



2017 House Bill 2198

Marijuana Grow Site Transfers to Oregon Liquor Control Commission Licensees Legislative Report

Oregon Laws 2017, Chapter 613, Section 8a: The Oregon Liquor Control Commission shall monitor the lawful transfer of any usable marijuana, as defined in ORS 475B.015, to a person that holds a license issued under ORS 475B.090 or 475B.100 by a marijuana grow site, as defined in ORS 475B.410, to determine whether the laws of this state may allow for the lawful transfer of additional usable marijuana to a person that holds a license issued under ORS 475B.090 or 475B.100 by a marijuana grow site. On or before September 15, 2018, the commission shall submit the commission's findings and recommendations, in the manner prescribed by ORS 192.245, to the interim committees of the Legislative Assembly related to judiciary.

Oregon Liquor Control Commission

September 15, 2018

Executive Summary

House Bill 2198 was signed into law in the 2017 Regular Session of the Oregon Legislature and provided that a medical marijuana grow site first registered with the Oregon Medical Marijuana Program (OMMP) on or before August 2, 2017 and subject to tracking in the cannabis tracking system (CTS) administered by the Oregon Liquor Control Commission (the Commission) may transfer up to 20 pounds of usable marijuana annually to recreational marijuana processors and wholesalers licensed by the Commission.

House Bill 2198 additionally granted the Commission authority to temporarily limit or suspend the ability for grow sites to engage in this practice if the Commission determines that:

- Marijuana offered for sale at recreational marijuana Retailers exceeds demand; and
- The market will not self-correct for the excess¹.

To date, having made no finding of the above, the Commission has not issued an order limiting or suspending the ability for a grow site to engage in these transfers.

In December 2017, in order to facilitate the tracking of the transfers of marijuana from medical grow sites to recreational marijuana licensees as required by state law, the Commission adopted rules requiring a grow site to register with the Commission prior to being allowed to execute a transfer. To register, a grower is required to acknowledge tracking requirements and restrictions and to provide proof of legal access to water to produce marijuana as a commercial crop. There is no fee for this registration.

As of September 4, 2018, the Commission has received ten (10) registrations from grow sites seeking to transfer marijuana into the recreational marijuana system. Because each grow site is limited to transferring 20 pounds to Commission licensees annually, these ten registrations would account for a maximum of 200 pounds of usable marijuana permitted to enter into the recreational marijuana system from the medical marijuana system.

As of September 4, 2018, the total number of registered medical marijuana grow sites in the cannabis tracking system is 820. Of these sites, 642 were first registered as grow sites on or before August 2, 2017. Therefore, if all 642 of these possible eligible sites were to register to transfer marijuana into the recreational marijuana system, the amount of usable marijuana transferred would account for 12,840 pounds, less than 3% of the total amount of usable marijuana available within the tracked recreational marijuana system. Given the current rate of registration submission (10 grow sites of a possible 642,) the actual amount transferred will almost certainly be significantly less than this possible maximum.

No documented transfers of usable marijuana have yet occurred between medical marijuana grow sites and recreational marijuana processors and wholesalers licensed by the Commission.

Given this lack of data within CTS it is too early to determine if the allowable amounts should be increased. Although the Commission has not limited transfers of usable marijuana from grow sites to recreational marijuana licensees, there is similarly no reasonable justification to increase the 20-pound

¹ Oregon Laws 2017. Chapter 613. Section 8 (2).

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limit at this time. The Commission will provide a supply and demand study to the legislature in February 2019 pursuant to its duties under ORS 475B.548, which will provide a more thorough analysis of current recreational marijuana supply in Oregon.

It is the Commission's recommendation that the laws of this state should not allow for any increase or addition to the existing 20-pound transfer limit of Oregon Laws 2017, Chapter 613, and Section 8 (2).

To obtain a paper copy of this report contact the Oregon Liquor Control Commission's Recreational Marijuana program at marijuana@oregon.gov.

Published online at <https://marijuana.oregon.gov> under the "Government Resources" header.

Background

House Bill 2198 was signed into law in the 2017 Regular Session of the Oregon Legislature. Section 8a of that bill provided that a medical marijuana grow site first registered on or before August 2, 2017 and subject to tracking in the cannabis tracking system (CTS), may transfer up to 20 pounds of usable marijuana annually to recreational marijuana processors and wholesalers licensed by the Oregon Liquor Control Commission (the Commission.) Grow sites subject to tracking include any registered grow site except those where a patient produces marijuana and where no more than 12 mature plants and 24 mature plants are produced².

House Bill 2198 directed the Commission to provide a report on the monitoring of such transfers for the purpose of determining whether the privilege granted under Section 8a should be increased. Specifically, the law states:

The Oregon Liquor Control Commission shall monitor the lawful transfer of any usable marijuana, as defined in ORS 475B.015, to a person that holds a license issued under ORS 475B.090 or 475B.100 by a marijuana grow site, as defined in ORS 475B.410, to determine whether the laws of this state may allow for the lawful transfer of additional usable marijuana to a person that holds a license issued under ORS 475B.090 or 475B.100 by a marijuana grow site. On or before September 15, 2018, the commission shall submit the commission's findings and recommendations, in the manner prescribed by ORS 192.245, to the interim committees of the Legislative Assembly related to judiciary.

In December 2017, the Commission adopted rules to administer the tracking of grow site transfers to recreational marijuana processors and wholesalers.³ In addition to the statutory requirements that any grow site performing such transfers first be registered with the Authority on or before August 2, 2017 and be subject to tracking in CTS, these rules require that the designated grow site administrator for the site register with the Commission for the transfer privilege and provide proof of legal access to water for the production of marijuana as a commercial crop for commercial sale.

CTS was developed with safeguards in place to prevent protected medical marijuana grow site information and recreational marijuana license information from being accessed by those without authorization to do so. These protections also currently prevent the recorded transfer of marijuana between medical marijuana registrants and recreational marijuana licensees. Software enhancements are in development to allow for the recorded transfer of marijuana from grow sites into the recreational marijuana system. These enhancements are expected to be completed prior to the end of year 2018. Until these enhancements are completed, grow sites are unable to record the transfer of marijuana to recreational marijuana licensees in compliance with tracking requirements. Due to this temporary limitation, the Commission has not yet approved the ten pending registrations and no marijuana has yet been transferred from medical marijuana grow sites to recreational marijuana licensees.

² ORS 475B.895 (10)

³ Administrative Order, OLCC 15-2017, adopt filed 12/22/2017, effective 12/28/2017

Between July 1, 2018 and September 4, 2018 the Commission received only ten (10) registrations of 642 grow sites potentially qualified as eligible to transfer marijuana to recreational marijuana licensees.

This report examines the potential impact of grow site transfers on the existing supply of usable marijuana within the recreational marijuana system and evaluates whether an increase in the allowable transfer amount is recommended based on the available data.

Current Recreational Supply and Consumption

In addition to its duties to report under House Bill 2198 on the transfer of usable marijuana into the recreational marijuana system by medical marijuana grow sites, the Commission is tasked with providing a supply and demand report to Oregon's Legislative Assembly by February 1 of each odd-numbered year⁴. Data from the 2017 supply and demand report⁵ and current inventory data indicate that the supply of recreational marijuana in the state of Oregon has increased more quickly than consumer demand and continues to increase with no strong trend of market self-correction.

As explored in the 2017 report, it remains to be seen whether the continued increase of supply compared to retail sales indicates a market that is continuing to mature or indicates an issue of an excess of supply. Because much of Oregon's usable marijuana supply is produced outdoors, the industry experiences a massive influx of usable marijuana during each outdoor harvest season, with the bulk of the supply produced by outdoor marijuana producers occurring in the span of a single month each year.

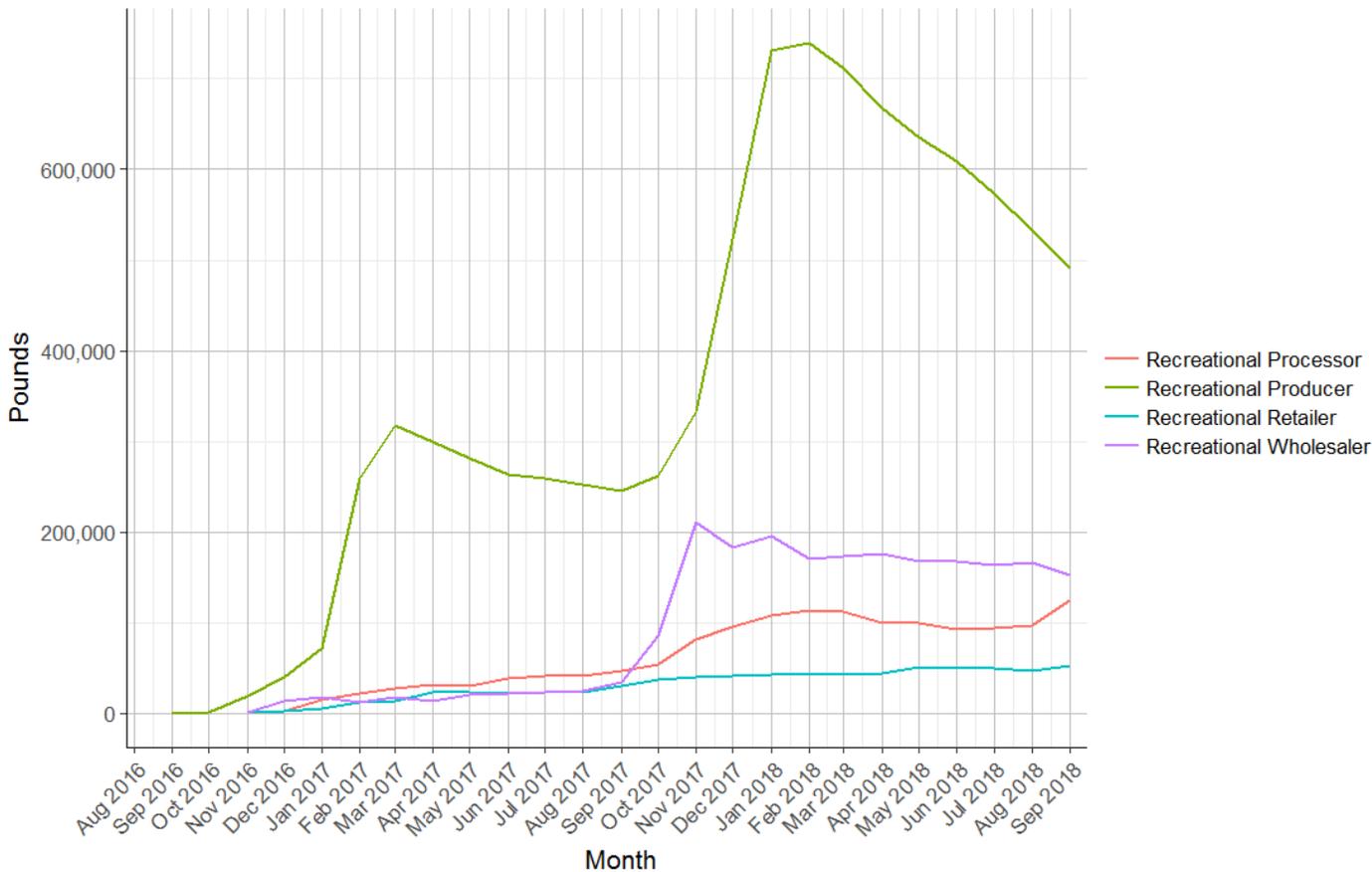
As of January 25, 2017, the time of the Commission's supply and demand study for that year, the total amount of usable marijuana packaged in CTS was approximately 115 metric tons across all license types (253,532 pounds.)⁵ An analysis of inventory data in CTS for recreational marijuana licensees from August 2017 through September 4, 2018 shows the total amount of dried, usable marijuana tracked and recorded as "packaged" at producer and retailer licensed premises alone totaled approximately 543,700 pounds, or 246.6 metric tons. This indicates an increase of 131.6 metric tons available since the time of the 2017 report, or 72.8% of the available usable marijuana within the recreational system, without accounting for additional amounts held for distribution or processing by licensed wholesaler or processor licensees.

⁴ ORS 475B.548 (2)

⁵ Oregon Liquor Control Commission. "2015 House Bill 3400 Recreational Marijuana Supply and Demand Legislative Report", February 1, 2017.

https://www.oregon.gov/olcc/marijuana/Documents/OLCCHB3400_SupplyandDemandReport.pdf

Figure 1. Total packaged usable marijuana in CTS Aug 2016 to Sept 2018 as of Sept 4, 2018



Potential Grow Site Impact on Recreational Supply

The maximum impact of grow site transfers of usable marijuana into the recreational supply is negligible. There is insufficient data to estimate the number of grow sites that will utilize the transfer privilege; however working with a theoretical maximum provides a top-end range of outcomes. Reasonable assumptions are that:

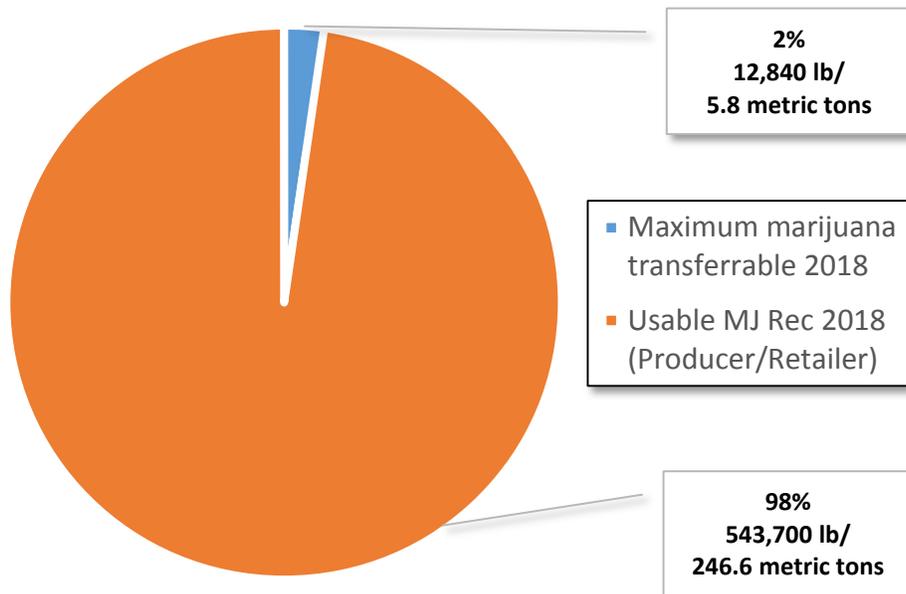
- Not all grow sites that qualify will choose to utilize the transfer privilege; and
- Some subset of grow sites that utilize the privilege will find challenges in finding recreational marijuana wholesaler and processor licensees willing to accept limited or one-time transfers of usable marijuana from medical marijuana grow sites, as opposed to receiving product from established recreational marijuana licensees.

A theoretical maximum of the amount that could be transferred into the recreational marijuana system from medical marijuana grow sites may be estimated by considering that:

- For grow sites subject to tracking in CTS, the transfer privilege is available only to those sites first registered with the Oregon Health Authority (the Authority or OHA) on or before August 2, 2017⁶.
- The maximum transferrable amount from any single grow site into the recreational marijuana system in any 12-month period is 20 pounds.
- At the time of this writing, according to information reported into CTS by the Authority, 642 of the grow sites subject to tracking in CTS were first registered on or before August 2, 2017.

Based on the above, presuming all 642 potentially eligible medical marijuana grow sites engaged in the transfer privilege and each transferred the maximum amount of usable marijuana to licensed recreational marijuana wholesalers and processors, these grow sites would add up to 12,840 pounds (5.8 metric tons) of usable marijuana entering the recreational system as compared to the roughly 542,700 pounds (246.6 metric tons) currently tracked in the possession of recreational marijuana producers and retailers. This means this marijuana would account for less than 3% of the total available supply within the recreational marijuana system.

Figure 2. Total packaged marijuana Sept 2018 compared to maximum transferrable from grow sites



⁶ Oregon Laws 2017. Chapter 613. Section 8.

Conclusion and Recommendations

There is insufficient data to support an increase in the amount of usable marijuana that grow sites may transfer to recreational marijuana licensees. The grow site transfer privilege was enacted on August 2, 2017. However, the privilege was limited only to those grow sites subject to tracking in CTS and capable of tracking such transfers. Therefore, it was not until July 1, 2018 until grow sites could potentially engage in this type of transfer. At the time of this writing, there are no recorded transfers and only a small number of grow sites (10) that have submitted the required documentation to engage in the privilege. In addition, lacking clear indication as to whether current supply is in excess to demand, the Commission cannot in good faith recommend an increase to the amount of usable marijuana that may be transferred to recreational marijuana licensees by medical marijuana grow sites.

The Commission recommends that it continue to monitor grow site transfers and provide an updated recommendation in conjunction with the supply and demand report due to the Legislative Assembly February 1, 2021.