

OREGON LIQUOR CONTROL COMMISSION
CHAPTER 845
PROPOSED AMENDMENT – FINAL STAFF DRAFT

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

845-006-0340
Minor Postings

1) *Purpose*. The Commission is charged with regulating the sale of alcohol in a manner which protects the safety and welfare of the citizens, and ensures that alcohol is used legally. As a policy making body, the Commission has a responsibility to send a clear message to the community and its youth that drinking alcohol is an adult activity, and that drinking environments are for adults. ~~At the same time, the Commission recognizes the need to maximize opportunities for minors to eat at licensed premises while minimizing their exposure to drinking environments.~~ This rule applies only to licenses that allow on-premises **alcohol** consumption **including tastings, except for tasting areas at an Off-Premises license approved under OAR 845-006-0450.**

~~Note: Words or phrases followed by an asterisk (*) are defined in Section 8, Definitions, of this rule.~~

~~(2) When Minor Patrons are Allowed. Unless prohibited under Section 3, the Commission uses the criteria in this section to assign minor postings. The Commission allows minors on licensed premises where the license allows on-premises consumption only under the following circumstances:~~

~~(a) Minors may be in an area for the purpose of consuming food or refreshments during hours when eating predominates* in that area;~~

~~(b) Minors may be in concert halls* and at performing arts centers* for the purpose of attending a performance or lecture if drinking is minimal and allowed in lobby areas preceding the event and during intermissions, or if drinking is physically confined to areas prohibited to minors. The licensee must give the Commission a written security plan that convinces the Commission minors will not get alcohol;~~

~~(c) Minors may be in dance halls* for the purpose of attending a dance if drinking at the time of the dance is physically confined to areas prohibited to minors, and if alcohol service is incidental, and if:~~

~~(A) The areas where minors are allowed is lighted to allow effective monitoring of patron activity;~~

~~(B) The area where minors are allowed has minimal alcohol advertising or references;~~

~~(C) The area where alcohol is sold, dispensed and/or consumed is physically confined and is not visible from the area where minors are~~

~~allowed, or if visible, has substantial barriers to ensure minors will not obtain alcohol;~~

~~(D) The licensee has a Commission approved security plan that convinces the Commission minors will be in an environment that is consistent with section (1) of the rule, where they will not get alcohol, and that the licensee will employ sufficient staff to monitor patron activity.~~

~~(E) If a liquor law violation involving a minor occurs, the Administrator may require that additional control measures be added to the security plan before the next license renewal date.~~

~~(d) Minors may be in a foyer or similar area if the area does not have a drinking environment*;~~

~~(e) Minors may be in an area of a hotel, convention center, golf course, bowling alley, zoo, amusement park, museum, laundromat or bookstore where there is no drinking environment as defined in Section (8)(d)(B) of this rule, and where drinking is minimal;~~

~~(f) Minors may be in a separate game room if no alcohol is allowed in the room and if minors are otherwise allowed in the premises;~~

~~(g) Minors may accompany their parent or legal guardian in the tasting room or tasting area of an Off-Premises Sales, Winery, Brewery, brandy Distillery or business with a Grower Sales Privilege license;~~

~~(h) Minors may be in areas of an Off-Premises Sales, Winery, Brewery, brandy Distillery or business with a Grower Sales Privilege license where there is no drinking;~~

~~(i) Minors may be in an area prohibited to minors while in the immediate company of their spouse who is at least 21 years old, if the licensee permits it;~~

~~(j) Minors may be allowed in other circumstances where the licensee's operating plan is consistent with the intent of this rule, and the Administrator approves it. The Administrator periodically reports these circumstances to the Commissioners to determine whether clarifying rulemaking is needed.~~

(2) Definitions. For this rule:

(a) "Eating food is the predominant activity" means more people eat food than drink alcohol (or the Commission determines that the licensee has reasonably projected this).

(b) "Drinking environment" means:

(A) The predominant activity in the premises, room, or area is the consumption of alcoholic beverages; or

(B) There is a combination of conditions or factors in a premises, room, or area which make it likely that minors will obtain alcohol or which create an environment where drinking alcohol is or appears to be the predominant activity. Some examples could include but are not limited to cocktail tables, a bar, bar equipment and accessories, dim lighting, alcohol advertising, events or entertainment primarily targeted to adults, and events or operations where the monitoring of patron behavior is or could be insufficient to prevent minors from obtaining alcohol.

(c) "Recent serious violation history" means:

(A) Two or more category III or IIIa administrative violations, or category IV violations involving minors, at the premises by the applicant or licensee within the last two years. However, if the circumstances of a violation include aggravation, one violation may be sufficient; or

(B) One category I, II or IIa administrative violation at the premises by the applicant or licensee within the last two years; or

(C) The applicant or licensee has incurred an immediate license suspension at the premises within the last two years; or

(D) There are two or more crimes or offenses involving liquor laws within the last two years at the premises.

(d) "Civic group" means a non-profit corporation, association or political entity, or any authorized representative of a governmental entity. Examples are parent-teacher associations, Rotary and Toastmasters. Civic group does not include any group made up primarily of minors.

(e) "Stage revue" means a live performance with adult or sexual themes of a type usually performed on a stage, involving players performing such activities as skits, song, dance and comedy routines.

(f) "Minor" means a person under the age of 21.

(g) "Adult" means a person 21 years of age or older.

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

(i) "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.

(j) "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.

(k) “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) The Commission uses Section (5) to assign minor postings to a premises, room, or area where alcohol is consumed or where there is a drinking environment. When the facts do not clearly and convincingly meet the criteria for allowing minors, the Commission interprets the rule to prohibit minors. The Commission does not assign more than one type of minor posting to an area unless there are definable boundaries.

~~(3)~~ **(4) Exceptions. Even when allowed under the above circumstances: Even when minors are otherwise allowed under this rule:**

(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 a drinking environment during happy-hours or similar reduced-price drink hours;

~~(c) Minors may not be in a Number IV posted area except for the purpose of consuming food, and may not use entertainment devices in that area;~~

~~(d) Minors may not be in an area where there is video poker or other gambling (except parimutuel gambling, bingo, raffles, keno monitors, pull tabs and lottery scratch tickets authorized and regulated by the State of Oregon), nude entertainment or stage revues* which are often found in adult* drinking environments. Minors may not be in an area where this entertainment is visible;~~

~~(e) Section (3) of this rule does not apply to minor spouses, as provided in Section (2)(i) of this rule.~~

(c) Minors may not be in a room or area where there is entertainment which is often found in a drinking environment. Examples include but are not limited to: video lottery games; social games; stage revues; nude entertainment; and wet t-shirt events. Minors may not be in an area where this entertainment is visible.

~~(4)~~ **(5) Minor Postings.** The Commission uses the following minor posting signs to tell the public where minors are allowed or prohibited, and to assist licensees in controlling the presence of minors. **In those circumstances when the licensee’s operation would qualify for a Number III, IIIA, IV, or V minor posting, the licensee may have a Number I or II posting prohibiting minors.** ~~When the facts do not clearly and convincingly meet the criteria for allowing minors, the Commission interprets the rule to prohibit minors. The Commission does not assign more than one type of minor posting to an area unless there are definable boundaries. The following information is intended as general guidance to Commission staff.~~

(a) "No Minors Permitted Anywhere on This Premises", (Number I Minor Posting). The Commission *typically* assigns this posting to an entire premises where there is a drinking environment. ~~Some examples are taverns and one-room bars.~~ **An example could be a tavern.**

(b) "No Minors Permitted in This Portion of The Premises or at This Bar", (Number II Minor Posting). The Commission *typically* assigns this posting to rooms or areas of a premises where there is a drinking environment. Some examples ~~are~~ **could be** lounges, gambling rooms, the bar and other *drinking rooms or* areas **where drinking alcohol is the predominant activity.**

(c) "Minors Allowed in This Area", (Number III Minor Posting). The Commission *typically* assigns this posting to ~~areas or entire premises where eating or some other activity generally predominates over drinking~~ **a premises, room, or area where there is no drinking environment.** ~~The Commission does not assign this posting to areas where there is a drinking environment.~~ The Commission does not generally require the Number III sign to be physically posted. Minors may use entertainment devices ~~in Number III posted areas.~~ Some examples are restaurants, **and** dining rooms in premises with separate lounges, ~~hotel lobbies, bowling alley concourses and golf courses.~~

(d) "Minors Allowed From: ___ To: ___ (Hours) On: ___ (days)", (Number III-A Minor Posting). The Commission *typically* assigns this posting to allow minors in ~~restaurants or dining rooms~~ **a premises, room, or area** during times when ~~eating predominates and where there is not a~~ **no** drinking environment (as defined in Section (8)(d)(B)), and to prohibit minors during times ~~when more people are drinking alcohol than eating meals~~ **when there is a drinking environment.** Minors may use entertainment devices **during the times minors are allowed.** ~~Minors may not be in Number III-A posted areas after 9:00 p.m.~~ An example is a pizza parlor with karaoke ~~in an area that does not have a likeness to a tavern, bar or lounge (Section (8)(d)(B)), and eating predominates~~ **where there is no drinking environment** during some ~~hours~~ **times.** Minors are allowed in the area and may participate in karaoke during the ~~hours~~ **times** when ~~eating predominates, but minors are not allowed during the hours when eating does not predominate~~ **there is no drinking environment.**

(e) "Minors Allowed During These Hours Only. On: (days) from: ___ to: ___ and only for the purpose of consuming food, (Number IV Minor Posting). The Commission *typically* assigns this posting to an area or entire premises that often has a drinking environment to let minors consume food during times when eating **food is the predominates predominant activity.** **Eating food must predominate during all times when minors are allowed, even if minors are not present.** ~~An example is a tavern or pub where eating predominates over drinking during lunch or dinner.~~ **Minors may not use entertainment devices in this area.**

(f) "No Minors Permitted Unless with a Parent or spouse age 21 or over", (Number V Minor Posting). The Commission *typically* assigns this posting to ~~tasting~~ rooms **or areas where the only alcoholic beverages served or consumed are sample tastings of distilled spirits, wine, malt beverages or cider.** **For purposes of this rule, a sample tasting is defined as no more**

than one and a half ounces for wine or cider, three ounces for malt beverages, or one-quarter ounce for distilled spirits.

(g) “Minors Allowed in this Premises or in this Portion of this Premises as per the Licensee’s Written Control Plan Approved by the Commission” (Number VI Minor Posting). The Commission assigns this posting to a premises, room, or area where the type of activity varies and includes activities where the consumption of alcohol is not predominant. The Commission must be persuaded that the licensee’s control plan will prevent minors from obtaining alcohol and will also minimize minors’ exposure to a drinking environment. The Commission will not approve a control plan that proposes to allow minors in a premises, room, or area during times when the Commission determines that the predominant activity is the consumption of alcohol. The control plan must be in writing, dated and signed by the licensee, and approved by the Commission prior to operating with this posting. Some examples of premises that could qualify for this posting are a performing arts facility, a sports stadium, a fairground, and a convention center.

~~(5)~~ **(6)** Temporary Relaxation of Minor Postings. The Commission recognizes that under special, limited circumstances, it may be appropriate to allow minors in areas a premises, room, or area where minors are normally prohibited. ~~The Commission does this to meet a community need or to offer minors a controlled alternative to alcohol-oriented private parties.~~ Therefore, the Commission may grant a temporary relaxation of a minor posting for an occasional event held on a licensed premises. The licensee must submit a written and dated request to the Commission explaining the details of the temporary relaxation and how the licensee will prevent minors from obtaining alcohol and minimize minors’ exposure to a drinking environment. The licensee must obtain Commission approval prior to temporarily relaxing the minor posting.

(a) The Commission does not grant relaxations when:

(A) There has been a recent serious violation history* in the room, area or entire premises; or

(B) During the activity, the premises, room, or area has or will have entertainment described under section (4)(c) of this rule. ~~video poker or other gambling (except parimutuel gambling, bingo, raffles, keno monitors, pull tabs and lottery scratch tickets authorized and regulated by the State of Oregon), stage revues, wet t-shirt events, mud wrestling or nude entertainment which are often found in adult drinking environments.~~ The Commission does not grant relaxations if any of this entertainment is visible from the area where the activity is held.

(b) The Commission may temporarily allow minors into a normally prohibited area under these circumstances:

(A) The licensee needs additional space for overflow family dining for widely recognized holidays, such as Mother's Day, Father's Day and

Thanksgiving, and eating predominates **during all times when minors are allowed, even if minors are not present;**

(B) The activity is a ~~special~~ family **oriented** event held in a physically separate room or area. The general public is not allowed at the event. Some examples are wedding receptions and family reunions;

(C) The activity is sponsored and promoted by a civic group*. An example is a school-sponsored party. The following conditions apply:

(i) The group must make a written statement that no other facility in the community is available that can reasonably accommodate the activity;

(ii) A group may sponsor one activity at a licensed premises per quarter;

~~(iii) The licensed premises has no recent serious violation history*;~~

~~(iv) (iii)~~ All alcohol must be covered and may not be served or consumed in the room or area;

~~(v) (iv)~~ No imitation cocktails or non-alcoholic beer or non-alcoholic wine are allowed;

~~(vi) (v)~~ No alcohol advertising is visible; and,

~~(vii) (vi)~~ Minor posting signs which prohibit minors must be covered during the activity.

~~(c) If the Commission grants a relaxation and the licensee violates any of the conditions, it is a Category IV violation.~~

(c) When the Commission refuses to temporarily relax a minor posting, the licensee has a right to contest the decision. The licensee must comply with the assigned minor posting unless the refusal is overturned through the contested case process.

~~(6)~~ **(7)** *Temporary and Permanent Changes to Minor Postings:*

~~(a) A licensee may not change a minor posting without prior written approval of the Commission. A licensee must submit a change request in writing. The Commission approves or denies a licensee's request in writing.~~

~~(b) The Commission may change a minor posting if:~~

~~(A) The posting is inconsistent with this rule;~~

~~(B) A licensee requests a posting that is consistent with this rule; or~~

~~(C) As a result of a liquor law violation, minors should be prohibited.~~

(a) The Commission may change a minor posting at any time if:

(A) The existing posting is inconsistent with this rule;

(B) There has been a recent serious violation history in the premises, room, or area; or

(C) The Commission determines that the control plan that is the basis for the minor posting is not adequate to control the premises, room, or area.

(b) When the Commission changes a minor posting, the licensee has a right to contest the decision. The licensee must comply with the changed minor posting unless the change is overturned through the contested case process.

(c) A licensee may not change a minor posting or the control plan on which a posting is based without prior written approval of the Commission. A licensee must submit a change request in writing. The Commission approves or denies a licensee's request in writing.

(d) The Commission may refuse a licensee's request to change a minor posting or control plan when:

(A) The requested posting is inconsistent with this rule;

(B) There has been a recent serious violation history in the premises, room, or area; or

(C) The Commission determines that the proposed control plan is not adequate to control the premises, room, or area.

(e) When the Commission refuses a licensee's request to change a minor posting or control plan, the licensee has a right to contest the decision. The licensee must comply with the assigned minor posting unless the refusal is overturned through the contested case process.

(8) Control Plan:

(a) A control plan submitted by an applicant or licensee must be in writing, dated, and signed.

(b) The control plan must explain how the applicant or licensee will prevent minors from obtaining alcohol and also minimize minors' exposure to a drinking environment. Examples of elements in a control plan could include but are not limited to: amount and type of bar equipment and accessories; alcohol advertising; how identification will be checked; methods for identifying minors or adults (such as with wristbands);

lighting; ratio of licensee's staff to patrons; drink identification; drink limits; container sizes; if minor patrons are allowed without parent or guardian; separation of minors from alcohol; types and amount of food service; defined times when minors are allowed; type of activity or entertainment; posting signs explaining where and when minors are allowed; addressing unique requirements of the premises, room, or area; addressing the history of compliance with liquor laws and rules at the premises, room, or area; the projected average age of attendees at the event; and a plan for dealing with issues that arise (such as a minor in a prohibited area, a minor with fake identification, a minor found with alcohol, etc.).

(c) When the Commission approves a control plan that is the basis to assign a minor posting or temporarily relax a minor posting, the licensee must follow that control plan. Failure to follow that control plan is a Category III violation.

(d) The licensee must keep the control plan that was the basis to assign a minor posting and last approved by the Commission on the licensed premises and make the control plan available at any time for immediate inspection by any Commission employee or any peace officer. Failure to comply with this requirement is a Category IV violation.

(7) **(9)** Licensee Responsibilities:

(a) The burden is on the licensee to convince the Commission that *"eating predominates"*, ~~that~~ the premises does not have a "drinking environment" or that *drinking is minimal* **"eating food is the predominant activity" where those standards apply;**

(b) The licensee is responsible for developing and completing any required written *security* **control** plan;

(c) A licensee must **use the minor posting signs provided by the Commission and** place minor posting signs in full public view as directed by the Commission. A licensee must immediately replace any altered, unreadable or missing sign. Failure to do so is a Category V violation.

(8) *Definitions. For this rule:*

~~(a) "Eating predominates" means at least two of the following conditions exist in the area proposed for minor patronage during the time minors are present:~~

~~(A) More people eat meals than drink alcohol (or the licensee reasonably projects this);~~

~~(B) Gross sales of food exceed gross sales of alcohol (or the licensee reasonably projects this);~~

~~(C) More floor or table space is used for eating meals than for drinking alcohol.~~

~~(b) "Concert hall" and "performing arts center" mean a premises offering live performances of the arts such as music, dance, theater, or lectures where fixed seating is provided in the performance room for each ticket holder and there is no location provided for patron dancing.~~

~~(c) "Dance hall" means a premises or a portion of the premises which is not ordinarily used as a dining area, and where music is provided and where minors patrons or patrons of all ages are provided a location where they may dance.~~

~~(d) "Drinking environment" means:~~

~~(A) More people drink alcohol than eat meals; or~~

~~(B) There is a combination of conditions and factors which collectively create a likeness to a tavern, bar or lounge. Examples are cocktail tables, a bar, bar equipment and accessories, dance floor, dim lighting, alcohol advertising, entertainment devices, games, music and multiple televisions.~~

~~(e) "Recent serious violation history" generally means two violations involving minors, visibly intoxicated people, illegal activities, disorderly conduct or drinking on duty. However, if the circumstances of a violation are severe, one violation may be sufficient. Recent means within the last two years while operating with a liquor license.~~

~~(f) "Civic group" means a non-profit corporation, association or political entity, or any authorized representative of a governmental entity. Examples are parent-teacher associations, Rotary and Toastmasters. Civic group does not include any group made up primarily of minors.~~

~~(g) "Stage revue" means a live performance with adult or sexual themes of a type usually performed on a stage, involving players performing such activities as skits, song, dance and comedy routines.~~

~~(h) "Adult" means 21 years of age or older.~~

~~(9)~~ **(10)** Other Information on Minor Postings.

(a) This rule does not apply to a premises with a temporary license that is not on any part of a premises with a permanent license issued by the Commission. Examples of a temporary license or authority include: a Temporary Sales License issued under ORS 471.190; a Special Events Winery license issued under ORS 471.223; a Special Events Grower license issued under ORS 471.227; and a temporary use of an annual license issued under OAR 845-005-0410.

~~(a)~~ **(b)** The Commission does not usually assign minor postings in:

(A) Private clubs **licensed as per ORS 471.175;**

(B) Pre-approved small-scale private catered events as per OAR 845-005-0405 and pre-approved large-scale private catered events as per OAR 845-005-0410.

(B) Catered and temporary events;

~~*(C) Areas of annually licensed businesses which are used for a variety of events, except those areas where there is a drinking environment as defined in paragraph (8)(d)(B). Some examples are convention centers, sports arenas, operations with banquet rooms, and multi-use outdoor areas; or*~~

~~*(D) Designated tasting areas in Off-Premises Sales licensed premises that are not used primarily for tasting.*~~

~~(b)~~ **(c)** However, the Commission may assign a minor posting to these businesses for the following reasons:

(A) To prevent violations from occurring or reoccurring; **or**

(B) In response to the licensee's request; ~~or~~

~~*(C) To manage special events on annually licensed premises. However, the Commission generally regulates the presence and activities of minors on these premises by placing conditions and/or restrictions on the license, or by approving or rejecting the licensee's control plan for premises and patron management.*~~

~~(c)~~ **(d)** Minor Postings apply 24 hours a day, **including when the premises is closed to the public or the liquor license is suspended.**

(e) Notwithstanding other provisions, a minor in the immediate company of his/her spouse who is at least 21 years old may be in a premises or area where minors are prohibited if the licensee permits it. The minor must not buy, possess, or drink alcoholic beverages.

(f) Notwithstanding other provisions, a minor may be in a room or area if the sale, service, and consumption of alcohol is prohibited at all times from the room or area, there is never a drinking environment in the room or area, and minors are otherwise allowed in the premises.

~~*(10) Hearing Rights. If Commission staff deny a licensee's written request to change or temporarily relax a minor posting, the licensee has the right to a hearing to contest the decision. However, the licensee must comply with the decision unless the Commission issues a final order which reverses the staff decision.*~~

Stat. Auth.: ORS 471 including ORS 471.030, **471.430(3)**, 471.730(1) & (5)
Stats. Implemented: ORS 471.430(3)