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Note: Section 2, chapter 842, Oregon Laws 1977, takes effect July 1, 1980, and provides:

Sec. 2. ORS 292.700, 471.040, 471.105, 471.115, 471.130, 471.135, 471.140, 471.143, 471.145, 471.150, 471.205, 471.210, 471.215, 471.217, 471.220, 471.225, 471.230, 471.235, 471.245, 471.250, 471.257, 471.260, 471.265, 471.270, 471.275, 471.280, 471.285, 471.287, 471.289, 471.290, 471.295, 471.301, 471.305, 471.310, 471.315, 471.317, 471.322, 471.326, 471.327, 471.330, 471.335, 471.340, 471.345, 471.355, 471.405, 471.415, 471.425, 471.440, 471.445, 471.452, 471.455, 471.457, 471.460, 471.463, 471.465, 471.470, 471.475, 471.480, 471.485, 471.490, 471.495, 471.500, 471.615, 471.705, 471.710, 471.715, 471.720, 471.725, 471.730, 471.735, 471.740, 471.745, 471.750, 471.757, 471.760, 471.765, 471.770, 471.775, 471.780, 471.790, 471.795, 471.800, 471.805 and 471.810 relating to the Oregon Liquor Control Commission are repealed.

DEFINITIONS; GENERAL PROVISIONS

471.005 "Alcoholic liquor" and "commission" defined. (1) "Alcoholic liquor" means any alcoholic beverage containing more than one-half of one percent alcohol by volume, and every liquid or solid, patented or not, containing alcohol, and capable of being consumed by a human being.

(2) "Commission," as used in this chapter, means the Oregon Liquor Control Commission.

[Amended by 1965 c.280 §1]

471.010 "Hotel" defined. "Hotel" means every building or other structure kept, used, maintained, advertised or held out to the public to be a place where food is served and sleeping accommodations are offered for pay to transient guests, in which 20 or more rooms are used for sleeping accommodations of such guests and having one or more dining rooms where meals are served to such guests; such sleeping accommodations and dining rooms being conducted in the same building, or buildings in connection therewith, and such structures being provided, in the judgment of the commission, with adequate and sanitary kitchen and dining room equipment and capacity, and having employed therein such number and kinds of servants and employes as the commission may, by regulation, prescribe for preparing, cooking and serving suitable food for its guests.

471.015 "Restaurant" and "premises" defined. (1) "Restaurant" means an area occupied and set apart from adjoining property by boundaries sufficiently apparent to indicate the approximate limits of occupation, with adequate and sanitary kitchen and

dining room equipment, and catering to and serving bona fide meals to the general public.

(2) "Premises" or "licensed premises" used in connection with a licensed location means the area where refreshments or food are served at the address for which the license is issued.

[Amended by 1975 c.207 §1]

471.017 Inclosure of restaurant or licensed premises. Nothing in this chapter requires any restaurant or licensed premises to be inclosed by wall, fence or any other means.

[1975 c.207 §4]

Note: 471.017 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 the Preface to Oregon Revised Statutes for further explanation.

471.020 "Table wine" and "dessert wine" defined. For the purpose of this chapter, unless required otherwise by context:

(1) "Table wine" (including light wine, light grape wine, light red wine, light white wine and natural wine) means any wine produced as a natural fermentation of sound, ripe grapes, fruits or berries, containing not to exceed 14 percent of alcohol by volume and produced in all respects in conformity with the laws of the United States and the regulations of the Alcohol Tax Unit of the Bureau of Internal Revenue.

(2) "Dessert wine" (including appetizer wine) means any wine containing in excess of 14 percent of alcohol by volume and produced in all respects in conformity with the laws of the United States and the regulations of the Alcohol Tax Unit of the Bureau of Internal Revenue.

471.025 "To sell" and "sale" defined.

(1) Whenever the words "sell" or "to sell" refer to anything forbidden under the Liquor Control Act and relate to alcoholic liquor, they include:

- (a) To solicit or receive an order.
- (b) To keep or expose for sale.
- (c) To deliver for value or in any way other than purely gratuitously.
- (d) To peddle.
- (e) To keep with intent to sell.
- (f) To traffic in.
- (g) For any consideration, promised or obtained, directly or indirectly, or under any

pretext or by any means, to procure or allow to be procured for any other person.

(2) The word "sale" includes every act of selling as defined in subsection (1) of this section.

471.027 Short title. This chapter 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.

471.040 General powers of the commission. The commission has the powers and duties specified in this chapter, and also the powers necessary or proper to enable it to carry out fully and effectually all the purposes of this chapter. 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.

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 CARDS

471.105 Purchaser's qualifications.

Before being qualified to purchase alcoholic liquor from the 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 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 card from certain purchasers. (1) All licensees and permittees of the commission, before selling or serving alcoholic liquor to any person about whom there is any reasonable doubt of his having reached 21 years of age, shall require such person to produce his identification card issued under ORS 471.140. However, if the person has no identification card, the permittee or licensee shall require such person to make a written statement of age and furnish evidence of his true age and identity.

(2) 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 _____

Evidence in support of age and identity:

Driver's License No. _____ (_____)
State

Military Record No. _____
 Other _____

(Fill in license or card number of any two or more of above).

[Amended by 1955 c 525 §1; 1961 c.687 §4, 1967 c.171 §1, 1967 c 577 §7]

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 his or her age.

(2) A written statement of age, and the cards and other documents which were exhibited to the licensee at the time the statement was made, the numbers of identification of which are entered in writing on the statement, may be offered as evidence in defense of any administrative or criminal prosecution for sale or service of alcoholic liquor to a person not having reached 21 years of age.

[Amended by 1955 c 525 §2, 1967 c.53 §1]

471.140 Identification cards; form; issuance. (1) A person 21 years of age or older may make application to the commission for an identification card to establish his age in purchasing alcoholic liquor. Written application shall be made upon a form prescribed by the commission, including information as to the name, residence and age of the applicant and such other pertinent information as the commission may require. The application shall be accompanied by two identical photographs of the applicant taken within one year prior to the date of application and a fee of \$2. An application for a duplicate card shall be accompanied by a fee of \$5. If the commission is satisfied that the applicant is a qualified person to obtain an identification card and the photographs meet the requirements of the commission, it shall issue the identification card. All such identification cards shall carry an individual serial number and an expiration date identical with the 26th birthday of the applicant.

(2) The identification card shall be in such form as the commission shall prescribe and shall include the name, residence and age of the applicant and shall bear his picture. The card shall be countersigned with the signature of the applicant and may contain such other information as the commission may require properly to identify the holder. The back of the identification card shall bear the statement that it is unlawful for a person under 21 years of age to possess alcoholic liquor or to

falsely represent his age to obtain alcoholic liquor and that it is unlawful for any person not entitled thereto to have a card issued to him or for any person to have loaned to him or for any person to loan or to permit another person to use his card to procure alcoholic liquor and penalties are provided therefor.

(3) The identification card shall be made of such material that the information appearing thereon cannot be altered and shall be encased in laminated plastic or other similar material.

[1961 c.687 §2, 1963 c.93 §3; 1971 c 433 §1]

471.143 False information; loan, misuse of card or improper possession prohibited. (1) No person shall give any false or fictitious information or make any false statements in any application under ORS 471.140 for an identification card.

(2) No person shall:

(a) Loan to any other person or permit use by any other person of the identification card issued to him under ORS 471.140; or

(b) Use the identification card issued to another person under ORS 471.140.

(3) No person under 21 years of age shall have in his possession with the intention of using the card for the purpose for which it is issued the identification card issued to another person under ORS 471.140.

[1963 c 93 §2, 1967 c 569 §1, 1971 c 159 §2]

471.145 Use of card. Except as provided in ORS 471.130, any person 21 years of age and under 26 years of age shall submit the identification card issued to him under ORS 471.140 whenever he purchases alcoholic liquor.

[1961 c.687 §§3, 6; 1963 c 93 §4]

471.150 Revocation of card. (1) The commission shall have the power to revoke the identification card of any person (a) if such card is used by himself or by some other person in the furtherance of an act in violation of the laws of the State of Oregon or any ordinance of a city of the State of Oregon or (b) if the identification card is found in the possession of a person who has the intention of using the card for the purpose for which it was issued but the person is under 21 years of age and is not the person to whom the card was issued by the commission.

(2) Any agent or employe of the commission or any peace officer of the state, as an incident of arrest or of taking into custody of a juvenile, where either results from misuse of the identification card, may seize the identifi-

cation card, pending official action by the commission.

[1961 c.687 §7; 1963 c.93 §5; 1967 c.569 §2; 1971 c.159 §3]

LIQUOR LICENSES

471.205 Necessity of license to brew or distill liquor. No person shall brew, ferment, distill, blend or rectify any alcoholic liquor unless licensed so to do by the 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.

471.210 Commission's licensing duties; bonds and recommendations required. (1) The commission shall provide for the licensing of persons and incorporated cities within the state to manufacture, distribute, take orders for and sell spirits, wines, beer and other alcoholic liquors. Every applicant for a brewery, winery, farmer's winery, distillery or wholesale license shall give, and at all times maintain on file with the commission, a bond with 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 applicant will pay any fine imposed for any violation of any provision of the Liquor Control Act and that he will pay all license fees, privilege taxes, taxes on alcoholic liquors, together with penalties and interest thereon, levied or assessed against him under statutes relating to the importation, manufacture, distribution, sale or taxation of alcoholic liquors in the State of Oregon.

(2) The commission may require of every applicant for a license the recommendation in writing of the county court in the event the place of business of the applicant is outside an incorporated city, and of the city council if the place of business of the applicant is within an incorporated city. The commission may take such recommendation into consideration before granting or refusing the license. The applicant shall pay to such recommending authority a fee determined by the governing body of the recommending authority, not to exceed \$25, for each application for a license.

[Amended by 1967 c.359 §693; 1977 c 518 §3]

471.215 Licenses issuable. The licenses described in ORS 471.220 to 471.289 may be issued by the commission, subject to its

regulations and restrictions and the provisions of the Liquor Control Act.

[Amended by 1957 c 223 §1]

471.217 Winery licensee authorized to sell to consumers. (1) Notwithstanding subsection (2) of ORS 471.220 and ORS 471.452, a winery licensee manufacturing wine from grapes or other fruit produced in this state may sell naturally fermented wine containing not more than 21 percent of alcohol by volume directly to consumers.

(2) Sales of wine pursuant to subsection (1) of this section shall be at a price not less than the prevailing retail price in the market area as prescribed by the commission.

[1967 c.173 §2; 1974 s.s. c.4 §1; 1977 c.332 §3]

471.220 Brewery and winery licenses.

(1) A brewery license shall allow the manufacture, importation, storage, transportation, wholesale sale and distribution to licensees of the commission, and the export of malt beverages containing not more than eight percent of alcohol by weight. No brewery licensee shall sell any malt beverages to be consumed on the licensed premises. However, a brewery licensee may sell malt beverages containing not more than four percent of alcohol by weight, in quantities of not less than five gallons, to any unlicensed organization, lodge, picnic party or private gathering. Such malt beverages shall not be sold by any such unlicensed group. No brewery licensee shall sell within the State of Oregon any beer containing more than four percent of alcohol by weight.

(2) A winery license shall allow the licensee to import, bottle, manufacture, store and wholesale wines containing not more than 21 percent of alcohol by volume, and to sell the same to the commission or to any person licensed by the commission to resell the same at wholesale or retail, and to transport the same out of this state. A winery license also shall allow a licensee to purchase from or through the commission brandy or other spirituous liquor for use by such winery licensee in fortifying wines and which shall be used only for such purpose.

[Amended by 1955 c.657 §1; 1977 c.332 §4]

471.225 Farmer's winery license. A farmer's winery license shall permit any farmer in the state who grows grapes or other fruit upon his own or leased land to manufacture wine out of such grapes or other fruit and to sell the wine at wholesale or retail. A farmer's winery licensee shall not be permit-

ted to fortify wine which he manufactures or produces.

[Amended by 1977 c 332 §5]

471.230 Distillery license. 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 of alcohol by weight, to sell the same to the 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 liquor and spirits for blending and manufacturing purposes upon such terms and conditions as the commission may provide. No such licensee shall sell any alcoholic liquor within this state except to the commission. 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.

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 commission, and the export of wine of alcoholic content not in excess of 21 percent of alcohol by volume, and malt beverages containing not more than eight percent of alcohol by weight, and the importation and sale to the commission and the export of wine of alcoholic content in excess of 21 percent of 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 containing not more than 21 percent of alcohol by volume in quantities of not less than five 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 four percent of alcohol by weight 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 containing more than four percent of alcohol by weight, but not in excess of eight percent of alcohol by weight, at wholesale only, to persons holding licenses

authorizing them to resell such beverages at retail. No wholesale malt beverage and wine licensee shall sell within this state any beer containing in excess of four percent of alcohol by weight.

(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 Health Division of the Department of Human Resources.

[Amended by 1955 c.657 §2; 1973 c.395 §1; 1974 s.s. c.4 §2; 1975 c.123 §1]

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

471.245 Bottler license. A bottler license shall allow the licensee to bottle wine containing not more than 21 percent of alcohol by volume or malt beverages containing not more than eight percent of alcohol by weight. Such license shall not be issued to any person unless the commission is satisfied that he has adequate machinery, equipment and facilities for properly bottling such alcoholic liquors with full and complete sanitary safeguards. In no event shall such license be issued to any person who does not hold a wholesale wine or wholesale malt beverage license.

471.250 Restaurant license. (1) A restaurant license shall allow the licensee to sell malt beverages containing not more than eight percent of alcohol by weight, and wine containing not more than 21 percent of alcohol by volume, to customers for consumption on the licensed premises.

(2) In the absence of any municipal ordinance or local regulation to the contrary, restaurant licensees shall be permitted to have any proper form of entertainment for customers upon the licensed premises.

(3) Unless otherwise restricted, the privileges granted by any such restaurant license to a hotel shall apply to all portions of the hotel controlled or operated by the person to whom the license is issued.

[Amended by 1965 c.280 §2; 1973 c.395 §2; 1977 c.332 §6]

471.255 [Repealed by 1965 c.280 §5]

471.257 Health care facility license. A health care facility license may be issued to licensed hospitals, sanitariums, convalescent or rest homes, retirement homes and facilities for the care of the elderly and shall allow the sale and service by facility employes of malt beverages containing not more than eight

percent of alcohol by weight, and wine containing not more than 14 percent of alcohol by volume to patients, inmates, residents or bona fide visitors or guests for consumption on the licensed premises only. Such license shall not permit the sale or service to, or consumption by, the general public or staff or employes of the facility. Nothing in this section shall prohibit the administration of distilled spirits upon prescription by a physician to patients, inmates or residents of the facility.

[1975 c.494 §2]

Note: 471.257 was enacted into law by the Legislative Assembly and was added to and made a part of ORS chapter 471 but not to any series therein by legislative action. See the Preface to Oregon Revised Statutes for further explanation.

471.260 Package store license. (1) A package store license shall allow the retail sale of certain specified types of alcoholic liquor in sealed packages. Package store licensees shall not permit the consumption of alcoholic liquor upon their licensed premises unless such licensee holds another license that permits such consumption.

(2) A package store license shall allow the sale of pasteurized malt beverages containing not more than eight percent of alcohol by weight and wine containing not more than 21 percent of alcohol by volume.

[Amended by 1973 c.395 §3; 1974 s.s. c.4 §3]

471.265 Retail malt beverage license.

(1) A retail malt beverage license shall allow anyone operating a place of business where refreshments are served, to sell malt beverages containing not more than eight percent of alcohol by weight, and wine containing not more than 14 percent by volume.

(2) A retail malt beverage license shall permit the licensee to sell (a) draft or pasteurized malt beverages for consumption on the licensed premises, (b) pasteurized malt beverages in brewery-sealed packages for consumption off the licensed premises, (c) unpasteurized malt beverages in brewery-sealed packages containing not less than one gallon each for consumption off the licensed premises and (d) wine for consumption on the licensed premises and wine in winery-sealed packages for consumption off the licensed premises.

(3) Such licensees shall not sell any malt beverages containing more than eight percent of alcohol by weight, nor wine containing more than 14 percent by volume. In the absence of municipal ordinance or local regulation to the contrary, such licensees shall be permitted to allow dancing and to have and

permit singing and other proper forms of entertainment upon the licensed premises.

[Amended by 1967 c.580 §1; 1967 c.614 §§1, 2; 1971 c.324 §1; 1973 c 103 §1; 1973 c.395 §4]

471.270 Druggist's license and sales on prescription. (1) A druggist's license may be issued to any person operating a pharmacy, and who is, or has in his employ, a qualified pharmacist registered under the laws of this state. A druggist's license shall allow the sale of all alcoholic liquors listed in the U. S. P. and N. F., in containers of not more than one quart capacity, upon prescriptions only, and with the limit of one quart on each prescription. No such licensee shall permit the drinking of such alcoholic liquors on the premises of any drug store, except that such drug store may hold a retail malt beverage license. Such licensee may purchase alcoholic liquor in excess of 14 percent of alcohol by volume from or through the commission only.

(2) Registered pharmacists may fill a prescription containing alcoholic liquors of any kind for any physician duly licensed by this state, without regard to any local option laws or ordinances forbidding the sale of such liquors. Such prescription shall include the name and address of the person for whom it is prescribed, and shall be signed by the full name of the physician issuing it. It shall be filled only once, and the person making the sale of such prescription shall write on its face the number of the prescription, and the date of the sale or delivery of the liquor. He shall keep such prescription on file and available at all reasonable times to the inspection of the commission.

471.275 Railroad or boat license. A license may be granted to any public passenger carrier or any corporation which operates an electric or steam railroad in this state, or which operates club, parlor or dining cars upon the lines of any railroad in this state, or to any corporation or person operating a boat or boats engaged in the transportation of passengers to or from any port of this state. Such license shall allow the sale and public consumption of malt beverages containing not more than eight percent of alcohol by weight and wine containing not more than 14 percent of alcohol by volume, upon such terms as the commission shall prescribe. Railroad or boat licensees may be appointed by the commission to act as agents of the commission for the sale, in sealed packages, of alcoholic liquors containing more than 14 percent of alcohol by volume on railroad trains or boats of such licensees.

471.280 Industrial alcohol license. An industrial alcohol license shall be issued to any person upon compliance with such regulations and conditions as may be determined by the commission. Such licensees shall be authorized to manufacture and sell such proprietary and patent medicines, perfumes, lotions, flavoring extracts and other preparations unfit for beverage purposes, as may be approved by the commission.

471.285 Agent's license. An agent's license shall allow the holder to sell, solicit or take orders for alcoholic liquors to and from the commission only. No holder of an agent's license shall have any right, title, lien, claim or interest, financial or otherwise, in, upon or to the premises, equipment, business or merchandise of any licensee authorized to sell alcoholic liquor at retail.

[Amended by 1955 c.657 §4; 1957 c.221 §1]

471.287 Salesman's license. A salesman's license shall allow the holder to offer for sale or solicit orders for the sale of alcoholic liquors containing not more than 21 percent of alcohol by volume to licensees of the commission authorized to resell the same. The provisions of this section shall not apply to drivers or driver-salesmen who deliver malt beverages or wine. No holder of a salesman's license shall have any right, title, lien, claim or interest, financial or otherwise, in, upon or to the premises, equipment, business or merchandise of any licensee authorized to sell alcoholic liquor at retail.

[1955 c.657 §8; 1957 c.221 §2; 1975 c.470 §1]

471.289 Manufacturer's certificate of approval. (1) No licensee of the commission shall manufacture, import into, or purchase in the State of Oregon for resale therein any malt beverages or wine unless the manufacturer of such malt beverages or wine has first obtained from the commission a certificate of approval, except that with respect to malt beverages 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 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 or wine. If any holder of such certificate, or any officer, agent

or employe 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) Certificates of approval shall be of two classes:

(a) Class "A" certificate of approval shall apply to manufacturers or importers of malt beverages or wine manufactured outside the United States.

(b) Class "B" certificate of approval shall apply to manufacturers of malt beverages or wine manufactured within the United States.

(3) "Wine" as used in this section shall not include wine manufactured and sold by a farmer's winery licensee.

[1955 c.657 §6; 1957 c.111 §1; 1973 c.131 §1]

471.290 Application for license; fees.

(1) Any person desiring a license or renewal of a license shall make application to the commission upon forms to be furnished by the commission showing the name and address of the applicant, his citizenship, 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 provisions of the Liquor Control Act and the regulations of the commission have been complied with.

(2) The annual license fee which shall be paid by each applicant upon the granting of a license, and the minimum bond required of each class of license, are as follows:

License	Fee	Minimum Bond
Brewery, including Certificate of Approval	\$500	\$1,000
Winery	250	1,000
Farmer's Winery	25	500
Distillery	100	1,000
Wholesale Wine and Malt Beverage	275	1,000
Bottler.....	150	None
Restaurant.....	250	None
Agent	25	None
Salesman	5	None
Certificate of Approval, Class A	15	None
Certificate of Approval, Class B	50	None
Package Store.....	50	None
Druggist.....	5	None

Railroad System or Public Passenger Carrier or Boat.....	100	None
Industrial Alcohol.....	50	None
Retail Malt Beverage.....	150	None
Health Care Facility.....	5	None

Special retail beer license may be issued for any picnic, convention, fair, civic or community enterprise at \$10 per day

Special retail wine license may be issued for any picnic, convention, fair, civic or community enterprise at \$10 per day

[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]

471.295 Grounds for refusing to issue license. The commission may refuse to license any applicant if it 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.

(2) That the applicant has not furnished an acceptable bond.

(3) That 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 or habit-forming drugs to excess.

(b) Has made false statements to the commission.

(c) Is not a citizen of the United States, or 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 a noisy, lewd, disorderly or 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 regulations 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 Liquor Control Act or regulations of the commission.

[Amended by 1953 c.14 §2]

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

471.301 Characteristics of a license.

(1) A license granted under the 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 471.290, except for a cause which would be grounds for refusal to issue such license under ORS 471.295.

(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, any rules of the 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, insol-

vent or bankrupt licensee may be operated for a reasonable period following the death, insolvency or bankruptcy.

(c) A business licensed pursuant to ORS 471.217 to 471.280 subject to a security interest may be continued in business by a secured party as defined in ORS 79.1050 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.

[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]

471.305 Restrictions on brewery and wholesale malt licensees and licensees authorized to retail liquor; purity standards for malt beverages. (1) A brewery or a wholesale malt beverage licensee shall deliver malt beverages only to or on a licensed premises. The sale of alcoholic liquors under any license issued by the 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.

(2) All beer and other malt beverages sold in this state must be made of pure hops or pure extract of hops, and pure barley malt, or other wholesome grain or cereals, wholesome yeast and pure water, and must have been brewed and handled in accordance with the control regulations adopted by the Alcohol Tax Unit of the Internal Revenue Department of the United States.

471.310 Incorporated cities as licensees. Any incorporated city may, without further charter authority, become a licensee for the sale of intoxicating liquor containing not over 14 percent of alcohol by volume.

471.315 Grounds for cancellation or suspension of license. The commission may cancel or suspend any license if it finds or has reasonable ground to believe any of the following to be true:

(1) That the licensee:

(a) Or any of its principal officers, has violated any provision of this chapter or any regulation 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.

(d) Maintains a noisy, lewd, disorderly or insanitary establishment, or has been supplying impure or otherwise deleterious beverages or food.

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

(f) Is in the habit of using alcoholic liquor or habit-forming drugs to excess.

(g) Knowingly has sold alcoholic liquor to persons under 21 years of age, to persons known to be drunkards or to persons visibly intoxicated at the time of sale.

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

(i) Or any of its principal officers, since the granting of his 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.

(2) 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.

(3) 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.

[Amended by 1953 c.107 §2; 1971 c.159 §4]

471.317 Cancellation or suspension of license; conditions precedent thereto. (1) Except as provided in subsections (2) and (3) of this section, the commission may cancel or suspend a license under ORS 471.315, 471.425, 472.180 or 472.310 for maintaining an insanitary establishment only when an authorized agent or inspector of the commission, after personal inspection of the licensed establishment, finds that the licensee is in violation of any rule of the commission or provision of ORS chapter 472 or this chapter relating to the sanitary conditions of licensed premises.

(2) The commission may cancel or suspend a license under ORS 471.315, 471.425,

472.180 or 472.310 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 cancel or suspend a license under ORS 471.315, 471.425, 472.180 or 472.310 for maintaining an insanitary establishment in violation of ORS 447.010 to 447.140 and the rules of the Director of Commerce promulgated thereunder or the laws, orders or rules of the Health Division 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.

[1975 c.373 §2]

Note: 471.371 was enacted into law by the Legislative Assembly and was added to and made a part of ORS chapter 471 but not to any series therein by legislative action. See the Preface to Oregon Revised Statutes for further explanation.

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

471.322 Fine in lieu of short-term suspension of certain licenses; limits on amount. (1) If a license issued under ORS 471.217, 471.225, 471.250, 471.260, 471.265, 471.275, 471.285 or 471.287 is suspended for a period of 30 days or less, upon petition of the affected licensee filed with the commission prior to the effective date of the suspension, the commission may accept from the affected licensee payment of a penalty fixed by the commission in accordance with subsection (2) of this section if the commission is satisfied that acceptance of such a penalty in lieu of suspension is consistent with the purposes of the Liquor Control Act. Upon acceptance of payment of the penalty, the commission shall cancel the suspension.

(2) The penalty which the commission may fix pursuant to subsection (1) of this section shall not be less than \$100 nor more than \$2,000.

[1969 c.67 §§2, 3; 1973 c.144 §1; 1975 c.735 §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 Return of fine if action of commission not sustained on judicial review. If the action of the commission in suspending a license issued under ORS 471.217, 471.225, 471.250, 471.260, 471.265, 471.275, 471.285 or 471.287 is not sustained upon judicial review under ORS chapter 183, the commission shall promptly refund the amount paid pursuant to subsection (1) of

ORS 471.322 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]

471.327 Fine in addition to or in lieu of suspending certain other licenses or certificates. The 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 monetary penalty not to exceed \$5,000, or, in its discretion, may impose such monetary penalty without suspending the license or the certificate of approval.

[1955 c.657 §7; 1973 c.311 §3]

471.330 Examination of books and premises of licensees. (1) The commission has the right after 72 hours' notice to the owner or his agent to make an examination of the books and may at any time make an examination of the premises of any licensee, 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.

[Amended by 1977 c. 215 §1]

471.335 Importer's permits. (1) No wine shall be imported into this state unless the importer thereof first secures from the commission an importer's permit and satisfies the commission by sample or analysis that the wine to be imported conforms to the minimum standards of type, age, soundness and general quality fixed and determined by the laws of this state.

(2) The commission may require importers of wines containing 21 percent of alcohol or less by volume or importers of any other alcoholic liquors containing eight percent of alcohol or less by volume to secure a permit for each importation and may charge a reasonable fee for issuance of the permit.

(3) No alcoholic liquor shall be imported into this state by any person not holding a brewery, winery, distillery or wholesaler's license, except liquor in bailment to the commission, wines for sacramental purposes and liquors transported by common carriers for others pursuant to permit.

[Amended by 1953 c.120 §6; 1974 s.s. c.4 §4]

471.340 Release by commission needed to sell wine. No wine shall be sold or offered for sale within this state unless the importer or manufacturer thereof first secures a release from the commission authorizing its sale within the state. No release shall be issued by the commission until it is satisfied from a sample or analysis that the wine conforms in all respects to the minimum standards fixed and determined by the laws of this state. If the commission is satisfied that the minimum standards are being complied with, it may waive the necessity of release as to a particular lot or lots of wine. No wine which has been released for sale within this state shall thereafter be blended, rectified, adulterated or otherwise changed in any form from the type, standard and quality as released for sale by this state.

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

(2) The 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.

471.350 [Repealed by 1967 c.577 §10]

471.355 License terms; licenses issued for less than year; determination of fees. (1) Except for special beer licenses provided for by ORS 471.290, all licenses 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.

[1971 c.470 §4]

PROHIBITIONS RELATING TO LIQUOR

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

(2) No person shall purchase, possess, transport or import, except for sacramental purposes, alcoholic liquor unless it is procured from or through the 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 liquor.

(4) Notwithstanding the provisions of subsection (2) of this section, an individual entering the state may have in his possession not to exceed one quart of alcoholic liquors.

(5) Upon conviction for unlawfully purchasing or importing into this state wine containing over 21 percent of alcohol by volume or any other alcoholic liquor containing over eight percent of alcohol by volume from any source except from or through the commission, or for unlawfully purchasing or importing into this state any wine containing 21 percent or less of alcohol by volume or any other alcoholic liquor containing eight percent or less of alcohol by volume from any source except from or through the commission or its duly authorized licensees, the person convicted shall forfeit to the commission the alcoholic liquor so purchased or imported. The commission shall thereupon seize the forfeited liquor and it shall then become the commission's property.

[Amended by 1953 c.120 §6; 1974 s.s. c.4 §5]

471.410 Sale or gift of liquor to person under 21 years of age or to intoxicated person; mandatory penalties. (1) No person shall sell, give or otherwise make available any alcoholic liquor to any person who is visibly intoxicated.

(2) No person other than his parent or guardian shall sell, give or otherwise make available any alcoholic liquor to any person under the age of 21 years. A person violates this subsection if he sells, gives or otherwise makes available alcoholic liquor to a person

with the knowledge that the person will violate this subsection.

(3) Upon violation of subsection (2) of this section, the court shall impose a mandatory minimum sentence as follows:

(a) Upon a first conviction for the offense, a fine of \$200.

(b) Upon a second conviction for the offense, a fine of \$1,000.

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

(4) The court shall not waive or suspend imposition of the minimum mandatory sentence required by subsection (3) 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.

(5) The penalty provisions of subsection (3) of this section shall not apply to persons licensed or appointed under the provisions of ORS chapters 471 and 472.

(6) 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]

471.415 Receipt of financial or material assistance by retailer from manufacturer or wholesaler. Except as permitted under ORS 471.465, no person holding a license to retail alcoholic liquor shall receive assistance financially, or in any other material manner, from a manufacturer or wholesaler of alcoholic liquor, or officer, agent, or employe thereof.

[Amended by 1955 c.657 §10; 1957 c.297 §1]

471.420 Political contributions and activity of licensee, dealer, manufacturer or distiller. (1) No licensee under the Liquor Control Act, the Oregon Distilled Liquor Control Act or any dealer in, manufacturer or distiller of intoxicating liquor shall make any monetary contribution to any candidate for political office or to any political party or engage in any political activity on the licensed premises.

(2) Subsection (1) of this section shall not be construed to prevent any such licensee or his agent or officer of a corporation from

being a candidate for or holding any public office or contributing to his own campaign for such public office.

(3) Notwithstanding subsection (1) of this section, persons licensed under ORS 471.250, 471.265 or subsection (2) or (3) of 472.110 may make monetary contributions to any candidates for political office or to any political party.

[Amended by 1959 c.399 §1; 1971 c.680 §2]

471.425 Misrepresentations by licensee and others; maintenance of disorderly establishment. (1) No person shall make false representations or statements to the 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 years of age. (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 his parent or guardian and with such parent's or guardian's consent, no person under the age of 21 years shall have in his possession alcoholic liquor.

(2) For the purposes of this section, 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) A person under the age of 21 years who attempts to purchase, purchases or acquires alcoholic liquor, or who illegally has in his possession alcoholic liquor, commits a violation punishable by a fine of not more than \$100.

[Amended by 1963 c.243 §2; 1965 c.166 §1; 1971 c.159 §6; 1975 c.493 §1]

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 or beer for home consumption as provided for in ORS 471.205.

(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 inclosure, 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 inclosure.

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 he is authorized to sell with any other alcoholic liquor which he is not authorized by his license to sell.

471.450 [Repealed by 1971 c.116 §1]

471.452 Sale of liquor at both wholesale and retail. Excepting persons holding a farmer's winery license, no licensee of the commission shall sell or engage in the business of selling alcoholic liquors both at wholesale and retail.

471.455 Manufacturer or wholesaler having interest in retailer's business. Except as permitted under ORS 471.465:

(1) No manufacturer or wholesaler of any alcoholic liquor, and no officer, director or substantial stockholder of any corporate manufacturer or wholesaler of alcoholic liquor, shall have any right, title, lien, claim

or interest, financial or otherwise, in, upon, or to the premises, equipment, business or merchandise of any licensee authorized to sell alcoholic liquors at retail.

(2) No licensee authorized to sell alcoholic liquor at wholesale shall have any right, title, lien, claim or interest, financial or otherwise, in, upon or to the premises, equipment, business or merchandise of any licensee authorized to sell alcoholic liquor at retail.

[Amended by 1957 c.297 §2]

471.457 Spouse of wholesale licensee as retail licensee; restrictions on wholesale licensee. Notwithstanding the provisions of ORS 471.455, no spouse or family member of a licensee authorized to sell alcoholic liquor at wholesale before January 1, 1965, shall be denied a license for the sale at retail of alcoholic liquor for off-premises consumption, by reason of the family relationship, provided that such seller of alcoholic liquor at wholesale shall not directly or indirectly sell alcoholic liquor at wholesale to his spouse or family member who is licensed to sell alcoholic liquor at retail.

[1965 c.277 §1]

Note: 471.457 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 the Preface to Oregon Revised Statutes for further explanation.

471.460 Retailer having interest in wholesale or manufacturing business. No licensed retailer of alcoholic liquor, and no officer or substantial stockholder of any corporate licensee, shall have any right, title, lien, claim or interest, financial or otherwise, in, upon or to the premises, equipment, business or merchandise of any manufacturer or wholesaler of alcoholic liquor.

471.463 Spouse of retail licensee as wholesale licensee; restrictions on wholesale licensee. Notwithstanding the provisions of ORS 471.460, it shall not be unlawful for the spouse or family member of any licensee authorized to sell alcoholic liquor at retail to engage in the sale of alcoholic liquor at wholesale provided that such licensee selling alcoholic liquor at wholesale may not, directly or indirectly, sell alcoholic liquor at wholesale to his spouse or family member who is licensed to sell alcoholic liquor at retail.

[1965 c.277 §2]

Note: 471.463 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 the Preface to Oregon Revised Statutes for further explanation.

471.465 Gifts to retailer by wholesaler or manufacturer. No manufacturer or wholesaler of alcoholic liquor, and no officer, director, substantial stockholder, agent or employe of any such manufacturer or wholesaler, shall, directly or indirectly, give, loan, furnish or supply, other than merchandise sold in the usual course of trade, to any licensee authorized to sell alcoholic liquors at retail:

- (1) Any gratuities or rebates;
- (2) Any finances, money or credit;
- (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.

[Amended by 1955 c.657 §11; 1957 c.297 §3]

471.470 Acceptance by retailer of gift from wholesaler. Except as permitted under ORS 471.465, no licensee authorized to sell alcoholic liquors at retail shall accept any equipment, gratuities, rebates, money or property of any kind other than merchandise purchased in the usual course of trade from a licensee authorized to manufacture or sell alcoholic liquors at wholesale.

[Amended by 1957 c.297 §4]

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 commission permitting the mixing, storing and serving of alcoholic liquor at said premises, and no agent, servant or employe 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; penalty. On and after January 1, 1978:

(1) The 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 Oregon 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]

471.480 Sale of liquor by licensee's employes 18 years of age or older. Any employe 18 years of age or older of a person who holds any package store license from the Oregon Liquor Control Commission may sell any alcoholic liquor authorized by such license on the licensed premises.

[1971 c.490 §1]

Note: 471 480 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 the Preface to Oregon Revised Statutes for further explanation.

471.485 Cash payment upon delivery of liquor; exception. No wholesale licensee or agent or employe thereof shall sell or deliver, nor shall any retail licensee purchase or receive any malt beverages or wine for currency on delivery, but such malt beverages or wine shall be paid for prior to delivery thereof, 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, his agents' or employes', exposure to or risk of being victimized by criminal activity.

[1971 c.694 §2]

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 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 471.465 and 471.470.

[1971 c.694 §3]

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 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 commission.

[1971 c.694 §4]

471.500 Application of ORS 471.485 to 471.495. The provisions of ORS 471.485 to 471.495 shall not apply to any common carrier licensed by the commission.

[1971 c.694 §5]

LOCAL OPTION LAW

471.505 Filing petition for local option. Whenever a petition therefor, signed by not less than 10 percent of the registered voters of any county in the state, or of any incorporated city in any county in the state, is filed with the county clerk of such county, or the clerk or auditor of such city, as prescribed in ORS 471.515, the officer with whom the petition is filed shall order an election to be held at the time prescribed in ORS 471.515, and in the county or city mentioned in the petition, to determine whether or not the sale of alcoholic liquors of any of the various classes defined in ORS 471.530 shall be prohibited in such county or city. In determining whether the petition contains the requisite percentage of legal voters, the percentage shall be based on the number of registered voters in such counties or cities at the last preceding general election.

471.510 Sales not affected by local option laws. ORS 471.505 shall not prohibit the sale of pure alcohol for scientific or manufacturing purposes, or of wines to church officials for sacramental purposes, or of alcoholic stimulants where they have been prescribed by a regular practicing physician, dated and signed by him as provided by subsection (2) of ORS 471.270; nor shall it prevent any person residing in the county or city from ordering and having delivered to his home, for the personal use of himself and his family, alcoholic liquors purchased from the commission or from persons duly licensed to sell them under the Liquor Control Act.

471.515 Date of election; effective date of law; notice to electors; holding election. (1) Elections ordered under ORS 471.505 shall be held only upon regular November biennial election days.

(2) The petition therefor shall be filed with the county clerk or city clerk or auditor, not less than 60 days before the day of election. Where the petition is filed with a city clerk or auditor, he shall, within three days thereafter, mail to the county clerk of the county in which the petition is filed, a notice of the filing, giving the date thereof. The county clerk shall keep such notice in a convenient and separate file open for public inspection and shall post a copy of it in a public place.

(3) 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.

(4) Elections provided for by this section shall be held at the regular voting places within the proposed limits, and by the judges and clerks of election appointed and qualified under the general election laws of the state.

471.520 Application of general election laws. The general election laws, so far as they are applicable, apply to all elections held under ORS 471.505 and 471.515. No person is qualified to vote at such election who is not qualified to vote at that election for the county or city officers in the district in which he proposes to vote.

471.525 Certification and recording of vote. The county clerk, or city clerk or auditor, upon canvass of the election returns, shall certify to the county court the vote for and against prohibition, whereupon the same shall be entered in the journal of the county court.

471.530 Form of petition. (1) The form of petition, if to prohibit only the sale of alcoholic liquors containing over 14 percent of alcohol by volume, shall be substantially as follows:

Petition for local option liquor election. We, the undersigned, legal voters of (here insert name of county or city), respectfully petition that on the ____ day of _____, 19____, an election be held to determine whether the sale of alcoholic liquors containing over 14 percent of alcohol by volume shall be prohibited in (name of county or city), and each for himself says: I have personally signed this petition and my residence, post office, voting precinct and date of signing are clearly written after my name. My residence (if in city, street and number, if any), post office, precinct and date of signing:

(Here follow 20 numbered lines for signatures.)

(2) The form of petition, if to prohibit only the sale of alcoholic liquors containing over four percent of alcohol by weight, shall be substantially the same as prescribed in subsection (1) of this section, except that the petition shall refer to alcoholic liquors containing over four percent of alcohol by weight.

(3) The form of petition, if to prohibit the sale of all alcoholic liquors, shall be substantially the same as prescribed in subsection (1)

of this section, except that the petition shall refer to all alcoholic liquors.

[Amended by 1957 c.231 §1]

471.535 Number of signatures per sheet; circulator's affidavit. If any sheet filed with the petition contains more than 20 names, none of the names on such sheet shall be counted. Each sheet shall be signed at the bottom thereof with the name, address and street and house number, if any, of the circulator thereof, who shall append to each sheet his affidavit in the following form:

State of Oregon,)
)ss.
County of _____)

I, _____, being
first duly sworn, say that every person who signed this sheet of the foregoing petition, signed his or her name thereto in my presence; I believe that each has stated his or her name, post-office address and residence correctly, and that each signer is a legal voter of the State of Oregon and County of _____.

Signature of circulator of this sheet of petition _____.

Post-office address of circulator of this sheet of petition, with street and number, if in a city or town _____.

Subscribed and sworn to before me this ____ day of _____, A.D. 19____.

Notary Public for Oregon _____.

Post-office address of notary, including street and number if in a city or town _____.

My commission expires: _____.

471.540 Miscellaneous provisions relating to petition. (1) No signature is valid unless signed within 180 days prior to the filing of the petition, which must affirmatively appear upon the petition. When the petition has been filed it shall not be withdrawn, or any name thereof, nor any names added thereto. It shall be a public document subject to inspection by the public.

(2) The sheets upon which the signatures appear shall be fastened together into one petition and filed as a whole. Upon receipt of the petition, the county clerk, or city clerk or auditor, shall immediately file it and thereupon compare the signatures of electors signing it with their signatures on the registration books of the election then pending; or if none is pending, then with the signatures

on the registration books and blanks on file in his office for the preceding general election. If the requisite number of qualified electors has signed the petition, and it has been filed as provided for in ORS 471.505 to 471.540, it shall go upon the ballot as provided in ORS 471.555.

471.545 Form of election notice. At least 20 days prior to any election ordered under ORS 471.505, the county clerk, or city clerk or auditor, shall deliver to the sheriff of the county at least three notices of the election at every election board in each county or city voting on the election. The notices shall be substantially in the following form:

LIQUOR ELECTION NOTICE

Notice is hereby given that on the — day of

——, 19—, in precinct —, in the County of —, an election will be held from (here insert the hours in which the general election is held) to determine whether the sale of (a) all alcoholic liquors; or (b) alcoholic liquors containing over 14 percent of alcohol by volume; or (c) alcoholic liquors containing over four percent of alcohol by weight, for beverage purposes, shall be prohibited in (here insert the name of the county or city, to comply with the petitions duly filed).

Dated this — day of —, 19—.

County clerk of _____ County,
Oregon, or city clerk or auditor of _____.

471.550 Posting of notices; recording compliance with statutes. The sheriff, at least 12 days before any election ordered under ORS 471.505, shall post the notices provided for in ORS 471.545 in such places in the vicinity of the polling places. Thereupon the county clerk, or city clerk or auditor, and the sheriff, shall each enter of record their compliance with the provisions of ORS 471.545 and this section, and such record shall be prima facie evidence that all such provisions have been complied with.

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

471.556 Form of ballot. Before the election ordered under ORS 471.505 is held, the county clerk shall arrange the ballots and shall have them printed in one of the follow-

ing forms, with the proper number as prescribed by ORS 254.090 to 254.104 in the space on the left margin:

(1) If the election is upon the prohibition of the sale of alcoholic liquor containing more than 14 percent of alcohol by volume, the ballot shall be in the following form:

PROHIBITING THE SALE OF ALCOHOLIC LIQUOR CONTAINING MORE THAN 14 PERCENT OF ALCOHOL BY VOLUME — Purpose: To prohibit within the limits of (name the city or county) the sale of alcoholic liquor containing more than 14 percent of alcohol by volume for beverage purposes.

(2) If the election is upon the prohibition of the sale of alcoholic liquor containing more than four percent of alcohol by weight, the ballot shall be in the following form:

PROHIBITING THE SALE OF ALCOHOLIC LIQUOR CONTAINING MORE THAN FOUR PERCENT OF ALCOHOL BY WEIGHT — Purpose: To prohibit within the limits of (name the city or county) the sale of alcoholic liquor containing more than four percent of alcohol by weight for beverage purposes.

(3) If the election is upon the prohibition of the sale of all alcoholic liquor, the ballot shall be in the following form:

PROHIBITING THE SALE OF ALL ALCOHOLIC LIQUOR — Purpose: To prohibit within the limits of (name the city or county) the sale of any alcoholic liquor containing more than one-half of one percent of alcohol by volume for beverage purposes.

[1957 c.231 §3 (enacted in lieu of 471.555)]

471.560 Furnishing ballots to precincts. The county clerk, or city clerk or auditor, shall furnish each precinct voting on the question as set out pursuant to ORS 471.556, official and sample ballots equal in number to that required at general elections

by the general election laws of the state and in the manner therein required.

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 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 him 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, he shall take into his possession all alcoholic liquor and other property which the person so arrested has in his possession, or on his 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 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 commission in the manner provided in this section.

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 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 he 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 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 a suit in equity 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 suit.

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 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 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 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.

471.650 Nature of permanent injunction. If a final decree 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 identical to the bond required under ORS 471.645. If any condition of the bond 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.

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 decree orders as against him. In order to obtain such relief, he must prove to the satisfaction of the court that he is the lawful owner of the property and, further, that with reasonable care and diligence he could not have known of the illegal use of his 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.

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 he 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 he 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, he shall 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 him upon execution by him 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, he 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 471.665.

(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 471.665.

[Amended by 1973 c.836 §351]

471.665 Disposal of conveyance transporting liquor and liquor therein. (1) The court, upon conviction of the person arrested under ORS 471.660, shall order the alcoholic liquor delivered to the commission, and shall, subject to the provisions of subsection (3) of this section, and 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 news-

paper 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 his name and address in the records of the Motor Vehicles Division 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.

(3) In the case of any boat, vehicle or other conveyance seized pursuant to ORS 167.247 the boat, vehicle or other conveyance may, in the discretion of the seizing law enforcement agency, following conviction of the person arrested but prior to public auction, be claimed by the seizing law enforcement agency by giving timely notice to the sheriff of the county in which the seizure was made, that the seizing law enforcement agency intends to retain the boat, vehicle or other conveyance for official use. On receipt of notice of such claim, the sheriff shall determine the expense of keeping the boat, vehicle or other conveyance, and all the liens. The seizing agency may then pay the total of the expenses and liens to the sheriff of the county in which the seizure was made. The sheriff shall pay all the liens, according to their priorities, and all other expenses incurred in the seizing and keeping of the boat, vehicle or other conveyance. Upon payment of the liens and expenses, the boat, vehicle or other conveyance shall be delivered to the possession of, and title to the conveyance shall rest in, the seizing agency. The seizing agency then shall put the boat, vehicle or other conveyance to official law enforcement use.

[Amended by 1971 c.743 §374a; 1973 c.836 §352; 1977 c.745 §40]

Note: The amendments to 471.665 by section 40, chapter 745, Oregon Laws 1977, take effect July 1, 1978. See section 56, chapter 745, Oregon Laws 1977.

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 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 police or municipal judge or recorder of any city may be retained by the municipality and shall be paid over and become a part of the city's general fund.

471.675 Resisting arrest or hindering enforcement. No person shall forcibly resist lawful arrest or interfere with or hinder any officer or inspector authorized by the commission, or other competent authority, in the investigation of any infringement of the Liquor Control Act, or in the making of any lawful search, examination, or seizure in the performance of his duties to that end.

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 in-

involved granted under the provisions of this chapter and ORS chapter 472.

[1963 c.91 §2]

ORGANIZATION, POWERS AND DUTIES OF LIQUOR COMMISSION

471.705 Composition of commission; qualifications and term of commissioners; compensation and expenses; confirmation by Senate. (1) There is created the Oregon Liquor Control Commission, consisting of three persons appointed by the Governor. Not more than two commissioners shall be of the same political party and one shall be designated by the Governor to be chairman of the commission. The commissioners are entitled to compensation and expenses as provided in ORS 292.495. Not more than one commissioner shall be appointed from and have residence in any congressional district in this state. Each commissioner at the time of his appointment and qualification shall be a resident of this state and shall have resided in this state for at least five years next preceding his appointment and qualification. He shall be a qualified voter therein and not less than 30 years of age.

(2) The term of office of a commissioner shall be four years from the time of his appointment and qualification and until his successor qualifies. In case any commissioner is allowed to hold over after the expiration of his term, his 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.

(3) All appointments of commissioners by the Governor are subject to confirmation by the Senate in the manner provided in ORS 171.560 and 171.570.

[Amended by 1967 c.577 §11; 1969 c.314 §50; 1973 c.792 §17]

471.710 Removal of commissioner; ineligibility as commissioner or as appointee or employe of commission. (1) The Governor may remove any commissioner for inefficiency, neglect of duty, or misconduct in office, giving to him a copy of the charges against him and an opportunity of being publicly heard in person or by counsel, in his 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, his

findings thereon, and a complete record of the proceedings.

(2) A person is not eligible to hold the office of commissioner, or to be appointed by the commission or hold any office or position under the commission if he has any connection with any person engaged in or conducting any alcoholic liquor business of any kind, holds stock or bonds therein, has any pecuniary interest therein, or receives any commission or profit from or has any interest in the purchases or sales made by the commission or by persons authorized by virtue of the Liquor Control Act to manufacture, purchase or sell any alcoholic liquors.

471.715 Meetings of commission; bonds required. (1) The principal office of the commission shall be in the City of Salem.

(2) Each member of the commission shall give a good and sufficient bond to the state for \$5,000, conditioned upon the faithful performance of the duties of his office. The bond shall be approved by the Governor and Attorney General, and the premium paid from the fund described in ORS 471.805.

(3) The commission shall meet at such times and places within this state as it determines and the members thereof are entitled to their reasonable expenses for each meeting attended. 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.

471.720 Administrator and other employes. (1) The commission shall appoint an administrator, who shall serve at its pleasure; and all other officers, attorneys, clerks, stenographers, inspectors, auditors, chemists, experts and employes as may be necessary. The administrator shall act as manager, secretary and custodian of the records of the commission, unless it otherwise orders, and perform such other duties as the commission may prescribe.

(2) The administrator shall devote his entire time to said office, and shall give bond for the faithful performance of his duties in such form as the commission may approve and in an amount not less than \$25,000.

(3) The commission may fix the duties, salaries and wages of its employes, require such bonds from them as it deems advisable and pay the premiums thereon.

[Amended by 1967 c.630 §4; 1975 c 605 §24]

471.725 Buying, leasing, contracting and borrowing powers of commission. The function, duties and powers of the 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.

471.730 Regulatory powers of commission. The function, duties and powers of the 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.

(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 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 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.

(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.

471.735 Testing and seizure of wines. The 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 Commission's exclusive right to handle certain liquors; exceptions. Except as authority may be conferred by license issued by the commission, the exclusive right to purchase, sell, have in possession for sale, import or transport, except for sacramental purposes and not for sale, any wine containing over 21 percent of alcohol by volume or any other alcoholic liquor containing over eight percent of alcohol by volume is vested in the commission. Such wine or liquor shall be sold only by the commission or its duly authorized and regularly employed agent or representative. It shall be delivered to the

purchaser personally. All other wines containing not over 21 percent of alcohol by volume or any other alcoholic liquors containing not over eight percent of alcohol by volume, may be manufactured, sold, possessed, distributed, imported or transported, as provided by this chapter and not otherwise.

[Amended by 1953 c.120 §6; 1974 s.s. c.4 §6]

471.745 Commission's power to fix prices and sell liquor. The commission shall fix the prices at which alcoholic liquors containing over four percent alcohol by weight 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.

471.750 Liquor stores and warehouses; operation; sales; advertising. The 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 four percent of alcohol by weight, 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 he 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 stores shall be closed on Sundays and any legal holidays or any state or national election days designated by the commission. The advertising of the sale of liquors by the commission or window display in its stores are prohibited, except that the commission may provide for appropriate signs on windows or front denoting the fact that it is a store of the commission, and may post within the store appropriate price lists. 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.

[Amended by 1977 c.321 §3; 1977 c.608 §2]

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 licensee of the commission under this chapter and ORS chapter 472 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 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 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 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]

471.760 Commission's power to subpoena, administer oaths and take depositions. Each member of the commission, or any of its authorized agents, shall, for the purposes contemplated by this chapter, 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 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 he should not be punished

for contempt. Upon the return of such order, the judge shall examine such person under oath and he 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 he was ordered to bring or produce, he 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 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 him may tend to incriminate him or subject him 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 he 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 him in his 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 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 Issuance of purchase orders; preservation of records. Every order given by the commission for alcoholic liquor must have written approval of two of its members. A duplicate of every order for alcoholic liquor shall be kept at the head office of the commission. All purchase orders, sales records and other records of the commission shall be preserved until audited by the state auditors. Thereafter they may be destroyed by order of

the commission with the consent and approval of the State Auditor.

[Amended by 1953 c.13 §2; 1969 c.145 §1]

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 commission may be sued for doing or omitting to do any act in the performance of his 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 employe of commission. No provision of the Liquor Control Act prevents any member or employe of the commission from purchasing and keeping in his possession, for the personal use of himself or members of his family, 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 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 subsection (2) of ORS 471.810, all money collected by the commission, under this chapter and ORS chapters 472 and 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 \$125,000, 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 employes, purchases made by the commission and such sums necessary to reimburse the \$125,000 revolving fund, shall be audited and paid from the Oregon Liquor Control Commission Account in the General Fund, upon warrants drawn by the Executive Department, pursuant to claims theretofore duly approved by the commission.

(3) Money produced by the operation of this chapter and ORS chapters 472 and 473 necessary to pay such expenditures hereby 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]

471.810 Distribution of available moneys in Oregon Liquor Control Commission Account. (1) At the end of each month, the commission shall certify the amount of money available for distribution in the Oregon Liquor Control Commission Account, and after withholding such money 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 Executive Department, as follows:

(a) Fifty-six percent, or the amount remaining after the distribution under subsection (3) 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, 221.780 and this section.

(2) The commission shall direct the Executive Department to transfer 50 percent of the revenues from the taxes imposed by ORS 473.030 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) 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, 471.810, 473.190 and 473.210 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 paragraph (a) of subsection (1) 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]

471.815 [Repealed by 1961 c.706 §45]

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 is a misdemeanor.

(2) Except as otherwise specifically provided, municipal, justices', district and circuit courts have concurrent jurisdiction of all violations of this chapter committed within their respective jurisdictions.

(3) A second or subsequent violation of ORS 471.440 is punishable upon conviction by

imprisonment in the penitentiary for not more than three years and by a fine of not more than \$3,000.

punishable upon conviction by a fine of not more than \$200.

[Amended by 1953 c.120 §6; 1963 c.93 §6]

(4) Violation of any regulation promulgated under subsection (5) of ORS 471.730 is

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Thomas G. Clifford, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
October 1, 1977.

Thomas G. Clifford
Legislative Counsel

