# TITLE 37

# ALCOHOLIC LIQUORS; CONTROLLED SUBSTANCES; DRUGS


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## Chapter 471

### 1987 REPLACEMENT PART

## Alcoholic Liquors Generally


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## 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 kitchen and dining room equipment and capacity, and having employed therein such number and kinds of employes as the commission may prescribe by rule for preparing, cooking and serving suitable food for its guests [Amended by 1979 c 236 §5]

**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 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, 1979 c 236 §6]

**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 Preface to Oregon Revised Statutes for further explanation

**471 020** [Repealed by 1979 c 264 §14]

**471.022 "Wine" defined.** As used in this chapter, "wine" means any wine containing not more than 21 percent alcohol by volume and produced in all respects in conformity with the laws of the United States and the regulations of the Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury [1979 c 264 §3]

**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 the person's having reached 21 years of age, shall require such person to produce the person's motor vehicle operator's license or if the license does not bear a photograph of the operator, then an identification card issued to the person under ORS 807 400 However, if the person has no motor vehicle operator's license or an identification card, the permittee or licensee shall require such person to make a written statement of age and furnish evidence of the person's true age and identity

(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

Description of evidence in support of age and identity

_____ Identification No (if any) _____

_____ Identification No (if any) _____

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

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

_____

Signature of

permittee or licensee

ORS 165 805 provides as follows

165 805 (1) A person commits the crime of misrepresentation of age by a minor if

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

(b) (Not applicable )

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

[Amended by 1955 c 525 §1, 1961 c 687 §4, 1967 c 171 §1, 1967 c 577 §7, 1979 c 313 §1, 1983 c 338 §939]

**471.135 False statement of age; statement of age as defense.** (1) No person shall make a written statement of age under ORS 471 130 that is false in whole or in part, or produce any evidence that would falsely indicate the person's age

(2) If a written statement of age and the information pertaining to the evidence which was exhibited to the permittee or licensee at the time the statement was made that is entered in writing on the statement, are offered as evidence in any administrative or criminal prosecution for sale or

service of alcoholic liquor to a person not having reached 21 years of age, the permittee or licensee shall be found to have committed no crime or other wrong unless it is demonstrated that a reasonable person would have determined that the identification exhibited was altered or did not accurately describe the person to whom the alcoholic liquor was sold or served [Amended by 1955 c 525 §2 1967 c 53 §1 1979 c 313 §2]

**471 140** [1961 c 687 §2 1963 c 93 §3, 1971 c 433 §1 repealed by 1979 c 313 §10]

**471 143** [1963 c 93 §2 1967 c 569 §1 1971 c 159 §2 1979 c 313 §4 repealed by 1979 c 313 §11]

**471 145** [1961 c 687 §§3 6 1963 c 93 §4, repealed by 1979 c 313 §11]

**471 150** [1961 c 687 §7 1963 c 93 §5 1967 c 569 §2 1971 c 159 §3 repealed by 1979 c 313 §11]

## LIQUOR LICENSES

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

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

(3) The commission may require of every applicant for a license the recommendation in writing of the governing body of the county 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

(4) After public notice and hearing, the governing body of a city or county may adopt an ordinance, rule or resolution prescribing licensing guidelines to be followed in making recommendations on license applications and in allowing opportunity for public comment on applications If the guidelines are approved by the commission as consistent with commission rules, after public notice and hearing the governing body may adopt an ordinance, rule or regulation establishing a system of fees that is reasonable and necessary to pay expenses of processing the written recommendation In no case shall the fees be greater than $100 for an original application, $75 for a change-in-ownership or change in location or change in privilege application and $35 for a renewal or temporary application [Amended by 1967 c 359 §693, 1977 c 518 §3, 1979 c 45 §1 1979 c 264 §5a 1983 c 691 §1, 1983 c 740 §187 1985 c 591 §1, 1987 c 511 §1]

**471.215 Licenses issuable.** The licenses described in ORS 471 220, 471 230 to 471 260 and 471 265 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** [1967 c 173 §2, 1974 s s c 4 §1 1977 c 332 §3, repealed by 1979 c 264 §14]

**471.220 Brewery license.** (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, as defined in ORS 473 010 No brewery licensee shall sell any malt beverages to be consumed on the licensed premises 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 brewery licensee brewing fewer than 10,000 barrels of malt beverages annually may

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

(b) Sell malt beverages brewed on the licensed premises and containing not more than eight percent of alcohol by volume, in quantities of not less than five gallons, to an unlicensed organization, lodge, picnic party or private gathering Such malt beverages shall not be sold by any such unlicensed group [Amended by 1955 c 657 §1, 1977 c 332 §4 1979 c 264 §4, 1987 c 608 §5]

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

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

(b) To sell wines at wholesale to the commission or to licensees of the commission

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

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

(e) To purchase from or through the commission brandy or other distilled spirits for fortifying wines

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

(2) In order to hold a winery license the licensee shall principally produce wine in this state [1979 c 264 §2, 1981 c 201 §1]

**471 225** [Amended by 1977 c 332 §5, repealed by 1979 c 264 §14]

**471.230 Distillery license; brandy distillery.** (1) A distillery license shall allow the holder thereof to import, manufacture, distill, rectify, blend, denature and store spirits of an alcoholic content greater than 17 percent 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 or as provided in subsection (2) of this section However, any agricultural producer or association of agricultural producers or legal agents thereof who manufacture and convert agricultural surpluses, by-products and wastes into denatured ethyl and industrial alcohol for use in the arts and industry shall not be required to obtain a license from the commission

(2) A distillery licensee which distills brandy may

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

(b) Apply for appointment as a retail sales agent of the commission for purposes of retailing only brandy which the licensee distilled in Oregon at the two locations at which tastings are permitted pursuant to paragraph (a) of this subsection [Amended by 1987 c 558 §1]

**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, as defined in ORS 473 010, 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, as defined in ORS 473 010, 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

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

**471 240** [Amended by 1955 c 657 §3 1957 c 223 §2 repealed by 1973 c 395 §10]

**471.242 Wine warehouse license.** (1) A wine warehouse license shall allow the licensee to store, import and export bottled nontax paid, bonded wine Wine may be removed from the licensed premises only for

(a) Export,

(b) Shipment to a wholesale malt beverage and wine licensee,

(c) Shipment to another wine warehouse licensee, or

(d) Shipment to a winery licensee

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

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

(4) A wine warehouse must be physically secure in an area zoned for the intended use, be physically separated from any other use and shall not occupy the same premises as a licensee licensed under ORS 471 235 or any premises contiguous thereto

(5) A wine warehouse shall contain only wine that is owned by persons, partnerships, corporations or cooperatives whose principal business is the production of wine

(6) For purposes of ORS 471 455, a wine warehouse licensee shall be considered a manufacturer [1985 c 628 §2]

**Note** 471 242 was added to and made a part of ORS chapter 471 by legislative action but was not added to any series therein See Preface to Oregon Revised Statutes for further explanation

**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 the person has adequate machinery, equipment and facilities for properly bottling such alcoholic liquors In no event shall such license be issued to any person who does not hold a wholesale malt beverage and wine license [Amended by 1979 c 236 §7, 1981 c 199 §1]

**471.250 Restaurant license.** (1) A restaurant license shall allow the licensee to sell malt beverages, as defined in ORS 473 010, and wine containing not more than 21 percent of alcohol by volume to customers for consumption on the licensed premises and shall permit the patron to remove from the premises a container of wine the contents of which have been only partially consumed

(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 1981 c 328 §1, 1987 c 608 §6]

**471.253 Brewery-public house license** (1) A brewery-public house license shall allow the licensee

(a) To manufacture annually on the licensed premises, store, transport, sell to wholesale malt beverage and wine licensees of the commission and export no more than 10,000 barrels of malt beverages, as defined in ORS 473 010,

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

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

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

(e) To sell wine and cider containing not more than 21 percent alcohol by weight at retail for consumption on or off the premises, and

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

(2) A brewery-public house licensee or any person having an interest in the licensee, is not eligible for a brewery license authorized by ORS 471 220 or a wholesale malt beverage and wine license authorized by ORS 471 235

(3) A brewery-public house licensee, or any person having an interest in the licensee, may also hold a winery license authorized by ORS 471 223

(4) A brewery-public house licensee is eligible for a retail malt beverage license and for special one-day retail beer licenses

(5) For purposes of ORS chapter 473, a brewery-public house licensee shall be considered to be a manufacturer [1985 c 649 §4 1987 c 608 §1]

Note 471 253 was added to and made a part of ORS chapter 471 by legislative action but was not added to any series therein See Preface to Oregon Revised Statutes for further explanation

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, as defined in ORS 473 010, 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, 1987 c 608 §7]

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 Preface to Oregon Revised Statutes for further explanation

**471.259 Bed and breakfast license.** A bed and breakfast license may be issued to the owner or operator of a private residence that is not a boarding house but that accommodates transients for a limited duration and shall allow the sale or service by the licensee or any employe of malt beverages, as defined in ORS 473 010, and wine containing not more than 21 percent of alcohol by volume to guests for consumption on the licensed premises only The license does not permit sale or service to or consumption by the general public or employes of the premises [1985 c 649 §1 1987 c 608 §8]

Note 471 259 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 471 or any series therein by legislative action See Preface to Oregon Revised Statutes for further explanation

**471.260 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 malt beverages, as defined in ORS 473 010, in brewery-sealed packages containing not more than one gallon and wine containing not more than 21 percent of alcohol by volume [Amended by 1973 c 395 §3 1974 s s c 4 §3 1985 c 546 §1, 1987 c 608 §9]

**471.262 Temporary license or authority for package store license applicant; revocation.** (1) Upon receiving an application for a package store license as defined in ORS 471 260, the commission may grant a temporary license or letter of authority for a period not exceeding 90 days, if it finds

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

(b) The applicant pays the fee prescribed by the commission for a temporary license or letter

(2) The commission summarily and without prior administrative proceedings may revoke a temporary license or letter of authority at any time during the 90 days if

(a) The commission finds that any of the grounds for refusing a permanent license under ORS 471 295 exist, or

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

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

(B) That a package store license should not be issued [1979 c 172 §2]

**471.264 When temporary event licensee exempt from temporary restaurant license requirement.** An Oregon Liquor Control Commission licensee holding a malt beverage or wine license for a temporary event shall

not be required to obtain a temporary restaurant license or mobile unit license pursuant to ORS chapters 471 and 624 if no food or beverage is served other than wine or malt beverage in single-service containers or nonperishable food items, or both, that are exempted from licensure by the Health Division [1981 c 200 §1]

**Note** 471 264 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 471 or any series therein by legislative action See Preface to Oregon Revised Statutes for further explanation

**471.265 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, as defined in ORS 473 010, hard cider containing not more than 10 percent of alcohol by volume and wine containing not more than 14 percent by volume

(2) A retail malt beverage license shall permit the licensee to sell malt beverages for consumption on the licensed premises, malt beverages in brewery-sealed packages for consumption off the licensed premises, not more than two gallons of malt beverages in a securely covered container or containers supplied by the purchaser for consumption off the licensed premises, hard cider for consumption on the licensed premises, hard cider in sealed containers for consumption off the licensed premises, 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 14 percent of alcohol by volume, 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, 1985 c 546 §2, 1987 c 558 §2, 1987 c 608 §2]

**471.270 Druggist license and sales on prescription.** (1) A druggist's license may be issued to any person operating a pharmacy, and who is, or who employs, 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 The person shall keep such prescription on file and available at all reasonable times to the inspection of the commission

**471.275 Public passenger carrier 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, as defined in ORS 473 010, 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 [Amended by 1987 c 608 §10]

**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 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 license; permitted activity upon application** (1) 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 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

(2) Any person who has not had a salesman's license refused or revoked or whose license is not under suspension may exercise the privilege of the salesman's license immediately after transmitting an application for a salesman's license to the commission with the fee required by ORS 471 290 The applicant must keep a copy of the application available for immediate inspection by any commission representative or peace officer until the applicant receives the license [1955 c 657 §8 1957 c 221 §2 1975 c 470 §1 1983 c 228 §1 1987 c 511 §2]

**471.289 Manufacturer 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 [1955 c 657 §6 1957 c 111 §1 1973 c 131 §1 1979 c 264 §6]

**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, the applicant's 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 rules of the commission have been complied with

(2) Except as provided in this section, the commission shall assess a nonrefundable fee for processing each application for any license authorized by ORS chapter 471 or 472, in an amount equal to 25 percent of the annual license fee The commission shall not begin to process any license application until the application fee is paid If the commission allows an applicant to apply at the same time for alternative licenses at one premises, only the application fee for the most expensive license shall be required If a license is granted or committed, the application fee of 25 percent shall be applied against the annual license fee This subsection shall not apply to an agent's license, a salesman's license, a manufacturer certificate of approval, a druggist's license, a health care facility license or to any license which is issued for a period of less than 30 days

(3) Subject to subsection (4) of this section, the commission shall assess a nonrefundable fee for processing a renewal application for any license authorized by ORS chapter 471 or 472 only if the renewal application is received by the commission less than 20 days before expiration of the license If the renewal application is received prior to expiration of the license but less than 20 days prior to expiration, this fee shall be 25 percent of the annual license fee If a renewal application is received by the commission after expiration of the license but no more than 30 days after expiration, this fee shall be 40 percent of the annual license fee This subsection shall not apply to an agent's license, a salesman's license, a manufacturer certificate of approval, a druggist's license, a health care facility license, a brewery-public house license or to any license which is issued for a period of less than 30 days

(4) The commission may waive the fee imposed under subsection (3) of this section if it finds that failure to submit a timely application was due to unforeseen circumstances or to a delay

in processing the application by the local governing authority that is no fault of the licensee

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

| License | Fee | Minimum Bond |
|---|---|---|
| Brewery including Certificate of Approval | $ 500 | $ 1,000 |
| Winery | 250 | 1,000 |
| Distillery | 100 | None |
| Wholesale Malt Beverage and Wine | 275 | 1,000 |
| Bottler | 150 | None |
| Restaurant | 200 | 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 | 200 | None |
| Health Care Facility | 5 | None |
| Wine warehouse | 100 | 1,000 |
| Special retail beer license may be issued for any picnic, convention, fair, civic or community enterprise or business promotion on a licensed premises at | $ 10 per day | |
| Special retail wine license may be issued for any special auction, picnic, convention, fair, civic or community enterprise or business promotion on a licensed premises at | $ 10 per day | |
| Special events winery license may be issued to a winery licensee at | $ 10 per day | |
| Bed and breakfast license | $5 per guest unit | |
| Brewery-Public House, including Certificate of Approval | 250 | $ 1,000 |

[Amended by 1955 c 657 §9 1957 c 111 §2, 1965 c 280 §3, 1967 c 28 §1 1967 c 448 §1 1971 c 470 §1 1973 c 313 §1 1973 c 395 §5, 1975 c 494 §3 1979 c 264 §7, 1981 c 598 §1, 1985 c 360 §1, 1985 c 591 §2, 1985 c 628 §3 1985 c 649 §2]

**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, except as allowed by ORS 471 456, any applicant to sell at retail for consumption on the premises has been financed or furnished with money or property by, or has any connection with, or is a manufacturer of, or wholesale dealer in, alcoholic liquor

(4) That the applicant

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

(b) Has made false statements to the commission

(c) Is 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 rules of the commission when previously licensed

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

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

(j) Is unable to read or write the English language or to understand the Liquor Control Act or rules of the commission [Amended by 1953 c 14 §2 1979 c 744 §33a 1979 c 881 §3]

**471.297 Temporary license or letter of authority on change of ownership; fee; revocation; procedure.** (1) The commission may grant a temporary license or letter of authority for a period not to exceed 90 days on change of ownership applications for licenses granted under this chapter if the applicant pays the fee pre-

scribed by the commission for a temporary license or letter

(2) The commission summarily and without prior administrative proceedings may revoke a temporary license or letter of authority any time during the 90 days if the commission finds that any of the grounds for refusing a permanent license under ORS 471 295 or canceling or suspending a license under ORS 471 315 exist

(3) A person subject to subsection (2) of this section shall be given an interview under the direction of the commission if the person requests an interview prior to revocation of a temporary license However, the proceedings are not a contested case under ORS 183 310 to 183 550 [1987 c 511 §5]

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

(c) A business licensed pursuant to this chapter subject to a security interest may be continued in business by a secured party as defined in ORS 79 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 1979 c 264 §9]

**471 305 Restrictions on brewery and wholesale malt and wine licensees and licensees authorized to retail liquor.** A brewery or a wholesale malt beverage and wine licensee shall deliver malt beverages only to or on a licensed premises The sale of alcoholic liquors under any license issued by the commission authorizing retail sales by a licensee shall be restricted to the premises described in the license, but deliveries may be made by the licensee to customers pursuant to bona fide orders received on the licensed premises prior to delivery [Amended by 1981 c 199 §2]

**471.310 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 or imposition of fine.** The commission may cancel or suspend any license, or impose a monetary penalty in lieu of or in addition to suspension as provided by ORS 471 322, if it finds or has reasonable ground to believe any of the following to be true

(1) That the licensee

(a) Has violated any provision of this chapter or any rule of the commission adopted pursuant thereto

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

(c) Is not maintaining an acceptable bond

(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 the establishment of the licensee

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

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

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

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

(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 1979 c 744 §34 1981 c 599 §1]

**471.317 Effect of sanitation violations.** (1) Except as provided in subsections (2) and (3) of this section, the commission shall not refuse to issue, cancel or suspend a license under ORS 471 295, 471 315, 471 425, 472 160, 472 180 or 472 310 for maintaining an insanitary establishment

(2) The commission may refuse to issue, cancel or suspend a license under ORS 471 295, 471 315, 471 425, 472 160, 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 refuse to issue, cancel or suspend a license under ORS 471 295, 471 315, 471 425, 472 160, 472 180 or 472 310 for maintaining an insanitary establishment in violation of ORS 447 010 to 447 140 or the laws, orders or rules of the Health Division of the Department of Human Resources 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, 1979 c 236 §8]

**471 320** [Amended by 1957 c 220 §3, repealed by 1971 c 734 §21]

**471.322 Fine in lieu of or in addition to short-term suspension of certain licenses and permits; limits on amount.** (1) If a license issued under ORS 471 220, 471 223, 471 250, 471 260, 471 265, 471 275, 471 285 or 471 287, or a service permit issued under ORS 471 360, is suspended for a period of 30 days or less, the commission may impose against the affected licensee or permittee in lieu of or in addition to the suspension a monetary penalty fixed by the commission in accordance with subsection (2) of this section if the commission is satisfied that such a penalty in lieu of or in addition to suspension is consistent with the purposes of the Liquor Control Act Upon payment of the penalty in lieu of suspension, the commission shall cancel the suspension

(2) The penalty which the commission may impose pursuant to subsection (1) of this section against a licensee shall not be less than $100 nor more than $2,000 The penalty which the commission may impose pursuant to subsection (1) of this section against a service permittee shall not be less than $25 nor more than $500 [1969 c 67 §§2 3 1973 c 144 §1, 1975 c 735 §1, 1979 c 264 §10, 1981 c 599 §2]

**471 325** [Amended by 1953 c 19 §2 1957 c 220 §4, 1969 c 205 §1, repealed by 1971 c 734 §21]

**471.326 Refund of fine if suspension not sustained on judicial review.** If the action of the commission in suspending a license issued under ORS 471 220, 471 223, 471 250, 471 260, 471 265, 471 275, 471 285 or 471 287 is not sustained upon judicial review under ORS 183 310 to 183 550, the commission shall promptly refund the amount paid pursuant to ORS 471 322 (1) by check or order drawn on the State Treasurer from the Oregon Liquor Control Commission Account [1969 c 67 §4 1973 c 144 §2, 1975 c 735 §2 1979 c 264 §11]

**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 the agent of the owner to make an examination of the books and may at any time make an examination of the premises of any 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 Importing liquor.** (1) No alcoholic liquor shall be imported into this state by any person not holding a brewery winery, distillery or wholesaler's license, except as follows

(a) Alcoholic liquor ordered by and en route to the commission

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

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

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

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

(2) The commission may require importers of alcoholic liquor to secure a permit for each importation and may charge a reasonable fee based on quantity and type for the permit [Amended by 1953 c 120 §6, 1974 s s c 4 §4 1985 c 592 §3]

**471 340 Wine compliance with standards.** (1) No wine shall be sold or offered for sale within this state unless it complies with the minimum standards fixed pursuant to law

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

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

(4) The commission may prohibit the sale of any wine for a reasonable period of time while it is determining whether the wine complies with minimum standards in this state [Amended by 1983 c 316 §1]

**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 retail beer, special retail wine and special events winery 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 Except for licenses issued under ORS 471 285 and 471 287, 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 1981 c 199 §3]

## SERVICE PERMITS

**471.360 Service permit required; waiver** (1) Except as otherwise provided in ORS 471 375

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

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

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

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

**471 365 Characteristics of permit; verification of identity of permittee.** (1) A service permit shall be a purely personal privilege, valid only upon licensed premises, for the period of time stated thereon, and may be suspended or revoked for any reason set forth in ORS 471 360 to 471 390

(2) No service permit shall be used by any person other than the person to whom it is issued Except as provided in ORS 471 375, the licensee

shall verify the identification of the permittee and determine that the permittee has in possession a service permit before allowing the permittee to mix, sell or serve alcoholic liquor for consumption on the licensed premises [1979 c 788 §3]

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

**471.375 Application; requirements, fee.** (1) Any person who has not had a permit refused or revoked or whose permit is not under suspension may mix, sell or serve alcoholic liquor for consumption on the licensed premises if the person prepares in duplicate an application for a service permit prior to mixing, selling or serving any alcoholic liquor for consumption on the licensed premises The licensee shall indorse and immediately transmit the application to the commission with the fee required by subsection (2) of this section A copy of the application shall be kept on the licensed premises and shall be made available for immediate inspection by any inspector or investigator employed by the commission or by any other peace officer until the applicant receives the permit

(2) An applicant for a service permit must be 18 years of age or over Application for a service permit shall be made on a form supplied by the commission The applicant shall truly answer all questions, provide any further information required, and pay a fee not to exceed $10 The commission shall either set the fee to cover only the administrative costs of the service permit program, or apply any excess to the alcohol server program in order to reduce costs which must be recovered pursuant to ORS 471 542 (3) [1979 c 788 §4, 1981 c 610 §5 1987 c 511 §6]

**471.380 Grounds for refusing to issue permit.** The commission may refuse to grant a service permit if it has reasonable grounds to believe any of the following to be true

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

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

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

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

(5) That the application has not been indorsed by the employing licensee [1979 c 788 §5]

**471 385 Grounds for revoking or suspending permit or imposing fine; responsibility of licensee.** (1) The commission may revoke or suspend a service permit, or impose a monetary penalty in lieu of or in addition to suspension as provided by ORS 471 322, if it finds or has reasonable grounds to believe any of the following to be true

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

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

(c) That the permittee has performed or permitted any act which would constitute a violation of any provision of this chapter or ORS chapter 472 or any rule of the commission, if the act were performed or permitted by any licensee of the commission

(2) The issuance, suspension or revocation of a permit under ORS 471 360 to 471 390 does not relieve a licensee from responsibility for any act of an employe on the licensee's premises

(3) When there has been a violation of this chapter or ORS chapter 472, or any rule adopted thereunder upon any premises licensed by the commission, the commission may revoke or suspend either the service permit of the employe who violated the law or rule or the license of the licensee upon whose premises the violation occurred, or both the permit and the license

(4) The commission may revoke or suspend any license issued by the commission if the licensee knowingly indorses a person's application for a permit when the person has been refused a permit or has had a permit suspended or revoked, or when the licensee fails to comply with any provision to be performed by the licensee under ORS 471 360 to 471 390 [1979 c 788 §§6, 8, 1981 c 599 §5]

**471.390 Duplicate or new permit; fee.** (1) If a service permit issued under ORS 471 360 to 471 390 is lost, mutilated or destroyed, the permittee shall apply immediately for a duplicate permit on a form to be supplied by the commission and submit a fee of $5

(2) If a permittee changes name by marriage or otherwise, the permittee shall apply immedi-

ately for a new service permit by forwarding the permit and evidence of the change of name to the commission with an application and a fee of $5 [1979 c 788 §7]

## 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 the license permits the licensee 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 possession an amount not to exceed four liters (135 2 fluid ounces) of distilled spirits, two cases of wine (620 fluid ounces) containing not more than 21 percent of alcohol by volume and two cases of malt beverages (576 fluid ounces), as defined in ORS 473 010 These quantities of alcoholic liquor are exempt from fees collected by the commission

(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 14 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 14 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 1981 c 600 §1 1985 c 592 §2 1987 c 608 §11]

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

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

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

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

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

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

(4) The court shall not waive or suspend imposition or execution of the mandatory minimum 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 mandatory minimum 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 1983 cor c 736 §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]

**471.417 When equipment of manufacturer or wholesaler may be loaned to retail licensee.** (1) Nothing in ORS 471 415, 471 455, 471 456 or 471 465 is intended to prevent a manu-

facturer or wholesaler from leasing or furnishing equipment to a retail licensee if the equipment is leased or furnished only

(a) For a special event,

(b) For a period not to exceed 10 days, and

(c) For a reasonable rental or service fee

(2) As used in this section, "equipment" means picnic pumps, cold plates, tubs, refrigerated trailers, refrigerated vans and refrigerated draught systems [1985 c 306 §2]

471 420 [Amended by 1959 c 399 §1 1971 c 680 §2, repealed by 1979 c 43 §1 and by 1979 c 190 §431]

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

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

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

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

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

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

(4) Any person who violates subsection (1) or (3) of this section commits a violation punishable by a fine of not more than $250 [Amended by 1963 c 243 §2 1965 c 166 §1, 1971 c 159 §6, 1975 c 493 §1, 1979 c 313 §8]

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 the licensee is authorized to sell with any other alcoholic liquor which the licensee is not authorized by 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 winery license, no licensee of the commission shall sell or engage in the business of selling alcoholic liquors both at wholesale and retail [Amended by 1979 c 264 §8]

**471.455 Manufacturer or wholesaler having interest in retail business.** Except as permitted under ORS 471 456, 471 465 or subsection (2) of this section

(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) A wholesaler of any alcoholic liquor and an officer, director or substantial stockholder of any corporate wholesaler of alcoholic liquor, not licensed in the State of Oregon, may have a 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 if the licensed retailer does not sell any brand of alcoholic liquor

(a) Sold or distributed by the wholesaler, or

(b) Produced by any manufacturer doing business with the wholesaler [Amended by 1957 c 297 §2 1979 c 881 §4 1981 c 80 §1]

**471.456 When interest allowable.** (1) Notwithstanding ORS 471 455, a manufacturer or wholesaler of any alcoholic liquor, and any officer, director or substantial stockholder of any corporate manufacturer or wholesaler of alcoholic liquor, may hold, directly or indirectly, an interest in a Class "A" dispenser, Class "C" dispenser, seasonal dispenser, tour boat, retail malt beverage or restaurant licensee, provided that the interest does not result in exercise of control over, or participation in the management of, the retail licensee's business or business decisions, and does not result in exclusion of any competitor's brand of alcoholic liquor

(2) Notwithstanding ORS 471 460, a Class "A" dispenser Class "C" dispenser seasonal dispenser, tour boat, retail malt beverage or restaurant licensee, and any officer, director or substantial stockholder of any corporate Class "A" dispenser, Class "C" dispenser, seasonal dispenser, tour boat, retail malt beverage or restaurant licensee, may hold, directly or indirectly, an interest in a manufacturer or wholesaler of alcoholic liquor, provided that the interest does not result in exercise of control over, or participation in the management of, the manufacturer's or wholesaler s business or business decisions, and does not result in exclusion of any competitor's brand of alcoholic liquor [1979 c 881 §7 1987 c 511 §3]

**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 the spouse or family member who is licensed to sell alcoholic liquor at retail [1965 c 277 §1]

**471 460 Retailer having interest in wholesale or manufacturing business** (1) Except as provided in subsection (2) of this section, 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

(2) A licensed retailer of alcoholic liquor and an officer or substantial stockholder of any corporate licensee, may have a right, title, lien, claim or interest, financial or otherwise, in, upon or to the premises, equipment, business or merchandise of any wholesaler of alcoholic liquor not licensed in the State of Oregon, if the licensed retailer does not sell any brand of alcoholic liquor

(a) Sold or distributed by the wholesaler, or

(b) Produced by any manufacturer doing business with the wholesaler [Amended by 1981 c 80 §2]

**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 the spouse or family member who is licensed to sell alcoholic liquor at retail [1965 c 277 §2]

**471.465 Gifts to retailer by wholesaler or manufacturer; restrictions on sale of nonalcoholic products.** (1) 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

(a) Any substantial gratuities,

(b) Any finances, money, credit, discounts or rebates,

(c) Any fixtures, furniture or furnishings,

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

(e) 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

(2)(a) The commission shall allow the sale of nonalcoholic products in the manner in which the nonalcoholic product is sold by a manufacturer or wholesaler not licensed by the commission The commission may limit merchandising practices involving nonalcoholic products if the commission finds that the limitations are necessary to prevent abuses of this section, ORS 471 455 or 471 456 by the industry as a whole

(b) Any fixtures, equipment or furnishings provided by a manufacturer or wholesaler in furtherance of the sale of nonalcoholic products may not be used by the retailer to store, service, display, advertise, furnish or sell, or aid in the sale of, alcoholic products regulated by the commission All such fixtures, equipment or furnishings must be identified by the retailer as being furnished by a licensed wholesaler [Amended by 1955 c 657 §11 1957 c 297 §3 1981 c 435 §1 1987 c 501 §1]

**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.** (1) 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

(2) Any employe 18 years of age or older of a person who holds a wholesale malt beverage and wine license from the Oregon Liquor Control Commission may assist a salesperson, as defined in ORS 471 287, in the delivery of any alcoholic liquor authorized by such license [1971 c 490 §1 1985 c 378 §2]

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 Preface to Oregon Revised Statutes for further explanation

**471 482 Sale or service of liquor by restaurant licensee's employes 18 years of age or older.** (1) The holder of a restaurant license issued under ORS 471 250 may employ persons 18, 19 and 20 years of age who may take orders for, serve and sell alcoholic liquor in any part of the licensed premises when that activity is incidental to the serving of food except in those areas classified by the commission as being prohibited to the use of minors However, no person who is 18, 19 or 20 years of age shall be permitted to mix, pour or draw alcoholic liquor except when pouring is done as a service to the patron at the patron's table

(2) A person who is 18, 19 or 20 years of age may enter areas classified by the commission as being prohibited to the use of minors only for the purpose of ordering and picking up alcoholic liquor for service in other parts of the premises However, the person shall not remain in the areas longer than is necessary to perform those duties [1981 c 610 §2]

Note 471 482 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 471 or any series therein by legislative action See Preface to Oregon Revised Statutes for further explanation

**471.485 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, or the agents' or employes' of the licensee, 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]

**471 502 Legislative finding on ORS 471 503.** The Legislative Assembly finds that in addition to the purposes specified in ORS 471 030, ORS 471 503 is necessary to maintain and to promote the continued availability of good quality malt beverages for the consumers of Oregon, to promote the orderly marketing of malt beverages, to promote vigorous interbrand malt beverage competition, to encourage competition by the entry of new competitors, to implement the required record-keeping provisions and to facilitate collection of the revenue [1981 c 917 §2]

**471.503 Wholesale sale of malt beverage subject to agreement designating territory of sale.** (1) It shall be unlawful for any wholesaler to sell any brand of malt beverage in this state except in the territory described in an agreement with the manufacturer or importer authorizing sale by the wholesaler of the brand within a designated territory Within the designated territory the wholesaler must service as provided in subsection (2) of this section all of the customers without discrimination The territorial agreement must be in writing and must specify the brand or brands it covers Where a manufacturer or importer sells several brands, the agreement need not apply to all brands sold by the manufacturer or importer and may apply only to one brand No manufacturer or importer shall provide by the written agreement for the distribution of a brand to more than one distributor for all or any part of the designated territory All such agreements shall be filed with the Oregon Liquor Control Commission

(2) Every malt beverage wholesaler licensed shall service for the purpose of quality control all of the malt beverages it sells to its customers Each wholesaler shall provide quality control services and comply with quality control standards as are specified in writing from time to time

by the owner of the trademark of the brand or brands of malt beverage if

(a) These services or standards are reasonable and are reasonably related to the maintenance of quality control and

(b) The wholesaler has received written notice of them

(3) An exclusive territorial designation in any agreement shall be changed only upon the written notice of the manufacturer and shall be filed pursuant to this section and ORS 471 502 The commission shall require the manufacturer to verify that the level of service within the designated territory will not be affected by the change The notice shall only be given after recognizing all rights of the wholesaler and duties of the manufacturer contained in any written agreement between them However, if a wholesaler is prevented from servicing the territory due to fire, flood labor disputes or other causes beyond reasonable control, and if first given permission by the duly licensed exclusive wholesaler of that area and approved by the manufacturer and the commission, another licensed wholesaler not within the designated area may sell the specified brands of malt beverage in that designated area

(4)(a) It shall be unlawful for any wholesaler, either directly or indirectly, to grant or to afford a quantity discount in connection with the sale of malt beverages to any retailer in this state

(b) No provision of any agreement between any manufacturer and importer shall expressly or by implication, or in its operation, establish or maintain the resale price of any brand or brands of malt beverage by the wholesaler [1981 c 917 §3]

## LOCAL OPTION

**471 505** [Repealed by 1983 c 350 §276 (471 506 enacted in lieu of 471 505)]

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

(a) Alcoholic liquors containing more than four percent of alcohol by weight,

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

(c) All alcoholic liquors

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

(a) In the case of a city, shall be as provided for an initiative petition under ORS 250 265 to 250 346

(b) In the case of a county, shall be as provided for an initiative petition under ORS 250 165 to 250 235

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

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

(b) Must specify whether the prohibition would apply to the sale of all alcoholic liquors or only to alcoholic liquors containing more than four percent of alcohol by weight or more than 14 percent of alcohol by volume, and

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

(4) If ORS 250 155 makes ORS 250 165 to 250 235 inapplicable to a county or if ORS 250 255 makes ORS 250 265 to 250 346 inapplicable to a city the requirements for preparing, circulating and filing a petition under this section shall be as provided for an initiative petition under the county or city charter or an ordinance adopted under the county or city charter

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

(6) An election under this section shall be held at the time of the next state-wide general election

(7) An election under this section shall be conducted under ORS chapters 246 to 260 [1983 c 350 §277 (471 506 enacted in lieu of 471 505)]

**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 the physician as provided by ORS 471 270 (2), nor shall it prevent any person residing in the county or city from ordering and having delivered to the home of the person, for the personal use of self and family, alcoholic liquors purchased from the commission or from persons duly licensed to sell them under the Liquor Control Act

**471.515 Effective date of local option.** In each county or city that returns a majority vote for or against prohibition, as to any classes of alcoholic liquor, the law shall take effect on

January 1 following the day of election [Amended by 1983 c 350 §278]

**471 520** [Amended by 1979 c 190 §422, repealed by 1983 c 350 § 331a]

**471 525** [Repealed by 1983 c 350 §331a]

**471 530** [Amended by 1957 c 231 §1, repealed by 1983 c 350 § 331a]

**471 535** [Repealed by 1983 c 350 §331a]

**471 540** [Amended by 1983 c 83 §93 repealed by 1983 c 350 §331a]

## ALCOHOL SERVER EDUCATION PROGRAM

**471.542 Alcohol server education program required; content; fees; how program provided** (1) After January 1, 1987, the commission shall require applicants for Class "A," Class "B," Class "C," retail malt beverage, restaurant, seasonal dispenser, annual community events dispenser, tour boat and brewery-public house licenses and service permits and all renewing Class "A," Class "B," Class "C," retail malt beverage, restaurant, seasonal dispenser, annual community events dispenser, tour boat and brewery-public house licensees and permittees to complete an approved alcohol server education program and examination in order to qualify or requalify for a license or permit unless a probationary extension is granted for hardship reasons After the completion of an initial alcohol server education program and examination, licensees and permittees shall complete an alcohol server education program and examination every five years unless a probationary extension is granted for hardship reasons The commission by rule may exempt licensees who do not participate in the management of the business

(2) The standards and curriculum of alcohol server education programs shall include but not be limited to the following

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

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

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

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

(e) Drunk driving laws and liquor liability statutes

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

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

(3) The commission shall impose fees adequate to cover but not to exceed all administrative costs of the program on instructors and providers and, if necessary on licensees, permittees and applicants for licenses and permits

(4) The commission shall provide the program through independent contractors, private persons or private or public schools certified by the commission [1985 c 658 §§2 3, 1987 c 851 §3]

**Note** Section 2 chapter 851 Oregon Laws 1987 provides

**Sec 2** The commission shall present to the Sixty fifth Legislative Assembly recommendations on whether to offer or require an abbreviated alcohol server education program for seasonal or short-term permittees or licensees and permittees who serve alcoholic beverages only incidental to food service If the commission recommends that an abbreviated alcohol server education program be offered or required the commission shall present recommendations on the standards curriculum and fees for such program [1987 c 851 §2]

**471 545** [Repealed by 1983 c 350 §331a]

**471 547 Alcohol Server Education Advisory Committee; members; duties** The Oregon Liquor Control Commission shall establish an Alcohol Server Education Advisory Committee consisting of persons representing the commission, the Oregon State Police, the Oregon District Attorneys' Association, the Office of Alcohol and Drug Problems, the Traffic Safety Commission, at least one person who is a service permittee under ORS 471 360, a nonprofit organization the purpose of which is to reduce the incidence of drunk driving, and not more than three associations representing retail licensees and two associations representing insurance companies to assist in

(1) The development of the standards, curriculum and materials for the education program,

(2) The examination and examination procedures,

(3) The certification procedures, enforcement policies and penalties for education program instructors and providers, and

(4) The development of time requirements for completion of an approved alcohol education program and conditions for probationary extension [1985 c 658 §1 1987 c 679 §1]

Note Section 2 chapter 679 Oregon Laws 1987 provides

Sec 2 Notwithstanding any provision of law specifying the frequency with which a licensee or permittee is required to complete an alcohol server education program and examination the Alcohol Server Education Advisory Committee shall study and report to the Sixty-fifth Legislative Assembly on the most effective and reasonable frequency for completing such programs and examinations [1987 c 679 §2]

**471 550** [Repealed by 1983 c 350 § 331a]

**471 555** [Repealed by 1957 c 231 §2 (471 556 enacted in lieu of 471 555)]

**471 556** [1957 c 231 §3 (enacted in lieu of 471 555), 1979 c 190 §423 repealed by 1983 c 350 §331a]

**471 560** [Repealed by 1983 c 350 §331a]

## 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 the district attorney with names and addresses of any witnesses, or other information within the officer's knowledge, of such violation

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

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

**471.620 Property and places as common nuisances** Any room house, building, boat, structure or place of any kind where alcoholic liquor is sold, manufactured, bartered or given away in violation of the law, or where persons are permitted to resort for the purpose of drinking alcoholic beverages in violation of the law, or any place where such beverages are kept for sale, barter or gift in violation of the law, and all liquor or property subject to confiscation under ORS 471 610 kept and used in such place is a common nuisance Any person who maintains or assists in maintaining such common nuisance or knowingly suffers or permits such nuisance to exist in any place of which the person is the owner, manager or lessor, shall be guilty of a violation of the Liquor Control Act

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

**471.630 Authority to abate nuisance.** The Attorney General, the commission or its administrators, or the district attorney of the county wherein a nuisance as defined in ORS 471 620 exists, or where it has existed but has temporarily ceased and there is good and sufficient cause to believe that it will be maintained in the future, may institute an action in the circuit court for such county in the name of the state to abate, and to temporarily and permanently

enjoin, such nuisance The court has the right to make temporary and final orders as in other injunction proceedings The plaintiff shall not be required to give bond in such action [Amended by 1979 c 284 §155]

**471.635 Issuance of restraining order.** (1) After a suit is commenced under ORS 471 630, application for a temporary injunction may be made to the court, which shall grant a hearing thereon within 10 days Where such application has been made, the court, on application of the plaintiff, may issue an ex parte order restraining the defendants and all other persons from removing or in any manner interfering with the personal property and the contents of the room, house, building, boat, structure or place of any kind where the nuisance is alleged to exist, until the decision of the court granting or refusing such temporary injunction and until the further order of the court

(2) This section and ORS 471 640 to 471 655 shall not interfere with the duties of officers as provided in ORS 471 605 and 471 610

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

**471.645 Temporary injunction.** If a temporary injunction is granted, the court may issue further restraining orders as described in ORS 471 635, and forthwith may issue an order closing such place against its use for any purpose until the final decision, or the court may allow such place to be occupied or used during the pendency of the injunction proceedings by requiring the defendants to furnish 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 the owner In order to obtain such relief, the owner must prove to the satisfaction of the court that the owner is the lawful owner of the property and, further, that with reasonable care and diligence the owner could not have known of the illegal use of the owner's property

(2) Evidence of the general reputation of the premises upon which a nuisance is alleged to exist is admissible in evidence for the purpose of proving the existence of the nuisance, and of knowledge of, and of acquiescence and participation therein, on the part of persons charged with maintaining or assisting in the maintenance of a nuisance

**471.657 Confiscation and forfeiture for violation of ORS 471.475** Upon conviction for violation of ORS 471 475, the premises upon which the violation has occurred shall be declared to be a common nuisance and subject to abatement proceedings as provided by ORS 471 605 to 471 655 Any person who knowingly suffers or permits such nuisance to exist or be kept or maintained in a private or public club or place of which the person is the owner, manager

or lessor, may be a party defendant to such abatement proceedings In any such case, upon conviction, all alcoholic liquor, whether purchased or acquired from any other source, and all property, including bars, glasses mixers, lockers, chairs, tables, cash registers, music devices, gambling devices, and all facilities for the mixing, storing, serving or drinking of alcoholic liquor shall be declared to be a common nuisance and shall be subject to confiscation and forfeiture as provided for by ORS 471 610 No claim of ownership or of any right, title, or interest in or to any of the personal property enumerated in this section or ORS 471 475 shall be held valid unless claimant shows to the satisfaction of the court that claimant is in good faith the owner of the claim and had no knowledge that the personal property was used in violation of ORS 471 475

**471 660 Seizure of conveyance transporting liquor and liquor therein; notice to owner, return of conveyance; costs.** (1) When any peace officer discovers any person in the act of transporting alcoholic liquors in violation of law, in or upon any vehicle, boat or aircraft, or conveyance of any kind, the officer may seize any alcoholic liquor found therein, take possession of the vehicle or conveyance and arrest any person in charge thereof

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

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

(4) If the person arrested is not the owner of the vehicle or conveyance seized, the sheriff shall make reasonable effort to determine the name and address of the owner If the sheriff is able to determine the name and address of the owner, the sheriff shall immediately notify the owner by registered or certified mail of the seizure and of the owner's rights and duties under this section and ORS 471 665

(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 1981 c 601 §2]

**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 newspaper having weekly

circulation in the city or county, once a week for two weeks and by handbills posted in three public places near the place of seizure, and shall likewise notify by mail the legal owner, in the case of an automobile, if licensed by the State of Oregon, as shown by the name and address in the 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 §371a 1973 c 836 §352, 1977 c 745 §40]

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

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

**471.685 Governor authorized to suspend license.** In case of invasion, disaster, insurrection, riot, or imminent danger thereof, the Governor may, for the duration of such invasion, disaster, insurrection, riot, or imminent danger thereof, immediately suspend without notice any license in the area involved granted under the provisions of this chapter and ORS chapter 472 [1963 c 91 §2]

**471.695 Fingerprinting of license applicants, certain commission employes.** (1) The commission may require each applicant for a Class A dispenser's license, a restaurant license, a retail malt beverage license or a seasonal dispenser's license to submit to fingerprinting If the applicant is a corporation, the

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

(2) The commission shall require that all employes of the commission who work in the licensing or enforcement divisions be fingerprinted

(3) Fingerprints acquired under this section may be submitted to appropriate law enforcement agencies for checking to determine any unlawful activities of the licensee, applicant or employe

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

**471.700 Revocation of license on gambling conviction** In carrying out its duties under ORS 471 315 or 472 180, the commission shall not suspend or cancel a license on grounds of any violation of ORS 167 117 to 167 162 until

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

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

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

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

(b) The operator appears to have consumed alcoholic liquor

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

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

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

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

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

**Note** 471 703 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 471 or any series therein by legislative action See Preface to Oregon Revised Statutes for further explanation

**Note** Section 27, chapter 774 Oregon Laws 1987 provides

**Sec 27** Sections 1 to 6 9 to 11 15 [471 703] and 19 of this Act apply only to claims arising on or after the operative date of those sections

## ORGANIZATION, POWERS AND DUTIES OF LIQUOR COMMISSION

**471.705 Oregon Liquor Control Commission; qualifications; compensation, term; confirmation.** (1) There is created the Oregon Liquor Control Commission, consisting of five persons appointed by the Governor One member shall be from among the bona fide residents of each congressional district of the state One member shall be from the food and alcoholic beverage retail industry Not more than three commissioners shall be of the same political party and one shall be designated by the Governor to be chairman of the commission The commissioners are entitled to compensation and expenses as provided in ORS 292 495 Each commissioner at the time of appointment and qualification shall be a resident of this state and shall have resided in this state for at least five years next preceding appointment and qualification The commissioner shall be an elector therein and not less than 30 years of age A commissioner shall cease to hold office if the commissioner ceases to possess the residency or industry qualification for appointment and the Governor shall appoint a qualified individual to complete the unexpired term

(2) The term of office of a commissioner shall be four years from the time of appointment and qualification and until a successor qualifies The

terms of the commissioners shall commence April 1 In case any commissioner is allowed to hold over after the expiration of the term, the successor shall be appointed for the balance of the unexpired term Vacancies in the commission shall be filled by the Governor for the unexpired term Each commissioner is eligible for reappointment but no person shall be eligible to serve for more than two full terms

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

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

(2) No person, other than the member appointed in accordance with ORS 471 705 who is designated from the food and alcoholic beverage retail industry, is eligible to hold the office of commissioner, or to be employed by the commission if

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

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

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

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

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

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

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

**471.715 Chairman; meetings; quorum.** (1) The member from the food and alcoholic beverage retail industry shall not serve as chairman The chairman shall preside at all meetings of the commission or, in the chairman's absence, some other member may serve as chairman

(2) The commission shall meet at such times and places within this state as it determines A majority of the commissioners constitutes a quorum for the transaction of any business, for the performance of any duty or for the exercise of any power of the commission [Amended by 1979 c 251 §3 1983 c 168 §2]

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

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

**471.732 Policy relating to sanitation in licensed premises.** (1) The Legislative Assembly finds and declares that the regulation of health and sanitation matters in premises licensed by the Oregon Liquor Control Commission under this chapter and ORS chapter 472 can best be performed by the Health Division of the Department of Human Resources and the State Department of Agriculture

(2) It is the policy of the Legislative Assembly and the intent of ORS 471 010, 471 015, 471 245, 471 317, 472 010, 624 010 and this section that premises licensed by the Oregon Liquor Control Commission under this chapter and ORS chapter 472 shall be subject to the laws governing health and sanitation matters, including any applicable licensing requirements, and to the rules adopted thereunder by the Health Division and the State Department of Agriculture [1979 c 236 §2]

**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 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 Fixing prices and selling 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 the person may desire and which may be manufactured or obtainable in any place in the United States, and the commission shall obtain such liquor and sell it to the applicant No such store shall be established in any county or incorporated city of this state where a local prohibitory law is in effect The 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]

**471.752 Agent's participation in programs for state employes; preference of spouse or child of deceased or disabled agent** (1) An agent appointed under ORS 471 750 may participate in a health benefit plan available to state employes pursuant to ORS 243 105 to 243 205 at the expense of the agent and may participate in the deferred compensation program under ORS 243 400 to 243 495 For such purposes, agents shall be considered eligible employes

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

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 Subpena; oaths; depositions.** Each member of the commission, or any of its authorized agents, shall, for the purposes contemplated by this chapter, have power to issue subpenas, 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 the person should not be punished for contempt Upon the return of such order, the judge shall examine such person under oath and the person shall be given an opportunity to be heard If the judge determines that such person has refused, without reasonable cause or legal excuse, to be examined or to answer a legal or pertinent question, or to produce a book or paper which the person was ordered to bring or produce, the judge may forthwith punish the offender for contempt of court

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

**471.775 Service of subpenas; authority of inspectors.** (1) The provisions of ORS 183 440 shall apply to subpenas 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 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 possession, for the personal use of self or members of the family of the member or employe, 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 ORS 471 810 (2), 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 $250,000, as it considers necessary as a revolving fund for a working cash balance for the purpose of paying travel expenses, advances, other miscellaneous bills and extraordinary items which are payable in cash immediately upon presentation, the commission shall direct the State Treasurer to transfer the money remaining in the suspense account to the Oregon Liquor Control Commission Account in the General Fund

(2) All necessary expenditures of the commission incurred in carrying out the purposes and provisions required of the commission by law, including the salaries of its employes, purchases made by the commission and such sums necessary to reimburse the $250,000 revolving fund, shall be audited and paid from the Oregon Liquor Control Commission Account in the General Fund, upon warrants drawn by the Executive Department, pursuant to claims 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 is appropriated from the Oregon Liquor Control Commission Account in the General Fund for such purposes [Amended by 1955 c 26 §1 1967 c 577 §4 1975 c 424 §2, 1979 c 367 §3]

**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 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 (1965 Replacement Part), 471 810, 473 190 and 473 210 (1965 Replacement Part) during the 1966-1967 fiscal year unless the city or county had a decline in population as shown by its census If the population declined, the per capita distribution to the city or county shall be not less than the total per capita distribution during the 1966-1967 fiscal year Any additional funds required to maintain the level of distribution under this subsection shall be paid from funds credited under 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 1987 c 406 §2]

**471 815** [Repealed by 1961 c 706 §15]

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

**471 820** [Repealed by 1961 c 706 §45]

**471 825** [Repealed by 1961 c 706 §45]

**471 830** [Repealed by 1961 c 706 §45]

## PENALTIES

**471.990 Penalties.** (1) Except where other punishment is specifically provided for, violation of any provision of this chapter 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 custody of the Department of Corrections for not more than three years and by a fine of not more than $3,000

(4) Violation of any regulation promulgated under ORS 471 730 (5) is punishable upon conviction by a fine of not more than $200 [Amended by 1953 c 120 §6 1963 c 93 §6 1987 c 320 §236]