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**TEMPORARY ADMINISTRATIVE ORDER**  
INCLUDING STATEMENT OF NEED & JUSTIFICATION

**OLCC 2-2024**

CHAPTER 845

OREGON LIQUOR AND CANNABIS COMMISSION

**FILED**

02/16/2024 9:13 AM  
ARCHIVES DIVISION  
SECRETARY OF STATE  
& LEGISLATIVE COUNSEL

FILING CAPTION: The amendments outline the requirements retailers must follow to obtain an extension for tax compliance.

EFFECTIVE DATE: 02/16/2024 THROUGH 08/13/2024

AGENCY APPROVED DATE: 02/15/2024

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**NEED FOR THE RULE(S):**

In 2023, the Oregon Liquor and Cannabis Commission (OLCC) and Department of Revenue (DOR) were directed by Governor Kotek to take steps to require proof of tax compliance for marijuana retailers as part of the renewal, change of ownership, addition of license holders, and/or new licensure process. Since that time, the OLCC has encountered a subset of licensees that have extenuating circumstances preventing them from obtaining certificates of tax compliance within the timeframes currently allowed in rule. Licensees may be facing deaths in the family, pending legal actions, or other technical/paperwork delays beyond their control, but are otherwise able to demonstrate an acceptable level of tax compliance.

In response to these situations, OLCC staff is proposing to pass temporary rulemaking to grant relief only in specific situations where the licensee is in compliance with marijuana taxes and diligently trying to obtain a certificate of compliance while working through other tax issues. These amendments will provide the OLCC flexibility to allow additional time that will prevent the unnecessary closing of an otherwise compliant businesses. A licensee applying for an extension would need to meet specific requirements and provide proof that they are working to obtain their certificate of compliance. The OLCC is not anticipating granting such extensions frequently and intends to continue requiring strict compliance in most cases, but requests the flexibility to allow for case-by-case circumstances, given that the process creates unique situations for individual licensees.

**JUSTIFICATION OF TEMPORARY FILING:**

1) Describe the specific consequences that result from the failure to immediately adopt, amend or suspend the rule(s): Current OLCC rules allow the renewal of a cannabis retail license within ninety (90) days of expiration, and for late renewals up to thirty (30) days after expiration. OLCC staff could not identify these legal and/or technical roadblocks that are preventing licensees from obtaining their certificates of compliance until getting to the end of the initial 90-day period currently in rule as of mid-January 2024. Adopting a temporary rule will allow the agency more flexibility to consider case-by-case circumstances, and to prevent inequitable results for certain licensees that are otherwise compliant.

2) Who would suffer these consequences: Retailer licensees who may be facing deaths in the family, pending legal actions, or other technical/paperwork delays beyond their control, but are otherwise able to demonstrate that they are in compliance with paying marijuana tax and have just been unable to obtain certificates for tax compliance for other taxes.

3) Why or how failure to immediately take rulemaking action would cause these consequences: Failure to adopt a temporary rule that will allow the agency flexibility to examine case-by-case tax circumstances for licensees has a high potential to disrupt the renewal, change of ownership, addition of license holders, and/or new application processes. Retail licensees could face the unnecessary closing of their otherwise tax compliant businesses, which will adversely impact retail operations and generation of tax revenue for the State of Oregon.

4) How the temporary action will avoid or mitigate those consequences: Adoption of this temporary rule will allow the agency more flexibility to consider case-by-case circumstances, and to prevent inequitable results for certain licensees.

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DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

OLCC - Rulemaking file (Available upon request)

Directive from Governor Kotek: <https://www.oregon.gov/newsroom/pages/NewsDetail.aspx?newsid=203545>.

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AMEND: 845-025-1190

RULE TITLE: License Renewal

RULE SUMMARY: This rule describes license processes and requirements for license renewal. The amendments the requirement for retailer licensees to submit DOR certificate of tax compliance for each applicant with their annual renewal application; grant 60 day extensions for retailer licensees to obtain their certificates of tax compliance and reconsiderations of incomplete renewal applications

RULE TEXT:

(1) A licensee must annually submit a renewal application and the applicable fees regardless of whether the Commission has acted on a previous renewal application. A research certificate holder must submit a renewal application and the applicable renewal fees every three years, regardless of whether the Commission has acted on a previous renewal application.

(2) For purposes of this rule "license expiration date" means:

(a) The date of expiration on a license; or

(b) If the Commission has not acted on a pending license renewal application, the date the pending license would expire if the application had been approved.

(3) Except as described in section (9) of this rule, a licensee who annually and timely submits a renewal application as described in section (8) of this rule on or before the license expiration date may continue to operate, pending a decision by the Commission.

(4) A licensee who fails to annually and timely submit a renewal application as described in section (8) of this rule on or before the license expiration date must stop engaging in any licensed activity when the license expires.

(5) Except as described in section (9) of this rule, if a licensee annually submits a renewal application as described in section (8) of this rule within 30 days after the license expiration date, the licensee may resume operation pending a decision by the Commission on the renewal application.

(6) The Commission will not accept a renewal application that is received more than 30 days after the license expiration date. In this circumstance, a person:

(a) May submit a new application, including the application fee, license fee, documents, and information required by the Commission; and

- (b) Must not engage in any licensed activity unless and until granted a new license by the Commission.
- (7) A person who engages in any activity that would require a license but who is not licensed or who is not otherwise authorized to operate under this rule may be subject to administrative and criminal sanctions.
- (8) For purposes of this rule, in order for a renewal application to be considered submitted all of the following must be received by the Commission:
- (a) A fully completed renewal application signed by an applicant; and
- (b) The appropriate renewal application and license and renewal fees described in OAR 845-025-1060 and 845-025-1070.
- (9) Certificates of tax compliance.
- (a) A retailer licensee that submits a renewal application must also submit a certificate of tax compliance issued no earlier than 90 calendar days prior to the expiration date listed on the current license certificate for each applicant as that term is described in OAR 845-025-1045.
- (b) Temporary Extensions.
- (A) A retailer licensee that has submitted a renewal application but has not submitted all certificates of tax compliance may continue to operate no more than 90 calendar days following the expiration date listed on the current license certificate, pending a decision by the Commission.
- (B) A retailer licensee may request additional time to obtain all required certificates of tax compliance, which the Commission will consider on a case-by-case basis. The request must be made in writing and made no earlier than seven calendar days prior to the expiration of the timeframe set forth in this subsection, and must include, at a minimum:
- (i) Documentation that verifies the retailer licensee has been working diligently towards obtaining all certificates of tax compliance from prior to expiration of the license;
- (ii) A detailed explanation of the reasons they have not obtained all certificates of compliance prior to expiration of the timeframe set forth in this subsection; and
- (iii) Evidence that the retail licensee is compliant with all marijuana tax payments due to Department of Revenue at the time of the request.
- (c) Unless granted an extension under this section, if a retailer licensee fails to provide all certificates of tax compliance as required under this rule within 90 calendar days of the expiration date listed on the current license certificate, the Commission shall consider the renewal application to be incomplete and the license to be expired as of the expiration date listed on the current license certificate. The Commission shall notify the applicant in writing that the application is incomplete.
- (d) For the purposes of this section, if the Commission has not acted on the retailer licensee's previous renewal application, "the expiration date listed on the current license certificate" means the license expiration date prior to the submission of the most recent renewal application.
- (10) The Commission may require a licensee with a pending renewal application to submit forms, documents, and information described in OAR 845-025-1030 in order to complete an investigation of a renewal application. Failure to submit fees, forms, documents or information requested by the Commission under this section within a time period prescribed by the Commission may result in denial of the renewal application.
- (11) If the Commission approves a renewal application, the Commission must notify the licensee in writing that the renewal application has been approved and provide the licensee with proof of licensure that includes a unique license number, the effective date of the license, date of expiration, and a description of premises for which the license was issued. The renewed license is effective for a license year beginning the date following the license expiration date for the previous license year.
- (12) An applicant may submit a written request for reconsideration of a decision that a renewal application is incomplete. Such a request must be received by the Commission within ten days of the date the incomplete notice was sent to the applicant. The Commission shall give the applicants the opportunity to be heard if an application is rejected. A hearing under this section is not subject to the requirements for contested case proceedings under ORS 183.310 to 183.550.

(13) Except as provided in OAR 845-025-1060 (6), the Commission will refund a renewal license fee to an applicant whose application is not timely submitted and whose license expires, within 180 calendar days of when the license renewal fee was paid.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, 475C.065, 475C.085, 475C.093, 475C.097, 475C.548

STATUTES/OTHER IMPLEMENTED: ORS 475C.033