



## OREGON LIQUOR CONTROL COMMISSION

The Commission proposes to:

**Adopt and amend Division 25 of Oregon Administrative Rules Chapter 845**

### NOTICE OF PUBLIC HEARING

**Date and Time:** 1:30 p.m. on Thursday, November 17, 2016

**Location:** Oregon Liquor Control Commission  
9079 SE McLoughlin Blvd.  
Portland, OR 97222

**Presiding Officer:** Bryant Haley  
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*Auxiliary aids for persons with disabilities are available upon advance request.*

#### **CAPTION:**

The amendments revise Division 25 rules with both technical and 2016 legislative revisions.

#### **RULE SUMMARY:**

The Oregon Legislature adopted several bills during the 2016 legislative session that make significant alterations to ORS 475B. This action by the legislature requires the Commission to align the rules with statute. Further, staff has made revisions to the rules as the Commission has learned about the recreational market and the realities thereof. Finally, the amendments make technical revisions that were discovered after the initial implementation of the Recreational Marijuana program.

#### **HOW TO OBTAIN THE PROPOSED RULE LANGUAGE:**

A copy of the proposed rule language, dated October 14, 2016, is attached to this Notice. Alternatively, you may obtain a copy of the proposed rule language by emailing [bryant.haley@oregon.gov](mailto:bryant.haley@oregon.gov). For your convenience, the proposed rule language is also available on our website at <http://www.oregon.gov/OLCC/pages/index.aspx>. Go to the "Laws and Rules" tab on the left side of the screen, and then follow the link to the

“Proposed Rulemaking” section of our website. You will find all of the relevant rulemaking documents, including the proposed rule language, under the “Recreational Marijuana” section of this webpage.

**HOW TO SUBMIT COMMENTS:**

During the hearing, you may present oral or written testimony that includes opinions, information, concerns or proposals related to this rulemaking matter. The Commission also requests comments on whether other options exist and/or should be considered for achieving the rule’s substantive goals while reducing the negative economic impact of the proposed rule on business.

After the hearing, you may submit written comments in person, by mail, by fax or by e-mail (see above for relevant contact information). **However, all written comments must be received by 5:00 p.m. on Thursday, December 1, 2016.**

The Commission reserves the right to request and receive additional comments at any time on or before the date the Commission takes final action on this rulemaking matter.

**STATEMENT OF NEED AND FISCAL IMPACT:**

In the Matter of: The proposed amendments and adoptions to Division 25 of OAR Chapter 845.

845-025-1015	845-025-2900
845-025-1030	845-025-2910
845-025-1045	845-025-3215
845-025-1060	845-025-3260
845-025-1090	845-025-3300
845-025-1100	845-025-3310
845-025-1115	845-025-3500
845-025-1160	845-025-3510
845-025-1175	845-025-3600
845-025-1230	845-025-5000
845-025-1360	845-025-5300
845-025-1410	845-025-5350
845-025-1420	845-025-5500
845-025-1440	845-025-5540
845-025-1450	845-025-5700
845-025-1470	845-025-7000
845-025-2020	845-025-7020
845-025-2030	845-025-7030
845-025-2040	845-025-7060
845-025-2060	845-025-7520
845-025-2100	845-025-7580
845-025-2800	845-025-7700
845-025-2840	845-025-7750

845-025-8040  
845-025-8060  
845-025-8520

845-025-8560  
845-025-8750

Statutory Authority: ORS 475B

Statutes Implemented: ORS 475B

**Need for the Rule:**

The Commission adopted temporary rules on June 17, 2016, to become effective June 30, 2016 until December 26, 2016. These revisions were made to implement the changes made by the 2016 Oregon legislature. Specifically, House Bill 4014, Senate Bill 1511 and Senate Bill 1598 each required changes to the newly adopted Division 25 of Chapter 845. The Commission concurrently initiated permanent rulemaking so that these changes could go through the full rulemaking process and become permanent rules.

Further, the Commission has learned various lessons about the emerging recreational marijuana market. This led the Commission to adopt further amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

**Documents Relied Upon and Where They Are Available:**

- 2016 Oregon Legislature House Bill 4014 (available from the Oregon State Legislature, Office of Legislative Counsel).
- 2016 Oregon Legislature Senate Bill 1511 Fiscal and Revenue Impact (available from Oregon State Legislature, Legislative Revenue Office).
- 2016 Oregon Legislature Senate Bill 1598 Fiscal and Revenue Impact (available from Oregon State Legislature, Legislative Revenue Office).
- Measure 91 (available from the Oregon State Legislature, Office of Legislative Counsel).
- Rules advisory committee and subcommittee meeting summaries and audio recordings of meeting testimony (available from the Oregon Liquor Control Commission).
- Public Hearing testimony (available from the Oregon Liquor Control Commission).
- Written public comments (available from the Oregon Liquor Control Commission).

**Fiscal and Economic Impact Statement:**

This statement takes into account the fiscal impact on: (a) Marijuana Licensees; (b) Local Government; (c) State Agencies; and (d) the Public.

**(a) Marijuana Licensees.**

These rules implement both legislative changes made by the 2016 Oregon legislature and technical revisions to Division 25. Specifically, House Bill 4014, Senate Bill 1511 and Senate Bill 1598 each required changes to the newly adopted Division 25 of Chapter 845.

At the September 9<sup>th</sup> Advisory Committee meeting on this rule package; Commission staff inquired about possible fiscal impacts. Marijuana licensees informed the Commission that the requirements in OAR 845-025-7520 required growers to tag any plant that is 8 inches tall. Growers informed staff that a plant has not matured enough to determine if the plant will be male or female, as only female marijuana plants produce flower. In response to this comment, the Commission has changed the 8-inch requirement in 845-025-7520 to 24-inches or when the plant reveals its gender.

**(b) Local Government.**

During the Advisory Committee, representatives of local government cited that these rules will have real costs upon them. However, the recreational marijuana market is only still emerging and the Commission cannot quantify those costs at this time.

**(c) State Agencies.**

These rules, along with the authorizing legislation, will incur costs to state agencies. The effected agencies include: Oregon Health Authority, Oregon Department of Agriculture, Oregon State Police and others. However, the recreational marijuana market is only still emerging and the Commission cannot quantify those costs at this time.

**(d) The Public.**

The Commission expects the proposed rules package to have a positive fiscal impact on the public to the extent that it enables licensees to provide marijuana and marijuana products legally to the public.

**Statement of Cost of Compliance:**

**1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):**

The Commission expects that local governments that choose to engage in allowing and licensing recreational marijuana businesses, to have a fiscal impact both positive and negative. Further, several state agencies will be effected by the continued emergence of the recreational market. Those agencies include: Oregon Health Authority, Oregon

Department of Agriculture, Oregon State Police and others. At this time, the Commission cannot estimate whether those licensing fees and taxes will offset the costs of regulation.

The public will also face both possible positive and negative fiscal impacts in relation to recreational marijuana. Specifically, the public may benefit from the regulation and taxation of marijuana. However, regulation and enforcement will have impacts upon the agencies listed above. It remains to be seen whether or not the current taxing and licensing fees instituted by state agencies and local governments will be covered.

**2. Cost of compliance, effect on small business (ORS 183.336):**

**a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:**

As of October 14, 2016, the Commission has received 1,486 applications for the five recreational marijuana license types (producer, processor, wholesaler, laboratory and retailer). 335 of those applications have been approved and those licenses are active.

**b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:**

In order to comply with ORS 475B and subsequent legislation passed by the 2016 Oregon Legislature, persons whom wish to become recreational marijuana licensees will incur costs relating to reporting, record keeping and other administrative activities required for compliance. It is not known how significant these costs will be, as this is a new industry being regulated by these rules. The Commission has continued to listen and work with various interests to create rules that meet the legal requirements while sensibly establishing compliance standards.

**c. Equipment, supplies, labor and increased administration required for compliance:**

In order to comply with ORS 475B and subsequent legislation passed by the 2016 Oregon Legislature, persons whom are currently licensees or are applying to become recreational marijuana licensees will incur costs relating to reporting, record keeping and other administrative activities required for compliance. It is not known how significant these costs will be, as this is a new industry being regulated by these rules. The Commission has continued to listen and work with various interests to create rules that meet the legal requirements while sensibly establishing compliance standards.

**How were small businesses involved in the development of this rule?**

Small businesses as well as interested licensees, industry representatives, law enforcement agencies, public safety organizations, members of the public, and other interested parties were invited to attend an advisory committee meeting that was held on September 9, 2016. Stakeholders will also have an additional opportunity to

comment on the proposed amendments at the public hearing that will be held on November 17, 2016.

**Was an administrative rule advisory committee consulted?**

Yes, on September 9, 2016.

**(This Notice was sent on November 3, 2016)**