

For your information

The Oregon Liquor Control Commission has:

Amended

Adopted

Suspended

OAR 845-026-0100, 845-845-026-0300, & 845-026-4100
TEMPORARY

Effective Date: July 16, 2021

Note: **Bold and underlined** = new text; *~~italics and strikethrough~~* = deleted text

845-026-0100

Definitions

For the purposes of OAR 845-026-0100 to 845-026-8590, unless otherwise specified, the following definitions apply:

(1) "Adult use cannabinoid" includes, but is not limited to, tetrahydrocannabinols, tetrahydrocannabinolic acids that are artificially or naturally derived, delta-8-tetrahydrocannabinol, delta-9-tetrahydrocannabinol, the optical isomers of delta-8-tetrahydrocannabinol or delta-9-tetrahydrocannabinol and any artificially derived cannabinoid that is reasonably determined to have an intoxicating effect.

(2) "Adult use cannabis item" means:

(a) A marijuana item;

(b) An industrial hemp commodity or product that meets the criteria in section OAR 845-026-0300 of this rule; or

(c) An industrial hemp commodity or product that exceeds the greater of:

(A) A concentration of more than 0.3 percent total delta-9-tetrahydrocannabinol;
or

(B) The concentration of total delta-9-tetrahydrocannabinol allowed under federal law.

(3) "Artificially derived cannabinoid" means a chemical substance that is created by a chemical reaction that changes the molecular structure of any chemical substance derived from the plant Cannabis family Cannabaceae.

(a) "Artificially derived cannabinoid" does not include:

(A) A naturally-occurring chemical substance that is separated from the plant Cannabis family Cannabaceae by a chemical or mechanical extraction process;

(B) Cannabinoids that are produced by decarboxylation from a naturally-occurring cannabinoid acid without the use of a chemical catalyst; or

(C) Any other chemical substance identified by the commission, in consultation with the Oregon Health Authority and the State Department of Agriculture, by rule.

(4) "Cannabis plant" means a plant of the genus Cannabis within the plant family Cannabaceae.

(5) "Consumption or use" means to eat, drink, ingest, inhale, apply topically to the skin or hair, or otherwise consume an item.

(6) "Delta-9-tetrahydrocannabinol" or "delta-9-THC" means (6aR,10aR)-6,6,9-trimethyl-3-pentyl-6a,7,8,10a-tetrahydro-6H-benzo[c]chromen-1-ol.

(7) "Delta-9-tetrahydrocannabinolic acid" or "delta-9-THCA" means (6aR,10aR)-1-hydroxy-6,6,9-trimethyl-3-pentyl-6a,7,8,10a-tetrahydro-6H-benzo[c]chromene-2-carboxylic acid.

(8) "Flowering" means a cannabis plant that has formed a mass of pistils measuring greater than two centimeters wide at its widest point.

(9) "Immature cannabis plant" means a cannabis plant that is not flowering.

(10) "Industrial hemp" has the meaning given that term in ORS 571.269.

(11) "Industrial hemp commodity or product" has the meaning given that term in OAR 603-048-0010.

(12) "Mature cannabis plant" means a cannabis plant that is not an immature marijuana plant.

(13) "Marijuana item" has the meaning given that term in OAR 845-025-1015.

(14) "Presumptive test" means testing under 845-026-4100.

(15) "Total delta-9-tetrahydrocannabinol" or "total delta-9-THC" means the sum of the concentration or mass of delta-9-THCA multiplied by 0.877 plus the concentration or mass of delta-9-THC.

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Statutory/Other Authority: ORS 475B.025, 475B.015, & 2021 H.B. 3000

Statutes/Other Implemented: ORS 475B.025, 475B.015, & 2021 H.B. 3000

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845-026-0300

Adult Use Cannabis Item

(1) In accordance with ORS 475B.015 as amended by 2021 Oregon House Bill 3000, the Commission must establish the concentration of adult use cannabinoids at which a hemp items qualifies as an adult use cannabis item.

(2) An industrial hemp commodity or product is an adult use cannabis item if it:

(a) Contains 0.5 milligrams or more of any combination of:

(A) Tetrahydrocannabinols or tetrahydrocannabinolic acids, including Delta-9-tetrahydrocannabinol or Delta-8-tetrahydrocannabinol; or

(B) Any other cannabinoids advertised by the manufacturer or seller as having an intoxicating effect;

(b) Contains any quantity of artificially-derived cannabinoids; or

(c) Has not been demonstrated to contain less than 0.5 milligrams total delta-9-THC when tested in accordance with ORS 571.330 or 571.339.

(3) An adult use cannabis item cannot be sold or delivered to a person under 21 years of age, except by a marijuana retailer registered under ORS 475B.146 to sell or deliver marijuana items to a registry identification cardholder who is 18 years of age or older or as allowed under ORS 475B.785 to 475B.949.

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Statutory/Other Authority: ORS 475B.025, 475B.015 & 2021 H.B. 3000

Statutes/Other Implemented: ORS 475B.025, 475B.015, 475B.211 & 2021 H.B. 3000

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845-026-4100

Presumptive Testing

(1) For the purpose of this rule:

(a) "Crop" has the meaning given that term in OAR 603-048-0010.

(b) "Composite Sample" means cuttings from at least five cannabis plants removing the top five to eight inches and compositing in one receptacle for purposes of testing.

(c) "Grow site" has the meaning given that term in OAR 603-048-0010.

(d) "Production area" has the meaning given that term in OAR 603-048-0010.

(2) In accordance with Section 41a, 2021 Oregon House Bill 3000, the Commission must establish a methodology to distinguish whether a cannabis plant is marijuana or industrial hemp for purposes of Sections 40 to 44 of 2021 Oregon House Bill 3000.

(3) Cannabis plants may be distinguished between hemp and marijuana for purposes of sections 40-44 of 2021 Oregon House Bill 3000 by three methods:

(a) Testing pursuant to OAR 603-048-0600 to 0625.

(b) Testing by the State Department of Agriculture pursuant to ORS 571.281(7).

(c) Presumptive testing in accordance with this rule.

(4) In addition to any sampling conducted under OAR 603-048-0600, a representative of the State Department of Agriculture or the Oregon Liquor Control Commission may sample from an industrial hemp grow site registered under ORS 571.281 for the purposes of conducting a presumptive test.

(5) To conduct sampling for a presumptive test:

(a) A minimum of three composite samples from mature plants or a minimum of three composite samples from immature plants must be collected. Each composite sample must be taken from a different production area, or if the grow site has less than three production areas, each composite sample must be taken from three different areas of the grow site

(b) Grow sites with multiple production areas must have a composite sample collected from at least one out of every ten separate production areas; and

(c) Sampling is not required to be representative of the crop, grow site, or production area.

(6) All cannabis plants at a grow site are presumptively marijuana for purposes of Sections 40 to 44 of 2021 Oregon House Bill 3000 if sampling at the grow site meets any of the following criteria:

(a) At least fifty percent of composite samples taken from mature plants test at or above five percent total delta-9-THC;

(b) The average total delta-9-THC among the composite samples taken from mature plants tests at or above five percent;

(c) At least fifty percent of composite samples taken from immature plants test at or above a 5:1 ratio of total THC to total CBD;

(d) At least fifty percent of composite samples taken from immature plants test at or above one percent total delta-9-THC; or

(e) The average total delta-9-THC among the composite samples taken from immature plants tests at or above one percent total delta-9-THC.

Statutory/Other Authority: ORS 475B.025 & 2021 H.B. 3000

Statutes/Other Implemented: ORS 475B.025 & 2021 H.B. 3000