

## For your information

The Oregon Liquor Control Commission has:

Amended  
 Adopted  
 Repealed

### **OAR 845-025-8590** **TEMPORARY RULE**

Effective dates: 1/26/18 – 7/23/18

**Note:** **Bold and underlined** = new text; *~~strikethrough and italics~~* = deleted text

#### **845-025-8590**

#### **Suspension, Cancellation, Civil Penalties, Sanction Schedule**

- (1) The Commission may suspend or revoke:
  - (a) A license issued under ORS 475B.010 to 475B.395 or 475B.560.
  - (b) A marijuana workers permit issued under ORS 475B.215.
  - (c) A research certificate issued under ORS 475B.235.
  - (d) An industrial hemp certificate issued under OAR 845-025-2700.
- (2) Civil Penalties.
  - (a) The Commission may impose a civil penalty under ORS 475B.295. Civil penalties will be calculated by multiplying:
    - (A) The number of days in a suspension, if suspension could be or is being imposed, by \$165 for licensees or certificate holders; or
    - (B) The number of days in a suspension, if suspension could be or is being imposed, by \$25 for permittees.
  - (b) The Commission may impose a civil penalty under ORS 475B.655 of no more than \$500 each day the violation occurs.
- (3) The Commission uses the following violation categories for licensees licensed under ORS 475B.010 to 475B.395:
  - (a) Category I — Violations that make licensee ineligible for a license;
  - (b) Category II — Violations that create a present threat to public health or safety;
  - (c) Category II (b) — Violations for sales to a minor;
  - (d) Category III — Violations that create a potential threat to public health or safety;
  - (e) Category IV — Violations that create a climate conducive to abuses associated with the sale or manufacture of marijuana items;
  - (f) Category V — Violations inconsistent with the orderly regulation of the sale or manufacture of marijuana items.
- (4) Violation sanctions.
  - (a) The Commission may sanction a licensee or permittee in accordance with the guidelines set forth in Exhibit 1, incorporated by reference. Exhibit 1 also contains the categories for the most common violations.

(b) Exhibit 1 lists the proposed sanctions for single or multiple violations that occur within a two year period for each category described in section (3) of this rule. The Commission may allege multiple violations in a single notice or may count violations alleged in notices issued within the previous two year period toward the total number of violations. In calculating the total number of violations, the Commission may consider a proposed violation for which the Commission has not yet issued a final order.

(c) The proposed sanctions in Exhibit 1 are guidelines. If the Commission finds one or more mitigating or aggravating circumstances, it may assess a lesser or greater sanction, up to and including revocation. The Commission may decrease or increase a sanction to prevent inequity or to take account of particular circumstances in the case.

(d) Mitigating circumstances include, but are not limited to:

(A) Making a good faith effort to prevent a violation.

(B) Extraordinary cooperation in the violation investigation demonstrating the licensee or permittee accepts responsibility.

(e) Aggravating circumstances include, but are not limited to:

(A) Receiving a prior warning about one or more compliance problems.

(B) Repeated failure to comply with laws.

(C) Failure to use age verification equipment purchased as an offset to a previous penalty.

(D) Efforts by licensee or permittee to conceal a violation.

(E) Intentionally committing a violation.

(F) A violation involving more than one consumer or employee.

(G) A violation involving a juvenile.

(H) A violation resulting in injury or death.

(I) A violation that occurred at a licensed premises that has been granted a security waiver.

(J) Three or more violations within a two-year-period, regardless of the category, where the number of the proposed or final violations indicate a disregard for the law or failure to control the premises.

(5) A licensee may not avoid the sanction for a violation or the application of the provision for successive violations by changing the corporate structure for example, by adding or dropping a partner or converting to another form of legal entity when the individuals who own, operate, or control the business are substantially similar.

[ED. NOTE: Exhibits referenced is not included in rule text. [Click here for PDF copy of exhibit.](#)]

Stat. Auth.: ORS 475B.025

Stats. Implemented: ORS **475B.125**, 475B.210, 475B.295, 475B.560 & 475B.635

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