



2022 House Bill 4016 – Moratorium Legislative Report
March, 2023

Executive Summary

2022 House Bill 4016 (HB 4016) established a marijuana licensing moratorium with a sunset date of March 31, 2024. The legislation requires OLCC to submit an annual report studying the effects of the moratorium. This report is the first of the two required reports.

The Oregon Liquor and Cannabis Commission (OLCC) implemented the state's Recreational (adult-use) Marijuana Program and began issuing licenses in 2016. A primary objective of the OLCC's adult-use program was to bring the illicit marijuana market into a regulated system. The OLCC quickly became overwhelmed with the number of start-up and migrating (from the medical and illegal markets) businesses wanting to become part of Oregon's regulated marijuana marketplace.

Concerns related to market saturation and the balance between the supply and demand of legal marijuana led the Oregon Legislature in 2019 to pass Senate Bill 218 establishing a partial licensing moratorium. The legislature directed the OLCC to adopt specific timelines for the completion of marijuana producer applications that had been submitted after June 15, 2018. The practical effect was that one set of incomplete applications were permanently inactivated, and another group was set aside for the applicants to be completed subject to established timelines. SB 218 also required OLCC to report on the impact of the moratorium in [2019](#), [2020](#), and [2021](#). In 2022, the Oregon Legislature passed HB 4016, which expanded the licensing moratorium to all license types except testing laboratories until March 31, 2024.

As of March 14, 2023, the OLCC has 1,404 producer, 820 retailer, 323 processor, and 273 wholesaler licenses active statewide. The OLCC's licensing staff have worked through a large portion of the applications submitted before the moratorium went into effect. Currently, the OLCC is mostly processing "change of ownership" applications. This is a process where an applicant attempts to enter the recreational market by purchasing all or part of a currently-licensed marijuana business. In order to do this, applicants must find a business interested in changing one or more factors of its current status: its business structure, ownership, or the licensed location where it conducts business.

HB 4016 also required OLCC to inactivate all applications received on or after January 2, 2022; after the legislation was signed into law, the OLCC inactivated 570 applications. The inactivation included 501 producer, 36 retailer, 15 processor, and 18 wholesaler applications. The number of inactivated license applications highlights the continued desire to enter the regulated market.

This report will discuss the method and process individuals and businesses can still use to enter the market under the licensing moratorium, including information on changes of business structure, changes of ownership, and changes of location.

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The commission shall study the effects of the licensing moratorium established in 2022 HB 4016 on the marijuana industry. Not later than March 20 of each year, the commission shall submit a report to a committee or an interim committee of the Legislative Assembly related to economic development, in the manner provided in ORS 192.245, on the findings of the study described in this subsection.

When the Oregon Liquor and Cannabis Commission (OLCC) implemented the adult use marijuana program, one of the initial goals of the OLCC's recreational marijuana program was to bring illicit marijuana production and sales activity into a regulated market system. The OLCC quickly became overwhelmed with the number of potential businesses interested in becoming part of Oregon's regulated marijuana marketplace. The applicant interest was so high that the Commission's Marijuana Program operated under a "licensing pause" for all new license applications submitted from June 15, 2018 until November 8, 2021; the objective was to prioritize providing service to existing licensees, including processing applications for changes of ownership, changes of location, and renewals. This approach was designed to address a growing backlog of these type of requests from existing licensees, as well as new license applications.

In 2019, the Oregon Legislature passed Senate Bill 218 (SB 218), which provided specific timelines to follow to inactivate newer producer applications submitted to the OLCC and older producer applications that remained incomplete as of June 15, 2018. SB 218 also required OLCC to report on the effects of the moratorium in [2019](#), [2020](#), and [2021](#). In 2022, the Oregon Legislature passed House Bill 4016 (HB 4016), expanding the licensing moratorium to include all license types with the exception of testing laboratories; the moratorium remains in effect until March 31, 2024.

Although the sunset date for SB 218 was January 2, 2022, HB 4016 was signed by the Governor on April 4, 2022 and required the OLCC to retroactively inactivate all applications received after January 1, 2022. With moratoriums in place, the only "new" producer licenses that can be issued in the Oregon market are those for which applications were received prior to June 15, 2018. For processor, wholesaler, or retailer licenses, the only new licenses that can be issued would be those for applications that were received prior to January 2, 2022. The only mechanism for a new business to enter the market, unless their application was submitted prior to those dates, is to find a current licensee willing to either change their ownership structure or sell their licensed business to the new entrant. This is known as a change of ownership.

As of March 14, 2023, the OLCC has 1,404 producer, 820 retailer, 323 processor, and 273 wholesaler licenses active statewide. There are very few applications left to be processed that were received prior to the HB 4016 moratorium; instead most applications the OLCC is processing are related to changes of ownership. The

remainder of this report will discuss license application inactivation, changes of ownership, changes of location, and license renewals in more detail.

License Application Inactivation

As prescribed in HB 4016, OLCC sent a notice to all applicants whose applications fit the criteria to be inactivated. After HB 4016 became law, 570 applications were inactivated due to being submitted on or after January 2, 2022. This included 501 producer, 36 retailer, 15 processor, and 18 wholesaler applications. In addition, of those applications received prior to January 2, 2022, 13 applications were inactivated due to a failure to provide a valid Land Use Compatibility Statement within 21 days of the signing of the bill. In accordance with HB 4016, the OLCC continues to inactivate any new producer, processor, wholesaler, and retailer applications that are received.

HB 4016 Inactivated Applications Received January 2nd - April 4th, 2022	
License Type	Count
Producer	501
Processor	15
Wholesale	18
Retail	36
Total	570

The demographic data listed below is sourced from the applications that were inactivated. Since the applications were not processed, the OLCC does not know how complete the data is, but it gives the agency a general sense of the individuals who wanted to either enter the market or grow their already-licensed businesses by obtaining additional licenses. Currently, the OLCC is working to implement a new licensing system that will enable the agency to improve the accuracy of the collection of demographic data. The OLCC plans to report additional demographic information related to the inactivated applications and current licensees in the 2024 HB 4016 report.

HB 4016 Inactivated Applications Demographic Data	
	Percent of Applicants
American Indian or Alaskan Native	2.05%
Native Hawaiian or Other Pacific Islander	0%
Asian	2.88%
Multiethnic	1.64%
Black or African American	1.44%
White	71.60%
Hispanic or Latino or other Spanish Origin	6.17%
Other	18.10%

It would be speculative for the OLCC to forecast the viability of any business inactivated under HB 4016. However, those applicants did not have the opportunity to enter the market based on OLCC's established charges of an application fee of \$250 and licensing fee no greater than \$5,750. The OLCC has been informed that the costs to purchase or buy into a business through a "change of ownership" with an existing license are substantially greater than the cost of the original license fees. This is discussed further in the section on "Change of Ownership and Location".

Change of Ownership Explained

HB 4016 does not allow for a change of ownership greater than 51% of a business during the application process. However, once a license is granted, a new licensee can change their business structure, or could sell the entire business (100% of its ownership) to different parties as part of an application for a change of ownership. The reasons are varied but could be because: individuals want to leave the business for other opportunities, bringing onboard new individuals to improve financial support for the business, or in many cases, selling the business outright. Often the only "asset" transferred in such a sale of the licensed business is the license itself. For many buyers, their sole interest in acquiring a license is to physically relocate it from where the original seller was located.

When a licensed business seeks to change more than 51% of its ownership, a new application must be submitted to the OLCC and the full vetting of all applicants must occur prior to the new parties beginning operation. For changes under 51% of the business' ownership within any given license year, the licensees only need to notify the OLCC of the change in business structure. The OLCC reviews the parties added to the business structure after receiving the notification. In a case where the addition of a new individual to the business structure would cause the denial of a licensee, the OLCC provides the licensee the opportunity to remove those individuals; otherwise the Commission may propose to revoke the license.

Change of Ownership Applications		
2021-2022		
	2021	2022
Q1	93	60
Q2	113	73
Q3	82	84
Q4	70	73
Total	358	290

Change of Location

Along with the limitations on changes of ownership, HB 4016 also does not allow a change of location for an application. However, once the business is licensed its owners are able to change their licensed location. For a licensee to change the location of their licensed premises, they need to provide OLCC with all of the application details that would be required for a new license, including but not limited to; a land use compatibility statement, floor plans, security plans and control plans to limit access by minors. Most applications for change of location received currently are directly related to a change of ownership.

Change of Location Applications		
2021-2022		
	2021	2022
Q1	69	64
Q2	70	52
Q3	54	68
Q4	39	51
Total	232	235

Change of Ownership and Location

In most cases, changes of ownership over 51% also include a request for a simultaneous change in a licensed location. This is effectively a method for selling a licensed business, even though the new ownership needs to submit an application and meet all licensing criteria in order to be licensed. This is how existing licensees can expand their business footprint, or new entrants can get into the market. Aside from the licensing aspect in this “ownership change,” all transactions regarding the other “assets” of a licensed business are done outside of the OLCC’s regulatory authority.

To facilitate changes in ownership and changes of location, there are private companies that advertise businesses and properties for sale. Prices range from over \$1 million in some cases, and to as low as \$40,000. The higher priced businesses usually come with land and infrastructure, and the lower end is normally just selling the right to a license

with OLCC. The prices have fluctuated over the years based on market demand, and now are impacted by the full moratorium.

To better highlight the change of business, change of location requests the following data shows the number of requests OLCC has received in the past two years.

Change of Ownership and Change of Location Applications 2021-2022		
	2021	2022
Change of Ownership and Change of Location	137	122
Change of Ownership Only	95	113
Change of Location Only	221	168

Renewals and License Reassignment

The valid term for each marijuana license issued is one year, and licensees must submit a renewal application and payment prior to the expiration of the license if they want to continue to do business. Over the past seven years, the OLCC has streamlined the renewal process so that licensees do not have to resubmit the same information each year, and OLCC licensing staff can now focus their time and attention on reviewing changes that have occurred throughout the year.

HB 4016 also gave the OLCC the authority to reissue licenses that had expired, were surrendered or canceled to new entrants to the market. At this time, the OLCC has not implemented rules to reissue the licenses, but have identified approximately 70 licenses that would meet the criteria. The Commission is planning to engage in robust rulemaking in 2023 to work with stakeholders and licensees to design and develop the license reassignment program. The Commission looks forward to reporting additional information in the 2024 HB 4016 report.

Conclusion

At this time, the long-term effects of the moratorium put in place by 2022 HB 4016 are mostly unknown. As discussed in the [2023 Supply and Demand report](#), prices for marijuana are falling, and supply currently outpaces demand. That being said, businesses still want a chance to enter the marketplace, as highlighted by the information provided in this report. The OLCC will continue to monitor market conditions as well as the innovative approaches the industry is taking to create entry paths.