Oregon Liquor Control Commission
Advisory Committee Meeting

Minutes

Specials License Package
OAR 845-005-0428
OAR 845-006-0450
OAR 845-006-0446
OAR 845-013-0040

Thursday, April 2, 2015
9:00 am – Noon

Present

Bill Cross (Willamette Valley Vineyards), Mike Boyer (City of Portland - ONI), Benjamin Ott (Crime Prevention Student PSU), Mike Jacques-'Gorman (Craft Brew Alliance), Janene Grace (Craft Brew Alliance), Judy Craine (Holman's Bar & Grill), Jeff Giametta (Davis Wright & Tremaine), Danelle Romain (Oregon Beer and Wine Distributors OBWDA), Paul Romain (OBWDA), Steve McCoid (Oregon Restaurant and Lodging Association), Jana NcKamey (Oregon Wine Association), Marcus Reed (Miller and Nash), Bryant Haley (OLCC), Kelly Routt (OLCC), Dan Croy (OLCC), Danica Hibpshman (OLCC), Gwenn McNeal (OLCC), Joshua Williams (OLCC) Jesse Sweet (OLCC), Carolyn Moreno (OLCC)

Invited but Not Present

Todd Engstrom - Portland Police Bureau, Doug Ehrich, Commander (Hillsboro Police Department), Kathy Stromvig / Anne Pratt (Mothers Against Drunk Driving), Daniel Estes (Oregon Department of Transportation), Lisa Frisch / Bill Sinnott (Portland Downtown Retail & Clean & Safe Programs), Lise Gervais (Public Action Management), Daniel Ward (Oregon Alcohol & Drug Policy Commission), Scott Winkels (League of Oregon Cities), Veronica Rinard (Travel Portland), Patty McMillan Safe Communities Program Coordinator - Clackamas County, Mike Boyer - ONI Liquor Licensing Coordinator, Bill Perry - Balance point strategies, Brian Butenschoen (Oregon Brewers Guild), Brian McMenamin (McMenamin's), Doug LaPlaca (Visit Bend), Duke Tufty (Wyse Kadish), Elaine Albrich (Stoel Rives), Gregg Abbott (Oregon Street Food Association), Jeff Plew (Concept Entertainment) , Jesse Lyon (Davis Wright Tremaine), Brad Whiting - (Clear Creek Distillery, HRD Spirits), Pete Mulligan - (NW Cider Association), Dan Jarman Oregon Wine Board, Jesse Stafford - Southern Wine Spirit

West, Jim Bernau - Willamette Valley Vineyards, Glenda Hamstreet (Oregon Restaurant & Lodging Association)

Meeting Minutes

The meeting began at approximately 9:15 a.m. on April 2, 2015 in room 103A of the Oregon Liquor Control Commission's Portland Headquarters. Bryant Haley, OLCC Rules Coordinator, moderated the discussion.

Welcome Statement: Mr. Haley opened the meeting with a brief welcome statement and a review of the rulemaking process and the purpose of advisory committee meetings, in general.

Mr. Haley explained that the purpose of an advisory committee is to increase the public's involvement in the drafting and development of administrative rules. The Oregon Legislature, through its enactment of the Administrative Procedures Act (chapter 183 of the Oregon Revised Statutes) has noted the critical importance of public participation in the development and implementation of sound public policy. Mr. Haley stated that advisory committees are an excellent way to solicit input from external stakeholders during the early stages of the rulemaking process.

Mr. Haley stated that during this meeting, he would seek members' input on the proposed amendments to the rule as well as their likely fiscal impact. Mr. Haley explained that the Commissioners would consider members' suggestions and comments; however, the Commissioners would not be bound by the conclusions that the advisory committee reached or the topics that it discussed.

Mr. Haley stated that under Oregon's Public Meeting Law, advisory committee meetings like this one are open to the public. Consequently, members of the public may observe the meeting, but may not offer comments. Mr. Haley also stated that the meeting would be digitally recorded and that a summary of the discussion would be published. However, because advisory committee meetings are intended to promote the open exchange of ideas, Mr. Haley explained that meeting minutes would be limited to the topics discussed and the main points made and, except for Mr. Haley, individual speakers would not be identified by name in the meeting minutes. Mr. Haley asked members who wished to receive a copy of the meeting minutes to sign the provided attendance sheet.

Discussion of the Proposed Rule Language: Mr. Haley opened the discussion of the proposed amendments with a brief review of the rulemaking history. Mr. Haley stated that the Food and Alcohol Package entered rulemaking in January of 2015. Mr. Haley also stated that the purpose of the proposed amendments would allow suppliers (wholesale/manufactures) to assist all retailers with Food & Alcohol events for all types of alcohol and centralize this concept into a new rule OAR 845-006-0446. Further, this rules package would also allow suppliers to pay for advertising (provided the payment is

not to the retailer but directly to the provider of the advertising) for these events and for tasting events allowed under 845-006-0450.

With that said, Mr. Haley opened the floor to discussion around the proposed amendments.

One committee member started the discussion by wanting to know who asked for these amendments and why?

Staff stated that this rules package originated from the industry per a request to the OLCC staff. A committee member expressed concern about wholesalers and suppliers being put into the food service business. Currently, product can be brought in and showcased. Why change the rule now?

Discussion ensued about the issue of financial assistance by distributors. Some committee members felt that this would be “buying” the retailer. One member, took the position that distributors would feel pressure to provide retailers with financial assistance (food, servers, etc). The other members did see a potential problem.

OLCC staff stated that this already exists with the Distilled Spirits sampling. That industry is already allowed to have these events. This rule is to bring parity so the beer, cider and wine manufacturers can also participate in food events (i.e. Brew Masters dinners).

The question was asked can’t this be done now? No, cidery, winery and brewery events cannot be promoted if held at another licensed premises. Concerns were expressed about the larger companies being able to pay more for their product to be promoted, therefore, controlling the market.

Beer, cider and wine is currently an egalitarian system. But if it is “pay to play”, companies that have the money will be able to do more. One member commented, that it will be a “big guy” dominated market. In response, right now the craft industry has more control in the State of Oregon. Concerns were expressed around larger retailers asking “what will you do for me?” and this will drive exclusion of products of manufacturers who don’t or can’t afford to pay for food or staff.

Mr. Haley, asked if capping the number of events, material, staff or money that can be provided would perhaps elevate these concerns. Some thought once this was allowed there would be a push to allow more events and a higher cap on money. Further, it was stated that the small retailer will not benefit much from this financial assistance. Suppliers will spend the money where it is most effective. They will go to the larger chains who will benefit more than the small retailer.

One committee member said that some manufacturers would like to be able to provide staff people who can pour and educate at events and don’t believe this should be viewed as financial assistance.

There was consensus amongst committee members on advertising. A situation arose in California where a wine and beer event was tweeted and retweeted and the companies got in trouble with the ABC. Advertising can currently be done through social media. People agreed that manufacturers should be able to promote food/alcohol events such as a Wine Maker's Dinner.

Members expressed interest in allowing everyone to use social media, it would be available to everyone and inexpensive. Everyone would benefit from this change.

Then two industry representatives shifted the conversation to "launch parties". Committee members expressed concern that they cannot advertise these type of events and are dependent on the retailer to advertise. Even with social media, this takes time, money and a following to get the word out. Rules do not address social media for example tweets vs. retweets, who is responsible for the advertising?
The language in the rule regarding "event" could mean different things. A product promotion, dinner, tastings etc.

Since there seemed to be agreement on advertising, the issue was tabled.

For certain events, some committee members would like to see the ability to have the wine paired with food. Some retailers will want their own food promoted but others may want assistance with food costs.

OLCC staff asked again if committee members wanted to consider caps on costs or staff people, i.e. Sommeliers. Would that be too much financial assistance?

Currently, product education is allowed. But what if it was a large dinner that needed more staff from the winery to help with the event? Committee members expressed concern that allowing staff would end up be "requiring" staff from the winery. This would be huge financial consideration. How about using staff for set up? There were concerns expressed about providing large amounts of staff as financial consideration.

OLCC staff member suggested that the committee look at the crossed out "deleted" parts of rule 845-005-0428, pages 2 & 3, to refresh themselves on what is currently allowed. This rule has limits regarding education, who provides alcohol etc. Staff asked if it was possible to take the current rule allowing distilleries to have these events and try to mirror that for cider, wine and beer? Thus, allowing advertising and go back to the limits of the current rule?

Would education about pouring of the product, for example, be allowed? The education piece should be articulated in the rule. An OLCC staff member clarified that a manufacturer employee can be at tastings and provide education, but not pour. Under current rules manufacturers can provide staff for education about the product. Although, this is not allowed on a retailers' premises. There was consensus on revising this to allow manufacturer education staff to dispense beverages at promotional events.

Finally, the committee discussed possible limits on amounts of financial assistance. Committee members felt that either it be allowed or not allowed but not in increments. There could be creative accounting and problems with how much money is given.

The committee came to the conclusion that suppliers should be allowed to promote their brand through advertising promotional events but not subsidize the cost of the retailers' business.

Discussion of the Fiscal Impact Statement: Next, Mr. Haley solicited the advisory committee's help in drafting the Commission's fiscal impact statement. However, it was at this point that multiple recommendations were made to have staff re-analyze the rule and hold another advisory committee meeting.

Next in Rulemaking: Mr. Haley stated that staff would work to re-draft the package and send an amended copy out in the near future. Then Mr. Haley promised to hold another advisory committee once staff had time to make necessary changes.

Mr. Haley closed the meeting by thanking members for their attendance and participation. The meeting ended at approximately 10:00 a.m. on April 2, 2015.