or in lieu of any suspension, revocation or cancellation of the certification of an alcohol server education course instructor or provider. [1991 c.61 §4; 2001 c.785 §18]

471.550 [Repealed by 1983 c.350 §331a]

WARNING SIGNS RELATED TO ALCOHOL AND PREGNANCY

471.551 Warning signs required; contents; size; display. (1) Any person in possession of a valid retail liquor license, who sells liquor by the drink for consumption on the premises or sells for consumption off the premises, shall post a sign informing the public of the effects of alcohol consumption during pregnancy.

(2) The sign shall:

(a) Contain the message: "Pregnancy and alcohol do not mix. Drinking alcoholic beverages, including wine, coolers and beer, during pregnancy can cause birth defects."

(b) Be either:

(A) A large sign, no smaller than eight and one-half inches by 11 inches in size with lettering no smaller than five-eighths of an inch in height; or

(B) A reduced sign, five by seven inches in size with lettering of the same proportion as the large sign described in paragraph (a) of this subsection.

(c) Contain a graphic depiction of the message to assist nonreaders in understand-

ing the message. The depiction of a pregnant female shall be universal and shall not reflect a specific race or culture.

(d) Be in English unless a significant number of the patrons of the retail premises use a language other than English as a primary language. In such cases, the sign shall be worded in both English and the primary language or languages of the patrons.

(e) Be displayed on the premises of all licensed retail liquor premises as either a large sign at the point of entry, or a reduced sized sign at points of sale.

(3) The person described in subsection (1) of this section shall be encouraged to also post signs of any size at places where alcoholic beverages are displayed.

(4) Notwithstanding ORS 471.561, the holder of a retail liquor license may produce the sign required by this section insofar as the sign is consistent with the standards established pursuant to this section, ORS 616.286 and 624.060 and the Oregon Liquor Control Commission, and is displayed in accordance with subsection (2)(e) of this section. [1991 c.324 §2; 1995 c.301 §42]

471.553 Consultation with certain groups on production and posting of signs. The Oregon Liquor Control Commission shall consult with representatives of business and industry as well as interested citizens groups, including the March of Dimes and the Junior League, to determine the most cost-effective, convenient method to produce and post the sign described in ORS 471.551, which shall be distributed by the commission. [1991 c.324 §3]

471.555 [Repealed by 1957 c.231 §2 (471.556 enacted in lieu of 471.555)]

471.556 [1957 c.231 §3 (enacted in lieu of 471.555); 1979 c.190 §423; repealed by 1983 c.350 §331a]

471.557 Solicitation of private funds. The Oregon Liquor Control Commission may solicit private funds, if necessary, to produce and distribute the signs. [1991 c.324 §4]

471.559 Violations; penalty. (1) If no warning sign is posted:

(a) The Oregon Liquor Control Commission shall furnish a warning sign.

(b) The retailer shall have five days from the receipt of the warning sign to post it appropriately.

(2) If there is a violation of this section or of ORS 471.551, the violator shall be subject to:

(a) A written warning from the commission for the first violation accompanied by a copy of the sign.

(b) A fine of not to exceed $25 payable to the commission for a second violation.

(c) A fine of not to exceed $25 for the third and subsequent violations for each day the sign is not posted.

(3) The fine imposed under subsection (2) of this section shall be separate from any other sanction or penalty imposed by the commission and shall not be used in any progressive violation schedule.

(4) The penalty provided by this section shall be the sole penalty for violation of this section or ORS 471.551 or the rules adopted under section 1, chapter 324, Oregon Laws 1991.

(5) Violation of this section or ORS 471.551 or the rules adopted under section 1, chapter 324, Oregon Laws 1991, shall not be grounds for refusal to issue a license, cancellation of a license or suspension of a license issued under this chapter.

(6) Nothing in this section or ORS 471.551 or the rules adopted under section 1, chapter 324, Oregon Laws 1991, creates any new cause of action or any private right of any person. [1991 c.324 §5]

471.560 [Repealed by 1983 c.350 §331a]

471.561 Production and distribution of signs. By June 30, 1992, the Oregon Liquor Control Commission shall produce and complete distribution of the warning signs, free of charge, to all holders of retail liquor licenses. The commission shall produce and distribute additional signs as liquor licenses are granted. [1991 c.324 §9]

LIABILITY FOR PROVIDING OR SERVING ALCOHOLIC BEVERAGES TO INTOXICATED PERSON OR MINOR

471.565 Liability for providing or serving alcoholic beverages to intoxicated person; notice of claim. (1) A patron or guest who voluntarily consumes alcoholic beverages served by a person licensed by the Oregon Liquor Control Commission, a person holding a permit issued by the commission or a social host does not have a cause of action, based on statute or common law, against the person serving the alcoholic beverages, even though the alcoholic beverages are served to the patron or guest while the patron or guest is visibly intoxicated. The provisions of this subsection apply only to claims for relief based on injury, death or damages caused by intoxication and do not apply to claims for relief based on injury, death or damages caused by negligent or intentional acts other than the service of alcoholic beverages to a visibly intoxicated patron or guest.

(2) A person licensed by the Oregon Liquor Control Commission, person holding a permit issued by the commission or social host is not liable for damages caused by in-

toxicated patrons or guests unless the plaintiff proves by clear and convincing evidence that:

(a) The licensee, permittee or social host served or provided alcoholic beverages to the patron or guest while the patron or guest was visibly intoxicated; and

(b) The plaintiff did not substantially contribute to the intoxication of the patron or guest by:

(A) Providing or furnishing alcoholic beverages to the patron or guest;

(B) Encouraging the patron or guest to consume or purchase alcoholic beverages or in any other manner; or

(C) Facilitating the consumption of alcoholic beverages by the patron or guest in any manner.

(3) Except as provided in subsection (4) of this section, an action for damages caused by intoxicated patrons or guests off the premises of a person licensed by the Oregon Liquor Control Commission, a person holding a permit issued by the commission or a social host may be brought only if the person asserting the claim has given the licensee, permittee or social host the notice required by subsection (5) of this section within the following time periods:

(a) If a claim is made for damages arising out of wrongful death, notice must be given within one year after the date of death, or within one year after the date that the person asserting the claim discovers or reasonably should have discovered the existence of a claim under this section, whichever is later.

(b) If a claim is made for damages for injuries other than wrongful death, notice must be given within 180 days after the injury occurs, or within 180 days after the person asserting the claim discovers or reasonably should have discovered the existence of a claim under this section, whichever is later.

(4) The time provided for the giving of notice under subsection (3) of this section does not include any period during which:

(a) The claimant is under 18 years of age;

(b) The claimant is unable to give notice by reason of the injury or by reason of being financially incapable, as defined in ORS 125.005, or is incapacitated, as defined in ORS 125.005; or

(c) The claimant is unable to determine that the licensee, permittee or social host is liable because the patron or guest who caused the damages asserts a right against self-incrimination and cannot be compelled to reveal the identity of the licensee, permittee or social host, or cannot be compelled to reveal facts that would establish the liability of the licensee, permittee or social host.

(5) A licensee, permittee or social host shall be considered to have been given notice for the purposes of this section if:

(a) The licensee, permittee or social host is given formal notice in the manner specified in subsection (6) of this section;

(b) The licensee, permittee or social host receives actual notice as described in subsection (7) of this section;

(c) An action is commenced by or on behalf of the claimant within the period of time specified by subsections (3) and (4) of this section; or

(d) Any payment on the claim is made to the claimant by or on behalf of the licensee, permittee or social host.

(6) Formal notice of a claim subject to this section must be in writing, must be mailed to the licensee, permittee or social host, or personally served on the licensee, permittee or social host, and must contain all of the following:

(a) A statement that a claim for damages is made against the licensee, permittee or social host.

(b) A description of the time, place and circumstances giving rise to the claim, so far as known to the claimant.

(c) The name of the claimant and mailing address for the claimant to which correspondence regarding the claim may be mailed.

(7) For the purposes of this section, "actual notice" means any communication to a licensee, permittee or social host that gives the licensee, permittee or social host actual knowledge of the time, place and circumstances of the claim, if the communication is such that a reasonable person would conclude that a particular person intends to assert a claim against the licensee, permittee or social host. [Formerly 30.950]

Note: Section 2, chapter 534, Oregon Laws 2001, provides:

Sec. 2. The amendments to ORS 30.950 [renumbered 471.565] by section 1 of this 2001 Act apply only to causes of action arising on or after the effective date of this 2001 Act [January 1, 2002]. [2001 c.534 §2]

Note: 471.565 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 471 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

471.567 Liability for providing alcoholic beverages to minor; liability of minor for misrepresentation of age. (1) Notwithstanding ORS 471.130 and 471.565, no licensee, permittee or social host shall be liable to third persons injured by or through persons under the age of 21 years who ob-

tained alcoholic beverages from the licensee, permittee or social host unless it is demonstrated that a reasonable person would have determined that identification should have been requested or that the identification exhibited was altered or did not accurately describe the person to whom the alcoholic liquor was sold or served.

(2) A person who is under 21 but at least 18 years of age and who through misrepresentation of age causes an Oregon Liquor Control Commission licensee to be fined or have a license suspended or revoked shall be civilly liable for damages sustained by the licensee. The court may award reasonable attorney fees to the prevailing party in an action under this subsection.

(3) Subsection (2) of this section does not apply to a person under the age of 21 years who is acting under the direction of the Oregon Liquor Control Commission or under the direction of state or local law enforcement agencies for the purpose of investigating possible violations of laws prohibiting sales of alcoholic beverages to persons who are under the age of 21 years.

(4) Subsection (2) of this section does not apply to a person under the age of 21 years who is acting under the direction of a licensee for the purpose of investigating possible violations by employees of the licensee of laws prohibiting sales of alcoholic beverages to persons who are under the age of 21 years. [Formerly 30.960]

Note: 471.567 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 471 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

ENFORCEMENT OF LIQUOR LAWS

471.605 Duty of officers to enforce and to inform district attorney. The state police, sheriffs, constables and all police officers within the State of Oregon shall enforce all provisions of the Liquor Control Act and assist the Oregon Liquor Control Commission in detecting violations of that statute and apprehending offenders. Each such enforcing officer having notice, knowledge or reasonable ground of suspicion of any violation of that statute shall immediately notify the district attorney, and furnish the district attorney with names and addresses of any witnesses, or other information within the officer's knowledge, of such violation.

471.610 Confiscation of liquor and property by commission. Whenever any officer arrests any person for violation of the Liquor Control Act, the officer may take into possession all alcoholic liquor and other property which the person so arrested has in possession, or on the premises, which is apparently being used in violation of that statute. If the person so arrested is convicted, and it is found that the liquor and other property has been used in violation of the law, the same shall be forfeited to the Oregon Liquor Control Commission, and shall be delivered by the court or officer to the commission. The commission is authorized to destroy or make such other disposition thereof as it considers to be in the public interest. In any such case, all alcoholic liquor purchased or acquired from any source, and all property, including bars, glasses, mixers, lockers, chairs, tables, cash registers, music devices, gambling devices, furniture, furnishings, equipment and facilities for the mixing, storing, serving or drinking of alcoholic liquor shall be confiscated and forfeited to the state, and the clear proceeds shall be deposited with the State Treasury in the Common School Fund in the manner provided in this section. [Amended by 1981 c.601 §1; 1987 c.858 §5]

471.615 Duty to notify commission of conviction of licensee. The county courts, district attorneys and municipal authorities, immediately upon the conviction of any licensee of the Oregon Liquor Control Commission of a violation of any provision of the Liquor Control Act or the violation of any other law of this state or ordinance of any municipality therein, in which violation alcoholic liquor had any part, shall notify the commission thereof. Such officials shall notify the commission of any acts, practices or other conduct of any such licensee which may be subversive of the general welfare or contrary to the spirit of the Liquor Control Act and shall recommend such action on the part of the commission as will remove the evil.

471.620 Property and places as common nuisances. Any room, house, building, boat, structure or place of any kind where alcoholic liquor is sold, manufactured, bartered or given away in violation of the law, or where persons are permitted to resort for the purpose of drinking alcoholic beverages in violation of the law, or any place where such beverages are kept for sale, barter or gift in violation of the law, and all liquor or property subject to confiscation under ORS 471.610 kept and used in such place is a common nuisance. Any person who maintains or assists in maintaining such common nuisance or knowingly suffers or permits such nuisance to exist in any place of which the person is the owner, manager or lessor, shall be guilty of a violation of the Liquor Control Act.

471.625 Lien on place used to unlawfully handle liquor. If it is proved that the owner of any building or premises knowingly has suffered the same to be used or occupied for the manufacture, sale or possession of alcoholic beverages, contrary to the provisions of the Liquor Control Act, such building or premises are subject to a lien for, and may be sold to pay all fines and costs assessed against their occupants for any violation of that statute. The lien shall be enforced immediately by civil action in any court having jurisdiction, by the district attorney of the county wherein the building or premises are located.

471.630 Authority to abate nuisance. The Attorney General, the Oregon Liquor Control Commission or its administrators, or the district attorney of the county wherein a nuisance as defined in ORS 471.620 exists, or where it has existed but has temporarily ceased and there is good and sufficient cause to believe that it will be maintained in the future, may institute an action in the circuit court for such county in the name of the state to abate, and to temporarily and permanently enjoin, such nuisance. The court has the right to make temporary and final orders as in other injunction proceedings. The plaintiff shall not be required to give bond in such action. [Amended by 1979 c.284 §155]

471.635 Issuance of restraining order. (1) After a suit is commenced under ORS 471.630, application for a temporary injunction may be made to the court, which shall grant a hearing thereon within 10 days. Where such application has been made, the court, on application of the plaintiff, may issue an ex parte order restraining the defendants and all other persons from removing or in any manner interfering with the personal property and the contents of the room, house, building, boat, structure or place of any kind where the nuisance is alleged to exist, until the decision of the court granting or refusing such temporary injunction and until the further order of the court.

(2) This section and ORS 471.640 to 471.655 shall not interfere with the duties of officers as provided in ORS 471.605 and 471.610.

471.640 Service of restraining order. The restraining order may be served by delivering a copy to any person in charge of such place or residing therein, or by posting a copy thereof in a conspicuous place at or upon one or more of the principal doors or entrances to such place. The officer serving the order may enter such place and forthwith shall make and return to the court an inventory of the personal property and contents situated in and used in conducting or maintaining such nuisance. Any violation, of the order or mutilation or removal of the order so posted shall be a contempt of court, if the posted order contains a notice to that effect.

471.645 Temporary injunction. If a temporary injunction is granted, the court may issue further restraining orders as described in ORS 471.635; and forthwith may issue an order closing such place against its use for any purpose until the final decision, or the court may allow such place to be occupied or used during the pendency of the injunction proceedings by requiring the defendants to furnish an irrevocable letter of credit issued by an insured institution as defined in ORS 706.008 or a bond with sufficient surety, to be approved by the court, in the penal sum of not less than $2,500, payable to the state. The bond or letter of credit shall be conditioned that alcoholic liquor will not be manufactured, possessed, sold, served, bartered, or given away, or furnished, or otherwise disposed of thereon or therein, or kept thereon or therein with the intent to sell, barter, serve, or give away, or otherwise dispose of alcoholic liquor contrary to law, and that the defendants will pay all fines, costs and damages assessed against them for any violation of such conditions. The State of Oregon in an action brought by the Attorney General, the Oregon Liquor Control Commission or its administrators, or the district attorney, may take whatever steps necessary to recover the whole amount as a penalty for the use of the county wherein the premises are situated. [Amended by 1991 c.331 §69; 1997 c.631 §481]

471.650 Nature of permanent injunction. If a judgment against the defendants is granted, the court shall order that the place constituting the nuisance be closed for a period not exceeding two years, or closed for a part of said time, and until the owner, lessee, tenant or occupant thereof gives a bond or letter of credit identical to the bond or letter of credit required under ORS 471.645. If any condition of the bond or letter of credit is violated, the whole amount may be recovered as a penalty for the use of the county wherein the premises are situated. In any such suit process to nonresident defendants may be served by publication in a newspaper of general circulation in the county having jurisdiction of the injunction proceedings. Notice shall be published once each week for two consecutive weeks or for such time as the court, by order, may prescribe. [Amended by 1991 c.331 §70; 2003 c.576 §462]

471.655 Owner may defend; evidence concerning nuisance. (1) The owner of any property closed or restrained, or to be closed or restrained, may appear at any time between the filing of the complaint and the

trial and show cause why the court should cancel or refrain from issuing any judgment orders as against the owner. In order to obtain such relief, the owner must prove to the satisfaction of the court that the owner is the lawful owner of the property and, further, that with reasonable care and diligence the owner could not have known of the illegal use of the owner's property.

(2) Evidence of the general reputation of the premises upon which a nuisance is alleged to exist is admissible in evidence for the purpose of proving the existence of the nuisance, and of knowledge of, and of acquiescence and participation therein, on the part of persons charged with maintaining or assisting in the maintenance of a nuisance. [Amended by 2003 c.576 §463]

471.657 Confiscation and forfeiture for violation of ORS 471.475. Upon conviction for violation of ORS 471.475, the premises upon which the violation has occurred shall be declared to be a common nuisance and subject to abatement proceedings as provided by ORS 471.605 to 471.655. Any person who knowingly suffers or permits such nuisance to exist or be kept or maintained in a private or public club or place of which the person is the owner, manager or lessor, may be a party defendant to such abatement proceedings. In any such case, upon conviction, all alcoholic liquor, whether purchased or acquired from any other source, and all property, including bars, glasses, mixers, lockers, chairs, tables, cash registers, music devices, gambling devices, and all facilities for the mixing, storing, serving or drinking of alcoholic liquor shall be declared to be a common nuisance and shall be subject to confiscation and forfeiture as provided for by ORS 471.610. No claim of ownership or of any right, title, or interest in or to any of the personal property enumerated in this section or ORS 471.475 shall be held valid unless claimant shows to the satisfaction of the court that claimant is in good faith the owner of the claim and had no knowledge that the personal property was used in violation of ORS 471.475.

471.660 Seizure of conveyance transporting liquor and liquor therein; notice to owner; return of conveyance; costs. (1) When any peace officer discovers any person in the act of transporting alcoholic liquors in violation of law, in or upon any vehicle, boat or aircraft, or conveyance of any kind, the officer may seize any alcoholic liquor found therein, take possession of the vehicle or conveyance and arrest any person in charge thereof.

(2) The officer shall at once proceed against the person arrested, under the Liquor Control Act, in any court having competent jurisdiction, and shall deliver the vehicle or conveyance to the sheriff of the county in which such seizure was made.

(3) If the person arrested is the owner of the vehicle or conveyance seized, it shall be returned to the owner upon execution by the owner of a good and valid bond, with sufficient sureties in a sum double the value of the property, approved by the court and conditioned to return the property to the custody of the sheriff at a time to be specified by the court.

(4) If the person arrested is not the owner of the vehicle or conveyance seized, the sheriff shall make reasonable effort to determine the name and address of the owner. If the sheriff is able to determine the name and address of the owner, the sheriff shall immediately notify the owner by registered or certified mail of the seizure and of the owner's rights and duties under this section and ORS 471.666.

(5) A person notified under subsection (4) of this section, or any other person asserting a claim to rightful possession of the vehicle or conveyance seized, except the defendant, may move the court having ultimate trial jurisdiction over any crime charged in connection with the seizure to return the vehicle or conveyance to the movant.

(6) The movant shall serve a copy of the motion upon the district attorney of the county in which the vehicle or conveyance is in custody. The court shall order the vehicle or conveyance returned to the movant, unless the court is satisfied by clear and convincing evidence that the movant knowingly consented to the unlawful use that resulted in the seizure. If the court does not order the return of the vehicle or conveyance, the movant shall obtain the return only as provided in subsection (3) of this section.

(7) If the court orders the return of the vehicle or conveyance to the movant, the movant shall not be liable for any towing or storage costs incurred as a result of the seizure.

(8) If the court does not order the return of the vehicle or conveyance under subsection (6) of this section, and the arrested person is convicted for any offense in connection with the seizure, the vehicle or conveyance shall be subject to forfeiture as provided in ORS 471.666. [Amended by 1973 c.836 §351; 1981 c.601 §2]

471.665 [Amended by 1971 c.743 §374a; 1973 c.836 §352; 1977 c.745 §40; 1993 c.741 §66; repealed by 1997 c.592 §6 (471.666 enacted in lieu of 471.665)]

471.666 Disposal of seized liquor and of vehicle or other conveyance. (1) The court, upon conviction of the person arrested under ORS 471.660, shall order the alcoholic liquor delivered to the Oregon Liquor Con-

trol Commission, and shall, subject to the ownership rights of innocent third parties, order a sale at public auction by the sheriff of the county of the property seized. The sheriff, after deducting the expense of keeping the property and the cost of sale, shall pay all the liens, according to their priorities, which are established by intervention or otherwise at such hearing or in other proceedings brought for that purpose, and shall pay the balance of the proceeds into the general fund of the county. No claim of ownership or of any right, title or interest in or to such vehicle that is otherwise valid shall be held invalid unless the state shows to the satisfaction of the court, by clear and convincing evidence, that the claimant had knowledge that the vehicle was used or to be used in violation of law. All liens against property sold under this section shall be transferred from the property to the proceeds of the sale.

(2) If no person claims the vehicle or conveyance, the taking of the same and the description thereof shall be advertised in some daily newspaper published in the city or county where taken, or if no daily newspaper is published in such city or county, in a newspaper having weekly circulation in the city or county, once a week for two weeks and by handbills posted in three public places near the place of seizure, and shall likewise notify by mail the legal owner, in the case of an automobile, if licensed by the State of Oregon, as shown by the name and address in the vehicle registration records of the Department of Transportation. If no claimant appears within 10 days after the last publication of the advertisement, the property shall be sold and the proceeds, after deducting the expenses and costs, shall be paid into the general fund of the county. [1989 c.791 §18; 1993 c.741 §67; enacted in lieu of 471.665 in 1997]

471.670 Disposal of funds collected in enforcement of liquor laws; payment of enforcement expenses. (1) Except as provided in subsection (2) of this section, all fines imposed by any judge, magistrate or court in the enforcement of the Liquor Control Act or the Oregon Distilled Liquor Control Act shall be forwarded immediately to the county treasurer of the county in which such conviction is had. The county treasurer shall keep the same in a separate fund designated as an enforcement fund. All warrants for any expenditures in the enforcement of that statute, which have been approved by the district attorney of said county, shall be drawn on this fund. All claims shall be verified by the claimants or persons having knowledge or supervision of the expenditures and shall be audited by the county court in the usual manner before presentation for payment thereof. When the enforcement fund exceeds the amount paid to satisfy the total of all claims made against it during the preceding calendar year, the excess amount shall be paid to the general fund of such county by the county treasurer on June 30 and December 31 of each year.

(2) Any fine imposed or collected by a municipal judge may be retained by the municipality and shall be paid over and become a part of the city's general fund. [Amended by 1995 c.301 §71; 1999 c.788 §57]

471.675 Resisting arrest or interfering with enforcement. No person shall forcibly resist lawful arrest, or by physical contact recklessly interfere with an investigation of any infringement of the Liquor Control Act or the Oregon Distilled Liquor Control Act or with any lawful search or seizure being made by an officer or inspector of the Oregon Liquor Control Commission, when such person knows or should know that such acts are being performed by an officer or inspector of the commission. [Amended by 1981 c.370 §1; 1997 c.249 §174]

471.680 Allegation and proof in prosecutions. In any prosecution for the sale of alcoholic liquor it is not necessary to prove the exact variety, or to mention the quantity of alcoholic liquor sold, except in the case where the variety or quantity is essential to establish the offense. As regards quantity it is sufficient to allege the sale of a quantity, the sale of which quantity is unlawful. The description of any offense, alleged to be a violation of the Liquor Control Act, in the words of that statute or in any words of like effect, is sufficient in law. Any exceptions, exemptions, provisions, excuse or qualification may be proved by the defendant, but need not be specified or negatived in the complaint, information or indictment. If it is so specified or negatived, no proof in relation to the matter so specified or negatived is required on the part of the plaintiff, informant or complainant.

471.685 Governor authorized to suspend license. In case of invasion, disaster, insurrection, riot, or imminent danger thereof, the Governor may, for the duration of such invasion, disaster, insurrection, riot, or imminent danger thereof, immediately suspend without notice any license in the area involved granted under the provisions of this chapter. [1963 c.91 §2; 1995 c.301 §43; 1999 c.351 §61]

471.695 Fingerprinting of license applicants and certain commission employees; criminal records check. (1) The Oregon Liquor Control Commission may require each applicant for a full or limited on-premises sales license to submit to fingerprinting. If the applicant is a corpo-

ration, the fingerprints of each officer, director and major stockholder of the corporation may be required by the commission. Prior to approving any change in officers, directors or major stockholders, the commission may require the fingerprints of the new officials.

(2) The commission shall require that all employees of the commission who work in the licensing or enforcement divisions or who have access to criminal background information be fingerprinted.

(3) Fingerprints acquired under this section may be submitted to appropriate law enforcement agencies for checking to determine any unlawful activities of the licensee, applicant or employee. If a nationwide criminal records check is necessary, the commission shall request the Department of State Police to conduct the check, including fingerprint identification, through the Federal Bureau of Investigation. The Federal Bureau of Investigation shall return or destroy the fingerprint cards used to conduct the criminal records check and may not keep any record of the fingerprints. If the policy of the federal bureau authorizing return or destruction of the fingerprint cards is changed, the department shall cease sending the cards to the federal bureau but shall continue to process the information through other available resources. If the federal bureau returns the fingerprint cards to the department, the department shall return the fingerprint cards to the commission. Upon receiving the fingerprint cards under this subsection, the commission shall destroy the fingerprint cards and may not retain facsimiles or other material from which a fingerprint can be reproduced. The Department of State Police shall report the results of the fingerprint-based criminal records check to the commission. The commission shall designate staff specifically authorized to receive the information obtained under this section. The Department of State Police shall also furnish the commission with any information about the licensee, applicant or employee that the Department of State Police may have in its possession from its central bureau of criminal identification including, but not limited to, manual or computerized criminal offender information. The commission may establish an appropriate fee for the criminal records check not to exceed the costs of conducting the criminal records check through the Department of State Police and the Federal Bureau of Investigation.

(4) As used in this section, "major stockholder" means any person who owns, directly or indirectly, more than 10 percent of any class of any equity security of the corporation. [1979 c.634 §2; 1999 c.351 §37; 2003 c.166 §3]

471.700 Revocation of license on gambling conviction. In carrying out its duties under ORS 471.315, the Oregon Liquor Control Commission shall not suspend or cancel a license on grounds of any violation of ORS 167.108 to 167.164 until:

(1) The licensee has been convicted thereof in a court of competent jurisdiction; or

(2) An employee of the licensee has been convicted thereof in a court of competent jurisdiction and the violation occurred on the licensed premises. [1979 c.171 §2; 1995 c.301 §72]

471.703 Police notice to commission or social host when certain persons involved in motor vehicle accidents; content; commission duty. (1) The police shall notify the Oregon Liquor Control Commission of the name of the alleged provider of alcoholic liquor when:

(a) The police investigate any motor vehicle accident where someone other than the operator is injured or incurs property damage;

(b) The operator appears to have consumed alcoholic liquor;

(c) A citation is issued against the operator that is related to the consumption of alcoholic liquor or could have been issued if the operator had survived; and

(d) The provider of the alcoholic liquor is alleged to be a licensee or permittee of the commission.

(2) The notice shall include the name and address of the operator involved and the name and address of the person who named the alleged provider, if the person is other than the operator.

(3) Upon receipt of the notice described in subsection (1) of this section, the commission shall cause the licensee or permittee named as the alleged provider to be notified of receipt of the notice and of its content. A copy of the notice shall be retained in the files of the commission and shall be open to inspection by the person injured or damaged by the motor vehicle operator or a representative of the person.

(4) The police shall notify the alleged social host when the circumstances described in subsection (1) of this section occur and the alleged social host is named as the provider of the alcoholic liquor. The notice shall include the information described in subsection (2) of this section. [1987 c.774 §15]

ORGANIZATION, POWERS AND DUTIES OF LIQUOR COMMISSION

471.705 Oregon Liquor Control Commission; qualifications; compensation; term; confirmation. (1) There is created the Oregon Liquor Control Commission, consisting of five persons appointed by the Governor. One member shall be from among the bona fide residents of each congressional district of the state. One member shall be from the food and alcoholic beverage retail industry. Not more than three commissioners shall be of the same political party and one shall be designated by the Governor to be chairperson of the commission. The commissioners are entitled to compensation and expenses as provided in ORS 292.495. Each commissioner at the time of appointment and qualification shall be a resident of this state and shall have resided in this state for at least five years next preceding appointment and qualification. The commissioner shall be an elector therein and not less than 30 years of age. A commissioner shall cease to hold office if the commissioner ceases to possess the residency or industry qualification for appointment and the Governor shall appoint a qualified individual to complete the unexpired term.

(2) The term of office of a commissioner shall be four years from the time of appointment and qualification and until a successor qualifies. The terms of the commissioners shall commence April 1. In case any commissioner is allowed to hold over after the expiration of the term, the successor shall be appointed for the balance of the unexpired term. Vacancies in the commission shall be filled by the Governor for the unexpired term. Each commissioner is eligible for reappointment but no person shall be eligible to serve for more than two full terms.

(3) All appointments of commissioners by the Governor are subject to confirmation by the Senate pursuant to section 4, Article III, Oregon Constitution. [Amended by 1967 c.577 §11; 1969 c.314 §50; 1973 c.792 §17; 1979 c.251 §1; 1981 c.545 §9]

471.710 Removal; prohibited interests of commissioner and employee. (1) The Governor may remove any commissioner for inefficiency, neglect of duty, or misconduct in office, giving to the commissioner a copy of the charges made and an opportunity of being publicly heard in person or by counsel, in the commissioner's own defense, upon not less than 10 days' notice. If such commissioner is removed, the Governor shall file in the office of the Secretary of State a complete statement of all charges made against such commissioner, the findings thereon, and a complete record of the proceedings.

(2) No person, other than the member appointed in accordance with ORS 471.705 who is designated from the food and alcoholic beverage retail industry, is eligible to hold the office of commissioner, or to be employed by the Oregon Liquor Control Commission if:

(a) The person has any financial interest in any business licensed by the commission or in any business which manufactures alcoholic beverages sold in Oregon;

(b) Anyone in the person's household or immediate family has a financial interest described in paragraph (a) of this subsection;

(c) Anyone in the person's household or immediate family is employed by a business licensed by the commission, unless the person is not in a position to take action or make decisions which could affect the licensed business; or

(d) The person or anyone in the person's household or immediate family has a business connection with any business licensed by the commission, unless the person is not in a position to take action or make decisions which could affect the licensed business.

(3) No liquor store agent appointed by the commission and no person in the household or immediate family of a liquor store agent shall have any financial interest in or business connection with any person or business licensed as a distillery, dispenser or agent licensed by the commission, or with any distillery whose products are sold in Oregon.

(4) Nothing in this section prohibits a person from having a financial interest resulting from investments made by the Public Employees Retirement System or through mutual funds, blind trusts or similar investments where the person does not exercise control over the nature, amount or timing of the investment.

(5) The commission by rule may establish additional restrictions to prohibit potential conflicts of interest. The commission by rule shall define "immediate family" and "business connection" as used in this section. [Amended by 1979 c.251 §2; 1983 c.168 §1; 1987 c.511 §7]

471.715 Chairperson; meetings; quorum. (1) The member from the food and alcoholic beverage retail industry shall not serve as chairperson. The chairperson shall preside at all meetings of the Oregon Liquor Control Commission or, in the chairperson's absence, some other member may serve as chairperson.

(2) The commission shall meet at such times and places within this state as it determines. A majority of the commissioners constitutes a quorum for the transaction of

any business, for the performance of any duty or for the exercise of any power of the commission. [Amended by 1979 c.251 §3; 1983 c.168 §2]

471.720 Administrator; other personnel. The Oregon Liquor Control Commission shall appoint an administrator who shall serve at its discretion. The administrator shall be subject to policy direction by the commissioners, and shall be the secretary of the commission and custodian of commission records. The administrator shall manage the commission, administer the laws, and appoint, assign and coordinate personnel of the commission within budget limitations and the State Personnel Relations Law. [Amended by 1967 c.630 §4; 1975 c.605 §24; 1985 c.592 §1]

471.725 Buying, leasing, contracting and borrowing powers of commission. The function, duties and powers of the Oregon Liquor Control Commission include the following:

(1) To buy, have in its possession, bottle, blend, rectify, transport and sell, for present or future delivery, in its own name, alcoholic liquor in the manner set forth in this chapter.

(2) To purchase, acquire, rent, lease or occupy any building, rooms, stores or land and acquire, own, lease and sell equipment and fixtures required for its operations.

(3) To lease or sublet to others property which it acquires or owns and which is not immediately required for its operations. However, no real property shall be purchased without the consent and approval of the Governor.

(4) To borrow money, guarantee the payment thereof and of the interest thereon, by the transfer or pledge of goods or in any other manner required or permitted by law.

(5) To issue, sign, indorse and accept checks, promissory notes, bills of exchange and other negotiable instruments.

(6) In the event the United States Government provides any plan or method whereby the taxes upon alcoholic liquors are collected at the source, to enter into any and all contracts and comply with all regulations, even to the extent of partially or wholly abrogating any statutory provisions which might be in conflict with federal law or regulations, to the end that the commission receives the portion thereof allocated to this state, to be distributed as provided by statute.

(7) To secure and pay for such policies of insurance as may be necessary to adequately protect it from loss by fire, theft or other casualty. [Amended by 1995 c.301 §44]

471.730 Regulatory powers of commission. The function, duties and powers of the Oregon Liquor Control Commission include the following:

(1) To control the manufacture, possession, sale, purchase, transportation, importation and delivery of alcoholic liquor in accordance with the provisions of this chapter and ORS 474.105 and 474.115.

(2) To grant, refuse, suspend or cancel licenses and permits for the sale or manufacture of alcoholic liquor, or other licenses and permits in regard thereto, and to permit, in its discretion, the transfer of a license of any person.

(3) To collect the taxes and duties imposed by statutes relating to alcoholic liquors, and to issue, and provide for cancellation, stamps and other devices as evidence of payment of such taxes or duties.

(4) To investigate and aid in the prosecution of every violation of statutes relating to alcoholic liquors, to seize alcoholic liquor manufactured, sold, kept, imported or transported in contravention of this chapter and ORS 474.105 and 474.115, and apply for the confiscation thereof, whenever required by statute, and cooperate in the prosecution of offenders before any court of competent jurisdiction.

(5) To adopt such regulations as are necessary and feasible for carrying out the provisions of this chapter and ORS 474.105 and 474.115 and to amend or repeal such regulations. When such regulations are adopted they shall have the full force and effect of law.

(6) To exercise all powers incidental, convenient or necessary to enable it to administer or carry out any of the provisions of this chapter and ORS 474.105 and 474.115.

(7) To control, regulate and prohibit any advertising by manufacturers, wholesalers or retailers of alcoholic liquor by the medium of newspapers, letters, billboards, radio or otherwise.

(8) To sell, license, regulate and control the use of alcohol for scientific, pharmaceutical, manufacturing, mechanical, industrial and other purposes, and to provide by regulation for the sale thereof for such uses.

471.732 Policy relating to sanitation in licensed premises. (1) The Legislative Assembly finds and declares that the regulation of health and sanitation matters in premises licensed by the Oregon Liquor Control Commission under this chapter can best be performed by the Department of Human Services and the State Department of Agriculture.

(2) It is the policy of the Legislative Assembly and the intent of ORS 471.333 and 624.010 and this section that premises licensed by the Oregon Liquor Control Commission under this chapter shall be subject to the laws governing health and sanitation matters, including any applicable licensing requirements, and to the rules adopted thereunder by the Department of Human Services and the State Department of Agriculture. [1979 c.236 §2; 1995 c.301 §20; 1999 c.351 §62]

471.735 Testing and seizure of wines. The Oregon Liquor Control Commission shall have the power to investigate by sample or chemical analysis, the quality of all wines manufactured, imported, sold or offered for sale within this state, and to seize, confiscate and destroy all wines sold or offered for sale within this state which do not conform in all respects to the minimum standards provided for by the laws of this state.

471.740 Exclusive right of commission to handle certain liquors. Except as provided in this chapter, the Oregon Liquor Control Commission is vested with the exclusive right to purchase, sell, have in possession for sale, import or transport alcoholic beverages. [Amended by 1953 c.120 §6; 1974 c.4 §6; 1999 c.351 §77]

471.745 Fixing prices and selling liquor. The Oregon Liquor Control Commission shall fix the prices at which alcoholic liquors containing over five percent alcohol by volume may be purchased from it, and has power to bottle, blend, rectify, manufacture or sell alcoholic liquors for itself, or for or to any person or commission within or without this state. [Amended by 1995 c.301 §88]

471.750 Liquor stores and warehouses; operation; sales; advertising; rules. (1) The Oregon Liquor Control Commission shall establish such stores and warehouses in such places in the state as in its judgment are required by public convenience or necessity, for the sale of spirituous liquors, wines and other alcoholic liquors containing over five percent alcohol by volume, in sealed containers for consumption off the premises. It shall keep on hand in such stores or warehouses such quantities and kinds of alcoholic liquors as are reasonably required to supply the public demand. Any person qualified to purchase such liquors from the commission has the right to present to the commission, or at any of its stores, an application for any kind or brand of alcoholic liquor which the person may desire and which may be manufactured or obtainable in any place in the United States, and the commission shall obtain such liquor and sell it to the applicant. No such store shall be established in any county or incorporated city of this state where a local prohibitory law is in effect. The commission shall adopt rules governing advertising by stores operated by the commission. The commission may appoint agents in the sale of said liquor under such agreement as the commission may negotiate with said agents or their representative.

(2) Rules relating to advertising adopted by the commission under subsection (1) of this section shall allow signs and displays within its stores for the purpose of supplying consumer information to customers, including but not limited to discounts, sales and other specials. Commission discretion with respect to those signs and displays shall be limited to regulation of the content, size, number per brand, type and duration of the sign or display. Signs and displays may be supplied by manufacturers, wholesalers or distributors, and may bear the name of a particular distillery, supplier or brand of liquor. The use of signs and displays shall be optional with the agent appointed by the commission. In no event shall signs or displays authorized by the commission be placed in positions within the store where the sign or display would be readily visible from outside of the store. [Amended by 1977 c.321 §3; 1977 c.608 §2; 1991 c.379 §1; 1995 c.301 §89; 2001 c.785 §11; amendments by 2002 s.s.1 c.11 §1 repealed by 2002 s.s.2 c.1 §3; 2002 s.s.2 c.1 §1]

471.752 Agent participation in programs for state employees; preference of spouse or child of deceased or disabled agent. (1) An agent appointed under ORS 471.750 may participate in a health benefit plan available to state employees pursuant to ORS 243.105 to 243.285 at the expense of the agent and may participate in the state deferred compensation plan established under ORS 243.401 to 243.507. For such purposes, agents shall be considered eligible state employees.

(2) A person who is the surviving spouse or child of a deceased agent or the spouse or child of a disabled agent of the Oregon Liquor Control Commission shall be given preference in the appointment of a successor agent, if otherwise qualified, the spouse having greater preference. The experience of such applicant in the business operation of the deceased or disabled agent shall be the primary consideration in determining the qualifications of the applicant. [1979 c.203 §3; 1983 c.624 §1; 1985 c.645 §4; 1997 c.179 §30; 1997 c.222 §53]

471.754 Commission to develop recycling education materials. The Oregon Liquor Control Commission shall develop recycling education materials for distribution through stores established by the commission under ORS 471.750 that encourage the patrons of the store to recycle bottles sold through the stores. [1997 c.552 §34]

471.755 [Amended by 1971 c.734 §67; repealed by 1973 c.311 §6]

471.757 Statement of financial interest in business of licensee. (1) At such times as the Oregon Liquor Control Commission may prescribe and upon forms furnished by the commission, any license applicant or licensee of the commission may be required to submit a sworn statement to the commission showing the name, address and the nature and extent of the financial interest of each person, individual and corporate, having a financial interest in the business operated under the license.

(2) The commission shall review the statement and may refuse to issue a license to any license applicant, or may suspend, cancel or refuse to renew the license of any licensee, when conditions exist in relation to any person having a financial interest in the business or in the place of business which would constitute grounds for refusing to issue a license or for cancellation or suspension of a license if such person were the license applicant or licensee. However, in cases where the financial interest is held by a corporation, only the officers and directors of the corporation, any individual or combination of individuals who own a controlling financial interest in the business and any manager of the business shall be considered persons having a financial interest within the meaning of this subsection. [1963 c.369 §1; 1995 c.301 §45; 1999 c.351 §63; 2001 c.785 §9]

471.760 Subpoena; oaths; depositions. Each member of the Oregon Liquor Control Commission, or any of its authorized agents, shall, for the purposes contemplated by this chapter and ORS 474.105 and 474.115, have power to issue subpoenas, compel the attendance of witnesses, administer oaths, certify to official acts, take depositions within or without this state, as provided by law, and compel the production of pertinent books, payrolls, accounts, papers, records, documents and testimony. [Amended by 1953 c.101 §2]

471.765 Procedure when person refuses to testify or produce books. If a person in attendance before the Oregon Liquor Control Commission or a commissioner refuses, without reasonable cause, to be examined or to answer a legal and pertinent question, or to produce a book or paper when ordered so to do by the commission, the commission may apply to the judge of the circuit court of any county where such person is in attendance, upon proof by affidavit of the fact, for a rule or order returnable in not less than two nor more than five days, directing such person to show cause before the judge who made the order, or any other judge of such county, why the person should not be punished for contempt. Upon the return of such order, the judge shall examine such person under oath and the person shall be given an opportunity to be heard. If the judge determines that such person has refused, without reasonable cause or legal excuse, to be examined or to answer a legal or pertinent question, or to produce a book or paper which the person was ordered to bring or produce, the judge may forthwith punish the offender for contempt of court.

471.770 Self-incrimination as a basis for refusing to testify or produce books. No person shall be excused from testifying or from producing any books, papers or documents in any investigation or inquiry by or upon any hearing before the Oregon Liquor Control Commission or any commissioner when ordered so to do by the commission or any of its authorized agents, upon the ground that the testimony, evidence, books, papers or documents required of the person may tend to incriminate the person or subject the person to penalty or forfeiture. No person shall be prosecuted, punished or subjected to any penalty or forfeiture for or on account of any act, transaction, matter or thing concerning which the person shall, under oath, have, by order of the commission, or a commissioner, or any of its authorized agents, testified to or produced documentary evidence of; but no person so testifying shall be exempt from prosecution or punishment for any perjury committed by the person in testimony. [Amended by 1953 c.101 §2]

471.775 Service of subpoenas; authority of inspectors. (1) The provisions of ORS 183.440 shall apply to subpoenas issued by each member of the Oregon Liquor Control Commission or any of its authorized agents.

(2) Inspectors and investigators employed by the commission shall have all the authority given by statute to peace officers of this state, including authority to serve and execute warrants of arrest and warrants of search and seizure. [Amended by 1953 c.101 §2; 1971 c.734 §68]

471.780 [Amended by 1953 c.13 §2; 1969 c.145 §1; repealed by 2001 c.785 §12]

471.785 [Amended by 1961 c.160 §23; 1967 c.577 §3; repealed by 1973 c.794 §34]

471.790 Commissioners not liable for official acts; commission funds entitled to priority. No member of the Oregon Liquor Control Commission may be sued for doing or omitting to do any act in the performance of duties as prescribed in the Liquor Control Act. No member of the commission personally shall be liable for any loss caused by the default or failure of the depository of funds of the commission. All funds of the commission deposited in any bank or trust company are entitled to priority of payment as public funds of the state, if the commission funds are only kept in depositories designated by the State Treasurer

and under security of the same character required by law for depositories of state funds.

471.795 Purchase and use of liquor by member or employee of commission. No provision of the Liquor Control Act prevents any member or employee of the Oregon Liquor Control Commission from purchasing and keeping in possession, for the personal use of self or members of the family of the member or employee, any alcoholic liquor in the same manner as it may be purchased or kept by any other person under that statute.

471.800 Restrictions on out-of-state wine; imposition. If by the laws of another state or by the rules and regulations of any administrative body or authorized agency thereof or therein, market restrictions are imposed that prevent or tend to prevent the sale of wine manufactured in Oregon in free and unrestricted competition with like kinds of wine manufactured in such other state, the Oregon Liquor Control Commission is authorized and directed to impose similar restrictions in Oregon upon such wine manufactured in such other state and offered for sale in Oregon.

471.805 Disposition of moneys; revolving fund. (1) Except as otherwise provided in ORS 471.810 (2), all money collected by the Oregon Liquor Control Commission under this chapter and ORS chapter 473 and privilege taxes shall be remitted to the State Treasurer who shall credit it to a suspense account of the commission. Whenever the commission determines that moneys have been received by it in excess of the amount legally due and payable to the commission or that it has received money to which it has no legal interest, or that any license fee or deposit is properly refundable, the commission is authorized and directed to refund such money by check drawn upon the State Treasurer and charged to the suspense account of the commission. After withholding refundable license fees and such sum, not to exceed $250,000, as it considers necessary as a revolving fund for a working cash balance for the purpose of paying travel expenses, advances, other miscellaneous bills and extraordinary items which are payable in cash immediately upon presentation, the commission shall direct the State Treasurer to transfer the money remaining in the suspense account to the Oregon Liquor Control Commission Account in the General Fund.

(2) All necessary expenditures of the commission incurred in carrying out the purposes and provisions required of the commission by law, including the salaries of its employees, purchases made by the commission and such sums necessary to reimburse the $250,000 revolving fund, shall be audited and paid from the Oregon Liquor Control Commission Account in the General Fund, upon warrants drawn by the Oregon Department of Administrative Services, pursuant to claims duly approved by the commission.

(3) Money produced by the operation of this chapter and ORS chapter 473 necessary to pay such expenditures is appropriated from the Oregon Liquor Control Commission Account in the General Fund for such purposes. [Amended by 1955 c.26 §1; 1967 c.577 §4; 1975 c.424 §2; 1979 c.367 §3; 1995 c.301 §46; 1999 c.351 §64]

471.810 Distribution of available moneys in Oregon Liquor Control Commission Account. (1) At the end of each month, the Oregon Liquor Control Commission shall certify the amount of moneys available for distribution in the Oregon Liquor Control Commission Account, and after withholding such moneys as it may deem necessary to pay its outstanding obligations shall within 35 days of the month for which a distribution is made direct the State Treasurer to pay the amounts due, upon warrants drawn by the Oregon Department of Administrative Services, as follows:

(a) Fifty-six percent, or the amount remaining after the distribution under subsection (4) of this section, credited to the General Fund available for general governmental purposes wherein it shall be considered as revenue during the quarter immediately preceding receipt;

(b) Twenty percent to the cities of the state in such shares as the population of each city bears to the population of the cities of the state, as determined by the State Board of Higher Education last preceding such apportionment, under ORS 190.510 to 190.610;

(c) Ten percent to counties in such shares as their respective populations bear to the total population of the state, as estimated from time to time by the State Board of Higher Education; and

(d) Fourteen percent to the cities of the state to be distributed as provided in ORS 221.770 and this section.

(2) The commission shall direct the Oregon Department of Administrative Services to transfer 50 percent of the revenues from the taxes imposed by ORS 473.030, 473.035 and 473.040 to the Mental Health Alcoholism and Drug Services Account in the General Fund to be paid monthly as provided in ORS 430.380.

(3) If the amount of revenues received from the taxes imposed by ORS 473.030 for the preceding month were reduced as a result of credits claimed under ORS 473.047, the commission shall compute the difference between the amounts paid or transferred as described in subsections (1)(b), (c) and (d) and

(2) of this section and the amounts that would have been paid or transferred under subsections (1)(b), (c) and (d) and (2) of this section if no credits had been claimed. The commission shall direct the Oregon Department of Administrative Services to pay or transfer amounts equal to the differences computed for subsections (1)(b), (c) and (d) and (2) of this section from the General Fund to the recipients or accounts described in subsections (1)(b), (c) and (d) and (2) of this section.

(4) Notwithstanding subsection (1) of this section, no city or county shall receive for any fiscal year an amount less than the amount distributed to the city or county in accordance with ORS 471.350 (1965 Replacement Part), 471.810, 473.190 and 473.210 (1965 Replacement Part) during the 1966-1967 fiscal year unless the city or county had a decline in population as shown by its census. If the population declined, the per capita distribution to the city or county shall be not less than the total per capita distribution during the 1966-1967 fiscal year. Any additional funds required to maintain the level of distribution under this subsection shall be paid from funds credited under subsection (1)(a) of this section. [Amended by 1955 c.475 §11; 1957 c.222 §1; 1957 c.445 §1; 1961 c.78 §1; 1961 c.635 §1; 1967 c.577 §5; 1969 c.499 §1; 1975 c.424 §4; 1975 c.527 §4a; 1977 c.831 §3a; 1977 c.856 §18; 1987 c.406 §2; 1997 c.348 §15; 2001 c.971 §4]

471.815 [Repealed by 1961 c.706 §45]

471.817 Alternative transportation organization to report annually. Each nonprofit organization formed by licensees to provide alternative transportation for patrons of the licensees shall report annually to the Oregon Liquor Control Commission. The commission may acknowledge receipt of the notice and shall keep a list of such organizations that have given notice. The commission shall provide information to the Department of Revenue on request for purposes of sections 2 and 4, chapter 700, Oregon Laws 1985. [1985 c.700 §6]

471.820 [Repealed by 1961 c.706 §45]

471.825 [Repealed by 1961 c.706 §45]

471.830 [Repealed by 1961 c.706 §45]

PENALTIES

471.990 Penalties. (1) Except where other punishment is specifically provided for, violation of any provision of this chapter and ORS 474.105 and 474.115 is a misdemeanor.

(2) Except as otherwise specifically provided, municipal, justice and circuit courts have concurrent jurisdiction of all violations of this chapter and ORS 474.105 and 474.115 committed within their respective jurisdictions.

(3) A second or subsequent violation of ORS 471.440 is punishable upon conviction by imprisonment in the custody of the Department of Corrections for not more than three years and by a fine of not more than $3,000.

(4) Subject to ORS 153.022, violation of any regulation promulgated under ORS 471.730 (5) is a Class C violation. [Amended by 1953 c.120 §6; 1963 c.93 §6; 1987 c.320 §236; 1999 c.1051 §187]