

Enrolled House Bill 2249

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

CHAPTER

AN ACT

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

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

SECTION 1. ORS 471.380 is amended to read:

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

- (a) That the applicant is in the habit of using alcoholic beverages or controlled substances to excess.
- (b) That the applicant has made false statements to the commission [*in the permit application*].
- (c) That the applicant is incompetent or physically incapable of performing the duties of a permittee.
- (d) That the applicant has been convicted of violating any of the alcoholic liquor laws of this state, general or local, or has been convicted at any time of a felony.
- (e) That the application has not been indorsed as required by ORS 471.375.
- (f) That the applicant has not completed the alcohol server education course and examination required by ORS 471.542.

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

- (a) Within 15 days after notification of the refusal, if the refusal is based on failure to complete the alcohol server education course and examination; or
- (b) Within 30 days after notification of the refusal, if the refusal is based on any grounds other than failure to complete the alcohol server education course and examination.

SECTION 2. ORS 471.385 is amended to read:

471.385. (1) The Oregon Liquor Control Commission may revoke or suspend a service permit, or impose a civil penalty in lieu of or in addition to suspension as provided by ORS 471.322, if it finds or has reasonable grounds to believe any of the following to be true:

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

- (a) That the permittee has made false statements to the commission.**
- (b) That the permittee has been convicted of a felony, of violating any of the liquor laws of the state, general or local, or any misdemeanor or violation of any municipal ordinance committed on the licensed premises.

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

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

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

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

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

SECTION 3. ORS 471.370 is amended to read:

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

SECTION 4. ORS 471.542 is amended to read:

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

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

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

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

(3) The commission by rule shall establish requirements that licensees and permittees must comply with as a condition of requalifying for a license or permit. The licensee or permittee must comply with those requirements once every five years after completing the initial alcohol server education course and examination. The requirements established by the commission **to requalify for a license** may include retaking the alcohol server education course and examination. **The requirements established by the commission to requalify for a service permit shall include re-taking the alcohol server education course and examination.**

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

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

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

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

- (c) Recognizing the problem drinker and community treatment programs and agencies.
 - (d) State alcohol beverage laws such as prohibition of sale to minors and sale to intoxicated persons, sale for on-premises or off-premises consumption, hours of operation and penalties for violation of the laws.
 - (e) Drunk driving laws and liquor liability statutes.
 - (f) Intervention with the problem customer including ways to cut off service, ways to deal with the belligerent customer and alternative means of transportation to get the customer safely home.
 - (g) Advertising and marketing for safe and responsible drinking patterns and standard operating procedures for dealing with customers.
- (6) The commission shall impose a fee not to exceed \$2.60 a year for each license subject to the alcohol server education requirement, and a fee not to exceed \$13 for each service permit application. These fees shall be used for administrative costs of the Alcohol Education Program established under ORS 471.541 and shall be in addition to any other license or permit fees required by law or rule.
- (7) The commission shall adopt rules to impose reasonable fees for administrative costs on alcohol server education course instructors and providers.
- (8) The commission shall provide alcohol server education courses and examinations through independent contractors, private persons or private or public schools certified by the commission. The commission shall adopt rules governing the manner in which alcohol server education courses and examinations are made available to persons required to take the course. In adopting rules under this subsection, the commission shall consider alternative means of providing courses, including but not limited to providing courses through audiotapes, videotapes, the Internet and other electronic media.

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

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

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

Passed by House February 12, 2009

Repassed by House May 21, 2009

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Chief Clerk of House

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Speaker of House

Passed by Senate May 19, 2009

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President of Senate

Received by Governor:

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Approved:

.....M,....., 2009

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Governor

Filed in Office of Secretary of State:

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Secretary of State