

Enrolled Senate Bill 37

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CHAPTER

AN ACT

Relating to the refusal of the Oregon Liquor Control Commission to license an applicant; creating new provisions; and amending ORS 471.313.

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

SECTION 1. ORS 471.313 is amended to read:

471.313. The Oregon Liquor Control Commission may refuse to license any applicant under the provisions of this chapter if the commission has reasonable ground to believe any of the following to be true:

(1) That there are sufficient licensed premises in the locality set out in the application, or that the granting of a license in the locality set out in the application is not demanded by public interest or convenience. In determining whether there are sufficient licensed premises in the locality, the commission shall consider seasonal fluctuations in the population of the locality and shall ensure that there are adequate licensed premises to serve the needs of the locality during the peak seasons.

(2) That the applicant has not furnished an acceptable bond as required by ORS 471.311 or is not maintaining the insurance or bond required by ORS 471.168.

(3) That, except as allowed by ORS 471.392 to 471.400, any applicant to sell at retail for consumption on the premises has been financed or furnished with money or property by, or has any connection with, or is a manufacturer of, or wholesale dealer in, alcoholic liquor.

(4) That the applicant:

(a) Is in the habit of using alcoholic beverages, habit-forming drugs or controlled substances to excess.

(b) Has made false statements to the commission.

(c) Is incompetent or physically unable to carry on the management of the establishment proposed to be licensed.

(d) Has been convicted of violating [*any of the laws,*] **a** general or local[,] **law** of this state or another state, **or of violating a federal law**, if the conviction is substantially related to the fitness and ability of the applicant to lawfully carry out activities under the license.

(e) Has maintained an insanitary establishment.

(f) Is not of good repute and moral character.

(g) Did not have a good record of compliance with the alcoholic liquor laws of this state and the rules of the commission when previously licensed.

(h) Is not the legitimate owner of the business proposed to be licensed, or other persons have ownership interests in the business which have not been disclosed.

(i) Is not possessed of or has not demonstrated financial responsibility sufficient to adequately meet the requirements of the business proposed to be licensed.

(j) Is unable to read or write the English language or to understand the laws of Oregon relating to alcoholic liquor or the rules of the commission.

(5) That there is a history of serious and persistent problems involving disturbances, lewd or unlawful activities or noise either in the premises proposed to be licensed or involving patrons of the establishment in the immediate vicinity of the premises if the activities in the immediate vicinity of the premises are related to the sale or service of alcohol under the exercise of the license privilege. Behavior which is grounds for refusal of a license under this section, where so related to the sale or service of alcohol, includes, but is not limited to obtrusive or excessive noise, music or sound vibrations; public drunkenness; fights; altercations; harassment; unlawful drug sales; alcohol or related litter; trespassing on private property; and public urination. Histories from premises currently or previously operated by the applicant may be considered when reasonable inference may be made that similar activities will occur as to the premises proposed to be licensed. The applicant may overcome the history by showing that the problems are not serious or persistent or that the applicant demonstrates a willingness and ability to control adequately the premises proposed to be licensed and patrons' behavior in the immediate vicinity of the premises which is related to the licensee's sale or service of alcohol under the licensee's exercise of the license privilege.

SECTION 2. The amendments to ORS 471.313 by section 1 of this 2013 Act apply to licensing decisions made by the Oregon Liquor Control Commission on or after the effective date of this 2013 Act regardless of the license application filing date.

Passed by Senate February 7, 2013

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Robert Taylor, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House May 13, 2013

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Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2013

Approved:

.....M.,....., 2013

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M.,....., 2013

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Kate Brown, Secretary of State