1-2-1979

City Club of Portland Bulletin vol. 59, no. 34 (Special Issue) (1979-1-2)

City Club of Portland (Portland, Or.)

NEWSPAPER SECOND CLASS POSTAGE PAID AT PORTLAND, OREGON

City Club of Portland
BULLETIN
Portland, Oregon Vol. 59, No. 34

(This report will be presented to the membership for discussion and action on Friday, January 12, 1979)

REPORT ON

OREGON LIQUOR CONTROL

The Committee: C. Max Armstrong, George W. Dana, M.D., Donna M. Dunbar, Ellyn M. Error, Bessie Fields, Donald J. Friedman, William S. Naito, William H. Replogle, Catherine P. Smither, Michael J. Walsh, and Stephen B. Herrell, *Chairman.*

(This report published with the financial assistance of Portland City Club Foundation, Inc.)

(Special Edition)
Published January 2, 1979
Vol. 59, No. 34
CITY CLUB OF PORTLAND
730 S.W. First
Portland, Oregon 97204

(Additional copies $1.00)

CITY CLUB OF PORTLAND BULLETIN
Published each Friday by the
CITY CLUB OF PORTLAND
730 Southwest First Portland, Oregon 97204
Phone 228-7231
CHRISTINE A. TOBKIN, *Editor and Executive Secretary*

Second Class Postage Paid at Portland, Ore. Subscription rates $6.00 per year included in annual dues.

REPORT ON

OREGON LIQUOR CONTROL

To the Board of Governors,
The City Club of Portland:

I. INTRODUCTION AND SCOPE

The charge to our Committee was developed by the Standing Committee on State and Local Government at the request of the Board of Governors. The charge was formally adopted on December 19, 1977. The Committee was directed to review the Oregon Liquor Control Act (OLCA) and regulations in view of the so-called Sunset Law* (Chapter 842, Oregon Laws, 1977) and to examine the workings of the Oregon Liquor Control Commission (OLCC) to determine whether the Commission is meeting its statutory responsibilities. Specifically, the Committee was asked to evaluate Oregon's state retail liquor monopoly, the OLCC's procedures, its enforcement policies, its sources and uses of funds and its structure.

At about the time the Committee was established, the OLCC became the focal point of a number of major news stories containing allegations of scandal and abuse of power within the administrative staff. As an outgrowth of investigations of these charges, there have been three administrators and one acting administrator of the OLCC during the short history of this Committee. Public attention in recent months has been focused upon the subject of liquor control in Oregon to a degree unprecedented in this state since the repeal of prohibition.

Our Committee decided that it was ill equipped to undertake an investigation of the various allegations of scandal and abuse of power, and that this function would be better left to the Governor, the Attorney General and the press. We believed, instead, that the City Club and the people of Oregon would be better served if it confined itself to the fundamental questions concerning regulation of the sale and consumption of alcohol.

Three other major studies of these issues were conducted simultaneously with that of our Committee. One such study was done by a special Commission on Liquor Control appointed by Governor Straub; a second by the Legislative Research Staff which assisted the Sunset Review Task Force of the Oregon Legislature; and a third by the Attorney General. Reports by these groups have been published and are referred to in this report.

Because of the diversity of the issues considered by the Committee, our conclusions and recommendations are stated in the discussion section dealing with each particular issue.

A list of the Committee's sources is set forth in Appendix A to this report.

Finally, the Commitee wishes to acknowledge the participation and contribution of Committee member John L. Westley whose untimely death on July 27, 1978, saddened us all.

II. HISTORY AND BACKGROUND

This report marks the tenth time since 1932 that a City Club Committee has reviewed issues relating to the sale and control of alcoholic beverages in the State of Oregon. However, each previous study was initiated in response to a specific ballot measure. Until now there has never been a comprehensive study by the City Club of the whole subject of liquor control and liquor sales.

Past reports by City Club committees reflect the changing attitudes of society generally toward the sale and consumption of alcoholic beverages. Gone, it seems, are the days of extreme sensitivity to the presence of "saloons," and to the potentially adverse

*Effective July 1, 1980, the OLCC and various other state administrative and regulatory agencies will cease to exist unless given new life by the 1979 Legislative Assembly.

impact upon the morals and public safety of Oregon communities. Such fears have abated with time. Rather, concerns have shifted to issues of individual freedom and the rights of adults to make choices about their life-styles and habits as long as they do not threaten the public welfare and safety of others. Public perceptions of the proper role of government in areas of economic and social concern have also changed considerably since 1933.

A. **History of the Oregon Liquor Control Act.**

The Oregon Liquor Control Act which created the OLCC was enacted on December 8, 1933, during a special session of the Oregon Legislature. This action followed the repeal of national prohibition by four days.

The 1933 legislation was based upon a report to then Governor Julius L. Meier from a citizen's committee headed by Dr. William S. Knox. The recommendations of the Knox Committee for a "controlled" system of liquor distribution for beverages containing more than 14 percent alcohol were based upon the "Quebec System" in Canada. The Knox Committee gave preference to free enterprise in the marketing of wines and beers because it believed "there is a substantial difference, amounting in effect to a difference in kind as well as in degree, between the harmful possibilities of beverages of high alcoholic content . . ." It recommended that the State have a monopoly on the sale and distribution of hard liquor in order to take the "business" out of the liquor business, to prevent the "undesirable consequences" of the free enterprise system.

The Knox Committee clearly intended that the goal of the Liquor Commission should be the promotion of "temperance and law abiding conduct," and that revenue considerations should be secondary. The Knox Committee also recommended that such profit as would be derived by the State from the sale of liquor be returned to cities and counties as a form of property tax relief, and that further public funds could be released for the relief of "mothers, the aged, and the indigent."

While the Knox Committee report downplayed the importance of revenues from liquor sales to the State, an *Oregonian* editorial dated October 26, 1933, referred to "John Barleycorn as the semi-benevolent goose that will lay the golden egg of revenues to the State."

While there was an effort in the Senate to promote sale of liquor by the drink and to allow grocery stores and private licensees to sell hard liquor, the Knox Committee Report, or Knox Bill, was adopted by an overwhelming majority of the legislature (50-10 in the House, 28-2 in the Senate). After passage of the Knox Bill, the *Oregonian* observed that the State was embarking upon a "noble experiment" (December 9, 1933).

Since 1933, there have been two major revisions to the original legislation. One was a State Constitutional amendment in 1952 which allowed the sale of distilled liquor by the individual drink in licensed establishments. The other was a 1974 law which allowed "fortified" wines (such as sherry and port) to be sold by private licensees. In addition, the Temperance and Rehabilitation Division of the Commission was transferred to the Mental Health Division of the State Board of Control in 1962. Other legislative changes to the Liquor Control Act included abolition of the purchaser's permit by the 1967 Assembly, and elimination in 1971 of the interdiction list, which identified habitual or convicted alcohol abusers.

B. **Description of the Oregon Liquor Control Commission**

As established in 1933, the OLCC was created to administer the provisions of the Oregon Liquor Control Act. The Commission is composed of three part-time commissioners appointed by the Governor for four-year terms on a staggered term basis. The three-member Commission usually meets two days a month to act on license applications, violations by licensees, and other administrative business. There is a single administrator who directs the staff and serves as general manager and secretary to the Commission.

The principal activities of the Commission and staff are the warehousing and sale of packaged distilled spirits; investigation of applicants and premises; issuance of licenses to restaurants, taverns, grocery stores, manufacturers, distillers, importers, and distributors of malt beverages and wines; enforcement of the liquor control laws; issuance of identification cards to persons over 21; collection of privilege taxes on malt beverages and wines; and administration of the Oregon Beverage Container Act, or "Bottle Bill."

The OLCC operates a large warehouse in Milwaukie, Oregon, from which the distribution of distilled spirits is made throughout the entire state. The staff headquarters is also located in Milwaukie. There are 15 enforcement field offices located throughout the state.

All revenues collected by the OLCC from the sale of distilled spirits and the collection of taxes and license fees are appropriated to the State General Fund, incorporated cities, counties, and for alcohol and drug treatment programs. The net revenue from all sources in fiscal 1978 amounted to almost $58 million.

III. THREE QUESTIONS OF BASIC PHILOSOPHY

A. Should the OLCC be abolished?

No. All 50 states and the District of Columbia regulate the sale and consumption of alcohol, and there are many sound reasons for doing so. Alcohol is a powerful and potentially dangerous drug which, when abused, has enormous adverse effects upon society. These adverse effects are obvious to most readers, but perhaps a reminder is useful. They include: (1) danger to individuals and community health; (2) public expense for the control, treatment and rehabilitation of alcoholics; (3) marital problems; (4) traffic injuries and fatalities; and (5) alcohol-related crime.

One may question the extent to which our present methods of regulation are effective. However, our Committee believes some means of regulation is essential. Whether the regulatory body is called the Oregon Liquor Control Commission or is called by some other name, a state government regulatory agency is a necessary and appropriate method of regulation.

It appears to us that when people in Oregon speak of "abolishing the OLCC," what they really mean is eliminating the state monopoly on the sale of distilled spirits. This subject is dealt with extensively elsewhere in this report.

Our Committee believes, however, that fundamental changes in the regulatory system are in order.

B. Should distilled spirits be regulated differently from malt beverages and wine?

No. Our Committee is not persuaded that there is any philosophical, sociological or scientific difference between distilled spirits (whiskey, gin, liqueurs etc.) and beer and wine which justifies a different method of regulation. All are equally capable of causing intoxication, alcoholism and the attendant problems of alcohol abuse. In fact, for various reasons, law enforcement officers report a proportionately greater number of enforcement problems occurring in establishments serving only beer and wine.

The Knox Act specifically stressed the difference between distilled spirits and beer and wine under the then common assumption that the latter were less harmful. Therefore, in Oregon, as in many other states, there are differences in the method of regulation of distilled spirits as compared to beer and wine. In Oregon the two major differences are: (1) there is a state monopoly on the sale of distilled spirits, but not for beer and wine, and (2) there is a quota system of one license per 2,000 population in the granting of licenses to sell distilled spirits by the drink, but no such system for beer and wine.

As noted above, the reasons for these differences are primarily historical and our Committee believes they have no convincing rationale.

C. **Does the OLCC promote temperance?**

No. Certainly it does little, if anything, at the present time to carry out that portion of its statutory responsibilities. Witnesses who appeared before our Committee could offer little by way of suggestion as to how it could improve. OLCC's primary functions under the present system seem to be licensing, sale of alcoholic beverages and the raising of revenue. Obviously these functions are inconsistent with promoting temperance.

Perhaps regulation itself somehow exerts a moderating influence. If the role of the OLCC becomes more that of a regulatory body and less that of a merchandising agency, its ability to promote temperance can only be enhanced.

On the basis of its harmful effects on public health one might suppose alcohol to be a candidate for banishment by the U.S. Food and Drug Administration. It is common knowledge that less dangerous substances are banned or rigidly controlled by FDA.

However, the "great experiment" of national prohibition was an utter failure, and drinking alcohol is, for better or worse, firmly entrenched in our social behavior patterns. We frankly see little that the OLCC can or should do to change the situation. It should simply do what it can, as a regulatory or licensing agency, to deal with the administrative peculiarities that arise in selling and serving alcohol.

The jobs of educating the public about alcohol abuse and of treating the victims of abuse are probably better left to other social institutions.

IV. DISCUSSION OF SPECIFIC ISSUES

A. **The state monopoly on the sale of distilled spirits**

1) *The issues presented*

If our Committee's conclusion that there is no significant difference between distilled spirits and other alcoholic beverages is accepted, the choice of distribution systems should logically be whether all alcoholic beverages should be sold only by the state, or whether, on the other hand, all alcoholic beverages should be sold under a regulated private enterprise system. We believe that this is indeed the choice and have opted for the latter.

The most difficult issue in changing to a private enterprise system has to do with the amount of revenue now generated by the state as a result of the state monopoly. The economic issue is a serious one. However, the Committee has concluded that there are sufficient economic and tax benefits available to the state under a private enterprise system to warrant discontinuing the state's monopoly on the sale of distilled spirits.

2) *Alternative methods of regulation*

There are basically three types of regulatory schemes now used in the United States for the sale of distilled spirits.

a) *Control states*

Oregon is one of 18 states (including Washington and Idaho) referred to as "control states wherein the state has a monopoly on the sale of liquor. In "control" states liquor is sold to the public only in state-owned or franchised stores. The product remains under state ownership at all times until it is sold to the public. The state derives revenue from its markup on the sale. In Oregon all liquor is currently being marked up 93 percent over its landed wholesale cost. That is, the retail price per bottle is 193 percent of the price the OLCC pays for it, including freight.

b) *Open states*

Thirty-one states (including California and Nevada) and the District of Columbia are "open" states wherein liquor is sold by private wholesale merchants to private retail merchants who in turn sell it to the public. Both the wholesalers and retailers are licensed and regulated by the state regulatory body. A few states allow retail sale by grocery chains, pharmacists and the like. Most allow retail sale only by licensed liquor stores. "Open" states derive revenue from excise taxes on each bottle sold and from fees for the privilege of having a license. In "open" states, additional revenue is derived indirectly from income taxes paid by the licensees from real and personal property taxes and from retail sales taxes.

Oregon is an "open" state insofar as beer and wine are concerned. Licenses to sell packaged beer and wine are issued to grocery stores, specialty stores and others that meet OLCC licensing criteria. Oregon imposes a nominal excise tax on sales of beer and wine which now generates about $8 million annually.

c) *Private retail-controlled wholesale*

Two states, Mississippi and Wyoming, have a mixture of the two systems. These two states act as the exclusive wholesaler, deriving revenue from the wholesale markup. Retail sale is conducted by private entrepreneurs who buy their inventory solely from the state. This is the system recommended by the Oregon Legislative Research Office and by the Governor's Special Commission on Liquor Control.

3) *Advantages and Disadvantages of a Private Retail System*

A private enterprise system for the sale of beer and wine in Oregon apparently works well and no one has suggested to our Committee that it be changed. Traditionally, our society favors free enterprise presumably because it is thought to best serve the consumer and the public interest.

On the other hand, a monopoly, and particularly a state-owned monopoly, is an unnatural state of affairs. The State of Oregon, of course, is not in the business of merchandising any commodity except distilled alcoholic beverages. Our Committee believes that on the whole the present system does a poor job when compared to private enterprise.

First of all prices are fixed by the state and no price competition is permitted among liquor outlets. Prices are determined, not by the market place, but by the dictates of the legislature and the OLCC on the basis of the amount of revenue desired. There are no downward pressures exerted on the retail price insofar as our Committee can determine. The result is that Oregon's liquor prices are among the highest in the nation.

The Committee is persuaded that conversion to a free enterprise system will result in price competition which will benefit the public.

Our Committee does not believe that free enterprise will necessarily result in dramatically lower prices overall, assuming that a state liquor tax is imposed which is sufficient to cover the financial needs of cities and counties. However, the downward pressure on prices, and the spirited price competition which is bound to occur in some of the more popular items, can only be beneficial to the consumer.

Competition would result in other advantages to the consumer as well. Hours of sale, presently limited by the OLCC, would probably be more flexible and thereby more convenient.

The OLCC now restricts the number of outlets. In 1934, after repeal of prohibition, the population of Oregon was about one million and there were 139 outlets. Forty-four years later, the population is 2.4 million and there are only 196 outlets.

The Legislative Research Office reports that there are 27 incorporated cities with populations over 1,000 that have no liquor store. The city of Roseburg with a population of 17,000 has only one outlet. If the laws of supply and demand inherent in a free enterprise system were allowed to function, our Committee is convinced that the number of outlets would increase, providing easier access to the public.

Competition and private enterprise would also result in better service in other ways, such as more cheerful and less austere stores, the friendly atmosphere of a neighborhood business, the benefits of advertising, availability of private brands, delivery service, acceptance of personal checks, credit cards and the like. Presumably stores would carry mix, ice, beer and wine, snack foods and related items, eliminating multiple trips by the consumer. If liquor is allowed to be sold in grocery stores, as with beer and wine, the convenience factor is obvious.

The Committee finds that conversion to private enterprise will clearly best serve the consumer. On the other hand, the Committee finds virtually no advantage to the consumer under a state monopoly system. It is sometimes suggested that state monopoly promotes temperance. However, those who advocate that point of view were unable to support it with convincing data. Except for the economic argument discussed later in this report, no other advantage of a state monopoly system was argued very seriously before our Committee.

4) *The wholesale function*

The reports of both the Governor's Special Commission on Liquor Control and the Legislative Research staff of the Sunset Review Task Force recommended that the retail function be turned over to private enterprise, but that the state, at least temporarily, remain as the only wholesaler.

Strangely, however, neither report stated any reason for continuing the state monopoly at the wholesale level, and our Committee is hard pressed to justify such a conclusion. We are inclined to believe that the Governor's Special Commission and the Legislative Research staff have given inadequate thought to the wholesale function. At the very least they have failed to express in their reports any sound reasons for their conclusions.

Except for some anticompetitive practices fostered by OLCC and discussed later in this report, private enterprise in the wholesale distribution of beer and wine seems to work efficiently. This Committee sees no reason why the same would not be true as to distilled spirits. We find no particular public benefit of a state monopoly on wholesale distribution.

Under a private system, in addition to competition in prices and services, restaurants which now must buy from the OLCC at fixed retail prices could presumably buy directly from wholesalers, enabling them to take advantage of quantity discounts. This in turn would benefit Oregon's important restaurant and tourist business.

The present system has given rise to charges of favoritism in the selection of brands of liquor for sale by the OLCC. These charges are likely to continue, at least in part, if the state remains in the wholesale business.

The argument has been made that the state obtains savings in freight by buying in large quantities, such as carload lots. Our Committee is persuaded that most of these savings could just as well be effected by private wholesalers, but in any event, this would not be reason enough to continue an otherwise undesirable system.

The OLCC is proud of its large central warehousing operation and the argument has been made that its existence is a reason for leaving the state in the wholesale liquor business. Our Committee is not persuaded by this argument, and in fact, questions the efficiency of distributing throughout the state from one warehouse. It seems reasonable to assume that private wholesalers in locations throughout the state would in fact do a better job of serving retailers, particularly those located outside the Portland metropolitan area.

Other arguments made to the Committee against private enterprise, such as intrusion of organized crime and excessive concentration of power by a few wholesalers, were not supported by any concrete facts and are unpersuasive.

Our Committee therefore recommends that the State of Oregon get out of the liquor business altogether, both at the wholesale and retail levels.

5) *The economics of conversion to private enterprise*

The one factor that seems to discourage conversion from state monopoly to private enterprise is the amount of revenue derived by the state from direct sale of distilled spirits. Forty-four percent of this revenue is earmarked for cities and counties. It is therefore politically unrealistic, in our opinion, to advocate any distribution system which does not preserve the revenue which now goes to cities and counties. This is particularly important in view of public pressure to reduce reliance upon the property tax.

Our Committee has therefore found it necessary to analyze the economics of alcohol as a revenue source.

The OLCC presently derives revenue from essentially three sources: liquor sales (86 percent); beer and wine taxes (12 percent); and license fees (2 percent).

The markup on liquor now is equivalent to a tax on the consumer of about $13.00 per gallon. On the other hand, the tax on beer is only about 6¢ per gallon, and the tax on table wine is about 35¢ per gallon. If the tax load were adjusted to equalize the tax based upon the alcoholic content in each beverage, beer would be taxed at about 60¢ per gallon, wine at $1.75 per gallon and distilled spirits at $5.00 per gallon.

Obviously, consumers of distilled spirits are paying a disproportionate share of the tax load as compared with consumers of beer and wine, although dollar volume sales of the latter are significantly greater. Set forth in the following table is a breakdown of the dollar amount of revenue now being generated from each source:

1978 OLCC REVENUE BY SOURCE

Mark-up on liquor	$60,871,845
Tax on beer and wine	8,091,537
License fees	1,322,040
Other	110,701
Total revenue	70,396,123
Operating expenses	11,485,170
Net revenue	$58,910,953

The OLCC revenues are distributed according to a statutory formula. One-half the beer and wine tax is allocated to mental health, alcoholism and drug treatment.

The illustration on the next page shows the total current breakdown of OLCC revenue. After deducting revenues distributed to mental health, alcoholism and drug treatment programs, the balance is distributed according to statute as follows: City revenue sharing, 14 percent; payments to cities, 20 percent; payments to counties, 10 percent; and State General Fund, 56 percent.

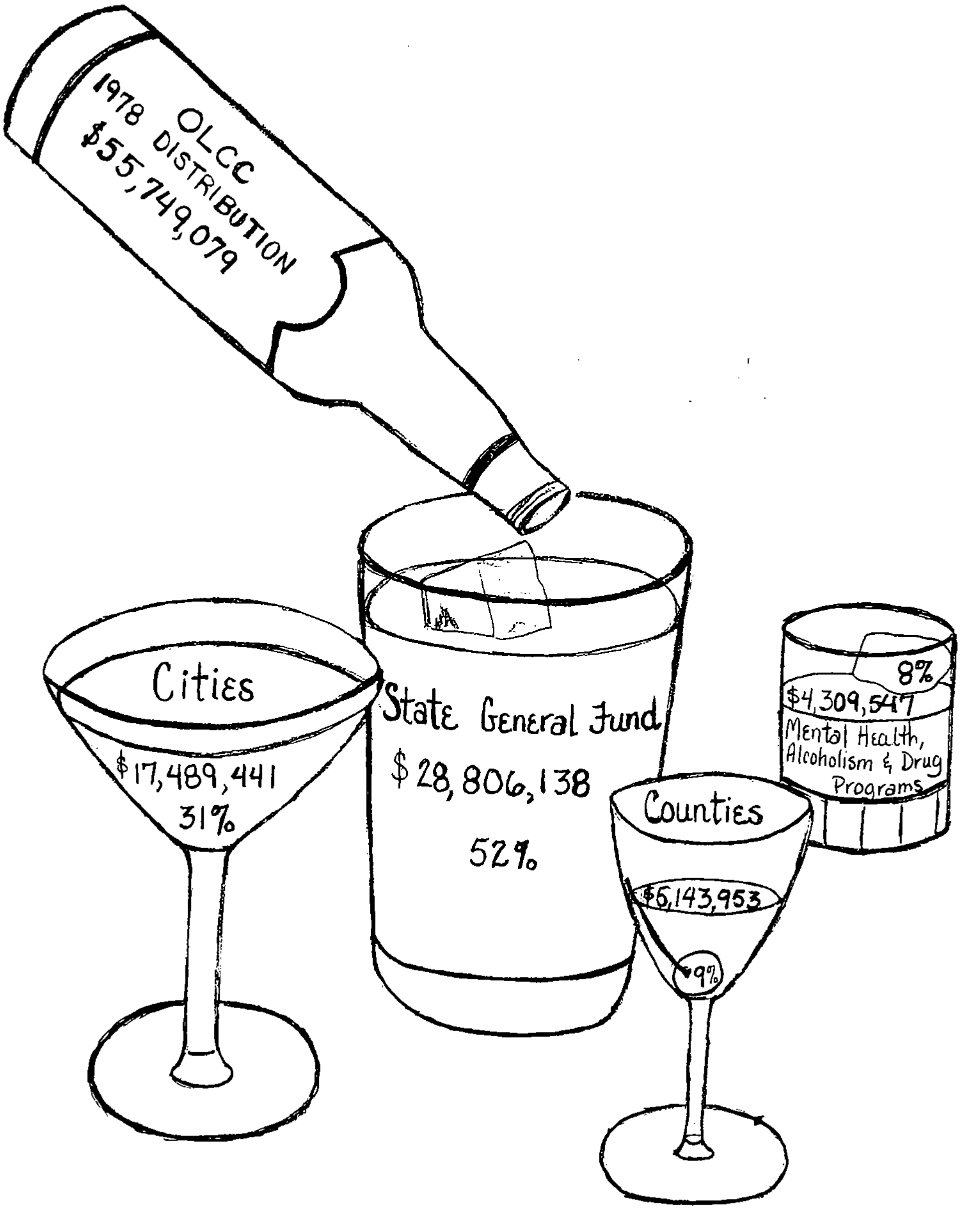
The Legislative Revenue Office attempted to determine the effect of conversion to a private enterprise retail system, but assumed that the state would remain in the wholesale end of the business and derive its revenue from its markup on sale to retail stores. These projections were made at the request of the Governor's Special Commission and the Legislative Research staff. No analysis was made as to what would happen if the state also went to private wholesale distribution, and it became necessary for our Committee to do some analysis of its own.

The Legislative Revenue Office assumed that liquor sales would increase 14 percent if the state converted to private enterprise for retail sale. This assumption was made based upon data tending to show that consumption in "open" states is, on the average, 14 percent greater than consumption in "control" states.

This Committee questions the assumption of 14 percent growth because consumption statistics for states vary widely, whether they are "open" or "control" states. Few, if any, assumptions can be reached from these statistics as to what would happen in Oregon. For example, Oregonians are among the highest per capita consumers of beer and wine in the nation. It is doubtful that conversion to a private enterprise system for liquor distribution would cause tastes to switch abruptly from beer or wine to liquor.

Nevertheless, we agree that some increase in sales is likely. Total consumption of all beverages is tending to increase even under the present system due to population increase

WHERE DO THE OLCC REVENUES GO?



Note: Differences in net revenue and the amount distributed are due to changes in the inventory level.

and other factors. Therefore, for the purpose of comparative analysis, we have used the same assumptions used by the Legislative Revenue Office in making projections.

The usual method of taxation of liquor used by "open" states is an excise tax based upon a unit of measurement. This is the present method of taxation in Oregon on beer and wine. This Committee believes the gallonage tax to be an appropriate method of taxation should the state convert to a private distribution system. Tax rates in "open" states range from a low of $1.50 per gallon to a high of $4.53 per gallon with $2.50 being about average.

Assuming a wholesale markup of 15 percent, a retail markup of 25 percent and a gallonage tax of $4.50, and assuming sales equal to 114 percent of the 1978 level (at about present price levels) our Committee projects net revenue of just over $30 million after adjusting for anticipated cost reductions, additional license fees and the like. See Appendices B and C for additional hypothetical models.

The $30 million net revenue compares with net OLCC revenue for the current year of $58.9 million, or a reduction of approximately $29 million under a private enterprise system. The $30 million, however, is more than the amount cities, counties and treatment programs received from alcohol taxes in 1977.

If it is considered necessary to generate all of the current revenue from alcoholic beverages (as to which this Committee has serious doubts) there are other available sources from which the shortfall could be recovered and which would provide for a more equitable sharing of the tax burden. For example, a 35 cent per gallon increase in the beer and wine tax (about 18 cents per six-pack of beer, or 7 cents per bottle of wine) would generate about an additional $22 million. A two percent restaurant and bar tax would raise $10.5 million. Substantial increases in OLCC license fees, which in our opinion are desirable, would raise an additional $2 to $3 million. The state would also derive additional revenue from income taxes (see Appendix B). This Committee has therefore concluded that a shift to private enterprise at both the retail and wholesale levels can be accomplished with little or no loss of revenue to the state.

As noted above in Section II of this report, the Knox Committee originally contemplated that revenues from sale of alcoholic beverages be used to provide funds to cities and counties by way of property tax relief. However, with the passage of time, more than half the revenue now goes to the State General Fund, which in 1977-78 had a surplus so large as to constitute a political embarrassment. At the same time, the demand for property tax relief has become a nationwide tax revolt.

The Committee believes that better use can be made by the public of revenue derived from alcoholic beverages. Our Committee questions whether liquor should be used as a vehicle for raising general tax revenue.

6) *Recommended System of Marketing Alcoholic Beverages*

The Committee recommends that the present state monopoly on wholesale and retail sale of distilled spirits be discontinued as of a date which will insure an orderly transition. We recommend that it be replaced by a system of private entrepreneurs licensed by the OLCC according to criteria established by the OLCC and the affected local government entities.

Licensees should establish that they are of good moral character and free of criminal connections. Licenses should be issued to all qualified applicants according to standards discussed under **B. Licensing** in this report.

Licensees should be free to set their own prices and hours of sale, to advertise, and to offer additional services such as delivery, private brands and the like.

Revenue should be derived by means of an excise tax of about $4.50 per gallon on distilled spirits. Any loss of revenue should be made up from other sources, including increase in the beer and wine tax, increase in application and license fees and the like.

B. **Licensing**

The OLCC licenses virtually every part of the private sector of the alcoholic beverage industry in Oregon. Twenty-three classes of licenses are issued to breweries and wineries, distilleries, bottlers, wholesalers, taverns, restaurants and package stores among others. Licenses permitting the sale of liquor for consumption on the premises are generally of two types: those permitting only the sale of beer or wine, and those also permitting the sale of liquor (defined as wine containing more than 21 percent alcohol or any other alcoholic beverage containing more than eight percent alcohol).

In addition, licensing of the sale of distilled liquor by the drink falls within Oregon's quota system. Under this system the total number of licensed premises dispensing distilled liquor cannot exceed one such licensed premise for each 2,000 residents of the state. Establishments serving distilled liquor by the drink must provide food services which must constitute no less than 25 percent of the gross income from food and alcohol sales.

1. **Quota System**

On November 4, 1952, the people approved an initiative amending the Oregon Constitution to permit liquor sale by the individual glass for consumption on the premises. The constitutional amendment empowered the Legislative Assembly to provide for administration of the provisions of the amendment. In the following session the Legislative Assembly enacted what is now ORS 472.110 (4), which states that the total number of licensed premises dispensing distilled liquor by the drink shall not exceed one such premise for each 2,000 people in the state. This quota was a compromise between those who opposed alcohol entirely and those who wanted the sale of distilled liquor by the individual drink to be handled in the same fashion as the sale of beer or wine. The quota itself was taken from Washington, which has since lowered its ratio of licenses to population. The quota applies to the statewide population such that theoretically all of the licenses could be granted within one county.

Under the quota system at the beginning of 1978, the OLCC had 1,198 distilled liquor licenses available for the entire state. These licenses must be allocated among both public restaurants (Class A licenses) and private clubs and fraternal organizations (Class B licenses). In 1977 the Legislative Assembly authorized the OLCC to issue an additional five licenses annually outside the quota to private clubs with more than 200 members. At the beginning of 1978, the OLCC had 18 licenses to dispense among 70 to 80 qualified applicants. The number of available licenses will increase as population increases.

The present quota system has been defended as a means of preventing excessive alcohol consumption, thus reducing the abuses associated with alcohol, protecting the safety and welfare of the people of the state, and preventing large numbers of distilled liquor outlets from locating in a small area.

Some contend that by protecting existing license holders from "ruinous" competition, the quota system keeps licensed restaurants profitable and removes the temptation to become involved in illegal or illicit activities such as gambling, drugs or prostitution and insures that quality and cleanliness of these restaurants is maintained at a higher level.

Our Committee is not convinced that these arguments are valid and finds numerous disadvantages associated with the quota system:

a) The quota system has been a primary source of complaints about the administration of the OLCC. Choosing among qualified license applicants is a process that inevitably leads to charges of discrimination or favoritism.

b) The quota system has created an excessive drain of OLCC time and applicants' money. It has been estimated that the administration of the quota system takes up 50 percent or more of commissioners' and the administrator's time. From the perspective of the applicant, preparing a successful application is a complicated process often involving several thousand dollars of attorney fees.

c) The quota system discriminates against the small restaurant. With a limited number of licenses to distribute among numerous qualified applicants, the OLCC has tended to favor larger restaurants and hotels. This discrimination is justified, in part, by ORS 471.030 (2), which declares it to be the policy of the state to encourage development of Oregon industry. The OLCC has taken the position that licenses should go to larger establishments that will employ more people and serve more customers. The result of this policy, however, is to make it extremely difficult and sometimes impossible for small, high quality restaurants to obtain dispenser licenses. Restaurateurs say that since many customers desire cocktails before dinner, many will not patronize a restaurant that cannot provide them. As a result many restaurants are effectively prevented from competing for a significant portion of their potential business.

d) The quota system encourages survival of marginal restaurant operations. Because license holders enjoy a limited monopoly and are protected from competition, many restaurants which would otherwise be driven out of business by strong competitors are kept in business.

e) Finally, the quota system has created a valuable right in a liquor license which is an additional cost passed on to the consumer. Although ORS 472.141 (1) (g) provides that a liquor license does not constitute property and cannot be sold, as a practical matter these licenses are worth tens of thousands of dollars. Rather than attempt to have a new license issued under the quota system, a prospective restaurant owner often will purchase an existing operation whose only real asset is its license and then seek to "move" the restaurant. The cost of this license translates into an additional cost which inevitably is passed on to the consumer.

On balance, our Committee believes the quota system to be utterly without merit. In fact, we are convinced that the asserted defenses of the present system are nothing more than a smoke screen thrown up by some of those lucky enough to have a license and anxious to remain insulated from competition. We found no evidence that the quota system in Oregon has relieved the problem of alcohol abuse.

It is the recommendation of our Committee that the quota system be abolished and that distilled liquor licenses be distributed in the same fashion as licenses for establishments that sell only beer and wine.

2. **Food Service Requirement**

When the sale of distilled liquor by the individual drink was approved by the voters in 1952, the law permitted the sale only in "commercial establishments where food is cooked and served." This requirement passed into the statutory scheme enacted by the Legislative Assembly, ORS 472.110 (1), and is enforced by an administrative regulation requiring that the gross receipts from the sale of food amount to not less than 25 percent of the gross receipts from the sale of both food and alcohol. There is no such requirement for retail establishments serving only beer or wine.

The food service requirement has been defended as a means of preventing bars. Technically there is no such thing as a bar in the state of Oregon. Only establishments serving food can be licensed to dispense distilled liquor by the drink. The abuses allegedly identified with bars, as such, are supposedly eliminated.

In addition, OLCC staff members and others have said that any reputable establishment has no difficulty in meeting the 25 percent food service requirement in any event. It is only marginal and shoddy operations that experience any difficulty.

Supposedly the availability of food in establishments serving distilled liquor encourages responsible drinking, in that food will be consumed along with alcohol, thereby diluting the effect of the alcohol and reducing alcohol-related problems.

On the other hand, the present food service requirement has been attacked as another restriction on the marketplace. The food service requirement restricts the free development of the marketplace by requiring bars to operate only in conjunction with restaurants.

Moreover, taverns dispensing beer and wine are not required to serve any food at all. There is no evidence that bars dispensing hard liquor have more potential for abuse than taverns.

The food service requirement does not require customers to eat and thus the availability of food does not insure that drinkers actually will eat.

Our Committee believes that the food service requirement fails to advance any appropriate policies and is inconsistent with the treatment of beer and wine.

However, the requirement that only commercial establishments where food is cooked and served can have distilled liquor licenses is written into the Oregon Constitution. Acknowledging the difficulty of amending the Constitution, our Committee recommends that the administrative regulation requiring food sales to be 25 percent of gross sales be replaced with a more flexible provision requiring simply that a commercial establishment have facilities available for the cooking and serving of bona fide meals whenever alcohol is served.

3. **General Licensing Provisions**

Extensive statutory and regulatory criteria govern the granting or denial of licenses. Oregon Administrative Rules 185-10 to 185-730 provide three general categories by which applicants are scrutinized: community, enterprise and licensee.

(1) Community criteria considered are:

a. Availability, comparability and community acceptance of other nearby liquor outlets;

b. Recommendation from the local unit of government;

c. Trends in population and business development in the area;

d. Public opinion toward the prospective liquor outlet;

e. Effect on local law enforcement;

f. Effect on traffic patterns;

g. Extent of operations of outlet;

h. Proximity of the prospective outlet to churches, schools, hospitals, playgrounds, etc.;

i. Effect on property values in the area;

j. Quota of liquor licenses established by law.

(2) Enterprise criteria considered include:

a. Prior business experience of operators;

b. Facilities for food preparation, and type of food to be served;

c. Size and design of the facilities of the prospective outlet;

d. Availability of off-street and on-street parking;

e. Applicant's distance from similar business outlets and whether such outlets are providing adequate service to the public;

f. Adequacy of inventory, equipment, and fixtures.

(3) Personal licensee criteria considered include:

a. Applicant's financial responsibility and capability;

b. Criminal record of applicant;

c. United States citizenship of applicant;

d. Physical, mental and emotional capabiltiy of applicant;

e. Furnishing of truthful and complete information to OLCC;

f. Evidence of extensive use of liquor or drugs by applicant.

Many of these criteria are valid, but others are more appropriately matters for local consideration, unnecessary barriers to entry, or altogether unnecessary.

Several criteria are matters which are more appropriately addressed at the local level. These would include the effect on traffic and traffic control, customer parking, and proximity to schools, churches and other institutions.

In general if a licensed applicant meets existing zoning and planning requirements, our Committee believes that local approval should be forthcoming. However, our Committee acknowledges the concern of the community which does not want to have an excessive number or even any taverns or package stores located within it. For this reason we believe that an elected city council or similar body should have the power to recommend against the issuance of such a license on these grounds, and the OLCC should give considerable weight to that recommendation.

Other license criteria constitute unnecessary barriers to entry and should be repealed. In particular, the OLCC should not be in the business of telling a businessman whether or not he can make money in a particular location. The alleged danger of liquor outlets in a weak financial condition attracting criminal activities does not, in our Committee's opinion, justify the present examination of an applicant's financial resources and projected ability to succeed. Competition stimulates existing firms to innovate, cut costs, improve products and services, and keep prices low. Overly stringent regulation of new entries dulls this process and protects marginal firms from healthy competition.

Still other criteria are, in our Committee's opinion, simply unnecessary. For example, the suitability and adequacy of inventory, equipment and fixtures should be the responsibility of the Health Division rather than the OLCC.

Also, at present, the OLCC reviews the menus of distilled liquor license applicants to ascertain whether they plan to provide a full range of meals. The Committee sees no reason why a restaurant offering a limited but high quality selection of food (if the food service requirement is maintained) should not be able to obtain a liquor license.

Likewise, the OLCC has exercised excessive supervision over the hours of operation of restaurants serving liquor by the drink. In one incident that was reported to our Committee, a restaurateur received a telephone call from the OLCC because he had decided to discontinue operating his restaurant for lunch. Although no formal action resulted from the telephone call, there was definite pressure from the OLCC for the restaurant to continue its lunch service. Again, the Committee sees no justification for the OLCC's intrusion into this sort of business decision.

The OLCC has intruded into a number of other areas which seem, in our Committee's view, to be only marginally related to liquor regulation. License applicants have had to undergo a review of their architectural plans, and in some instances, plans had to be revised to insure that the bar could not be seen from the street.

The result of these unnecessary regulations has been excessive delay in the licensing procedure. Delays of as long as six months are not uncommon. Such delays discourage the construction of new restaurants and package store outlets as well as the sale of existing ones.

It is our recommendation that the legislature provide a uniform process for local review of license applicants. This review should focus upon the applicant's compliance with the same planning and zoning requirements with which similar non-liquor establishments have to comply, though the local body should be permitted to consider legitimate community objections to additional liquor outlets. The OLCC should give considerable weight to local recommendations.

Our Committee further recommends that the entire licensing procedure be streamlined and that all licensing statutes and regulations be closely reviewed to insure that they serve a necessary regulatory end. The OLCC should adopt guidelines establishing acceptable processing time for each step of the licensing process.

C. **Enforcement**

Any review of the activities of the OLCC cannot escape recognition of the sometimes controversial nature of the Commission's enforcement activities. Interviews conducted by the Committee with licensees, OLCC representatives, consumers and advocates reveal strong opinions about enforcement practices, both positive and negative in nature. Seldom, however, was a witness who was also a licensee neutral in his opinion about the OLCC's performance of this function. Views expressed by interviewees ranged from dissatisfaction with the leniency of enforcement actions to dissatisfaction with the excessive zeal with which the Commission wields its power.

Enforcement responsibilities of the OLCC extend over the full scope of laws and regulations applicable to commission activities. This includes investigation of license applicants, compliance examination of licensees, investigation of complaints, prevention of sales to minors, detection of illegal importation and manufacture of liquor, and sanitation inspections. The Enforcement Division of OLCC has been charged with enforcement responsibilities in all these categories. Recently, the investigation of applicants and sanitation inspections have been removed from the Enforcement Division's assignment in response to the public's perception of these duties as being in conflict with the Division's other responsibilities.

Much of the current debate over the OLCC activities has centered on the question of who should do the enforcing. The alternatives range from maintenance of the status quo to transfer of the entire responsibility to the state police. The Legislative Research Office has recommended that enforcement of liquor laws be assigned to the state police. Our Committee has concluded that enforcement responsibility should remain with the OLCC.

Alcohol is a drug, the excessive and imprudent use of which extracts an incalculably high cost in pain and suffering of individuals and of society in general. Despite the known hazards inherent in its use, the prevailing public sentiment approves the use, distribution and sale of this drug as an ingredient in various beverage forms. Appropriately, that sentiment also calls for the establishment of controls over the dispensing of such beverages to the public. It is the Committee's belief that no agency charged with the exercise of such controls over alcoholic beverages can have any hope of success unless it is also capable of the necessary enforcement action to insure compliance with society's mandate. We recommend the enforcement authority now held by the OLCC be retained.

The authority to enforce its rules and regulations does not require enforcement action of the OLCC to be exclusively executed by its own staff personnel. The methods by which OLCC accomplishes its enforcement objectives are worthy of consideration in that much of the criticism directed toward the OLCC's enforcement activities seems to be more of the way it goes about its task than a criticism of enforcement itself.

The concept of "sub-contracting" OLCC enforcement functions should be considered and implemented when practical. The Commission is now setting up a plan for sanitation inspections to be conducted by the State Health Division in conjunction with its examination for compliance with other state and local laws concerning food and beverage service. The Committee believes this is a constructive step in avoiding duplication which previously existed.

A recurring criticism of enforcement practices is alleged inconsistency in enforcement of laws and administratvie rules of the OLCC, that is, inconsistent enforcement of a specific rule with respect to different licensees. Statements made to the Committee suggest that there may be substance to some of these charges. It seems to our Committee that such criticism describes a basic management deficiency within the Commission itself rather than a structural defect in the language or intent of the law or administrative rules pertaining to enforcement responsibilities of OLCC. Adequate communication with, training of, and supervision of enforcement personnel or agencies by the administrator can prevent such deficiencies. There is evidence that some of these problems have been recognized by the OLCC and are in the process of being remedied.

D. Anticompetitive Policies

The OLCC has fostered or encouraged practices that tend to discourage competition at the expense of the consuming public. We believe many of these practices are highly questionable and should be reexamined.

To some extent, the OLCC tends to be a producer-controlled agency in that those with vested interests exert the most influence in the rule-making and policy-making functions. Those holding liquor licenses lobby to retain their monopolies. Liquor store franchise holders lobby to shorten their hours and eliminate competition among themselves. Distilleries lobby for limiting of brands. Beer and wine wholesalers lobby to fix prices and to carve up territories. These groups have had considerable success due primarily, we believe, to the fact that no one speaks for the consumer whose total budget for beverages is a relatively small item. The result is that the regulatees tend to end up regulating the regulator.

A prime example of such anticompetitive policy is the OLCC rules concerning posted prices for beer and wine. These rules are specifically designed to keep prices up and to restrict competition supposedly in an attempt to protect the small operator. The price posting rule requires beer and wine sellers to post their prices publicly with the OLCC and to post any changes 10 days in advance of making the change. Beer and wine wholesalers are prohibited from reducing their prices unless they keep the lower prices in effect 180 days for beer and 30 days for wine. The obvious effect is to discourage price reductions and to keep prices high. Other examples of rules that discourage competition are rules that prohibit the giving of quantity discounts, restrict sale by wholesalers to the public, restrict the sale of certain types of beer and the like.

Our Committee believes that these practices should be reexamined and that every effort should be made to eliminate anticompetitive regulations and practices.

E. **Structure of the Commission**

As the other sections of this report suggest, this Committee believes that the proper role of the OLCC is that of a regulatory body whose principal function is to license and regulate those who sell and dispense alcoholic beverages.

Assuming that the recommendations of this Report become law, many of the issues sometimes raised concerning changes in the Commission's structure will answer themselves. Nevertheless, there are several problems that need to be addressed.

The three-member part-time Commission meets on the average of two days per month during which it spends the majority of its time acting on licensing matters. The intense competition for licenses which exists because of the quota system has exaggerated this part of the Commission's function out of all proportion. As a result, the Commission is left with too little time for matters of administrative policy. This, in turn, has led to the fact that the Administrator has had almost unrestrained authority in making and administering OLCC policy. This has contributed in a major way to recent charges of abuse of power within the Administrator's office.

The Committee believes that the Commission members have not given sufficient attention in the past to administrative policy matters, although there is evidence that this has improved considerably within the last year.

Nevertheless, if the quota system in licensing is removed, if the state gets out of the business of selling alcohol, and if the Commission's role is reduced to that of a regulatory body only, this Committee does not believe that the basic structure of the Commission should be significantly altered. That is, the Committee believes that the Commission can function effectively with part-time Commissioners and a full-time administrative staff.

The Committee believes, however, that the Commission should be expanded from three to five members, with one representative to be appointed by the Governor from each of the state's four congressional districts, and the chairman to be appointed at large. This would provide broader representation throughout the state, and provide greater flexibility in the event one or more members of the Commission is absent.

A bill was passed by the 1977 session of the legislature, but vetoed by the Governor, which would have expanded the Commission to five members. That bill provided, however, that one of the members was to be a representative of the alcoholic beverage industry. This Committee believes that the Commission should be composed wholly of independent members so as to be free of any taint of conflict of interest, vested interest or partiality. The Committee recommends, therefore, that any bill increasing the number of Commissioners should provide that there be no representation on the Commission of any vested interest affected by the OLCC.

V. SUMMARY OF RECOMMENDATIONS

A. Generally

1. The Oregon Liquor Control Commission, regardless of the name by which it is known, should be retained as an independent regulatory agency.
2. No distinction should be made in the method of regulation of alcoholic beverages as among distilled spirits, beer and wine.
3. The role of promoting temperance, educating the public and dealing with alcohol abuse should be performed primarily by institutions other than OLCC.

B. Sale of Alcoholic Beverages

1. The State of Oregon should remove itself from the business of selling alcoholic beverages.
2. The *retail* sale of alcoholic beverages should be conducted through a regulated private enterprise system by persons meeting licensing criteria established by the OLCC and the affected cities and counties.
3. The sale of alcoholic beverages at *wholesale* should also be conducted according to a regulated private enterprise system by persons licensed in accordance with criteria established by the OLCC.
4. It should be the policy of the OLCC that competition be encouraged among licensees as to price, brand selection, advertising, provision of services, hours of sale and other matters which contribute to serving the consuming public.
5. The state should impose an excise tax upon the sale of all alcoholic beverages in a way which fairly distributes the tax burden among consumers.
6. The legislature should re-examine its formula for distribution of liquor revenues, and particularly that major portion of it which now goes to the State General Fund.
7. Fees for the privilege of selling and dispensing alcoholic beverages should be increased to a level more commensurate with the privilege granted.

C. Licensing

1. The present quota system for the granting of licenses to sell distilled liquor by the drink should be eliminated.
2. The OLCC should repeal the present regulation requiring liquor-by-the-drink licensees to maintain food sales of at least 25 percent of gross sales and should replace it with a regulation requiring that licensees have facilities available for the cooking and service of food.
3. The legislature should provide for a process of license approval under which local considerations are addressed by local government entities.
4. Licensing criteria should be evaluated and those which constitute unnecessary barriers to entry or serve no necessary regulatory purpose should be withdrawn.
5. The OLCC should adopt guidelines establishing reasonable processing times for each step of the licensing process.

D. Enforcement

1. The OLCC should continue to maintain responsibility for enforcing its own laws and regulations.
2. The OLCC should, when desirable, contract with other government entities in the performance of its enforcement responsibilities.
3. Duplication in enforcement, such as sanitary inspections, should be eliminated.

E. **Anticompetitive Policies**

1. The interests of the consumer should be given greater weight by the OLCC in developing regulatory policy.

2. Anticompetitive rules and practices should be examined and eliminated wherever possible.

F. **Structure of the Commission**

1. The OLCC should remain as a part-time citizen commission whose members are appointed by the Governor.

2. The Commission should be expanded from three to five members, one of whom should be appointed by the Governor from each congressional district with the chairman to be appointed at large by the Governor.

3. Commission members should be free from any personal or business connection which might result in a conflict of interest.

4. The Commissioners should exercise greater supervision and control over the policy-making and administrative functions of the Commission.

Respectfully submitted,
C. Max Armstrong
George W. Dana, M.D.
Donna M. Dunbar
Ellyn M. Error
Bessie Fields
Donald J. Friedman
William S. Naito
William H. Replogle
Catherine P. Smither
Michael J. Walsh
Stephen B. Herrell, *Chairman*

Approved by the Research Board November 30, 1978 for transmittal to the Board of Governors. Received by the Board of Governors December 11, 1978 and ordered printed and submitted to the membership for discussion and action on January 12, 1979.

APPENDIX A

PERSONS INTERVIEWED

James Bailey, Owner, Abernethy's Restaurant, Portland
Jim Chrest, Marine Clerk, Local # 40 ILWU and State Representative, District No. 15
Mrs. Helen Crawford, President, Oregon Chapter of Women's Temperance Christian Union
Sharrel E. Davison, Manager, Field Operations Section, Office of Protective Health Services (OPHS)
Joe Deutsch, Director of Distribution, Oregon Liquor Control Commission
Gregory Max Eggert, Owner, Rusty Duck Tavern, Portland
Commander Charles Fessler, Multnomah County Sheriff's Department
Ivan Frasier, Program Coordinator for Multnomah County Alcohol and Drug Office
Lou Gandy, Director of Retail Operations, Oregon Liquor Control Commission
Rev. Eric G. Gration, former Commissioner, Oregon Liquor Control Commission
Rick Gustafson, former Representative, Oregon State Legislature, Dist. 21
Stafford Hansell, former Interim Administrator, Oregon Liquor Control Commission
Joe Hasson, Comptroller, Oregon Liquor Control Commission
Jack L. Israel, independent liquor broker
W. A. (Bill) Johnson, Deputy Administrator, Oregon Liquor Control Commission
Dr. Joseph F. Jones, Professor of Sociology, Portland State University
Robert B. Ladd, former Executive Secretary, Oregon Restaurant and Beverage Association (deceased)
Horst Mager, restaurateur, Portland
Jim McAllister, Assistant Director, Multnomah County Epidemiology and Health Sanitation Department
Hardy Myers, Representative, Oregon State Legislature, District No. 19
James K. Neill, Jr., attorney
Carl Neil, Commissioner, Oregon Liquor Control Commission
John Piacentini, President and Owner, Plaid Pantry Grocery Stores
Paul Romaine, former Special Counsel, Oregon Liquor Control Commission
Richard Runyon, Assistant Administrator, Oregon State Mental Health Division, Program for Alcohol and Drug Problems
James R. Scherzinger, Economist, Legislative Revenue Office
C. Dean Smith, Administrator, Oregon Liquor Control Commission
Philip Smith, Deputy Chief of Investigations, Portland Police Bureau
Robert G. Turner, President, Crown Century Distillers Products, Ltd.
Kenneth Underdahl, former Administrator, Oregon Liquor Control Commission
John Van Horn, Legislative Committee Chairman, Oregon Restaurant and Beverage Association and Owner of Sunset Empire Room Lounge
William W. Wessinger, Chairman of the Board, Blitz-Weinhard Brewing Company

In addition, telephone interviews were held with the following:
Sydney Chandler, Chairman, Oregon Liquor Control Commission
Carl Shoemaker, President, Oregon Liquor Agents Association

BIBLIOGRAPHY

Report and Recommendation of the Governor's Special Commission on Liquor Control. August, 1978.

Staff Sunset Review, Legislative Research, Legislative Administration Committee. *Oregon Liquor Control Commission, Prepared Pursuant to Chapter 842 Oregon Laws 1977.* 78:8. August, 1978.

______. *Oregon Liquor Control Commission, Appendix.* August, 1978.

Redden, James A., Attorney General. *OLCC Investigation.* March 2, 1978.

______. *Anticompetitive Effects of Oregon Liquor Control Commission Regulations.* 1978.

State of Oregon, Legislative Revenue Office. *Revenue Effect of Converting to Private Retail Liquor Stores in Oregon.* Report #6-78. June 15, 1978.

______. *Basic Tax Information Packet.* September, 1977.

______. *Oregon Revenue Sources and Selected Statistics.* September 1, 1977.

______. *Possible Revenue Sources.* January 11, 1977.

State of Oregon, Oregon Liquor Control Commission. *Oregon Liquor Price List for February, March, April, 1978.*

______. *Liquor Control Laws and Administrative Rules.* 1974.

______. *Summary Statement of Revenue and Operating Expenditures July 1, 1973 to June 30, 1975.* Exhibit A.

______. *Modified Price List.* Effective April 1, 1977.

______. *Personnel Management Evaluation—January 12-27, 1978.* June 20, 1978.

______. *The Oregon Liquor Control Commission Information Sheet.* October, 1977.

______, Retail Operations Division. *Information About OLCC Agency Operations.* Revised, December, 1976. Addendum, June, 1977.

______, Controller's Office. *Performance Indicators for the Four Fiscal Years Ended June 30, 1977.* January 20, 1978.

______, Information Office. *Report for the Fiscal Year Ended June 30, 1977.*

______. *Allocation of Liquor Revenue to Cities, Counties, State General Fund, Mental Health Alcoholism and Drug Services Account and City Revenue Sharing.* Administrative Printout 1090. August 24, 1977.

______, Administrative Division. *Distribution of Revenue.* Information sheet 10-77. October, 1977.

______. *Statement of Per Capita Sales, Net Income and Apparent Consumption for the Eleven Years Ending June 30, 1977.* August 29, 1977.

______, Controller's Office. *Per Gallon Tax Rates on Distilled Spirits in Licensed States.* March 14, 1977.

______. *Changes in Liquor Price Mark-Up from 1952-1977.* July 1, 1977.

______. *Liquor Sales by County and City, Fiscal Year Ended June 30, 1977.*

______. Organization chart. October 1976.

Wine Advisory Board, Wine Institute. *Wine Excise Tax Rates Per Gallon.* San Francisco, California. Revised, July 1, 1973.

USBA Special Information. *Rate of Tax on Malt Beverages.* Revised, January, 1970.

Barton Museum of Whiskey History. *History of Federal Liquor Excise Taxes, 1971 to the Present.* Undated.

Bray, J. D., M.D., *1977-78 State Plan for Alcohol Problems.* Mental Health Division, Department of Human Resources, State of Oregon. May, 1977.

Room, Robin. *Policy Initiatives for Alcohol Problems Prevention* (draft position paper). UC School of Public Health, Social Research Group, Berkeley, California. November, 1975.

Runyon, Richard R. *Directions in Program Development for Alcohol and Drug Problems 1977-1979.* Mental Health Division, Department of Human Resources, State of Oregon. October, 1977.

Mental Health Division, Department of Human Resources, State of Oregon. *Programs for Alcohol and Drug Problems.* April, 1978.

Underdahl, Kenneth T., Administrator, OLCC. Letter to Hon. Robert W. Straub, Governor of Oregon, regarding Sunset Bill. July 19, 1977.

Van Horn, John. Testimony in opposition to SB 51. Undated.

Scherzinger, James R., Legislative Revenue Office. Letter regarding sensitivity analysis. July 17, 1978.

Amendments to ORS Chapters 471, 472, 473, and 459 in the 1977 Legislative Session. Effective October 4, 1977.

Amendment to Oregon Administrative Rules Chapter 845, Section 10-195(2). Effective December 20, 1977.

Burck, Charles G., "The Whiskey Distillers Put Up Their Dukes," *Fortune*. September, 1977.

"Street Talk," *Willamette Week*. May 29, 1978.

"Sunset Review Fails," *The Oregonian*.

"Let 'Sunset' Have a Chance," *Oregon Journal*, July 16, 1977.

"OLCC Focus of 'Sunset' Study," *The Oregonian*. August 1, 1978.

Salisbury, John, "Notes and Comments . . . State, Liquor Don't Mix," *Hillsboro Argus*. December 6, 1977.

"View From Klamath Falls—No Need for OLCC," *Oregon Journal*. December 9, 1977.

Buel, Ronald A., "Zeroing in on the OLCC Boys," *Willamette Week*. October 19, 1977.

Kantor, Henry, *One for the Road: A Study of the Oregon Liquor Control Commission—Licensing Strengths and Weaknesses*. Regulated Industries, December, 1977.

Kelly, Dorothy L., Executive Vice President of National Alcoholic Beverage Control Association, Inc. Letter regarding license states and liquor prices. May 1, 1978.

Meeker, Richard H., "OLCC Covers Up," *Willamette Week*. February 6, 1978.

Buel, Ronald A., Kathie Durbin, and Alice J. Porter, "Abusing Power and Playing Favorites," *Willamette Week*. February 6, 1978.

Buel, Ronald A., "Distiller Mistreated," *Willamette Week*. February 6, 1978.

Durbin, Kathie, "A Little Help From Friends," *Willamette Week*. February 6, 1978.

Porter, Alice J., "The OLCC's 'Undesirables,' " *Willamette Week*. February 6, 1978.

Oliver, Stephanie, "Kristi Paresi: Agent Provocateur," *Willamette Week*. February 6, 1978.

"OLCC-IV," *Willamette Week*. February 6, 1978.

March, Michael S., "Sunset Review in Colorado: Lessons from the First Round," *National Civic Review*. Vol. 67. No. 3. March, 1978.

City Club of Portland. "Report on Repeal of Oregon Prohibition Law Would Place State in Anomalous Position," *Bulletin*. October 21, 1932.

———. "Report on Bill Regulating Sale of Alcoholic Liquors," *Bulletin*. October 7, 1938.

———. "Report on Liquor Control ballot measures," *Bulletin*. October 25, 1940.

———. "Report on Control of Wine Sales in Oregon," *Bulletin*. October 13, 1944.

———. "Report on Oregon Liquor Dispensing Licensing Act," *Bulletin*. October 15, 1948.

———. "Report on Bill Making Sale of Promotively Advertised Alcoholic Beverage Unlawful," *Bulletin*. October 20, 1950.

———. "Report on Constitutional Amendment Authorizing Alcoholic Liquor Sale by Individual Glass," *Bulletin*. October 17, 1952.

———. "Report on Liquor Licenses for Public Passenger Carriers," *Bulletin*. October 18, 1974.

Knox, Dr. William S., *Report of the Committee Appointed by Governor Julius L. Meier to Make a Study of Liquor Control for the State of Oregon*. October 14, 1933.

Review of selected issues of *The Oregonian* relating to liquor control issues. October, 1933 through January, 1934.

Review of public relations materials and other materials distributed by OLCC.

APPENDIX B

REVENUE PROJECTIONS

	Assuming Various Excise Tax Rates on Liquor		
Revenue:	*$4.00/gallon*	*$4.50/gallon*	*$5.00/gallon*
Liquor Gallonage Tax	$20,515,000	$23,079,000	$25,643,000
Beer and Wine Tax	8,092,000	8,092,000	8,092,000
License Fees	2,746,000	2,746,000	2,746,000
Income Tax on Retail Outlets	605,000	605,000	605,000
State Inventory Cost Savings	500,000	500,000	500,000
Total Revenue	32,458,000	35,022,000	37,586,000
Operating Expenses	4,000,000	4,000,000	4,000,000
Net Revenue	$28,458,000	$31,022,000	$33,586,000
Approximate effect of increasing beer and wine tax $.35/gallon	22,000,000	22,000,000	22,000,000
Net revenue with beer and wine tax increase	$50,458,000	$53,022,000	$55,586,000
Percent below 1978 actual net revenue	14%	10%	6 %

Assumptions used above:

1) Consumption increase of 14%
2) Increase in number of retail outlets of 8 times with a $1,000 license fee for each outlet.
3) Operating expense decrease of approximately $7½ million.
4) Inventory carrying cost of 10%.

APPENDIX C

PROJECTED EFFECT OF PROPOSED GALLONAGE TAX RATES ON LIQUOR PRICES

	Assuming Various Excise Tax Rates		
	$4.00/gallon	*$4.50/gallon*	*$5.00/gallon*
Manufacturer's cost of liquor	$ 75,388,000	$ 75,388,000	$ 75,388,000
Plus state excise tax	20,515,000	23,079,000	25,643,000
Cost of goods to wholesaler	95,903,000	98,467,000	101,031,000
Plus wholesaler's mark-up (15%)	14,385,000	14,770,000	15,154,000
Cost of goods to retailer	110,289,000	113,237,000	116,185,000
Plus retailer's mark-up (25%)	27,572,000	28,309,000	29,046,000
Cost of goods to consumer	$137,861,000	$141,546,000	$145,231,000
% above (below) cost under present system	(4.8%)	(2.2%)	0.1%

Based upon the above, our committee concluded that a gallonage tax of $4.00-$5.00 would not cause liquor prices to vary significantly. The mark-ups used in our projections were derived from discussions with wholesalers and retailers of other states and are probably on the conservative (high) side.