

House Bill 2886

Sponsored by COMMITTEE ON RULES

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 governing body of 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. Sections 2 and 3 of this 2013 Act are added to and made a part of ORS**
6 **chapter 471.**

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

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

15 **(2) After public notice and hearing, the governing body of a local government may adopt**
16 **an ordinance, rule or resolution prescribing licensing guidelines to be followed in making**
17 **recommendations on license applications under this chapter and in allowing opportunity for**
18 **public comment on applications. If the guidelines are approved by the Oregon Liquor Control**
19 **Commission as consistent with commission rules, after public notice and hearing the gov-**
20 **erning body may adopt an ordinance, rule or regulation establishing a system of fees that is**
21 **reasonable and necessary to pay expenses of processing the written recommendation. Pro-**
22 **cessing fees under this subsection are in lieu of application fees under subsection (1) of this**
23 **section. A processing fee established under this subsection may not be more than:**

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

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

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

30 **(3) A person filing an application for issuance or renewal of a license under this chapter**
31 **must remit to the local government the application or processing fee established under sub-**

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 section (1) or (2) of this section. The commission is not responsible for collecting the fees
 2 charged by the local government or for ensuring that the fees have been paid. If an applica-
 3 tion is for renewal of a license, the commission shall notify the applicant of the amount of
 4 the fees and the name of the local government collecting the fees. The applicant for renewal
 5 of a license shall certify in the application form filed with the commission that the applicant
 6 has paid any fees required under this section.

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

8 471.166. (1) The Oregon Liquor Control Commission may require that every applicant for issu-
 9 ance or renewal of a license under this chapter acquire a written recommendation from the gov-
 10 erning body of the [*county if the place of business of the applicant is outside an incorporated city, and*
 11 *from the city council if the place of business of the applicant is within an incorporated city. The*
 12 *commission may take such written recommendation into consideration before granting or refusing the*
 13 *license.*] **local government. The commission shall consider any written recommendation made**
 14 **by the governing body of the local government before the commission grants or refuses the**
 15 **license.**

16 (2) If the commission requires that an applicant for issuance of a new license acquire [*the*] a
 17 written recommendation [*of*] **from the governing body of** a local government, the applicant must
 18 give notice to the local government when an application is made for issuance of the license. If the
 19 local government files a favorable recommendation **by its governing body** with the commission
 20 within 45 days after the notice is given, the commission shall proceed with consideration of the ap-
 21 plication. The commission shall proceed with consideration of the application as though the **gov-**
 22 **erning body of the** local government had made a favorable recommendation unless, within 45 days
 23 after notice is given to the local government:

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

26 (b) The local government files a request for additional time with the commission that sets forth
 27 the reason additional time is needed by the [*local government*] **governing body**, a statement that the
 28 [*local government*] **governing body** is considering making an unfavorable recommendation on the
 29 application, and the specific grounds on which the [*local government*] **governing body** is considering
 30 making an unfavorable recommendation.

31 (3) If the commission requires that an applicant for renewal of a license acquire [*the*] a written
 32 recommendation [*of*] **from the governing body of** a local government under this section, the com-
 33 mission shall give notice to the local government when an application is due for renewal of the li-
 34 cense. If the local government files a favorable recommendation **by its governing body** with the
 35 commission within 60 days after the notice is given, the commission shall proceed with consideration
 36 of the application. The commission shall proceed with consideration of the application as though
 37 the **governing body of the** local government had made a favorable recommendation unless within
 38 60 days after notice is given to the local government:

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

41 (b) The local government files a request for additional time with the commission that sets forth
 42 the reason additional time is needed by the [*local government*] **governing body**, a statement that the
 43 [*local government*] **governing body** is considering making an unfavorable recommendation on the
 44 application, and the specific grounds on which the [*local government*] **governing body** is considering
 45 making an unfavorable recommendation.

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

7 (5) The commission shall by rule establish valid grounds for [*unfavorable recommendations by*
 8 *local governments under this section.*] **an unfavorable recommendation under this section by the**
 9 **governing body of a local government.** Valid grounds established by the commission [*under this*
 10 *section*] for an unfavorable recommendation [*by*] **under this section by the governing body of a**
 11 local government must be limited to those grounds [*considered by*] the commission **may consider** in
 12 making an unfavorable determination on a license application.

13 [*(6) A person filing an application for issuance or renewal of a license that is subject to this section*
 14 *must remit to the local government the fees established under subsections (7) and (8) of this section.*
 15 *The commission shall give notice to the applicant for license renewal of the amount of the fees and the*
 16 *name of the local government collecting the fees. The commission is not responsible for collecting the*
 17 *fees charged by the local government or for ensuring that the fees have been paid. An applicant for a*
 18 *license renewal shall certify in the application form filed with the commission that the applicant has*
 19 *paid any fees required under this section.*]

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

24 [(8) *After public notice and hearing, the governing body of a city or county may adopt an ordi-*
 25 *nance, rule or resolution prescribing licensing guidelines to be followed in making recommendations*
 26 *on license applications under this chapter and in allowing opportunity for public comment on applica-*
 27 *tions. If the guidelines are approved by the commission as consistent with commission rules, after*
 28 *public notice and hearing the governing body may adopt an ordinance, rule or regulation establishing*
 29 *a system of fees that is reasonable and necessary to pay expenses of processing the written recommen-*
 30 *dation. Processing fees under this subsection are in lieu of fees under subsection (7) of this section. In*
 31 *no case shall the processing fee under this subsection be greater than \$100 for an original application,*
 32 *\$75 for a change in ownership, change in location or change in privilege application, and \$35 for a*
 33 *renewal or temporary application.*]

34 (6) **If a local government files a timely unfavorable written recommendation by its gov-**
 35 **erning body regarding an application, the commission must make an unfavorable determi-**
 36 **nation on the application unless:**

37 (a) **The commission finds that the stated grounds for the unfavorable recommendation**
 38 **are not valid grounds established as provided in subsection (5) of this section; or**

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

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

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

45 **SECTION 5. Section 3 of this 2013 Act and the amendments to ORS 471.166 by section 4**

1 **of this 2013 Act apply to applications filed with the Oregon Liquor Control Commission on**
2 **or after the effective date of this 2013 Act.**

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