



# Oregon

Kate Brown, Governor

**Liquor Control Commission**  
9079 SE McLoughlin Blvd  
Portland, OR 97222-7355  
503-872-5136

## **FOR YOUR INFORMATION** **NO ACTION NEEDED**

To: Rulemaking List  
Date: November 10, 2015  
Re: Notice of an Advisory Committee Meeting: License Application Fee

On October 22, 2015, the Commission initiated rulemaking to amend OAR 845-005-0312 & 845-005-0314.

The Oregon Legislature encourages agencies to seek public input to the maximum extent possible before giving notice of intent to amend, adopt or repeal an administrative rule. Agencies may involve the public in many different ways. To assist with the drafting and development of the proposed amendments, the Commission has appointed an advisory committee. Members of this committee represent the interests of persons most likely to be impacted by the proposed rule amendments.

Advisory committee meetings are open to the public. If you would like to observe the committee's discussion, you are welcome to attend. **The committee will meet at 9:00 a.m. on Wednesday December 16, 2016** at our Portland office (9079 SE McLoughlin Blvd., Portland, OR 97222). For your convenience, copies of the invite list, proposed rule amendments and supporting documents are attached.

Please note, this notice is purely informational. Advisory committees are typically used during the initial stages of the rulemaking process. You will receive a notice of public hearing three to four weeks after the advisory committee meets that includes the time and date of the public hearing and the period for public comments.

If you have questions about this or any other rulemaking matter, please contact me directly, at (503) 872-5136, or by e-mail, at [bryant.haley@oregon.gov](mailto:bryant.haley@oregon.gov). Thank you for your interest.

Sincerely,

Bryant Haley  
Rules Coordinator  
Administrative Policy and Process Division  
Oregon Liquor Control Commission  
att. AC Invite List; At-A-Glance Initial Action; Proposed Rule Language



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Per ORS 183.333(3):

“If an agency appoints an advisory committee for consideration of a rule under subsection (1) of this section, the agency shall seek the committee’s recommendations on whether the rule will have a fiscal impact, what the extent of that impact will be and whether the rule will have a significant adverse impact on small businesses. If the committee indicates that the rule will have a significant adverse impact on small businesses, the agency shall seek the committee’s recommendations on compliance with ORS 183.540.”

Per ORS 183.540:

“If the statement of cost of compliance effect on small businesses required by ORS 183.335 (2)(b)(E) shows that a rule has a significant adverse effect upon small business, to the extent consistent with the public health and safety purpose of the rule, the agency shall reduce the economic impact of the rule on small business by:

- (1) Establishing differing compliance or reporting requirements or time tables for small business;
- (2) Clarifying, consolidating or simplifying the compliance and reporting requirements under the rule for small business;
- (3) Utilizing objective criteria for standards;
- (4) Exempting small businesses from any or all requirements of the rule; or
- (5) Otherwise establishing less intrusive or less costly alternatives applicable to small business.”

Per OAR 137-001-0007(2):

“If the agency appoints an advisory committee, the agency shall make a good faith effort to ensure that the committee's members represent the interests of persons likely to be affected by the rule. The meetings of the advisory committee shall be open to the public.”



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## **OLCC Advisory Committee Invitation List**

### **License Application Fee Package**

OAR 845-005-0312 & 845-005-0314

**December 16<sup>th</sup>, 2015 @ 9:00 a.m. – Noon**

*Invitations have been sent to the following individuals:*

#### **Community and Public Safety Representatives**

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)

#### **Licensees and Industry Representatives**

Bill Perry (Balance point strategies)  
Brian Butenschoen (Oregon Brewers Guild)  
Brian McMenemy (McMenamin's)  
Duke Tufty (Wyse Kadish)  
Elaine Albrich (Stoel Rives)  
Gregg Abbott (Oregon Street Food Association)  
Jeff Plew (Concept Entertainment)  
Jesse Lyon (Davis Wright Tremaine)  
Judy Craine (Holman Bar & Grill)  
Paul Romain (Romain Group)  
Mike O'Gorman (Craft brew.com)  
Ted Pappas (Oregon Distillers Guild)  
Brad Whiting (Clear Creek Distillery, HRD Spirits)



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Pete Mulligan (NW Cider Association)  
Dan Jarman (Oregon Wine Board)  
Jesse Stafford (Southern Wine Spirit West)  
Jim Bernau (Willamette Valley Vineyards)  
Bill Cross (Willamette Valley Vineyards)  
Jana McKamey (Oregon Winegrowers Association)  
Glenda Hamstreet (Oregon Restaurant & Lodging Association)  
Steve McCoid (Oregon Restaurant and Lodging Association)  
Jeff Giametta (Davis Wright Tremaine)  
Shawn Miller (Lobbyist Grocery - Miller Public Affairs)  
T-Kee Henningsen (Concept Entertainment)  
Art Larrance (Licensee)  
Rebecca Ball (NW Public Affairs)  
Micheal Mills (ORLA)  
Marcus Reed (Craft Brew Alliance)

### **OLCC Staff**

Bryant Haley (AP&P)  
Joshua Williams (AP&P)  
Dan Croy (Licensing)  
Jesse Sweet (Administration)  
Carolyn Moreno (AP&P)  
*(Staff attends to clarify language)*



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## **OREGON LIQUOR CONTROL COMMISSION**

**At-A-Glance Initial Action**  
(To amend an existing rule)

**License Application Fee Package**

To amend 845-005-0312 & 845-005-0314

**OCTOBER 2015**

HB 2480 passed in the 2015 Oregon legislative session with an effective date of January 1, 2016. It makes several changes to how the Commission processes applications. Specifically, HB 2480 authorizes the OLCC to charge an application fee for a new license or a change of ownership. Further, HB 2480 requires a refund of the application fee if no license decision is proposed by the OLCC within 75 days.

**SUGGESTED MOTIONS:**

**I move to accept the amendments to OAR 845-005-0312 & 845-005-0314 to initiate rulemaking on this matter, and to hold a rulemaking hearing at staff's discretion.**

... or ...

**I move to deny the amendments to OAR 845-005-0312 & 845-005-0314.**



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**OREGON LIQUOR CONTROL COMMISSION**

**CHAPTER 845**

**PROPOSED AMENDMENTS**

Note: **Bold and underlined** = new text; *italics and strikethrough* = deleted text

845-005-0312

~~Forms Required for License Applications~~ **Application for New License or Change in Ownership License**

(1) **Definitions. For this rule:**

- (a) **“Application fee” means a fee equal to the annual license fee for each class of license for which the applicant has applied but no more than \$150 per license.**
- (b) **“Application for change in ownership license” means an application for a liquor license at an address with a current liquor license and the application is for a class of liquor license currently issued to that address and at least one applicant is different from the current licensee.**
- (c) **“Application for new license” means:**
- (A) **An application for a liquor license at an address where the applicant does not have a current liquor license; or**
- (B) **An application by a licensee for an additional or different class of liquor license at an address where the licensee holds a current license.**
- (d) **“Annual license” means licenses issued under ORS 471.175, 471.178, 471.186, 471.200, 471.220, 471.223, 471.227, 471.230, 471.235, and 471.242.**
- (e) **“Completed application” means all forms, documents, and other information required by the Commission to initially accept an application are submitted to the Commission and the forms, documents, and other information submitted are legible and complete. The required initial forms, documents, and other information are:**
- (A) **Liquor License Application form.**



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- (B) Individual History form. All persons and legal entities identified in (6) of this rule are required to submit this form.
  - (C) Legal entity questionnaire. All legal entities as identified in (7) of this rule are required to submit this form.
  - (D) Business Information form.
  - (E) Proof that the local government has either accepted the application per ORS 471.166 or proof that the applicant is not required to submit the application to the local government.
  - (F) The application fee as required by this rule.
- (f) “Complete” or “completed application” means the Commission has determined that the required forms, documents, or other information are finished, accurate, and legible and has notified the applicant in writing of this determination.
- (g) “Legal entity” means an association, corporation, limited liability company, partnership, trust or any similar entity that has legal standing under the laws of Oregon or another state within the United States.
- (h) “Legible” means the form, document or other information is in the English language and has been typed, printed or drawn in a manner that is easily readable by Commission staff.
- (i) “Propose that the license be granted, granted with restrictions, or refused” or “proposed licensing decision” means the Commission’s Administrator or designee has proposed to the applicant in writing that the license be granted, granted with restrictions on the license, or refused.
- (2) An applicant for an annual license that is a new license or change in ownership license must submit a completed application to the Commission. The Commission may refuse to accept an application that is not a completed application.
- (3) All application fees assessed under this rule are nonrefundable, except that the Commission shall refund the fee if the Commission does not, on or before 75 days following receipt of a completed application, issue a proposed licensing decision.
- (4) Notwithstanding subsection (3) of this rule, if the Commission proposes to issue the license after 75 days the applicant may elect to apply the application fee to the license fee. The 75 days will be calculated using the completed application date provided by the Commission in writing to the



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**applicant and the date of the proposed licensing decision provided by the Commission in writing to the applicant.**

- (5) **If an applicant fails to maintain a completed application, the applicant will not be entitled to receive a refund on the application fee, regardless of the length of time it takes for the Commission to issue a proposed licensing decision. An applicant fails to maintain a completed application if:**
- a) **The Commission provides written notice to the applicant that the applicant must provide additional information to the Commission in order to process the application and the Commission does not receive the requested information that is complete and legible within ten calendar days of the notice; or**
  - b) **The applicant pays an application fee by check and after accepting the application as complete the Commission receives notice of non-sufficient funds (NSF) or a stop payment on the check. The applicant will be required to pay the application fee in cash or by money order and the Commission will cease processing the application until payment is received in either of these forms. If payment is not received within 30 days following notice to the applicant of this requirement the Commission will refuse to process the application.**
- (6) **Individual History form.**
- (a) **All individual applicants must submit this form.**
  - (b) **When the applicant is a legal entity that provides proof that it is listed on an exchange registered with the U.S. Securities and Exchange Commission no person needs to submit this form.**
  - (c) **When the applicant is a legal entity that is not listed, or cannot provide proof that it is listed, on an exchange registered with the U.S. Securities and Exchange Commission all natural persons defined as an applicant or licensee per OAR 845-006-0301 must submit this form.**
- (7) **Legal Entity Questionnaire. All legal entity applicants must submit this form. A legal entity that owns 10% or greater of the legal entity applicant and is not listed, or cannot provide proof that it is listed, on an exchange registered with the U.S. Securities and Exchange Commission must also submit this form.**



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- (8) Nothing in this rule prohibits the Commission from withdrawing a proposed licensing decision if the Commission receives information that would alter its initial decision that a license be granted, granted with restrictions, or refused.
- (9) Except for the application fee, the Commission's Administrator or designee may waive any of the requirements of a complete application as defined in this this rule to take into account unusual or extraordinary circumstances.
- (10) After accepting an application as complete the Commission may require additional forms, documents, and other information from the applicant in order to investigate and process the application, and may refuse to process the application per OAR 845-005-0315.

#### *Forms Required for License Applications*

*(1) As a part of the application:*

*(a) The applicant or applicants for a license shall submit a completed Liquor License Application form.*

*(b) The licensee submitting a request for approval of a change as required by Commission rules must submit a signed and dated request in writing.*

*(c) All individual applicants, all general partners in a limited partnership, limited partners whose investment commitment is ten percent or more of the total investment commitment, all members in a limited liability company or partnership whose investment commitment or membership interest is ten percent or greater, all directors who own or control three percent or more of the voting stock, principal officers (as defined in OAR 845-006-0475) of corporate applicants, and all natural person stockholders owning or controlling ten percent or more of the voting stock of corporate applicants will submit a completed Individual History form.*

*(d) All applicants will submit a statement of funding, and verification of the funding source(s). As part of investigation under OAR 845-005-0311, Commission staff may require any applicant to submit additional financial information, including, but not limited to, a financial statement and documentation of the origination of funds.*

*(e) Any applicant that is a registered entity, and any registered entity that has a ten percent or greater ownership interest in an applicant registered entity, must complete a questionnaire that lists, as appropriate, the officers, directors, shareholders, general and limited partners, or members of the entity. If a corporation has more than twenty shareholders or a limited partnership has more than twenty limited partners, only those with a ten percent or greater investment interest need be listed.*

*(f) The Commission requires applicants to submit Individual History forms from managers when the applicant is inexperienced or new to the industry, or when the applicant will not personally manage the premises, or when the applicant's premises has a history of problems or is located in a problem area. For purposes of this rule a*



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~~manager is an individual who has the authority to act on behalf of the applicant when the applicant is not on the premises.~~

~~(2) For the purposes of this rule, a registered entity is a legal form of organization required to register as such with the Oregon Secretary of State and includes such forms as a corporation, limited liability company, limited liability partnership and limited partnership. Trusts, family trusts, and general partnerships are not registered entities for the purposes of this rule.~~

~~(3) If a legal entity applying for a license is wholly owned by another legal entity and was created in whole or in part to apply for the license, the Commission may require the parent legal entity to complete the forms and disclosures this rule requires of an applicant, and may treat the parent legal entity as an applicant for the purposes of determining eligibility for a license.~~

~~(4) The Commission's Administrator or the License Process Director may waive the requirements of this rule to take account of unusual or extraordinary circumstances. These circumstances may include the following:~~

~~(a) Previous licensing by the Commission of the applicant;~~

~~(b) General reputation of the applicant;~~

~~(c) Information from other state or federal regulatory agencies that the Commission could use in lieu of the information this rule requires.~~

~~(5) ORS 471.757 allows the Commission to deny, cancel or suspend a license if an unlicensable person has any financial interest in the business or place of business. The Commission may require a personal history or fingerprints from any person who has a financial interest in the licensed business to help determine if this person is licensable.~~

~~(6) Nothing in this rule prevents the Commission from requiring additional information or information from other persons where there is reason to believe that this information may help the Commission determine the merits of a license application or to otherwise perform its statutory duties.~~

~~[ED. NOTE: Forms referenced are available from the agency.]~~

~~Stat. Auth.: ORS 471, 471.030, 471.040, 471.730(1) & (5)~~

~~Stats. Implemented: ORS 471.757~~

~~Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 16-2004, f. 12-22-04, cert. ef. 1-1-05~~

## **845-005-0314**

### **Refusal to Accept an Application Other than a New License or Change in Ownership License**

~~(1) ORS 471.311(2) authorizes the Commission to reject any application that is not in the form required by rule. This rule defines the required form of a complete application. The Commission shall reject any application that is not in the form required by this rule.~~



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~~The Commission shall give applicants the opportunity to be heard if an application is rejected. A hearing under this subsection is not subject to the requirements for contested case proceedings under ORS 183.310 to 183.550.~~ **The Commission may refuse to accept an application that is not a completed application. A completed application means all forms, documents, and other information required by the Commission to accept an application are submitted to the Commission and the forms, documents, and other information submitted are legible and complete.**

~~(2) Any Commission forms, statements or requests required as part of an application shall be completed legibly to qualify for acceptance. To be legible as required by this rule, a form, statement or request must be signed and dated by the applicant and made or completed:~~

~~(a) In the English language;~~

~~(b) By typing or by printing that is clearly legible to Commission staff.~~

~~(3) Any floor or plot plan sketches required by this rule shall be completed legibly in ink on the Commission's Floor Plan form, be reasonably to scale and set forth in a manner that allows a person unfamiliar with the property to understand the general layout of the premises, and the boundaries and uses of areas proposed to be licensed.~~

~~(4) A complete application shall include any forms, statements or requests required by OAR 845-005-0312, all fully completed and signed and dated.~~

~~(5) A complete application shall include disclosures and documentation regarding parties with ownership or financial interest as defined by OAR 845-005-0311 as follows:~~

~~(a) Documentation of funding sources described on the Statement of Funding form. For instance, if funding is from a bank loan, documentation may be a copy of the loan agreement or the bank's written verification of loan commitment. Commission staff may require further documentation in the course of license investigation;~~

~~(b) Lease summary form(s) if the applicant is leasing the real property, equipment, furnishings or business at the location proposed to be licensed;~~

~~(c) Purchase agreement summary form(s) if the applicant is buying the real property, equipment, furnishings or business at the location proposed to be licensed and, if the purchase transaction has not been closed, a copy of the applicant's accepted earnest money agreement;~~

~~(d) Franchise agreement summary form if the applicant is or will be a franchisee at the location proposed to be licensed;~~

~~(e) If the applicant is not an individual, but is a registered entity as defined in OAR 845-005-0312(2) (for instance a corporation, a limited partnership, a LLC) and registered as such with the Oregon Secretary of State, a copy of such registration and a completed form showing the individuals and persons who are the owners, principals, directors, officers, trustees, investors, members or partners in the applicant registered entity.~~

~~(f) If any owner, member or partner with a 10% or greater ownership interest in the applicant registered entity is itself a registered entity, the applicant shall provide a completed form showing the individuals and persons who are the owners, principals, directors, officers, trustees, investors, members or partners in that registered entity.~~



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~~(6) A complete application shall include documentation and disclosures that record how the applicant proposes to operate the licensed business, and demonstrate the applicant's qualification for a liquor license, as follows:~~

~~(a) Floor or plot plan sketch showing the areas proposed to be licensed for any Full or Limited On-Premises Sales license or Brewery Public House license, including identification of table seating that meets the dining seating requirement of OAR 845-006-0460 or 845-006-0461 if the application is for a Full On-Premises license;~~

~~(b) Floor or plot plan sketch showing the proposed on-premises alcohol service or consumption areas of any manufacturer's licensed premises;~~

~~(c) Operating data questionnaire form if the applicant will sell alcoholic beverages at retail;~~

~~(d) Food service proposal form if the application is for a license or privilege that requires food service to patrons at the licensed premises;~~

~~(e) All supporting documents required as attachments to the Commission's food service proposal form;~~

~~(f) If the application is by a private club for a Full On-Premises Sales license, a copy of the club's charter and copies of documentation of current dues-paid club membership of 200 or more members with voting rights in the affairs of the club.~~

Stat. Auth.: ORS 471, 471.030, 471.040, 471.730(1) & (5)

Stat. Implemented: ORS 471.311(2)

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 2-2002, f. 2-15-02 cert. ef. 3-1-02; OLCC 1-2005, f. 4-21-05, cert. ef. 5-1-05