



OREGON LIQUOR CONTROL COMMISSION

The Commission proposes to:

Adopt and amend Division 25 of Oregon Administrative Rules Chapter 845

NOTICE OF PUBLIC HEARING

Date and Time: 10:00 a.m. on Wednesday, November 15, 2017

Location: Oregon Liquor Control Commission
9079 SE McLoughlin Blvd.
Portland, OR 97222

Presiding Officer: Bryant Haley
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Auxiliary aids for persons with disabilities are available upon advance request.

CAPTION:

The amendments revise Division 25 rules with both technical and 2017 legislative revisions.

RULE SUMMARY:

The Oregon Legislature adopted several bills during the 2017 legislative session that make significant alterations to ORS 475B. This action by the legislature requires the Commission to align the rules with statute. Further, staff has made revisions to the rules as the Commission has learned about the recreational market and the realities thereof. Finally, the amendments make technical revisions that were discovered after the initial implementation of the Recreational Marijuana program.

HOW TO OBTAIN THE PROPOSED RULE LANGUAGE:

A copy of the proposed rule language, dated October 30, 2017, is attached to this Notice. Alternatively, you may obtain a copy of the proposed rule language by emailing bryant.haley@oregon.gov. 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 “Recreational Marijuana” 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 Wednesday, November 29, 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 and adoptions to Division 25 of OAR Chapter 845.

845-025-1015, 845-025-1030, 845-025-1045, 845-025-1060, 845-025-1080, 845-025-1090, 845-025-1115, 845-025-1160, 845-025-1175, 845-025-1190, 845-025-1230, 845-025-1275, 845-025-1300, 845-025-1330, 845-025-1335, 845-025-1400, 845-025-1430, 845-025-2000, 845-025-2020, 845-025-2025, 845-025-2040, 845-025-2045, 845-025-2060, 845-025-2070, 845-025-2080, 845-025-2100, 845-025-2110, 845-025-2120, 845-025-2130, 845-025-2140, 845-025-2150, 845-025-2500, 845-025-2510, 845-025-2520, 845-025-2530, 845-025-2540, 845-025-2550, 845-025-2560, 845-025-2700, 845-025-2750, 845-025-2800, 845-025-2820, 845-025-2840, 845-025-2880, 845-025-2890, 845-025-2900, 845-025-3210, 845-025-3215, 845-025-3220, 845-025-3260, 845-025-3285, 845-025-3290, 845-025-3305, 845-025-3500, 845-025-3505, 845-025-3510, 845-025-5030, 845-025-5045, 845-025-5500, 845-025-5520, 845-025-5540, 845-025-5580, 845-025-5700, 845-025-5760, 845-025-7570, 845-025-7580, 845-025-7700, 845-025-7750, 845-025-8040, 845-025-8060, 845-025-8520, 845-025-8560, 845-025-8590

Statutory Authority: ORS 475B

Statutes Implemented: ORS 475B

Need for the Rule:

Division 25 of Chapter 845 of the Oregon Administrative Rules sets forth the privileges, prohibitions for licensees and permittees of the Commission in regards to cannabis .The revisions within this package were made to implement the changes made

by the 2017 Oregon legislature. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845.

Further, the Commission has learned various lessons about the emerging recreational marijuana market. This led the Commission to adopt further amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

Documents Relied Upon and Where They Are Available:

- 2017 Oregon Legislature House Bill 2198 (available from the Oregon State Legislature, Office of Legislative Counsel).
- 2017 Oregon Legislature Senate Bill 56 Fiscal and Revenue Impact (available from Oregon State Legislature, Legislative Revenue Office).
- 2017 Oregon Legislature Senate Bill 1015 Fiscal and Revenue Impact (available from Oregon State Legislature, Legislative Revenue Office).
- 2017 Oregon Legislature Senate Bill 1057 Fiscal and Revenue Impact (available from Oregon State Legislature, Legislative Revenue Office).
- ORS 475B (available from the Oregon State Legislature, Office of Legislative Counsel).
- Rules advisory committee and subcommittee meeting summaries and audio recordings of meeting testimony (available from the Oregon Liquor Control Commission).

Fiscal and Economic Impact Statement:

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

(a) Marijuana Licensees.

These rules implement both legislative changes made by the 2017 Oregon legislature and technical revisions to Division 25. Licensees of the Commission may experience varying effects based upon the legislative changes.

Producers

- Registration & Transfers
 - o SB 1057 & HB 2198 both alter regulation for medical growers. Specifically, some medical growers must decide whether to register and be tracked under the Cannabis Tracking System with the Commission. The growers that do so will be able transfer 20 lbs. of usable marijuana into the system. The medical growers do not have to comply with the same requirements as recreational growers must comply with such as security investments,

licensing restrictions, etc. The Commission has heard from producers that this will be an unfair market advantage.

- Industrial Hemp
 - o SB 1015 enables Hemp Handlers and Growers, whom are registered with the Oregon Department of Agriculture, to sell either Hemp or Hemp concentrates to processors. Hemp growers do not have to comply with the same requirements as recreational growers. Specifically, Hemp growers can grow multiple acres of hemp whereas marijuana producers are limited to 40,000 sq ft at most. The Commission has heard from producers that this will be an unfair market advantage.

Processors

- Processor stand to see a potential positive fiscal impact. Specifically, processor will now be able to process industrial hemp and medical marijuana for patients.

Laboratory

- Laboratory licensees should see a positive fiscal impact, as the rules require both hemp items and medical marijuana transferred to commission licensees to be tested in the same manner as recreational marijuana.

Wholesalers

- Wholesale licensees could potentially see a positive fiscal impact, as the legislative changes enable both hemp items and medical marijuana transferred to commission licensees.

Retailers

- Retailers could potentially see a positive fiscal impact, as the legislative changes enable both hemp items and medical marijuana transferred to commission licensees.

(b) Local Government.

During the Advisory Committee, representatives of local government cited that these rules will may have an impact upon local governments. Specifically, SB 56 & 2198 remove the provision allowing local governments to allow marijuana retailers to be within 1,000 ft of a school and places the onus to make the decision upon the Commission.

(c) State Agencies.

These rules, along with the authorizing legislation, will incur costs to state agencies. The effected agencies include: Oregon Liquor Control Commission, Oregon Health Authority, Oregon Department of Agriculture, Oregon State Police and others. However, the recreational marijuana market is only still emerging and the Commission cannot quantify those costs at this time.

(d) The Public.

The Commission expects the proposed rules package to have a positive fiscal impact on the public to the extent that it enables licensees to provide marijuana and hemp legally to the public.

Statement of Cost of Compliance:

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

The Commission expects that local governments that choose to engage in allowing and licensing recreational marijuana businesses, to have a fiscal impact both positive and negative. Further, several state agencies will continue to be impacted by the continued emergence of the recreational market, the changes to the medical regulation of marijuana and industrial hemp production and processing. The agencies impacted include: Oregon Health Authority, Oregon Department of Agriculture, Oregon State Police and others. At this time, the Commission cannot estimate whether those licensing fees and taxes will offset the costs of regulation.

The public will also face both possible positive and negative fiscal impacts in relation to the proposed changes. Specifically, as disbursement of marijuana tax revenues has recently begun, the public should continue to benefit from the regulation and taxation of marijuana and hemp items. However, regulation and enforcement will have impacts upon the agencies listed above.

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 October 24, 2017, the Commission has received 1,567 active licenses of the five recreational marijuana license types (producer, processor, wholesaler, laboratory and retailer).

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

In order to comply with ORS 475B and subsequent legislation passed by the 2017 Oregon Legislature, persons whom wish to medically register or process industrial hemp with the Commission will incur costs relating to reporting, record keeping and other administrative activities required for compliance. The Commission has continued to listen and work with various interests to create rules that meet the legal requirements while sensibly establishing compliance standards.

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

In order to comply with ORS 475B and subsequent legislation passed by the 2017 Oregon Legislature, persons whom wish to medically register or process industrial hemp with the Commission will incur costs relating to reporting, record keeping and other administrative activities required for compliance. The Commission has continued to listen

and work with various interests to create rules that meet the legal requirements while sensibly establishing compliance standards.

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

The Commission held three advisory committees in order to fully address the legislative changes. Specifically, the Commission held advisory committees on the following topics:

August 18 - Industrial Hemp

- The Commission met with industry partners to review the changes enacted by SB 1015. This bill allows OLCC licensed processor to receive industrial hemp from both hemp growers and handlers.

September 13 - Medical Transfer Issues

The Commission met with industry partners to review the changes enacted by SB 1057 and HB 2198. The committee discussed the changes that require medical growers to register with the Cannabis Tracking System (CTS) and transfer limited amounts of medical marijuana to licensees of the Commission.

October 4 - Bill and Technical Package

This group discussed the remain non-medical or hemp related portions of SB 56, SB 1057, and HB 2198. This included discussing staff proposed technical revisions.

Was an administrative rule advisory committee consulted?

Yes, the Commission met with three advisory committees to address each of the topics.

(This Notice was sent on October 30, 2016)