



Oregon

Kate Brown, Governor

Liquor Control Commission

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December 19, 2019

Dear Licensees and Alcohol Industry Members,

The Oregon Liquor Control Commission is receiving many questions about using and selling CBD (cannabidiol) products on liquor licensed premises. The questions range from the use of CBD products during the manufacture of alcoholic beverages to offering CBD products for sale at bars. For the purpose of its regulatory authority the OLCC considers CBD as cannabidiol derived from any source.

Providing complete and accurate responses to questions about CBD in liquor licensed premises or in retail liquor stores is complicated by differences in federal and state authority to regulate items containing CBD and a marketplace lacking clear regulatory oversight. As a result businesses and consumers do not know what's allowed and this creates confusion. The OLCC is attempting to clarify **what is currently allowed in Oregon** until federal regulators provide more comprehensive guidance addressing consumer health and safety issues relating to consumption of CBD.

The intersection of marijuana and hemp has generated complex regulatory issues that muddy this public policy issue. On one hand while more than 25 states are regulating the use of medical or recreational marijuana, its cultivation and distribution is still against federal law. On the other hand, hemp is now a federally recognized commodity, but federal and state rules and required plans for implementation under the new law are not in place.

Because hemp and marijuana come from the same plant the regulatory environment is confusing and highlights the complexity of having multiple regulatory systems for one plant. Specifically, testing is what distinguishes how hemp and marijuana differ in their production of THC & CBD, and that lends credence to the effort to consolidate and streamline compliance.

The role of the OLCC is to address the consumption of CBD where we have authority and that is at the intersection of service and consumption of alcohol that's combined with hemp-derived CBD. The objective is to provide OLCC licensees with the information they need to ensure compliance with the existing status of federal and state law as OLCC interprets it.

Let's start with what we know. In Nov. 2019, the [U.S. Food and Drug Administration stated](#) that *it could not conclude that CBD is generally recognized as safe (GRAS) for use in human or animal food because it has seen only limited data about CBD safety and these data point to real risks that need to be considered before taking CBD for any reason*. Until the FDA determines how it will regulate CBD it remains unlawful for human consumption.

Although the FDA has authority to regulate CBD food and beverage items today there are no federal standards regarding the purity or efficacy of these products. However *there is a federal standard* that CBD is potentially harmful and should not be added to products intended for human consumption. The work of the FDA is to evaluate if CBD products might pose a risk to human health. News media investigations of CBD products have produced test results showing varying levels of consistency in products already on the market, including some that don't even contain CBD.

Oregon law allows for the sale of some CBD products on a liquor licensed premises or in a retail liquor store, but the current manner in which these products may be offered for sale or consumed is ***extremely limited***, and is based on sourcing CBD from hemp and ensuring that the CBD product meets certain state testing standards identical to the pesticide, solvent and potency test for marijuana.

OLCC Rulemaking

At its Dec. 19, 2019 Commission meeting, the OLCC amended OAR 845-010-0205, with an effective date of Jan. 1, 2020. The rule change will allow the OLCC to take action against a liquor licensee that manufactures, imports, sells, or serves a malt beverage product that has not received required formula approval from the Alcohol and Tobacco Tax and Trade Bureau. At this time, and until the FDA recognizes CBD as an allowable ingredient in items intended for human consumption, the TTB will not approve a formula or a label for any alcoholic beverage containing CBD as an ingredient.

The OLCC also amended OAR 845-006-0345, with an effective date of Jan. 1, 2020, making it a violation for any licensee or permittee to manufacture, store, transport, sell, or offer to sell an alcoholic beverage that contains CBD, THC, or any other cannabis derivative, including cannabis terpenes. This action generally affirms and conforms with the existing federal standards, and the OLCC adopted this rule to convey clarity to the industry.

OLCC CBD and Alcohol Guidance Documents

Our agency is well aware that many OLCC licensees may be inadvertently violating federal law or OLCC regulations without even knowing it. **That said, licensees are responsible for knowing and following all rules and updates.**

To help clarify this issue, the OLCC has drafted guidance documents for each license category and for retail sales agents. There are separate documents, located on the [OLCC website](#), to explain the responsibilities and allowable activities for each license category and retail sales agents. Note that retail sales agents who also hold liquor licenses should refer to the guidance documents addressing sales of CBD products on a retail sales licensed premises **and** the guidance document for retail liquor stores. Compliance is not voluntary so licensees and agents should read each fact sheet that applies to them. We've also prepared a fact sheet for consumers to understand what's allowed.

[Alcohol Manufacturers](#)

[Alcohol Wholesale and Distribution](#)

[Retail Sales Agents \(liquor stores\)](#)

[Alcohol for Sale at Retail](#)

If a liquor licensee or retail sales agent wishes to offer non-alcoholic CBD products for sale in liquor licensed premises or a retail liquor store, they must meet specific testing requirements established by the Oregon Department of Agriculture (ODA) and must obtain a Certificate of Analysis (COA) from the vendor of the CBD product showing that the CBD was tested according to the ODA testing standards. The Commission has provided an explanation of the testing requirements and an example of a COA in the CBD section of the OLCC website.

[CBD Testing Requirements](#)

Although the rules approved today take effect January 1, 2020, the OLCC will focus on compliance education for the first month the rule is in effect.

OLCC Enforcement

- Beginning February 1, 2020, the OLCC will be looking for alcoholic beverages that were manufactured or sold in violation of the rules. If the OLCC suspects that an alcoholic beverage is non-compliant, it may request an analysis of the product. Alcoholic beverages produced or sold in violation of the rules may result in an action taken against your license or contract.

The benefits or risks of combining CBD products and alcohol remain uncertain. While the OLCC wants to encourage the creative spirit of the beverage industry we also want to ensure consumer protection from products whose risk is unknown. The FDA has cited unsafe manufacturing practices as a concern with CBD products in the marketplace. Unsafe manufacturing practices is a central concern of OLCC in the sale and service of alcoholic beverages containing CBD.

Going forward the OLCC intends to undertake rulemaking in 2020 that will specifically address combining alcohol with CBD products for on-premises consumption at liquor licensed premises. At the same time, the OLCC recognizes that this is an evolving discussion. As we learn more about the scientific implications of using CBD products we will consider the best and safest options for accommodating safe integration of CBD into the regulated alcohol system.

Safe and enjoyable consumption of alcohol is a partnership between the OLCC and our alcohol licensees. It is our hope and intention that the Commission's work assists our licensees to address the concerns of Oregon consumers.

Sincerely,

A handwritten signature in blue ink that reads "Steven Marks". The signature is fluid and cursive, with the first name "Steven" and last name "Marks" clearly distinguishable.

Steven Marks
Executive Director
Oregon Liquor Control Commission