



## OREGON LIQUOR CONTROL COMMISSION

The Commission proposes to adopt, amend and repeal rules in Division 5 & 6 regarding Food Service requirements:

### PUBLIC HEARING:

Commission staff will hold a public hearing on this proposed action:

**Date:** August 5, 2008  
**Time:** 10:00 am - Noon  
**Location:** Oregon Liquor Control Commission  
9079 SE McLoughlin Boulevard  
Portland, OR 97222

Phone: (503) 872-5004 (toll free within Oregon 1-800-452-6522)

Fax: (503) 872-5110

**Presiding Officer:** Jennifer Huntsman

(Auxiliary aids for persons with disabilities are available upon advance request)

**CAPTION: Adopt, amend, repeal rules modernizing and streamlining the food service requirements for full on-premises licenses**

The proposed rule amendments include specific recommendations from the Business Partners Joint Steering Committee such as: eliminating the minimum table size requirement; eliminating the "cook on duty" requirement; revising the definition of "distinctly different" to allow similar items with different ingredients or prepared differently (to allow for more flexibility); eliminating the requirement for table settings during meal times; and rather than relying on percentage of food vs. alcoholic beverage sales, clarifying what is considered minimum food service and applying it equally throughout the food service rules. With the goal of making all of the food service rules easier to understand and to follow, staff are proposing additional simplifying amendments including: revising the definition of "regular meal" to include more principal items and allow more flexibility with side dishes; eliminating the need for math calculations to figure out the minimum number of tables required by setting a fixed minimum for dining tables; eliminating the language regarding buddy bars; adopting a uniform food standard for all F-PL's (Full On-Premises Public Location Sales Licensees); clarifying what is considered "discouraging food service"; and creating a new definitions rule where the definitions of terms used throughout the food service rules are standardized.

You can obtain a copy of the proposed amendments by calling Susan Rudberg at 503-872-5105, or the toll-free number listed above. If you wish to give your views, arguments, or information on this matter, you may do so at the public hearing, or you can submit comments by August 19, 2008. You can also email your comments to: [jennifer.huntsman@state.or.us](mailto:jennifer.huntsman@state.or.us).

**Documents faxed, mailed or emailed must be received by 5:00 pm on August 19, 2008.**

ORS 183.335(2)(G) requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business. That comment must also be received by 5:00 pm on August 19, 2008.

The Commission reserves the right to request and receive additional comments at any time on or before the date the Commission takes final action on the proposed rule.

**Statutory Authority:** ORS 471, including ORS 471.030, ORS 471.040 & ORS 471.730(1) & (5)

**Other Authority:** None

**Statutes Implemented:** ORS 471.168, ORS 471.175, ORS 471.182, ORS 471.190(4) & ORS 471.313

**Need for the Rule(s):** This package contains the rules describing the food service requirements for the five categories of full on-premises sales licensees who are authorized to sell distilled liquor by the drink. As mandated by statute, there are certain food service requirements for: commercial establishments, private clubs, public passenger carriers, other public locations, and caterers. This package also contains the rules describing the food service requirements for TSL's (temporary sales licenses). The proposed rule amendments include specific recommendations from the Business Partners Joint Steering Committee such as: eliminating the minimum table size requirement; eliminating the "cook on duty" requirement; revising the definition of "distinctly different" to allow similar items with different ingredients or prepared differently (to allow for more flexibility); eliminating the requirement for table settings during meal times; and rather than relying on percentage of food vs. alcoholic beverage sales, clarifying what is considered minimum food service and applying it equally throughout the food service rules. With the goal of making all of the food service rules easier to understand and to follow, staff are proposing additional simplifying amendments including: revising the definition of "regular meal" to include more principal items and allow more flexibility with side dishes; eliminating the need for math calculations to figure out the minimum number of tables required by setting a fixed minimum for dining tables; eliminating the language regarding buddy bars; adopting a uniform food standard for all F-PL's (Full On-Premises Public Location Sales Licensees); clarifying what is considered "discouraging food service"; and creating a new definitions rule where the definitions of terms used throughout the food service rules are standardized.

**Documents Relied Upon, and where they are available:** Minutes of Advisory Committee meeting of November 15, 2007 available from the Commission's rules coordinator, Jennifer Huntsman, at 9079 SE McLoughlin Boulevard Portland, OR 97222.

**Fiscal and Economic Impact, including Statement of Cost of Compliance:** This statement takes into account the fiscal impact on (a) Full On-Premises sales licensees; (b) Temporary sales licensees; (c) local government; (d) state agencies; and (e) the public.

**(a) Full On-Premises sales licensees.** There should be no significant negative fiscal impact on any full on-premises licensee from the proposed rule amendments. Most impact, if any, on these licensees should be positive. This potential positive fiscal impact could be a result of proposed changes such as expanding the definitions of "meal" & "different", eliminating the requirement for dedicated food service employees (including a "cook on duty"), and no longer requiring the food preparation area to be separate from the bar and dining area. There is the potential for certain categories of Full On-Premises Public Location licensees to realize

a slight negative impact because of the amendment standardizing the number of different substantial food items required at five, which could be a small increase for the licensees who are not already exceeding the current requirements.

**(b) Temporary sales licensees.** There is the potential for temporary sales licensees to realize some negative impact because of the rule amendments standardizing the requirement for substantial food items and no longer allowing snack items or appetizers to be used to meet their minimum food requirement.

**(c) Local government.** The Commission does not anticipate any fiscal impact on local government from the proposed rule amendments.

**(d) State agencies.** The Commission does not anticipate any fiscal impact on state agencies from the proposed rule amendments.

**(e) The public.** The Commission does not anticipate any fiscal impact on the public from the proposed rule amendments.

**Cost of Compliance:** There should be no significant costs for anyone to comply with these amendments. There are no reporting or recordkeeping requirements required for compliance. There is no requirement for administration. As referenced above, some Full On-Premises Public Location licensees and Temporary Sales licensees have the potential for some increased costs in food preparation equipment or supplies, depending on what food choices they currently offer. However, the vast majority of full on-premises licensees have the potential for reduced costs in these same areas, plus the potential for a reduction in labor costs.

**Because there is not adequate information available to accurately project the fiscal impact, the Commission is unable to calculate the potential fiscal impacts.**

**How were small businesses involved in the development of this rule?** The Commission assumes all licensed businesses are small businesses. We invited licensees, industry representatives, and public safety representatives, including moderation groups, to the Advisory Committee meeting where this matter was discussed.

**Administrative Rule Advisory Committee consulted? Yes.** An Advisory Committee met on November 15, 2007. Members included industry representatives, licensees, and members representing moderation and public safety concerns. The Committee assisted in writing this Fiscal Impact Statement.

(This notice mailed July 1, 2008)