

For your information

The Oregon Liquor Control Commission has:

Amended
 Adopted
 Repealed

OAR 845-005-0311

Effective: January 1, 2014

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

845-005-0311

True Name on Application; Interest in Business

(1) True name on application: ~~Applications~~**An application** for **a** licenses must specify the real and true names of all persons ~~who own or have an interest in the business proposed to be licensed by the Commission, and these persons or in the case of corporations, a duly authorized officer, must sign the application~~**and legal entities that have an ownership interest in the business proposed to be licensed.**

(2) License privileges: ~~The~~**L**icense privileges are available only to the persons **and legal entities** specified in the application and only for the premises designated on the license.

(3) ~~Interest in the business: For purposes of section (1) of this rule, the following persons have an "interest in the business":~~**Ownership Interest. Under ORS 471.313(4)(h), the Commission may refuse to issue a license if the applicant is not the owner of the business proposed to be licensed or an undisclosed ownership interest exists. For purposes of this rule, an "ownership interest" is indicated by the following behaviors, benefits or obligations:**

(a) ~~Any person who receives or is entitled to receive, directly or indirectly, any of the profits of a licensed business except persons who receive any of the profits as:~~**Any person or legal entity, other than an employee acting under the direction of the owner, that exercises control over, or is entitled to exercise control over, the business;**

(A) ~~A bonus paid to an employee, if the employee is on a fixed wage or salary and the bonus is not more than 25 percent of the employee's pre-bonus annual compensation, or the bonus is based on a written incentive/bonus program and is not unreasonable or out of the ordinary for the services rendered;~~

~~(B) Repayment of a loan or payment on a contract to purchase property unless the loan or contract holder exercises control over or participates in the management of the business;~~

~~(C) Reasonable payment for rent under a bona fide lease or rental obligation unless the lessor or property manager exercises control over or participates in the management of the business;~~

~~(D) Reasonable payment for a franchise under a bona fide franchise agreement;~~

~~(E) Payment of dividends to corporate stockholders.~~

~~(b) A person who does not receive any of the profits but receives compensation that is out of the ordinary for the services rendered. "Out of the ordinary" includes both over and under compensations;~~

~~(c)(b) Any person or firm who contracts to provide food service or to manage or operate any part of the licensed premises, other than as an employee; **Any person or legal entity, other than an employee acting under the direction of the owner, that incurs, or is entitled to incur, debt or similar obligations on behalf of the business;**~~

~~(d)(c) Any person who invests money or other property in the licensed business, other than a stockholder. Any stockholder who owns ten percent or more stock must receive Commission approval (OAR 845-006-0475). For purposes of this subsection, a bona fide loan that entitles the lender to a return of only the principal and interest on the principal is not an investment; **Any person or legal entity, other than an employee acting under the direction of the owner, that enters into, or is entitled to enter into, a contract or similar obligations on behalf of the business; or**~~

~~(e)(d) A contract purchaser of a licensed business. A contract purchaser may not operate or invest prior to Commission approval. A contract purchaser may make contract payments into an escrow account prior to Commission approval of the change of ownership, but may not operate the business other than as an employee. **Any person or legal entity identified as the lessee of the premises proposed to be licensed.**~~

~~(4) **Financial Interest.** Under ORS 471.757, allows the Commission to deny, cancel or suspend a license if circumstances exist with regard to any person who has any financial interest in the licensed business or place of business such that the Commission would have a basis to cancel or refuse to issue a license to the person with a financial interest if that person were the licensee or applicant. For purposes of ORS 471.757, financial interest exists if a person may financially benefit or suffer based on the performance of the licensed business. Examples of persons having a financial interest in the business include: **the Commission may**~~

require the licensee or applicant to identify the persons and legal entities with a financial interest in the business. The Commission may evaluate any such person as if he or she were the actual licensee or license applicant. If that evaluation reveals any circumstances that would support grounds for the denial, cancellation or suspension of such a license or license application, the Commission may deny, cancel or suspend the license of the actual licensee or issue the license with restrictions. For purposes of this rule, a “financial interest” exists if the performance of the business causes, or is capable of causing, a person or legal entity to benefit or suffer financially. Examples of a financial interest include, but are not limited to:

(a) A licensee;

(b) An employee or agent who receives out-of-the-ordinary compensation. “Out-of-the-ordinary compensation” includes both over- and under-compensation;

~~(a)~~(c) Any person who rents or leases real property to ~~or for the licensed business~~ licensee or applicant for use by the business;

(d) Any person who rents or leases personal property to a licensee or applicant for use in the business for a commercially unreasonable rate;

~~(b)~~(e) Any person who ~~invests or loans~~ lends money, real property or personal property to ~~or other property for the licensed business~~ licensee or applicant for use in the business;

~~(e)~~(f) Any person who gives money, real property or personal property ~~for to the licensed business and who~~ licensee or applicant for use in the business.

~~(A) Exercises control over or participates in the management of the licensed business; or~~

~~(B) Is employed by the licensed business; or~~

~~(d)~~(g) The **A** spouse or domestic partner of the licensee or license applicant. For purposes of this ~~rule~~ subsection, “domestic partners” ~~(lower case) are~~ includes adults individuals who share the same regular and permanent address and would be financially effected by the success or failure of the business as well as adults who qualify for a “domestic partnership” as defined under ORS 106.310. ~~who share joint financial assets, resources, accounts or obligations, such as home ownership, checking or banking accounts, brokerage accounts or health care coverage. Domestic partner (lower case) also includes a “Domestic Partner” (upper case), which means an individual who, along with another individual of the same sex, has received a Certificate of Registered Domestic Partnership pursuant to the Oregon Family Fairness Act.~~

(5) For good cause shown, the Commission may waive the requirements in this rule to take into account unusual or extraordinary circumstances.

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

Stats. Implemented: ORS 471.757

This version of the Oregon Administrative Rules has been published by the Oregon Liquor Control Commission. The Secretary of State has or shall compile, index and publish all rules adopted by the agency as required under ORS 183.360.

The Oregon Administrative Rules Compilation published by the Secretary of State under ORS 183.360 has copyright status. The Oregon Liquor Control Commission has written permission from the Secretary of State to print the agency's administrative rules in order to provide information to those affected by its rules.