

Chapter 472

1993 EDITION

Sale of Alcoholic Liquor by Individual Drink

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LIQUOR; DRUGS

GENERAL PROVISIONS

472.010 Definitions. As used in this chapter and unless the context indicates a different meaning:

(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) "Caterer" means a person who contracts with clients to provide food service at places other than the licensed business location.

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

(4) "Commission" means the Oregon Liquor Control Commission created by ORS 471.705 and Acts amendatory and supplemental thereto.

(5) "Distilled spirits" or "distilled liquor" means any wine containing more than 21 percent of alcohol by volume or any other alcoholic beverage containing more than eight percent of alcohol by volume, including all spirituous liquor.

(6) "Hotel" means every building or other structure, kept, used, maintained, advertised or held out to the public to be a place where food is cooked and served and sleeping accommodations are offered for pay to transient guests, in which 20 or more rooms are used for sleeping accommodations of such transient guests, such sleeping accommodations and dining rooms being conducted in the same building or buildings.

(7) "Person" includes an individual, partnership, corporation, port district, association or club.

(8) "Premises" or "licensed premises" used in connection with a location licensed under this chapter means the area where refreshments or food are served at the address for which the license is issued; however, a license granted to any hotel operator shall apply to all portions of the hotel controlled or operated by the person to whom the license is issued.

(9) "Private club" includes fraternal organizations and veterans' organizations and means an association of persons, whether in-

corporated or unincorporated for the promotion of some common object, not including associations organized for any commercial or business purpose the object of which is money profit, owning, hiring or leasing a building, or space in a building, of such extent and character as in the judgment of the commission may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests and provided with suitable and adequate space and equipment, implements and facilities, and employing a sufficient number of servants or employees for serving food and meals for its members and their guests; provided, that no member or any officer, agent or employee of the club is paid, or directly or indirectly receives in the form of salary or other compensation, any profits from the disposition or sale of alcoholic liquor to the club or to the members of the club or its guests introduced by members, beyond the amount of such salary as may be fixed and voted at annual meetings by the members, directors or other governing body of the club, and which, in the judgment of the commission, shall be reasonable and proper compensation for the services of such member, officer, agent or employee.

(10) "Public passenger carrier" means a person who transports persons for hire.

(11) "Tour boat" means a boat which is primarily used for nonfishing purposes and is designed and licensed to carry at least 40 passengers. [1953 c.176 §3; 1974 s.s. c.4 §7a; 1975 c.207 §2; 1979 c.236 §9; 1983 c.215 §3; 1989 c.120 §3; 1993 c.128 §1]

472.020 Short title. This chapter may be cited as the "Oregon Distilled Liquor Control Act." [1953 c.176 §1]

472.030 Purpose. This chapter shall be deemed an exercise of the police powers of the state for the protection of the safety, welfare, health, peace and morals of the people of the state; to provide for the sale of alcoholic liquor as provided for by section 39, Article I, Constitution of Oregon, adopted by the electors at the general election, November 4, 1952; to eliminate the evils of unlicensed disposing of distilled alcoholic liquor; and to prevent abuses associated with saloons or resorts for the consumption of distilled alcoholic liquors. [1953 c.176 §2]

472.040 Repeal of inconsistent provisions of charters and ordinances. Inasmuch as this statute has been hereinbefore declared to be a subject of general law, and designed to operate uniformly throughout the state, it hereby is declared that the provisions herein contained shall be paramount and superior to and shall fully replace and supersede any and all municipal charter enactments or local ordinances inconsistent

herewith, and such charters and ordinances hereby are repealed. [1953 c.176 §18]

472.050 Chapter as dependent upon section 39, Article I, Oregon Constitution. This chapter is dependent and is conditioned upon the terms and provisions of section 39, Article I, Constitution of Oregon and should said section be repealed by the electors of the State of Oregon in the manner provided for amendments to the Constitution of Oregon, this chapter shall, from and after the first day of January next succeeding such repeal, be of no further force or effect, nor shall any of its provisions have any validity whatsoever from and after such date. [1953 c.176 §30]

472.060 Powers and duties of commission. (1) For all purposes in connection with this chapter, the commission shall have and exercise all of the powers and be subject to the duties conferred upon it by the Oregon Liquor Control Act and Acts amendatory thereof and supplemental thereto, and constitutional provisions, and the commission is hereby authorized and directed to administer and perform the duties provided by this chapter within and in accordance with the powers and duties prescribed in the Oregon Liquor Control Act and Acts amendatory thereof and supplemental thereto, and constitutional provisions, so far as is applicable.

(2) In addition to the functions, duties and powers vested with and possessed by the commission, the commission is hereby vested with the following functions, duties and powers:

(a) To grant, refuse, suspend or cancel licenses for the sale upon licensed premises, by licensees, of distilled liquor for consumption on the premises;

(b) To collect taxes and duties imposed by Acts relating to the sale of distilled liquors, and to issue, and to provide for the cancellation of, revenue stamps and other devices evidencing payment of such taxes or duties;

(c) To investigate and aid in the prosecution of each violation of this chapter and other Acts relating to alcoholic liquors, to make seizure of distilled liquors, manufactured, sold, kept, imported or transported in contravention of this chapter, and to apply for the confiscation thereof, whenever required by this chapter, and to cooperate in the prosecution of offenders before any court of competent jurisdiction;

(d) To adopt such regulations as are necessary and feasible for carrying out the provisions of this chapter and to amend or repeal such regulations, and to exercise all such other powers, duties and functions covered by this chapter, and all powers inci-

dental, convenient or necessary to enable it to administer or carry out any of the provisions of this chapter. [1953 c.176 §§4,5]

DISPENSER LICENSES

472.110 Class of dispenser licenses; privileges; number. (1) A dispenser's license may be issued to private clubs, fraternal organizations, veterans' organizations, railroad corporations operating interstate trains and commercial establishments where food is cooked and served, and shall be in three classes, designated as "Class A," "Class B" and "Class C."

(2) Class "A" dispenser's license. A Class "A" dispenser's license may be issued to railroad corporations operating interstate trains and commercial establishments where food is cooked and served. Such license shall permit the licensee to purchase distilled spirits from either an agent of the commission appointed pursuant to ORS 471.750 or a dispenser licensee and to store the same on the licensed premises and to sell the same from the original container by the individual glass or drink for consumption on the licensed premises. The license shall allow the licensee to sell malt beverages and wine for consumption on the premises and shall permit the patron to remove from the premises a wine container the contents of which have been only partially consumed. The malt beverages and wine shall be purchased only from licensees duly authorized to sell at wholesale under ORS 471.220, 471.230 to 471.260 and 471.265 to 471.287. In the absence of municipal ordinance or local regulation to the contrary, Class "A" dispensers' licensees shall be permitted to allow dancing and to have and permit other proper forms of entertainment upon the licensed premises.

(3) Class "B" dispenser's license. A Class "B" dispenser's license may be issued to private clubs, fraternal organizations and veterans' organizations. Such license shall permit the licensee to purchase distilled spirits from either an agent of the commission appointed pursuant to ORS 471.750 or a dispenser licensee and to store the same on the licensed premises and to sell the same from the original container by the individual glass or drink for consumption on the licensed premises. Such license shall allow the licensee to sell malt beverages and wine for consumption on the premises and shall permit the patron to remove from the premises a wine container the contents of which have been only partially consumed. Such malt beverages and wine shall be purchased only from licensees duly authorized to sell at wholesale under ORS 471.220, 471.230 to 471.260 and 471.265 to 471.287. In the absence of municipal ordinance or local regulation to

the contrary, Class "B" dispensers' licensees shall be permitted to allow dancing and to have and permit other proper forms of entertainment upon the licensed premises.

(4) The total number of licensed premises dispensing distilled liquor pursuant to this chapter shall not in the aggregate at any time exceed one such licensed premises for each 2,000 population in the state, determined according to the last available estimated quarterly State Board of Higher Education figures.

(5) On and after July 26, 1979, the commission may issue up to 100 Class "A" dispensers' licenses that shall not be subject to the limitation of subsection (4) of this section.

(6) Class "C" dispenser's license. A Class "C" dispenser's license may be issued to restaurants. A Class "C" licensee shall have the same privileges as a Class "A" licensee except that the Class "C" licensee must meet the following requirements:

(a) Liquor service is from an area not accessible to patrons of the restaurant;

(b) Patrons are served alcoholic liquors only at tables as an incident to food service; and

(c) The restaurant does not have a lounge or public bar and the applicant and facilities are otherwise qualified to hold a Class "A" dispenser's license.

(7) On and after July 1, 1984, a Class "A," "B" or "C" licensee shall be entitled to purchase any distilled spirits from an agent of the commission appointed pursuant to ORS 471.750 at a discount of not more than five percent off the regular listed price fixed by the commission, together with all taxes, in a manner prescribed by commission rule. For purposes of compensation by the commission, the appointed agent shall be credited with such sales at full retail cost.

(8) Before allowing a patron to remove from the licensed premises a wine container the contents of which have been only partially consumed, the holder of a dispenser's license must:

(a) Inform the patron of the prohibitions of ORS 811.170 relating to open containers of alcoholic liquors in motor vehicles; and

(b) Inform the patron of the provisions of ORS 811.170 (1)(c)(B) allowing the transport of open containers of alcoholic liquors in the trunk of a motor vehicle or in some other area of the vehicle not normally occupied by the driver or passengers if the vehicle is not equipped with a trunk. [1953 c.176 §6; 1955 c.434 §1; 1957 c.223 §3; 1961 c.348 §1; 1965 c.280 §4; 1965 c.284 §3; 1973 c.395 §6; 1979 c.881 §1; 1981 c.340 §1; 1981 c.585 §1; 1983 c.625 §1; 1993 c.80 §1; 1993 c.144 §3; 1993 c.169 §1]

Note: Section 2, chapter 169, Oregon Laws 1993, provides:

Sec. 2. The amendments to ORS 472.110 by section 1 of this Act apply to all dispenser's licenses, whether issued before, on or after the effective date of this Act [November 4, 1993]. [1993 c.169 §2]

472.111 Maximum number of Class "C" licenses that may be issued. (1) The Oregon Liquor Control Commission is authorized to license premises under Class "C" dispensers' licenses on any day during the calendar year up to the maximum number specified by subsection (2) of this section.

(2) In calendar years commencing on or after January 1, 1994, the maximum number of premises that are licensed by the commission under Class "C" dispensers' licenses on any day during the calendar year may not exceed by more than 30 premises the maximum number of premises that were licensed under Class "C" dispensers' licenses pursuant to this section on any day in the immediately preceding calendar year.

(3) For purposes of subsection (2) of this section, the maximum number of premises that were licensed under Class "C" dispensers' licenses at any time in calendar year 1993 shall be considered to be 225.

(4) The limitation provided for in ORS 472.110 (4) does not apply to premises licensed under Class "C" dispensers' licenses. [1993 c.144 §2]

472.112 Additional dispenser licenses authorized. (1) In addition to licenses issued under ORS 472.110, the commission annually may issue five licenses under ORS 472.110 (3) to applicants which meet other requirements for such a license, which have more than 200 members and which have been chartered for at least one year prior to making application. The limitation stated in ORS 472.110 (4) shall not apply to the licenses authorized by this subsection.

(2) Even if the number of applicants who apply for the licenses authorized by subsection (1) of this section is fewer than five in any year, no more than five licenses may be issued under subsection (1) of this section in any year. [1977 c.579 §2]

472.113 Additional Class "A" and "B" licenses authorized. In addition to any Class "A" or "B" license authorized on August 16, 1981, the commission may issue upon proper application the following additional licenses:

(1) Fifty Class "A" licenses.

(2) Two Class "B" licenses. [1981 c.585 §3; 1983 c.368 §1; 1987 c.281 §1; 1993 c.144 §4]

472.114 Standards for issuance of Class "A" and "C" licenses. (1) It is the finding of the Legislative Assembly that ORS

471.030 (2) does not require the commission consistently to grant licenses to applicants which have the potential to do a larger gross business than other applicants.

(2) It is the intention of the Legislative Assembly, that in issuing Class "A" and "C" licenses authorized under ORS 472.110, 472.111 and 472.113, the commission shall recognize the importance of issuing licenses to otherwise qualified applicants located in rural and unincorporated areas and in incorporated areas with populations of less than 25,000.

(3) It is the intent of the Legislative Assembly that the commission shall recognize the importance in licensing applicants described in subsection (2) of this section to also recognize those having seating capacities for 100 or fewer patrons. [1981 c.585 §4; 1993 c.144 §5]

472.115 When population quota does not apply. The limitations stated in ORS 472.110 (4) shall not apply to premises licensed under ORS 472.112, 472.116 to 472.119, 472.195 and 472.205. [1965 c.284 §6; 1973 c.395 §7; 1979 c.187 §3; 1979 c.881 §2a; 1989 c.120 §4]

472.116 Community events dispenser license. (1) A community events dispenser's license may be issued to a municipal corporation, including a city or county, association or not for profit corporation that is engaged in the production or promotion of a convention, festival, fair, rodeo, civic or community event. A license issued under this section shall permit the licensee to purchase, from the commission only, distilled spirits at regular listed retail prices, to store the spirits on the licensed premises and to sell the spirits from the original containers by the individual drink for consumption on the licensed premises. The license also allows the licensee to sell malt beverages and wine for consumption on the premises if the beverages and wine are purchased from a licensee authorized to sell at wholesale under ORS 471.220, 471.230 to 471.260 and 471.265 to 471.289.

(2) The license shall be granted for specific premises and all beverages must be consumed on the premises. Food must be served within the area of the licensed premises.

(3) The commission may excuse the licensee from compliance with such other license requirements as may be found not inconsistent with the purpose of this chapter.

(4) The license may be issued for a period fixed by the commission. The fee for a license issued under this section shall not exceed \$25 per day. [1979 c.187 §2]

472.117 Special events dispenser license. (1) A special events dispenser's li-

cense may be issued for a period of one year to a holder of a dispenser license as defined in ORS 472.110. A license issued under this section shall permit the licensee to dispense distilled spirits and other alcoholic liquors, as permitted by the license under ORS 472.110, at a public auditorium, only in conjunction with events at the auditorium and only in such areas of the auditorium as may be designated in the license. The commission may excuse the licensee from compliance with such other license requirements as may be found not inconsistent with the purposes of the Oregon Distilled Liquor Control Act.

(2) The fee for a license issued under this section shall be \$400 per year. A license may be renewed as provided by ORS 472.150 (1).

(3) As used in this section, "public auditorium" means a structure that has a seating capacity of not less than 1,000 persons and is specially designed for live performances of the arts, including stage presentations, concerts, recitals, lectures and audiovisual features and activities. [1973 c.571 §2; 1985 c.326 §1]

472.119 Caterer dispenser license. (1) Upon application therefor, the Oregon Liquor Control Commission may issue a caterer dispenser's license.

(2) A caterer dispenser's license shall permit a caterer, as defined in ORS 472.010, to sell and serve alcoholic liquor at off-premises functions at which the caterer is catering food. The caterer must have adequate facilities to prepare and cook regular meals as defined by Oregon Liquor Control Commission rules.

(3) Nothing in this section precludes a caterer licensee from holding or applying for a license allowing on-premises sales and service of alcoholic liquor. [1989 c.120 §2]

472.120 Recommendation of local governing body regarding applicant for license. The commission may require of every applicant for a license the recommendation in writing of the county court, or board of county commissioners, in the event the place of business of the applicant is outside of an incorporated city, or of the city council if the place of business of the applicant is within an incorporated city, and the commission may, in its discretion, take such recommendation into consideration before granting or refusing such 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. [1953 c.176 §7; 1977 c.518 §4]

472.130 Incorporated cities as licensees. Any incorporated city or town may, without further charter authority, obtain and hold a "dispenser's license." [1953 c.176 §8]

472.140 [1953 c.176 §11; repealed by 1957 c.220 §5 (472.141 enacted in lieu of 472.140)]

472.141 Characteristics of license. (1) A license granted under this chapter shall:

- (a) Be a purely personal privilege.
- (b) Be valid for the period stated in the license.
- (c) Except for licenses issued under ORS 472.205 or where grounds exist for refusal to issue any license under ORS 472.160, be renewable in the manner provided by ORS 472.150.
- (d) Be revocable or suspendible as provided in ORS 472.180.
- (e) Be transferable from the place for which the license was originally issued to another location subject to the provisions of the Oregon Distilled 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 may be 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 ORS 472.110, 472.117 or 472.205 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; or
- (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 §6 (enacted in lieu of 472.140); 1965 c.284 §4; 1971 c.470 §5; 1973 c.311 §4; 1977 c.332 §2; 1977 c.360 §4]

472.145 License terms; initial licenses for less than year; computing fees. (1) Except for licenses issued as provided by ORS 472.116, 472.195 and 472.205, all licenses and renewals thereof shall be issued for a period of one year which shall expire at 12 midnight on March 31, June 30, September 30 or December 31 of each year.

(2) Notwithstanding subsection (1) of this section, a license issued for the first time to an applicant may be issued for less than a year. The license fee for the first license of 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 §7; 1979 c.187 §4]

472.147 Enclosure of licensed premises not required. Nothing in this chapter requires any licensed premises to be enclosed by wall, fence or any other means. [1975 c.207 §6]

472.150 Application for initial license or renewal of license; license fees. (1) Any person desiring a license or renewal of a license shall make application to the Oregon Liquor Control Commission, upon forms 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 such license, and such other pertinent information as the commission may require. No license shall be granted or renewed until the provisions of this chapter and the regulations of the commission shall have been complied with.

(2)(a) The annual license fee for a Class "A" dispenser's license shall be \$400 and for a Class "B" dispenser's license shall be:

For clubs with fewer than 500 members	\$100
For clubs with 500 to 1,000 members	\$200
For clubs for 1,000 or more members	\$300

(b) The annual license fee for a Class "C" dispenser's license shall be \$300.

(c) The license fee for a seasonal dispenser's license shall be \$40 per month.

(d) The annual license fee for a caterer dispenser's license shall be \$300. [1953 c.176 §9; 1955 c.434 §2; 1965 c.284 §5; 1967 c.28 §2; 1971 c.470 §8; 1973 c.395 §8; 1979 c.126 §2; 1979 c.881 §1a; 1989 c.120 §5]

472.155 Temporary letter of authority on change of ownership. (1) The commission may grant a temporary letter of authority for a period not to exceed 90 days on change of ownership applications for licenses granted under this chapter if the applicant pays the fee prescribed by the commission for a temporary letter. A temporary letter of authority issued under this section or under ORS 471.262 or 471.297 shall not constitute a license as defined in ORS 183.310 (4).

(2) The commission summarily and without prior administrative proceedings may re-

voke a temporary 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 472.160 or canceling or suspending a license under ORS 472.180 exist.

(3) A person subject to subsection (2) of this section shall be given an interview under the direction of the commission if the person requests an interview prior to revocation of a temporary letter. However, the proceedings are not a contested case under ORS 183.310 to 183.550. [1989 c.416 §2]

472.160 Grounds for refusal of license.

The commission may refuse to license any applicant if it has reasonable grounds to believe:

(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 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, including the provisions of this chapter, or has been convicted at any time of a felony.

(e) Has maintained an insanitary establishment.

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

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

(h) Is not the legitimate owner of the business proposed to be licensed or that other persons have ownership interests in the business, which interests 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 Oregon Liquor Control Act or rules of the commission.

(5) That there is a history of serious and persistent problems involving disturbances, lewd or unlawful activities or noise either in the premises proposed to be licensed or involving patrons of the establishment in the immediate vicinity of the premises if the activities in the immediate vicinity of the premises are related to the sale or service of alcohol under the exercise of the license privilege. Behavior which is grounds for refusal of a license under this section, where so related to the sale or service of alcohol, includes, but is not limited to obtrusive or excessive noise, music or sound vibrations; public drunkenness; fights; altercations; harassment; unlawful drug sales; alcohol or related litter; trespassing on private property; and public urination. Histories from premises currently or previously operated by the applicant may be considered when reasonable inference may be made that similar activities will occur as to the premises proposed to be licensed. The applicant may overcome the history by showing that the problems are not serious or persistent or that the applicant demonstrates a willingness and ability to control adequately the premises proposed to be licensed and patrons' behavior in the immediate vicinity of the premises which is related to the licensee's sale or service of alcohol under the licensee's exercise of the license privilege. [1953 c.176 §10; 1979 c.744 §35a; 1979 c.881 §5; 1981 c.599 §6; 1989 c.785 §9; 1991 c.67 §144]

472.170 Examinations of books and premises of licensees. (1) The commission shall have 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 said 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. [1953 c.176 §13; 1977 c.215 §2]

472.180 Grounds for suspension or cancellation of license or imposition of civil penalty. (1) The commission may cancel or suspend any license granted, or impose a civil penalty in lieu of or in addition to suspension as provided by ORS 472.187, if it finds:

(a) That the licensee has violated any provision of this chapter or any rule of the commission adopted pursuant thereto.

(b) That the licensee has made any false representation or statement to the commission in order to induce or prevent action by the commission.

(c) That the licensee is not maintaining an acceptable bond.

(d) That any person licensed under this chapter 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.

(e) That the licensee maintains an insani- tary establishment or has been supplying impure or otherwise deleterious beverages or food.

(f) That the licensee is insolvent, incom- petent or physically unable to carry on the management of the establishment of the licensee.

(g) That the licensee is in the habit of using alcoholic liquor, habit-forming drugs or controlled substances to excess.

(h) That the licensee knowingly has sold alcoholic liquor to persons under 21 years of age or to persons visibly intoxicated at the time of sale or has knowingly allowed the consumption of alcoholic liquor on the li- censed premises by a person who is visibly intoxicated at the time of consumption.

(i) That the licensee has misrepresented to a customer or the public any alcoholic liquor sold by the licensee.

(j) That the licensee, since the granting of the license, has been convicted of a felony or has been convicted of violating any of the liquor laws of this state, general or local, or has been convicted of any misdemeanor or violation of any municipal ordinance where such misdemeanor or violation of municipal ordinance was committed on the licensed premises.

(k) That there is a history of serious and persistent problems involving disturbances, lewd or unlawful activities or noise either in the premises or involving patrons of the establishment in the immediate vicinity of the premises if the activities in the immediate vicinity of the premises are related to the sale or service of alcohol under the exercise of the license privilege. Behavior which is grounds for cancellation or suspension of a license under this section, where so related to the sale or service of alcohol, includes, but is not limited to obtrusive or excessive noise, music or sound vibrations; public

drunkenness; fights; altercations; harassment or unlawful drug sales; alcohol or related litter; trespassing on private property; and public urination. Mitigating factors include a showing by the licensee that the problems are not serious or persistent or that the ap- plicant has demonstrated a willingness and ability to control adequately the licensed premises and patrons' behavior in the imme- diate vicinity of the premises which is re- lated to the licensee's sale or service of alcohol under the licensee's exercise of the license privilege.

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

(2) Civil penalties under this section shall be imposed as provided in ORS 183.090. [1953 c.176 §12; 1957 c.220 §7; 1971 c.159 §7; 1979 c.744 §36; 1981 c.599 §7; 1989 c.785 §4; 1991 c.734 §44]

472.185 [1957 c.220 §8; repealed by 1971 c.734 §21]

472.187 Civil penalty permitted in lieu of or in addition to short-term suspen- sion. (1) If a license issued under this chap- ter is suspended for a period of 30 days or less, the commission may impose against the affected licensee in lieu of or in addition to the suspension a civil penalty fixed by the commission in accordance with ORS 471.322 (2) if the commission is satisfied that such penalty in lieu of or in addition to suspen- sion is consistent with the purposes of this chapter. Upon payment of the penalty in lieu of suspension, the commission shall cancel the suspension.

(2) Civil penalties under this section shall be imposed in the manner provided in ORS 183.090. [1969 c.67 §6; 1981 c.599 §8; 1991 c.734 §45]

472.189 Hearing on proposed refusal to issue or renew, suspension or revocation of license; notice; judicial review of or- ders. (1) Where the commission proposes to refuse to issue or renew a license, or pro- poses to revoke or suspend a license, oppor- tunity for hearing shall be accorded as provided in ORS 183.310 to 183.550. Notice that the commission proposes to refuse to renew a license must be served not later than 10 days prior to the expiration of the license. Unless the licensee requests a hear- ing, cancellation or suspension of a license shall be effective 10 days after service of the commission's order.

(2) Judicial review of orders under sub- section (1) of this section shall be as pro- vided by ORS 183.310 to 183.550. [1971 c.734 §70]

472.190 [1953 c.176 §14; 1957 c.220 §9; 1969 c.205 §2; repealed by 1971 c.734 §21]

472.193 Return of civil penalty if com- mission not sustained on review. If the

action of the commission in suspending a license issued under this chapter is not sustained upon judicial review under ORS 183.310 to 183.550, the commission shall promptly refund the amount paid pursuant to ORS 472.187 by check or order drawn on the State Treasurer from the Oregon Liquor Control Commission Account. [1969 c.67 §7; 1973 c.311 §5]

472.195 Special dispenser license. A special dispenser's license may be issued to holders of dispenser licenses as defined in ORS 472.110. A special dispenser's license shall entitle the holder to dispense as permitted by the license under ORS 472.110 for a period not to exceed five days at a designated place other than set forth in the license granted under ORS 472.110; provided, however, that the commission may excuse the licensee from compliance with such license requirements as may be found not inconsistent with the purposes of this chapter. The fee for a special dispenser's license shall be \$25 per license day, a license day for the purposes of this privilege being the consecutive hours of operation designated by commission regulation to apply to licenses as defined in ORS 472.110. [1955 c.701 §2; 1957 c.223 §4]

472.200 [1953 c.176 §19; repealed by 1967 c.577 §10]

472.205 Seasonal dispenser license. (1) A seasonal dispenser's license which is valid for a season, as fixed by rule of the commission, may be issued or renewed. The commission shall designate the term of the license without regard to the calendar year.

(2) The license shall be issued to commercial establishments where food is cooked and served and shall permit the licensee to purchase, from the commission only, distilled spirits as defined in this chapter at regular listed retail prices and to store the same on the licensed premises and to sell the same from the original container by the individual glass or drink for consumption on the licensed premises, including mixed drinks and cocktails compounded or mixed on the premises only, and shall allow the licensee to sell malt beverages and wine for consumption on the premises.

(3) Such malt beverages and wine shall be purchased only from licensees duly authorized to sell at wholesale under ORS 471.220, 471.230 to 471.260 and 471.265 to 471.287.

(4) In the absence of any municipal ordinance or local regulation to the contrary, seasonal dispensers' licensees shall be permitted to allow dancing and other proper forms of entertainment upon the licensed premises.

(5) As used in this section, "season" means a period not exceeding nine months which is generally suitable for or associated with certain activities including but not limited to hunting, fishing, skiing or usually associated with vacations or other specialized activities. [1965 c.284 §2; 1979 c.126 §1; 1985 c.415 §1]

472.210 Boat operator's license. (1) A boat operator or owner is eligible for a dispenser's license if the boat is a tour boat, as defined in ORS 472.010, and, except as provided in subsection (2) of this section, if the operator or owner complies with all regulations pertaining to other commercial establishments licensed under this chapter unless any regulation is waived by the commission.

(2) The owner or operator must cook and serve on board a variety of foods at all times when alcoholic liquors are served or consumed. The owner or operator must also serve meals as required by the commission. However, the meals may be prepared and cooked off the licensed premises.

(3) For purposes of this section, "variety of foods" means at least three different types of food, exclusive of sandwiches, and only one of which may be a soup. [1983 c.215 §2]

472.215 Sale or service by dispenser licensee's employees 18 years of age or older. (1) The holder of a dispenser's license issued under ORS 472.110 and 472.205 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 or drawing is done in a portion of the premises not prohibited to minors, in a premises with a restaurant license or premises licensed under ORS 472.110 or 472.205.

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

(3) The commission by rule may permit access to prohibited areas by a minor for nonalcoholic liquor employment purposes so long as the minor does not remain longer than necessary to perform the duties. [1981 c.610 §4; 1983 c.315 §1]

PROHIBITIONS; DISPOSAL OF FINES

472.310 Prohibitions. It shall be unlawful:

(1) For any person to peddle or deliver alcoholic liquor to or at any place where, without a license, alcoholic liquor is sold or offered for sale, or for any licensee to sell or offer for sale, any alcoholic liquor of a kind, in a manner, or to a person other than the license permits the person to sell.

(2) For any licensee under this chapter to sell or dispense any distilled liquor, or to purchase, possess, transport or import any distilled liquor for the purpose of dispensing same, except such as shall have been procured from or through the commission.

(3) For any person to serve, sell or dispense alcoholic liquor to any person under the age of 21 years or to a person who is visibly intoxicated. However, nothing in this subsection prohibits any licensee 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.

(4) For any person to maintain or assist in maintaining a common nuisance.

(5) For any person to make false representation or statement to the commission in order to induce or prevent action.

(6) For any licensee of the commission to maintain a noisy, lewd, disorderly or insanitary establishment or to supply impure or otherwise deleterious alcoholic beverages.

(7) For any licensee of the commission to misrepresent to a customer or to the public any alcoholic liquor sold by such licensee.

(8) For any person under the age of 21 years to purchase alcoholic liquor.

(9) For any person knowingly to suffer or permit a nuisance as defined by ORS 471.620 to exist or be kept or maintained in any room, house, building, boat, structure or place of any kind of which the person is the owner, manager or lessor. [1953 c.176 §15; 1959 c.399 §2; 1971 c.159 §8; 1971 c.680 §1; 1977 c.458 §2]

472.320 Disposal of fines collected. All fines imposed by any judge, magistrate or court in the enforcement of this chapter shall be forwarded immediately to the county treasurer of the county in which such conviction is had, and it shall be the duty of such county treasurer to keep the same in a separate fund which shall be designated as an enforcement fund, and against which fund shall be drawn all warrants for any expenditures in the enforcement of this chapter which shall have been approved by the district attorney of said county. All claims shall be verified by the claimants or persons hav-

ing knowledge or supervision of the expenditures thereof, and shall be audited by the county court in the usual manner before presentation for the payment thereof; when such enforcement fund shall exceed the amount paid to satisfy the total of all claims made against such fund during the calendar year immediately preceding, the excess amount thereof shall be paid over to the general fund of such county semiannually by the county treasurer on June 30 and December 31 of each and every year; provided, that any fine imposed or collected by police or municipal judge, or recorder of any city or town, within the State of Oregon may be retained by said municipality and shall be paid over and become a part of the general fund of such city or town. [1953 c.176 §17]

LOCAL OPTION

472.410 [1953 c.176 §20; repealed by 1983 c.350 §331a]

472.415 Petition and election for local option. (1) The governing body of a city described in this section or a county, when a petition is filed as provided in this section, shall order an election on the question whether the sale by the individual glass of alcoholic liquor containing more than 14 percent of alcohol by volume shall be prohibited in the city or county. An election under this section shall be held on the date of the next statewide general election.

(2) A petition filed under this section must be filed not less than 60 days before the day of the election. All other requirements of 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. However, the petition must be signed by not less than 15 percent of the electors registered in the city.

(b) In the case of a county, shall be as provided for an initiative petition under ORS 250.165 to 250.235. However, the petition must be signed by not less than 15 percent of the electors registered in the county.

(3) An election under this section shall be conducted under ORS chapters 246 to 260.

(4) This section applies to cities having a population of 500 or more in the most recent decennial census. [1983 c.350 §280]

472.420 Effective date of local option. In any county or city that returns a majority vote for or against the sale by the individual glass of alcoholic liquor containing more than 14 percent of alcohol by volume, the law shall take effect on January 1 following the day of election. [1953 c.176 §21; 1983 c.350 §281]

472.430 [1953 c.176 §24; repealed by 1983 c.350 §331a]

472.440 [1953 c.176 §25; 1983 c.83 §94; repealed by 1983 c.350 §331a]

472.450 [1953 c.176 §26; repealed by 1983 c.350 §331a]

472.460 [1953 c.176 §27; repealed by 1983 c.350 §331a]

472.470 [1953 c.176 §28; 1955 c.106 §1; 1979 c.190 §424; repealed by 1983 c.350 §331a]

472.480 [1953 c.176 §29; repealed by 1983 c.350 §331a]

472.490 [1953 c.176 §22; 1979 c.190 §425; repealed by 1983 c.350 §331a]

472.500 [1953 c.176 §23; repealed by 1983 c.350 §331a]

PENALTIES

472.990 Penalties; jurisdiction. (1) Any person or persons who shall violate any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$500, or by imprison-

ment in the county jail for not more than six months, or by both such fine and imprisonment, in the discretion of the court, and for a second or subsequent violation of any kind of the provisions of this chapter, such person shall, upon conviction, be punished by a fine of not more than \$1,000, or by imprisonment in the county jail for not more than one year, or both, in the discretion of the court.

(2) All police or municipal judges or recorders of any city or town, or justices of the peace, or district courts or circuit courts shall have concurrent jurisdiction of all violations of the provisions of this chapter committed within their respective city, town, county or district. [1953 c.176 §16]