

- **PERMANENT ADMINISTRATIVE ORDER**

- LOTT 9-2018
- CHAPTER 177
- OREGON STATE LOTTERY

FILING CAPTION: Amends floor space requirements when determining if establishment is operating as casino

EFFECTIVE DATE: 10/17/2018

AGENCY APPROVED DATE: 09/28/2018

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RULES:

177-040-0061, 177-045-0000, 177-045-0030

AMEND: 177-040-0061

RULE TITLE: Casino Prohibition

NOTICE FILED DATE: 08/24/2018

RULE SUMMARY: The Oregon Lottery is amending the administrative rules related to the specific amount of square footage a Video Lottery retailer is required to have per Video Lottery terminal and the ratio of floor space a Video Lottery retailer must dedicate to Video Lottery terminals.

The amendments remove the requirement that the amount of floor space dedicated for the use of Video Lottery games is 20 percent or less of the establishment's total floor space and remove the requirement that each Video Lottery retailer have a minimum amount of retail floor space for each Video Lottery game terminal. The amended rules do not change the other relevant factors that the Director must consider when making a final determination as to whether an establishment, taken as a whole, is operating as a casino or within statutorily prescribed limits on the number of Video Lottery terminals that may be placed on a premise.

RULE TEXT:

(1) General: The operation of a casino is constitutionally prohibited in the state of Oregon. It is the policy of the Oregon State Lottery to place Video Lottery terminals only in an establishment that does not operate as a casino. The purpose of this rule is to provide a framework and a process for determining when an establishment is operating or may operate as a casino. This framework and process are in addition to other methods the Oregon State

Lottery uses to prevent Video Lottery retailers from operating an establishment as a casino. Other methods include, but are not limited to:

- (a) A limit on the number of Video Lottery terminals in any establishment;
- (b) Limiting public view of Video Lottery terminals;
- (c) A limitation on certain advertising and promotional activities by retailers; and
- (d) Considering the sale of Lottery tickets and shares by retailers an adjunct to their businesses.

(2) Definitions: For purposes of this rule:

(a) "Establishment" means any single location in which Video Lottery games are operated or which is identified in a Video Lottery Retailer Application as the proposed site for such activity. An establishment must be owned or operated by a person licensed to sell alcoholic beverages for consumption in a specific age-controlled area of the establishment. The final determination of what constitutes an establishment shall be made by the Director.

(b) "Total Annual Lottery Compensation" means the actual, or in the case of an applicant, the reasonably projected total annual compensation received from the Lottery for the sale of all Lottery tickets and shares at the establishment over a selected twelve-month period, including, but not limited to, compensation resulting from participation in Lottery incentive and bonus programs, as described in the Retailer Contract, other than those programs awarding bonuses on the basis of the sale of winning and validated Scratch-it or On-Line tickets for which a prize of \$10,000 or more is paid.

(c) "Annual Non-Lottery Sales" means the actual, or in the case of an applicant, the reasonably projected revenue from the sale of products or services other than Lottery tickets and shares to retail customers at the establishment over a selected twelve-month period. Projected sales will only be deemed reasonable if they are based on a detailed business plan which is fact and evidence based or meets industry standards for business plans. Only the sale of products or services to retail customers in return for which the establishment receives cash or any instrument evidencing cash consideration shall be included in the calculation of annual non-Lottery sales. Examples of products and services not considered for annual non-Lottery sales for purposes of this rule include, but are not limited to:

(A) The sale of products or services which are not usually sold by or associated with the type of retail establishment being reviewed. For example, the sale of a car by a tavern would not be included;

(B) The wholesale sale of products. "Wholesale" means the sale of goods in quantity, as to retailers or jobbers, for resale to the public. This includes the sale or transfer of cigarettes or other products between two or more establishments operated by the same retailer;

(C) The gifting of complimentary or promotional products; or the value of promotional discounts/coupons;

(D) The retail sale of products or services sold or rendered outside of the establishment (such as catering) unless the work is substantially completed at the establishment and the services are provided substantially by employees of the establishment;

(E) The sale of products or services for which the retailer receives a commission, except that the amount of the commission received may be considered; and

(F) Income from other than the sale of a product or service (such as a cover charge) will not be included in the calculation of annual non-Lottery sales.

(3) Director's Casino Determination: The Director shall determine whether an establishment is operating or may operate as a casino before entering into a Video Lottery contract for that establishment. The Director may also initiate a review of an existing Video Lottery retailer whenever the Director has reason to believe that an establishment is operating as a casino, or may operate as a casino. The Director may rely on whatever resources and information are available in deciding to initiate a review of an existing Video Lottery retailer. A Video Lottery retailer, or person applying to become a Video Lottery retailer, has the burden of proof to show to the satisfaction of the Director that an establishment is not operating, or will not be operating, as a casino. The Director's determination is final.

(4) Conclusive Evidence that an Establishment Is Not a Casino: The following establishments are not casinos for purposes of this rule:

(a) An establishment whose annual non-Lottery sales are at least 50 percent of the establishment's total income as defined in section (5) of this rule. This subsection does not apply if the Director determines that the establishment is a convenience store or a business not normally associated with the on-premise consumption of food and alcoholic beverages as described in OAR 177-045-0030(2).

(b) A private club as described in ORS 471.175 so long as the private club is not engaged exclusively in the business of selling Lottery tickets and shares.

(5) Income Analysis: In determining whether an establishment meets the criteria set forth in subsection (4)(a) of this rule, the Director shall conduct an income analysis as set forth below.

(a) General: The Director shall conduct a review of the establishment's total income which, for the purpose of this rule, shall equal the sum of the establishment's total annual Lottery compensation and the establishment's annual non-Lottery sales. For a person applying to become a Video Lottery retailer, the Director shall conduct a review of the establishment's projected total income which, for the purposes of this rule, shall equal the sum of the establishment's projected total annual Lottery compensation and the establishment's reasonably projected annual non-Lottery sales. If the review of an establishment's total income shows that the establishment's annual non-Lottery sales are less than 50 percent of

total income or projected total income, and there is no conclusive evidence that the establishment is not a casino as explained in section (4) above, the Director shall consider other factors as set forth in section (6) below in determining whether the establishment is operating or may operate as a casino. The twelve-month period selected for the review will be chosen by Lottery staff. The ratio of an establishment's total annual Lottery compensation to its total income shall be determined by dividing the establishment's total annual Lottery compensation by the sum of:

(A) The establishment's actual, or in the case of an applicant, reasonably projected annual non-Lottery sales; and

(B) The establishment's actual or projected total annual Lottery compensation.

(b) CPA Review: The retailer or applicant may request that a Certified Public Accountant (CPA), engaged and paid for by the retailer or the applicant, verify the accuracy of the Lottery's calculation of the retailer's annual non-Lottery sales or the applicant's reasonably projected annual non-Lottery sales. The CPA must use procedures specified by the Lottery and document his or her analysis as required by the Lottery. The Director may consider the CPA's analysis in making the final determination.

(c) Director's Determination: The final determination of the ratio of an establishment's actual or projected total annual Lottery compensation to the establishment's actual or projected total income shall be made by the Director.

(d) Business Records: For the purposes of this rule, a Lottery retailer must acquire, compile, retain, and make readily available to the Lottery all business sales and expense records that are pertinent to the calculation and determination of the establishment's total income for a period of 24 months. Required records of the gross non-Lottery sales must be detailed and correct including, but not limited to, records of the cost, price and amount of goods sold, bank statements, records of daily sales, and other relevant sales records. Lottery staff shall be allowed to perform examinations of these records, and make any copies necessary to complete the review. Records and accounting information must be provided, at the retailer's expense, in any form or format reasonably requested by Lottery staff. Retailers operating multiple establishments must maintain separate and complete records as specified in this subsection for each establishment they operate. In the absence of adequate records, Lottery staff will make a reasonable estimate of annual non-Lottery sales based on available records and information. In making a reasonable estimate, the Lottery will only rely on records and information that the Director concludes are credible and accurate.

(6) Factors to Consider: If the income analysis indicates that the establishment's annual non-Lottery sales are less than 50 percent of total income or projected total income, and there is no conclusive evidence that the establishment is not a casino as explained in section (4) above, the Director shall consider additional relevant factors such as those described below to make a final determination whether the establishment, taken as a whole, is operating as a casino or may operate as a casino. Such factors include, but are not limited to:

(a) History: The history of the establishment's operation, or lack of history. If, for example, an establishment has a longstanding history as a neighborhood pub or a family restaurant, this factor may demonstrate that the establishment is not operating as a casino.

(b) Appearance: The appearance of the premises, as perceived by a reasonable person and determined by the Director, as it relates to the type of establishment. If, for example, a reasonable person, as determined by the Director, would perceive the establishment to be a place to eat, drink, socialize, and engage in a variety of activities or forms of entertainment, this factor may demonstrate that the establishment is not operating as a casino.

(c) Food Service Accoutrements: The availability of menus, dining tables and chairs, tableware for the consumption of food and beverages, and other accoutrements intended specifically for use by patrons for eating and drinking. For example, an ample number of tables and chairs, proportionate to the size of the area, that are set up with napkins, salt and pepper, etc., and are available to patrons for eating and drinking, combined with the availability of food and beverages, the staff and means to cook, prepare and serve food and beverages, the availability of tableware, a menu or reader board, may demonstrate that the establishment is not operating as a casino.

(d) Meals and Menus: The number and variety of meals and menu items available on a daily basis. For example, serving two meals per day, such as lunch and dinner, and a variety of entrees and side dishes for each meal, as opposed to serving only one or two items, or only a variety of sandwiches, throughout the day, may demonstrate that the establishment is not operating as a casino.

(e) Non-Lottery Products and Entertainment: The number and variety of non-Lottery products and forms of entertainment available. If, for example, an establishment offers snacks, gum, and cigarettes for sale, and has pool, darts, and live music and dancing, as opposed to only one or two products or services, this factor may demonstrate that the establishment does not operate as a casino. This factor acknowledges that a retailer's efforts to sell or serve non-Lottery products or services are not always successful. The mere fact that the non-Lottery products or services are readily available, as evidenced by observation and records, is a factor.

(f) Business Name: The name of the business. For example, if the business name does not contain words, references or allusions to gambling or gambling related objects or activities, good luck or good fortune, or winning, directly or indirectly, this factor may demonstrate that the establishment does not operate as a casino.

(g) Advertising: Advertising and promotional activities. If, for example, the retailer advertises food and other non-Lottery products, services or forms of entertainment at least equivalent to advertising for Lottery products; and, if the retailer offers promotions, such as discount coupons for food and other non-Lottery products at least equivalent to promotional activities related to Lottery products, this factor may demonstrate that the establishment does not operate as a casino.

(h) Records: The retailer's financial records. If the retailer's financial records, including expenses, show that the volume of non-Lottery products and services sold, and the number and variety of non-Lottery forms of entertainment made available to patrons is greater than indicated by the establishment's annual non-Lottery sales, this factor may demonstrate that the establishment does not operate as a casino.

(i) Atmosphere: The general atmosphere of the establishment and the attitude and approach of the retailer. If the retailer, and the retailer's employees encourage and promote food and beverage service; if the general environment is clean and inviting to patrons for purposes of dining or engaging in entertainment activities; if the retailer and the retailer's employees are equally courteous and accommodating to non-Lottery playing patrons as they are to those playing Lottery games; and if the retailer demonstrates cooperation with the Lottery and approaches this matter with a demonstrated willingness to keep the establishment in compliance, this factor may demonstrate that the establishment does not operate as a casino.

(7) Compliance Plan:

(a) General: For purposes of selling Video Lottery tickets and shares, the Lottery Director shall determine whether a Lottery retailer is operating an establishment as a casino, or in the case of an applicant, will be operating as a casino in violation of this rule. When the Director determines that an existing Video Lottery establishment is operating as a casino pursuant to review under section (6) of this rule, the Director shall notify the retailer of the determination in writing, and set forth the reasons for the determination. The Director shall provide the retailer the opportunity to develop and implement a plan to bring the establishment into compliance with this rule within six months from the date of this written notification. The plan must be submitted within 30 days from the date the notification is issued by the Lottery. The plan shall include an analysis of the retailer's business operation to show that the retailer has made a reasonable determination of what changes need to be made and the steps the retailer intends to take to bring the establishment into compliance. A retailer may not restrict access to any Lottery game to achieve compliance with this rule without prior written approval from the Director. The retailer's submission of the plan is for the purpose of demonstrating to the Lottery that the retailer seeks to bring the establishment into compliance. The Lottery will review the retailer's plan and may offer guidance to help the retailer bring the establishment into compliance. The retailer is solely responsible for implementing the plan and for its success or failure during the six month period.

(b) Four Month Review: At the end of the first four months of the six-month period, the Lottery will review the retailer's progress toward compliance, and may provide the retailer with factual information, analysis, or recommendations if it appears to Lottery staff that doing so will assist the retailer in bringing the establishment into compliance.

(c) Determination at End of Six-Month Period: At the end of the six-month period, the Director shall determine whether the establishment is in compliance. A retailer shall be deemed to be in compliance if either:

(A) The establishment's total Lottery compensation was not more than 50 percent % of the establishment's total income, as set forth in section (5) of this rule, over the entire six-month period; or

(B) Based upon an analysis of some or all of the factors set forth in section (6) of this rule, or other additional factors, the Director determines that the establishment is not operating as a casino.

(d) Sixth Month: If the establishment's total Lottery compensation was not more than 50 percent of the establishment's total income, as set forth in section (5) of this rule, for the sixth month of the plan (but not the entire six months), the Director may extend the original six month period of the compliance plan up to three additional months if, in the opinion of the Director, the retailer will become compliant within that time. At the end of the additional time period, the Director shall determine whether the establishment is in compliance based upon subsection (7)(c) of this rule.

(e) Termination: If, at the end of the compliance period, the Director determines that the establishment continues to operate as a casino, the retailer's contract to sell Video Lottery tickets and shares shall be immediately terminated.

(f) One Year Review: If, at the end of the compliance period, the Director determines that the establishment is no longer operating as a casino, the Director shall send a notice of compliance to the retailer. At the end of one year commencing on the first day of the month following notification of compliance, the Lottery will conduct another compliance review as set forth in this rule. If the Director determines that the establishment is again operating as a casino, the retailer's contract to sell Video Lottery tickets and shares shall be immediately terminated. The retailer shall not be given the opportunity to implement a compliance plan as described in subsections (7)(a), (b), (c), and (d) of this rule in these circumstances. Nothing in this subsection prohibits the Director from initiating another review at any time as set forth in section (3) of this rule.

(g) Application Denial: If a person applying to become a Video Lottery retailer is projected by the Lottery not to be in compliance with the requirements of this rule, the Director shall deny the application.

(8) Re-Application: Re-application after an application denial is covered under OAR 177-040-0010(8). Re-application after a contract termination is covered under OAR 177-040-0120.

STATUTORY/OTHER AUTHORITY: ORS 461

STATUTES/OTHER IMPLEMENTED: OR Const. Art. XV, § 4(4), ORS 461.215, 461.217

AMEND: 177-045-0000

RULE TITLE: Definitions

NOTICE FILED DATE: 08/24/2018

RULE SUMMARY: The Oregon Lottery is amending the administrative rules related to the specific amount of square footage a Video Lottery retailer is required to have per Video Lottery terminal and the ratio of floor space a Video Lottery retailer must dedicate to Video Lottery terminals.

The amendments remove the requirement that the amount of floor space dedicated for the use of Video Lottery games is 20 percent or less of the establishment's total floor space and remove the requirement that each Video Lottery retailer have a minimum amount of retail floor space for each Video Lottery game terminal. The amended rules do not change the other relevant factors that the Director must consider when making a final determination as to whether an establishment, taken as a whole, is operating as a casino or within statutorily prescribed limits on the number of Video Lottery terminals that may be placed on a premise.

RULE TEXT:

For purposes of OAR chapter 177, division 45, the following definitions apply except as otherwise specifically provided in OAR chapter 177 or unless the context requires otherwise:

(1) "Concentration of Video Lottery retailers" means:

(a) More than three Video Lottery retailers in a strip mall that has seven or fewer retail spaces or storefronts;

(b) More than four Video Lottery retailers in a strip mall that has eight to nine retail spaces or storefronts;

(c) More than five Video Lottery retailers in a strip mall that has ten to eleven retail spaces or storefronts; or

(d) More than six Video Lottery retailers in a strip mall that has twelve or more retail spaces or storefronts.

(2) "Convenience store" means a retail business which offers a relatively limited line of high-volume products, and the majority of the products are for consumption off the premises.

(3) "Equipment" means all equipment placed by the Lottery or a Lottery vendor on a retailer's premises including, but not limited to, Video Lottery game terminals and all equipment necessary for their operation, player-operated vending machines, validation terminals, Lottery sales terminals, display equipment, and interior and exterior signage.

(4) "Grocery store" means a retail business at which food and foodstuffs are regularly and customarily sold in a bona fide manner for consumption off the premises, and shall include supermarkets and one-stop shopping centers which contain a grocery section in addition to offering other wares, goods, and services.

(5) "Movie theater" means a business or premises where movies or motion pictures are shown for patrons, whether in a traditional stadium seating style or otherwise. Movie theater does not

include other areas of the same business or premises that are physically separated by a floor to ceiling wall, partition, curtain, or other means, from the movie theater area, and where food and alcoholic beverages are sold and served for consumption on the premises.

(6) "Occurrence" means an accident, incident, or a series of accidents or incidents arising out of a single event or originating cause and includes all resultant or concomitant losses. Each loss by earthquake, flood, freeze, or windstorm will constitute a single occurrence. If more than one earthquake or flood occurs within any 72-hour period, the State of Oregon will determine the moment when the time period began.

(7) "Player-operated vending machine" means an electrical, electronic, or electro-mechanical device that dispenses Scratch-it or other Oregon Lottery tickets directly to a consumer upon payment of the appropriate purchase price.

(8) "Premises" has that definition as used in OAR 177-040-0000(6).

(9)(a) "Restricted visibility" means Video Lottery game terminals cannot be seen from areas outside the business or from areas inside the business where minors are permitted to linger, except in an incidental or negligible way. Under certain circumstances, Oregon Liquor Control Commission rules may permit minors in the same area as a properly placed Video Lottery game terminal. This rule is not intended to override any OLCC exception.

(b) "Incidental or negligible way" includes, but is not limited to:

(A) The Video Lottery game terminals may be glimpsed through an open doorway by passersby, except that minors may not be permitted to linger in the open doorway;

(B) The Video Lottery game terminals may be seen by persons intentionally looking closely through a sight restricted window, door, curtain or other object intended to restrict visibility; or

(C) The Video Lottery game terminals may be seen by persons passing by the Video Lottery play area to get to restrooms, except that minors may not be permitted to linger in an area from which the Video Lottery game terminals can be seen.

(10) "Same or commingled ownership" means two or more businesses offering Video Lottery that are:

(a) Owned or operated by the same person;

(b) Owned or operated by different persons, and at least one of those persons has a financial interest in, will either directly or indirectly benefit financially from, or has or will have the ability to exercise control over two or more of the businesses; or

(c) Owned or operated by a person who has an association with the owners or operators of one or more businesses, such as, but not limited to, a landlord, an immediate family member,

or current or former business associate, and the association is such that the Director determines there is a reasonable probability that the person has a financial interest in, will either directly or indirectly benefit financially from, or has or will have the ability to exercise control of one or more of the other business(es) sufficient to constitute ownership for purposes of this rule.

(11) "Secondhand smoke" means the smoke created by burning or carrying any lighted pipe, cigar, hookah, narghile, sheesha, goza, cigarette, or tobacco product of any kind, or any other weed, plant, or combustible substance, and the smoke exhaled by an individual who engages in smoking.

(12) "Smoking environment" means that portion of a retailer's business where smoking of tobacco, any controlled substance as defined in ORS 475.005, including marijuana for medical purposes, or any other substance which is burned and is intended to be introduced into the human body by inhalation, occurs, or secondhand smoke is or may be present.

(13) "Strip mall" means an open area retail shopping complex consisting of stores, restaurants or other businesses in adjacent spaces or storefronts in one or more buildings that may have a sidewalk in front, with each space or storefront opening onto a common parking area. A strip mall may generally be identified by its location along a road or arterial with access by way of a common driveway(s) and the uniform architectural characteristics of the building or buildings, such as design, paint and trim colors, and direct access to each business from the common parking area. A strip mall may also be identified by a name, by a common landlord, or by a description or site plan as part of a lease agreement. For purposes of this definition, "strip mall" does not include a nearby freestanding building that only contains one business, even if the building shares a common parking lot.

STATUTORY/OTHER AUTHORITY: ORS 461 & OR Const. Art. XV, Sec. 4(4)

STATUTES/OTHER IMPLEMENTED: ORS 461.200

AMEND: 177-045-0030

RULE TITLE: Video Lottery Game Terminals

NOTICE FILED DATE: 08/24/2018

RULE SUMMARY: The Oregon Lottery is amending the administrative rules related to the specific amount of square footage a Video Lottery retailer is required to have per Video Lottery terminal and the ratio of floor space a Video Lottery retailer must dedicate to Video Lottery terminals.

The amendments remove the requirement that the amount of floor space dedicated for the use of Video Lottery games is 20 percent or less of the establishment's total floor space and remove the requirement that each Video Lottery retailer have a minimum amount of retail floor space for each Video Lottery game terminal. The amended rules do not change the other relevant factors that the Director must consider when making a final determination as to whether an establishment, taken as a whole, is operating as a casino or within statutorily prescribed limits on the number of Video Lottery terminals that may be placed on a premise.

RULE TEXT:

(1) Allocation of Terminals: In the exercise of the Director's discretion and subject to all other requirements, the Director may allocate and reallocate the Lottery's Video Lottery game terminals among Video Lottery retailers at any time and in any manner. The Director shall consider:

(a) Availability: The availability of the terminals and related equipment.

(b) Public Access: Adequate and convenient public access to Video Lottery games.

(c) Retailer Sales: The actual or projected net video sales generated from the play of Video Lottery games at each Video Lottery retail location. A new or existing Video Lottery retailer shall generate a minimum of \$200 in average net video sales per week per terminal as determined by the Director. The Lottery shall calculate the average using any 90-day or greater time period determined by the Lottery. Net video sales are calculated by subtracting prizes awarded on a Video Lottery game terminal from wagers placed on the terminal. The Director may remove one or more terminals from a retail location when the retailer is unable to meet the minimum sales requirement.

(2) Additional Requirements: Placement of Video Lottery game terminals is subject to the following:

(a) Restricted Visibility: The Lottery will not place Video Lottery game terminals in an area of a business or premises that does not or will not have restricted visibility.

(b) Adjacent Businesses: When two or more adjacent businesses appear to the Director to be a single business, or are operated by the same or commingled ownership, then the Lottery may limit such businesses to the maximum number of Video Lottery game terminals permitted under Oregon law for one business as the total number of terminals authorized for both or more such businesses.

(c) Convenience Store or Grocery Store: The Lottery will not place Video Lottery game terminals in a business or in premises that operate or will operate primarily as a convenience store or grocery store.

(d) Smoking Environment: The Lottery will not place Video Lottery game terminals in an area of a business or premises that is a smoking environment or where people are or would be exposed to second hand smoke.

(e) Minor Posting: The Lottery will not place Video Lottery game terminals in an area of a business or premises that is not posted as prohibited to minors by the Oregon Liquor Control Commission.

(f) Businesses Not Normally Associated with the On-premise Consumption of Food and Alcoholic Beverages: The Lottery will not place Video Lottery game terminals in a business

or premises that operates as a laundromat, movie theater, car dealership, beauty salon, bed and breakfast lodging facility, hardware store, dry goods store, clothing store, liquor store, or any other business not normally associated with the on-premise consumption of food and alcoholic beverages.

(g) Concentration of Video Lottery Retailers: The Lottery will not place Video Lottery game terminals in a business or premises if this would create a concentration of Video Lottery retailers.

(h) Limit on the Number of Video Lottery Game Terminals: In the Director's sole discretion and subject to all other requirements, the Director may limit the number of Video Lottery game terminals in a Video Lottery retailer's business or premises at any time and in any manner.

(3) Director's Decisions: The Director's decisions regarding allocation, removal, placement, or limiting the number of Video Lottery game terminals are final.

(4) Reconsideration: Upon written request by a Video Lottery retailer, the Director may reconsider any Video Lottery game terminal allocation decision made under this rule pertaining to that retailer unless such decision is required by this rule.

(5) Date of Applicability: Except as otherwise provided or in the sole discretion of the Director, the provisions of subsection (2)(g) of this rule will be applied to all applications for a Video Lottery retailer contract received on or after April 1, 2012, and will apply to all existing Video Lottery retailers effective at 5:00 a.m. on June 28, 2015.

(a) For purposes of this section, "applications" include:

(A) An application to sell, lease, or otherwise dispose of some or all of the assets of the retailer's business or premises or transfer some or all of the ownership interest in the retailer's entity to another person by operation of law, stock purchase, consolidation, merger, or other reorganization of the retailer's business, except in the event of the owner or owners' death if the retailer is an entity that has a legal identity apart from its owner or owners;

(B) An application of any type by a retailer who is attempting to circumvent this section as determined by the Director in his sole discretion.

(b) If the retailer is an entity that has a legal identity apart from its owner or owners, and a transfer of 100% of its ownership interests occurs by operation of law because of the death of the owner or owners, the Director may, in his sole discretion, not apply this section to an application to sell, lease, or otherwise dispose of 100% of the assets of the retailer's business or premises or to transfer 100% of the ownership interest in the retailer's entity. This section will apply, however, to the retailer effective at 5:00 a.m. on June 28, 2015.

STATUTORY/OTHER AUTHORITY: ORS 461 & OR Const. Art. XV, Sec. 4(4)

STATUTES/OTHER IMPLEMENTED: ORS 461.217 , 461.300