

Secretary of State  
**STATEMENT OF NEED AND FISCAL IMPACT**  
A Notice of Proposed Rulemaking Hearing accompanies this form.

**FILED**  
12-15-15 4:22 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

Oregon Health Authority, Public Health Division  
Agency and Division

333  
Administrative Rules Chapter Number

Limited marijuana retail sales

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Permanently adopting administrative rules in chapter 333, division 8 related to limited marijuana retail sales

**Statutory Authority:**

ORS 475.314 & 475.338, OL 2015, ch. 784 & sec. 21a, ch. 699, OL 2015

**Other Authority:**

**Statutes Implemented:**

ORS 475.314, OL 2015, ch. 784 & sec. 21a, ch. 699, OL 2015

**Need for the Rule(s):**

The passage of Measure 91 allows Oregonians to grow limited amounts of marijuana and possess limited amounts of recreational marijuana for personal use beginning July 1, 2015.

The initiative designates the Oregon Liquor Control Commission (OLCC) as the state agency that will regulate the commercial growing and selling of recreational marijuana. During the 2015 legislative session, the consideration to implement an early retail sales program was considered, but the OLCC will not be ready to license retailers for recreational sales until 2016. Senate Bill (SB) 460 (OL 2015, ch. 784) was introduced during the 2015 legislative session to commence retail sales as soon as possible to provide consumers a legal source to purchase limited marijuana products during the transition process.

Under SB 460, medical marijuana dispensaries under the authority of the Public Health Division are allowed to sell limited amounts of marijuana to persons 21 years of age and older without a medical marijuana card. SB 460 permits cities and counties to adopt ordinances prohibiting retail sales by dispensaries within their specific jurisdiction.

SB 460 requires the Oregon Health Authority to establish rules allowing medical dispensaries to sell no more than one-quarter of an ounce of dried leaves and flowers of marijuana, seeds, and no more than four immature marijuana plants.

The Oregon Health Authority is adopting OAR 333-008-1500 to allow for the retail sales of limited marijuana products; require warning posters and the provision of accompanying materials informing individuals of the potential health risks associated with the use of marijuana; apply a tax of 25 percent with the retail sale of marijuana starting on or after January 4, 2016; outline required documentation of marijuana retail products sold; and requires the dispensary to verify that the individual purchasing retail marijuana products is 21 years of age. OAR 333-008-1501 is being adopted to require dispensaries to post certain signs. OAR 333-008-1505 is being adopted to require the reporting of data to the Authority.

**Documents Relied Upon, and where they are available:**

Senate Bill 460 (Oregon Laws 2015, chapter 784): <https://olis.leg.state.or.us/liz/2015R1/Downloads/MeasureDocument/SB460/Enrolled>

House Bill 3400 (Oregon Laws 2015, chapter 614): <https://olis.leg.state.or.us/liz/2015R1/Downloads/MeasureDocument/HB3400/Enrolled>

House Bill 2041 (Oregon Laws 2015, chapter 699)  
<https://olis.leg.state.or.us/liz/2015R1/Downloads/MeasureDocument/HB2041/Enrolled>

**Fiscal and Economic Impact:**

Participation in early start is voluntary for medical marijuana dispensaries. On or after January 4, 2016, dispensaries that participate in early start must apply a tax of 25 percent on the retail sale of marijuana.

**Statement of Cost of Compliance:**

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

The proposed rules will require the state Public Health Division to engage in additional regulatory work related to these rules; there is no direct impact on local governments unless those governments choose to prohibit marijuana sales; members of the public will be required to pay a 25 percent tax on the retail sale of marijuana.

**2. Cost of compliance effect on small business (ORS 183.336):**

**a. Estimate the number of small business and types of businesses and industries with small businesses subject to the rule:**

325 of 387 registered marijuana dispensaries were participating in limited retail sales as of November 2015.

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

Dispensaries will be required to collect limited information on sales and will be required to report data to the Public Health Division.

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

The proposed rules contain no new requirements for equipment or supplies. Medical dispensaries that choose to participate in limited sales to the public may have increased labor or administrative costs as a result of increased sales volume/customers and reporting to the Authority.

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

The Rules Advisory Committee included multiple representatives from medical marijuana growsites, processors, and dispensaries.

**Administrative Rule Advisory Committee consulted?: Yes**

**If not, why?:**

01-29-2016 5:00 p.m.	Brittany Sande	brittany.a.sande@state.or.us
Last Day (m/d/yyyy) and Time for public comment	Printed Name	Email Address