

Senate Bill 36

Sponsored by Senator MONNES ANDERSON (Presession filed.)

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 **as introduced**.

Imposes conditions for Oregon Liquor Control Commission approval of license application following unfavorable recommendation by local government.

A BILL FOR AN ACT

1
2 Relating to applications for licensing by the Oregon Liquor Control Commission; creating new pro-
3 visions; and amending ORS 471.166.

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

5 **SECTION 1. Section 2 of this 2011 Act is added to and made a part of ORS chapter 471.**

6 **SECTION 2. (1) A person filing an application for issuance or renewal of a license that**
7 **is subject to ORS 471.166 must remit to the local government the fees established under**
8 **subsections (2) and (3) of this section. The Oregon Liquor Control Commission shall give**
9 **notice to the applicant for license renewal of the amount of the fees and the name of the**
10 **local government collecting the fees. The commission is not responsible for collecting the**
11 **fees charged by the local government or for ensuring that the fees have been paid. An ap-**
12 **plicant for a license renewal shall certify in the application form filed with the commission**
13 **that the applicant has paid any fees required under this section.**

14 **(2) An applicant required to seek a written recommendation from a local government**
15 **under ORS 471.166 must pay an application fee to the local government, in an amount de-**
16 **termined by the governing body of the city or county, for each application for a license. The**
17 **application fee established by a local government under this subsection may not exceed \$25.**

18 **(3) After public notice and hearing, the governing body of a city or county may adopt an**
19 **ordinance, rule or resolution prescribing licensing guidelines to be followed in making rec-**
20 **ommendations on license applications under this chapter and in allowing opportunity for**
21 **public comment on applications. If the guidelines are approved by the commission as con-**
22 **sistent with commission rules, after public notice and hearing the governing body may adopt**
23 **an ordinance, rule or regulation establishing a system of fees that is reasonable and neces-**
24 **sary to pay expenses of processing the written recommendation. Processing fees under this**
25 **subsection are in lieu of fees under subsection (2) of this section. A processing fee estab-**
26 **lished under this subsection may not be more than:**

27 **(a) \$100 for an original application;**

28 **(b) \$75 for a change in ownership, change in location or change in privilege application;**

29 **or**

30 **(c) \$35 for a renewal or temporary application.**

31 **SECTION 3. ORS 471.166 is amended to read:**

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.

1 471.166. (1) The Oregon Liquor Control Commission may require that every applicant for issu-
2 ance or renewal of a license under this chapter acquire a written recommendation from the gov-
3 erning body of the county if the place of business of the applicant is outside an incorporated city,
4 and from the city council if the place of business of the applicant is within an incorporated city.
5 The commission [*may take such written recommendation into consideration*] **shall consider any**
6 **written recommendation made by the local government** before granting or refusing the license.

7 (2) If the commission requires that an applicant for issuance of a new license acquire the written
8 recommendation of a local government, the applicant must give notice to the local government when
9 an application is made for issuance of the license. If the local government files a favorable recom-
10 mendation with the commission within 45 days after the notice is given, the commission shall pro-
11 ceed with consideration of the application. The commission shall proceed with consideration of the
12 application as though the local government had made a favorable recommendation unless, within 45
13 days after notice is given to the local government:

14 (a) The local government files an unfavorable recommendation with the commission with a
15 statement of the grounds for the unfavorable recommendation; or

16 (b) The local government files a request for additional time with the commission that sets forth
17 the reason additional time is needed by the local government, a statement that the local government
18 is considering making an unfavorable recommendation on the application, and the specific grounds
19 on which the local government is considering making an unfavorable recommendation.

20 (3) If the commission requires that an applicant for renewal of a license acquire the written
21 recommendation of a local government under this section, the commission shall give notice to the
22 local government when an application is due for renewal of the license. If the local government files
23 a favorable recommendation with the commission within 60 days after the notice is given, the com-
24 mission shall proceed with consideration of the application. The commission shall proceed with
25 consideration of the application as though the local government had made a favorable recommen-
26 dation unless within 60 days after notice is given to the local government:

27 (a) The local government files an unfavorable recommendation with the commission with a
28 statement of the grounds for the unfavorable recommendation; or

29 (b) The local government files a request for additional time with the commission that sets forth
30 the reason additional time is needed by the local government, a statement that the local government
31 is considering making an unfavorable recommendation on the application, and the specific grounds
32 on which the local government is considering making an unfavorable recommendation.

33 (4) The commission shall suspend consideration of an application subject to this section for a
34 reasonable period of time if a local government requests additional time under subsection (2)(b) or
35 (3)(b) of this section and the grounds given by the local government are valid grounds for an unfa-
36 vorable determination under this chapter or rules adopted by the commission. The commission shall
37 by rule establish the period of time that shall be granted to a local government pursuant to a re-
38 quest under subsections (2)(b) and (3)(b) of this section.

39 (5) The commission shall by rule establish valid grounds for unfavorable recommendations by
40 local governments under this section. Valid grounds established by the commission under this sec-
41 tion for an unfavorable recommendation by a local government must be limited to those grounds
42 considered by the commission in making an unfavorable determination on a license application.

43 [(6) A person filing an application for issuance or renewal of a license that is subject to this section
44 must remit to the local government the fees established under subsections (7) and (8) of this section.
45 The commission shall give notice to the applicant for license renewal of the amount of the fees and the

1 name of the local government collecting the fees. The commission is not responsible for collecting the
 2 fees charged by the local government or for ensuring that the fees have been paid. An applicant for a
 3 license renewal shall certify in the application form filed with the commission that the applicant has
 4 paid any fees required under this section.]

5 [(7) An applicant required to seek a written recommendation from a local government must pay an
 6 application fee to the local government, in an amount determined by the governing body of the city or
 7 county, for each application for a license. The application fee established by a local government under
 8 this subsection may not exceed \$25.]

9 [(8) After public notice and hearing, the governing body of a city or county may adopt an ordi-
 10 nance, rule or resolution prescribing licensing guidelines to be followed in making recommendations
 11 on license applications under this chapter and in allowing opportunity for public comment on applica-
 12 tions. If the guidelines are approved by the commission as consistent with commission rules, after
 13 public notice and hearing the governing body may adopt an ordinance, rule or regulation establishing
 14 a system of fees that is reasonable and necessary to pay expenses of processing the written recommen-
 15 dation. Processing fees under this subsection are in lieu of fees under subsection (7) of this section. In
 16 no case shall the processing fee under this subsection be greater than \$100 for an original application,
 17 \$75 for a change in ownership, change in location or change in privilege application, and \$35 for a
 18 renewal or temporary application.]

19 **(6) If a local government files a timely unfavorable written recommendation regarding**
 20 **an application, the commission must make an unfavorable determination on the application**
 21 **unless:**

22 **(a) The commission finds that the stated grounds for the unfavorable recommendation**
 23 **are not valid grounds under subsection (5) of this section; or**

24 **(b)(A) The applicant files a response that specifically addresses the stated grounds for the**
 25 **unfavorable recommendation no later than 60 days after the commission notifies the appli-**
 26 **cant of the unfavorable recommendation;**

27 **(B) The commission finds that the response by the applicant adequately addresses the**
 28 **stated grounds for the unfavorable recommendation; and**

29 **(C) At least four members of the commission vote to grant the license.**

30 **SECTION 4. Section 2 of this 2011 Act and the amendments to ORS 471.166 by section 3**
 31 **of this 2011 Act apply to applications filed with the Oregon Liquor Control Commission on**
 32 **or after the effective date of this 2011 Act.**