

# Oregon Recreational Marijuana Program



Will Higlin, OLCC Senior Director of Licensing and Compliance  
Oregon State Police CJIS Statewide Training – September 1, 2016

# OLCC'S MISSION

Support businesses, public safety,  
and community livability  
through education and the enforcement  
of liquor and marijuana laws.





## Recreational Marijuana Laws and Rules

# Measure 91 Basics

- Measure approved by voters in November, 2014
- Gives OLCC authority to tax, license and regulate
- Initially four license types:
  - Producer (grower)
  - Processor
  - Wholesaler
  - Retail
- Licensees may hold multiple types of licenses
- The act allows home grow of up to 4 plants and 8 oz. per residence beginning July 1, 2015
- The act prohibits consumption in public
- Localities may “opt out” through a general election

## Measure 91

### Text of Measure

Be it Enacted by the People of the State of Oregon:  
This Act shall be known as:

**Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act**

**SECTION 1.** (1) The People of the State of Oregon declare that the purposes of this Act are:

(a) To eliminate the problems caused by the prohibition and uncontrolled manufacture, delivery, and possession of marijuana within this state;

(b) To protect the safety, welfare, health, and peace of the people of this state by prioritizing the state's limited law enforcement resources in the most effective, consistent, and rational way;

(c) To permit persons licensed, controlled, regulated, and taxed by this state to legally manufacture and sell marijuana to persons 21 years of age and older, subject to the provisions of this Act;

(d) To ensure that the State Department of Agriculture issues industrial hemp licenses and agricultural hemp seed production permits in accordance with existing state law; and

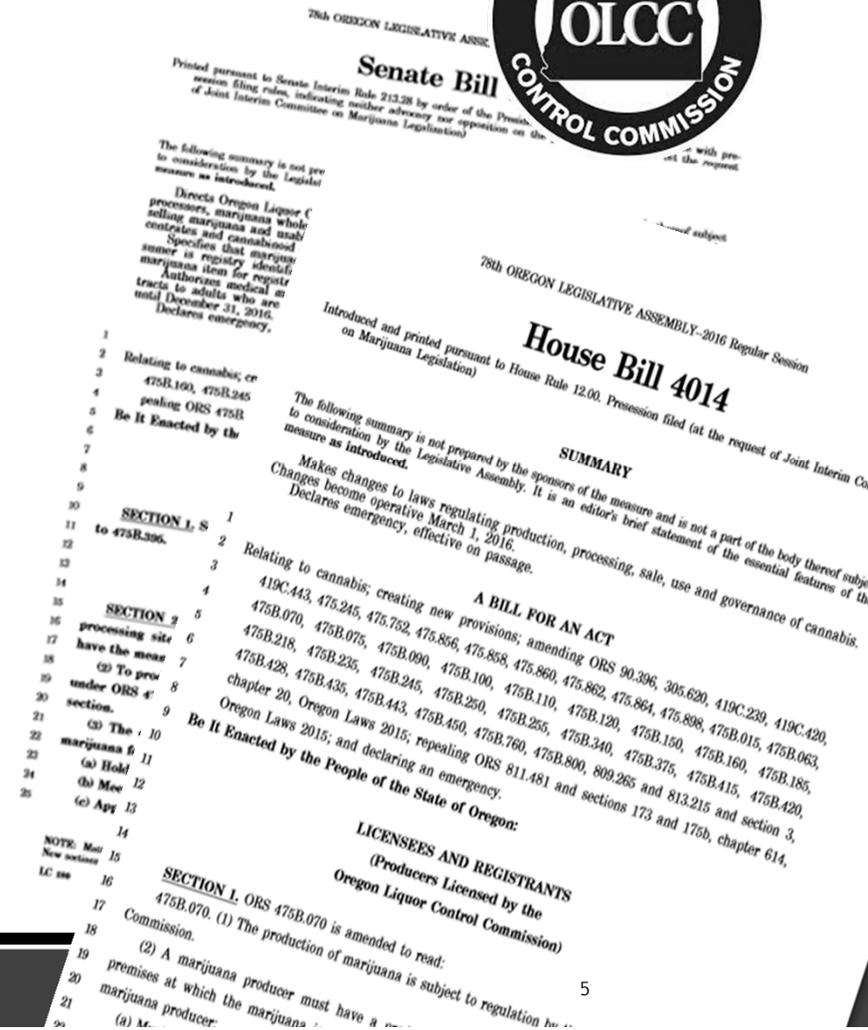
(e) To establish a comprehensive regulatory framework concerning marijuana under existing state law.

(2) The People of the State of Oregon intend that the provisions of this Act, and the other provisions of existing state law, will:

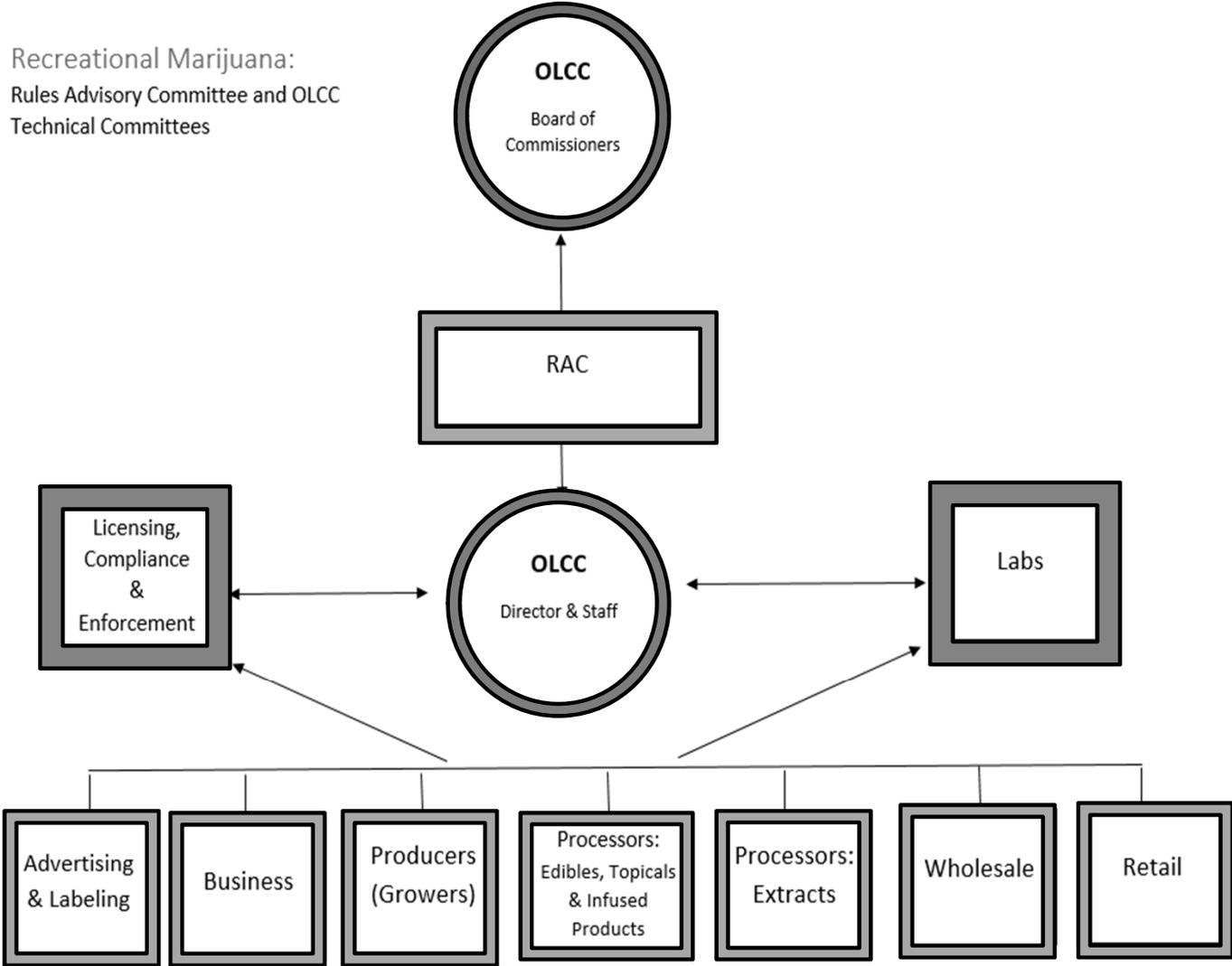
(a) Prevent the distri...

# State Law and Responsible State Agencies

- M91 (November 2014)
- Statutes: ORS Chapter 475B
- Administrative Rules (OLCC's effective June 28, 2016)
- Oregon Liquor Control Commission (OLCC): recreational marijuana businesses and worker permits
- Oregon Health Authority (OHA): medical marijuana activities/businesses, testing standards and requirements
- Oregon Department of Revenue (DOR): tax collection
- Oregon Department of Agriculture (ODA): commercial kitchens, scale certification, certain food handling activities, pesticides
- Local jurisdictions: law enforcement, governing bodies, code enforcement



Recreational Marijuana:  
Rules Advisory Committee and OLCC  
Technical Committees



# Federal “Requirements”



Cole Memo: directs states with legal marijuana programs to prevent:

1. Distribution of marijuana to minors
2. Revenue from the sale of marijuana from going to criminal enterprises, gangs and cartels
3. Diversion of marijuana from where it is legal under state law to other states
4. State-authorized activity from being used as a cover for illegal activity
5. Violence and the use of firearms in the cultivation and distribution of marijuana
6. Drugged driving and other adverse public health consequences associated with marijuana use
7. Growing of marijuana on public lands
8. Marijuana use on public property



# Public Health & Safety

## Benefits of a Regulated Market

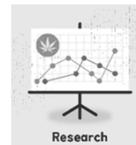
- **Licensee security requirements:** controls access, monitors “red flags”, prevents product from getting into hands of minors/illegal market
- **Cannabis Tracking System (CTS):** Prevents legal product from going to, or illegal product from coming from illegal market
- **Transfer manifest:** CTS creates documentation for transit of product protecting safety of law enforcement and industry
- **Buy Legal:** Provides level of consumer confidence because product is tested for pesticides, potency, microbes and mold
- **Product recall:** CTS allows for product to be locked down and pulled off shelves





# Recreational Marijuana License Types

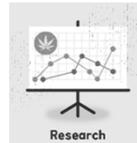
- **Producer** : grows marijuana
- **Laboratory**: tests marijuana
- **Processor**: creates marijuana-infused products
- **Wholesale**: buys and sells marijuana wholesale
- **Research Certificate**: can conduct research using marijuana
- **Retail**: sells marijuana items to consumers
- **Worker Permit**: employees of any marijuana business



# License Fees

- Producers:
  - Micro Tier I: \$1,000
  - Micro Tier II: \$2,000
  - Tier I: \$3,750
  - Tier II: \$5,750
- Processors: \$4,750
- Wholesalers: \$4,750
- Micro Wholesalers: \$1,000
- Retailers: \$4,750
- Laboratory: \$4,750
- Sampling Laboratory: \$2,250

A \$250 non-refundable application fee is due at initial application and at renewal



# Taxes & Revenue

- **Taxes:**
  - OLCC licensed retailers: 17% state tax; up to 3% additional local tax
  - OHA Medical Marijuana Dispensaries: 25% tax on recreational products
  - DOR collects sales tax
- **Revenue:**
  - January/February 2016: \$6.84M Early start sales (OHA MMDs)
- **Revenue Distribution:**
  - 40% common school fund
  - 20% Mental Health Alcoholism and Drug Services
  - 15% State Police Account
  - 10% Cities for law enforcement duties under recreational marijuana
  - 10% Counties for law enforcement duties under recreational marijuana
  - 5% Oregon Health Authority



# Producers

## Who regulates?

- OLCC regulates all aspects of recreational marijuana production, but by statute . . .
  - Can only **limit mature marijuana** production
  - Must impose limits that **equalize indoor and outdoor** production
- ODA establishes agricultural chemical usage requirements, OLCC enforces
- OHA establishes the types of testing marijuana must have, OLCC enforces



# Producers

## Grow limits



- Outdoor:

- Micro Tier I – up to 2,500 sq. ft.;
  - Tier I – up to 20,000 sq. ft.

- Micro Tier II – up to 5,000 sq. ft.
  - Tier II – up to 40,000 sq. ft.

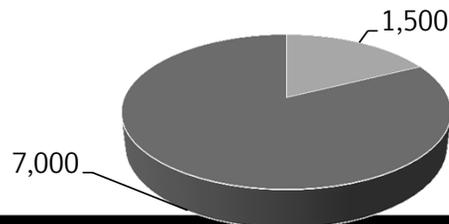
- Indoor:

- Micro Tier I – up to 625 sq. ft.
  - Tier I – up to 5,000 sq. ft.

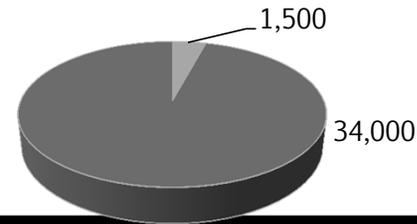
- Micro Tier II – up to 5,000 sq. ft.
  - Tier II – up to 10,000 sq. ft.

- Mixed Production: uses a 4:1 ratio

Mixed, Tier 1, with 1,500 Indoor



Mixed, Tier II, with 1,500 Indoor



# Producers

## Where can plants come from?

- By statute, producers can only receive plants from other licensees, except:
- **“Immaculate Conception” Rule: OAR 845-025-2060**
  - Until December 31, 2017 producers may receive plants from any source within Oregon for the first 90 days of initial licensure
    - Example: A producer licensed on March 1, 2016 can receive start-up plants from any source in Oregon until June 1, 2016
    - Example: A producer licensed on December 1, 2017 can receive start-up crops from any source in Oregon until December 31, 2017
- **Inventory Transfer Rule: OAR 845-025-2100**
  - Allows medical growers can transfer immature, mature and usable marijuana into the recreational system with consent from patients



# Processors

## Prohibitions

- Processors cannot:
  - Make products that appeal to minors: items of certain shapes, colors, flavors or non-cannabis products primarily consumed by and marketed to children
  - Make “look alike” products: a cannabis-infused chocolate bar is ok, but a cannabis-infused snickers bar is not
  - Make products using Dimethyl sulfoxide (DMSO)
  - Infuse products with certain additives: caffeine and nicotine are most common
  - Make edibles in a non-ODA certified kitchen, or share kitchen space with a non-licensed edible processor
  - Operate in the same space as a restaurant



# Extract Processors

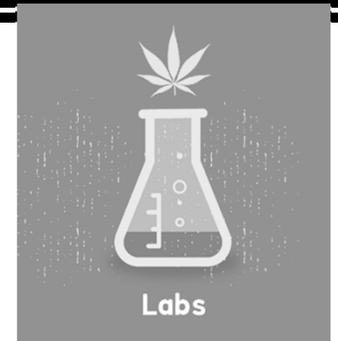
## Required Safety Precautions



- Must use closed loop extraction systems that meet certain engineering standards
- Must have local fire code approval
- Must process in fully enclosed rooms with spark proof equipment
- Must have certain safety equipment available for employees

# Testing Laboratories

- Must be accredited by OHA's accreditation body and be licensed by OLCC
  - Required for both medical and recreational testing labs
  - OHA sets all testing requirements and standards, OLCC requires all licensed businesses to follow them
- May perform **all required tests**, or may **specialize**
- Must be licensed and certified to **obtain samples**
- Responsible for **entering test results** into seed-to-sale tracking system (which locks failed products from moving forward in the supply chain)



# Retailers

## Privileges

- Only license type that can sell to the public
- Within a 24-hour period, may only sell to an individual customer up to:
  - 1 oz. of usable marijuana (flower, leaves);
  - 16 oz. of solid cannabinoid product (brownies, ice cream);
  - 72 oz. of liquid cannabinoid product (soda);
  - 5 grams of extract or concentrate (prefilled vape pens, dabs);
  - 4 immature plants; and
  - 10 marijuana seeds
- Retailers can sell multiple items listed above, but no more than the individual quantities (Ex.: a retailer can sell 1 oz. of flower and 72 oz. of soda at the same time, but not 73 oz. of soda alone)



# Retailers

## Prohibitions

- Can only sell between 7 a.m. and 10 p.m. PST
- Cannot provide free samples
- Cannot sell or give away materials used for home extraction
- Cannot give discounts if conditioned on sale of other items (i.e. no “buy two joints, get the third 1/2 off”)
- Cannot sell any marijuana item for a nominal price (tax evasion issue)
- Must have consistent pricing all day (i.e. no “happy hour” pricing)
- Cannot sell without verifying age of every customer
- Cannot allow self-service (no vending machines)



# Retailers Delivery

- Allowed by statute, modeled after alcohol delivery
- Large public safety concerns regarding delivery of marijuana
- Law enforcement and marijuana industry members recommended significant limits be placed on deliveries:
  - Order must be placed by actual customer by 4 p.m. on day delivery requested
  - Cannot deliver after 9 p.m.
  - Must deliver to a residence and only to the person who placed the order
  - Delivery employees cannot have more than \$3,000 worth of product on them at any given time



# Marijuana Worker Permits

## Who must have one?

- Originally, the statute required only those working in retail shops to have a permit (similar to an alcohol service permit)
  - In February 2016 the legislature expanded the requirement to all employees of any licensee
  - Who is all? Anyone participating in the possession, securing or selling of marijuana, recording possession, securing or selling, verifying age of purchasers, or supervising any of these activities
- Permits are applied for much like a license, permit holder must be 21 or older, pass a background check, and pass a knowledge-based test. Permits are good for 5 years
- OLCC projects between 10,000-20,000 permits applications will be made statewide



Marijuana  
Worker Permit

# Security

## General requirements for all licenses

- Video recording cameras:
  - 24/7 high quality, non-light dependent recording of all areas where marijuana items are present
  - 90 day retention of video recordings
  - Offsite backup video for surveillance area (so that tampering with surveillance equipment is detected)
- Armed alarm system any time the premises is closed
- Panic buttons or the equivalent to call for emergency services
- Marijuana items stored in locked/secure locations at all times



# Packaging/Labeling

- Medical and recreational packages and labels must be approved by OLCC
  - Both programs use the same packaging and labeling regulations
- Registrants and licensees will begin applying for approval on Aug. 1, 2016
- OLCC will review the applications to determine whether:
  - The packages have been certified as child-resistant
  - The package contain a label that contains all information required by rule
  - The package and label are not attractive to minors
  - The package and label do not contain any false or misleading statements



# Packaging

- Package cannot be attractive to minors
  - No cartoons
  - No consumer products, symbols, or celebrities typically marketed towards minors
- Package cannot contain any false or misleading statements
  - Health claims
  - Use of term “organic”
- Child-Resistant Package **OR** Exit Package at point of sale
  - Child resistance is defined by 16 CFR 1700
  - Type of packaging will vary based on marijuana item



# Labeling

- Label cannot be attractive to minors or contain false or misleading statements
- Principal display panel must have the universal symbol, net weight, and product identity
- All required information must be in at least 8 point Times New Roman, Arial, or Helvetica font
- All label information must be unobstructed and conspicuous
- Universal symbol must be at least 0.48 inches wide by 0.35 inches high and must not be changed
- Label must contain all information for the specific product type required by rule



# Advertising

- Similar to alcohol restrictions – advertisements cannot:
  - Be attractive to minors: images of minors, cartoon characters, toys or items that are typically marketed to those under 21
  - Promote excess use: displaying consumption, encourages use because of intoxicating effects, or encourages excessive or rapid consumption
  - Promotes illegal activity: such as transporting over state lines
  - Contain deceptive, false or misleading statements: asserting that marijuana is safe because it is regulated/tested, has therapeutic or curative effects
- Prohibited Modes of Advertising:
  - No handbills
  - No TV, radio, billboards, print or internet unless licensee can show that no more than 30% of the audience is reasonably expected to be under 21





# Local Regulation and Land Use

- **Land Use Compatibility Statement (LUCS)**
  - HB 3400 (Section 34) requires Land Use Compatibility Statement from the city or county that authorizes the land use
  - Commission will not issue a license if the Land Use Compatibility Statement shows that the proposed land use is prohibited
  - All retail establishments need to be at least 1,000 feet from schools
- **Local Regulation**
  - Time, Place & Manner – reasonable regulations on operations
  - Requirements related to public access
- **Water Law Compliance**
  - All licensees required to provide proof of water (source)
- **Energy usage**
  - HB3400 establishes Task Force to monitor & create report on energy consumption



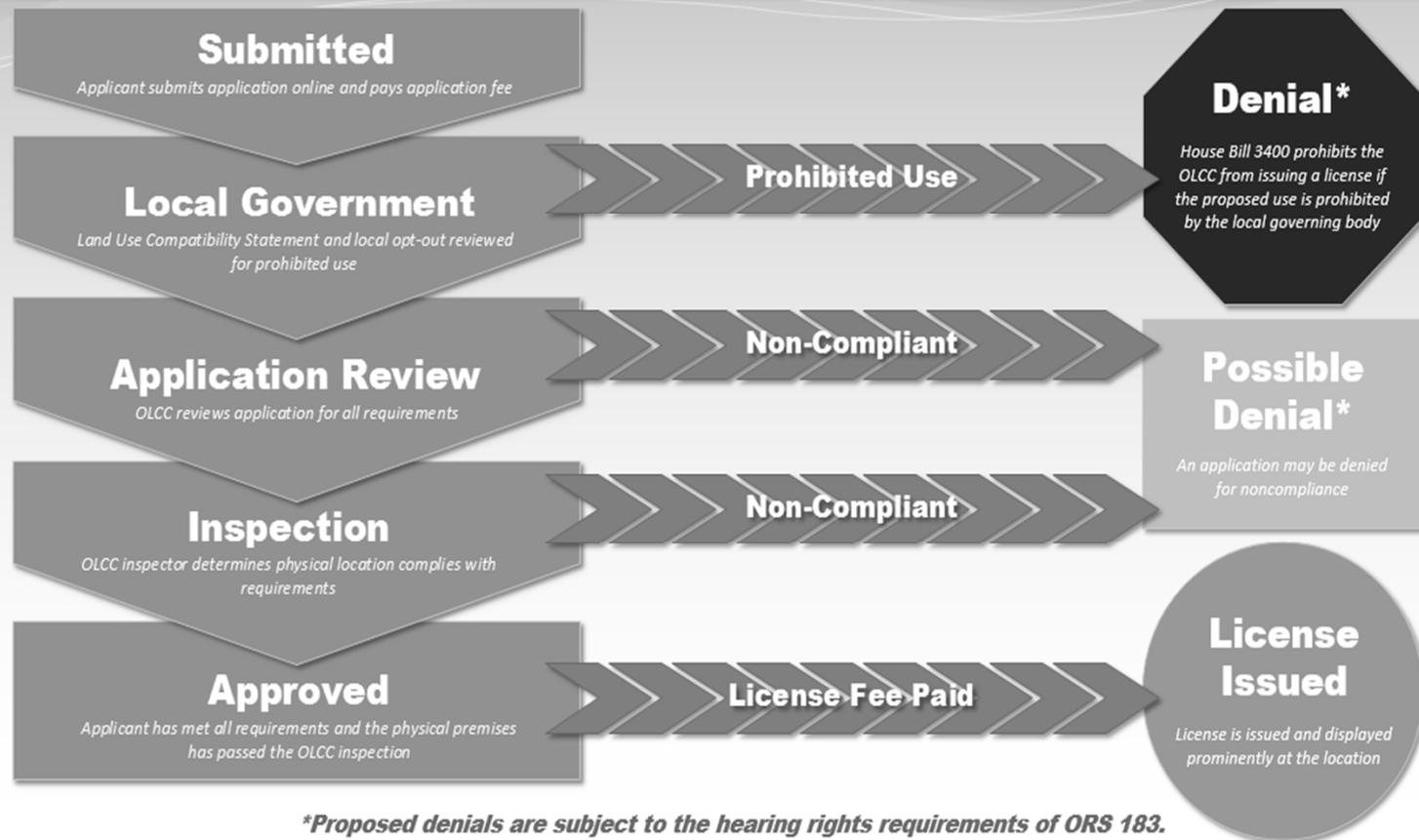
# Local Option – Opt Out

- Cities and counties may adopt ordinances that prohibit the establishment of recreational marijuana licenses
  - Opt out to date: 19 counties, 86 cities, 49 referrals
  - Must refer to next general election if less than 55% voted against Measure 91
  - OLCC will not grant licenses if election scheduled
  - Lose opportunity to share tax revenue
  - Can opt back in by rescinding opt out ordinance
  - Home grow and personal use may not be affected (no prohibition)





## Life of a License Application



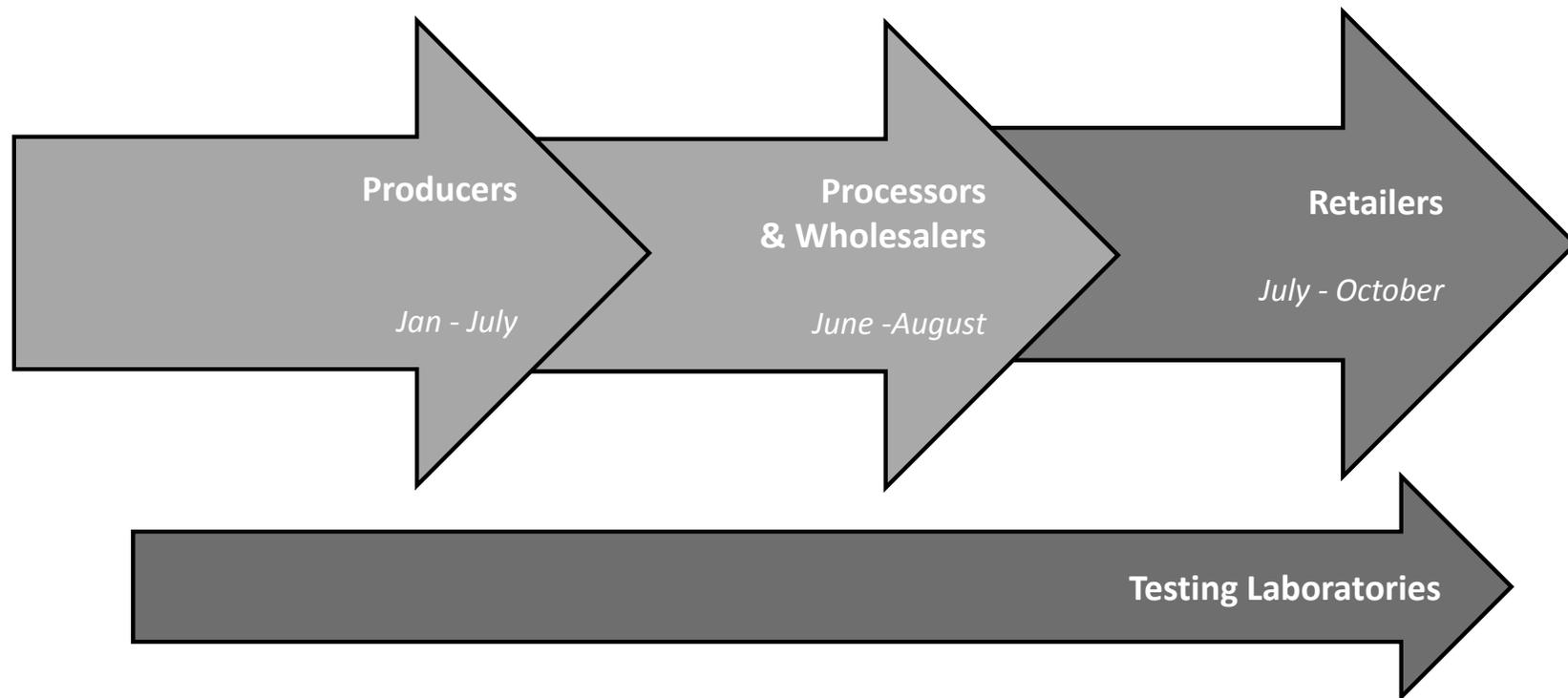
# Market Development Slowdowns

- Incomplete applications
- Awaiting complete site construction
- Security compliance issues



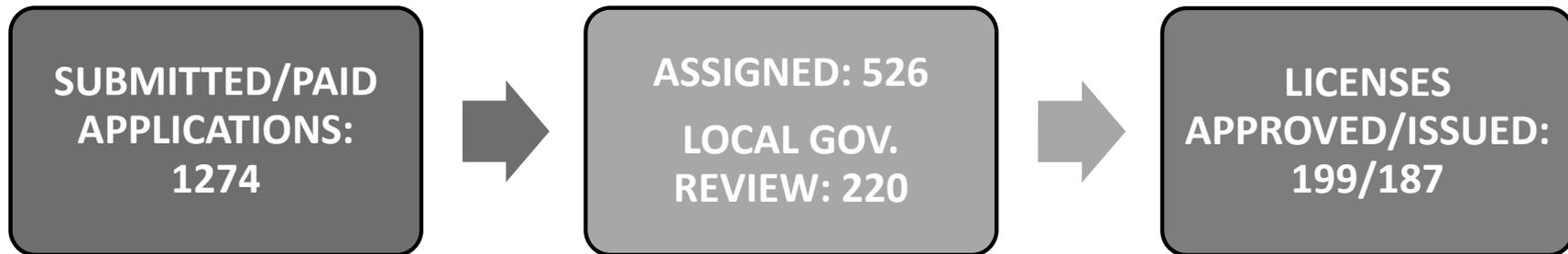


# Application Processing Timeline



# Application Stats\*

## By the Numbers



Producer (823)  
Wholesale (77)

Laboratory (16)  
Research (1)

Processor (107)  
Retail (250)

\*As of August 18, 2016



## Recreational Marijuana Compliance & Enforcement



# Compliance Philosophy

- OLCC seeks to provide applicants and licensees the tools and knowledge to operate responsibly, successfully, and in compliance with the laws of the State of Oregon and the rules of the Oregon Liquor Control Commission
- OLCC seeks to achieve this goal by communicating the laws, rules, policies, and standards regarding recreational marijuana in the State of Oregon and by building a collaborative regulatory structure that is non-punitive in nature but provides the enforcement mechanisms necessary to properly address compliance deficiencies

# Compliance Goals

## Balanced Regulatory Oversight



- Achieve the goals of the Cole Memo while encouraging and supporting the development of new industry
- Accurate reporting/tracking of product through the entire supply chain to protect the public and industry participants
  - Prevents diversion, provides consumer protection
- Holds licensees accountable for compliance



# OLCC Enforcement Authority

## Marijuana vs. Liquor



### ▪ Similarities:

- OLCC can enforce both liquor and recreational marijuana laws and rules
- Same enforcement philosophies: educate, then enforce. Take violations that threaten public safety more serious than procedural violations
- OLCC may issue administrative charges at licensed locations
- Investigation of violations through inspections and complaints
- OLCC regulatory specialists may cite and arrest for marijuana-related crimes committed by licensees/permittees

### ▪ Differences:

- Can only cite and arrest for marijuana related crimes that occur on a licensed premises
- No authority over unlicensed businesses, individuals, or activities



# OLCC Enforcement Procedures



- License investigators work with applicants throughout the licensing process
  - Goal: educate applicants on compliance expectations before licensure
- Regulatory specialists will conduct inspection of location prior to license being issued
  - Goal: confirms compliance with applicable laws prior to issuing a license
- Regulatory specialists educate licensees after licensure to ensure they are in compliance
  - Goal: avoid complaint-driven investigations and public safety issues, and gain compliance through education where appropriate
- Regulatory specialists take enforcement action on priority violations (violations that are a threat to public safety) or when educational efforts have failed to correct the issues
  - Goal: prevent further threats to public safety and hold licensee accountable





# Seed-to-Sale Tracking System

- Statutory Requirement: directed OLCC to develop an inventory tracking system to ensure that taxes are collected and inventory does not migrate from or into the illegal market
  - Supplements limited staffing resources by reporting on discrepancies and providing notice of potential tracking issues
  - Designed to allow for more effective audits and satisfy federal guidelines
  - Every plant is tracked via code from seedling to final sale to consumer
  - Allows for product recalls when consumer safety issues are present
- Same system used in Colorado: Metrc, CTS



# Transfer Manifest

- Allows licensees to transfer product to other licensees within regulated supply chain
- Generated by Metrc CTS
  - Lists product being transported, origination, destination, travel route, vehicle/license plate
- Working on process for OSP Dispatch to be able to access CTS to verify manifest



OREGON LIQUOR CONTROL COMMISSION CANNABIS TRANSPORTATION MANIFEST			
<small>All sales transactions are to be completed prior to transportation of any Cannabis. The receiving entity may reject product delivered, but amount delivered must be limited to amount agreed upon in prior sales transaction. If the person transporting Marijuana/Cannabis has not yet received his or her transporter's Permit Number, put "Pending" in the appropriate field.</small>			
Manifest #:	000009003	Date Completed:	08/17/2016
License # of Originating Entity:	300-X0001	For OLCC Use Only	
Name of Originating Entity:	OR LOFTY ESTABLISHMENT, LLC		
Address of Originating Entity:	9079 SE McLoughlin Blvd. Portland, OR 97222-7385		
Phone # of Originating Entity:			
Phone # OLCC Can Call with Questions: 5555555555			
DESTINATION:	Acme Stove CO	Destination Phone #:	503-555-0190
Stop Number on Route:	1	Destination License Number:	010-10010925103
Address of Destination:	37 Old York Road St. Helens, OR 97136	Date and Approximate Time of Departure:	8/17/16 10:37 AM
Route to Be Traveled:		Date and Approximate Time of Arrival:	8/17/16 10:37 AM
		<small>NOTE: details for extenuating circumstances (e.g., road closures, fuel line, etc.) and</small>	
Item Description	Item Label	Weight/Quantity	
API Test Buds 1	ABCDEF012345670000013209	7.0000 g	
PRODUCT REJECTION (if only a portion of shipment is rejected, circle that portion above)			
Name of Person Receiving or Rejecting Product:			
I confirm that the contents of this shipment match weight records entered above, and I agree to take custody of those portions of this shipment not circled above. Those portions circled were returned to the individual delivering this shipment.			
Signature:		Date:	
Signature of individual taking receipt of rejected portion of this shipment:			
Name of Person Transporting:	John Smith	Handler Permit of Person Transporting:	Smith1234
Signature of Person Transporting:			
Make, Model, License Plate #:	Ford F150 ABC 123		



# Law Enforcement Coordination

- Criminal and administrative investigations
  - When OLCC investigations uncover criminal activity
- Minor decoys and compliance checks
  - Will be handled similar to minor decoy operations in liquor establishments
- DUII evaluation
  - Must make recommendations regarding the effects of THC on driving (early 2017)
- OLCC Public Safety, Education and Enforcement Committee
  - Comprised of top law enforcement officials from around the state
  - Tasked with discussing coordination issues, intersection between legal and illegal market forces, making recommendations for DUII study



# Commitment to Outreach & Education

Website  
2.5 M hits

Business Readiness  
Guide  
24,000 downloads

Rules  
31,900 downloads

Applicant  
Workshop Video  
9,500 views

FAQs  
953,900 views

GovDelivery  
29,000 Subscribers

FAQs



# OLCC Resources

# Resources

## Business Readiness Guide

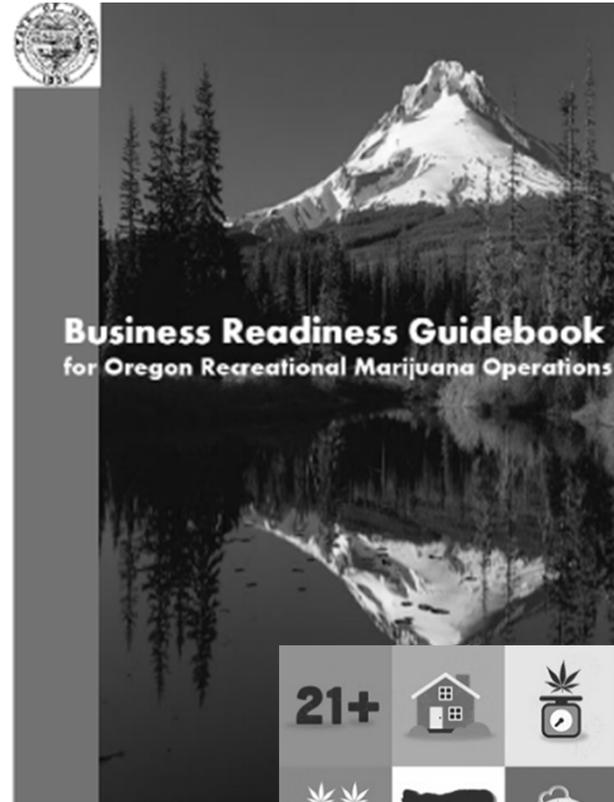
- Contains guidance on outside agencies, requirements
- Downloadable from OLCC website

[www.oregon.marijuana.gov](http://www.oregon.marijuana.gov)

## What's Legal?

- Basic information on possession, limits, use

[www.whatslegaloregon.com](http://www.whatslegaloregon.com)



A promotional graphic for the "What's Legal?" website. It consists of a grid of icons on the left and a text box on the right. The icons include: "21+", a house, a cannabis leaf, a cannabis plant, a cannabis leaf with "WHAT'S LEGAL? Check Before You Buy", a cannabis leaf with a prohibition sign, a storefront, a map of Oregon, and a cannabis leaf on a stem.

Learn more about recreational marijuana in Oregon

**WHATSLLEGAL OREGON.COM**  
800-452-6522  
MARIJUANA@OREGON.GOV

# Resources

## State Agencies Regulating Marijuana

- Infographic on “who does what” downloadable from OLCC website

[www.oregon.marijuana.gov](http://www.oregon.marijuana.gov)

## Coming soon: What’s Legal? 2.0

- Legal business practices, retail sales, update on consumer responsibilities
- Will be available on the OLCC website in late 2016

**Marijuana in Oregon:**  
State resources by topic

Types of common questions and suggested state resources to refer to for information.

<b>HEALTH</b> <ul style="list-style-type: none"><li>• Product Testing</li><li>• Concentration Limits</li><li>• Labeling</li><li>• Youth Prevention</li></ul> AGENCY: Oregon Health Authority	<b>POSSESSION</b> <ul style="list-style-type: none"><li>• Packaging</li><li>• What's legal?</li><li>• Minor in Possession</li><li>• decoy operations</li></ul> AGENCY: Oregon Liquor Control Commission	<b>PUBLIC SAFETY</b> <ul style="list-style-type: none"><li>• Nuisance complaints</li><li>• DUI / field sobriety tests</li><li>• Enforcement of unlicensed locations</li></ul> AGENCY: Local law enforcement and Oregon State Police
<b>AGRICULTURE</b> <ul style="list-style-type: none"><li>• Pesticides</li><li>• Weights and measures</li><li>• Food safety</li></ul> AGENCY: Oregon Department of Agriculture	<b>HAVE A QUESTION?</b> 	<b>RECREATIONAL MARIJUANA</b> <ul style="list-style-type: none"><li>• Industry licensing</li><li>• Cannabis Tracking System</li><li>• Marijuana worker permits</li><li>• Enforcement of licensed locations</li></ul> AGENCY: Oregon Liquor Control Commission
<b>TAXATION</b> <ul style="list-style-type: none"><li>• Revenue forecasting and reporting</li><li>• Legal deductions</li><li>• Tax collection</li></ul> AGENCY: Oregon Department of Revenue	<b>MEDICAL MARIJUANA</b> <ul style="list-style-type: none"><li>• Medical Marijuana Processor Registration</li><li>• Medical Marijuana Dispensaries Registration</li><li>• Cannabis Tracking System</li><li>• Registered locations enforcement</li></ul> AGENCY: Oregon Health Authority	<b>MORE INFORMATION</b> <ul style="list-style-type: none"><li>• <a href="http://whatstlegaloregon.com">whatstlegaloregon.com</a></li><li>• <a href="http://marijuana.oregon.gov">marijuana.oregon.gov</a></li></ul>

**Oregon Liquor Control Commission:** Regulates the sale of recreational marijuana in Oregon. Works with local law enforcement and State Police to enforce the law.

**Oregon Health Authority:** Oversees the medical marijuana cardholder registry for patients and regulates medical marijuana dispensaries, processors and grow sites.

**Oregon Department of Agriculture:** Administers many programs that affect agriculture producers and processors. Programs could also affect cannabis production, processing, wholesale, and retail activities.

**Oregon Department of Revenue:** Administers Oregon tax laws and collects taxes for more than 30 programs, including the recreational marijuana program.

# OLCC 2016 Timeline

