

**A-Engrossed**  
**House Bill 2249**

Ordered by the Senate May 15  
Including Senate Amendments dated May 15

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Presession filed (at the request of Governor Theodore R. Kulongoski for Oregon Liquor Control Commission)

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Allows Oregon Liquor Control Commission to refuse service permit if applicant makes false statements to commission. Allows commission to revoke or suspend service permit or impose civil penalty if permittee makes false statements to commission.

**Specifies date on which service permit expires.**

**Requires licensee or permittee to retake alcohol server education course and examination to requalify for service permit.**

**A BILL FOR AN ACT**

1  
2 Relating to alcoholic beverage service permits; creating new provisions; and amending ORS 471.370,  
3 471.380, 471.385 and 471.542.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 471.380 is amended to read:

6 471.380. (1) The Oregon Liquor Control Commission may refuse to grant a service permit if it  
7 has reasonable grounds to believe any of the following to be true:

8 (a) That the applicant is in the habit of using alcoholic beverages or controlled substances to  
9 excess.

10 (b) That the applicant has made false statements to the commission [*in the permit application*].

11 (c) That the applicant is incompetent or physically incapable of performing the duties of a  
12 permittee.

13 (d) That the applicant has been convicted of violating any of the alcoholic liquor laws of this  
14 state, general or local, or has been convicted at any time of a felony.

15 (e) That the application has not been indorsed as required by ORS 471.375.

16 (f) That the applicant has not completed the alcohol server education course and examination  
17 required by ORS 471.542.

18 (2) Notwithstanding ORS 183.435, an applicant who seeks review of the refusal of a service  
19 permit must request a hearing:

20 (a) Within 15 days after notification of the refusal, if the refusal is based on failure to complete  
21 the alcohol server education course and examination; or

22 (b) Within 30 days after notification of the refusal, if the refusal is based on any grounds other  
23 than failure to complete the alcohol server education course and examination.

24 **SECTION 2.** ORS 471.385 is amended to read:

25 471.385. (1) The Oregon Liquor Control Commission may revoke or suspend a service permit, or

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 impose a civil penalty in lieu of or in addition to suspension as provided by ORS 471.322, if it finds  
2 or has reasonable grounds to believe any of the following to be true:

3 *[(a) That the permittee has made any false statement in the application for the permit.]*

4 **(a) That the permittee has made false statements to the commission.**

5 (b) That the permittee has been convicted of a felony, of violating any of the liquor laws of the  
6 state, general or local, or any misdemeanor or violation of any municipal ordinance committed on  
7 the licensed premises.

8 (c) That the permittee has performed or permitted any act which would constitute a violation  
9 of any provision of this chapter or any rule of the commission, if the act were performed or per-  
10 mitted by any licensee of the commission.

11 (2) The issuance, suspension or revocation of a permit under ORS 471.360 to 471.390 does not  
12 relieve a licensee from responsibility for any act of an employee on the licensee's premises.

13 (3) When there has been a violation of this chapter or any rule adopted thereunder upon any  
14 premises licensed by the commission, the commission may revoke or suspend either the service  
15 permit of the employee who violated the law or rule or the license of the licensee upon whose  
16 premises the violation occurred, or both the permit and the license.

17 (4) The commission may revoke or suspend any license issued by the commission if the licensee  
18 knowingly indorses a person's application for a permit when the person has been refused a permit  
19 or has had a permit suspended or revoked, or when the licensee fails to comply with any provision  
20 to be performed by the licensee under ORS 471.360 to 471.390.

21 (5) Civil penalties under this section shall be imposed as provided in ORS 183.745.

22 **SECTION 3.** ORS 471.370 is amended to read:

23 471.370. Unless sooner suspended or revoked, a service permit *[issued after November 1, 1981,*  
24 *shall expire on the anniversary date of the permittee's birthday five years after the date of issuance of*  
25 *the permit]* **expires five years after the date on which the permittee completed the approved**  
26 **alcohol server education course under ORS 471.542 that qualified the permittee for the per-**  
27 **mit.**

28 **SECTION 4.** ORS 471.542 is amended to read:

29 471.542. (1) Except as provided in subsection (2) of this section, the Oregon Liquor Control  
30 Commission shall require a person applying for issuance or renewal of a server permit or any license  
31 that authorizes the sale or service of alcoholic beverages for consumption on the premises to com-  
32 plete an approved alcohol server education course and examination as a condition of the issuance  
33 or renewal of the permit or license.

34 (2) A person applying for issuance or renewal of a license that authorizes the sale or service  
35 of alcoholic beverages for consumption on the premises need not complete an approved alcohol  
36 server education course and examination as a condition of the issuance or renewal of the license if:

37 (a) The license has been restricted by the commission to prohibit sale or service of alcoholic  
38 beverages for consumption on the premises; or

39 (b) The person applying for issuance or renewal of the license submits a sworn statement to the  
40 commission stating that the person will not engage in sale or service of alcoholic beverages for  
41 consumption on the premises, will not directly supervise or manage persons who sell or serve alco-  
42 holic beverages on the premises, and will not participate in establishing policies governing the sale  
43 or service of alcoholic beverages on the premises.

44 (3) The commission by rule shall establish requirements that licensees and permittees must  
45 comply with as a condition of requalifying for a license or permit. The licensee or permittee must

1 comply with those requirements once every five years after completing the initial alcohol server  
2 education course and examination. The requirements established by the commission **to requalify for**  
3 **a license** may include retaking the alcohol server education course and examination. **The require-**  
4 **ments established by the commission to requalify for a service permit shall include retaking**  
5 **the alcohol server education course and examination.**

6 (4) The commission may extend the time periods established by this section upon a showing of  
7 hardship. The commission by rule may exempt a licensee from the requirements of this section if the  
8 licensee does not participate in the management of the business.

9 (5) The standards and curriculum of alcohol server education courses shall include but not be  
10 limited to the following:

11 (a) Alcohol as a drug and its effects on the body and behavior, especially driving ability.

12 (b) Effects of alcohol in combination with commonly used legal, prescription or nonprescription,  
13 drugs and illegal drugs.

14 (c) Recognizing the problem drinker and community treatment programs and agencies.

15 (d) State alcohol beverage laws such as prohibition of sale to minors and sale to intoxicated  
16 persons, sale for on-premises or off-premises consumption, hours of operation and penalties for vio-  
17 lation of the laws.

18 (e) Drunk driving laws and liquor liability statutes.

19 (f) Intervention with the problem customer including ways to cut off service, ways to deal with  
20 the belligerent customer and alternative means of transportation to get the customer safely home.

21 (g) Advertising and marketing for safe and responsible drinking patterns and standard operating  
22 procedures for dealing with customers.

23 (6) The commission shall impose a fee not to exceed \$2.60 a year for each license subject to the  
24 alcohol server education requirement, and a fee not to exceed \$13 for each service permit applica-  
25 tion. These fees shall be used for administrative costs of the Alcohol Education Program established  
26 under ORS 471.541 and shall be in addition to any other license or permit fees required by law or  
27 rule.

28 (7) The commission shall adopt rules to impose reasonable fees for administrative costs on al-  
29cohol server education course instructors and providers.

30 (8) The commission shall provide alcohol server education courses and examinations through  
31 independent contractors, private persons or private or public schools certified by the commission.  
32 The commission shall adopt rules governing the manner in which alcohol server education courses  
33 and examinations are made available to persons required to take the course. In adopting rules under  
34 this subsection, the commission shall consider alternative means of providing courses, including but  
35 not limited to providing courses through audiotapes, videotapes, the Internet and other electronic  
36 media.

37 **SECTION 5. (1) The amendments to ORS 471.380 and 471.385 by sections 1 and 2 of this**  
38 **2009 Act apply to false statements received by the Oregon Liquor Control Commission on or**  
39 **after the effective date of this 2009 Act.**

40 **(2) The amendments to ORS 471.370 by section 3 of this 2009 Act apply to service permits**  
41 **issued on or after the effective date of this 2009 Act.**

42 **(3) The amendments to ORS 471.542 by section 4 of this 2009 Act apply to license and**  
43 **service permit requalification periods that begin on or after the effective date of this 2009**  
44 **Act.**