

## Packaging and Labeling

### 845-025-7000

#### Packaging and Labeling — Definitions

For the purposes of OAR 845-025-7000 to 845-025-7060:

- (1) “Attractive to minors” means packaging, labeling and marketing that features:
  - (a) Cartoons;
  - (b) A design, brand or name that resembles a non-cannabis consumer product of the type that is typically marketed to minors;
  - (c) Symbols or celebrities that are commonly used to market products to minors;
  - (d) Images of minors; and
  - (e) Words that refer to products that are commonly associated with minors or marketed by minors.
- (2) “Cannabinoid” means any of the chemical compounds that are the active constituents of marijuana.
- (3) “Cannabinoid concentrate or extract” means a substance obtained by separating cannabinoids from marijuana by a mechanical, chemical or other process.
- (4) “Cannabinoid edible” means food or potable liquid into which a cannabinoid concentrate or extract or the dried leaves or flowers of marijuana have been incorporated.
- (5)(a) “Cannabinoid product” means a cannabinoid edible or any other product intended for human consumption or use, including a product intended to be applied to a person’s skin or hair, that contains cannabinoids or the dried leaves or flowers of marijuana.
  - (b) “Cannabinoid product” does not include:
    - (A) Usable marijuana by itself;
    - (B) A cannabinoid concentrate or extract by itself; or
    - (C) Industrial hemp, as defined in ORS 571.300.
- (6) “Cartoon” means any drawing or other depiction of an object, person, animal, creature or any similar caricature that satisfies any of the following criteria:
  - (a) The use of comically exaggerated features;
  - (b) The attribution of human characteristics to animals, plants or other objects, or the similar use of anthropomorphic technique; or
  - (c) The attribution of unnatural or extra-human abilities, such as imperviousness to pain or injury, X-ray vision, tunneling at very high speeds or transformation.
- (7) “Child resistant” means designed or constructed to be significantly difficult for children under five years of age to open and not difficult for adults to use properly.
- (8) “Consumer”:
  - (a) Has the meaning given that term in ORS 475B.015; or
  - (b) Means a patient or designated primary caregiver receiving a transfer from a medical marijuana dispensary.
- (9) “Container” means a sealed, hard or soft-bodied receptacle in which a marijuana item is placed prior to being sold to a consumer.
- (10) “Exit Package” means a sealed container provided at the retail point of sale in which any marijuana items already within a container are placed.
- (11) “Licensee” has the meaning given that term in OAR 845-025-1015.
- (12) Marijuana.

(a) "Marijuana" means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

(b) "Marijuana" does not include industrial hemp, as defined in ORS 571.300.

(13) "Marijuana item" means marijuana, usable marijuana, a cannabinoid product or a cannabinoid concentrate or extract.

(14) "Processing" means the compounding or conversion of marijuana into cannabinoid products or cannabinoid concentrates or extracts.

(15) "Producing" means:

(a) Planting, cultivating, growing, trimming or harvesting marijuana; or

(b) Drying marijuana leaves and flowers.

(16) "Registrant" means a person registered with the Authority under ORS 475B.420, 475B.435, or ORS 475B.450.

(17) Usable Marijuana.

(a) "Usable marijuana" means the dried leaves and flowers of marijuana.

(b) "Usable marijuana" does not include:

(A) The seeds, stalks and roots of marijuana; or

(B) Waste material that is a by-product of producing or processing marijuana.

Stat. Auth.: ORS 475B.615

Stats. Implemented: ORS 475B.600 & 475B.615

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16; OLCC 6-2016, f. 6-

28-16, cert. ef. 6-29-16; OLCC 17-2016(Temp), f. & cert. ef. 9-30-16 thru 12-26-16;

OLCC 22-2016, f. 12-22-16, cert. ef. 12-27-16

## **845-025-7020**

### **Packaging for Sale to Consumer**

(1) The purpose of this rule is to set the minimum standards for the packaging of marijuana items that are sold to the consumer, applicable to:

(a) A licensee; or

(b) On and after October 1, 2016, a registrant who is not exempt from the labeling requirements.

(2) Containers or packaging for marijuana items must protect a marijuana item from contamination and must not impart any toxic or deleterious substance to the marijuana item.

(3) Marijuana items for ultimate sale to a consumer, except for immature plants and seeds, must:

(a) Be packaged in a container that is child-resistant as certified by a qualified third party child-resistant package testing firm or placed within an exit package that is certified by a qualified third party child-resistant package testing firm prior to final sale to consumer;

(b) Be packaged in a container or placed in an exit package that is capable of being resealed and made child resistant again after it has been opened, as certified by a qualified third party child-resistant package testing firm if the marijuana item is a cannabinoid product that contains more than 15 mg of THC, or if the item is an extract or concentrate.

(c) Not be packaged or labeled in a manner that is attractive to minors; and

(d) Be labeled in accordance with OAR 333-007-0010 to 333-007-0100.

(4) Packaging may not contain any text that makes an untruthful or misleading statement.

(5) Nothing in this rule:

(a) Prevents the re-use of packaging that is capable of continuing to be child-resistant, as permitted by rules established by the Commission or the Authority; or

(b) Prohibits the Commission or the Authority from imposing additional packaging requirements in their respective rules governing licensees and registrants.

(6) A licensee or registrant must provide to the Commission or the Authority upon that agency's request, additional information about the testing that was performed by the qualified third party child-resistant package testing firm in accordance with 16 CFR 1700.

Stat. Auth.: ORS 475B.615

Stats. Implemented: ORS 475B.070, 475B.090, 475B.100, 475B.110, 475B.615

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16; OLCC 2-2016(Temp), f. & cert. ef. 2-23-16 thru 8-18-16; OLCC 6-2016, f. 6-28-16, cert. ef. 6-29-16; OLCC 12-2016(Temp), f. & cert. ef. 8-23-16 thru 12-26-16; OLCC 22-2016, f. 12-22-16, cert. ef. 12-27-16

### **845-025-7030**

#### **Labeling for Sale to Consumer**

In addition to requirements of OAR 333-007-0010 to 333-007-0100:

(1) No label may be attractive to minors as defined in OAR 845-025-7000(1); and

(2) The Commission may require that marijuana items sold at retail be labeled with a Universal Product Code.

Stat. Auth.: ORS 475B.025 & 475B.605

Stats. Implemented: ORS 475B.025

Hist.: OLCC 6-2016, f. 6-28-16, cert. ef. 6-29-16; OLCC 17-2016(Temp), f. & cert. ef. 9-30-16 thru 12-26-16; OLCC 22-2016, f. 12-22-16, cert. ef. 12-27-16

### **845-025-7040**

#### **Wholesaler and Retailer Packaging and Labeling Compliance Requirements**

(1) If a wholesaler or a retailer receives a marijuana item that is not packaged or labeled in accordance with OAR 845-025-7000 to 845-025-7060 or 333-007-0010 to 333-007-0100, the wholesaler or retailer must notify the Commission and return the marijuana item to the licensee who transferred the wholesaler or retailer the marijuana item. The wholesaler or retailer must document the return and the reason for the return in the tracking system.

(2) Sale of a marijuana item that is not packaged and labeled in accordance with OAR 845-025-7000 to 845-025-7060 and 333-007-0010 to 333-007-0100 is a category III violation.

Stat. Auth.: ORS 475B.615

Stats. Implemented: ORS 475B.100, 475B.110 & 475B.615

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16; OLCC 6-2016, f. 6-28-16, cert. ef. 6-29-16

## **845-025-7060**

### **Packaging and Labeling Pre-approval Process**

(1) Prior to a marijuana item being sold to a consumer, a licensee, license applicant or a registrant, if pre-approval is required by the Authority, must submit an application for both package and label pre-approval by the Commission.

(a) The initial submission shall be made electronically if required by the Commission. The licensee, license applicant or registrant must submit a physical prototype upon request by the Commission.

(b) If a license applicant submits packages and labels for pre-approval, final determination for packages and labels will not be made until the applicant has been issued a license.

(2) Except as provided in sections (7) to (9) of this rule, the packaging and labels must be accompanied by the following:

(a) A fee as specified in OAR 845-025-1060; and

(b) Information including but not limited to:

(A) Documentation that the package has been certified for child resistance as defined by 16 CFR 1700 by a qualified third party child-resistant package testing firm.

(B) A picture of and description of the item to be placed in the package.

(3) The Commission will evaluate the packaging and label in order to determine whether:

(a) The packaging:

(A) Has been certified as child resistant by a qualified third party child-resistant package testing firm;

(B) Is attractive to minors or is marketed in a manner attractive to minors;

(C) Contains untruthful or misleading content; and

(D) Will contain a marijuana item that is not compliant with ORS 475B, OAR 333, Divisions 7 and 8, or these rules.

(b) The label complies with the Authority's labeling rules, OAR 333-007-0010 to 333-007-0100, or any additional labeling requirements in these rules.

(4) The Commission must review the packaging and labeling and notify the licensee, licensee applicant or registrant whether the packaging and labeling is approved, and if not approved, a description of the packaging or labeling deficiencies.

(5) If a licensee or registrant's label is deficient, it must correct the deficiencies and resubmit the label for pre-approval, but the licensee or registrant is not required to submit an additional fee unless the label is found deficient for a second time in which case the licensee must resubmit the packaging or labeling in accordance with section (1) of this rule.

(6) If a licensee, licensee applicant or registrant's original packaging is deficient because it is not child resistant, the licensee, applicant or registrant may:

(a) Correct the deficiencies and resubmit the packaging for pre-approval. The licensee or registrant is not required to submit an additional fee unless the packaging is found deficient for a second time in which case the licensee may resubmit the packaging or labeling in accordance with subsection (1) of this rule; or

(b) The licensee, licensee applicant or registrant may indicate that they wish to satisfy the requirement that a marijuana item be in a container that is child-resistant by using an approved child-resistant exit package.

(7) If a licensee or registrant's packaging is deficient for reasons other than child resistance it must correct the deficiencies and resubmit the packaging for pre-approval, but the licensee, applicant or registrant is not required to submit an additional fee unless the packaging is found deficient for a second time in which case the licensee must resubmit the packaging or labeling in accordance with subsection (1) of this rule.

(8) A licensee, applicant or registrant may submit packaging and labeling for approval on the same application for a product that may have different flavors, colors or sizes if the product and packaging is otherwise identical. Applications for approval of packaging and labeling under this section are subject to a single application fee.

(9) Packages and labels that have been previously approved do not need to be resubmitted if the only changes to the packaging or label are:

(a) Changes in the:

(A) Harvest or processing date;

(B) Strain;

(C) Test results;

(D) Net weight or volume; or

(E) Harvest or process lot numbers.

(b) The deletion of any non-mandatory label information.

(c) The addition, deletion or change in the:

(A) UPC barcodes or 2D mobile barcodes (QR codes); or

(B) Website address, phone number, fax number, or zip code of the licensee or registrant.

(d) The repositioning of any label information on the package, as long as the repositioning of label information is consistent with OAR 333-007-0010 to 333-007-0100.

(10) The Commission may publish a list of previously-approved commercially available packaging. Packaging identified on this list as approved for certain product types does not need to be submitted for approval if used for the type of product for which it is approved and the packaging does not contain any graphics, pictures or logos.

(11) The Commission may publish a list of products whose package and label have been approved, but require an approved exit package in order to meet the child resistance requirement.

(12) Labels for marijuana items do not require pre-approval if they contain only the information required by OAR 333-007-0010 to 333-007-0100 and have no graphics, pictures or logos.

(13) Notwithstanding any provisions of this rule, the Commission may permit or require electronic submission of labels and packaging for approval.

Stat. Auth.: ORS 475B.610 & 475B.620

Stats. Implemented: ORS 475B.610 & 475B.620

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16; OLCC 6-2016, f. 6-28-16, cert. ef. 6-29-16; OLCC 22-2016, f. 12-22-16, cert. ef. 12-27-16