

Oregon Marijuana Laws

August 2018

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Authority

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Oregon Marijuana Laws

Introduction

Introduction

This document outlines Oregon laws related to marijuana in Oregon. A brief overview of the federal landscape is included as well.

Laws include a brief summary and, where practical, full legal citations. In addition, cursory information about enforcement is included, as appropriate.

Format and Content

In subsections I through VI, the laws, policies and court orders have been divided into six groups based on their content. Laws, policies and orders in these subsections include a summary and, where practical, full legal citations. In addition, cursory information about enforcement has been provided.

- I. Federal
- II. Preemption
- III. Licensing
- IV. Smoke Free Environments
- V. Marijuana Taxes and Distribution
- VI. Retail

Definitions:

ORS: Oregon Revised Statutes; contains statutes and the Oregon Rules of Civil Procedure.

OAR: Oregon Administrative Rules; ORS 183.310(9) defines “rule” as “any agency directive, standard, regulation or statement of general applicability that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of any agency.” The Oregon Administrative Rules are published by the Oregon Secretary of State.

Introduction

This table outlines the dollar amounts of penalties for infractions against different levels/types of Oregon Law.

VIOLATION TYPE/CLASS	PENALTY
Class A Misdemeanor	Max. fine: \$6,250 Max. prison term: 1 year
Class B Misdemeanor	Max. fine: \$2,500 Max. prison term: 6 months
Class C Misdemeanor	Max. fine: \$1,250 Max. prison term: 30 days
Unclassified Misdemeanor	As provided in the statute defining the crime
Class A Violation	Max. fine: \$2,000
Class B Violation	Max fine: \$1,000
Class C Violation	Max fine: \$500
Class D Violation	Max fine: \$250
Civil Penalty	Varies based on violation
Unclassified or Specific-Fine Violations	As described in ORS 153.015

Citation

ORS 153.018, 161.615, 161.635

https://www.oregonlegislature.gov/bills_laws/ors/ors153.html

https://www.oregonlegislature.gov/bills_laws/ors/ors161.html

I. Federal Law

I. Federal Law

Description of Schedule 1 narcotic

Drugs, substances, and certain chemicals used to make drugs are classified into five (5) distinct categories or schedules depending upon the drug's acceptable medical use and the drug's abuse or dependency potential by the Drug Enforcement Agency of the U.S. Department of Justice.

The abuse rate is a determinate factor in the scheduling of the drug; for example, Schedule I drugs have a high potential for abuse and the potential to create severe psychological and/or physical dependence. As the drug schedule changes-- Schedule II, Schedule III, etc., so does the abuse potential-- Schedule V drugs represents the least potential for abuse. A Listing of drugs and their schedule are located at [Controlled Substance Act \(CSA\) Scheduling](#) or by Alphabetical Order. These lists describe the basic or parent chemical and do not necessarily describe the salts, isomers and salts of isomers, esters, ethers and derivatives which may also be classified as controlled substances. These lists are intended as general references and are not comprehensive listings of all controlled substances.

A substance need not be listed as a controlled substance to be treated as a Schedule I substance for criminal prosecution. A controlled substance analogue is a substance which is intended for human consumption and is structurally or pharmacologically substantially similar to or is represented as being similar to a Schedule I or Schedule II substance and is not an approved medication in the United States.¹

See 21 U.S.C. §802(32)(A) for the definition of a controlled substance analogue and 21 U.S.C. §812(B) for the schedule.²

<https://www.deadiversion.usdoj.gov/21cfr/21usc/812.htm>

Schedule I

Schedule I drugs, substances, or chemicals are defined as drugs with no currently accepted medical use and a high potential for abuse by the Drug Enforcement Agency of the U.S. Department of Justice.

¹ <https://www.dea.gov/druginfo/ds.shtml>

² <https://www.deadiversion.usdoj.gov/21cfr/21usc/812.htm>

I. Federal Law

Some examples of Schedule I drugs are: heroin, lysergic acid diethylamide (LSD), marijuana (cannabis), 3,4-methylenedioxymethamphetamine (ecstasy), methaqualone, and peyote

Enforcement

U.S. Drug Enforcement Administration

Cole Memo

On August 29, 2013, the U.S. Department of Justice announced an update to its federal marijuana enforcement policy in light of recent state ballot initiatives that legalize, under state law, the possession of small amounts of marijuana and provide for the regulation of marijuana production, processing, and sale.³

In the new memorandum outlining the policy, the Department makes clear that marijuana remains an illegal drug under the Controlled Substances Act and that federal prosecutors will continue to aggressively enforce this statute. To this end, the Department identifies eight (8) enforcement areas that federal prosecutors should prioritize. These are the same enforcement priorities that have traditionally driven the Department's efforts in this area.

Outside of these enforcement priorities, however, the federal government has traditionally relied on state and local authorities to address marijuana activity through enforcement of their own narcotics laws. This guidance continues that policy.

For states such as Colorado, Oregon and Washington that have enacted laws to authorize the production, distribution and possession of marijuana, the Department expects these states to establish strict regulatory schemes that protect the eight federal interests identified in the Department's guidance. These schemes must include strong, state-based enforcement efforts, backed by adequate funding. Based on assurances that those states will impose an appropriately strict regulatory system, the Department has informed the governors of such states that it is deferring its right to challenge their legalization laws at this time. But if any of the stated harms do materialize—either despite a strict regulatory scheme or because of the lack of one—federal prosecutors will act aggressively to bring individual prosecutions focused on federal enforcement priorities and the Department may challenge the regulatory scheme themselves in these states.

³ <https://www.justice.gov/opa/pr/justice-department-announces-update-marijuana-enforcement-policy>

I. Federal Law

A copy of the memorandum, sent to all United States Attorneys by Deputy Attorney General James M. Cole, is available below and for download here:

<https://www.justice.gov/iso/opa/resources/3052013829132756857467.pdf>.

I. Federal Law



U.S. Department of Justice


Office of the Deputy Attorney General

The Deputy Attorney General

Washington, D.C. 20530

August 29, 2013

MEMORANDUM FOR ALL UNITED STATES ATTORNEYS

FROM: James M. Cole 
Deputy Attorney General

SUBJECT: Guidance Regarding Marijuana Enforcement

In October 2009 and June 2011, the Department issued guidance to federal prosecutors concerning marijuana enforcement under the Controlled Substances Act (CSA). This memorandum updates that guidance in light of state ballot initiatives that legalize under state law the possession of small amounts of marijuana and provide for the regulation of marijuana production, processing, and sale. The guidance set forth herein applies to all federal enforcement activity, including civil enforcement and criminal investigations and prosecutions, concerning marijuana in all states.

As the Department noted in its previous guidance, Congress has determined that marijuana is a dangerous drug and that the illegal distribution and sale of marijuana is a serious crime that provides a significant source of revenue to large-scale criminal enterprises, gangs, and cartels. The Department of Justice is committed to enforcement of the CSA consistent with those determinations. The Department is also committed to using its limited investigative and prosecutorial resources to address the most significant threats in the most effective, consistent, and rational way. In furtherance of those objectives, as several states enacted laws relating to the use of marijuana for medical purposes, the Department in recent years has focused its efforts on certain enforcement priorities that are particularly important to the federal government:

- Preventing the distribution of marijuana to minors;
- Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
- Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

I. Federal Law

Sessions Memo

The Department of Justice issued a memo on federal marijuana enforcement policy announcing a return to the rule of law and the rescission of previous guidance documents (ie Cole Memo). Since the passage of the Controlled Substances Act (CSA) in 1970, Congress has generally prohibited the cultivation, distribution, and possession of marijuana.

In the memorandum, Attorney General Jeff Sessions directs all U.S. Attorneys to enforce the laws enacted by Congress and to follow well-established principles when pursuing prosecutions related to marijuana activities. This return to the rule of law is also a return of trust and local control to federal prosecutors who know where and how to deploy Justice Department resources most effectively to reduce violent crime, stem the tide of the drug crisis, and dismantle criminal gangs.

"It is the mission of the Department of Justice to enforce the laws of the United States, and the previous issuance of guidance undermines the rule of law and the ability of our local, state, tribal, and federal law enforcement partners to carry out this mission," said Attorney General Jeff Sessions. "Therefore, today's memo on federal marijuana enforcement simply directs all U.S. Attorneys to use previously established prosecutorial principles that provide them all the necessary tools to disrupt criminal organizations, tackle the growing drug crisis, and thwart violent crime across our country."⁴

A copy of the memorandum is available below and for download here:

<https://www.justice.gov/opa/pr/justice-department-issues-memo-marijuana-enforcement>

Enforcement

U.S. Department of Justice

⁴ <https://www.justice.gov/opa/pr/justice-department-issues-memo-marijuana-enforcement>

I. Federal Law



Office of the Attorney General Washington, D. C. 20530

January 6, 2018

MEMORANDUM FOR ALL UNITED STATES ATTORNEYS

FROM: Jefferson B. Sessions, III
Attorney General

SUBJECT: Marijuana Enforcement

In the Controlled Substances Act, Congress has generally prohibited the cultivation, distribution, and possession of marijuana. 21 U.S.C. § 801 *et seq.* It has established significant penalties for these crimes. 21 U.S.C. § 841 *et seq.* These activities also may serve as the basis for the prosecution of other crimes, such as those prohibited by the money laundering statutes, the unlicensed money transmitter statute, and the Bank Secrecy Act. 18 U.S.C. §§ 1956-57, 1960; 31 U.S.C. § 5318. These statutes reflect Congress's determination that marijuana is a dangerous drug and that marijuana activity is a serious crime.

In deciding which marijuana activities to prosecute under these laws with the Department's finite resources, prosecutors should follow the well-established principles that govern all federal prosecutions. Attorney General Benjamin Civiletti originally set forth these principles in 1980, and they have been refined over time, as reflected in chapter 9-27.000 of the U.S. Attorneys' Manual. These principles require federal prosecutors deciding which cases to prosecute to weigh all relevant considerations, including federal law enforcement priorities set by the Attorney General, the seriousness of the crime, the deterrent effect of criminal prosecution, and the cumulative impact of particular crimes on the community.

Given the Department's well-established general principles, previous nationwide guidance specific to marijuana enforcement is unnecessary and is rescinded, effective immediately. This memorandum is intended solely as a guide to the exercise of investigative and prosecutorial discretion in accordance with all applicable laws, regulations, and appropriations. It is not intended to, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter civil or criminal.

¹ Previous guidance includes: David W. Ogden, Deputy Atty Gen., Memorandum for Selected United States Attorneys: Investigations and Prosecutions in States Authorizing the Medical Use of Marijuana (Oct. 19, 2009); James M. Cole, Deputy Atty Gen., Memorandum for United States Attorneys: Guidance Regarding the Ogden Memo in Jurisdictions Seeking to Authorize Marijuana for Medical Use (June 29, 2011); James M. Cole, Deputy Atty Gen., Memorandum for All United States Attorneys: Guidance Regarding Marijuana Enforcement (Aug. 29, 2013); James M. Cole, Deputy Atty Gen., Memorandum for All United States Attorneys: Guidance Regarding Marijuana Related Financial Crimes (Feb. 14, 2014); and Monty Wilkinson, Director of the Executive Office for U.S. Att'ys, Policy Statement Regarding Marijuana Issues in Indian Country (Oct. 28, 2014).

II. Preemption Overview

II. State Law

Preemption Overview

The preemption doctrine states that a higher authority of law will displace the law of a lower authority of law when the two authorities come into conflict.

Article VI, paragraph 2, of the U.S. Constitution makes federal law "the supreme law of the land," notwithstanding the contrary law any state might have.⁵ This is commonly known as the "Supremacy Clause."

When state law and federal law conflict, federal law displaces, or preempts, state law, due to the [Supremacy Clause](#) of the Constitution. [U.S. Const. art. VI, § 2](#). Preemption applies regardless of whether the conflicting laws come from legislatures, courts, administrative agencies, or constitutions. For example, the [Voting Rights Act](#), an act of Congress, preempts state constitutions, and FDA regulations may preempt state court judgments in cases involving prescription drugs.

Citation

[U.S. Const. art. VI, § 2](#).

"This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding."

With certain exceptions, for the sale of legal products such as tobacco, alcohol, and marijuana, Oregon state law does not preempt local jurisdictions from creating regulations on the

- time,
- place, or
- manner

of sales. As a result, local jurisdiction are not prevented from enacting local ordinances such as addressing pricing strategies or limiting the hours an establishment operates.

II. Preemption Overview

Time, Place and Manner Regulations for Local Jurisdictions

Local jurisdictions can impose regulations on the time, place and manner of marijuana sales, including limiting where marijuana producers, processors, wholesalers and retailers can conduct business in their area, with a few restrictions. However, ORS 475B.454 preempts local jurisdictions from making laws that would conflict with ORS 475B.010 to 475B.545. If you have questions about whether the local law is a permissible time, place, or manner restriction versus whether it is preempted by ORS 475B.454, consult with your legal counsel.

Enforcement:

Local jurisdiction

Citation:

475B.486 Local time, place and manner regulations. (1) For purposes of this section, “reasonable regulations” includes:

(a) Reasonable conditions on the manner in which a marijuana producer that holds a license issued under ORS 475B.070 may produce marijuana or in which a researcher of cannabis that holds a certificate issued under ORS 475B.286 may produce marijuana or propagate immature marijuana plants;

(b) Reasonable conditions on the manner in which a marijuana processor that holds a license issued under ORS 475B.090 may process marijuana or in which a researcher of cannabis that holds a certificate issued under ORS 475B.286 may process marijuana;

(c) Reasonable conditions on the manner in which a marijuana wholesaler that holds a license issued under ORS 475B.100 may sell marijuana at wholesale;

(d) Reasonable conditions on the manner in which a marijuana retailer that holds a license issued under ORS 475B.105 may sell marijuana items;

(e) Reasonable limitations on the hours during which a premises for which a license has been issued under ORS 475B.010 to 475B.545 may operate;

(f) Reasonable requirements related to the public’s access to a premises for which a license or certificate has been issued under ORS 475B.010 to 475B.545; and

II. Preemption Overview

(g) Reasonable limitations on where a premises for which a license or certificate may be issued under ORS 475B.010 to 475B.545 may be located.

(2) Notwithstanding ORS 30.935, 215.253 (1) or 633.738, the governing body of a city or county may adopt ordinances that impose reasonable regulations on the operation of businesses located at premises for which a license or certificate has been issued under ORS 475B.010 to 475B.545 if the premises are located in the area subject to the jurisdiction of the city or county, except that the governing body of a city or county may not:

(a) Adopt an ordinance that prohibits a premises for which a license has been issued under ORS 475B.105 from being located within a distance that is greater than 1,000 feet of another premises for which a license has been issued under ORS 475B.105.

(b) Adopt an ordinance that imposes a setback requirement for an agricultural building used to produce marijuana located on a premises for which a license has been issued under ORS 475B.070 if the agricultural building:

(A) Was constructed on or before July 1, 2015, in compliance with all applicable land use and building code requirements at the time of construction;

(B) Is located at an address where a marijuana grow site first registered with the Oregon Health Authority under ORS 475B.810 on or before January 1, 2015;

(C) Was used to produce marijuana pursuant to the provisions of ORS 475B.785 to 475B.949 on or before January 1, 2015; and

(D) Has four opaque walls and a roof. [Formerly 475B.340]

475B.454 Preemption of municipal charter amendments and local ordinances

475B.454 Preemption of municipal charter amendments and local ordinances.

The provisions of ORS 475B.010 to 475B.545 are designed to operate uniformly throughout the state and are paramount and superior to and fully replace and supersede any municipal charter amendment or local ordinance inconsistent with the provisions of ORS 475B.010 to 475B.545. Amendments and ordinances that are inconsistent with the provisions of ORS 475B.010 to 475B.545 are repealed.

[Formerly 475B.320]

II. Preemption Overview

Local Tax or Fee Preemptions for Recreational Marijuana

Oregon state law preempts local jurisdictions from imposing a tax or fee on retail marijuana greater than three percent.

Local jurisdictions are preempted from imposing a fee or tax on medical marijuana.

Enforcement:

Oregon Liquor Control Commission

Citation: 475B.491 Local tax or fee; referral to electors for approval. (1)(a) Except as expressly authorized by this section, the authority to impose a tax or fee on the production, processing or sale of marijuana items in this state is vested solely in the Legislative Assembly.

(b) Except as expressly authorized by this section, a county, city or other municipal corporation or district may not adopt or enact ordinances imposing a tax or fee on the production, processing or sale of marijuana items in this state.

(2) Subject to subsection (4) of this section, the governing body of a city or county may adopt an ordinance to be referred to the electors of the city or county as described in subsection (3) of this section that imposes a tax or a fee on the sale of marijuana items that are sold in the area subject to the jurisdiction of the city or the unincorporated area subject to the jurisdiction of a county by a marijuana retailer that holds a license issued under ORS 475B.105.

(3) If the governing body of a city or county adopts an ordinance under this section, the governing body shall refer the measure of the ordinance to the electors of the city or county for approval at the next statewide general election.

(4) An ordinance adopted under this section may not impose a tax or fee:

(a) In excess of three percent; or

(b) On a registry identification cardholder or on a designated primary caregiver who is purchasing a marijuana item for a registry identification cardholder. [Formerly 475B.345]

II. Preemption Overview

Marijuana establishments in local jurisdictions

Local jurisdictions can prohibit marijuana establishments from operating in their jurisdiction by passing an ordinance which prohibits marijuana production, processing, wholesale, retail and medical marijuana dispensaries.

Local Jurisdictions can allow marijuana processors, producers, wholesalers, retailers and medical marijuana dispensaries in their community by repealing an existing ordinance to prohibit marijuana establishments.

Enforcement

Local Jurisdiction

Citation

475B.461 Prohibition against operation of premises for which license issued; petition; election.

(1) The governing body of a city or a county, when a petition is filed as provided in this section, shall order an election on the question as to whether the operation of premises for which a license has been issued under ORS 475B.010 to 475B.545 should be prohibited in the city or county.

(2) Except as otherwise provided in this section, the requirements for preparing, circulating and filing a petition under this section:

(a) In the case of a city, must be as provided for an initiative petition under ORS 250.265 to 250.346.

(b) In the case of a county, must be as provided for an initiative petition under ORS 250.165 to 250.235.

(3) A petition under this section:

(a) Must be filed not less than 60 days before the day of the election; and

(b) Must be signed by not less than 10 percent of the electors registered in the city or county.

(4) If ORS 250.155 makes ORS 250.165 to 250.235 inapplicable to a county or if ORS 250.255 makes ORS 250.265 to 250.346 inapplicable to a city, the requirements for preparing, circulating and filing a petition under this section must be as provided for an initiative petition under the county or city charter or an ordinance adopted under the county or city charter.

(5) A signature is not valid unless signed within 180 days before the petition is filed.

(6) An election under this section must be held at the time of the next statewide general election.

(7) An election under this section must be conducted under ORS chapters 246 to 260. [Formerly 475B.325]

II. Preemption Overview

475B.496 Repeal of city, county ordinance that prohibits certain establishments

(1) The governing body of a city or county may repeal an ordinance that prohibits the establishment of any one or more of the following in the area subject to the jurisdiction of the city or in the unincorporated area subject to the jurisdiction of the county:

- (a) Marijuana processing sites registered under ORS 475B.840;
- (b) Medical marijuana dispensaries registered under ORS 475B.858;
- (c) Marijuana producers that hold a license issued under ORS 475B.070;
- (d) Marijuana processors that hold a license issued under ORS 475B.090;
- (e) Marijuana wholesalers that hold a license issued under ORS 475B.100;
- (f) Marijuana retailers that hold a license issued under ORS 475B.105;
- (g) Marijuana producers that hold a license issued under ORS 475B.070 and that the Oregon Liquor Control Commission has designated as an exclusively medical licensee under ORS 475B.122;
- (h) Marijuana processors that hold a license issued under ORS 475B.090 and that the commission has designated as an exclusively medical licensee under ORS 475B.127;
- (i) Marijuana wholesalers that hold a license issued under ORS 475B.100 and that the commission has designated as an exclusively medical licensee under ORS 475B.129;
- (j) Marijuana retailers that hold a license issued under ORS 475B.105 and that the commission has designated as an exclusively medical licensee under ORS 475B.131; or
- (k) Any combination of the entities described in this subsection.

(2) If the governing body of a city or county repeals an ordinance under this section, the governing body must provide the text of the ordinance:

(a) To the Oregon Health Authority, in a form and manner prescribed by the authority, if the ordinance concerns a medical marijuana dispensary registered under ORS 475B.858 or a marijuana processing site registered under ORS 475B.840; or

(b) To the commission, in a form and manner prescribed by the commission, if the ordinance concerns a premises for which a license has been issued under ORS 475B.010 to 475B.545. [2016 c.24 §30; 2017 c.183 §29]

III. Recreational License Types

III. Recreational License Types

Marijuana Production License

The production of marijuana is subject to regulation by the Oregon Liquor Control Commission.

Enforcement

Oregon Liquor Control Commission

Citation

ORS 475B.070 Production license; fees; rules. The production of marijuana is subject to regulation by the Oregon Liquor Control Commission.

(2) A marijuana producer must have a production license issued by the commission for the premises at which the marijuana is produced. To hold a production license issued under this section, a marijuana producer:

(a) Must apply for a license in the manner described in ORS 475B.040;

(b) Must provide proof that the applicant is 21 years of age or older; and

(c) Must meet the requirements of any rule adopted by the commission under subsection (3) of this section.

(3) The commission shall adopt rules that:

(a) Require a marijuana producer to annually renew a license issued under this section;

(b) Establish application, licensure and renewal of licensure fees for marijuana producers;

(c) Require marijuana produced by marijuana producers to be tested in accordance with ORS 475B.555;

(d) Assist the viability of marijuana producers that are independently owned and operated and that are limited in size and revenue with respect to other marijuana producers, by minimizing barriers to entry into the regulated system and by expanding, to the extent practicable, transportation options that will support their access to the retail market;

III. Recreational License Types

(e) Allow a marijuana producer registered under ORS 475B.136 to produce marijuana for medical purposes in the same manner that rules adopted under ORS 475B.010 to 475B.545 allow a marijuana producer to produce marijuana for nonmedical purposes, excepting those circumstances where differentiating between the production of marijuana for medical purposes and the production of marijuana for nonmedical purposes is necessary to protect the public health and safety;

(f) Require marijuana producers to submit, at the time of applying for or renewing a license under ORS 475B.040, a report describing the applicant's or licensee's electrical or water usage; and

(g) Require a marijuana producer to meet any public health and safety standards and industry best practices established by the commission by rule related to the production of marijuana or the propagation of immature marijuana plants and marijuana seeds.

(4) Fees adopted under subsection (3)(b) of this section:

(a) May not exceed, together with other fees collected under ORS 475B.010 to 475B.545, the cost of administering ORS 475B.010 to 475B.545;

(b) Shall be in the form of a schedule that imposes a greater fee for premises with more square footage or on which more marijuana plants are grown; and

(c) Shall be deposited in the Marijuana Control and Regulation Fund established under ORS 475B.296. [2015 c.1 §19; 2015 c.614 §12; 2016 c.24 §1; 2016 c.83 §7; 2017 c.183 §56]

https://www.oregonlegislature.gov/bills_laws/ors/ors475b.html Accessed 27 March 2018

Marijuana Processor License

The processing of marijuana is subject to regulation by the Oregon Liquor Control Commission.

Enforcement

Oregon Liquor Control Commission

Citation

III. Recreational License Types

ORS 475B.090 Processor license; fees; rules. (1) The processing of marijuana items is subject to regulation by the Oregon Liquor Control Commission.

(2) A marijuana processor must have a processor license issued by the commission for the premises at which marijuana items are processed. To hold a processor license under this section, a marijuana processor:

(a) Must apply for a license in the manner described in ORS 475B.040;

(b) Must provide proof that the applicant is 21 years of age or older;

(c) If the marijuana processor processes marijuana extracts, may not be located in an area zoned exclusively for residential use; and

(d) Must meet the requirements of any rule adopted by the commission under subsection (3) of this section.

(3) The commission shall adopt rules that:

(a) Require a marijuana processor to annually renew a license issued under this section;

(b) Establish application, licensure and renewal of licensure fees for marijuana processors;

(c) Require marijuana processed by a marijuana processor to be tested in accordance with ORS 475B.555;

(d) Allow a marijuana processor registered under ORS 475B.139 to process marijuana and usable marijuana into medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts in the same manner that rules adopted under ORS 475B.010 to 475B.545 allow a marijuana processor to process marijuana and usable marijuana into general use cannabinoid products, cannabinoid concentrates and cannabinoid extracts, excepting those circumstances where differentiating between the processing of medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts and the processing of general use cannabinoid products, cannabinoid concentrates and cannabinoid extracts is necessary to protect the public health and safety; and

(e) Require a marijuana processor to meet any public health and safety standards and industry best practices established by the commission by rule related to:

III. Recreational License Types

- (A) Cannabinoid edibles;
- (B) Cannabinoid concentrates;
- (C) Cannabinoid extracts; and
- (D) Any other type of cannabinoid product identified by the commission by rule.

(4) Fees adopted under subsection (3)(b) of this section:

(a) May not exceed, together with other fees collected under ORS 475B.010 to 475B.545, the cost of administering ORS 475B.010 to 475B.545; and

(b) Shall be deposited in the Marijuana Control and Regulation Fund established under ORS 475B.296. [2015 c.1 §20; 2015 c.614 §14; 2016 c.24 §2; 2016 c.83 §8]

Marijuana Wholesale License

The license to sell marijuana items at wholesale is subject to regulation by the Oregon Liquor Control Commission.

Enforcement

Oregon Liquor Control Commission

Citation

475B.100 Wholesale license; fees; rules. (1) The wholesale sale of marijuana items is subject to regulation by the Oregon Liquor Control Commission.

(2) A marijuana wholesaler must have a wholesale license issued by the commission for the premises at which marijuana items are received, stored or delivered. To hold a wholesale license under this section, a marijuana wholesaler:

- (a) Must apply for a license in the manner described in ORS 475B.040;
- (b) Must provide proof that the applicant is 21 years of age or older;
- (c) May not be located in an area that is zoned exclusively for residential use; and
- (d) Must meet the requirements of any rule adopted by the commission under subsection (3) of this section.

III. Recreational License Types

(3) The commission shall adopt rules that:

(a) Require a marijuana wholesaler to annually renew a license issued under this section;

(b) Establish application, licensure and renewal of licensure fees for marijuana wholesalers;

(c) Require marijuana items received, stored or delivered by a marijuana wholesaler to be tested in accordance with ORS 475B.555;

(d) Allow a marijuana wholesaler registered under ORS 475B.144 to sell medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts at wholesale in the same manner that rules adopted under ORS 475B.010 to 475B.545 allow a marijuana wholesaler to sell general use cannabinoid products, cannabinoid concentrates and cannabinoid extracts at wholesale, excepting those circumstances where differentiating between the sale of medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts and the sale of general use cannabinoid products, cannabinoid concentrates and cannabinoid extracts is necessary to protect the public health and safety; and

(e) Require a marijuana wholesaler to meet any public health and safety standards and industry best practices established by the commission by rule.

(4) Fees adopted under subsection (3)(b) of this section:

(a) May not exceed, together with other fees collected under ORS 475B.010 to 475B.545, the cost of administering ORS 475B.010 to 475B.545; and

(b) Shall be deposited in the Marijuana Control and Regulation Fund established under ORS 475B.296. [2015 c.1 §21; 2015 c.614 §15; 2016 c.24 §3; 2016 c.83 §9]

Marijuana Retail License

The license to sell marijuana items at retail is subject to regulation by the Oregon Liquor Control Commission.

Enforcement

Oregon Liquor Control Commission

III. Recreational License Types

Citation

475B.105 Retail license; sale of medical grade items; fees; rules. (1) The retail sale of marijuana items is subject to regulation by the Oregon Liquor Control Commission.

(2) A marijuana retailer must have a retail license issued by the commission for the premises at which marijuana items are sold. To hold a retail license under this section, a marijuana retailer:

- (a) Must apply for a license in the manner described in ORS 475B.040;
- (b) Must provide proof that the applicant is 21 years of age or older;
- (c) May not be located in an area that is zoned exclusively for residential use;
- (d) Except as provided in ORS 475B.109, may not be located within 1,000 feet of:

(A) A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or

(B) A private or parochial elementary or secondary school, teaching children as described in ORS 339.030 (1)(a); and

(e) Must meet the requirements of any rule adopted by the commission under subsection (3) of this section.

(3) The commission shall adopt rules that:

(a) Require a marijuana retailer to annually renew a license issued under this section;

(b) Establish application, licensure and renewal of licensure fees for marijuana retailers;

(c) Require marijuana items sold by a marijuana retailer to be tested in accordance with ORS 475B.555;

(d) Notwithstanding ORS 475B.206, allow a marijuana retailer to deliver marijuana items to another marijuana retailer that is owned by the same or substantially the same persons;

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(e) Subject to the limitations and privileges described in ORS 475B.146 (3), allow a marijuana retailer registered under ORS 475B.146 to sell medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts at retail in the same manner that rules adopted under ORS 475B.010 to 475B.545 allow a marijuana retailer to sell general use cannabinoid products, cannabinoid concentrates and cannabinoid extracts at retail, excepting those circumstances where differentiating between the sale of medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts and the sale of general use cannabinoid products, cannabinoid concentrates and cannabinoid extracts is necessary to protect the public health and safety; and

(f) Require a marijuana retailer to meet any public health and safety standards and industry best practices established by the commission by rule.

(4) Fees adopted under subsection (3)(b) of this section:

(a) May not exceed, together with other fees collected under ORS 475B.010 to 475B.545, the cost of administering ORS 475B.010 to 475B.545; and

(b) Shall be deposited in the Marijuana Control and Regulation Fund established under ORS 475B.296. [Formerly 475B.110]

Medical License types

Medical Marijuana Producer License

The license to exclusively produce medical marijuana is subject to regulation by the Oregon Liquor Control Commission.

Enforcement

Oregon Liquor Control Commission

Citation:

475B.122 Exclusively medical licensee designation for marijuana producer. (1)

The Oregon Liquor Control Commission shall designate any marijuana producer that holds a license issued under ORS 475B.070 and that is registered under ORS 475B.136 as an exclusively medical licensee if the marijuana producer attests, in a form and manner prescribed by the commission, to:

(a) Producing marijuana only for medical purposes; and

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(b) Transferring usable marijuana only to marijuana processors registered under ORS 475B.139, marijuana wholesalers registered under ORS 475B.144, marijuana retailers registered under ORS 475B.146, registry identification cardholders and designated primary caregivers.

(2) If the commission makes a designation under this section, the commission shall keep a record of the designation. [2017 c.183 §24]

Medical Marijuana Processor License

The license to exclusively process medical marijuana is subject to regulation by the Oregon Liquor Control Commission.

Enforcement

Oregon Liquor Control Commission

Citation:

475B.127 Exclusively medical licensee designation for marijuana processor. (1) The Oregon Liquor Control Commission shall designate any marijuana processor that holds a license issued under ORS 475B.090 and that is registered under ORS 475B.139 as an exclusively medical licensee if the marijuana processor attests, in a form and manner prescribed by the commission, to:

(a) Processing marijuana only for medical purposes;

(b) Receiving usable marijuana only from a marijuana producer registered under ORS 475B.136; and

(c) Transferring cannabinoid products, cannabinoid concentrates and cannabinoid extracts only to marijuana wholesalers registered under ORS 475B.144, marijuana retailers registered under ORS 475B.146, registry identification cardholders and designated primary caregivers.

(2) If the commission makes a designation under this section, the commission shall keep a record of the designation. [2017 c.183 §25]

Medical Marijuana Wholesale License

The license to exclusively sell medical marijuana at wholesale is subject to regulation by the Oregon Liquor Control Commission.

III. Recreational License Types

Enforcement

Oregon Liquor Control Commission

Citation:

475B.129 Exclusively medical licensee designation for marijuana wholesaler.

(1) The Oregon Liquor Control Commission shall designate any marijuana wholesaler that holds a license issued under ORS 475B.100 and that is registered under ORS 475B.144 as an exclusively medical licensee if the marijuana wholesaler attests, in a form and manner prescribed by the commission, to:

- (a) Selling marijuana items only for a medical purposes;
- (b) Receiving usable marijuana only from marijuana producers registered under ORS 475B.136 and marijuana processors registered under ORS 475B.139;
- (c) Receiving cannabinoid products, cannabinoid concentrates and cannabinoid extracts only from a marijuana processor registered under ORS 475B.139; and
- (d) Transferring usable marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts only to marijuana retailers registered under ORS 475B.146.

(2) If the commission makes a designation under this section, the commission shall keep a record of the designation. [2017 c.183 §26]

475B.144 Wholesale selling for medical purposes; rules. (1) To sell marijuana items at wholesale for medical purposes, a marijuana wholesaler that holds a license issued under ORS 475B.100 must register with the Oregon Liquor Control Commission under this section.

(2) The commission shall register a marijuana wholesaler for the purpose of selling marijuana items at wholesale for medical purposes if the marijuana wholesaler:

- (a) Holds a license under ORS 475B.100;
- (b) Meets any qualifications adopted by the commission by rule;
- (c) Applies to the commission in a form and manner prescribed by the commission; and
- (d) Pays any fee adopted by the commission by rule.

III. Recreational License Types

(3) A marijuana wholesaler registered under this section may sell medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts at wholesale.

(4) The commission shall adopt rules necessary to administer this section. The rules must provide that any fee adopted by the commission under subsection (2)(d) of this section be in an amount reasonably calculated to not exceed, together with other fees collected under ORS 475B.010 to 475B.545, the cost of administering ORS 475B.010 to 475B.545. [2016 c.83 §4; 2017 c.183 §21]

Medical Marijuana Retail License

The license to exclusively sell medical marijuana at wholesale is subject to regulation by the Oregon Liquor Control Commission.

Enforcement

Oregon Liquor Control Commission

Citation:

475B.131 Exclusively medical licensee designation for marijuana retailer. (1) The Oregon Liquor Control Commission shall designate any marijuana retailer that holds a license issued under ORS 475B.105 and that is registered under ORS 475B.146 as an exclusively medical licensee if the marijuana retailer attests, in a form and manner prescribed by the commission, to:

- (a) Selling marijuana items only for medical purposes;
- (b) Receiving usable marijuana only from marijuana producers registered under ORS 475B.136, marijuana processors registered under ORS 475B.139 and marijuana wholesalers registered under ORS 475B.144;
- (c) Receiving cannabinoid products, cannabinoid concentrates and cannabinoid extracts only from a marijuana processor registered under ORS 475B.139 and marijuana wholesalers registered under ORS 475B.144; and
- (d) Transferring usable marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts only to registry identification cardholders and designated primary caregivers.

(2) If the commission makes a designation under this section, the commission shall keep a record of the designation. [2017 c.183 §27]

475B.146 Retail selling for medical purposes; rules. (1) To sell marijuana items at retail for medical purposes, a marijuana retailer that holds a license issued under ORS

III. Recreational License Types

475B.105 must register with the Oregon Liquor Control Commission under this section.

(2) The commission shall register a marijuana retailer for the purpose of selling marijuana items at retail for medical purposes if the marijuana retailer:

(a) Holds a license issued under ORS 475B.105;

(b) Meets any qualifications adopted by the commission by rule;

(c) Applies to the commission in a form and manner prescribed by the commission; and

(d) Pays any fee adopted by the commission by rule.

(3) A marijuana retailer registered under this section:

(a) May sell medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts to registry identification cardholders and designated primary caregivers;

(b) May not sell medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts to individuals other than registry identification cardholders and designated primary caregivers;

(c) May sell usable marijuana and medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts to registry identification cardholders and designated primary caregivers at a discounted price; and

(d) May provide, for no consideration, usable marijuana and medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts to a registry identification cardholder and the designated primary caregiver of the registry identification cardholder.

(4)(a) The commission shall adopt rules necessary to administer this section.

(b) The rules must provide that any fee adopted by the commission under subsection (2)(d) of this section be in an amount reasonably calculated to not exceed, together with other fees collected under ORS 475B.010 to 475B.545, the cost of administering ORS 475B.010 to 475B.545. [2016 c.83 §5; 2017 c.183 §22]

III. Recreational License Types

License Compliance

All licensees are required to follow the statutes and rules for their license type.

Enforcement:

Oregon Liquor Control Commission

Citation: 475B.256 Grounds for revocation, suspension or restriction of license.

The Oregon Liquor Control Commission may revoke, suspend or restrict a license issued under ORS 475B.010 to 475B.545 or require a licensee or licensee representative to undergo training if the commission finds or has reasonable ground to believe any of the following to be true:

- (1) That the licensee or licensee representative:
 - (a) Has violated a provision of ORS 475B.010 to 475B.545 or a rule adopted under ORS 475B.010 to 475B.545.
 - (b) Has made any false representation or statement to the commission in order to induce or prevent action by the commission.
 - (c) Is insolvent or incompetent or physically unable to carry on the management of the establishment of the licensee.
 - (d) Is in the habit of using alcoholic liquor, habit-forming drugs, marijuana or controlled substances to excess.
 - (e) Has misrepresented to a customer or the public any marijuana items sold by the licensee or licensee representative.
 - (f) Since the issuance of the license, has been convicted of a felony, of violating any of the marijuana laws of this state, general or local, or of any misdemeanor or violation of any municipal ordinance committed on the premises for which the license has been issued.
- (2) That there is any other reason that, in the opinion of the commission, based on public convenience or necessity, warrants revoking, suspending or restricting the license. [Formerly 475B.210]

IV. Smoke, vapor and aerosol-free environments

IV. Smoke, vapor and aerosol-free environments:

Public use of Marijuana

A person is not allowed to use marijuana in a public place.

Enforcement

Law enforcement officers of the state

Citation

475B.015 Definitions for ORS 475B.010 to 475B.545. As used in ORS 475B.010 to 475B.545:

(34) “Public place” means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and areas used in connection with public passenger transportation.

475B.381 Prohibition against using marijuana item in public place.

(1) It is unlawful for any person to engage in the use of marijuana items in a public place.

(2) A violation of subsection (1) of this section is a Class B violation. [Formerly 475B.280]

https://www.oregonlegislature.gov/bills_laws/ors/ors475b.html Accessed 27 March 2018

Oregon’s Indoor Clean Air Act

The Oregon Indoor Clean Air Act (ICAA) prohibits smoking, vaporizing or aerosolizing in most public places and places of employment. The ICAA applies to all types of inhalants (ORS 431A.175), including cannabis. Additionally, smoking, vaporizing or aerosolizing is not permitted within ten feet of any entrance, exit, window that opens, or air-intake vent. Exceptions to these restrictions include smoking in certified smoke shops, certified cigar bars, and up to 25 percent of motel/hotel rooms; and smoking of non-commercial tobacco for American Indian ceremonial purposes.

IV. Smoke, vapor and aerosol-free environments

OHA is responsible for enforcement. The ICAA is a complaint-driven law; OHA may respond to complaints, inspect public places, and issue citations and penalties for violating the law. Multiple offenses may result in issuance of a civil penalty.

Enforcement

Oregon Health Authority and Local Public Health Authorities (LPHAs) (delegated)

Citation

OREGON INDOOR CLEAN AIR ACT

433.835 Definitions for ORS 433.835 to 433.875. As used in ORS 433.835 to 433.875:

- (1) “Cigar bar” means a business that:
 - (a) Has on-site sales of cigars as defined in ORS 323.500;
 - (b) Has a humidor on the premises;
 - (c) Allows the smoking of cigars on the premises but prohibits the smoking, aerosolizing or vaporizing of other inhalants on the premises;
 - (d) Has been issued and operates under a full on-premises sales license issued under ORS 471.175;
 - (e) Prohibits persons under 21 years of age from entering the premises and posts notice of the prohibition;
 - (f) Does not offer video lottery games as authorized under ORS 461.217;
 - (g) Has a maximum seating capacity of 40 persons;
 - (h) Has a ventilation system that exhausts smoke from the business and is designed and terminated in accordance with the state building code standards for the occupancy classification in use; and
 - (i) Requires all employees to read and sign a document that explains the dangers of exposure to secondhand smoke.
- (2) “Enclosed area” means the entirety of the space between a floor and a ceiling that is enclosed on three or more sides by permanent or temporary walls or windows, exclusive of doors or passageways, that extend from the floor to the ceiling.
- (3) “Inhalant” means nicotine, a cannabinoid or any other substance that:
 - (a) Is in a form that allows the nicotine, cannabinoid or substance to be delivered into a person’s respiratory system;
 - (b) Is inhaled for the purpose of delivering the nicotine, cannabinoid or other substance into a person’s respiratory system; and
 - (c)(A) Is not approved by, or emitted by a device approved by, the United States Food and Drug Administration for a therapeutic purpose; or

IV. Smoke, vapor and aerosol-free environments

(B) If approved by, or emitted by a device approved by, the United States Food and Drug Administration for a therapeutic purpose, is not marketed and sold solely for that purpose.

(4)(a) “Place of employment” means an enclosed area under the control of a public or private employer, including work areas, employee lounges, vehicles that are operated in the course of an employer’s business and that are not operated exclusively by one employee, rest rooms, conference rooms, classrooms, cafeterias, hallways, meeting rooms, elevators and stairways.

(b) “Place of employment” does not include a private residence unless it is used as a child care facility as defined in ORS 329A.250 or a facility providing adult day care as defined in ORS 410.490.

(5) “Public place” means an enclosed area open to the public.

(6) “Smoke shop” means a business that is certified with the Oregon Health Authority as a smoke shop pursuant to the rules adopted under ORS 433.847.

(7) “Smoking instrument” means any cigar, cigarette, pipe or other instrument used to smoke tobacco, cannabis or any other inhalant. [1981 c.384 §2; 2001 c.990 §1; 2007 c.602 §1; 2009 c.595 §684; 2011 c.601 §1; 2015 c.158 §14; 2017 c.21 §108; 2017 c.732 §1]

433.840 Policy. The people of Oregon find that because exposure to secondhand smoke, certain exhaled small particulate matter or other exhaled toxins is known to cause cancer and other chronic diseases such as heart disease, asthma and bronchitis, it is necessary to reduce exposure to such smoke, matter or toxins by prohibiting the smoking, aerosolizing or vaporizing of inhalants in all public places and places of employment. [1981 c.384 §1; 2007 c.602 §2; 2015 c.158 §15]

433.845 Prohibition on aerosolizing, smoking or vaporizing in public place or place of employment. (1) A person may not smoke, aerosolize or vaporize an inhalant or carry a lighted smoking instrument in a public place or place of employment except as provided in ORS 433.850.

(2) A person may not smoke, aerosolize or vaporize an inhalant or carry a lighted smoking instrument within 10 feet of the following parts of public places or places of employment:

- (a) Entrances;
- (b) Exits;
- (c) Windows that open; and
- (d) Ventilation intakes that serve an enclosed area.

IV. Smoke, vapor and aerosol-free environments

(3) A person may not smoke, aerosolize or vaporize an inhalant or carry a lighted smoking instrument in a room during the time that jurors are required to use the room. [1981 c.384 §3; 1985 c.752 §1; 2007 c.602 §3; 2015 c.158 §16]

433.847 Smoke shop certification; rules. (1) The Oregon Health Authority shall adopt rules establishing a certification system for smoke shops. In adopting such rules, the authority shall prohibit the smoking, aerosolizing or vaporizing of inhalants that are not tobacco products in smoke shops.

(2) The authority shall issue a smoke shop certification to a business that:

(a)(A) Is primarily engaged in the sale, for off-premises consumption or use, of tobacco products and smoking instruments used to smoke tobacco products, with at least 75 percent of the gross revenues of the business resulting from such sales;

(B) Prohibits persons under 21 years of age from entering the premises;

(C) Does not offer video lottery games as authorized under ORS 461.217, social gaming or betting on the premises;

(D) Does not sell or offer food or beverages and does not sell, offer or allow on-premises consumption of alcoholic beverages;

(E) Is a stand-alone business with no other businesses or residential property attached to the premises;

(F) Has a maximum seating capacity of four persons; and

(G) Allows the smoking of tobacco product samples only for the purpose of making retail purchase decisions;

(b) On December 31, 2008:

(A) Met the requirements of paragraph (a)(A) to (D) of this subsection; and

(B)(i) Was a stand-alone business with no other businesses or residential property attached; or

(ii) Had a ventilation system that exhausted smoke from the business and was designed and terminated in accordance with the state building code standards for the occupancy classification in use; or

(c)(A) Was certified as a smoke shop under ORS 433.835, as in effect immediately before June 30, 2011, by the authority on or before December 31, 2012; and

(B) Allows the smoking of cigarettes only if at least 75 percent of the gross revenues of the business results from the sale of cigarettes.

(3) A smoke shop certified under subsection (2)(b) of this section must renew the smoke shop certification every five years by demonstrating to the satisfaction of the authority that the smoke shop:

(a)(A) Meets the requirements of subsection (2)(a)(A) to (D) of this section; and

IV. Smoke, vapor and aerosol-free environments

(B)(i) Is a stand-alone business with no other businesses or residential property attached; or

(ii) Has a ventilation system that exhausts smoke from the business and is designed and terminated in accordance with the state building code standards for the occupancy classification in use; and

(b) Allows the smoking of cigarettes only if at least 75 percent of the gross revenues of the business results from the sale of cigarettes.

(4) A smoke shop certified under subsection (2)(c) of this section must renew the smoke shop certification every five years by demonstrating to the satisfaction of the authority that the smoke shop:

(a) Meets the requirements of ORS 433.835, as in effect immediately before June 30, 2011; and

(b) Allows the smoking of cigarettes only if at least 75 percent of the gross revenues of the business results from the sale of cigarettes.

(5) The owner of a smoke shop certified under subsection (2)(b) or (c) of this section may transfer the certification with ownership of the smoke shop if the transfer is made in accordance with rules adopted by the authority.

(6) A smoke shop certified under subsection (2)(b) of this section may continue to be certified in a new location under subsection (2)(b) of this section if:

(a)(A) The new location occupies no more than 3,500 square feet; or

(B) If the old location occupied more than 3,500 square feet, the new location occupies no more than 110 percent of the space occupied by the old location; and

(b) The smoke shop as operated in the new location:

(A) Meets the requirements of subsection (2)(a)(A) to (D) of this section;

(B)(i) Is a stand-alone business with no other businesses or residential property attached; or

(ii) Has a ventilation system that exhausts smoke from the business and is designed and terminated in accordance with the state building code standards for the occupancy classification in use; and

(C) Allows the smoking of cigarettes only if at least 75 percent of the gross revenues of the business results from the sale of cigarettes.

(7) A smoke shop certified under subsection (2)(c) of this section may continue to be certified in a new location under subsection (2)(c) of this section if:

(a)(A) The new location occupies no more than 3,500 square feet; or

(B) If the old location occupied more than 3,500 square feet, the new location occupies no more than 110 percent of the space occupied by the old location; and

(b) The smoke shop as operated in the new location:

IV. Smoke, vapor and aerosol-free environments

(A) Meets the requirements of ORS 433.835, as in effect immediately before June 30, 2011; and

(B) Allows the smoking of cigarettes only if at least 75 percent of the gross revenues of the business results from the sale of cigarettes.

(8) Rules adopted under this section must provide that, in order to obtain a smoke shop certification, a business must agree to allow the authority to make unannounced inspections of the business to determine compliance with ORS 433.835 to 433.875.

[2011 c.601 §3; 2015 c.51 §1; 2015 c.158 §17; 2017 c.701 §12]

433.850 Prohibition on aerosolizing, smoking or vaporizing in place of employment; exceptions; posting signs. (1) An employer:

(a) Shall provide for employees a place of employment that is free of all smoke, aerosols and vapors containing inhalants; and

(b) May not allow employees to smoke, aerosolize or vaporize inhalants at the place of employment.

(2) Notwithstanding subsection (1) of this section:

(a) The owner or person in charge of a hotel or motel may designate up to 25 percent of the sleeping rooms of the hotel or motel as rooms in which the smoking, aerosolizing or vaporizing of inhalants is permitted.

(b) Smoking of noncommercial tobacco products for ceremonial purposes is permitted in spaces designated for traditional ceremonies in accordance with the American Indian Religious Freedom Act, 42 U.S.C. 1996.

(c) The smoking of tobacco products is permitted in a smoke shop.

(d) The smoking of cigars is permitted in a cigar bar that generated on-site retail sales of cigars of at least \$5,000 for the calendar year ending December 31, 2006.

(e) A performer may smoke or carry a lighted smoking instrument that does not contain tobacco or cannabis, and may aerosolize or vaporize a substance that does not contain nicotine or a cannabinoid, while performing in a scripted stage, motion picture or television production if:

(A) The production is produced by an organization whose primary purpose is producing scripted productions; and

(B) The act of smoking, aerosolizing or vaporizing is an integral part of the production.

(f) The medical use of marijuana is permitted in the place of employment of a licensee of a professional licensing board as described in ORS 475B.919.

(3) An employer, except in those places described in subsection (2) of this section, shall post signs that provide notice of the provisions of ORS 433.835 to 433.875.

IV. Smoke, vapor and aerosol-free environments

[1981 c.384 §§4,5; 2001 c.104 §161; 2001 c.990 §2; 2007 c.602 §4; 2011 c.234 §1; 2015 c.158 §18; 2017 c.21 §109]

433.855 Duties of Oregon Health Authority; civil penalties; rules; limitations; compliance checks. (1) The Oregon Health Authority, in accordance with the provisions of ORS chapter 183:

(a) Shall adopt rules necessary to implement the provisions of ORS 433.835 to 433.875;

(b) Is responsible for ensuring compliance with ORS 433.835 to 433.875 and rules adopted under ORS 433.835 to 433.875; and

(c) May impose a civil penalty not to exceed \$500 per day for each violation of ORS 433.845 or 433.850 or a rule adopted under ORS 433.835 to 433.875. Penalties imposed under this paragraph must be collected in the manner provided in ORS 441.705 to 441.745. All moneys recovered under this paragraph shall be paid into the State Treasury and credited to:

(A) The Tobacco Use Reduction Account established under ORS 431A.153, if the violation concerns nicotine; or

(B) The Oregon Health Authority Fund established under ORS 413.101, if the violation concerns an inhalant other than nicotine.

(2) In carrying out its duties under this section, the authority is not authorized to require any changes in ventilation or barriers in a public place or place of employment. This subsection does not limit the power of the authority to enforce the requirements of any other provision of law.

(3) In public places that the authority regularly inspects, the authority shall check for compliance with the provisions of ORS 433.835 to 433.875. In other public places and places of employment, the authority shall respond to complaints, notifying the proprietor or person in charge of the requirements of ORS 433.835 to 433.875. If repeated complaints are received, the authority may take appropriate action to ensure compliance.

(4) When a county has assumed responsibility of the duties and responsibilities under ORS 446.425 and 448.100, or contracted with the authority under ORS 190.110, the county is responsible for enforcing the provisions of ORS 433.835 to 433.875 and has the same enforcement power as the authority. [1981 c.384 §6; 1991 c.734 §21; 2001 c.104 §162; 2001 c.990 §6; 2003 c.309 §6; 2007 c.445 §36; 2007 c.602 §5; 2009 c.595 §686; 2011 c.597 §84a; 2015 c.158 §19]

Note: Sections 29 and 31, chapter 158, Oregon Laws 2015, provide:

IV. Smoke, vapor and aerosol-free environments

Sec. 29. Report to Legislative Assembly on laws related to regulation of inhalant delivery systems and inhalants. (1) After July 1, 2018, the Oregon Health Authority shall make a report on the laws and rules of this state related to the regulation of inhalant delivery systems, as defined in ORS 431.840 [renumbered 431A.175], and inhalants, as defined in ORS 433.835, that are used with inhalant delivery systems. The authority shall include in the report:

(a) A review of medical research conducted on inhalant delivery systems and of health impacts associated with the use of inhalant delivery systems; and

(b) A review of any federal law or regulation related to regulating inhalant delivery systems, including any applicable regulations related to the labeling and packaging of inhalant delivery systems adopted by the United States Food and Drug Administration.

(2) The authority shall review the consistency of the laws and rules of this state with respect to those federal laws and regulations and determine where the laws and rules of this state are inconsistent or duplicative.

(3) For the purpose of facilitating review by the Legislative Assembly of the laws and rules of this state related to the regulation of inhalant delivery systems and inhalants that are used with inhalant delivery systems, the authority shall report the authority's findings:

(a) To the Legislative Assembly in the manner required by ORS 192.245 on or before February 1, 2019; and

(b) To the committees of the Legislative Assembly related to health during the 2019 regular session of the Legislative Assembly. [2015 c.158 §29]

Sec. 31. Section 29 of this 2015 Act is repealed on January 2, 2020. [2015 c.158 §31]

433.860 Enforcement. The Oregon Health Authority or local public health authority, as defined in ORS 431.003, may institute an action in the circuit court of the county where the violation occurred to enjoin repeated violations of ORS 433.850. [1981 c.384 §7; 2009 c.595 §687; 2015 c.736 §84]

433.863 [2001 c.990 §4; repealed by 2007 c.602 §12]

433.865 [1981 c.384 §8; 2001 c.104 §163; 2007 c.445 §37; repealed by 2007 c.602 §12]

433.870 Regulation in addition to other aerosolizing, smoking or vaporizing regulations. ORS 433.835 to 433.875 and rules adopted under ORS 433.835 to

IV. Smoke, vapor and aerosol-free environments

433.875 are in addition to and not in lieu of any other law regulating the smoking, aerosolizing or vaporizing of inhalants. [1981 c.384 §11; 2001 c.104 §164; 2001 c.990 §5; 2007 c.602 §6; 2015 c.158 §20]

433.875 Short title. ORS 433.835 to 433.875 and 433.990 (5) shall be cited as the Oregon Indoor Clean Air Act. [1981 c.384 §12; 2001 c.104 §165; 2007 c.445 §38]

433.990 Penalties.

(5) Violation of ORS 433.850 is a Class A violation. Fines imposed against a single employer under this subsection may not exceed \$4,000 in any 30-day period. [Subsection (8) (1969 Replacement Part) enacted as 1957 c.422 §2; subsection (8) derived from 434.990; 1971 c.648 §23; subsection (9) enacted as 1971 c.413 §6; subsection (10) enacted as 1971 c.597 §7; 1973 c.779 §46; 1979 c.492 §6; 1979 c.828 §13; subsection (5) enacted as 1981 c.384 §10; 1987 c.320 §232; 1987 c.600 §16; 1999 c.1051 §182; 2001 c.104 §166; 2001 c.636 §5; 2001 c.990 §7; 2007 c.445 §30; 2007 c.602 §7; 2009 c.595 §688; 2011 c.597 §85; 2011 c.601 §4]

https://www.oregonlegislature.gov/bills_laws/ors/ors433.html

V. Marijuana Taxes and Distribution

V. Marijuana Taxes and Distribution

State Taxes

Marijuana items are taxed at 17% of the retail sales price. Consumers pay the tax upon purchase. Products taxed include marijuana leaves, marijuana flowers, immature marijuana plants, cannabinoid edible, cannabinoid concentrate and cannabinoid extract.

Enforcement

Department of Revenue

Citation

475B.705 Imposition of tax on retail sale of marijuana items. (1) A tax is hereby imposed upon the retail sale of marijuana items in this state. The tax imposed by this section is a direct tax on the consumer, for which payment upon retail sale is required. The tax shall be collected at the point of sale of a marijuana item by a marijuana retailer at the time at which the retail sale occurs.

(2) The tax imposed under this section shall be imposed at the rate of:

(a) 17 percent of the retail sales price of marijuana leaves;

(b) 17 percent of the retail sales price of marijuana flowers;

(c) 17 percent of the retail sales price of immature marijuana plants;

(d) 17 percent of the retail sales price of a cannabinoid edible;

(e) 17 percent of the retail sales price of a cannabinoid concentrate;

(f) 17 percent of the retail sales price of a cannabinoid extract;

(g) 17 percent of the retail sales price of a cannabinoid product that is intended to be used by applying the cannabinoid product to the skin or hair; and

(h) 17 percent of the retail sales price of cannabinoid products other than those described in paragraph (g) of this subsection.

(3) If the tax imposed under this section does not equal an amount calculable to a whole cent, the tax shall be equal to the next higher whole cent.

(4) Except as otherwise provided by the Department of Revenue by rule, the amount of the tax shall be separately stated on an invoice, receipt or other similar document that the marijuana retailer provides to the consumer at the time at which the retail sale occurs.

(5) A person may not knowingly sell, purchase, install, transfer or possess electronic devices or software programs for the purposes of:

(a) Hiding or removing records of retail sales of marijuana items; or

(b) Falsifying records of retail sales of marijuana items.

V. Marijuana Taxes and Distribution

(6)(a) A marijuana retailer may not discount a marijuana item or offer a marijuana item for free if the retail sale of the marijuana item is made in conjunction with the retail sale of any other item.

(b) Paragraph (a) of this subsection does not affect any provision of ORS 475B.010 to 475B.545 or any rule adopted by the Oregon Liquor Control Commission pursuant to ORS 475B.010 to 475B.545 that is related to the retail sale of marijuana items. [2015 c.699 §2; 2016 c.91 §6]

475B.707 Exemption from tax on retail sale of marijuana items; rules. (1) As used in this section, “designated primary caregiver,” “registry identification card” and “registry identification cardholder” have the meanings given those terms in ORS 475B.791.

(2) Notwithstanding ORS 475B.705:

(a) A tax is not imposed upon the retail sale of marijuana items in this state to a registry identification cardholder or to a designated primary caregiver who is purchasing a marijuana item for a registry identification cardholder; and

(b) A marijuana retailer may not collect the tax imposed under ORS 475B.705 from a consumer if, at the time at which the retail sale of the marijuana item occurs, the consumer provides proof to the marijuana retailer that the consumer:

(A) Holds a valid registry identification card under ORS 475B.797; or

(B) Holds a valid identification card under ORS 475B.797 (5)(b) and is purchasing the marijuana item for a registry identification cardholder.

(3) The Department of Revenue:

(a) Shall adopt rules establishing procedures by which a marijuana retailer shall document that a consumer holds a valid registry identification card issued under ORS 475B.797 or a valid identification card issued under ORS 475B.797 (5)(b); and

(b) May adopt rules establishing procedures by which the department may verify that a marijuana retailer collects the tax imposed under ORS 475B.705 from consumers of marijuana items who are not registry identification cardholders or designated primary caregivers. [2016 c.91 §2]

475B.710 Collection of tax; refund; credit; penalties. (1) Except as otherwise provided in ORS 475B.700 to 475B.760, the tax imposed upon the consumer under ORS 475B.705 shall be collected at the point of sale and remitted by each marijuana retailer that engages in the retail sale of marijuana items. The tax is considered a tax upon the marijuana retailer that is required to collect the tax, and the marijuana retailer is considered a taxpayer.

(2) The marijuana retailer shall file a return to the Department of Revenue on or before the last day of January, April, July and October of each year for the previous calendar quarter.

V. Marijuana Taxes and Distribution

(3) The marijuana retailer shall pay the tax to the department in the form and manner prescribed by the department, but not later than with each quarterly return, without regard to an extension granted under subsection (5) of this section.

(4) Marijuana retailers shall file the returns required under this section regardless of whether any tax is owed.

(5) For good cause, the department may extend the time for filing a return under this section. The extension may be granted at any time if a written request is filed with the department during or prior to the period for which the extension may be granted. The department may not grant an extension of more than 30 days.

(6) Interest shall be added at the rate established under ORS 305.220 from the time the return was originally required to be filed to the time of payment.

(7) If a marijuana retailer fails to file a return or pay the tax as required by this section, the department shall impose a penalty in the manner provided in ORS 314.400.

(8) Except as provided in subsections (9) and (10) of this section, the period prescribed for the department to allow or make a refund of any overpayment of tax paid under ORS 475B.700 to 475B.760 is as provided in ORS 314.415.

(9)(a) The department shall first apply any overpayment of tax by a marijuana retailer to any marijuana tax that is owed by the marijuana retailer.

(b) If after any offset against any delinquent amount the overpayment of tax remains greater than \$1,000, the remaining refund shall be applied as a credit against the next subsequent calendar quarter as an estimated payment.

(10) The department may not make a refund of, or credit, any overpayment of tax under ORS 475B.700 to 475B.760 that was credited to the account of a marijuana retailer under subsection (9)(b) of this section if the return for that tax period is not filed within three years after the due date of that return. [2015 c.699 §3; 2016 c.91 §7; 2017 c.278 §24; 2017 c.495 §4]

Local Tax or Fee for Recreational Marijuana

Oregon state law preempts local jurisdictions from imposing a tax or fee on retail marijuana greater than three percent.

Local jurisdictions are preempted from imposing a fee or tax on medical marijuana.

Citation

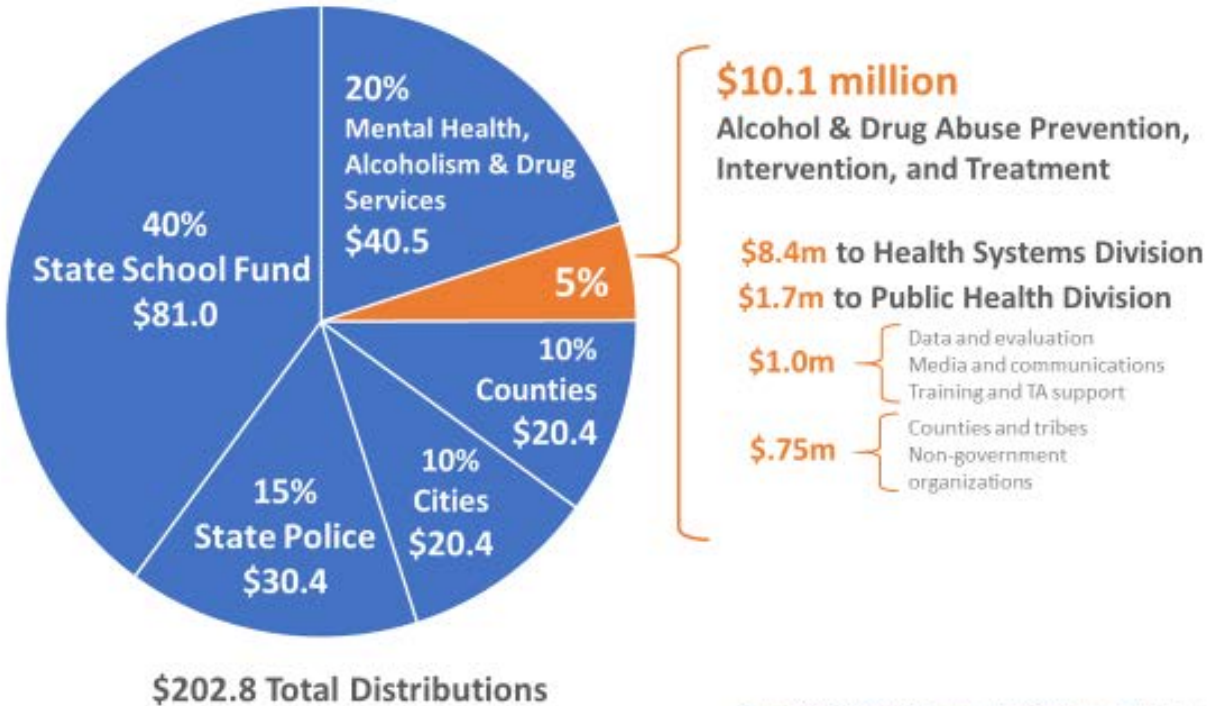
475B.491

See Preemption Section for additional details.

V. Marijuana Taxes and Distribution

Distribution

2017-2019 Oregon Marijuana Resource Allocation (in millions of dollars)



Source: Oregon Economic and Revenue Forecast Report (released August 28, 2017)
<http://www.oregon.gov/ORS/OEA/Documents/forecast10917.pdf>

The Department of Revenue collects recreational marijuana money and puts it in the Oregon Marijuana Account, less the payment of administrative and enforcement expenses. The distribution of these funds is illustrated above.

Enforcement

Department of Revenue

Citation

- 475B.759 Oregon Marijuana Account.** (1) There is established the Oregon Marijuana Account, separate and distinct from the General Fund.
- (2) The account shall consist of moneys transferred to the account under ORS 475B.760.
- (3)(a) The Department of Revenue shall certify quarterly the amount of moneys available in the Oregon Marijuana Account.

V. Marijuana Taxes and Distribution

(b) Subject to subsection (4) of this section, the department shall transfer quarterly 20 percent of the moneys in the Oregon Marijuana Account as follows:

(A) Ten percent of the moneys in the account must be transferred to the cities of this state in the following shares:

(i) Seventy-five percent of the 10 percent must be transferred in shares that reflect the population of each city of this state that is not exempt from this paragraph pursuant to subsection (4)(a) of this section compared to the population of all cities of this state that are not exempt from this paragraph pursuant to subsection (4)(a) of this section, as determined by Portland State University under ORS 190.510 to 190.610, on the date immediately preceding the date of the transfer; and

(ii) Twenty-five percent of the 10 percent must be transferred in shares that reflect the number of licenses held pursuant to ORS 475B.070, 475B.090, 475B.100 and 475B.105 on the last business day of the calendar quarter preceding the date of the transfer for premises located in each city compared to the number of licenses held pursuant to ORS 475B.070, 475B.090, 475B.100 and 475B.105 on the last business day of that calendar quarter for all premises in this state located in cities; and

(B) Ten percent of the moneys in the account must be transferred to counties in the following shares:

(i) Fifty percent of the 10 percent must be transferred in shares that reflect the total commercially available area of all grow canopies associated with marijuana producer licenses held pursuant to ORS 475B.070 on the last business day of the calendar quarter preceding the date of the transfer for all premises located in each county compared to the total commercially available area of all grow canopies associated with marijuana producer licenses held pursuant to ORS 475B.070 on the last business day of that calendar quarter for all premises located in this state; and

(ii) Fifty percent of the 10 percent must be transferred in shares that reflect the number of licenses held pursuant to ORS 475B.090, 475B.100 and 475B.105 on the last business day of the calendar quarter preceding the date of the transfer for premises located in each county compared to the number of licenses held pursuant to ORS 475B.090, 475B.100 and 475B.105 on the last business day of that calendar quarter for all premises in this state.

(c) Eighty percent of the moneys in the Oregon Marijuana Account must be used as follows:

(A) Forty percent of the moneys in the account must be used solely for purposes for which moneys in the State School Fund established under ORS 327.008 may be used;

(B) Twenty percent of the moneys in the account must be used solely for purposes for which moneys in the Mental Health Alcoholism and Drug Services Account established under ORS 430.380 may be used;

V. Marijuana Taxes and Distribution

(C) Fifteen percent of the moneys in the account must be used solely for purposes for which moneys in the State Police Account established under ORS 181A.020 may be used; and

(D) Five percent of the moneys in the account must be used solely for purposes related to alcohol and drug abuse prevention, early intervention and treatment services.

(4)(a) A city that has an ordinance prohibiting the establishment of a premises for which issuance of a license under ORS 475B.070, 475B.090, 475B.100 or 475B.105 is required is not eligible to receive transfers of moneys under subsection (3)(b)(A) of this section.

(b) A county that has an ordinance prohibiting the establishment of a premises for which issuance of a license under ORS 475B.070 is required is not eligible to receive transfers of moneys under subsection (3)(b)(B)(i) of this section.

(c) A county that has an ordinance prohibiting the establishment of a premises for which issuance of a license under ORS 475B.090, 475B.100 or 475B.105 is required is not eligible to receive transfers of moneys under subsection (3)(b)(B)(ii) of this section.

(5) In a form and manner prescribed by the Oregon Liquor Control Commission, each city and county in this state shall certify with the commission whether the city or county has an ordinance prohibiting the establishment of a premises for which issuance of a license under ORS 475B.070, 475B.090, 475B.100 or 475B.105 is required. If a city fails to comply with this subsection, the city is not eligible to receive transfers of moneys under subsection (3)(b)(A) of this section. If a county fails to comply with this subsection, the county is not eligible to receive transfers of moneys under subsection (3)(b)(B) of this section. [2015 c.1 §44; 2015 c.699 §14; 2015 c.767 §219; 2017 c.725 §32]

475B.760 Suspense account; payment of expenses; crediting balance to Oregon Marijuana Account. (1) All moneys received by the Department of Revenue under ORS 475B.700 to 475B.760 shall be deposited in the State Treasury and credited to a suspense account established under ORS 293.445. The department may pay expenses for the administration and enforcement of ORS 475B.700 to 475B.760 out of moneys received from the tax imposed under ORS 475B.705. Amounts necessary to pay administrative and enforcement expenses are continuously appropriated to the department from the suspense account.

(2) After the payment of administrative and enforcement expenses and refunds or credits arising from erroneous overpayments, the department shall credit the balance of the moneys received by the department under this section to the Oregon Marijuana Account established under ORS 475B.759. [2015 c.699 §11; 2016 c.24 §70]

VI. Retail Environment

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Advertising

Oregon law prohibits marijuana items from being advertised in a manner that is attractive to minors, promotes illegal activity or presents a significant risk to public health and safety.

Enforcement

Oregon Liquor Control Commission

Citation

475B.025 General powers and duties; rules. (1) The Oregon Liquor Control Commission has the duties, functions and powers specified in ORS 475B.010 to 475B.545 and the powers necessary or proper to enable the commission to carry out the commission's duties, functions and powers under ORS 475B.010 to 475B.545. The jurisdiction, supervision, duties, functions and powers of the commission extend to any person that produces, processes, transports, delivers, sells or purchases a marijuana item in this state. The commission may sue and be sued.

(2) The duties, functions and powers of the commission specified in ORS 475B.010 to 475B.545 include the following:

(a) To regulate the production, processing, transportation, delivery, sale and purchase of marijuana items in accordance with the provisions of ORS 475B.010 to 475B.545.

(b) To issue, renew, suspend, revoke or refuse to issue or renew licenses for the production, processing or sale of marijuana items, or other licenses related to the consumption of marijuana items, and to permit, in the commission's discretion, the transfer of a license between persons.

(c) To adopt, amend or repeal rules as necessary to carry out the intent and provisions of ORS 475B.010 to 475B.545, including rules that the commission considers necessary to protect the public health and safety.

(d) To exercise all powers incidental, convenient or necessary to enable the commission to administer or carry out the provisions of ORS 475B.010 to 475B.545 or any other law of this state that charges the commission with a duty, function or power related to marijuana. Powers described in this paragraph include, but are not limited to:

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(A) Issuing subpoenas;

(B) Compelling the attendance of witnesses;

(C) Administering oaths;

(D) Certifying official acts;

(E) Taking depositions as provided by law;

(F) Compelling the production of books, payrolls, accounts, papers, records, documents and testimony; and

(G) Establishing fees in addition to the application, licensing and renewal fees described in ORS 475B.070, 475B.090, 475B.100 and 475B.105, provided that any fee established by the commission is reasonably calculated not to exceed the cost of the activity for which the fee is charged.

(e) To adopt rules regulating and prohibiting advertising marijuana items in a manner:

(A) That is appealing to minors;

(B) That promotes excessive use;

(C) That promotes illegal activity; or

(D) That otherwise presents a significant risk to public health and safety.

(f) To regulate the use of marijuana items for other purposes as deemed necessary or appropriate by the commission.

(3) Fees collected pursuant to subsection (2)(d)(G) of this section shall be deposited in the Marijuana Control and Regulation Fund established under ORS 475B.296. [2015 c.1 §7; 2015 c.614 §2; 2017 c.183 §47]

https://www.oregonlegislature.gov/bills_laws/ors/ors475b.html

VI. Retail Environment

Labeling requirements

Rules establish labeling standards that, at a minimum, contain health and safety warnings, activation time, potency, serving size (if applicable), item content (if applicable).

Enforcement

Oregon Liquor Control Commission

Citation

475B.605 Labeling requirements; rules. (1) As is necessary to protect the public health and safety, and in consultation with the Oregon Health Authority and the State Department of Agriculture, the Oregon Liquor Control Commission shall adopt rules establishing standards for the labeling of marijuana items, including but not limited to:

(a) Ensuring that usable marijuana, cannabinoid concentrates and extracts, cannabinoid edibles and other cannabinoid products have labeling that communicates:

(A) Health and safety warnings;

(B) If applicable, activation time;

(C) Potency;

(D) For cannabinoid products and cannabinoid concentrates and extracts, serving size and the number of servings included in a cannabinoid product or cannabinoid concentrate or extract package; and

(E) Content of the marijuana item; and

(b) Labeling that is in accordance with applicable state food labeling requirements for the same type of food product or potable liquid when the food product or potable liquid does not contain marijuana or cannabinoids.

(2) In adopting rules under ORS 475B.785 to 475B.949, the authority shall require all usable marijuana, cannabinoid products and cannabinoid concentrates and extracts transferred by a medical marijuana dispensary registered under ORS 475B.858 to be labeled in accordance with subsection (1) of this section and rules adopted under subsection (1) of this section.

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(3) In adopting rules under ORS 475B.010 to 475B.545, the commission shall require all usable marijuana, cannabinoid products and cannabinoid concentrates and extracts sold or transferred by a marijuana retailer that holds a license issued under ORS 475B.105 to be labeled in accordance with subsection (1) of this section and rules adopted under subsection (1) of this section.

(4) In adopting rules under subsection (1) of this section, the commission:

(a) May establish different labeling standards for different varieties of usable marijuana and for different types of cannabinoid products and cannabinoid concentrates and extracts;

(b) May establish different minimum labeling standards for persons registered under ORS 475B.785 to 475B.949 and persons licensed under ORS 475B.010 to 475B.545;

(c) Shall consider the cost of a potential requirement and how that cost will affect the cost to the ultimate consumer of the marijuana item; and

(d) May not adopt rules that are more restrictive than is reasonably necessary to protect the public health and safety. [2015 c.614 §101; 2017 c.183 §33]

475B.610 Authority to require preapproval of labels. (1) As used in this section:

(a) “Licensee” has the meaning given that term in ORS 475B.015.

(b) “Registrant” means a person registered under ORS 475B.785 to 475B.949.

(2) The Oregon Liquor Control Commission may by rule require a licensee, and the Oregon Health Authority may by rule require a registrant, to submit a label intended for use on a marijuana item for preapproval by the commission before the licensee or registrant may sell or transfer a marijuana item bearing the label. The commission shall determine whether a label submitted under this section complies with ORS 475B.605 and any rule adopted under ORS 475B.605.

(3) The commission may impose a fee for submitting a label for preapproval under this section that is reasonably calculated to not exceed the cost of administering this section. [2015 c.614 §102]

VI. Retail Environment

Packaging requirements

Rules establish packaging standards that, at a minimum, ensure child-resistant safety packaging, not marketed in a manner that is untruthful or attractive to minors or creates a risk of harm to public health and safety.

Enforcement

Oregon Liquor Control Commission

Citation

475B.615 Packaging requirements; rules. (1) As is necessary to protect the public health and safety, and in consultation with the Oregon Health Authority and the State Department of Agriculture, the Oregon Liquor Control Commission shall adopt rules establishing standards for the packaging of marijuana items, including but not limited to:

(a) Ensuring that usable marijuana, cannabinoid concentrates and extracts, cannabinoid edibles and other cannabinoid products are:

(A) Packaged in child-resistant safety packaging; and

(B) Not marketed in a manner that:

(i) Is untruthful or misleading;

(ii) Is attractive to minors; or

(iii) Otherwise creates a significant risk of harm to public health and safety; and

(b) Ensuring that cannabinoid edibles and other cannabinoid products are not packaged in a manner that is attractive to minors.

(2) In adopting rules under ORS 475B.785 to 475B.949, the authority shall require all usable marijuana, cannabinoid products and cannabinoid concentrates and extracts transferred by a medical marijuana dispensary registered under ORS 475B.858 to be packaged in accordance with subsection (1) of this section and rules adopted under subsection (1) of this section.

(3) In adopting rules under ORS 475B.010 to 475B.545, the commission shall require all usable marijuana, cannabinoid products and cannabinoid concentrates and extracts sold or transferred by a marijuana retailer that holds a license under ORS

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475B.105 to be packaged in accordance with subsection (1) of this section and rules adopted under subsection (1) of this section.

(4) In adopting rules under subsection (1) of this section the commission:

(a) May establish different packaging standards for different varieties of usable marijuana and for different types of cannabinoid products and cannabinoid concentrates and extracts;

(b) May establish different minimum packaging standards for persons registered under ORS 475B.785 to 475B.949 and persons licensed under ORS 475B.010 to 475B.545;

(c) May consider the effect on the environment of requiring certain packaging;

(d) Shall consider the cost of a potential requirement and how that cost will affect the cost to the ultimate consumer of the marijuana item; and

(e) May not adopt rules that are more restrictive than is reasonably necessary to protect the public health and safety. [2015 c.614 §103]

475B.620 Authority to require preapproval of packaging. (1) As used in this section:

(a) “Licensee” has the meaning given that term in ORS 475B.015.

(b) “Registrant” means a person registered under ORS 475B.785 to 475B.949.

(2) The Oregon Liquor Control Commission may by rule require a licensee, and the Oregon Health Authority may by rule require a registrant, to submit packaging intended for a marijuana item for preapproval by the commission before the licensee or registrant may sell or transfer a marijuana item packaged in the packaging. The commission shall determine whether packaging submitted under this section complies with ORS 475B.615 and any rule adopted under ORS 475B.615.

(3) The commission may impose a fee for submitting packaging for preapproval under this section that is reasonably calculated to not exceed the cost of administering this section. [2015 c.614 §104]

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Dosage requirements

Rules establish dosage standards that set a maximum concentration of tetrahydrocannabinol in a single serving and the number of servings permitted in a product or concentrate or package.

Enforcement

Oregon Health Authority

Citation

475B.625 Dosage requirements; rules. (1) The Oregon Health Authority shall adopt rules establishing:

(a) The maximum concentration of tetrahydrocannabinol that is permitted in a single serving of a cannabinoid product or cannabinoid concentrate or extract; and

(b) The number of servings that are permitted in a cannabinoid product or cannabinoid concentrate or extract package.

(2)(a) In adopting rules under subsection (1)(a) of this section, the authority shall prescribe the different levels of concentration of tetrahydrocannabinol that is permitted in a single serving of a cannabinoid product or cannabinoid concentrate or extract for:

(A) Consumers who hold a valid registry identification card issued under ORS 475B.797; and

(B) Consumers who do not hold a valid registry identification card issued under ORS 475B.797.

(b) In prescribing the levels of concentration of tetrahydrocannabinol that is permitted in a single serving of a cannabinoid product or cannabinoid concentrate or extract for consumers who hold a valid registry identification card issued under ORS 475B.797, the authority shall consider the appropriate level of concentration necessary to mitigate the symptoms or effects of a debilitating medical condition, as defined in ORS 475B.791.

(3) In adopting rules under ORS 475B.785 to 475B.949, the authority shall require all usable marijuana, cannabinoid products and cannabinoid concentrates and extracts

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transferred by a medical marijuana dispensary registered under ORS 475B.858 to meet the concentration standards and packaging standards adopted by rule pursuant to this section.

(4) In adopting rules under ORS 475B.010 to 475B.545, the Oregon Liquor Control Commission shall require all usable marijuana, cannabinoid products and cannabinoid concentrates and extracts sold or transferred by a marijuana retailer that holds a license under ORS 475B.105 to meet the concentration standards and packaging standards adopted by rule pursuant to this section. [2015 c.614 §105; 2016 c.83 §15]

https://www.oregonlegislature.gov/bills_laws/ors/ors475b.html

Compliance

The Oregon Liquor Control Commission may inspect the premises of a person that holds an OLCC-provided license to ensure compliance with license requirements. The Oregon Health Authority may inspect the premises of a medical marijuana dispensary or a person that processes marijuana for the purpose of transferring the product to a medical marijuana dispensary to ensure compliance with requirements.

Enforcement

Oregon Liquor Control Commission and Oregon Health Authority (as specified in each statute)

Citation

475B.630 Applicability of ORS 475B.600 to 475B.655. ORS 475B.600 to 475B.655 do not apply to:

(1) A person responsible for a marijuana grow site under ORS 475B.810 if the person is transferring usable marijuana or an immature marijuana plant, as defined in ORS 475B.015, to:

(a) A person who holds a registry identification card under ORS 475B.797 and who designated the person responsible for the marijuana grow site to grow marijuana for the person who holds a registry identification card; or

(b) A person who has been designated as the primary caregiver under ORS 475B.804 of a person who holds a registry identification card under ORS 475B.797,

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and who designated the person responsible for the marijuana grow site to grow marijuana for the person who holds a registry identification card; or

(2) A person who has been designated as the primary caregiver under ORS 475B.804 of a person who holds a registry identification card under ORS 475B.797 if the person is transferring a marijuana item to the person who holds a registry identification card. [2015 c.614 §106]

475B.635 Authority of Oregon Liquor Control Commission to inspect. To ensure compliance with ORS 475B.600 to 475B.655 and any rule adopted under ORS 475B.600 to 475B.655, the Oregon Liquor Control Commission may inspect the premises of a person that holds a license under ORS 475B.070, 475B.090, 475B.100 or 475B.105. [2015 c.614 §108]

475B.640 Authority of Oregon Health Authority to inspect. To ensure compliance with ORS 475B.600 to 475B.655 and any rule adopted under ORS 475B.600 to 475B.655, the Oregon Health Authority may inspect the premises of:

(1) A medical marijuana dispensary registered under ORS 475B.858; and

(2) A person that processes marijuana to test cannabinoid products or cannabinoid concentrates or extracts for the purpose of transferring the cannabinoid products or cannabinoid concentrates or extracts to a medical marijuana dispensary registered under ORS 475B.858. [2015 c.614 §107]

475B.645 Authority of Oregon Liquor Control Commission to discipline licensees of commission. Subject to the applicable provisions of ORS chapter 183, if the applicant or licensee violates a provision of ORS 475B.600 to 475B.655 or a rule adopted under a provision of ORS 475B.600 to 475B.655, the Oregon Liquor Control Commission may refuse to issue or renew, or may suspend or revoke, a license issued under ORS 475B.070, 475B.090, 475B.100 or 475B.105. [2015 c.614 §110]

475B.650 Authority of Oregon Health Authority to discipline registrants of authority. Subject to the applicable provisions of ORS chapter 183, if a person violates a provision of ORS 475B.600 to 475B.655 or a rule adopted under a provision of ORS 475B.600 to 475B.655, the Oregon Health Authority may:

(1) Refuse to register a person under ORS 475B.785 to 475B.949;

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(2) Suspend activities conducted by a registrant pursuant to ORS 475B.785 to 475B.949; or

(3) Remove a registrant from a registry kept pursuant to ORS 475B.785 to 475B.949. [2015 c.614 §109]

475B.655 Civil penalty for violating ORS 475B.600 to 475B.655. (1) In addition to any other liability or penalty provided by law, the Oregon Liquor Control Commission may impose for each violation of a provision of ORS 475B.600 to 475B.655, or a rule adopted under a provision of ORS 475B.600 to 475B.655, a civil penalty that does not exceed \$500 for each day that the violation occurs.

(2) The commission shall impose civil penalties under this section in the manner provided by ORS 183.745.

(3) Moneys collected under this section shall be deposited in the Marijuana Control and Regulation Fund established under ORS 475B.296 and are continuously appropriated to the commission for the purpose of carrying out the duties, functions and powers of the authority under ORS 475B.600 to 475B.655. [2015 c.614 §111; 2017 c.183 §34]

Age Verification

The Oregon Liquor Control Commission may require that retailers ensure that they do not sell marijuana items to a person under 21 years of age.

Enforcement

Oregon Liquor Control Commission

Citation

475B.119 Requirement to verify person's age; rules. The Oregon Liquor Control Commission may adopt rules establishing the circumstances under which the commission may require a marijuana retailer that holds a license issued under ORS 475B.105 to use an age verification scanner or any other equipment used to verify a person's age for the purpose of ensuring that the marijuana retailer does not sell marijuana items to a person under 21 years of age. Information obtained under this section may not be retained after verifying a person's age and may not be used for any purpose other than verifying a person's age. [Formerly 475B.125]

475B.416 Civil penalty for violating ORS 475B.010 to 475B.545. In addition to any other liability or penalty provided by law, the Oregon Liquor Control

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Commission may impose for each violation of a provision of ORS 475B.010 to 475B.545 or a rule adopted under ORS 475B.010 to 475B.545 a civil penalty that does not exceed \$5,000 for each violation. The commission shall impose civil penalties under this section in the manner provided by ORS 183.745. Moneys collected under this section shall be deposited in the Marijuana Control and Regulation Fund established under ORS 475B.296. [Formerly 475B.295]