

## **NOTICE OF PROPOSED RULEMAKING**

### **CHAPTER 845**

### **OREGON LIQUOR CONTROL COMMISSION**

**FILING CAPTION:** The new rule requires outdoor producers to notify the commission of any harvest of marijuana.

**LAST DAY AND TIME TO OFFER COMMENT TO AGENCY:** 06/29/2018 5:00 PM

#### **HEARING(S):**

**DATE:** 06/15/2018

**TIME:** 10:00 AM - 12:00 PM

**OFFICER:** Bryant Haley

**ADDRESS:** Oregon Liquor Control  
Commission

9079 SE McLoughlin Blvd.

Portland, OR 97222

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

The Commission is tasked with regulating the recreational market. One key task of regulation is to prevent diversion of marijuana into other markets. Staff has identified harvest as an opportunity for diversion and is seeking to adopt a notification requirement for outdoor growers. This would require outdoor growers to notify the Commission of five harvest dates 24-hours before the first planned harvest date. This notification will allow enforcement staff ample opportunity to monitor harvests and ensure compliance with pertinent laws and rules.

#### **DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:**

OLCC rulemaking File available upon request from the OLCC

ORS 475B.130 & 475B.635 available from Legislative Counsel

#### **FISCAL AND ECONOMIC IMPACT:**

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

(a) Marijuana Licensees.

The Commission expects the proposed rule to have a negative fiscal impact on outdoor marijuana producer licensees, as the rule requires more reporting within the seed to sale tracking system. This will add administrative costs and may affect harvesting timelines.

(b) Local Government.

The Commission expects the proposed rule to have no impact upon local governments, as the rule does

not apply to them.

(c) State Agencies.

The Commission expects the proposed rule to have no fiscal impact on outside state agencies because these rules do not apply to outside state agencies. The Commission will be impacted by this rule, as the Commission will need to devote resources to inspect harvest notifications.

(d) The Public.

The Commission expects the proposed rule to have a positive fiscal impact on the public to the extent that the rule aims to decrease diversion to secondary markets. However, the Commission is aware of that any increase in compliance costs may result in increased prices to the consumer.

**COST OF COMPLIANCE:**

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

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

The Commission anticipates no new costs to comply with the proposed rule for outside state agencies, local government and the public. The Commission will be impacted by this rule, as the Commission will need to devote resources to inspect harvest notifications.

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:

As of May 25, 2018, the Commission has 362 outdoor marijuana producers . The Commission anticipates that outdoor marijuana licensees will face increased costs of compliance, as the rule requires more reporting within the seed to sale tracking system. The proposed rule will add administrative costs and may affect harvesting timelines.

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

The purpose of the rule is to more closely track harvesting of marijuana. The Commission is instituting this requirement to both learn more about marijuana harvesting and more closely track large harvests. This will require producers to notify the Commission in the seed to sale system prior to harvesting. The proposed rule will require producers to forecast their labor staffing, ripeness of the marijuana plants and submit the harvest notice to the Commission. Further, when the Commission does arrive to inspect a harvest, licensees will need to escort inspectors around the premise to complete an inspection.

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

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DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

The Commission held an advisory committee on May 23rd with interested parties.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

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ADOPT: 845-025-2090

RULE TITLE: The new rule requires outdoor producers to notify the commission of any harvest of marijuana.

RULE SUMMARY: The Commission is tasked with regulating the recreational market. One key task of regulation is to prevent diversion of marijuana into other markets. Staff has identified harvest as an opportunity for diversion and is seeking to adopt a notification requirement for outdoor growers. This would require outdoor growers to notify the Commission of five harvest dates 24-hours before the first planned harvest date. This notification will allow enforcement staff ample opportunity to monitor harvests and ensure compliance with pertinent laws and rules.

RULE TEXT:

(1) Notice Requirement. A producer license must file a harvest notice before harvesting usable marijuana from any mature plant located in an outdoor canopy area.

(2) Notices required under this rule must:

(a) Be filed at least 24 hours in advance of the harvest activity;

(b) Identify the dates of the proposed harvest; and

(c) Be filed in a form and manner proscribed by the Commission

(3) Each harvest notice may identify up to 5 separate harvest dates.

(4) Alteration of Dates. If the harvest does not take place as described in the notice, a harvest notice may be rescinded or amended within 24 hours of the harvest date(s) identified in the harvest notice.

(5) Tracking. Filing a harvest notice does not relieve the producer from recording harvest data and other information in CTS as required by these rules

(6) Violations.

(a) Failure to file a harvest notice is a Category III violation for each day the violation occurs.

(b) Failure to properly amend a notice is a Category IV violation for each day the violation occurs.

STATUTORY/OTHER AUTHORITY: ORS 475B.130, ORS 475B.635

STATUTES/OTHER IMPLEMENTED: ORS 475B.130, ORS 475B.635

