

Oregon Liquor Control Commission Advisory Committee Meeting

Minutes

Liquor Liability Insurance 845-005-0400

July 9th, 2015
9:00 am – Noon

Present

Judy Craine (Holman's Bar & Grill), Steve McCoid, (Oregon Restaurant and Lodging Association), Bryant Haley (OLCC), Danica Hibpshman (OLCC), Anna Davis (OLCC), Brainard Brauer, Redland Station, Dan Croy (OLCC), Joshua Williams (OLCC), Carolyn Moreno (OLCC), Paul Rosenow (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), Duke Tufty (Wyse Kadish, Elaine Albrich (Stoel Rives), Gregg Abbott (Oregon Street Food Association), Jeff Plew (Concept Entertainment), Jesse Lyon (Davis Wright Tremaine), Paul Romain (Romain Group), Mike O'Gorman (Craft brew.com), Ted Pappas (Oregon Distillers Guild), 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), Bill Cross (Willamette Valley Vineyards), Jana McKamey (Oregon Winegrowers Association), Glenda Hamstreet (Oregon Restaurant & Lodging Association), Jeff Giametta (Davis Wright Tremaine), Shawn Miller (Lobbyist Grocery - Miller Public Affairs), T-Kee Henningsen (Concept Entertainment), Art Larrance (Cascade Brewing)

Meeting Minutes

The meeting began at approximately 9:00 a.m. on July 9, 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:

Previously, not having LLI was a Category 1 violation.

Is the OLCC notified that a Licensee has a lapse in insurance? In Oregon, insurance companies are not obligated by law/rule to notify the OLCC. However, the OLCC does receive a Notice of Cancellation, as certificate holder. Although it is in the interest of the insurance company to notify the OLCC which motivates the Licensee to make their insurance payments.

One member suggested that there should be a different penalty for someone who is blatantly trying to avoid paying for insurance and someone who is trying to do the right thing but makes a genuine mistake. They thought it was unfair that the person who is trying to comply with the requirements is also fined. In answer, in the new rule penalties are on a graduated level for mitigating circumstances. Mr. Haley reminded the committee that it was previously a Category I with no differentiation of sanction schedule.

Certificate of Insurance and Renewals

One licensee's concern was what will happen if they weren't at the premises when an Inspector drops in and wants to look at the insurance certificate: Will he get a fine for simply not posting the insurance certificate, even if he does have current insurance? Another concern is that a six month certificate is not necessarily an indication of current insurance. Some on the committee preferred the OLCC be responsible for the Certificate while other saw no issue with being required to hand an Inspector insurance credentials.

The only time the OLCC asks for a Certificate of Insurance is at the time of initial licensing. A committee member asked: Could the OLCC keep an updated Certificate on file? Staff replied that since there is a huge influx of renewals toward the end of a renewal period it would be difficult to get all the certificates at that time. Currently, the OLCC requires only the policy number and insurance agent be listed on the renewal form. No other insurance document is required.

Also, the insurance certificate time periods aren't on the same schedule as the OLCC renewals. Renewal dates and insurance certificate dates don't always coincide. The certificate might only reflect a six month time period. Even an annual certificate might not match the licensee's renewal period.

There was some discussion about being able to provide proof of insurance at the time of an OLCC inspection after the fact. This is similar to how the Health Department inspections work.

One suggestion was to add language that says licensee will provide, *within a reasonable time period*, proof that there was insurance at the time of inspection. The committee then discussed what is the definition of a reasonable time period? After some discussion, members felt generally comfortable with a 72 hour standard. However, staff reminded the committee that Oregon Statute states that a Licensee is required to show OLCC proof of insurance at any time and can treat failure to do so as failure to maintain insurance. Staff agreed that they will revisit adding a section about providing proof of insurance within a "reasonable" time period.

Staff reminded committee members that LLI is the cornerstone of a license to sell liquor in Oregon. Further, staff stated that the legislature and Commissioners take this very seriously. This is a public safety requirement in case someone gets hurt at a licensed premises.

Discussion of the Fiscal Impact Statement:

Next, Mr. Haley solicited the advisory committee's help in drafting the Commission's fiscal impact statement. The purpose of the fiscal impact statement is to project, as accurately as possible, the expected economic impact of the proposed amendments. To

guide this discussion, Mr. Haley directed the attendees to a brief questionnaire designed to assess the likelihood that the proposed amendments would result in a financial impact on business, and if so, the expected cost to comply with the proposed amendments.

Advisory committee members did not anticipate any negative fiscal impacts from the proposed amendments, as the rule changes do not put any added burden on small businesses.

Next in Rulemaking: Mr. Haley stated that a public hearing on this matter will be scheduled and dates transmitted to all participants.

Mr. Haley closed the meeting by thanking members for their attendance and participation.