

12-22

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Certificate and Order for Filing  
**PERMANENT ADMINISTRATIVE RULES**

I certify that the attached copies\* are true, full and correct copies of the PERMANENT Rule(s) adopted on December 17, 2010 by the  
Date prior to or same as filing date.

Oregon Liquor Control Commission

845

Agency and Division

Administrative Rules Chapter Number

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to become effective January 1, 2011 Rulemaking Notice was published in the September 1, 2010 Oregon Bulletin.\*\*  
Date upon filing or later Month and Year

**RULE CAPTION**

**Amend two rules to eliminate inconsistencies regarding minimum server age at temporary sales licensed events**

Note more than 15 words that reasonably identifies the subject matter of the agency's intended action.

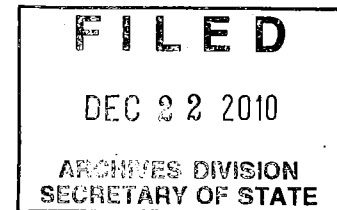
**AMEND: OAR 845-005-0440, 845-009-0010**

ORS Chapter 471, including 471.030, 471.040, 471.190 & 471.730(1) & (5)

Stat. Auth

ORS 471.190, 471.360, 471.365(2), 471.375 & 471.482

Stats. Implemented



**RULE SUMMARY**

OAR 845-005-0440 Temporary Sales Licenses: This rule describes the required qualifications for and privileges associated with the Commission's issuance of a Temporary Sales License (TSL). The rule was silent on the minimum required age for servers at these temporary sales licensed events.

To improve consistency and clarity around the requirements for these temporary events, staff proposed the addition of a new section (11) which states that alcohol servers must be at least 21 years of age with limited exceptions for the performance of non-alcohol related duties. These exceptions parallel those currently allowed for minor permittees (age 18 to 20) on an annually licensed premises.

OAR 845-009-0010 Service Permit Requirements:

This rule describes who is and isn't required to have a service permit. Because the rule language stated that all employees at a temporary sales licensed event must be at least 21 years of age without exception and did not distinguish between an employee and a volunteer, staff proposed deleting the minimum age requirement from this rule and instead including it in the Temporary Sales License rule (as stated above). Staff also proposed a couple of housekeeping amendments. The first deletes subsection (1)(d) since the current requirements for those who deliver wine, cider & malt beverages are now contained in OAR 845-006-0392 & -0396, which were amended as part of the implementation of the new Wine Shipper Permits in 2008. And the second creates a new subsection (2)(c) describing the statutory service permit exception for nonprofit or charitable organization TSLs.

Authorized Signer

Printed Name

Stephen A. Pharo

Date

12-17-10

\*With this original, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules.

\*\*The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 pm on the preceding workday.

OLCC 17-2010

**OREGON LIQUOR CONTROL COMMISSION**  
**CHAPTER 845**  
**TEMPORARY SALES LICENSES / SERVER AGE**  
**DIVISION 005**

**845-005-0440**

**Temporary Sales Licenses**

(1) A person must obtain from the Commission a license or authority to sell alcoholic beverages. ORS 471.405 establishes a prohibition on sale of alcoholic beverages without a license or authority. ORS 471.406 defines sale of alcoholic beverages. This rule sets the requirements for obtaining a Temporary Sales License.

(2) Definitions. For this rule:

(a) "License day" means from 7:00 am until 2:30 am on the succeeding calendar day. The license fee is \$50 per license day or for any part of a license day.

(b) "Nonprofit trade association" means an organization comprised of individual or business members where the organization represents the interests of the members and is registered with the state of Oregon as a nonprofit association.

(c) "Serious violation history" means:

(A) Two or more category III or IIIa administrative violations of any type, or category IV violations involving minors. However, if the circumstances of a violation include aggravation, one violation may be sufficient; or

(B) One category I, II or IIa administrative violation; or

(C) Two or more crimes or offenses involving liquor laws.

(d) "Bar" means a counter at which the preparation, pouring, serving, sale, or consumption of alcoholic beverages is the primary activity.

(e) "Food counter" means a counter in an area in which minors are allowed and at which the primary activity at all times is the preparation, serving, sale, or consumption of food.

(f) "Video lottery game" means a video lottery game terminal authorized by the Oregon State Lottery. Examples include but are not limited to video poker and video slots. Keno monitors are not considered a video lottery game.

(g) "Social game" means a game other than a lottery, if authorized by a local county or city ordinance pursuant to ORS 167.121, between players in a private business, private club, or place of public accommodation where no house player, house bank, or house odds exist and there is no house income from the operation of the social game.

(3) ORS 471.190 authorizes the Commission to issue a Temporary Sales License.

Temporary Sales Licenses are issued in increments of one license day. The Commission will not approve more than seven license days on a single application. The Commission may limit approval of any application to a single license day or to any number of license days fewer than seven days. The Commission may issue a Temporary Sales License only to applicants that qualify under the Commission's licensing standards and that are:

(a) A nonprofit or charitable organization that is registered with the state, including nonprofit trade associations where at least 51% of the total membership is comprised of persons that hold winery licenses issued under ORS 471.223 or grower sales privilege licenses issued under 471.227; or

- (b) A political committee that has a current statement of organization filed under ORS 260.039 or 260.042; or
  - (c) An agency of the State; or
  - (d) A local government or an agency or department of a local government; or
  - (e) Any applicant not described in (3)(a)-(3)(d) of this subsection, including licensees of the Commission.
- (4) A Temporary Sales License may authorize the licensee to sell wine, malt beverages and cider at retail for consumption on the licensed premises and for consumption off the licensed premises. All alcohol sold for consumption off the licensed premises must be in a manufacturer-sealed container that does not hold more than two and one-quarter gallons.
- (5) A Temporary Sales License may authorize the licensee to sell distilled liquor by the drink at retail for consumption on the licensed premises.
- (6) The Commission may authorize sales of manufacturer-sealed containers of wine, malt beverages or cider under a Temporary Sales License for the purpose of a raffle. The Commission shall issue a Temporary Sales License for the purpose of a raffle only to a nonprofit or charitable organization that is registered with the state.
- (7) Applicants must apply in writing for a Temporary Sales License, using the application form provided by the Commission. The Commission may require additional forms, documents, or information as part of the application. The Commission may refuse to process any application not complete, not accompanied by the documents or disclosures required by the form or the Commission, or that does not allow the Commission sufficient time to investigate it. Sufficient time is typically one to three weeks prior to the event date. The Commission may give applicants the opportunity to be heard if the Commission refuses to process an application. A hearing under this subsection is not subject to the requirements for contested case proceedings under ORS 183.310 to 183.550.
- (8) The application for a Temporary Sales License under this rule shall include:
- (a) A written, dated, and signed plan the Commission determines adequately manages:
    - (A) The event to prevent problems and violations;
    - (B) Patronage by minors as set out in subsection (9) of this rule; and
    - (C) Alcohol consumption by adults.
- An application is not complete if this plan is not approved by the Commission. The Commission may use subsection (7) of this rule to refuse to process any application that is not complete;
- (b) Identification of the individuals to be employed by the licensee to manage events on the licensed premises;
  - (c) Identification of the premises proposed to be licensed;
  - (d) Menu and proposal showing compliance with the food service standards of OAR 845-006-0465;
  - (e) Statement of the type of event to be licensed, type and extent of entertainment to be offered, expected patronage overall and by minors, type of food service to be offered, proposed hours of food service, and proposed hours of operation;
  - (f) The recommendation in writing of the local governing body where the licensed premises will be located;
  - (g) License fees as established by ORS 471.311.

- (9) A plan for managing patronage by minors under subsection (8)(a) of this rule must meet the following requirements:
- (a) If the Temporary Sales License will be on any part of a premises, room, or area with a permanent license issued by the Commission, the Commission must be convinced that the plan will follow the minor posting and control plan, including any temporary relaxation of the minor posting, assigned to that premises, room, or area under the permanent license. The Commission must also be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises prohibited to minors.
  - (b) If the Temporary Sales License will not be on any part of a premises, room, or area with a permanent license issued by the Commission, the Commission must be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises the Commission prohibits to minors.
- (10) Minors are prohibited from the licensed premises or portions of the licensed premises as follows;
- (a) Minors may not sit or stand at a bar; however, minors may sit or stand at a food counter;
  - (b) Minors may not be in an area where there is video lottery games, social games, or nude entertainment or where such activities are visible.
  - (c) Minors may not be in an area where the licensee's approved written plan designates that minors will be excluded.
- (11) Minimum Age of Servers. Alcohol servers at temporary sales licensed locations must be at least 21 years of age to sell or serve alcoholic beverages, with the following exceptions:
- (a) In areas of the licensed premises not prohibited to minors, persons who are 18, 19, and 20 years of age may:
    - (A) Take orders for, serve and sell alcoholic beverages for on-premises consumption if the activity is incidental to the selling or serving of food in that area of the licensed premises, and may sell alcoholic beverages in manufacturer-sealed containers for off-premises consumption; or
    - (B) Sell tokens/script, including verifying age, to be redeemed for alcoholic beverages or food at the event.
  - (b) In areas of the licensed premises prohibited to minors, persons who are 18, 19, and 20 years of age may deliver food, restock non-alcohol supplies and perform other non-alcohol related duties, however the person shall not remain in the prohibited area longer than is necessary to perform these duties.
- (12) Alcohol servers at locations licensed under subsections (3)(b)-(e) of this rule must hold valid service permits unless specifically exempted under authority of subsection (13) of this rule.
- (13) The Commission may waive the service permit requirement for the holder of a Temporary Sales License issued under subsections (3)(b)-(e) of this rule, and the licensee's alcohol servers, if:
- (a) The license is used only for package sales; or if
  - (b) The Commission concludes alcohol service by individuals who do not hold a service permit does not pose a significant risk for public safety problems or non-compliance with liquor laws; and

- (c) Each alcoholic beverage point-of-sale at the licensed location is staffed, at all times alcoholic beverages are being sold or served, by an individual who has completed a Server Education course successfully within 5 years prior to the date of the event.
- (14) At events licensed under subsection (3)(a) of this rule, before allowing alcohol servers to sell or serve alcoholic beverages, the licensee must ensure that all alcohol servers have met one of the following standards:
- (a) The alcohol server has a valid service permit or has successfully completed a Server Education course within 5 years prior to the date of the event, or
  - (b) The alcohol server has attended training provided by the licensee, and has read, signed and dated the Commission-provided brochure, What Every Volunteer Alcohol Server Needs to Know. The licensee-provided training must address the topics included in the brochure, including but not limited to: minors and proper checking of identification, and how to recognize and respond appropriately to visibly intoxicated persons. At any time while on duty, the alcohol server shall make the signed brochure available for immediate inspection by any inspector or investigator employed by the Commission or by any other peace officer.
- (15) If there are compliance problems with an operator or an event, the Commission may add other requirements for the education of servers at events licensed under this rule.
- (16) The Commission may deny, cancel or restrict a Temporary Sales License for any reason for which the Commission may deny, cancel or restrict a regular license.
- (17) The Commission may deny or restrict a Temporary Sales License if the applicant has a serious violation history at events previously licensed with a Temporary Sales License within the past 36 months.
- (18) The Commission shall limit the issuance of Temporary Sales Licenses to the same applicant at the same location to no more than 31 license days from January 1 to December 31 of each year, unless the Commission determines that the applicant would be eligible for an annual license based on the applicant's personal qualifications and the total number of license days at the same location does not exceed 60 in that calendar year.
- (19) The Commission may refund the Temporary Sales License fee if the application is withdrawn by the applicant or denied by the Commission, if the event does not take place because of circumstances beyond the applicant's control, or if the Commission determines the applicant does not need a license for the event proposed in the application.
- (20) When the Commission approves a written plan under subsection (8)(a) of this rule, the licensee must follow that written plan. Failure to follow that written plan is a category III violation.
- (21) If the licensee fails to prevent minors from gaining access to alcoholic beverages or fails to prevent minors from gaining access to any portion of the licensed premises prohibited to minors, the Commission may immediately prohibit minors from the licensed premises or portion(s) of the premises.

Stat. Auth.: ORS 471, including 471.030, 471.040, 471.190 & 471.730(1) & (5)

Stats. Implemented: ORS 471.190, 471.360 & 471.482

**OREGON LIQUOR CONTROL COMMISSION**  
**CHAPTER 845**  
**TEMPORARY SALES LICENSES / SERVER AGE**  
**PROPOSED AMENDMENT**

**845-009-0010**

**Service Permit Requirements**

(1) Who Needs a Service Permit. ORS 471.360 requires the following persons to have service permits:

- (a) Any person who mixes, sells or serves alcoholic beverages for consumption on licensed premises;
- (b) Any person who directly supervises persons who mix, sell or serve alcoholic beverages for consumption on licensed premises;
- (c) The individual principals of a licensed corporation or partnership who mix, sell or serve alcoholic beverages for consumption on licensed premises or who directly supervise those who do.

(2) Exceptions. The following are exceptions to the service permit requirement:

- (a) An individual named on the license as a licensee does not need a service permit;
- (b) ORS 471.360 allows the Commission to waive the service permit requirement if the licensee's primary business is not the sale or service of alcoholic beverages or food. Under this authority, the Commission waives the service permit requirement for Public Passenger Carriers whose primary business is transportation (for example airlines, and most trains), and does not waive the requirement for Public Passenger Carriers whose primary business is touring (for example tour boats in Oregon waters more than 30 days per calendar year, and small excursion-type railroads). The Commission waives the service permit requirement for some temporary licenses (see OAR 845-005-0440(9) (13), Temporary Sales Licenses).
- (c) Per ORS 471.190, employees and volunteers serving alcoholic beverages for a nonprofit or charitable organization with a temporary sales license are not required to have service permits (see OAR 845-005-0440(14), Temporary Sales Licenses).

(3) Authority to Sell and Serve Based on an Application:

- (a) ORS 471.375 allows some service permit applicants to begin selling or serving alcoholic beverages after the applicant completes an official service permit application and an authorized person as defined by 471.375 endorses and sends the application to the Commission;
- (b) The authority to sell or serve alcoholic beverages based on an application does not apply to any applicant:
  - (A) Who has had a service permit denied or cancelled within the three years before the current application;
  - (B) Who has had a service permit denied because they failed to complete the required alcohol server education program. When the applicant completes an alcohol server education course and passes the exam, the applicant may then sell and serve alcoholic beverages;
  - (C) Whose service permit application meets the criteria in OAR 845-009-0005, Return of Applications;
  - (D) Whose service permit is currently suspended.

Stat. Auth.: ORS 471, 471.030, 471.040, 471.190 & 471.730(1) & (5)

Stats. Implemented: ORS 471.190, 471.360, 471.365(2) & 471.375