



OREGON LIQUOR CONTROL COMMISSION

The Commission proposes to:

Amend OAR 845-025-1060

Adopt 845-025-2500, 845-025-2510, 845-025-2520, 845-025-2530, 845-025-2540, 845-025-2550, 845-025-2560

NOTICE OF PUBLIC HEARING

Date and Time: March 20, 2017 at 2:00 p.m.
Location: Oregon Liquor Control Commission
9079 SE McLoughlin Blvd.
Portland, OR 97222
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Auxiliary aids for persons with disabilities are available upon advance request.

CAPTION:

This package implements SB1511 which enables recreational licensees to also produce medical marijuana.

RULE SUMMARY:

The Oregon Legislature adopted several bills during the 2016 legislative session that make significant alterations to ORS 475b. Specifically, Senate Bill 1511 directs Oregon Liquor Control Commission to register qualified marijuana producers, marijuana processors, marijuana wholesalers and marijuana retailers for purposes of producing, processing and selling medically designated marijuana items.

Previously, the Commission implemented a rule package to cover processors, wholesalers and retailers; however, it did not include marijuana producers. The statutes governing production of a medically designated marijuana canopy are sufficiently complex that staff felt the permanent rule making process was more appropriate to fully develop the rule concept. This concept has been entitled the "bump-up" canopy.

Staff has met on two occasions with industry, community partners and other interested parties to develop this rule package.

HOW TO OBTAIN THE PROPOSED RULE LANGUAGE:

A copy of the proposed rule language is attached to this Notice. Alternatively, you may obtain a copy of the proposed rule language by calling the Oregon Liquor Control Commission at the phone number listed above. For your convenience, the proposed rule language is also available on our website at:
<http://www.oregon.gov/OLCC/pages/index.aspx>.

Go to the “Laws and Rules” tab on the left side of the screen, and then follow the link to the “Proposed Rulemaking” section of our website. You will find all of the relevant rulemaking documents, including the proposed rule language, under the “Bump-Up Canopy” section of this webpage.

HOW TO SUBMIT COMMENTS:

During the hearing, you may present oral or written testimony that includes opinions, information, concerns or proposals related to this rulemaking matter. The Commission also requests comments on whether other options exist and/or should be considered for achieving the rule’s substantive goals while reducing the negative economic impact of the proposed rule on business.

After the hearing, you may submit written comments in person, by mail, by fax or by e-mail (see above for relevant contact information). **However, all written comments must be received by 5:00 p.m. on April 3, 2017.**

The Commission reserves the right to request and receive additional comments at any time on or before the date the Commission takes final action on this rulemaking matter.

STATEMENT OF NEED AND FISCAL IMPACT:

In the Matter of: The proposed amendments to OAR 845-025-1060 and the adoption of 845-025-2500, 845-025-2510, 845-025-2520, 845-025-2530, 845-025-2540, 845-025-2550, & 845-025-2560

Statutory Authority: ORS 475B & 2016 Oregon Laws Chapter 83

Other Authority:

Statutes Implemented: ORS 475B & 2016 Oregon Laws Chapter 83

Need for the Rule:

This rule package enables recreational growers to produce medical marijuana for patients whom enter agreements with a producer, as set forth in Senate Bill 1511. The Commission is both adopting and amending several rules in this package to enable recreational marijuana producers to grow for patients.

Documents Relied Upon and Where They Are Available:

Senate Bill 1511 available from Legislative Counsel.

2016 Oregon Laws Chapter 83 available from Legislative Counsel.

ORS 475B available from Legislative Counsel.

Rule File available from the Oregon Liquor Control Commission, Administrative Policy & Process Division.

Fiscal and Economic Impact Statement:

This statement takes into account the fiscal impact on: (a) Licensees/Permittees; (b) Local Government; (c) State Agencies; and (d) the Public.

(a) Marijuana Licensees

- Producer Licensees
 - The fiscal impact committee discussed several issues that may have a fiscal impact to producer licensees:
 - Physical Barriers
 - Members of the advisory committee cited that physically separating a medical canopy from their recreational canopy would incur unnecessary costs.
 - License Fees
 - The committee discussed how the OLCC should charge for a medical canopy privilege. Commission staff specifically asked what the fee should be for such a license privilege, citing that all costs for the recreational marijuana program must come from licensing fees. Committee members were unanimous in stating that the fees should be spread across the license types (producer, processor, wholesaler and retailer). This may result in higher fees to other licensees not participating in the Bump-Up Canopy option.
- Other Licensees
 - The advisory committee discussed that any fees should be covered across the license types. This may result in higher fees to other licensees not participating in the Bump-Up Canopy option.

(b) Local Government.

- During the advisory committee, a member of a local government body asked if the Commission would require a Land Use Compatibility Statement. The concern was

that Land Use Compatibility Statement process enables local government bodies to interact with licensees and educate them on the expectations. There was concern that if this were not required there could be more enforcement issues down the line.

(c) State Agencies.

- Both the Oregon Health Authority and the Oregon Liquor Control Commission will need to coordinate on issues surrounding the Bump-Up Canopy. Specifically, OHA staff will need to ensure that patients are registered while OLCC staff ensure that recreational growers are following the rules laid out within this package. This will add more work to both agencies regulatory responsibilities.

(d) The Public.

- Medical Patients
 - This rule package will enable medical patients to enter agreements with OLCC licensed recreational growers to grow limited amounts of medical marijuana for patients. This will provide more options for medical patients.
- Public At-Large
 - These rules may impact the cost of all licensees, as fees to administer the Bump-Up Canopy will be spread across the license types. This may lead licensees to increase their prices in response to increased license fees.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

The medical canopy option will create both opportunity and costs for the public and agencies.

- State agencies
 - Oregon Liquor Control Commission - will need to coordinate with the Oregon Health Authority on card holders and care givers registration. This will also result in more inspections and administrative work to ensure compliance with rule requirements.
 - Oregon Health Authority – will need to coordinate with the Oregon Liquor Control Commission to ensure that both caregivers and cardholders are registered.
- Local Government
 - Local government attendees at the advisory committee were concerned that these rules do not require licensees to get Land Use Compatibility Statement to expand a canopy. Their concern relates to the fact that during the process of obtaining a Land Use Compatibility Statement, regulatory officials have a chance to meet, discuss potential issues and provide education to new licensees. They explained that they have found this invaluable in addressing compliance issues before they occur.
- Public

- Medical Patients
 - Will gain the ability to forge agreements with OLCC recreational producer licensees to grow medical marijuana.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

Currently, as of February 13, 2017, the Commission has licensed 1,121 recreational marijuana producers.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

During the advisory committee, attendees foresaw the following issues:

- Physical barriers between medical and recreational canopies
 - Committee members discussed that physically separating their recreational canopy from their medical “bump-up” canopy was an unnecessary burden. Attendees foresaw that this would require retrofits of their space. It was suggested that the plants could just be tagged recreational or medical within the expanded canopy.
- Tracking - Card Holders and Licensees
 - The OLCC, OHA and licensees, whom so choose to partake in the medical bump-up canopy, will each face an increase in reporting, record keeping and administration of this program. This includes maintaining valid agreements between patients and producers.

c. Equipment, supplies, labor and increased administration required for compliance:

- The OLCC, OHA and licensees, whom so choose to partake in the medical bump-up canopy, will each face an increase in reporting, record keeping and administration of this program.

How were small businesses involved in the development of this rule?

Small businesses as well as interested licensees, industry representatives, law enforcement agencies, public safety organizations, members of the public, and other interested parties were invited to attend two advisory committee meetings that were held on November 4, 2016 and January 19, 2017.

Was an administrative rule advisory committee consulted?

Yes.

(This notice was sent on February 15, 2017)