

For your information

The Oregon Liquor Control Commission has:

Amended
 Adopted
 Repealed

OAR 845-009-0135

Effective Date: January 1, 2012

Note: **Bold and underlined** = new text; *strikethrough and italics* = deleted text

845-009-0135

Responsible Vendor Program

(1) Purpose. ORS 471.344 requires the Commission to establish a Responsible Vendor Program (**program**) for retail licensees, including the positive measures a licensee must take to participate in the program. The purpose of this rule is to set standards and procedures for program participation.

(2) Definitions. For purposes of this rule,

(a) "Retail licensee" and "licensee" mean a retail licensee as defined in ORS 471.392;

(b) "Program" means "Responsible Vendor Program;"

(c) "Alcohol" means alcoholic beverages;

(d) "Employee" means any employee, corporate officer, volunteer, or other person whose responsibilities include the sale or service of alcohol.

*(3) (2) Application Process. **To be eligible for the program, a licensee must hold a liquor license that authorizes the sale of alcoholic beverages at retail.** Any ~~retail~~ **eligible** licensee who meets the program standards may participate. To apply for the program, the licensee must complete and submit a Commission-provided application form. Commission staff will review the application for completeness, and will:*

(a) Approve a completed application that clearly indicates the licensee has all program standards in place; put the application in the licensee's file; and send a certificate to the licensee acknowledging the licensee as an approved Responsible Vendor. The Responsible Vendor Program is a self-certifying program. The approval means only that staff has reviewed the application to

confirm that it is complete and that the licensee states in writing that he/she has all the program standards in place. The Commission may take administrative action if it learns that the licensee did not meet all the standards at the time of application; or

(b) Return an incomplete application that does not clearly indicate the licensee has all program standards in place. Staff will include a letter highlighting the reason/s the application is being returned.

~~(4)~~ **(3)** Program Standards. To qualify as a Responsible Vendor, a licensee must:

(a) Train each employee in alcohol sales. **For training purposes, an employee is any person whose responsibilities include the sale or service of alcohol.** Except for an on-premises employee who has a valid service permit, each employee must:

(A) Before selling alcohol, read and sign the Commission-provided off-premises brochure or, at the licensee's discretion, meet the alternative requirements of OAR 845-009-0130, Training Brochure Requirement for Off-Premises Sales Employees. Licensees must comply with the record keeping requirements of 845-009-0130; and

(B) Within three days of beginning to sell alcohol, receive training that covers at a minimum the topics listed in Section ~~(5)~~ **(4)** of this rule. Licensees may train their employees themselves; licensee's trainings do not require Commission approval. Licensees may also choose to use any clerk training course approved by the Commission under OAR 845-009-0145, Clerk Training Courses. Additionally, servers who have not completed a Server Education course must do so within the time required in 845-009-0100, Service Permittee Requirements.

(b) Accept only identification allowed in ORS 471.130.

(c) In an area visible to employees, post the house policies on alcohol sales and checking identification. The licensee must have each employee read and sign the house policies which must include at a minimum:

(A) A list of valid types of identification which are accepted at the premises;

(B) Directions for properly checking identification, including the requirement to check anyone who appears to be under the age of 26 years. A licensee may have a house policy to check customers who appear to be older than 26 years; and

(C) Consequences for selling alcohol to a minor.

(d) Permanently post signs reminding patrons and employees of the legal requirements for selling alcohol. The signs must include:

(A) A list of valid types of identification which are accepted at the premises;

(B) A notice that anyone who appears to be under the age of 26 years must show valid identification. A licensee may post that their house policy is to check customers who appear to be older than 26 years.

(e) At a minimum, provide four employee trainings spaced at regular intervals within each 12-month period. The licensee must ensure that employees attend the trainings. The licensee must keep a record of each training which includes the date of the training, names of the employees who participated, and a summary of the training. **The licensee must produce these training records for inspection by any Commission employee within five business days, excluding weekends and holidays.** Examples of training include computer based training, video training, classroom instruction, and meetings. The training may be done individually or in a group. At a minimum, each training must cover the topics listed in Section ~~(5)~~ **(4)** of this rule.

(f) Have no prior Category I or II violation within the last five years for the licensee personally.

(g) Have no *significant* aggravating circumstances surrounding a violation *by the licensee personally within the last year* for **failing to verify the age of a minor or selling alcohol to a minor.** **For purposes of this rule, aggravating circumstances do not include licensee's personal involvement in the violation.** Aggravating circumstances include, but are not limited to, *the licensee participating in or committing the violation (except as provided for under Section ~~(6)(e)~~ of this rule)*; an intentional sale to a minor; multiple employees or patrons involved in the violation; the violation results in death or personal injury; the sale was made to a person under age 18 who appeared to be under the age of 21 when the sale was made.

~~(5)~~ **(4)** Topics to be Covered in Responsible Vendor Training. All training required by this rule must include at a minimum the following topics:

(a) Guidelines for recognizing minors and visibly intoxicated persons;

(b) Legal forms of identification for purchasing alcohol;

(c) How to properly check identification, and how to recognize false or altered identification;

(d) The requirement that anyone who appears to be under the age of 26 years must show valid identification. If the licensee's house policy requires that they

check customers who appear to be older than 26 years, the licensee must include that information;

(e) Recommended approaches for refusing sales of alcohol to minors or visibly intoxicated persons;

(f) A review of the consequences for selling to minors, and the importance of not selling alcohol to minors or visibly intoxicated persons; and

(g) A review of house policies on alcohol sales. Each licensee must ensure that his/her employees receive training that covers the licensee's own house policies.

~~(6)~~ **(5)** Maintenance of Responsible Vendor Status. To retain Responsible Vendor certification, a licensee must:

(a) Continue to meet all of the qualifying standards listed in Section ~~(4)~~ **(3)** of this rule; **and**

~~(b) Continue to have no Category I or II violation by the licensee personally;~~

~~(c)~~ **(b)** Require an Off-Premises Sales employee who sold alcohol to a minor or failed to properly verify identification to complete a clerk training course as required by OAR 845-009-0145, Clerk Training Courses; require an on-premises employee who sold alcohol to a minor or failed to properly verify identification to complete a training course that covers all the topics listed in Section ~~(5)~~ **(4)** of this rule or a Commission-approved Alcohol Server Education course within 45 days of official Commission notification of the violation; ~~and~~

~~(d) Have had all Responsible Vendor standards in place at the time an employee or licensee sold alcohol to a minor or failed to properly verify identification; and~~

~~(e) Not personally sell alcohol to a minor more than one time in a two year period. There can be no significant aggravation surrounding the violation and all other elements of the program must remain in place.~~

~~(7)~~ **(6)** Sanctions. If the licensee's employee sells to a minor and the licensee is a certified Responsible Vendor who has all program standards in place, the Commission will not cancel the license of the licensee, or deny issuance of a license to the person who holds the retail license. The licensee will be eligible for reduced sanctions based on OAR 845-006-0500, Suspensions and Civil Penalties.

~~(8)~~ **(7) Licensee** Removal from Program and Reinstatement. **The licensee is removed from the program in the following circumstances:**

(a) For a sale to a minor or failure to properly verify identification by ~~an a~~ **licensee or** employee, if the licensee did not have all of the Responsible Vendor standards, **except for the posting requirements in subsection (3)(c) and (3)(d)**, in place at the time of the violation, ~~the licensee is removed from the program~~. The licensee may reapply for the program one year after the violation is ratified.

(b) For a *first* sale to a minor or *first* failure to properly verify identification by a licensee ~~personally or~~ **employee**, if ~~there is aggravation~~ **aggravating circumstances (as referenced in subsection (3)(g)) are present**, ~~the licensee is removed from the program~~. The licensee may reapply for the program in one year.

(c) For a second ~~violation involving~~ **sale to** a minor, ~~whether for sale of alcohol or~~ failure to properly verify identification by a licensee personally within a two year period, ~~and irrespective of which of the two formed the first violation, the licensee is removed from the program~~. The licensee may reapply for the program in one year.

(d) For a Category I or II violation by the licensee personally, ~~the licensee is removed from the program~~. The licensee may not reapply for the program. For a Category I or II violation by an employee, the licensee is removed from the program, but may reapply for the program in one year.

~~(e) If aggravating circumstances are involved in a sale to a minor or failure to properly verify identification by the licensee personally or by an employee, the licensee is removed from the program. The licensee may reapply for the program in one year.~~

Stat. Auth.: ORS 471, including 471.030, 471.040, **471.344** & 471.730(1) & (5)
Stats. Implemented: ORS 471.344

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