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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

OLCC 10-2018
CHAPTER 845
OREGON LIQUOR CONTROL COMMISSION

FILED
08/23/2018 3:36 PM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: The amendment limit all sales of usable marijuana to one ounce per day per customer.

EFFECTIVE DATE: 08/24/2018 THROUGH 12/27/2018

AGENCY APPROVED DATE: 08/21/2018

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NEED FOR THE RULE(S):

The current daily sales limits for purchases of usable marijuana are based upon the amount of marijuana a person can legally carry in public. In previous rulemaking, the Commission established larger daily purchasing amounts for medical patients due to the fact that patients are legally able to possess larger amounts. However, the Commission has become aware of medical marijuana cardholders purchasing the maximum allowable amount of usable marijuana on a daily basis. Due to both the frequency and size of the purchases, the temporary amendments limit all sales of usable marijuana to one ounce per day per customer. Medical cardholders will now be subject to the same daily limits as other consumers making purchases of usable marijuana at an OLCC licensed retailer. Staff will work with the industry, public and patients in upcoming rulemaking to further address the issue.

JUSTIFICATION OF TEMPORARY FILING:

If the Commission fails to act, medical card holders will be able to procure twenty four ounces of usable marijuana. The Commission has become aware of medical marijuana cardholders purchasing the maximum allowable amount of usable marijuana on a daily basis. Due to both the frequency and size of the purchases found within the Cannabis Tracking System, the Commission believes temporary action to limit all sales of usable marijuana to one ounce per day per customer could prevent diversion of marijuana on the secondary market. The Commission is aware of the sensitive nature of medical marijuana and patient access. Staff will engage with industry, public and patients in upcoming rulemaking to further address the issue.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

OLCC Rule making file available upon request from the OLCC
Cannabis Tracking System data available upon request from the OLCC
ORS 475B.035 available from Legislative Counsel

AMEND: 845-025-2800

RULE SUMMARY: The amendments limit all sales of usable marijuana to one ounce per day per customer. Medical cardholders will now have the same daily limits as other consumers making purchases at an OLCC licensed retailer.

CHANGES TO RULE:

845-025-2800

Retailer Privileges; Prohibitions ¶¶

(1) A retailer is the only licensee that is authorized to sell a marijuana item to a consumer. ¶¶

(2) A retailer may: ¶¶

(a) Between the hours of 7:00 AM and 10:00 PM local time, sell marijuana items from the licensed premises to a consumer 21 years of age or older; ¶¶

(b) Sell and deliver: ¶¶

(A) Marijuana items, industrial hemp concentrates, industrial hemp extracts or industrial hemp commodities or products to a consumer 21 years of age or older pursuant to a bona fide order as described in OAR 845-025-2880. ¶¶

(B) Marijuana items to a clients between ages 18-21, so long as:¶¶

(i) The client has a valid OMMP card; and¶¶

(ii) The retailer has a valid medical endorsement.¶¶

(C) Marijuana waste to a producer, processor, wholesaler, or research certificate holder. ¶¶

(D) Industrial hemp concentrates, industrial hemp extracts or industrial hemp commodities or products as long as those items were received from an OLCC processor with an approved industrial hemp processor endorsement as required by 845-025-3285. Hemp items that were received from other sources prior to December 28, 2017 may be retained and sold at retail until April 1, 2018.¶¶

(c) Accept or make returns, as long as the retailer:¶¶

(A) Only accepts or returns usable marijuana, marijuana items, hemp commodities and products, immature marijuana plants and seeds;¶¶

(B) Only accepts or returns eligible items listed in (A) of this section from either the original licensee whom supplied or customer whom purchased the item; ¶¶

(C) Accurately records the transaction in the CTS; and¶¶

(D) Does not resell any items returned by customers.¶¶

(d) Purchase and receive: ¶¶

(A) Usable marijuana, immature marijuana plants, and seeds from a producer or from a research certificate holder; ¶¶

(B) Cannabinoid concentrates, extracts, and products from a processor with an endorsement to manufacture the type of product received or from a research certificate holder; ¶¶

(C) Any marijuana item, except for whole, non-living marijuana plants, from a wholesaler; ¶¶

(D) Any marijuana item from a laboratory; and¶¶

(E) Marijuana items from a retailer that is owned by the same or substantially the same persons. For purposes of this rule, substantially the same means that individuals named on the approved license or persons with a financial interest in the licensed businesses are identical. ¶¶

(e) Refuse to sell marijuana items to a consumer; ¶¶

(f) Allow a laboratory licensee to obtain samples for purposes of performing testing as provided in these rules and OAR 333-007-0300 to 333-007-0490; and¶¶

(g) Accept returned marijuana items that the retailer sold to a consumer and provide a refund or exchange with a product of equal or lesser value as long as the product is not resold.; and ¶¶

(h) Sell marijuana items for medical purposes, as long as the retailer follows the provisions set forth in 845-025-2900. ¶¶

(3) A retailer may not: ¶¶

(a) Knowingly sell more than the following amounts to an individual at any one time or within one day: ¶¶

(A) One ounce of usable marijuana to recreational consumers; ¶¶

~~(B) 24 ounces of usable marijuana to registry identification cardholders and designated primary caregivers pursuant to the requirements of OAR 845-025-2900; ¶¶~~

~~(C); ¶~~

(B) 16 ounces of a cannabinoid product in solid form; ¶

~~(D)~~ 72 fluid ounces of a cannabinoid product in liquid form; ¶

~~(E)~~ Five grams of cannabinoid extracts or concentrates, whether sold alone or contained in an inhalant delivery system or combined with usable marijuana; ¶

~~(F)~~ Four immature marijuana plants; and ¶

~~(G)~~ Ten marijuana seeds. ¶

(b) Provide free marijuana items to a recreational consumer. ¶

(c) Sell or give away pressurized containers of butane or other materials that could be used in the home production of marijuana extracts. ¶

(d) Sell or give away any non-marijuana items that are attractive to minors as defined by these rules. ¶

(e) Discount a marijuana item if the retail sale of the marijuana is made in conjunction with the retail sale of any other items, including other marijuana items. ¶

(f) Sell a marijuana item at a nominal price for promotional purposes. ¶

(g) Permit consumers to be present on the licensed premises or sell to a consumer between the hours of 10:00 p.m. and 7:00 a.m. local time the following day. ¶

(h) Permit a licensed representative to handle an unpackaged marijuana item without the use of protective gloves, tools or instruments that prevent the marijuana item from coming into contact with the licensed representative's skin. ¶

(i) Sell or transfer a returned marijuana item to another consumer. ¶

(j) Sell, transfer, deliver, purchase, or receive any marijuana item other than as provided in section (2) of this rule. ¶

(k) Permit a consumer to open or alter a package containing a marijuana item or otherwise remove a marijuana item from packaging required by these rules within the licensed premises or in an area that the licensee controls. ¶

(l) Permit a consumer to bring marijuana items onto the licensed premises except for marijuana items being returned for refund or exchange as allowed by this rule.

Statutory/Other Authority: ORS 475B.025, 475B.1405, 475B.035

Statutes/Other Implemented: ORS 475B.025, 475B.1405, 475B.035