

D R A F T

SUMMARY

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

A BILL FOR AN ACT

Relating to applications for licensing by the Oregon Liquor Control Commission; creating new provisions; and amending ORS 471.166.

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

SECTION 1. Sections 2 and 3 of this 2013 Act are added to and made a part of ORS chapter 471.

SECTION 2. As used in ORS 471.166 and section 3 of this 2013 Act, “local government” means the incorporated city in which the place of business of an applicant for issuance or renewal of a license is located or, if outside the limits of an incorporated city, the county in which the place of business of the applicant is located.

SECTION 3. (1) An applicant required to seek a written recommendation from the governing body of a local government under ORS 471.166 must pay the local government an application fee for each license application in an amount determined by the governing body of the local government. The application fee may not exceed \$25.

(2) After public notice and hearing, the governing body of a local government may adopt an ordinance, rule or resolution prescribing licensing guidelines to be followed in making recommendations on license applications under this chapter and in allowing opportunity for

1 **public comment on applications. If the guidelines are approved by the**
2 **Oregon Liquor Control Commission as consistent with commission**
3 **rules, after public notice and hearing the governing body may adopt**
4 **an ordinance, rule or regulation establishing a system of fees that is**
5 **reasonable and necessary to pay expenses of processing the written**
6 **recommendation. Processing fees under this subsection are in lieu of**
7 **application fees under subsection (1) of this section. A processing fee**
8 **established under this subsection may not be more than:**

9 (a) **\$100 if the application is for the issuance of a license other than**
10 **a temporary sales license;**

11 (b) **\$75 if the application is for a change in ownership, change in**
12 **location or change in privilege; or**

13 (c) **\$35 if the application is for the renewal of a license or issuance**
14 **of a temporary sales license.**

15 (3) **A person filing an application for issuance or renewal of a li-**
16 **cence under this chapter must remit to the local government the ap-**
17 **plication or processing fee established under subsection (1) or (2) of**
18 **this section. The commission is not responsible for collecting the fees**
19 **charged by the local government or for ensuring that the fees have**
20 **been paid. If an application is for renewal of a license, the commission**
21 **shall notify the applicant of the amount of the fees and the name of**
22 **the local government collecting the fees. The applicant for renewal of**
23 **a license shall certify in the application form filed with the commis-**
24 **sion that the applicant has paid any fees required under this section.**

25 **SECTION 4.** ORS 471.166 is amended to read:

26 471.166. (1) The Oregon Liquor Control Commission may require that ev-
27 ery applicant for issuance or renewal of a license under this chapter acquire
28 a written recommendation from the governing body of the [*county if the place*
29 *of business of the applicant is outside an incorporated city, and from the city*
30 *council if the place of business of the applicant is within an incorporated city.*
31 *The commission may take such written recommendation into consideration be-*

1 *fore granting or refusing the license.] local government. The commission*
2 **shall consider any written recommendation made by the governing**
3 **body of the local government before the commission grants or refuses**
4 **the license.**

5 (2) If the commission requires that an applicant for issuance of a new li-
6 cense acquire [*the*] a written recommendation [*of*] **from the governing body**
7 **of** a local government, the applicant must give notice to the local govern-
8 ment when an application is made for issuance of the license. If the local
9 government files a favorable recommendation **by its governing body** with
10 the commission within 45 days after the notice is given, the commission shall
11 proceed with consideration of the application. The commission shall proceed
12 with consideration of the application as though the **governing body of the**
13 local government had made a favorable recommendation unless, within 45
14 days after notice is given to the local government:

15 (a) The local government files an unfavorable recommendation **by its**
16 **governing body** with the commission with a statement of the grounds for
17 the unfavorable recommendation; or

18 (b) The local government files a request for additional time with the
19 commission that sets forth the reason additional time is needed by the [*local*
20 *government*] **governing body**, a statement that the [*local government*] **gov-**
21 **erning body** is considering making an unfavorable recommendation on the
22 application, and the specific grounds on which the [*local government*] **gov-**
23 **erning body** is considering making an unfavorable recommendation.

24 (3) If the commission requires that an applicant for renewal of a license
25 acquire [*the*] a written recommendation [*of*] **from the governing body of** a
26 local government under this section, the commission shall give notice to the
27 local government when an application is due for renewal of the license. If
28 the local government files a favorable recommendation **by its governing**
29 **body** with the commission within 60 days after the notice is given, the
30 commission shall proceed with consideration of the application. The com-
31 mission shall proceed with consideration of the application as though the

1 **governing body of the** local government had made a favorable recommen-
2 dation unless within 60 days after notice is given to the local government:

3 (a) The local government files an unfavorable recommendation **by its**
4 **governing body** with the commission with a statement of the grounds for
5 the unfavorable recommendation; or

6 (b) The local government files a request for additional time with the
7 commission that sets forth the reason additional time is needed by the [*local*
8 *government*] **governing body**, a statement that the [*local government*] **gov-**
9 **erning body** is considering making an unfavorable recommendation on the
10 application, and the specific grounds on which the [*local government*] **gov-**
11 **erning body** is considering making an unfavorable recommendation.

12 (4) The commission shall suspend consideration of an application subject
13 to this section for a reasonable period of time if a local government requests
14 additional time under subsection (2)(b) or (3)(b) of this section and the
15 grounds given by the local government are valid grounds for an unfavorable
16 determination under this chapter or rules adopted by the commission. The
17 commission shall by rule establish the period of time that shall be granted
18 to a local government pursuant to a request under [*subsections*] **subsection**
19 (2)(b) [*and*] **or** (3)(b) of this section.

20 (5) The commission shall by rule establish valid grounds for [*unfavorable*
21 *recommendations by local governments under this section.*] **an unfavorable**
22 **recommendation under this section by the governing body of a local**
23 **government.** Valid grounds established by the commission [*under this sec-*
24 *tion*] for an unfavorable recommendation [*by*] **under this section by the**
25 **governing body of** a local government must be limited to those grounds
26 [*considered by*] the commission **may consider** in making an unfavorable de-
27 termination on a license application.

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

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

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

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

24 **(6) If a local government files a timely unfavorable written recom-**
25 **mendation by its governing body regarding an application, the com-**
26 **mission must make an unfavorable determination on the application**
27 **unless:**

28 **(a) The commission finds that the stated grounds for the unfavor-**
29 **able recommendation are not valid grounds established as provided in**
30 **subsection (5) of this section; or**

31 **(b)(A) The applicant files a response that specifically addresses the**

1 **stated grounds for the unfavorable recommendation no later than 60**
2 **days after the commission notifies the applicant of the unfavorable**
3 **recommendation;**

4 **(B) The commission finds that the response by the applicant ade-**
5 **quately addresses the stated grounds for the unfavorable recommen-**
6 **dation; and**

7 **(C) At least four members of the commission vote to grant the li-**
8 **cense.**

9 **SECTION 5. Section 3 of this 2013 Act and the amendments to ORS**
10 **471.166 by section 4 of this 2013 Act apply to applications filed with the**
11 **Oregon Liquor Control Commission on or after the effective date of**
12 **this 2013 Act.**

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