

Recreational Marijuana Rules Advisory Committee

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1. **Transportation and Delivery of Marijuana Items** (recommended – 9 of 13 members present in favor)

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1. **Waste Management** (unanimously recommended – 13 of 13 members present in favor)

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1. **Purpose and Application of Rules** (unanimously recommended – 13 of 13 members present in favor)
2. **Definitions** (unanimously recommended – 13 of 13 members present in favor)
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1. **Responsibility of a Licensee, Responsibility for Conduct of Others** (unanimously recommended – 13 of 13 members present in favor)
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4. **Inspections** (unanimously recommended – 12 of 12 members present in favor)
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6. **Suspensions, Cancellations, Civil Penalties, and Sanction Schedule** (unanimously recommended – 13 of 13 members present in favor)
7. **Exhibit 1 – Sanction Schedule** (unanimously recommended – 13 of 13 members present in favor)

Recreational Marijuana Rules Advisory Committee

Preface ([return to index](#))

Committee Members: **Chris Lyons** (retired Lottery and OLCC executive director, RAC Chair), **Doug Breidenthal** (Jackson County Commissioner), **Ryan Christensen** (Entrepreneur, Portland), **Paul Fraiser** (District Attorney, Coos County), **Cedar Grey** (Siskiyou Sungrow, Williams), **Mowgli Holmes** (Pylos Bioscience, Portland), **Anthony Johnson** (Chief Petitioner Measure 91, Portland), **Brent Kenyon** (Southern Oregon Alternative Medicine, Ashland), **Jeff Kuhns** (Deputy Chief of Police, Keizer), **Hunter Neubauer** (OreGrown, Bend), **Craig Roberts** (Sheriff, Clackamas County), **Nicole Rowe** (Independent Consultant, Portland), **Theresa Marchetti** (City of Portland Office of Neighborhood Involvement), **William Simpson** (Chalice Farms, West Linn), **Steve Taylor** (Small Business Owner, Pendleton), **Jennifer Vines** (for Paul Lewis, Multnomah County Health Department, Portland)

The committee was comprised of: six members from local or county government and law enforcement; seven members from the industry; and four members from the general public

OLCC Staff Representatives: Amanda Borup, Danica Hibpshman, Will Higlin, Steve Marks, Jesse Sweet

Voting Parameters: The Recreational Marijuana Rules Advisory Committee (“RAC” or “Committee”) met to discuss and make recommendations on a comprehensive set of temporary rules intended to govern the initial implementation of Oregon’s recreational, adult use marijuana market. The draft rules propose the regulatory framework for the different license types allowed by Measure 91 and HB3400. During the meetings on August 14, 2015, September 18, 2015, and October 16, 2015, the RAC voted on whether to recommend that the Commission adopt specific rules and rule language. The following is a summary of the RAC’s recommendations on these issues.¹

For purposes of these recommendations:

- If all present and voting members of the RAC agree on a draft rule recommendation, this report will note that the recommendation is unanimous. It may also include a general summary of the policies or rationale behind OLCC staff’s proposal.
- If less than four present and voting RAC members hold a minority position on a rule, this report will only identify the majority recommendation. It may also include a general summary of the policies or rationale behind OLCC staff’s proposal.
- If four or more present and voting RAC members hold the minority position on a rule, this report will identify the majority and minority recommendations. It will also include a general summary of the policies or rationale behind OLCC staff’s proposal, and the majority and minority positions of the RAC based on committee member comments and discussions which were captured from the audio recording of the of the meeting.

¹ **Caution.** The referenced rule language contained in this report are proposals only, and not final adopted administrative rules by the Commission. The Commission may make changes, both substantive and non-substantive, to any proposed rules before formal adoption. Nothing in this report should be construed or relied on as formally adopted rules of the Commission.

These draft rules are in the form presented to the RAC. There may be minor typos, punctuation errors and grammar errors in the draft rule language which Commission staff will correct before finalizing the adopted rules. Additionally staff will add full rule numbers and subsections before finalizing the adopted rules.

- The recommendations took place at different meetings, and at certain times not all members were present to vote on specific rule language. Noting that a vote was unanimous does not necessarily mean that all RAC members registered a vote, but rather that there were no dissenting votes cast by those RAC members present. Two citizen/public members were not able to attend the final meeting on October 16th.

DRAFT RULES AND RAC RECOMMENDATIONS

General Requirements Applicable to All Marijuana Licenses

1. OAR 845-025-XXXX Applicability [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

- (1) A person may not produce, process, transport, sell, test, or deliver marijuana for commercial recreational use without a license from the Commission or as otherwise authorized under these rules.*
- (2) Nothing in these rules exempts a licensee or licensee representative from complying with any other applicable state or local laws.*
- (3) Licensure under these rules does not protect a person from possible criminal prosecution under federal law.*

b. RAC Recommendation.

The RAC unanimously (14 out of 14 voting members) recommends that the Commission adopt this proposed rule.

2. OAR 845-025-XXXX Definitions [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

For the purposes of OAR 845-025-XXXX to 845-025-XXXX, unless otherwise specified the following definitions apply:

- (j) "Adulterated" means to make a marijuana item impure by adding foreign or inferior ingredients or substances. A marijuana item may be considered to be adulterated if:
 - (a) It bears or contains any poisonous or deleterious substance in a quantity rendering the marijuana item injurious to health, including but not limited to tobacco or nicotine;*
 - (b) It bears or contains any added poisonous or deleterious substance exceeding a safe tolerance if such tolerance has been established;*
 - (c) It consists in whole or in part of any filthy, putrid, or decomposed substance, or otherwise is unfit for human consumption;*
 - (d) It is processed, prepared, packaged, or is held under improper time-temperature conditions or under other conditions increasing the probability of contamination with excessive microorganisms or physical contaminants;*
 - (e) It is processed, prepared, packaged, or held under insanitary conditions increasing the probability of contamination or cross-contamination;*
 - (f) It is held or packaged in containers composed, in whole or in part, of any poisonous or deleterious substance rendering the contents potentially injurious to health;*
 - (g) Any substance has been substituted wholly or in part therefor;*
 - (h) Damage or inferiority has been concealed in any manner; or*
 - (i) Any substance has been added thereto or mixed or packaged therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.**
- (k) "Authority" means the Oregon Health Authority.*
- (l) "Business day" means Monday through Friday excluding legal holidays.*
- (m) "Cannabinoid" means any of the chemical compounds that are the active constituents of marijuana.*

- (j) *“Cannabinoid concentrate” means a substance obtained by separating cannabinoids from marijuana by:*
 - (a) *A mechanical extraction process;*
 - (b) *A chemical extraction process using a nonhydrocarbon-based or other solvent, such as water, vegetable glycerin, vegetable oils, animal fats, isopropyl alcohol or ethanol; or*
 - (c) *A chemical extraction process using the hydrocarbon-based solvent carbon dioxide, provided that the process does not involve the use of high heat or pressure; or*
- (k) *“Cannabinoid edible” means food or potable liquid into which a cannabinoid concentrate, cannabinoid extract or dried marijuana leaves or flowers have been incorporated.*
- (l) *“Cannabinoid extract” means a substance obtained by separating cannabinoids from marijuana by:*
 - (a) *A chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane or propane;*
 - (b) *A chemical extraction process using the hydrocarbon-based solvent carbon dioxide, if the process uses high heat or pressure; or*
 - (c) *Any other process identified by the commission, in consultation with the authority, by rule.*
- (m) *(a) “Cannabinoid product” means a cannabinoid edible and any other product intended for human consumption or use, including a product intended to be applied to the skin or hair, that contains cannabinoids or dried marijuana leaves or flowers.*
 - (b) *“Cannabinoid product” does not include:*
 - (A) *Usable marijuana by itself;*
 - (B) *A cannabinoid concentrate by itself;*
 - (C) *A cannabinoid extract by itself; or*
 - (D) *Industrial hemp, as defined in ORS 571.300.*
- (n) *“Cannabis Tracking System” or “CTS” means the system for tracking the transfer of marijuana items and other information as authorized by section 23, chapter 614, Oregon Laws 2015.*
- (o) *“Compliance buy” means a single covert, on-site visit in which a Commission authorized representative poses as an authorized representative of a licensee or a consumer and attempts to purchase or purchases a marijuana item from a licensee, or attempts to sell or sells a marijuana item to a licensee.*
- (p) *“Container” means a sealed, hard or soft-bodied receptacle in which a marijuana item is placed prior to being sold to a consumer.*
- (q) *“Commission” means the Oregon Liquor Control Commission.*
- (r) *“Consumer” means a person who purchases, acquires, owns, holds or uses marijuana items other than for the purpose of resale.*
- (s) *“Date of Harvest” means the date the mature marijuana plants in a harvest lot were cut, picked or removed from the soil or other growing media. If the harvest occurred on more than one day, the “date of harvest” is the day the last mature marijuana plant in the harvest lot was cut, picked or removed from the soil or other growing media.*
- (t) *“Financial interest” means having an interest in the business such that the performance of the business causes, or is capable of causing, an individual or a legal entity with which the individual is affiliated, to benefit or suffer financially, and such interests include but are not limited to:*
 - (a) *Receiving, as an employee or agent, out-of-the-ordinary compensation, either in the form of over-compensation or under compensation;*
 - (b) *Lending money, real property or personal property to an applicant or licensee for use in the business at a commercially unreasonable rate;*
 - (c) *Giving money, real property or personal property to an applicant or licensee for use in the business; or*
 - (d) *Being the spouse or domestic partner of an applicant or licensee. For purposes of this subsection, “domestic partners” includes adults who qualify for a “domestic partnership” as defined under ORS 106.310.*
- (u) *“Harvest lot” means marijuana that is uniform in strain, cultivated utilizing the same growing practices and harvested at the same time.*
- (v) *“Immature marijuana plant” means a marijuana plant that is not flowering.*

- (l) *"Intended for human consumption"* means intended for a human to eat, drink, or otherwise put in the mouth but does not mean intended for human inhalation.
- (l) *"Laboratory"* means a laboratory certified by the Authority under ORS 438.605 to 438.620 and authorized to test marijuana items for purposes specified in these rules.
- (l) *"Licensee"* means any person who holds a license issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015.
- (l) *"License holder"* includes:
 - (a) Each applicant listed on an application that the commission has approved;
 - (b) Each individual who meets the qualification described in OAR 845-025-XXXX and who the commission has added to the license under OAR 845-025-XXXX; or
 - (c) Each individual who has a financial interest in the licensed business and who the commission has added to the license under OAR 845-025-XXXX.
- (l) *"Licensee representative"* means an owner, director, officer, manager, employee, agent, or other representative of a licensee, to the extent that the person acts in a representative capacity.
- (l) *"Limited access area"* means a building, room, or other contiguous area on a licensed premises where a marijuana item is produced, processed, stored, weighed, packaged, labeled, or sold, but does not include a point of sale area on a licensed retailer premises.
- (l)(a) *"Marijuana"* means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.
- (b) *"Marijuana"* does not include industrial hemp, as defined in ORS 571.300.
- (l) *"Marijuana flowers"* means the flowers of the plant genus Cannabis within the plant family Cannabaceae.
- (l) *"Marijuana items"* means marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts.
- (l) *"Marijuana leaves"* means the leaves of the plant genus Cannabis within the plant family Cannabaceae.
- (l) *"Marijuana processor"* means a person who processes marijuana items in this state.
- (l) *"Marijuana producer"* means a person who produces marijuana in this state.
- (l) *"Marijuana retailer"* means a person who sells marijuana items to a consumer in this state.
- (l) *"Marijuana wholesaler"* means a person who purchases marijuana items in this state for resale to a person other than a consumer.
- (l) *"Mature marijuana plant"* means a marijuana plant that is not an immature marijuana plant.
- (l) *"Minor"* means any person under 21 years of age.
- (l) *"Non-Toxic"* means not causing illness, disability or death to persons who are exposed.
- (l) *"Permittee"* means any person who holds a Marijuana Handlers Permit.
- (l) *"Person"* has the meaning given that term in ORS 174.100.
- (l) *"Premises" or "licensed premises"* includes the following areas of a location licensed under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015:
 - (A) All public and private enclosed areas at the location that are used in the business operated at the location, including offices, kitchens, rest rooms and storerooms;
 - (B) All areas outside a building that the commission has specifically licensed for the production, processing, wholesale sale or retail sale of marijuana items; and
 - (C) For a location that the commission has specifically licensed for the production of marijuana outside a building, the entire lot or parcel, as defined in ORS 92.010, that the licensee owns, leases or has a right to occupy.
- (b) *"Premises" or "licensed premises"* does not include a primary residence.
- (l)(a) *"Processor"* means the processing, compounding or conversion of marijuana into cannabinoid products, cannabinoid concentrates or cannabinoid extracts;
- (b) *"Processes"* does not include packaging or labeling.
- (l) *"Process lot"* means:
 - (a) Any amount of cannabinoid concentrate or extract of the same type and processed at the same time using the same extraction methods, standard operating procedures and batches from the same harvest lot; or

- (b) Any amount of cannabinoid products of the same type and processed at the same time using the same ingredients, standard operating procedures and batches from the same harvest lot or process lots of cannabinoid concentrate or extract.
- () "Producer" means a marijuana producer licensed by the Commission.
- ()(a) "Produces" means the manufacture, planting, cultivation, growing or harvesting of marijuana.
- (b) "Produces" does not include:
 - (A) The drying of marijuana by a marijuana processor, if the marijuana processor is not otherwise producing marijuana; or
 - (B) The cultivation and growing of an immature marijuana plant by a marijuana processor, marijuana wholesaler or marijuana retailer if the marijuana processor, marijuana wholesaler or marijuana retailer purchased or otherwise received the plant from a licensed marijuana producer.
- () "Propagate" means to grow immature marijuana plants or to breed or produce the seeds of the plant Cannabis family Cannabaceae.
- () "Public place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and areas used in connection with public passenger transportation.
- () "Regulatory specialist" means a full-time employee of the commission who is authorized to act as an agent of the commission in conducting inspections or investigations, making arrests and seizures, aiding in prosecutions for offenses, issuing citations for violations and otherwise enforcing chapter 471, ORS 474.005 to 474.095 and 474.115, commission rules and any other statutes the commission considers related to regulating liquor or marijuana.
- () "Retailer" means a marijuana retailer licensed by the Commission.
- () "Safe" means:
 - (a) A metal receptacle with a locking mechanism capable of storing all marijuana items on a licensed premises that:
 - (A) Is rendered immobile by being securely anchored to a permanent structure of an enclosed area; or
 - (B) Weighs more than 750 pounds.
 - (b) A "vault"; or
 - (c) A refrigerator or freezer capable of being locked for storing marijuana items that require cold storage that:
 - (A) Is rendered immobile by being securely anchored to a permanent structure of an enclosed area; or
 - (B) Weighs more than 750 pounds.
- () "Shipping Container" means any container or wrapping used solely for the transport of a marijuana items in bulk to a marijuana licensee as permitted in these rules.
- () "These rules" means OAR 845-025-XXXX to 845-025-XXXX.
- () "UID" means unique identification.
- ()(a) "Usable marijuana" means the dried leaves and flowers of marijuana.
- (b) "Usable marijuana" does not include:
 - (A) The seeds, stalks and roots of marijuana; or
 - (B) Waste material that is a by-product of producing or processing marijuana.
- () "Vault" means an enclosed area or room that is constructed of steel-reinforced or block concrete and has a door that contains a multiple-position combination lock or the equivalent, a relocking device or equivalent, and a steel plate with a thickness of at least one-half inch.
- () "Wholesaler" means a marijuana wholesaler licensed by the Commission.

b. RAC Recommendation.

The RAC unanimously (14 out of 14 voting members) recommends that the Commission adopt this proposed rule, with staff agreeing to modify the definition of a “compliance buy” to be “compliance buy and sale.”

3. OAR 845-025-XXXX Application Process [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

- (1) On or after 8:30 a.m. Pacific Time January 4, 2016, a person may submit an application to the Commission, on a form prescribed by the Commission, for a marijuana producer, processor, wholesaler, retail, or laboratory license.*
- (2) An application for a license and all documentation required in the application instructions and in section (4) of this rule must be submitted electronically, via the Commission’s website <http://XXXX>. The application fee specified in OAR 845-025-XXXX must also be paid through the Commission’s on-line payment system at the time of application.*
- (3) An application must include the names and other required information for all individuals who are applicants as described in OAR 845-025-XXXX and who are not applicants but who have a “financial interest” in the business, as defined in OAR 845-025-XXXX.*
- (4) In addition to submitting the application form the following must be submitted:*
 - (a) If required for an individual on the application:*
 - (A) Information or fingerprints for a criminal background check in accordance with OAR 845-025-XXXX;*
 - (B) An Individual History Form and any information identified in the form that is required to be submitted; and*
 - (C) Proof of residency documented by providing:*
 - (i) Oregon full-year resident tax returns for the last two years; or*
 - (ii) Utility bills, rental receipts, mortgage statements or similar documents that contain the name and address of the applicant dated at least two years prior to the date of application and from the most recent month.*
 - (b) A map or sketch of the premises proposed for licensure, including the defined boundaries of the premises;*
 - (c) A floor or plot plan sketch of all enclosed areas with clear identification of walls, partitions, counters, windows, all areas of ingress and egress, and all limited access areas;*
 - (d) Proof of lawful possession of the premises proposed for licensure;*
 - (e) An operating plan that demonstrates at a minimum, how the applicant’s proposed premises and business will comply with the applicable laws and rules regarding:*
 - (A) Security;*
 - (B) Employee qualifications and training;*
 - (C) Transportation of product;*
 - (D) Preventing minors from entering the licensed premises; and*
 - (E) Preventing minors from obtaining or attempting to obtain marijuana items.*
 - (f) For producers:*
 - (A) The proposed canopy size and tier as described in OAR 845-025-XXXX and a designation of the canopy area within the license premises.*
 - (B) A report describing the applicant’s electrical and water usage, on a form prescribed by the Commission. The report must describe the estimated water usage taking into account all portions of the premises and expected requirements of the operation.*
 - (C) A description of the growing operation including growing media, a description of equipment to be used in the production, and whether production will be indoor, outdoor or both.*
 - (D) A water right certificate number or a statement that water is supplied from a public or private water provider, along with the name and contact information of the water provider.*
 - (g) For processors:*

(A) On a form prescribed by the Commission, the proposed endorsements as described in OAR 845-025-XXXX.

(B) A description of the type of products to be processed, a description of equipment to be used, including any solvents, gases, chemicals or other compounds used to create extracts or concentrates.

- (5) The Commission must review an application to determine if it is complete. An application will be considered incomplete if an application form is not complete, the full application fee has not been paid, or some or all of the additional information required under section (4) of this rule is not submitted.
- (6) An applicant may submit a written request for reconsideration of a decision that an application is incomplete. Such a request must be received by the Commission within ten days of the date the incomplete notice was mailed to the applicant. The Commission shall give the applicants the opportunity to be heard if an application is rejected. A hearing under this subsection is not subject to the requirements for contested case proceedings under ORS 183.310 to 183.550.
- (7) If, prior to an application being acted upon by the commission, there is a change with regard to who is an applicant or who is a person with a financial interest in the proposed business, the new applicant or person with a financial interest must submit a form, prescribed by the commission, that:
 - (a) Identifies the individual or person;
 - (b) Describes the individual's or person's financial interest in the business proposed for licensure; and
 - (c) Includes any additional information required by the commission, including but not limited to information and fingerprints required for a criminal background check.
- (8) Failure to comply with subsection (6) of this rule may result in an application being denied.

b. RAC Recommendation.

The RAC unanimously (14 out of 14 voting members) recommends that the Commission adopt this proposed rule.

4. OAR 845-025-XXXX Qualifications of an Applicant [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

- (1) The following are considered applicants for purposes of these rules:
 - (a) Any individual that has a financial interest in the business for which licensure is sought and who is directly involved in controlling the ordinary course of business for the business that is proposed to be licensed; and
 - (b) Any legal entity that has a financial interest in the business for which licensure is sought and is directly involved in controlling the ordinary course of business for the business that is proposed to be licensed;
- (2) If an applicant is an individual the individual must also:
 - (a) Be at least 21 years of age; and
 - (b) Until January 1, 2020, have been a resident of Oregon for at least two consecutive years prior to the date the initial or renewal application was submitted.
- (3) If a legal entity is designated as an applicant, the following individuals must also be listed as applicants on an application:
 - (a) All partners in a limited partnership;
 - (b) All members of a limited liability company; and
 - (c) All directors and principal officers of a corporate entity.
- (4) At least one applicant or the sum of applicants listed on a license application must be a legitimate owner of the business proposed to be licensed or subject to renewal.

- (5) *An individual or legal entity will not be considered by the Commission to be directly involved in the ordinary course of business for the business proposed to be licensed solely by virtue of:*
- (a) *Being a shareholder, director, member or limited partner;*
 - (b) *Being an employee or independent contractor;*
 - (c) *Participating in matters that are not in the ordinary course of business such as amending organizational documents of the business entity, making distributions, changing the entity's corporate structure, or approving transactions outside of the ordinary course of business as specified in the entity's organizational documents.*
- (6) *An individual applicant or applicant legal entity will be considered by the Commission to be a legitimate owner of the business if:*
- (a) *The individual applicant or legal entity applicant owns at least 51% of the business proposed to be licensed; or*
 - (b) *One or more individual applicants or applicant legal entities in sum own at least 51% of the business proposed to be licensed.*
- (7) *The following factors, in and of themselves, do not constitute ownership:*
- (a) *Preferential rights to distributions based on return of capital contribution;*
 - (b) *Options to purchase an ownership interest that may be exercised in the future;*
 - (c) *Convertible promissory notes; or*
 - (d) *Security interests in an ownership interest.*
- (8) *For purposes of this rule "ownership" means direct or indirect ownership of the shares, membership interests, or other ownership interests of the business proposed to be licensed.*
- (9) *The Commission may consider factors other than those listed in this rule when determining whether an individual or legal entity is directly involved in the operation or management of the business proposed to be licensed or licensed, or is a legitimate owner.*
- (10) *An individual listed as an applicant on an initial or renewal application, or identified by the commission as an applicant must maintain Oregon residency while the business is licensed.*

The rule explains which individuals and legal entities will be considered applicants under OLCC's marijuana rules. The proposed rule language is intended to clarify that only those with both a financial interest and direct management-type responsibilities will be considered the applicant. This approach is similar to how the agency handles applicants in its alcohol regulations. Staff relayed that, based on its experience in regulating the alcohol industry, it is important to list as applicants those individuals and legal entities who are directly involved in controlling the ordinary course of business.

Staff clarified that this proposed rule should not be construed as completely restricting an out-of-state investor's involvement in business affairs, but is intended to prohibit those out of state investors from having direct management control of primary activities or control of day-to-day operations. Staff acknowledges that this may require case-by-case determinations in some instances. Staff believes the agency's alcohol industry experience, when making these judgments, will result in consistent decision-making.

Staff further clarified that even though financial-only interests would not be deemed "applicants," the agency is not precluded from investigating those financial interests. When warranted, the rule gives OLCC the discretion to perform a background check on other individuals besides those falling under the definition of applicant.

The RAC initially reviewed proposed language for this rule at the August 18, 2015 meeting, and staff incorporated feedback from the Committee and added specific meaning to the phrase "directly involved in the ordinary course of business."

b. RAC Recommendation.

The majority of the RAC (12 out of 14 voting members) recommends that the Commission adopt this proposed rule.

5. OAR 845-025-XXXX Fees [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

- (1) At the time of application an applicant must pay a:*
 - (a) \$250 non-refundable application fee; and*
 - (b) \$50 criminal background check fee.*
- (2) If the commission approves an application and grants a license, permit or certificate the following fees must be paid, prorated for an initial license that is issued for six months or less:*
 - (a) Producers:*
 - (A) Tier I \$3750*
 - (B) Tier II \$5750*
 - (b) Processors: \$4750*
 - (c) Wholesalers: \$4750*
 - (d) Retailers: \$4750*
 - (e) Laboratories: \$4750*
 - (f) Marijuana handlers: \$100*
 - (g) Research Certificate: \$4750*
- (3) At the time of application renewal an applicant must pay a:*
 - (a) \$250 non-refundable application fee; and*
 - (b) \$50 criminal background check fee, if required.*
- (4) If the commission approves a renewal application the renewal license, permit or certificate fees must be paid in the amounts specified in subsection (2) of this rule.*
- (5) The Commission shall charge the following fees:*
 - (a) Criminal background checks: \$100*
 - (b) Change of ownership review: \$1000*
 - (c) Change in business structure review: \$1000*
 - (d) Transfer of location of premises review: \$1000*
 - (e) Packaging preapproval: \$100*
 - (f) Labeling preapproval: \$100*

HB 3400 directs the Commission to set fees that will cover the cost of administering the program. HB 3400 also requires OLCC to set fees for each license type individually and to anticipate and estimate costs by license type. Staff calculated these fees based on the agency’s anticipated costs to administer the marijuana program during the 2017-2019 biennium.

Several members of the RAC noted that a criminal background check fee is listed more than once and is already included in the marijuana handler’s fee. Staff agreed this would need to be cleaned up in the final version of the rule.

b. RAC Recommendation.

The majority of the RAC (12 out of 14 voting members) recommends that the Commission adopt this proposed rule, with a suggestion to clarify that the fees are due annually.

6. OAR 845-025-XXXX Late Renewal Fees [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

- (1) If the Commission receives a completed license, permit or certificate renewal application less than 20 days before the date the existing license, permit or certificate expires, the Commission will charge a late renewal fee equal to twenty five percent of the license, permit or certificate fee.*
- (2) If the Commission receives a completed license, permit or certificate renewal application within 30 days after the date the existing license, permit or certificate expires, the Commission will charge a late renewal fee equal to forty percent of the license, permit or certificate fee.*

Staff stated that the percentages in the rule language are modeled after OLCC’s alcohol rule for late renewals. During the discussion staff acknowledged that the marijuana program licensing late fees are higher than the alcohol program licensing late fees because the basic fee structure is higher.

b. Majority Recommendation.

The majority of the RAC (10 out of 14 voting members) recommends that the Commission adopt this rule. The majority feels it is appropriate to charge a late renewal fee in order to offset the cost of extra staffing and other resources involved in processing late renewals, and that late fees are also a mechanism to encourage timely submission of renewal applications.

c. Minority Recommendation.

The minority of the RAC (4 out of 14 voting members) does not recommend that the Commission adopt this rule as written. This segment of the Committee feels that a late renewal fee is generally appropriate, but given the size of the annual fees listed in the rule believes they should be progressive depending on how late the renewal application is. Under the rule as proposed, a renewal application that is late by 1 day will pay the same as an application that is late by 19 days, and the minority believes this is not a fair manner in which to charge late fees. Rather the minority feels a prorated method is more appropriate.

7. OAR 845-025-XXXX Criminal Background Checks [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

- (1) If an individual is required by the Commission to undergo a criminal background check, the individual must provide to the Commission:*
 - (a) A criminal background check request form, prescribed by the Commission that includes but is not limited to:*
 - (A) First, middle and last name;*
 - (B) Any aliases;*
 - (C) Date of birth;*
 - (D) Driver’s license information; and*
 - (E) Address and recent residency information.*
 - (b) Fingerprints in accordance with the instructions on the Commission’s webpage: **
- (2) The Commission may request that an applicant disclose his or her Social Security Number if notice is provided that:*
 - (a) Indicates the disclosure of the Social Security Number is voluntary; and*

- (b) That the Commission requests the Social Security Number solely for the purpose of positively identifying the applicant during the criminal records check process.*
- (3) An applicant's criminal history must be evaluated by the Commission in accordance with ORS 670.280 and section 29(2) and (3), chapter 1, Oregon Laws 2015.*
- (4) The Commission may conduct a criminal background checks in accordance with this rule every year at the time of application renewal.*
- (5) Records concerning criminal background checks must be kept and handled by the Commission in accordance with ORS 181.534(15).*

This proposed rule reflects legislative direction to perform background checks on certain categories of potential licenses. Staff believes the individuals who will require a background check are stated in the rest of the application rules, and therefore do not need to be specified in this rule.

Staff relayed that, by practice, the agency will likely check all parties with a financial interest, particularly in the beginning as the recreational marijuana program rolls out. Staff also anticipates that much like investigations of alcohol licensees, the agency will require disclosure of financial information where there is any reason to suspect illegal activity.

Staff relayed that the discretionary piece will likely be used as a streamlining mechanism for those applying for multiple licenses within short periods of time; for example, if an applicant for a new license has the same financing partners involved in another license, the OLCC may not need to duplicate background checks.

b. RAC Recommendation.

The majority of the RAC (12 out of 14 voting members) recommends that the Commission adopt this proposed rule.

8. OAR 845-025-XXXX Application Review [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

- (1) Once the Commission has determined that an application is complete it must review the application to determine compliance with chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2015, and these rules.*
- (2) The Commission:*
 - (a) Must, prior to acting on an application, request a land use compatibility statement from the city or county that authorizes land use in the city or county in which the applicant's proposed premises is located.*
 - (b) May, in its discretion, prior to acting on an application:*
 - (a) Contact any applicant or individual with a financial interest and request additional documentation or information; and*
 - (b) Verify any information submitted by the applicant.*
- (3) The Commission must inspect the proposed premises prior to issuing a license.*
- (4) If, during an inspection the Commission determines the applicant is not in compliance with these rules, the applicant will be provided with a notice of the failed inspection and the requirements that have not been met.*
 - (a) An applicant that fails an inspection will have 15 calendar days from the date the notice was sent to submit a written response that demonstrates the deficiencies have been corrected.*
 - (b) An applicant may request in writing one extension of the 15 day time limit in subsection (a) of this section, not to exceed 30 days.*

- (5) *If an applicant does not submit a timely plan of correction or if the plan of correction does not correct the deficiencies in a manner that would bring the applicant into compliance, the Commission may deny the application.*
- (6) *If the plan of correction appears, on its face, to correct the deficiencies, the Commission will schedule another inspection.*
- (7) *If an applicant fails a second inspection the Commission may deny the application unless the applicant shows good cause for the Commission to perform additional inspections.*

b. RAC Recommendation.

The RAC unanimously (14 out of 14 voting members) recommends that the Commission adopt this proposed rule.

9. OAR 845-025-XXXX Approval of Application and Issuance of License [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

- (1) *If, after the application review and inspection the Commission determines that an applicant is in compliance with section 3 to 70, chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2015, and these rules the Commission must notify the applicant in writing that the application has been approved and after payment by the applicant of the license fee, provide the applicant with proof of licensure that includes a unique license number, the effective date of the license, date of expiration, and a description of premises for which the license was issued.*
- (2) *A licensee:*
 - (a) *May not operate until on or after the effective date of the license.*
 - (b) *Must display proof of licensure in a prominent place on the premises.*
 - (c) *May not use the Commission name or logo on any signs at the premises, on the business' website, or in any advertising or social media, except to the extent that information is contained on the proof of licensure.*
- (3) *Licensure is only valid for the premises indicated on the license and is only issued to the individuals or entities listed on the application or subsequently approved by the Commission.*
- (4) *A license may not be transferred except as provided in OAR 845-025-XXXX.*

b. RAC Recommendation.

The RAC unanimously (16 out of 16 voting members) recommends that the Commission adopt this proposed rule.

10. OAR 845-025-XXXX Denial of Application [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

- (1) *The Commission must deny an initial or renewal application if:*
 - (a) *An applicant is under the age of 21 or until January 1, 2020, has not been a resident or Oregon for at least two years.*
 - (b) *The applicant's land use compatibility statement shows that the proposed land use is prohibited in the applicable zone.*
 - (c) *The proposed licensed premises is located:*
 - (A) *On federal property.*
 - (B) *At the same physical location or address as a:*

- (i) Medical marijuana grow site registered under ORS 475.304, unless the grow site is also licensed under section 116, chapter 614, Oregon laws 2015;
- (ii) Medical marijuana processing site registered under section 85, chapter 614, Oregon Laws 2015; or
- (iii) Medical marijuana dispensary registered under ORS 475.314.
- (C) At the same physical location or address as a liquor licensee licensed under ORS Chapter 471 or as a retail liquor agent appointed by the Commission.
- (d) The proposed licensed premises of a producer applicant is:
 - (A) On public land; or
 - (B) On the same tax lot as another producer licensee under common ownership.
- (e) The proposed licensed premises of a processor who has applied for an endorsement to process extracts is located in an area that is zoned exclusively for residential use.
- (f) The proposed licensed premises of a retail applicant is located:
 - (A) Within 1,000 feet of:
 - (i) A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or
 - (ii) A private or parochial elementary school, teaching children as described in ORS 339.030.
 - (B) In an area that is zoned exclusively for residential use.
- (g) The proposed licensed premises of a wholesaler applicant is in an area zoned exclusively for residential use.
- (h) A city or county has prohibited the license type for which the applicant is applying, in accordance with sections 133 or 134, chapter 614, Oregon Laws 2015.
- (2) The Commission may deny an initial or renewal application, unless the applicant shows good cause to overcome the denial criteria, if it has reasonable cause to believe that:
 - (a) The applicant:
 - (A) Is in the habit of using alcoholic beverages, habit-forming drugs, marijuana, or controlled substances to excess.
 - (B) Has made false statements to the commission.
 - (C) Is incompetent or physically unable to carry on the management of the establishment proposed to be licensed.
 - (D) Is not of good repute and moral character.
 - (E) Does not have a good record of compliance with sections 3 to 70, chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2015, or these rules, prior to or after licensure including but not limited to:
 - (i) The giving away of marijuana items as a prize, premium or consideration for a lottery, contest, game of chance or skill, or competition of any kind, in violation of section 49, chapter 614, Oregon Laws 2015;
 - (ii) Providing marijuana items to an individual without checking that the individual is 21 or older; or
 - (iii) Unlicensed transfer of marijuana items for financial consideration.
 - (F) Is not possessed of or has not demonstrated financial responsibility sufficient to adequately meet the requirements of the business proposed to be licensed.
 - (G) Is unable to understand the laws of this state relating to marijuana or these rules, including but not limited to ORS 475.300 to 475.346 and sections 91 to 99, chapter 614, Oregon Laws 2015. Inability to understand laws and rules of this state related to marijuana may be demonstrated by violations documented by the Oregon Health Authority.
- (b) That any individual listed on the application has been convicted of violating a general or local law of this state or another state, or of violating a federal law, if the conviction is substantially related to the fitness and ability of the applicant to lawfully carry out activities under the license, except as specified in Section 29(3), chapter 1, Oregon Laws 2015.
- (c) Any applicant is not the legitimate owner of the business proposed to be licensed, or other persons have an ownership interest in the business have not been disclosed to the commission.

- (3) *The commission may refuse to issue a license to any license applicant or refuse to renew the license of any licensee, when conditions exist in relation to any person having a financial interest in the business or in the place of business which would constitute grounds for refusing to issue a license or for revocation or suspension of a license if such person were the license applicant or licensee. However, in cases where the financial interest is held by a corporation, only the officers and directors of the corporation, any individual or combination of individuals who own a controlling financial interest in the business shall be considered persons having a financial interest within the meaning of this subsection.*
- (4) *The Commission will not deny an application under subsections (1)(c)(B) of this rule if the applicant surrenders the registration issued by the Authority prior to being issued an OLCC license.*
- (5) *If the Commission denies an application because an applicant submitted false or misleading information to the Commission, the Commission may prohibit the applicant from re-applying for 5 years.*
- (6) *A notice of denial must be issued in accordance with ORS 183.*

Staff relayed that much of the listed denial criteria comes directly from HB 3400, and therefore is unchangeable. RAC members raised two specific concerns with the proposed rule: a lack of denial criteria for local ordinances, and the denial criteria for co-location. With regards to co-location, staff noted that because HB 3400 precludes OLCC from inspecting any medical marijuana establishment, the agency does not believe it can effectively perform compliance checks under these circumstances. This overriding enforcement concern is the basis for not issuing recreational licenses to medical marijuana facilities. Specifically, staff believes that because the OLCC can only inspect the portions of a facility that are recreational, this will severely hamper the agency's ability to maintain a robust regulatory system that effectively and efficiently tracks legal, taxable marijuana sales.

Staff listened to several RAC members' concerns regarding the lack of a denial criteria based on violation of local ordinances. Staff reminded the Committee that there is no mechanism for the agency to become knowledgeable about every local governments' ordinances related to recreational marijuana, nor does the agency have the resources to evaluate whether each individual application is consistent with each individual local governments' laws and ordinances. As such staff feels that local governments are in the best position to make such determinations. Additionally, staff noted that adding a local ordinance basis to the denial criteria would require the agency to offer hearings rights under ORS Chapter 183 for all such denials. This would put OLCC in the position of having to defend the reasonableness of all such ordinances, which, in staff's assessment, is also best left to local governments to do.

b. RAC Recommendation.

The majority of the RAC (12 out of 14 voting members) does not recommend that the Commission adopt this rule as written. The reasoning is split; approximately half of the majority voiced strong concerns about not including application denial criteria that can be applied to violations of local ordinances. These members stated clearly that they want violations of local laws or ordinances to be included as a denial criterion. The remaining half of the majority voiced opposition to the prohibition against co-location of recreational and medical marijuana facilities.

11. OAR 845-025-XXXX Withdrawal of Application ([return to index](#))

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

An applicant may withdraw an initial or renewal application at any time prior to the Commission acting on the application unless the Commission has determined that the applicant

submitted false or misleading information in which case the Commission may refuse to accept the withdrawal and may issue a notice of proposed denial in accordance with OAR 845-025-XXXX.

b. RAC Recommendation.

The RAC unanimously (16 out of 16 voting members) recommends that the Commission adopt this proposed rule.

12. OAR 845-025-XXXX Communication with Commission [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

- (1) If an applicant or licensee is required to or elects to submit anything in writing to the Commission, unless there is a more specific rule that states otherwise, the applicant or licensee may submit the writing to the Commission via:*
 - (a) Mail;*
 - (b) In-person delivery;*
 - (c) Facsimile; or*
 - (d) E-mail.*
- (2) If a written notification must be submitted by a particular deadline it must be received, regardless of the method used to submit the writing, by 5:00 p.m. Pacific Time.*

b. RAC Recommendation.

The RAC unanimously (14 out of 14 voting members) recommends that the Commission adopt this proposed rule.

13. OAR 845-025-XXXX Notification of Changes [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

- (1) An applicant or licensee must notify the Commission in writing within 10 calendar days of any of the following:*
 - (a) A change in any contact information for anyone listed in an application or subsequently identified as an applicant or an individual with a financial interest;*
 - (b) The Arrest or conviction for any misdemeanor or felony of an individual listed in an application or subsequently identified as an applicant, licensee or individual with a financial interest*
 - (c) A disciplinary proceeding or licensing enforcement action by another governmental entity that may affect the licensee's business;*
 - (d) The filing of bankruptcy;*
 - (e) The closure of bank accounts or credit cards by a financial institution;*
 - (f) The theft of marijuana items or money from the licensed premises;*
 - (g) The temporary closure of the business for longer than 30 days; or*
 - (h) The permanent closure of the business.*
- (2) Change of Ownership. If a licensee has a change in ownership that is 51% or greater, a new application must be submitted in accordance with OAR 845-025-XXXX.*
- (3) Changes in Financial Interest or Business Structure. A licensee that proposes to change its corporate structure or change who has a financial interest in the business must submit a form prescribed by the Commission, and any information identified in the form to be submitted, to the Commission, prior to making such a change.*

- (a) *The Commission must review the form and other information submitted under subsection (1) of this rule, and will approve the change if the change would not result in an initial or renewal application denial under OAR 845-025-XXXX, or serve as the basis of a license suspension or revocation.*
- (b) *If the Commission denies the change but the licensee proceeds with the change the licensee must surrender the license or the Commission will propose to suspend or cancel the license.*
- (c) *The Commission will not accept a form for a change in corporate structure or financial interest if the license is expiring in less than 90 days or if the licensee is under investigation by the Commission or has been issued a Notice by the Commission following an alleged violation and the alleged violation has not been resolved.*
- (4) *Change of Location. A licensee who wishes to change the location of the licensed premises must submit an application form and the fee specified in OAR 845-025-XXXX but does not need to submit information and fingerprints required for a criminal background check, or individual history forms if there are no changes to the individuals listed on the initial application.*
 - (a) *A licensee must submit an operating plan as described in OAR 845-025-XXXX if the business operations will change at the proposed new location.*
 - (b) *The commission must approve any change of location prior to licensee beginning business operations in the new location.*

b. RAC Recommendation.

The RAC unanimously (16 out of 16 voting members) recommends that the Commission adopt this proposed rule.

14. 845-025-XXXX Changing, Altering, or Modifying Licensed Premises [\(return to index\)](#)

a. Proposed Language.

- (1) *A licensee may not make any physical changes to the licensed premises that materially or substantially alters the licensed premises or the usage of the licensed premises from the plans originally approved by the Commission, without the Commission's prior written approval.*
- (2) *A licensee who intends to make any material or substantial changes to the licensed premises must submit a form prescribed by the Commission, and submit any information identified in the form to be submitted, to the Commission, prior to making any such changes.*
- (3) *The Commission must review the form and other information submitted under subsection (2) of this rule, and will approve the changes if the changes would not result in an initial or renewal application denial under OAR 845-025-XXXX.*
- (4) *If the Commission denies the change the licensee must not make the proposed changes. If the licensee makes the proposed changes, the licensee must surrender the license or the Commission will propose to suspend or cancel the license.*
- (5) *For purposes of this rule a material or substantial change requiring approval includes, but is not limited to:*
 - (a) *Any increase or decrease in the total physical size or capacity of the licensed premises;*
 - (b) *The sealing off, creation of or relocation of a common entryway, doorway, passage or other such means of public ingress or egress, when such common entryway, doorway or passage alters or changes limited access areas, such as the areas in which cultivation, harvesting, processing, or sale of marijuana items occurs within the licensed premises;*
or
 - (c) *Any physical change that would require the installation of additional video surveillance cameras or a change in the security system.*

b. RAC Recommendation.

The RAC unanimously (16 out of 16 voting members) recommends that the Commission adopt this proposed rule.

15. OAR 845-025-XXXX License Renewal [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

(1) Renewal Applications:

(a) Any licensee who files a completed renewal application with the Commission at least 20 days before the date the license expires may continue to operate as if the license were renewed, pending a decision by the Commission;

(b) Any licensee who does not file a completed renewal application at least 20 days before the existing license expires must stop engaging in any licensed activity when the license expires. However:

(A) If the Commission receives a completed license renewal application less than 20 days before the date the existing license expires, the Commission will, upon receipt of the appropriate late renewal fee in OAR 845-025-XXXX, issue a letter of authority to operate beyond the expiration of the license, pending a decision by the Commission;

(B) A licensee must not engage in any licensed activity after the license expires. If the Commission receives a completed license renewal application within 30 days after the date the existing license expires, the Commission will, upon receipt of the appropriate late renewal fee in OAR 845-025-XXXX, issue a letter of authority to resume operation, pending a decision by the Commission.

(c) The Commission will not renew a license if the Commission receives the renewal application more than 30 days after the license expires. A person who wants to resume licensed activity in this circumstance:

(A) Must submit a completed new application, including the documents and information required by the Commission.

(B) Must not engage in any licensed activity unless and until they receive authority to operate from the Commission after submitting the completed new application.

(d) A person relicensed under section (1)(c) of this rule who engaged in any activity that would require a license while not licensed, in violation of section (1)(b)(B) of this rule, may be subject to administrative and criminal sanctions.

(e) A person who engages in any activity that requires a license but is not licensed may be subject to criminal prosecution.

(f) For purposes of this rule, a completed application:

(A) Is considered filed when received by the Commission; and

(B) Is one that is completely filled out, is signed by all applicants and includes the appropriate fee.

c. RAC Recommendation.

The RAC unanimously (16 out of 16 voting members) recommends that the Commission adopt this proposed rule.

16. OAR 845-025-XXXX Financial and Business Records [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

In addition to any other record keeping requirements in these rules a marijuana licensee must have and maintain records that clearly reflect all financial transactions and the financial

condition of the business. The following records must be kept and maintained for a three-year period and must be made available for inspection if requested by an employee of the Commission:

- (1) Purchase invoices and supporting documents for items and services purchased for use in the production, processing, research, testing and sale of marijuana items that include from whom the items were purchased, and the date of purchase.*
- (2) Bank statements for any accounts relating to the licensed business;*
- (3) Accounting and tax records related to the licensed business.*
- (4) Documentation of all financial transactions related to the licensed business, including contracts and agreements for services performed or received that relate to the licensed business.*
- (5) All employee records, including training.*

b. RAC Recommendation.

The RAC unanimously (14 out of 14 voting members) recommends that the Commission adopt this proposed rule.

17. OAR 845-025-XXXX Standardized Scales [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

A licensee must use an Oregon Department of Agriculture licensed weighing device of appropriate size and capacity as defined in ORS Chapter 618 and OAR 603, Division 27:

- (1) Whenever marijuana items are bought and sold by weight;*
- (2) Whenever marijuana items are packaged for sale by weight; and*
- (3) Whenever marijuana items are weighed for entry into CTS.*

b. RAC Recommendation.

The RAC unanimously (14 out of 14 voting members) recommends that the Commission adopt this proposed rule.

18. OAR 845-025-XXXX Licensed Premises Restrictions and Requirements [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

(1) A licensed premises may not be located:

- (a) On federal property.*
- (b) At the same physical location or address as a:
 - (A) Medical marijuana grow site registered under ORS 475.304, unless the grow site is also licensed under section 116, chapter 614, Oregon laws 2015;*
 - (B) Medical marijuana processing site registered under section 85, chapter 614, Oregon Laws 2015; or*
 - (C) Medical marijuana dispensary registered under ORS 475.314.*
 - (D) Liquor licensee licensed under ORS Chapter 471 or as a retail liquor agent appointed by the Commission.**
- (2) The licensed premises of a producer applicant may not be on:
 - (a) Public land.*
 - (b) The same tax lot as another producer licensee under common ownership.**
- (3) The licensed premises of a retailer may not be located:
 - (a) Within 1,000 feet of:**

- (A) *A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or*
- (B) *A private or parochial elementary school, teaching children as described in ORS 339.030.*
- (b) *In an area that is zoned exclusively for residential use.*
- (c) *The licensed premises of a processor who has an endorsement to process extracts may not be located in an area that is zoned exclusively for residential use.*
- (4) *The licensed premises of a processor, wholesaler, laboratory and retailer must be enclosed on all sides by permanent walls and doors.*
- (5) *A licensee may not permit:*
 - (a) *Any minor on a licensed premises except as described in section (6) and (7) of this rule;*
 - (b) *On-site consumption of a marijuana item, alcohol, or other intoxicant by any individual.*
- (6) *Notwithstanding section (5)(a) of this rule, a minor, other than a licensee's employee, who has a legitimate business purpose for being on the licensed premises, may be on the premises for a limited period of time in order to accomplish the legitimate business purpose. For example, a minor plumber may be on the premises in order to make a repair.*
- (7) *Notwithstanding section (5)(a) of this rule, a minor who resides on the tax lot where a marijuana producer is licensed may be present on those portions of a producer's licensed that do not contain usable marijuana or cut and drying marijuana plants.*
- (8) *A licensee must clearly identify all limited access areas in accordance with OAR 845-025-XXXX.*
- (9) *A licensee must keep a daily log of all employees, contractors and license representatives who perform work on the licensed premises. All employees, contractors and licensee representatives must wear clothing or a badge issued by the licensee that easily identifies the individual as an employee, contractor or licensee representative.*
- (10) *The general public is not permitted on a licensed premises, except for the licensed premises of a retailer and as provided by section (13) of this rule. In addition to licensee representatives, the following individuals are permitted on a licensed premises, including limited access areas, subject to the requirements in section (11) of this rule:*
 - (a) *Laboratory personnel, if the laboratory is licensed by the Commission;*
 - (b) *A contractor authorized by a licensee representative to be on the licensed premises;*
 - (c) *Another licensee or that licensee's representative; or*
 - (d) *Up to five invited guests per week subject to requirements of section (11) of this rule; or*
 - (e) *Tour groups as permitted under section (13) of this rule.*
- (11) *Prior to entering a licensed premises all visitors permitted by section (10) of this rule must be documented and issued a visitor identification badge from a licensee representative that must remain visible while on the licensed premises. A visitor badge is not required for government officials. All visitors described in subsection (10) of this rule must be accompanied by a licensee representative at all times.*
- (12) *A licensee must maintain a log of all visitor activity.*
- (13) *A marijuana producer may offer tours of the licensed premises to the general public if the licensee submits a control plan in writing and the plan is approved by the Commission.*
 - (a) *The plan must describe how conduct of the individuals on the tour will be monitored, how access to usable marijuana will be limited, and what steps the licensee will take to ensure that no minors are permitted on the licensed premises.*
 - (b) *The Commission may withdraw approval of the control plan if the Commission finds there is poor compliance with the plan. Poor compliance may be indicated by, for example, individuals on the tour not being adequately supervised, an individual on the tour obtaining a marijuana item while on the tour, a minor being part of a tour, or the tours creating a public nuisance.*
- (14) *Nothing in this rule is intended to prevent or prohibit Commission employees or contractors, or other state or local government officials that have jurisdiction over some aspect of the licensed premises or licensee from being on the licensed premises.*
- (15) *A licensee may not sublet any portion of a licensed premises.*

(16) A licensed premises may receive marijuana items only from a marijuana producer, marijuana processor, or marijuana wholesaler for whom a premises has been licensed by the commission.

Staff intends for this proposed rule to limit the public's access to licensed facilities, while providing a mechanism for tours and public visits as requested by a number of the advisory committees. Staff believes that while minors should be generally denied access to licensed premises, a minor who lives on the licensed premises (i.e. the family farm scenario) or is on the premises for a legitimate business purpose should be allowed.

Given that HB 3400 forbids use of marijuana in public places, however, staff believes that this precludes use of marijuana on licensed premises, and drafted this rule to reflect this. Staff also noted that because HB 3400 precludes OLCC regulatory specialists from inspecting medical marijuana facilities, OLCC cannot effectively regulate any co-located medical and recreational businesses.

b. RAC Recommendation.

The majority of the RAC (13 out of 14 voting members) does not recommend that the Commission adopt this rule as written. The rule contains the same probation to co-locate medical and recreational facilities and was considered objectionable by some members.

Some of the majority believes that because marijuana use was legalized in this state, there should be efforts made to allow usage in regulated locations, outside of the private residence. Several members of the majority believe that Oregon has all the makings to develop a robust and profitable cannabis tourism industry, but as with alcohol will need provision for use (tasting) on licensed premises in order to make that a reality. Several members of the Committee expressed the belief that use of marijuana should and can be regulated just like alcohol, where specific control plans could be put in place to protect public safety concerns, and that in fact it is more in the public's interest to provide safe, legal locations in which people can sample the products they can legally purchase.

Several members also objected to only allowing 5 guests per week on the licensed premise.

Several members supported on site consumption for owners and employees who carry OMMP cardholders. They recommend including OHA rule language that allows certain OMMP cardholders to consume on premise as long as it is not in public view and they were not visibly impaired.

Several members of the majority also expressed support for a concern that prohibiting a licensed marijuana producer from using marijuana on their entire tax lot would negatively impact the family farm setting. Staff explained that the licensure of an entire tax lot for outdoor farm grow site is a statutory provision. It would require a legislative fix to change the definition so the licensing restrictions and requirements didn't impact the entire tax lot.

19. OAR 845-025-XXXX Signage [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

(1) A licensee must post:

(a) At every entrance to a licensed premises signs that read:

(A) "No Minors Permitted Anywhere on This Premises"; and

(B) "No On-Site Consumption of Marijuana"; and

- (b) *At all areas of ingress or egress to a limited access area a sign that reads: “Do Not Enter – Limited Access Area – Access Limited to Licensed Personnel and Escorted Visitors.”*
- (2) *All signs required by this rule must be legible, not less than 12 inches wide and 12 inches long, composed of letters not less than one-half inch in height, and be in English and Spanish.*

b. RAC Recommendation.

The majority of the RAC (13 out of 14 voting members) does not recommend that the Commission adopt this proposed rule because the signage reflects a variety of proposed policies objected to by a variety of different RAC members. Those reasons are stated in the recommendation on the proposed “Licensed Premises Restrictions and Requirements” rule listed above.

Several members also expressed concern that posting signs on the outside of buildings containing indoor grow sites was not a good idea and presented a security issue. They also thought posting signs at the entrances and exits of outdoor grow sites was unworkable.

20. OAR 845-025-XXXX Standards for Authority to Operate a Licensed Business as a Trustee, a Receiver, a Personal Representative or a Secured Party [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

- (1) *The Commission may issue a temporary authority to operate a licensed business to a trustee, the receiver of an insolvent or bankrupt licensed business, the personal representative of a deceased licensee, or a person holding a security interest in the business for a reasonable period of time to allow orderly disposition of the business.*
 - (a) *The trustee, receiver or personal representative must provide the Commission with the following information:*
 - (A) *Proof that the person is the legal trustee, receiver or personal representative for the business; and*
 - (B) *A written request for authority to operate as a trustee, receiver or personal representative, listing the address and telephone number of the trustee, receiver or personal representative.*
 - (b) *The secured party must provide the Commission with the following information:*
 - (A) *Proof of a security interest in the licensed business;*
 - (B) *Proof of the licensee’s default on the secured debt;*
 - (C) *Proof of legal access to the real property; and*
 - (D) *A written request for authority to operate as a secured party listing the secured party’s address and telephone number.*
- (2) *The Commission may cancel or refuse to issue or extend authority for the trustee, receiver, personal representative, or secured party to operate:*
 - (a) *If the trustee, receiver, personal representative or secured party does not propose to operate the business immediately or does not begin to operate the business immediately upon receiving the temporary authority;*
 - (b) *For any of the reasons that the Commission may cancel or refuse to issue or renew a license;*
 - (c) *If the trustee, receiver, personal representative or secured party operates the business in violation of chapters 1 and 614, Oregon Laws 2015, or these rules; or*
 - (d) *If a reasonable time for disposition of the business has elapsed.*
- (3) *No person or entity described in section (1) of this rule may operate the business until a certificate of authority has been issued under this rule, except that the personal representative of a deceased licensee may operate the business for up to 10 days after the death provided that the personal representative submits the information required in section (1)(a) of this rule and obtains a certificate of authority within that time period.*

(4) A certificate of authority under this rule is initially issued for a 60-day period and may be extended as reasonably necessary to allow for the disposition of the business.

b. RAC Recommendation.

The RAC unanimously (14 out of 14 voting members) recommends that the Commission adopt this proposed rule.

21. OAR 845-025-XXXX Closure of a Business [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

- (1) A license expires upon death of a licensee unless the Commission issues an order as described in subsection (2) of this rule.
- (2) The Commission may issue an order providing for the manner and condition under which:
 - (a) Marijuana items left by a deceased, insolvent or bankrupt person or licensee, or subject to a security interest, may be foreclosed, sold under execution or otherwise disposed.
 - (b) The business of a deceased, insolvent or bankrupt licensee may be operated for a reasonable period following the death, insolvency or bankruptcy.
- (3) A secured party, as defined in ORS 79.0102, may continue to operate a business for which a license has been issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015 for a reasonable period after default on the indebtedness by the debtor.
- (4) If a license is canceled the Commission must address in its order the manner and condition under which marijuana items held by the licensee may be transferred or sold.

b. RAC Recommendation.

The RAC unanimously (14 out of 14 voting members) recommends that the Commission adopt this proposed rule.

22. OAR 845-025-XXXX Licensee Responsibility [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

- A licensee is responsible for:*
- (1) The violation of any administrative rule of the Commission, sections 3 to 70, chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2015, or chapter 699, Oregon Laws 2015 affecting the licensee's license privileges.
 - (2) Any act or omission of a licensee representative in violation of any administrative rule of the Commission, sections 3 to 70, chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2015, or chapter 699, Oregon Laws 2015 affecting the licensee's license privileges.

b. RAC Recommendation.

The majority of the RAC (11 out of 14 voting members) recommends that the Commission adopt this proposed rule.

23. OAR 845-025-XXXX Licensee Prohibitions [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

- (1) A licensee may not:
- (a) Import into this state or export from this state any marijuana items;
 - (b) Give marijuana items as a prize, premium or consideration for a lottery, contest, game of chance or game of skill, or competition of any kind;
 - (c) Sell, give or otherwise make available any marijuana items to any person who is visibly intoxicated;
 - (d) Make false representations or statements to the commission in order to induce or prevent action by the commission;
 - (e) Maintain a noisy, disorderly or insanitary establishment or supply adulterated marijuana items;
 - (f) Misrepresent any marijuana item to a customer or to the public;
 - (g) Sell any marijuana item through a drive-up window;
 - (h) Deliver marijuana to any consumer off the licensed premises except as permitted by OAR 845-025-XXXX [delivery rule];
 - (i) Sell or offer to sell a marijuana item that does not comply with the minimum standards prescribed by the statutory laws of this state; or
 - (j) Use or allow the use of a mark or label on the container of a marijuana item that is kept for sale if the container does not precisely and clearly indicate the nature of the container's contents or in any way might deceive a customer as to the nature, composition, quantity, age or quality of the marijuana item.
- (2) No licensee or licensee representative may be under the influence of intoxicants while on duty. Whether a person is paid or scheduled for work is not determinative of whether the person is considered "on duty" under this subsection.
- (a) For purposes of this rule "on duty" means:
- (A) The beginning of a work shift that involves the handling or sale of marijuana items, checking identification or controlling conduct on the licensed premises, to the end of the shift including coffee and meal breaks;
 - (B) For an individual working outside a scheduled work shift, the performance of acts on behalf of the licensee that involve the handling or sale of marijuana items, checking identification or controlling conduct on the licensed premises, if the individual has the authority to put himself or herself on duty; or
 - (C) A work shift that includes supervising those who handle or sell marijuana items, check identification or control the licensed premises.

b. RAC Recommendation.

The majority of the RAC (12 out of 14 voting members) does not recommend that the Commission adopt this rule as written. Specifically, the majority objects to the prohibition against using medical marijuana "on duty", and believe that an exception should be created for OMMP patients in a way that is mirrors OHA rules on the matter.

SECURITY

1. OAR 845-025-XXXX Security Plans [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

- (1) A licensee may, in writing, request that the Commission waive one or more of the security requirements described in [x-ref all rules in the security section] by submitting a security plan for Commission approval. The security plan must include:
 - (a) The specific rules and subsections of a rule that is requested to be waived;
 - (b) The reason for the waiver;
 - (c) A description of an alternative safeguard the licensee can put in place in lieu of the requirement that is the subject of the waiver;
 - (d) An explanation of how and why the alternative safeguard accomplishes the goals of the security rules, specifically public safety, prevention of diversion, accountability, and prohibiting access to minors.
- (2) The Commission may, in its discretion, and on a case by case basis, approve the security plan if it finds:
 - (a) The reason the licensee is requesting the waiver is because another state or local law prohibits the particular security measure that is required; or
 - (b) The licensee cannot, for reasons beyond the licensee's control or is cost prohibitive, comply with the particular security measure that is required; and
 - (c) The alternative safeguard that is proposed meets the goals of the security rules.
- (3) The Commission must notify the licensee in writing, whether the security plan has been approved. If the security plan is approved the notice must specifically describe the alternate safeguards that are required and, if the security plan is time limited, must state the time period the security plan is in effect.
- (4) The Commission may withdraw approval of the security plan at any time upon a finding that the previously approved alternative measures are not sufficient to accomplish the goals of the security rules. If the Commission withdraws its approval of the security plan the licensee will be given a reasonable period of time to come into compliance with the security requirement that was waived.

Staff noted that this rule allows applicants to apply for a waiver of most security requirements listed throughout the rules. The applicant is required to submit a security plan that demonstrates the applicant alternative plan can meet the Commission's stated security goals. Staff will approve the security plan if the alternative safeguards accomplishes the goal of the particular rule in question. The allowance for a waiver was based on comments from all advisory committees requesting more flexibility in security plans depending on the specific needs and characteristics of individual businesses.

b. RAC Recommendation.

The RAC unanimously (14 out of 14 voting members) recommends that the Commission adopt this proposed rule.

2. OAR 845-025-XXXX Security Requirements [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

- (1) A licensee is responsible for the security of all marijuana items on the licensed premises, including providing adequate safeguards against theft or diversion of marijuana items and records that are required to be kept.
- (2) The licensee must ensure that commercial grade, non-residential door locks are installed on every external door of a licensed premises where marijuana items are present.
- (3) During all hours when the licensee is not operating a licensee must ensure that:
 - (a) All entrances to and exits from a licensed premises are securely locked and any keys or key codes to the enclosed area remain in the possession of the licensee, licensee representative, or authorized personnel; and
 - (b) All marijuana items on a licensed retailer's premises are kept in a safe or vault as those terms are defined in OAR 845-025-XXXX.

- (c) *All marijuana items on the licensed premises of a licensee other than a retailer are kept in a locked, enclosed area within the licensed premises that is secured with a door that contains a multiple-position combination lock or the equivalent and a relocking device or the equivalent.*
- (4) *A licensee must:*
 - (a) *Have an encrypted network infrastructure;*
 - (b) *Have an electronic back-up system for all electronic records; and*
 - (c) *Keep all video recordings and archived required records not stored electronically in a locked storage area. Current records may be kept in a locked cupboard or desk outside the locked storage area during hours when the licensed business is open.*

Currently, the OMMP system requires that dispensaries lock up all marijuana items in a vault or safe after business hours, and this rule reflects staff's attempt to keep the security requirements between the two industries consistent. Additionally, staff believes that marijuana's high dollar value in conjunction with the ease of transporting it makes retail stores in particular a prime target for robberies, and as a public safety matter it is prudent to require locking up all product during non-business hours at least while the industry is just getting developed.

b. Majority Recommendation.

The majority of the RAC (9 out of 14 voting members) does not recommend that the Commission adopt this proposed rule as written. The majority feels that a requirement to move all product into a locked safe or vault during non-businesses hours is excessive, as it could take dispensary owners hours of extra work daily to comply with this requirement. The majority believes this should be left to the owner as a business decision and is simply not necessary, based on other security requirements such as alarm systems, locked doors, third-party monitoring and surveillance equipment.

c. Minority Recommendation.

The minority of the RAC (5 out of 14 voting members) recommends that the Commission adopt this proposed rule as written. The minority believes that the high value of marijuana items necessitates extra security measures in order to deter theft, particularly as the industry is just getting started. The minority agrees that it is beneficial for regulators and the industry to keep security requirements in the medical and recreational retail systems consistent. OMMP dispensaries are required to lock up items each day therefore recreational stores should meet this same standard.

3. OAR 845-025-XXXX Alarm System [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

- (1) *A licensed premises must have a fully operational security alarm system on all:*
 - (a) *Entry or exit points; and*
 - (b) *Perimeter windows.*
- (2) *The security alarm system for the licensed premises must:*
 - (a) *Be able to detect movement within any indoor area on the licensed premises;*
 - (b) *Be programmed to notify a security company that will notify the licensee, licensee representative or authorized personnel in the event of a breach; and*
 - (c) *Have at least two operational "panic buttons" located inside the licensed premises that are linked with the alarm system that notifies a security company.*
- (3) *Upon request licensees shall make all information related to security alarm systems, monitoring and alarm activity available to the commission.*

b. RAC Recommendation.

The RAC unanimously (14 out of 14 voting members) recommends that the Commission adopt this proposed rule.

4. OAR 845-025-XXXX Video Surveillance Equipment [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

- (1) A licensed premises must have a fully operational video surveillance recording system.
- (2) Video surveillance equipment must, at a minimum:
 - (a) Consist of:
 - (A) Digital or network video recorders;
 - (B) Cameras capable of meeting the requirements of OAR 825-025-XXXX and this rule;
 - (C) Video monitors;
 - (D) Digital archiving devices; and
 - (E) A minimum of one monitor on premise capable of viewing video;
 - (F) A printer capable of producing still photos.
 - (b) Be equipped with a failure notification system that provides, within one hour, notification to the licensee or an authorized representative of any prolonged surveillance interruption or failure; and
 - (c) Have sufficient battery backup to support a minimum of one hour of recording time in the event of a power outage.
- (3) A licensee's video surveillance system must be capable of recording all pre-determined surveillance areas in any lighting conditions.
- (4) All video surveillance equipment and recordings must be stored in a locked secure area that is accessible only to the licensee, licensee representatives, or authorized personnel, and the Commission.
- (5) In limited access areas, as that term is defined in OAR 845-025-XXXX all cameras shall have minimum resolution of 1280 x 720 px and record at 10 fps (frames per second).
- (6) In exterior perimeter and non-limited access area cameras shall have a minimum resolution of 1280 x 720 px and record at least 5 fps, except where coverage overlaps any limited access areas such as entrances or exits and in those overlap areas cameras must record at 10 fps.

b. RAC Recommendation.

The RAC unanimously (14 out of 14 voting members) recommends that the Commission adopt this proposed rule.

5. OAR 845-025-XXXX Required Camera Coverage and Camera Placement [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

- (1) A licensed premises must have camera coverage, as applicable, for:
 - (a) All limited access areas as that term is defined in OAR 845-025-XXXX;
 - (b) All point of sale areas;
 - (c) All points of entry to or exit from limited access areas; and
 - (d) All points of entry to or exit from the licensed premises;
- (2) A licensee must ensure that cameras are placed so that they capture clear and certain images of any individual and activity occurring:
 - (a) Within 15 feet both inside and outside of all points of entry to and exit from the licensed premises; and

(b) Anywhere within secure or limited access areas on the licensed premises.

b. RAC Recommendation.

The RAC unanimously (14 out of 14 voting members) recommends that the Commission adopt this proposed rule.

6. OAR 845-025-XXXX Video Recording Requirements for Licensed Facilities [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

- (1) A licensee must have cameras that continuously record 24 hours a day all areas with marijuana items on the licensed premise.*
- (2) A licensee must:*
 - (a) Use cameras that record at a minimum resolution of 1280 x 720 px.*
 - (a) Keep all surveillance recordings for a minimum of 30 calendar days and in a format that can be easily accessed for viewing and easily reproduced. (b) Have a surveillance system that has the capability to produce a still photograph from any camera image.*
 - (c) Have the date and time embedded on all surveillance recordings without significantly obscuring the picture.*
 - (d) Archive video recordings in a format that ensures authentication of the recording as a legitimately-captured video and guarantees that no alterations of the recorded image has taken place.*
 - (e) Keep surveillance recordings for periods exceeding 30 days upon request of the Commission and make video surveillance records and recordings available upon request to the Commission for the purpose of ensuring compliance with the Act and these rules.*
 - (f) Immediately notify the Commission of any equipment failure or system outage lasting 30 minutes or more.*
- (3) Failure to comply with subsections (2)(e) or (f) of this rule is a Category I violation and may result in license revocation.*

b. RAC Recommendation.

The RAC unanimously (14 out of 14 voting members) recommends that the Commission adopt this proposed rule.

7. OAR 845-025-XXXX Location and Maintenance of Surveillance Equipment [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

- (1) A licensee must have the:*
 - (a) Surveillance room or surveillance area in a limited access area.*
 - (b) Surveillance recording equipment housed in a designated, locked, and secured room or other enclosure with access limited to:*
 - (A) The licensee, licensee representatives, and authorized personnel*
 - (B) Employees of the Commission;*
 - (C) State or local law enforcement agencies for a purpose authorized under the Act, these rules, or for any other state or local law enforcement purpose; and*
 - (D) Service personnel or contractors.*
- (2) A licensee must keep a current list of all authorized employees and service personnel who have access to the surveillance system and room on the licensed premises.*
- (3) Licensees must keep a surveillance equipment maintenance activity log on the licensed premises to record all service activity including the identity of any individual performing*

the service, the service date and time and the reason for service to the surveillance system.

(4) Off-site monitoring and video recording storage of the licensed premises by a licensee or an independent third-party is authorized as long as standards exercised at the remote location meet or exceed all standards for on-site monitoring.

b. RAC Recommendation.

The RAC unanimously (14 out of 14 voting members) recommends that the Commission adopt this proposed rule.

8. OAR 845-025-XXXX Producer Security Requirements [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

(1) In addition to the security requirements in OAR 845-025-XXXX to 845-025-XXXX a producer must effectively prevent public access and obscure from public view all areas of marijuana production. A producer may satisfy this requirement by:

(a) Submitting a security plan as described in (x-ref);

(b) Fully enclosing indoor production on all sides so that no aspect of the production area is visible from the exterior satisfies; or

(c) Erecting a solid wall or fence on all exposed sides of an outdoor production area that is at least eight (8) feet high.

(2) If a producer chooses to dispose of usable marijuana by any method of composting, as described in OAR 845-025-xxxx (general waste disposal rule), the producer must prevent public access to the composting area and obscure the area from public view.

Staff provided feedback on the requirement for a solid fence or wall, noting that it is designed to protect both the public and growers as well as be consistent with the statutory provisions regarding visibility of personal plants. Staff also noted that growers could receive a waiver of these specific requirements through the “Security Plan” rule above, if there are reasons that high/solid fences are not feasible or inadvisable.

b. Majority Recommendation.

The majority of the RAC (8 out of 14 voting members) does not recommend that the Commission adopt this rule as written. This segment of the Committee believes the 8’ fencing requirement on the exposed sides of a grow operation is excessive, particularly for rural farms. Several members of the majority expressed the belief that the requirement is obtrusive from an aesthetic perspective, noting that the public generally prefers to see growing crop fields rather than walls of fences lining farms and roadways.

c. Minority Recommendation.

The minority of the RAC (6 out of 14 voting members) recommends that the Commission adopt this rule as written. The minority agrees that plants should be kept out of public view, just as the home grow provisions of HB 3400 require for personal plants.

HEALTH AND SAFETY

1. OAR 845-025-XXXX State and Local Safety Inspections [\(return to index\)](#)

a. **Proposed Language.** OLCC staff proposed the following rule language to the RAC:

- (1) *All marijuana licensees may be subject to inspection of licensed premises by state or local government officials to determine compliance with state or local health and safety laws.*
- (2) *A licensee must contact any utility provider to ensure that the licensee complies with any local ordinance or utility requirements such as water use, discharge into the sewer system, or electrical use.*

b. RAC Recommendation.

The RAC unanimously (14 out of 14 voting members) recommends that the Commission adopt this proposed rule.

2. **OAR 845-025-XXXX General Sanitary Requirements** [\(return to index\)](#)

a. **Proposed Language.** OLCC staff proposed the following rule language to the RAC:

- (1) *A marijuana licensee must:*
 - (a) *Prohibit any individual working on a licensed premises who has or appears to have a communicable disease, open or draining skin lesion infected with Staphylococcus aureus or Streptococcus pyogenes or any illness accompanied by diarrhea or vomiting for whom there is a reasonable possibility of contact with marijuana items from having contact with a marijuana item until the condition is corrected;*
 - (b) *Require all persons who work in direct contact with marijuana items conform to hygienic practices while on duty, including but not limited to:*
 - (A) *Maintaining adequate personal cleanliness; and*
 - (B) *Washing hands thoroughly in an adequate hand-washing area before starting work, prior to having contact with a marijuana item and at any other time when the hands may have become soiled or contaminated;*
 - (c) *Provide hand-washing facilities adequate and convenient, furnished with running water at a suitable temperature and provided with effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying device;*
 - (d) *Properly remove all litter and waste from the licensed premises and maintain the operating systems for waste disposal in an adequate manner so that they do not constitute a source of contamination in areas where marijuana items are exposed;*
 - (e) *Provide employees with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair; and*
 - (f) *Hold marijuana items that can support pathogenic microorganism growth or toxic formation in a manner that prevents the growth of these pathogenic microorganism or formation toxins.*
- (2) *For purposes of this rule “communicable disease” includes but is not limited to: diphtheria, measles, Salmonella enterica serotype Typhi infection, shigellosis, Shiga-toxigenic Escherichia coli (STEC) infection, hepatitis A, and tuberculosis.*

b. RAC Recommendation.

The RAC unanimously (14 out of 14 voting members) recommends that the Commission adopt this proposed rule.

RECREATIONAL MARIJUANA PRODUCERS

1. OAR 845-025-XXXX Definitions [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

As used in OAR 845-025-XXXX to 845-025-XXXX:

- () “Canopy” means the surface area utilized to produce mature marijuana plants calculated in square feet and measured using the outside boundaries of any area that includes mature marijuana plants including all of the space within the boundaries.*
- () “Indoor production” means producing marijuana in any manner:*
 - (a) Utilizing artificial lighting on mature marijuana plants; or*
 - (b) Other than “outdoor production” as that is defined in this rule.*
- () “Outdoor production” means producing marijuana:*
 - (a) In an expanse of open or cleared ground; or*
 - (b) In a greenhouse, hoop house or similar non-rigid structure that does not utilize any artificial lighting on mature marijuana plants, including but not limited to electrical lighting sources.*

The Legislature directed OLCC to establish differing mature plant canopy limits for indoor and outdoor production models. Staff’s intent with the proposed language is to broadly, yet clearly, define those models. The legislature did not provide direction or differentiation for production in greenhouses, hoop houses or other similar structures. In keeping with the legislative direction to adopt canopy size limits that are calculated to equalize production between indoor and outdoor grows, greenhouses and hoop houses will be put within those two categories because OLCC does not have legislative authority to create a separate stand-alone canopy size limit for a third category.

After considering RAC comments on this issue, staff agrees that greenhouse/hoop house growing should fall under either indoor or outdoor production depending primarily on whether or not artificial lighting conditions are used on mature marijuana plants. Staff agrees that light deprivation should not be a limiting factor in whether a greenhouse/hoop house should be designated as outdoor production, and staff agreed to strike that portion of the proposed rule.

b. RAC Recommendation.

The majority of the RAC (15 out of 16 voting members) recommends that the Commission adopt the proposed definitions.

2. OAR 845-025-XXXX Producer Privileges [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

- (1) A producer may only plant, cultivate, grow, harvest and dry marijuana in the manner approved by the Commission and consistent with the chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2015 and these rules.*
- (2) A producer may engage in indoor or outdoor production of marijuana, or a combination of the two.*
- (3) A producer may sell or deliver:*
 - (a) Usable marijuana to the licensed premises of a marijuana processor, wholesaler, retailer, laboratory, or research certificate holder;*
 - (b) Dried mature marijuana plants that have been entirely removed from any growing medium to the licensed premises of a marijuana processor or research certificate holder; or*

- (c) *Immature marijuana plants and seeds to the licensed premises of a marijuana producer, wholesaler, retailer or research certificate holder.*
- (4) *A producer may not sell a mature marijuana plant other than as provided in section (3)(b) of this rule.*
- (5) *A producer may provide a sample of usable marijuana to a marijuana wholesaler, retailer or processor licensee for the purpose of the licensee determining whether to purchase the product. The sample product may not be consumed on a licensed premises. Any sample provided to another licensee must be recorded in CTS.*

b. RAC Recommendation.

The majority of the RAC (15 out of 16 voting members) recommends that the Commission adopt this proposed rule.

3. OAR 845-025-XXXX Licensed Premises of a Producer [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

- (1) *The licensed premises of a producer includes all areas used to produce marijuana and any other areas used to engage in any privileges of the license.*
- (2) *A producer may not engage in any privileges of the license within a primary residence.*
- (3) *The licensed premises of a producer may not be located at the same physical location or address as a marijuana grow site registered under ORS 475.304 unless the producer is also a person responsible for a marijuana grow site and has been issued a license by the Commission in accordance with section 116, chapter 614, Oregon Laws 2014, and OAR 845-025-XXXX.*

b. RAC Recommendation.

The majority of the RAC (14 out of 16 voting members) recommends that the Commission adopt this proposed rule.

4. OAR 845-025-XXXX Production Size Limitations [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

- (1) *Cultivation Batches and Cultivate Batch Sizes.*
 - (a) *A producer must establish cultivation batches and assign each cultivation batch a unique identification number.*
 - (b) *A cultivation batch may not have more than 100 immature plants.*
 - (c) *A producer may have an unlimited number of cultivation batches at any one time.*
- (2) *Canopy Size Limits.*
 - (a) *Indoor Production.*
 - (A) *Tier I: Up to 5,000 square feet.*
 - (B) *Tier II: 5,001 to 10,000 square feet.*
 - (b) *Outdoor production.*
 - (A) *Tier I: Up to 20,000 square feet.*
 - (B) *Tier II: 20,001 to 40,000 square feet.*
 - (c) *Mixed production. If a producer intends to have a mixture of indoor and outdoor production the Commission will determine the producer's tiers and canopy sizes by applying the ratio in section (4) of this rule.*
 - (d) *For purposes of this section, square footage of canopy space is measured starting from the outer most point of the furthest mature flowering plant in a designated growing space*

and continuing around the outside of all mature flowering plants located within the designated growing space.

- (e) A producer may designate multiple grow canopy areas at a licensed premises but those spaces must be separated by a physical boundary such as an interior wall or by at least 10 feet of open space.*
- (3) Canopy Size Limit – Designation and Increases.*
 - (a) A producer must clearly identify designated canopy areas and proposed canopy size in the initial license application. A producer may change a designated canopy area within a production type at any time with prior written notice to Commission, but a producer may only change canopy tiers at the time of renewal in accordance with subsection (b) of this section.*
 - (b) A producer may submit a request to change canopy tiers at the time the producer submits an application for renewal of the license. The Commission will grant a request to increase the canopy tier for the producer's next licensure term if:
 - (A) The producer's renewal application is otherwise complete;*
 - (B) There are no bases to deny or reject the producer's renewal application;*
 - (C) The producer has not already reached the applicable maximum canopy size set forth in section (2) of this rule; and*
 - (D) During the preceding year of licensure, the producer has not been found to be in violation, and does not have any pending allegations of violations of chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2015, or these rules.**
 - (c) The Commission shall give a producer an opportunity to be heard if a request is rejected under this section.*
- (4) Mixed cultivation methods.*
 - (a) A producer may produce marijuana indoor and outdoor at the same time on the same licensed premises. The Commission must be notified of a producer's plan to engage in the indoor and outdoor production of marijuana at the time of initial licensure or at renewal, and not at any other time. A producer who utilizes mixed production may only change designated canopy areas from one production type to another at the time the producer submits a renewal application.*
 - (b) The Commission must approve the canopy size applicable to each method.*
 - (c) The Commission will use a 4:1 ratio, for outdoor and indoor respectively, to allocate canopy size limits under this section, not to exceed the sum canopy size limits set forth in section (2) of this rule. For example, if a Tier II producer in the first year of licensure has 5,000 square feet of indoor canopy space, then the producer may have up to 20,000 square feet of outdoor canopy space at the same time.*
- (5) Violations. An intentional violation of this rule is a Category I violation and may result in license revocation. All other violations are Category III violations.*

The Legislature directed OLCC to establish differing mature plant canopy limits for indoor and outdoor production models, and to set canopy limits that are calculated to equalize production between indoor and outdoor grows. Staff attempted to accomplish these goals within the proposed rule. Staff noted the difficulty of equalizing production without true market data and its inability under the law to separately categorize greenhouse grows. In the proposed definitions (above) staff defines “indoor” and “outdoor” greenhouse or hoop house grows by using artificial lighting as the trigger. If artificial lighting is use in the green house or hoop house model the grow site is classified into the “indoor” category. Staff listened to significant amounts of discussion from the RAC as well as several other advisory committees in order to come to the proposed canopy limits. This aspect of the rules was probably the most difficult to draft, and the most often debated by the various constituency groups.

b. RAC Recommendation.

The RAC unanimously (14 out of 14 voting members) does not recommend that the Commission adopt this proposed rule as written. Most of the members believe the proposed canopy limits are too low.

Several of the local government representatives on the Committee strongly believe that local jurisdictions should be able to set lower canopy limits, and that the Commission should raise these limits to serve as a “default” for areas that don not, by ordinance, set their own canopy sizes.

The RAC discussed and agreed to propose an alternative set of canopy limits. The majority of the Committee (9 out of 14 voting members) recommends this proposal to the Commission:

Indoor Production:

Tier I: Up to 5,000 square feet

Tier II: 5,001 to 20,000 square feet

Outdoor production:

Tier I: Up to 20,000 square feet

Tier II: 20,001 to 80,000 square feet

This segment also recommends that, if the Commission adopts the alternative canopy limits, the corresponding annual licensing fees should be adjusted as well, as they believe that higher fees should be associated with the increased Tier II square footage.

5 members voted to oppose of this alternative proposal. This group voiced the opinion that canopy limits should be higher so that local jurisdictions, if they desire, can set their own lower canopy limits. They strongly believe the rule language should defer to local governments who are better equipped to set canopy sizes in their own communities.

5. OAR 845-025-XXXX Operating Procedures [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

(1) A producer must:

(a) Establish written standard operating procedures for the production of marijuana. The standard operating procedures must at a minimum include when, and the manner in which, all pesticide and or other chemicals are to be applied during the production process; and

(b) Maintain a copy of all standard operating procedures on the licensed premises.

(2) If a producer licensee makes a material change to its standard operating procedures it must document the change and revise its standard operating procedures accordingly. Records detailing the material change must be maintained on the licensed premises by the producer licensee.

b. RAC Recommendation.

The majority of the RAC (13 of 14 voting members) recommends that the Commission adopt this proposed rule.

6. OAR 845-025-XXXX Start-Up Inventory [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

(1) Marijuana producers may not receive immature marijuana plants or seeds from any source other than from another licensee, except that between January 1, 2016 and December 31,

- 2016, a marijuana producer may receive immature marijuana plants and seeds from any source within Oregon for up to 90 days following initial licensure by the Commission.*
- (2) The marijuana producer shall, through CTS, report receipt of the number of immature marijuana plants or seeds received under this section within 48 hours of the plants or seeds arriving at the licensed premises. A producer does not have to document the source of the immature plants or seeds during the 90 day start-up period.*
- (3) Failure to comply with this rule is a Category I violation and could result in license revocation.*

Staff's intent with this proposed rule is to address the "immaculate conception" issue that will be present in newly licensed marijuana growing operations. Specifically, HB 3400 provides that licensees can only obtain immature plants and seeds from other licensees. Prior to the OLCC's licensure of recreational growers there will be no licensed operations from which to obtain such starter crop materials. Therefore, as a practical matter new producer licensees will need to be able to obtain plants or seeds from sources outside the licensed system, at least for some period of time. Based on comments from the growers' subcommittee, staff feels that 90 days should be sufficient for newly licensed producers to assess the viability of their starter crops. Additionally, staff feels that having the rule sunset on December 31, 2016 gives the industry enough time to establish a base of licensees from which, after that date, newly licensed producers may only obtain starter plants from other licensees.

b. Majority Recommendation.

The majority of the RAC (11 out of 16 voting members) recommends that the Commission adopt this proposed rule. The majority agrees with staff's rationale that 90 days should be a sufficient amount of time for new licensees to obtain and evaluate the viability of starter crops. This segment of the committee believes the OLCC needs to make it easy for growers to enter the regulated market, and that allowing newly licensed growers to obtain plants and seeds without requiring disclosure of their sources is imperative to meeting this goal. Some members of the majority expressed concern that only allowing new producers to source plants and seeds from outside the regulated market until December 31, 2016 could result in limiting the genetic pool of available marijuana products and hamper the development of new strains, but also generally agree that it is not unreasonable to put an ending date on the rule's applicability.

c. Minority Recommendation.

The minority of the RAC (5 out of 16 voting members) does not recommend that the Commission adopt this proposed rule as written. The minority believes the rule should be written more restrictively by requiring licensees to disclose the source of starter plants and seeds. This segment of the committee expressed concern that allowing producers to withhold the source of initial starter crops goes directly against the directives of the Cole memorandum, and has the potential to undermine the transparency of the system the state is seeking to establish. The minority believes that if the goal of these regulations is to bring the marijuana industry fully out of the illegal market, it should start with the first plants.

7. OAR 845-025-XXXX Pesticides, Fertilizers and Agricultural Chemicals ([return to index](#))

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

- (1) Pesticides. A producer may only use pesticides in accordance with ORS Chapter 634 and OAR 603, Division 57.*
- (2) Fertilizers, Soil Amendments, Growing Media. A producer may only use fertilizer, agricultural amendments, agricultural minerals and lime products in accordance with ORS Chapter 633.*

- (3) *A producer may not treat or otherwise adulterate usable marijuana with any chemical, biologically active drug, plant, substance, including nicotine, or other compound that has the effect or intent of altering the usable marijuana's color, appearance, weight or smell.*
- (4) *In addition to other records required by these rules, a producer must maintain, at all times and on the licensed premises:*
 - (a) *The material safety data sheet (MSDS) for all pesticides, fertilizers or other agricultural chemicals used by the producer in the production of marijuana;*
 - (b) *The original label or a copy thereof for all pesticides, fertilizers or other agricultural chemicals used by the producer in the production of marijuana, and*
 - (c) *A log of all pesticides, fertilizers or other agricultural chemicals used by the producer in the production of marijuana. The log must include:*
 - (A) *the information required to be documented by a pesticide operator in ORS 634.146; and*
 - (B) *The unique identification tag number of the cultivation batch or individual mature marijuana plant to which the product was applied, or if applied to all plants on the licensed premises a statement to that effect.*
- (5) *A producer may maintain the records required under this rule in electronic or written form. If electronic, a producer shall maintain a backup system or sufficient data storage so that records are retained for no less than two years after harvest of any marijuana on which documented products were used. If written, a producer shall ensure that the records are legible and complete, shall keep them in a safe and secure location, and shall retain the records for no less than two years after harvest of any marijuana on which documented products were used.*
- (6) *A producer must make the records required under this rule immediately available during an premises inspection by a Commission regulatory specialist. If the Commission requests copies of the records at any time other than during a premises inspection, a producer shall produce the records within 72 hours of the request.*
- (7) *A violation of sections (1) to (4) of this rule is a Category I violation and could result in license revocation.*
- (8) *A failure to keep complete records as required by this rule is a Category III violation. A failure to keep records on the licensed premises, or failure to timely produce records, is a Category III violation.*

b. RAC Recommendation.

The majority of the RAC (15 out of 16 voting members) recommends that the Commission adopt this proposed rule.

8. OAR 845-025-XXXX Harvest Lot Segregation [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

- (1) *A producer must, within 45 days of harvesting a harvest lot, physically segregate the harvest lot from other harvest lots, place the harvest lot in a receptacle or multiple receptacles and assign a UID tag to each receptacle that is linked to each plant that was harvested.*
- (2) *A producer may not combine harvest lots that are of a different strain, were produced using different growing practices or harvested at a different time.*

Staff's rationale for this proposed rule is largely centered on tracking, testing and public health concerns. Staff believes the rule will make it easier to identify problem batches and products before they are sent up into the supply chain, as well as the ability to trace any discovered contamination back to the source.

b. RAC Recommendation.

The RAC unanimously (14 out of 14 voting members) recommends that the Commission adopt this proposed rule.

MEDICAL OPT-IN

1. OAR 845-025-XXXX Medical Marijuana Grow Site Opt-In [\(return to index\)](#)

a. **Proposed Language.** OLCC staff proposed the following rule language to the RAC:

- (1) *For purposes of this rule:*
 - (a) *“Grower” means a person responsible for a marijuana grow site as that term is defined in OAR 333-008-0010.*
 - (b) *“Grow site” has the meaning given that term in OAR 333-008-0010.*
 - (c) *“Patient” has the same meaning given that term in OAR 333-008-0010.*
- (2) *A grower may apply for a Producer license to produce marijuana at the same location as a grow site only if all growers producing marijuana at that address are listed on the application.*
- (3) *In addition to the requirements of [x-ref license application rule], the applicants must provide proof that each patient for whom the applicants are producing marijuana at the grow site proposed to be licensed has granted permission for the applicants to apply for a license and sell excess usable marijuana and immature plants to licensees of the Commission.*
- (4) *If the Commission approves the application and issues a producer license to the applicants the licensees may not possess more than the amount of usable marijuana or marijuana plants permitted under ORS 475.300 to 475.346 unless the licensed premises ceases to be registered as a grow site with the Oregon Health Authority (OHA).*
- (5) *If the licensed premises ceases to be registered as a grow site with the Oregon Health Authority, the licensee must notify the Commission within 5 days and provide proof that no growers or patients are registered by OHA at the licensed premises.*
- (6) *A licensee licensed under this rule must record in CTS within five days of initial licensure, all mature and immature marijuana plants and usable marijuana on the licensed premises.*
- (7) *A producer, licensed under this rule:*
 - (a) *Is subject to these rules with the exception of [start-up inventory rule];*
 - (b) *Must comply with the duties, functions and powers of a grower under ORS 475.300 to 475.346 and any rule adopted thereunder, except that a grower is not subject to OHA’s requirements related to the reporting or tracking of mature marijuana plants and usable marijuana;*
 - (c) *May sell usable marijuana or immature plants in excess of amounts produced for a patient, to other licensees, in accordance with these rules; and*
 - (d) *May, notwithstanding section 6, chapter 614, Oregon Laws 2015, transfer marijuana and usable marijuana to other registrants under ORS 475.300 to 475.346 in accordance with any rules adopted by the OHA.*

b. **RAC Recommendation.**

The majority of the RAC (13 out of 14 voting members) recommends that the Commission adopt this proposed rule.

MARIJUANA RETAILERS

1. OAR 845-025-XXXX Retailer Privileges [\(return to index\)](#)

a. **Proposed Language.** OLCC staff proposed the following rule language to the RAC:

A retailer is the only licensee that is authorized to sell a marijuana item to a consumer 21 years of age or older.

b. RAC Recommendation.

The RAC unanimously (16 out of 16 voting members) recommends that the Commission adopt this proposed rule.

2. OAR 845-025-XXXX Retailer Operational Requirements [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

- (1) A retailer may:*
 - (a) Only receive marijuana items from a producer, wholesaler, processor or laboratory.*
 - (b) Only sell marijuana items to a consumer from the licensed premises, unless sale is made pursuant to a bona fide order as described in [cross reference].*
 - (c) Only sell up to the following amounts at any one time to a consumer within a 24 hour period:*
 - (A) One ounce of usable marijuana;*
 - (B) 16 ounces of a cannabinoid product in solid form;*
 - (C) 72 ounces of a cannabinoid product in liquid form;*
 - (D) Five grams of cannabinoid extracts or concentrate, whether sold alone or contained in an inhalant delivery system;*
 - (E) Four immature marijuana plants; and*
 - (F) Ten marijuana seeds.*
 - (d) Refuse to sell marijuana items to a consumer.*
 - (e) Only sell to consumers between the hours of 7:00 a.m. and 10 p.m. local time.*
- (2) A retailer may not:*
 - (a) Provide free samples of a marijuana item to a consumer;*
 - (b) Sell or give away pressurized containers of butane or other materials that could be used in the home production of marijuana extracts.*
 - (c) Require a consumer to purchase other products or services as a condition of purchasing a marijuana item or receiving a discount on a marijuana item.*
 - (d) Sell a marijuana item for less than the cost of acquisition.*
 - (e) Provide coupons or offer discounts, except that uniform volume discounts are permitted.*
 - (f) 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.*
 - (g) Sell any product derived from industrial hemp, as that is defined in ORS 571.300, that is intended for human consumption, ingestion, or inhalation, unless it has been tested, labeled and packaged in accordance with these rules.*
- (3) A retailer's pricing on marijuana items must remain consistent during each business day.*
- (4) Prior to completing the sale of a marijuana item to a consumer a retailer must verify that the consumer has a valid, unexpired government-issued photo identification and must verify that the consumer is 21 years of age or older by viewing the consumer's:*
 - (a) Passport;*
 - (b) Driver license, whether issued in this state or by any other state, as long as the license has a picture of the person;*
 - (c) Identification card issued under ORS 807.400;*
 - (d) United States military identification card; or*
 - (e) Any other identification card issued by a state that bears a picture of the person, the name of the person, the person's date of birth and a physical description of the person.*
- (5) Marijuana items offered for sale by a retailer must be stored in such a manner that the items are only accessible to authorized representatives until such time as the final sale to the consumer is completed.*

(6) For purposes of this rule "coupon" means any coupon, ticket, certificate token or any other material that a person may use to obtain a price reduction or rebate in connection with the acquisition or purchase of a marijuana item,

b. RAC Recommendation.

The majority of the RAC (12 out of 14 voting members) recommends that the Commission adopt this proposed rule.

3. OAR 845-025-XXXX Retailer Premises [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

- (1) *The licensed premises of a retailer:*
 - (a) *May not be located in an area that is zoned exclusively for residential use.*
 - (b) *May not be located within 1,000 feet of:*
 - (A) *A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or*
 - (B) *A private or parochial elementary school, teaching children as described in ORS 339.030.*
 - (c) *Must be enclosed on all sides by permanent walls and doors.*
- (2) *A retailer must post in a prominent place signs at every:*
 - (a) *Point of sale that read:*
 - (A) *“No Minors Permitted Anywhere on the Premises”;* and
 - (B) *“No On-Site Consumption”.*
 - (b) *Exit from the licensed premises that reads: “Marijuana or Marijuana Infused Products May Not Be Consumed In Public”.*
- (3) *A retailer must designate a consumer sales area on the licensed premises where consumers are permitted. The area shall include the portion of the premises where marijuana items are displayed for sale to the consumer and sold and may include other contiguous areas such as a lobby or a restroom. The consumer sales area is the sole area of the licensed premises where consumers are permitted.*
- (4) *All inventory must be stored on the licensed premises.*
- (5) *For purposes of determining the distance between a retailer and a school referenced in subsection (1)(b) of this rule, "within 1,000 feet" means a straight line measurement in a radius extending for 1,000 feet or less in any direction from the closest point anywhere on the boundary line of the real property comprising a school to the closest point of the licensed premises of a retailer. If any portion of the licensed premises is within 1,000 feet of a school as described subsection (1)(b) of this rule an applicant will not be licensed.*

b. RAC Recommendation.

The RAC unanimously (16 out of 16 voting members) recommends that the Commission adopt this proposed rule.

4. OAR 845-025-XXXX Consumer Health and Safety Information [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

- A retailer must:*
- (1) *Post at the point the sale, the following posters prescribed by the Commission, measuring 22 inches high by 17 inches wide that can be downloaded at www.oregon.gov/olcc/marijuana:*
 - (a) *A Pregnancy Warning Poster; and*

- (b) *A Poisoning Prevention Poster.*
- (2) *Post at the point of sale a color copy of the "Educate Before You Recreate" flyer measuring 22 inches high by 17 inches wide that can be downloaded at WHATSLEGALOREGON.COM.*
- (3) *Distribute to each individual at the time of sale, a Marijuana Information Card, prescribed by the Commission, measuring 3.5 inches high by 5 inches long that can be downloaded at www.oregon.gov/olcc/marijuana.*

b. RAC Recommendation.

The majority of the RAC (13 out of 16 voting members) recommends that the Commission adopt this proposed rule.

5. OAR 845-025-XXXX Delivery of Marijuana Items by Retailer [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

- (1) *A marijuana retailer may deliver a marijuana item to a primary residence in Oregon subject to compliance with this rule. For purposes of this rule "primary residence" means a dwelling such as a house or apartment but does not include a dormitory, hotel, motel, bed and breakfast or similar commercial business.*
- (2) *Delivery Approval Process.*
 - (a) *The retailer must request approval from the Commission prior to undertaking delivery service of marijuana items, on a form prescribed by the Commission that includes a statement that the retailer:*
 - (A) *Understands and will follow the requirements for delivery listed in this rule; and*
 - (B) *Has taken steps to ensure the personal safety of delivery personnel, including providing any necessary training.*
 - (b) *The retailer must receive written approval from the Commission prior to making any deliveries.*
 - (c) *The Commission may refuse to review any request for approval that is not complete and accompanied by the documents or disclosures required by the form.*
 - (d) *If the Commission denies approval the Commission shall give a retailer the opportunity to be heard.*
 - (e) *The Commission may withdraw approval for delivery service at any time if the Commission finds that the retailer is not complying with this rule, the personal safety of delivery personnel is at risk, the retailer's delivery service has been the target of theft, or the delivery service is creating a public safety risk.*
- (3) *Bona Fide Orders.*
 - (a) *A bona fide order must be received by an approved retailer from the individual requesting delivery, before 4:00 p.m. on the day the delivery is requested.*
 - (b) *The bona fide order must contain:*
 - (A) *The individual requestor's name, date of birth, the date delivery is requested and the address of the residence where the individual would like the items delivered;*
 - (B) *A document that describes the marijuana items proposed for delivery and the amounts; and*
 - (C) *A statement that the marijuana is for personal use and not for the purpose of resale.*
- (4) *Delivery Requirements.*
 - (a) *A retailer licensee may only deliver to one consumer per address up to:*
 - (A) *One ounce of usable marijuana;*
 - (B) *16 ounces of cannabinoid products in solid form;*
 - (C) *72 ounces of cannabinoid products in liquid form;*
 - (D) *Five grams of cannabinoid extracts or concentrate, whether sold alone or contained in an inhalant delivery system; and*
 - (E) *Four immature marijuana plants.*

- (b) Deliveries must be made before 9:00 p.m. local time and may not be made between the hours of 9:00 p.m. and 8:00 a.m. local time.*
- (c) The marijuana retailer may only deliver to the individual who placed the bona fide order and only to individuals who are 21 years of age or older.*
- (d) At the time of delivery the individual performing delivery must check the identification of the individual to whom delivery is being made in order to determine that it is the same individual who submitted the bona fide order, that the individual is 21 years of age or older, and must require the individual to sign a document indicating that the items were received.*
- (e) A marijuana retailer may not deliver a marijuana item to an individual who is visibly intoxicated at the time of delivery.*
- (f) Deliveries may not be made more than once per day to the same physical address or to the same individual.*
- (g) Marijuana items delivered to an individual's residence must:*
 - (A) Comply with the packaging rules in OAR 845-025-XXXX to 845-025-XXXX; and*
 - (B) Be placed in a larger delivery receptacle that has a label that reads: "Contains marijuana: Signature of person 21 years of age or older required for delivery".*
- (h) A retailer may not carry or transport at any one time more than a total of \$5,000 in retail value worth of marijuana items designated for retail delivery and cash.*
- (i) All marijuana items must be kept in a lock-box securely affixed inside the delivery vehicle .*
- (j) A manifest must be created for each delivery or series of deliveries and the individual doing the delivery may not make any unnecessary stops between deliveries or deviate substantially from the manifest route.*
- (5) Documentation Requirements. A marijuana retailer must document the following regarding deliveries:*
 - (a) The bona fide order and the date and time it was received by the retailer;*
 - (b) The date and time the marijuana items were delivered;*
 - (c) A description of the marijuana items that were delivered, including the weight or volume and price paid by the consumer;*
 - (d) Who delivered the marijuana items; and*
 - (e) The name of the individual to whom the delivery was made and the delivery address.*
- (6) A retailer is only required to maintain the name of an individual to whom a delivery was made for one year.*
- (7) Prohibitions. A retailer may not deliver marijuana items to a location within a city or county that has adopted an ordinance that prohibits the establishment of marijuana retailers licensed under Section 22, chapter 1, Oregon Laws 2015.*
- (8) Sanction. A violation of any section of this rule that is not otherwise specified in OAR 845-025-XXXX is a Category III violation.*

Because HB 3400 allows delivery services, staff believes it is important to regulate the activity in some manner. Without a rule, retailers will be able to set their own delivery standards, which may not always meet the Commission's public safety interests. A number of RAC members voiced their concerns about allowing retailer delivery services and want the rule delayed. The appropriate safeguards for delivery drivers was a major topic of discussion by the group. Several members of the RAC requested that the Commission hold off on allowing deliveries at this time, but staff relayed that the permission is granted in statute. Consequently whether or not the agency adopts a rule, the activity will be allowed under the law.

b. RAC Recommendation.

The majority of the RAC (10 out of 12 voting members, 2 abstained) does not recommend that the Commission adopt this rule. The reasoning is split; some members of the majority feel that the public safety risks involved in allowing delivery are too great and think the dollar amounts allowed for deliveries are too high.

Several of these members also objected to the rule because it does not restrict deliveries to the jurisdiction in which the licensed retail establishment is located.

Other members of the majority voiced concerns that the rule is too restrictive as written.

6. OAR 845-025-XXXX Collection of Taxes [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

- (1) A retailer must collect, at the point of sale, the tax imposed on the consumer under section 2, chapter 699, Oregon Laws 2015, and remit the tax to the Oregon Department of Revenue in accordance Department of Revenue rules.*
- (2) A violation of this rule is a Category III violation.*
- (3) An intentional violation of this rule is a Category I violation.*

b. RAC Recommendation.

The RAC unanimously (14 out of 14 voting members) recommends that the Commission adopt this proposed rule.

RETAIL MARIJUANA PROCESSORS

1. OAR 845-025-XXXX Definitions [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

For purposes of OAR 845-025-XXXX to 845-025-XXXX:

- (1) "Cannabinoid topical" means a cannabinoid product intended to be applied to skin or hair.*
- (2) "Food" means a raw, cooked, or processed edible substance, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.*

b. RAC Recommendation.

The RAC unanimously (16 out of 16 voting members) recommends that the Commission adopt this proposed rule.

2. OAR 845-025-XXXX Endorsements [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

- (1) A marijuana processor may only process and sell cannabinoid products, concentrates or extracts if the processor has received an endorsement from the Commission for that type of processing activity. Endorsements types are:
 - (a) Cannabinoid edible processor;*
 - (b) Cannabinoid topical processor;*
 - (c) Cannabinoid concentrate processor; and*
 - (d) Cannabinoid extract processor.**
- (2) An applicant must request an endorsement upon submission of an initial application but may also request an endorsement at any time following licensure.*
- (3) In order to apply for an endorsement an applicant or processor licensee must submit a form prescribed by the Commission that includes a description of the type of products to be*

processed, a description of equipment to be used, and any solvents, gases, chemicals or other compounds proposed to be used to create extracts or concentrates.

- (4) Only one application and license fee is required regardless of how many endorsements an applicant or licensee requests or at what time the request is made.*
- (5) An individual processor licensee may hold multiple endorsements.*
- (6) For the purposes of endorsements any cannabinoid product that is intended to be consumed orally is considered a cannabinoid edible.*
- (7) If a processor is no longer going to process the product for which the processor is endorsed the processor must notify the Commission in writing and provide the date on which the processing of that product will cease.*
- (8) The Commission may deny a processor's request for an endorsement if the processor cannot or does not meet the requirements in [x-ref. particular endorsement rules] for the endorsement that is requested. If the Commission denies approval the processor has a right to a hearing under the procedures of ORS Chapter 183*

Staff explained that the endorsement concept outlined in this proposed rule is intended to differentiate the various kinds of processing techniques and outcomes, and ensure that the agency is aware of what processors are doing under their licenses. Staff confirmed that there would be no limit on the number of endorsements a licensed processor could have, and no specific requirements a processor would need to follow in order to obtain an endorsement beyond notice to the Commission. Staff explained that having the different endorsements serves more as a mechanism to ensure the specific requirements and rules associated with the various processes and products are clear, both for regulatory staff and licensees.

b. RAC Recommendation.

The RAC unanimously (16 out of 16 voting members) recommends that the Commission adopt this proposed rule.

3. OAR 845-025-XXXX General Processor Requirements [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

- (1) A processor must:*
 - (a) Use equipment, counters and surfaces for processing that are food-grade and do not react adversely with any solvent being used.*
 - (b) Have counters and surface areas that are constructed in a manner that reduce the potential for development of microbials, molds and fungi and that can be easily cleaned.*
 - (c) Maintain the licensed premises in a manner that is free from conditions which may result in contamination and that is suitable to facilitate safe and sanitary operations for product preparation purposes.*
 - (d) Store all marijuana items not in use in a locked area, including products that require refrigeration in accordance with OAR 845-025-XXXX [general security requirements].*
 - (e) Assign every process lot a unique identification number and enter this information into CTS.*
- (2) A processor may provide a sample of a cannabinoid product, concentrate or extract to a marijuana wholesaler or retailer for the purpose of the wholesaler or retailer licensee determining whether to purchase the product but the product may not be consumed on a licensed premises. Any sample provided to another licensee must be recorded in CTS.*
- (3) A processor may not process or sell a marijuana item:*
 - (a) That by its shape and design is likely to appeal to minors, including but not limited to:
 - (A) Products that are modeled after non-cannabis products primarily consumed by and marketed to children; or*
 - (B) Products in the shape of an animal, vehicle, person or character.**

(b) That is made by applying cannabinoid concentrates or extracts to commercially available candy or snack food items.

b. RAC Recommendation.

The RAC unanimously (13 out of 13 voting members) recommends that the Commission adopt this proposed rule.

4. OAR 845-025-XXXX Processor Policies and Procedures [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC

A processor must create and maintain written, detailed standard policies and procedures that include but are not limited to:

- (1) Instructions for making each cannabinoid concentrate, extract or product.*
- (2) The ingredients and the amount of each ingredient for each process lot;*
- (3) The process for making each product;*
- (4) The number of servings in a process lot;*
- (5) The intended amount of THC per serving of the product.*
- (6) The process for making each process lot homogenous.*
- (7) If processing a cannabinoid concentrate or extract:*
 - (a) Conducting necessary safety checks prior to commencing processing;*
 - (b) Purging any solvent or other unwanted components from a cannabinoid concentrate or extract;*
- (8) Procedures for cleaning all equipment, counters and surfaces thoroughly.*
- (9) Procedures for preventing growth of pathogenic organisms and toxin formation*
- (10) Proper handling and storage of any solvent, gas or other chemical used in processing or on the licensed premises in accordance with material safety data sheets and any other applicable laws.*
- (11) Proper disposal of any waste produced during processing in accordance with all applicable local, state and federal laws, rules and regulations.*
- (12) Quality control procedures designed to maximize safety and minimize potential product contamination.*
- (13) Appropriate use of any necessary safety or sanitary equipment.*
- (14) Emergency procedures to be followed in case of a fire, chemical spill or other emergency.*

b. RAC Recommendation.

The RAC unanimously (16 out of 16 voting members) recommends that the Commission adopt this proposed rule.

5. OAR 845-025-XXXX Processor Training Requirements [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

- (1) A processor must have a comprehensive training program that includes, at a minimum, the following topics:*
 - (a) The standard operating policies and procedures.*
 - (b) The hazards presented by all solvents or other chemicals used in processing and on the licensed premises as described in the material safety data sheet for each solvent or chemical.*
 - (c) Applicable Commission statutes and rules.*

(2) *At the time of hire and prior to engaging in any processing, and once yearly thereafter, each employee involved in the processing of a cannabinoid concentrate, extract or product must be trained in accordance with the processor's training program.*

b. RAC Recommendation.

The RAC unanimously (16 out of 16 voting members) recommends that the Commission adopt this proposed rule.

6. OAR 845-025-XXXX Cannabinoid Edible Processor Requirements ([return to index](#))

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

- (1) *A cannabinoid edible processor may only process in a food establishment licensed by the Oregon Department of Agriculture (ODA) and must comply with the applicable provisions of OAR 603, Division 21, Division 22, Division 24, Division 25, with the exception of OAR 603-025-0020(17) and Division 28.*
- (2) *A cannabinoid edible processor may not:*
 - (a) *Engage in processing in a location that is operating as a restaurant, seasonal temporary restaurant, intermittent temporary restaurant, limited service restaurant, single-event temporary restaurant, commissary, mobile unit, bed or breakfast, or warehouse licensed under ORS 624;*
 - (b) *Share a food establishment with a person not licensed and endorsed by the Commission as a cannabinoid edible processor; or*
 - (c) *Process food intended for commercial sale that does not contain cannabinoids, at the licensed premises.*
- (3) *A cannabinoid edible processor may share a food establishment with another cannabinoid edible processor if:*
 - (a) *The schedule, with specific hours and days that each processor will use the food establishment, is prominently posted at the entrance to the food service establishment and has been approved by the Commission:*
 - (A) *The schedule must be submitted to the Commission in writing and will be approved if it demonstrates that use of a shared food establishment by multiple cannabinoid edible processors does not create an increased compliance risk.*
 - (B) *A processor licensee may only change the schedule with prior written approval from the Commission.*
 - (b) *Each licensee designates a separate area to secure, in accordance with OAR 845-025-XXXX [cross reference security rules] any marijuana, cannabinoid products, concentrates or extracts that a licensee stores at the food establishment. If a cannabinoid edible processor does not store marijuana, cannabinoid products, concentrates or extracts at the food establishment those items must be stored on a licensed premises.*
- (4) *A food establishment used by a cannabinoid edible processor is considered a licensed premises and must meet the security and other licensed premises requirements in these rules.*
- (5) *A cannabinoid edible processor is strictly liable for any violation found at a shared food establishment during that processor's scheduled time or within that processor's designated area in the food establishment.*

Staff relayed that the Licensing, Compliance and Enforcement subcommittee had considered a previous version of this rule, one that did not allow for edible processors to share commercial kitchen space. After hearing comments from that committee staff revised the proposal to allow for sharing as long as the Commission is provided advance notice of the schedule for shared spaces, and licensees are strictly liable for violations that occur during their scheduled times using the kitchens.

b. RAC Recommendation.

The majority of the RAC (14 out of 16 voting members) recommends that the Commission adopt this proposed rule. Several members of the majority want to allow edible processors to use restaurant kitchens while the restaurants are not open to the public, because of a belief that there may be a shortage of kitchens licensed by the Oregon Department of Agriculture. These members generally agree that at present, local public health departments and OHA may not be in a position to monitor restaurant kitchens if they were to be used by edible processors, but would like to see the appropriate governmental entities consider this issue and allow the use sooner rather than later.

7. OAR 845-025-XXXX Cannabinoid Concentrate and Extract Processor Requirements

[\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

- (1) Cannabinoid Concentrates or Extracts. A processor with a cannabinoid concentrate or extract endorsement:*
 - (a) May not use Class I solvents as those are classified in the Federal Drug Administration Guidance, Table I, published in the Federal Register on December 24, 1997 (62 FR 67377).*
 - (b) Must:*
 - (A) Only use a hydrocarbon-based solvent that is at least 99 percent purity.*
 - (B) Only use a non-hydrocarbon-based solvent that is food-grade.*
 - (C) Work in an environment with proper ventilation, controlling all sources of ignition where a flammable atmosphere is or may be present.*
 - (D) Use only potable water and ice made from potable water in processing.*
 - (2) Cannabinoid Extracts. A processor with an endorsement to make cannabinoid extracts:*
 - (a) May not use pressurized canned butane.*
 - (b) Must:*
 - (A) Process in a:*
 - (i) Fully enclosed room clearly designated on the current diagram of the licensed premises.*
 - (ii) Spark proof room equipped with evacuation fans and lower explosive limit (LEL) detectors.*
 - (B) Use a commercially manufactured professional grade closed loop extraction system designed to recover the solvents and built to codes of recognized and generally accepted good engineering practices, such as:*
 - (i) The American Society of Mechanical Engineers (ASME);*
 - (ii) American National Standards Institute (ANSI);*
 - (iii) Underwriters Laboratories (UL); or*
 - (iv) The American Society for Testing and Materials (ASTM).*
 - (C) If using CO2 in processing, use a professional grade closed loop CO2 gas extraction system where every vessel is rated to a minimum of nine hundred pounds per square inch.*
 - (D) Have equipment and facilities used in processing approved for use by the local fire code official;*
 - (E) Meet any required fire, safety, and building code requirements specified in:*
 - (i) [Oregon statutory reference]*
 - (ii) National Fire Protection Association (NFPA) standards;*
 - (iii) International Building Code (IBC);*
 - (iv) International Fire Code (IFC); and*

- (F) *Have an emergency eye-wash station in any room in which cannabinoid extract is being processed.*
- (G) *Have all applicable material safety data sheets readily available to personnel working for the processor;*
- (3) *Cannabinoid Concentrates. A processor with an endorsement to make cannabinoid concentrates:*
 - (a) *May not:*
 - (A) *Use denatured alcohol.*
 - (B) *If using carbon dioxide, apply high heat or pressure.*
 - (b) *Must only use or store dry ice in a well ventilated room to prevent against the accumulation of dangerous levels of CO2.*
 - (c) *May use:*
 - (A) *A mechanical extraction process;*
 - (B) *A chemical extraction process using a nonhydrocarbon-based or other solvent, such as water, vegetable glycerin, vegetable oils, animal fats, isopropyl alcohol or ethanol; or*
 - (C) *A chemical extraction process using the hydrocarbon-based solvent carbon dioxide, provided that the process does not involve the use heat over 180 degrees or pressure.*

b. RAC Recommendation.

The RAC unanimously (16 out of 16 voting members) recommends that the Commission adopt this proposed rule.

8. OAR 845-025-XXXX Cannabinoid Topical Processor [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

A processor with a cannabinoid topical endorsement may not engage in processing in a location that is operating as a restaurant, seasonal temporary restaurant, intermittent temporary restaurant, limited service restaurant or single-event temporary restaurant licensed under ORS 624.

b. RAC Recommendation.

The majority of the RAC (15 out of 16 voting members) recommends that the Commission adopt this proposed rule.

9. OAR 845-025-XXXX Recordkeeping [\(return to index\)](#)

a. Proposed Language. OLCC staff proposed the following rule language to the RAC:

- (1) *A processors must keep records documenting the following:*
 - (a) *How much marijuana is in each process lot;*
 - (b) *If a product is returned by a licensee, how much product is returned and why;*
 - (c) *If a defective product was reprocessed, how the defective product was reprocessed*
 - (d) *Each training provided in accordance with OAR 845-025-XXXX, the names of employees who participated in the training, and a summary of the information provided in the training.*
- (2) *A processor must obtain a material safety data sheet for each solvent used or stored on the licensed premises and maintain a current copy of the material safety data sheet and a receipt of purchase for all solvents used or to be used in an extraction process on the licensed premises.*

(3) If the Commission requires a processor to submit or produce documents to the Commission that the processor believes falls within the definition of a trade secret as defined in ORS 192.501, the processor must mark each document “confidential” or “trade secret”.

b. RAC Recommendation.

The RAC unanimously (16 out of 16 voting members) recommends that the Commission adopt this proposed rule.

WHOLESALE

1. OAR 845-025-XXXX Wholesale License Privileges; Prohibitions [\(return to index\)](#)

a. Proposed language. OLCC staff proposed the following rule language to the RAC:

- (1) *License Privileges. A wholesale licensee may:*
 - (a) *Purchase marijuana items from a producer, processor or wholesale licensee.*
 - (b) *Sell, including sale by auction:*
 - (A) *Any type of marijuana item to a retail, wholesale or research certificate holder.*
 - (B) *Only immature marijuana plants and seeds to a producer licensee.*
 - (C) *Only usable marijuana to a processor licensee.*
 - (c) *Transport and store marijuana items on behalf of other licensees, pursuant to the requirements of [x-ref transport rule and seed/sale rule].*
 - (d) *Provide a sample of usable marijuana or a cannabinoid product, concentrate or extract to a marijuana wholesaler, retailer or processor licensee for the purpose of the licensee determining whether to purchase the product. The product may not be consumed on a licensed premises. Any sample provided to another licensee must be recorded in CTS.*
- (2) *Prohibited Conduct. A wholesale licensee may not:*
 - (a) *Receive marijuana items from any source other than a producer, processor or wholesale licensee.*
 - (b) *Sell or otherwise transfer a marijuana item to consumers or any entity other than a licensee of the Commission.*
 - (3) *For purposes of this rule “marijuana item” does not include a mature marijuana plant.*

b. RAC Recommendation.

The RAC unanimously (14 out of 14 voting members) recommends that the Commission adopt this proposed rule.

MARIJUANA TESTING LABORATORIES

1. OAR 845-025-XXXX Laboratory License Privileges [\(return to index\)](#)

a. Proposed language. OLCC staff proposed the following rule language to the RAC:

- A licensed marijuana testing laboratory may:*
- (1) *Obtain samples of marijuana items from licensees for purposes of performing testing as provided in these rules and OAR 333-007-xxxx;*
 - (2) *Transport and dispose of samples as provided in these rules; and*
 - (3) *Perform testing on marijuana items in a manner consistent with the laboratory’s accreditation by the Oregon Health Authority, these rules and OAR 333-007-xxxx.*

b. RAC Recommendation.

The RAC unanimously (14 out of 14 voting members) recommends that the Commission adopt this proposed rule.

2. OAR 845-025-XXXX Laboratory Licensing Requirements [\(return to index\)](#)

a. Proposed language. OLCC staff proposed the following rule language to the RAC:

(1) General Requirements

(a) A laboratory that intends to test marijuana items for producer, processor, wholesale or retail licensees must be licensed by the Commission.

(b) An applicant for a license under this rule must comply with all applicable application requirements in OAR 845-025-xxxx (general licensing requirements) and pay the required application and license fees, except that a laboratory licensee is not subject to any residency requirements.

(c) A laboratory application is subject to the same application review procedures as other applicants

(d) In addition to the denial criteria in OAR 845-025-XXXX, the Commission may refuse to issue a laboratory license for any violation of sections 91 to 99, chapter 614, Oregon Laws 2015, sections 3 to 70, chapter 1, Oregon Laws 2015, or these rules.

(e) Laboratory application and license fees are established in OAR 845-025-xxxx.

(2) Accreditation by the Oregon Health Authority

(a) In addition to the requirements listed in section (1) of this rule, an applicant for a laboratory license must be accredited by the Authority prior to exercising the licensed privileges in OAR 845-025-XXXX.

(b) An applicant for a license under this rule may apply for licensure prior to receiving accreditation, but the Commission will not issue a license until proof of accreditation is received. (c) The Commission may make efforts to verify or check on an applicant's accreditation status during the licensing process, but an applicant bears the burden of taking all steps needed to secure accreditation and present proof of accreditation to the Commission.

(d) In addition to the denial criteria in OAR 845-025-XXXX, the Commission may consider an application incomplete if the applicant does not obtain accreditation from the Authority within six months of applying for a license. The Commission shall give an applicant an opportunity to be heard if an application is declared incomplete under this section, but an applicant is not entitled to a contested case proceeding under ORS chapter 183. An applicant whose application is declared incomplete may reapply at any time.

(e) A licensed laboratory must maintain accreditation by the Authority at all times while licensed by the Commission. If a laboratory's accreditation lapses, is canceled or is suspended at any time for any reason while licensed by the Commission, the laboratory may not engage in any activities permitted under the license until accreditation is reinstated.

(f) Exercising license privileges while accreditation is suspended or canceled is a Category I violation and could result in license cancellation.

(3) Renewal.

(a) A laboratory must renew its license annually and pay the required renewal fees in accordance with OAR 845-025-xxxx.

(b) A laboratory renewal application may be denied for any violation of sections 91 to 99, chapter 614, Oregon Laws 2015, sections 3 to 70, chapter 1, Oregon Laws 2015, or these rules.

b. RAC Recommendation.

The RAC unanimously (14 out of 14 voting members) recommends that the Commission adopt this proposed rule.

3. OAR 845-025-XXXX Laboratory Tracking and Reporting [\(return to index\)](#)

a. Proposed language. OLCC staff proposed the following rule language to the RAC:

- (1) A laboratory licensee is required to utilize CTS and follow all requirements established by OAR 845-025-xxxx to OAR 845-025-xxxx (general requirements).*
- (2) A laboratory licensee is responsible for tracking and entering the following information into CTS:*
 - (a) Receipt of samples for testing, including:*
 - (A) Size of the sample;*
 - (B) Name of licensee from whom the sample was obtained;*
 - (C) Date the sample was collected; and*
 - (D) UID tag information associated with the harvest or process lot from which the sample was obtained.*
 - (b) Tests performed on samples, including:*
 - (A) Date testing was performed;*
 - (B) What samples were tested for;*
 - (C) Name of laboratory responsible for testing; and*
 - (D) Results of all testing performed.*
 - (c) Disposition of any testing sample material.*

b. RAC Recommendation.

The RAC unanimously (14 out of 14 voting members) recommends that the Commission adopt this proposed rule.

4. OAR 845-025-XXXX Laboratory Transportation and Waste Disposal [\(return to index\)](#)

a. Proposed language. OLCC staff proposed the following rule language to the RAC:

- (1) A laboratory licensee must follow all rules regarding transportation of marijuana items established in OAR 845-025-xxxx.*
- (2) A laboratory licensee must follow all rules regarding disposal of samples from marijuana items established in OAR 845-025-xxxx.*

b. RAC Recommendation.

The RAC unanimously (14 out of 14 voting members) recommends that the Commission adopt this proposed rule.

5. OAR 845-025-XXXX Laboratory Licensee Prohibited Conduct [\(return to index\)](#)

a. Proposed language. OLCC staff proposed the following rule language to the RAC:

- (1) In addition to the prohibitions set forth in OAR 845-025-xxxx, a laboratory licensee may not:
 - (a) Perform any required marijuana testing, using any testing methods or equipment not permitted under the laboratory's accreditation through the Authority.
 - (b) Perform any required marijuana testing for any licensed marijuana producer, processor, wholesaler or retailer in which the laboratory licensee has a financial interest in; or
 - (c) Engage in any activity that violates any provision of the chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2015, OAR 333-007-xxxx through OAR 333-007-xxxx [OHA testing rules] or these rules.
- (2) The Commission may suspend or cancel a laboratory license for any violation of sections 91 to 99, chapter 614, Oregon Laws 2015, or these rules. The licensee has a right to a hearing under the procedures of ORS Chapter 183; OAR Chapter 137, division 003; and OAR Chapter 845, division 003.
- (2) A violation of this rule is a Category I violation and could result in license revocation.

b. RAC Recommendation.

The RAC unanimously (14 out of 14 voting members) recommends that the Commission adopt this proposed rule.

RESEARCH CERTIFICATE

1. OAR 845-025-XXXX Application for Marijuana Research Certificate [\(return to index\)](#)

a. Proposed language. OLCC staff proposed the following rule language to the RAC:

- (1) The Commission shall issue Marijuana Research Certificates to qualifying public and private researchers who present research proposals that demonstrate:
 - (a) The proposed research would benefit the state's cannabis industry, medical research or public health and safety; and
 - (b) The proposed operation and methodology complies with all applicable laws and administrative rules governing marijuana licensees and licensee representatives.
- (2) The process for applying for, receiving and renewing a certificate shall be the same as the process for applying for, receiving and renewing a marijuana license under [x-ref rule] except that an applicant for a Marijuana Research Certificate is not subject to the residency requirements in [x-ref. residency rule].
- (3) In addition to the application requirements in [x-ref. application rule] the applicant must also provide:
 - (a) A clear description of the research proposal;
 - (b) A description of the researchers' expertise in the scientific substance and methods of the proposed research;
 - (c) An explanation of the scientific merit of the research plan, including a clear statement of the overall benefit of the applicant's proposed research to Oregon's cannabis industry, medical research, or to public health and safety;
 - (d) Descriptions of key personnel, including clinicians, scientists, or epidemiologists and support personnel who would be involved in the research, demonstrating they are adequately trained to conduct this research;
 - (e) A clear statement of the applicant's access to funding and the estimated cost of the proposed research;
 - (f) A disclosure of any specific conflicts of interest that the researcher or other key personnel have regarding the research proposal; and

- (g) A description of the research methods demonstrating an unbiased approach to the proposed research.
- (h) If the applicant intends to research the use of pesticides, an experimental use permit issued by Oregon Department of Agriculture pursuant to OAR 603-057-0160.
- (4) The term of a Marijuana Research Certificate is one year.

b. RAC Recommendation.

The RAC unanimously (14 out of 14 voting members) recommends that the Commission adopt this proposed rule.

2. OAR 845-025-XXXX Marijuana Research Certificate Privileges and Prohibitions

[\(return to index\)](#)

a. Proposed language. OLCC staff proposed the following rule language to the RAC:

- (1) A certificate holder may receive marijuana items from a licensee or a registrant under ORS 475.300 to 475.346.
- (2) A certificate holder may not sell or otherwise transfer marijuana items to any other person except when disposing of waste pursuant to [x-ref rule], or transferring to another certificate holder.
- (3) A certificate holder may not conduct any human subject research related to marijuana unless the certificate holder has received approval from an institutional review board that has adopted the Common Rule, 45 CFR Part 46.
- (4) All administrative rules adopted by Commission for the purpose of administering and enforcing chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2015, and any rules adopted thereunder with respect to licensees and licensee representatives apply to certificate holders except for those which are inconsistent with this rule.

b. RAC Recommendation.

The RAC unanimously (14 out of 14 voting members) recommends that the Commission adopt this proposed rule.

MARIJUANA HANDLER PERMITS

1. OAR 845-025-XXXX Marijuana Handler Permit and Retailer Requirements [\(return to index\)](#)

a. Proposed language. OLCC staff proposed the following rule language to the RAC:

- (1) A marijuana handler permit is required for any individual who performs work for or on behalf of a marijuana retailer if the individual participates in:
 - (a) The possession, securing or selling of marijuana items at the premises for which the license has been issued;
 - (b) The recording of the possession, securing or selling of marijuana items at the premises for which the license has been issued;
 - (c) The verification of any document described in section 16, chapter 1, Oregon Laws 2015; or
 - (d) The direct supervision of a person described in subsections (a) to (c) of this section.

- (2) *An individual who is required by section (1) of this rule to hold a marijuana handler permit must carry that permit on his or her person at all times when performing work on behalf of a marijuana retailer.*
- (3) *A marijuana retailer must verify that an individual has a valid marijuana handler permit issued in accordance with OAR 845-025-XXXX to 845-025-XXXX before allowing the individual to perform any work at the licensed premises.*

b. RAC Recommendation.

The RAC unanimously (14 out of 14 voting members) recommends that the Commission adopt this proposed rule.

2. OAR 845-025-XXXX Marijuana Handler Applications [\(return to index\)](#)

a. Proposed language. OLCC staff proposed the following rule language to the RAC:

- (1) *In order to obtain a marijuana handler permit an individual must submit an application on a form prescribed by the Commission. The application must contain the applicant's:*
 - (a) *Name;*
 - (b) *Mailing address;*
 - (c) *Date of birth;*
 - (d) *Signature; and*
 - (e) *Response to conviction history questions.*
- (2) *In addition to the application an applicant must submit:*
 - (a) *A copy of a driver's license or identification card issued by one of the fifty states in the United States of America or a passport;*
 - (b) *The applicable fee as specified in OAR 845-025-XXXX; and*
 - (c) *Proof of having completed a marijuana handler education course and passed the examination.*
- (3) *If an application does not contain all the information requested or if the information and fee required in section (2) of this rule is not provided to the Commission, the application will be returned to the individual as incomplete, along with the fee.*
- (4) *If an application is returned as incomplete, the individual may reapply at any time.*

b. RAC Recommendation.

The RAC unanimously (14 out of 14 voting members) recommends that the Commission adopt this proposed rule.

3. OAR 845-025-XXXX Marijuana Handler Permit Denial Criteria [\(return to index\)](#)

a. Proposed language. OLCC staff proposed the following rule language to the RAC:

- (1) *The Commission must deny an initial or renewal application if the applicant:*
 - (a) *Is not 21 years of age or older; or*
 - (b) *Has not completed the marijuana handler education course and passed the examination.*
- (2) *The Commission may deny a marijuana handler permit application, unless the applicant shows good cause to overcome the denial criteria, if the applicant:*
 - (a) *Has been convicted of a felony, except for a felony described in section 20(4)(a), chapter 614, Oregon Laws 2015;*
 - (b) *Has violated a provision of sections 3 to 70, chapter 1, Oregon Laws 2015, or these rules; or*

- (c) *Makes a false statement to the Commission.*
- (3) *If the Commission denies an application under subsection (2)(b) or (c) of this rule the individual may not reapply within two years of the date the Commission received the application.*
- (4) *A Notice of Denial must be issued by the Commission in accordance with ORS 183.*

b. RAC Recommendation.

The RAC unanimously (14 out of 14 voting members) recommends that the Commission adopt this proposed rule.

4. OAR 845-025-XXXX Marijuana Handler Course Education and Examination Requirements [\(return to index\)](#)

a. Proposed language. OLCC staff proposed the following rule language to the RAC:

- (1) *An individual must, prior to applying for a marijuana handler permit complete an approved marijuana handler education course, pass the required examination, and pay the fee specified in OAR 845-025-XXXX;*
- (2) *An individual must score at least 70 percent on the marijuana handler course examination in order to pass.*
 - (a) *An individual who does not pass the examination may retake the examination up to two times within 90 days of the date the individual took the course. If the individual fails to pass both retake examinations the individual must retake the handler education course.*
- (3) *An individual must take a marijuana handler education course at least every five years prior to applying for renewal of a marijuana handler permit.*

b. RAC Recommendation.

The RAC unanimously (14 out of 14 voting members) recommends that the Commission adopt this proposed rule.

5. OAR 845-025-XXXX Marijuana Handler Renewal Requirements [\(return to index\)](#)

a. Proposed language. OLCC staff proposed the following rule language to the RAC:

- (1) *An individual must renew his or her marijuana handler permit every five years by submitting a renewal application, prescribed by the Commission and the applicable fee specified in OAR 845-025-XXXX.*
- (2) *Renewal applications will be reviewed in accordance with OAR 845-025-XXXX.*

b. RAC Recommendation.

The RAC unanimously (12 out of 12 voting members) recommends that the Commission adopt this proposed rule.

6. OAR 845-025-XXXX Suspension or Revocation [\(return to index\)](#)

a. Proposed language. OLCC staff proposed the following rule language to the RAC:

- (1) The Commission may suspend or cancel the permit of any marijuana handler if the handler:
- (a) Has been convicted of a felony, except for a felony described in section 20, chapter 614, Oregon Laws 2015(4)(a);
 - (b) Has violated a provision of sections 3 to 70, chapter 1, Oregon Laws 2015, or these rules; or
 - (c) Makes a material false statement to the Commission.
- (2) If an individual's permit is canceled under sections (1)(b) or (c) of this rule the individual may not reapply within two years from the date a final order of revocation is issued.
- (3) A notice of suspension or revocation must be issued by the commission in accordance with ORS 183.

b. RAC Recommendation.

The RAC unanimously (12 out of 12 voting members) recommends that the Commission adopt this proposed rule.

TESTING

1. OAR 845-025-XXXX Licensee Testing Requirements [\(return to index\)](#)

a. Proposed language. OLCC staff proposed the following rule language to the RAC:

Licensees are required to test marijuana items in accordance with OAR 333-007-XXXX to 333-007-XXXX.

b. RAC Recommendation.

The RAC unanimously (12 out of 12 voting members) recommends that the Commission adopt this proposed rule.

2. OAR 845-025-XXXX Labeling, Storage, and Security of Pre-Tested Marijuana Items [\(return to index\)](#)

a. Proposed language. OLCC staff proposed the following rule language to the RAC:

- (1) Following samples being taken from a harvest or process lot a licensee must:
- (a) Label the harvest or process lot with the following information:
 - (A) The laboratory doing the samples;
 - (B) The test batch samples numbers, once known;
 - (C) The date the samples were taken;
 - (D) The harvest or process lot number;
 - (E) The licensee's license number; and
 - (F) In bold, capital letters, no smaller than 12 point font, "PRODUCT NOT TESTED".
 - (b) Store and secure the harvest or process lot in a manner that prevents the product from being tampered with or sold prior to test results being reported.
- (2) A harvest or process lot may be stored in more than one receptacle as long as the labeling requirements are met.
- (3) If the samples pass testing the product may be sold in accordance with the applicable Commission rules.
- (4) If the samples do not pass testing the licensee must comply with OAR 845-025-XXXX.

b. RAC Recommendation.

The RAC unanimously (13 out of 13 voting members) recommends that the Commission adopt this proposed rule.

3. OAR 845-025-XXXX Failed Samples ([return to index](#))

a. Proposed language. OLCC staff proposed the following rule language to the RAC:

- (1) If a sample fails any initial test the licensee may have samples retested in accordance with OAR 333-007-XXXX.*
- (2) Failed microbiological contaminant testing.*
 - (a) If a sample from a batch of usable marijuana fails microbiological contaminant testing the batch may be used to make a cannabinoid concentrate or extract if the processing method effectively sterilizes the batch such as a method using a hydrocarbon based solvent or a CO2 closed loop system.*
 - (b) If a sample from a batch of a cannabinoid concentrate or extract fails microbiological contaminant testing the batch may be further processed if the processing method effectively sterilizes the batch such as a method using a hydrocarbon based solvent or a CO2 closed loop system.*
 - (c) A batch that is sterilized in accordance with subsection (a) or (b) of this section must be resampled and retested in accordance with OAR 333-007-XXX to 333-007-XXXX, and must be tested if not otherwise required for that product, for microbiological contaminants, solvents and pesticides.*
- (3) Failed solvent testing.*
 - (a) If a sample from a batch fails solvent testing the batch may be re-processed using procedures that would reduce the concentration of solvents to less than the action level.*
 - (b) A batch that is re-processed in accordance with subsection (a) of this section must be resampled and retested in accordance with OAR 333-007-XXX to 333-007-XXXX and must be tested if not otherwise required for that product, for microbiological contaminants, solvents and pesticides.*
- (4) Failed water activity testing.*
 - (a) If a sample from a batch of usable marijuana fails for water activity the batch from which the sample was taken may continue to dry or cure.*
 - (b) A batch that undergoes additional drying or curing as described in subsection (a) of this section must be resampled and retested in accordance with OAR 333-007-XXX to 333-007-XXXX.*
- (5) Failed pesticide testing.*
 - (a) If a sample from a batch fails pesticide testing the batch must be destroyed, in accordance with [x-ref. waste disposal rule], except as provided in subsection (b) of this section, or retested in accordance with OAR 333-007-XXXX.*
 - (b) A licensee may request approval from the Commission, in writing, to remediate a batch of usable marijuana that failed pesticide testing. Such a request must include detailed information about the remediation process and proof that the remediation process will reduce the concentration of pesticides to less than the action level.*
 - (c) If the Commission approves the request the batch must be resampled and retested after the remediation, in accordance with OAR 333-007-XXXX to 333-007-XXXX and must be tested if not otherwise required for that product, for microbiological contaminants, solvents and pesticides.*

- (6) *If a sample fails a retest required under sections (2), (3) and (5) of this rule for microbiological contaminants, solvents or pesticides a licensee must destroy or dispose of the batch.*
- (7) *A regulatory specialist must witness the destruction or disposal of a batch if destruction or disposal is required by this rule.*
- (8) *A licensee must inform a laboratory prior to samples being taken that the batch is being resampled and retested after an initial failed test.*
- (9) *A licensee must, as applicable:*
 - (a) *Have detailed procedures for sterilization processes to remove microbiological contaminants and for reducing the concentration of solvents or pesticides.*
 - (b) *Document, in CTS, all resampling, retesting, sterilization, re-processing, remediation and destruction or disposal.*

b. RAC Recommendation.

The RAC unanimously (13 out of 13 voting members) recommends that the Commission adopt this proposed rule.

4. OAR 845-025-XXXX Audit Testing or Compliance Testing [\(return to index\)](#)

a. Proposed language. OLCC staff proposed the following rule language to the RAC:

- (1) *The Commission may require a licensee to have samples from a harvest or process lot submitted to a laboratory for testing in order to determine whether the licensee is in compliance with OAR 333-007-XXXX to 333-007-XXXX and these rules, at the licensee’s expense.*
- (2) *Audit testing must comply with OAR 333-007-XXXX to 333-007-XXXX and any applicable ORELAP rules.*
- (3) *The Commission may initiate an investigation of a licensee upon receipt of a tentatively identified compounds report from a laboratory, in accordance with OAR 333-064-XXXX and may require the licensee to submit samples for additional testing, including testing for analytes that are not required by OAR 333-007-XXXX to 333-007-XXXX, at the licensee’s expense.*

b. RAC Recommendation.

The RAC unanimously (13 out of 13 voting members) recommends that the Commission adopt this proposed rule.

PACKAGING AND LABELING

1. OAR 845-025-XXXX Definitions [\(return to index\)](#)

a. Proposed language. OLCC staff proposed the following rule language to the RAC:

For the purposes of OAR 845-025-XXXX to 845-025-XXXX:

- (1) *“Attractive to minors” means packaging, labeling and marketing that features:*
 - (a) *Cartoons;*

- (b) A design, brand or name that resembles a non-cannabis consumer product of the type that is typically marketed to minors;
- (c) Features symbols or celebrities that are commonly used to market products to minors.
- (2) “Cannabinoid” means any of the chemical compounds that are the active constituents of marijuana.
- (3) “Cannabinoid concentrate or extract” means a substance obtained by separating cannabinoids from marijuana by a mechanical, chemical or other process.
- (4) “Cannabinoid edible” means food or potable liquid into which a cannabinoid concentrate or extract or the dried leaves or flowers of marijuana have been incorporated.
- (5)(a) “Cannabinoid product” means a cannabinoid edible or any other product intended for human consumption or use, including a product intended to be applied to a person’s skin or hair, that contains cannabinoids or the dried leaves or flowers of marijuana.
- (b) “Cannabinoid product” does not include:
 - (A) Usable marijuana by itself;
 - (B) A cannabinoid concentrate or extract by itself; or
 - (C) Industrial hemp, as defined in ORS 571.300.
- (6) “Cartoon” means any drawing or other depiction of an object, person, animal, creature or any similar caricature that satisfies any of the following criteria:
 - (a) The use of comically exaggerated features;
 - (b) The attribution of human characteristics to animals, plants or other objects, or the similar use of anthropomorphic technique; or
 - (c) The attribution of unnatural or extra-human abilities, such as imperviousness to pain or injury, X-ray vision, tunneling at very high speeds or transformation.
- (7) “Child resistant” means packaging that is:
 - (a) Designed or constructed to be significantly difficult for children under five years of age to open and not difficult for adults to use properly as defined by 16 CFR 1700.20 (1995); and
 - (b) Resealable for any cannabinoid concentrate or extract, or cannabinoid product, intended for more than a single use or containing multiple servings.
- (8) “Consumer” :
 - (a) Has the meaning given that term in section 1, chapter 614, Oregon Laws 2015; or
 - (b) Means a patient or designated primary caregiver receiving a transfer from a medical marijuana dispensary.
- (9) “Container” means a sealed, hard or soft-bodied receptacle in which a marijuana item is placed prior to being sold to a consumer.
- (10) “Exit Package” means a sealed container provided at the retail point of sale in which any marijuana items already within a container are placed.
- (11) “Licensee” has the meaning given that term in OAR 845-025-XXXX.
- (12)(a) “Marijuana” means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.
- (b) “Marijuana” does not include industrial hemp, as defined in ORS 571.300.
- (13) “Marijuana item” means marijuana, usable marijuana, a cannabinoid product or a cannabinoid concentrate or extract.
- (14) “Processing” means the compounding or conversion of marijuana into cannabinoid products or cannabinoid concentrates or extracts.
- (15) “Producing” means:
 - (a) Planting, cultivating, growing, trimming or harvesting marijuana; or
 - (b) Drying marijuana leaves and flowers.
- (16) “Registrant” means a person registered with the Authority under ORS 475.304, 475.314, or section 85, chapter 614, Oregon Laws 2015.
- (17)(a) “Usable marijuana” means the dried leaves and flowers of marijuana.
- (b) “Usable marijuana” does not include:

- (A) *The seeds, stalks and roots of marijuana; or*
- (B) *Waste material that is a by-product of producing or processing marijuana.*

b. RAC Recommendation.

The RAC unanimously (13 out of 13 voting members) recommends that the Commission adopt this proposed rule.

2. OAR 845-025-XXXX Packaging for Sale to Consumer [\(return to index\)](#)

a. Proposed language. OLCC staff proposed the following rule language to the RAC:

- (1) *The purpose of this rule is to set the minimum standards for the packaging of marijuana items that are sold to the consumer, applicable to:*
 - (a) *A licensee; or*
 - (b) *A registrant who is not exempt from the labeling requirements.*
- (2) *Containers or packaging for marijuana items must protect a marijuana item from contamination and must not impart any toxic or deleterious substance to the marijuana item.*
- (3) *Marijuana items for ultimate sale to a consumer must:*
 - (a) *Be packaged in a container that is child-resistant or if the container is not child-resistant, be placed in an exit package at the time of sale that is child-resistant;*
 - (b) *Be placed in an opaque exit package that does not allow the product to be seen without opening the packaging material;*
 - (c) *Not be packaged or labeled in a manner that is attractive to minors; and*
 - (d) *Be labeled in accordance with OAR 333-007-XXX to 333-007-XXXX.*
- (4) *Packaging may not contain any text that makes an untruthful or misleading statement.*
- (5) *Nothing in this rule:*
 - (a) *Prevents the re-use of packaging that is capable of continuing to be child-resistant, as permitted by rules established by the Commission or the Authority; or*
 - (b) *Prohibits the Commission or the Authority from imposing additional packaging requirements in their respective rules governing licensees and registrants.*

b. RAC Recommendation.

The RAC unanimously (13 out of 13 voting members) recommends that the Commission adopt this proposed rule.

3. OAR 845-025-XXXX Wholesaler and Retailer Packaging and Labeling Compliance Requirements [\(return to index\)](#)

a. Proposed language. OLCC staff proposed the following rule language to the RAC:

- (1) *If a wholesaler or a retailer receives a marijuana item that is not packaged or labeled in accordance with OAR 845-025-XXXX to 845-025-XXXX or OAR 333-007-XXXX to 333-007-XXXX the wholesaler or retailer must notify the Commission and return the marijuana item to the licensee who transferred the wholesaler or retailer the marijuana item. The wholesaler or retailer must document the return and the reason for the return in the tracking system.*

(2) Sale of a marijuana item that is not packaged and labeled in accordance with (packaging rule/labeling rule) is a category III violation.

b. RAC Recommendation.

The RAC unanimously (13 out of 13 voting members) recommends that the Commission adopt this proposed rule.

4. OAR 845-025-XXXX Packaging and Labeling Pre-Approval Process [\(return to index\)](#)

a. Proposed language. OLCC staff proposed the following rule language to the RAC:

(1) Prior to a marijuana item being sold to a consumer, a licensee or a registrant, if pre-approval is required by the Authority, packaging marijuana items for ultimate sale to a consumer must submit a prototype of the packaging complete with labels affixed to the package for pre-approval by the Commission, subject to the exceptions in sections (6) to (8) of this rule, the packaging and labels must be accompanied by the following:

(a) A fee as specified in OAR 845-025-XXXX; and

(b) Information including but not limited to:

(A) The licensee's license number or the registrant's registration number; and

(B) A picture of and description of the item to be placed in the package.

(2) The commission will evaluate the packaging and label in order to determine whether:

(a) The packaging:

(a) Is child resistant.

(b) Is marketed in a manner attractive to minors.

(c) Contains untruthful or misleading content.

(d) If the packaging is for a cannabinoid edible or other cannabinoid products, is attractive to minors.

(b) The label complies with the Authority's labeling rules, OAR 333-007-XXXX to 333-007-XXXX.

(3) The commission must review the packaging and labeling and notify the licensee or registrant whether the packaging and labeling is approved and if not approved, a description of the packaging or labeling deficiencies.

(4) If a licensee or registrant's packaging or labeling is deficient it must correct the deficiencies and resubmit the packaging for pre-approval, but the licensee or registrant is not required to submit an additional fee unless the packaging is found deficient for a second time in which case the licensee must resubmit the packaging or labeling in accordance with subsection (1) of this rule.

(5) If the label affixed to the package is not compliant with OAR 333-007-XXXX to 333-007-XXXX the package will not be approved.

(6) Packages and labels that have been previously approved do not need to be resubmitted if the only changes to the packaging or label are:

(a) Changes in the:

(A) Harvest or processing date;

(B) Strain;

(C) Test results;

(D) Flavors of edible products;

(E) Net weight or volume; or

(F) Harvest or process lot numbers.

(b) The deletion of any non-mandatory label information.

(c) The addition, deletion or change in the:

(A) UPC barcodes or 2D mobile barcodes (QR codes); or

- (B) Website address, phone number, fax number, or zip code of the licensee or registrant.*
- (d) The repositioning of any label information on the package.*
- (7) The Commission must publish a list of previously approved commercially available packaging. Packaging identified on this list as approved for certain product types does not need to be submitted for approval if used for the type of product for which it is approved and the packaging does not contain any graphics, pictures or logos.*
- (8) Labels for marijuana items do not require pre-approval if they contain only the information required by (x-ref OHA rule) and no graphics, pictures or logos.*

b. RAC Recommendation.

The RAC unanimously (13 out of 13 voting members) recommends that the Commission adopt this proposed rule.

SEED-TO-SALE TRACKING

1. OAR 845-025-XXXX CTS Requirements [\(return to index\)](#)

a. Proposed language. OLCC staff proposed the following rule language to the RAC:

- (1) A licensee must:*
 - (a) Use CTS as the primary inventory and recording keeping system.*
 - (b) Have a CTS account activated and functional prior to operating or exercising any privileges of the license and must maintain an active account while licensed.*
- (2) A licensee must have at least one license holder who is a CTS Administrator and a licensee may authorize additional license holders or licensee representatives to obtain Administrator accounts.*
- (3) In order to obtain a CTS Administrator account, a license holder must attend and successfully complete all required CTS training. The Commission may also require additional ongoing, continuing education for an individual to retain his or her CTS Administrator account.*
- (4) A licensee may designate licensee representatives as CTS Users. A designated user must be trained by a CTS Administrator in the proper and lawful use of CTS.*
- (5) A licensee must:*
 - (a) Maintain an accurate and complete list of all CTS Administrators and CTS Users for each Licensed Premises and must update the list when a new CTS User is trained.*
 - (b) Train and authorize any new CTS Users before those Users are permitted to access CTS or input, modify, or delete any information in CTS.*
 - (c) Cancel any CTS Administrator or User from an associated CTS account if that individual is no longer a licensee representative or the Administrator or User has violated OAR 845-025-XXXX to 845-025-XXXX .*
 - (d) Correct any data that is entered into CTS in error.*
- (6) A licensee is accountable for all actions licensee representatives take while logged into CTS or otherwise conducting inventory tracking activities.*
- (7) Nothing in this rule prohibits a licensee from using secondary separate software applications to collect information to be used by the business including secondary inventory tracking or point of sale systems. Secondary software applications must use CTS data as the primary source of data and must be compatible with updating to CTS. If a licensee uses a separate software application it must get approval from the vendor contracting with the Commission to provide CTS and the software application must:*

- (a) Accurately transfer all relevant CTS data to and from CTS for the purposes of reconciliations with any secondary systems.
- (b) Preserve original CTS data when transferred to and from a secondary application.
- (8) If at any point a licensee loses access to CTS for any reason, the licensee must keep and maintain comprehensive records detailing all tracking inventory activities that were conducted during the loss of access.
 - (a) Once access is restored, all inventory tracking activities that occurred during the loss of access must be entered into CTS.
 - (b) A licensee must document when access to the system was lost and when it was restored.
 - (c) A licensee may not transport any marijuana items to another licensed premises until such time as access is restored and all information is recorded into CTS.

b. RAC Recommendation.

The RAC unanimously (13 out of 13 voting members) recommends that the Commission adopt this proposed rule.

2. OAR 845-025-XXXX Unique Identification (UID) Tags [\(return to index\)](#)

a. Proposed language. OLCC staff proposed the following rule language to the RAC:

A licensee must:

- (1) Use UID tags issued by a Commission-approved vendor that is authorized to provide UID tags for CTS. Each licensee is responsible for the cost of all UID tags and any associated vendor fees.
- (2) Have an adequate supply of UID tags at all times.
- (3) Properly tag all inventory that is required to have a UID tag.
- (4) Place tags in a position that can be clearly read by an individual standing next to the item and the tag must be kept free from dirt and debris.

b. RAC Recommendation.

The RAC unanimously (13 out of 13 voting members) recommends that the Commission adopt this proposed rule.

3. OAR 845-025-XXXX CTS User Requirements [\(return to index\)](#)

a. Proposed language. OLCC staff proposed the following rule language to the RAC:

- (1) A licensee and any designated CTS Administrator or User shall enter data into CTS that fully and transparently accounts for all inventory tracking activities.
- (2) A licensee is responsible for the accuracy of all information entered into CTS.
- (3) An individual entering data into the CTS system may only use that individual's CTS account.
- (4) A violation of this rule is a Category III violation. Intentional misrepresentation of data entered into the CTS system is a Category I violation.

b. RAC Recommendation.

The RAC unanimously (13 out of 13 voting members) recommends that the Commission adopt this proposed rule.

4. OAR 845-025-XXXX System Notification [\(return to index\)](#)

a. Proposed language. OLCC staff proposed the following rule language to the RAC:

A licensee must:

- (1) Monitor all compliance notifications from CTS and resolve the issues detailed in the compliance notification in a timely fashion. A licensee may not dismiss a compliance notification in CTS until the licensee resolves the compliance issues detailed in the notification.*
- (2) Take appropriate action in response to informational notifications received through CTS, including but not limited to notifications related to UID billing, enforcement alerts, and other pertinent information.*

b. RAC Recommendation.

The RAC unanimously (13 out of 13 voting members) recommends that the Commission adopt this proposed rule.

5. OAR 845-025-XXXX Reconciliation with Inventory [\(return to index\)](#)

a. Proposed language. OLCC staff proposed the following rule language to the RAC:

A licensee must:

- (1) Use CTS for all inventory tracking activities at a licensed premises.*
- (2) Reconcile all on-premises and in-transit marijuana item inventories each day in CTS at the close of business.*

b. RAC Recommendation.

The RAC unanimously (13 out of 13 voting members) recommends that the Commission adopt this proposed rule.

6. OAR 845-025-XXXX Inventory Audits [\(return to index\)](#)

a. Proposed language. OLCC staff proposed the following rule language to the RAC:

(1) The Commission may perform a physical audit of the inventory of any licensee at the agency's discretion and without prior notice to the licensee. Variances between the physical audit and the inventory reflected in CTS at the time of the audit are violations as described below:

(a) Minor audit discrepancies mean:

- (A) A variance of more than 5% but less than 10% for usable marijuana, excluding harvest lots at a producer licensee premises that are in the process of drying.*
- (B) A variance of more than 1% but less than 5% for all marijuana items other than usable marijuana.*

(b) Major audit discrepancies mean:

- (A) A variance of more than 10% for usable marijuana, excluding harvest lots at a producer licensee premises that are in the process of drying.*
- (B) A variance of more than 5% for all marijuana items other than usable marijuana.*

- (2) *Minor audit discrepancies are a Category III violation.*
- (3) *Major audit discrepancies are a Category I violation.*

b. RAC Recommendation.

The majority of the RAC (12 out of 13 voting members) recommends that the Commission adopt this proposed rule. The group suggested that audits be conducted at the end of the business day in order to get an accurate picture of discrepancies between the physical inventory and the inventory reflected in the CTS system.

TRANSPORTATION AND DELIVERY

1. OAR 845-025-XXXX Transportation and Delivery of Marijuana Items [\(return to index\)](#)

a. Proposed language. OLCC staff proposed the following rule language to the RAC:

- (1) *Marijuana items may only be transferred between licensed premises by a licensee or licensee representative.*
- (2) *An individual authorized to transport marijuana items must have a valid Oregon Driver's License;*
- (3) *A licensee must:*
 - (a) *Use a vehicle for transport that is:*
 - (A) *Insured at or above the legal requirements in Oregon;*
 - (B) *Capable of securing (locking) the marijuana items during transportation; and*
 - (C) *Capable of being temperature controlled if perishable marijuana items are being transported.*
 - (b) *Using CTS, generate a transport manifest that accompanies every transport of marijuana items that contains the following information:*
 - (A) *The name, contact information of a licensee representative, licensed premises address and license number of the licensee transporting the marijuana items;*
 - (B) *The name, contact information of the licensee representative, licensed premises address, and license number of the licensee receiving the delivery;*
 - (C) *Product name and quantities (by weight or unit) of each marijuana item to be delivered to each specific destination location, along with the UIDs for every item;*
 - (D) *The date of transport and approximate time of departure;*
 - (E) *Arrival date and estimated time of arrival;*
 - (F) *Delivery vehicle make and model and license plate number; and*
 - (G) *Name and signature of the licensee's representative accompanying the transport.*
- (4) *A licensee or licensee representative may transport marijuana items from an originating location to multiple licensed premises as long as each transport manifest correctly reflects the specific inventory destined for specific licensed premises.*
- (5) *All marijuana items must be packaged in shipping containers and labeled in accordance with OAR 845-025-XXXX prior to transport.*
- (6) *A licensee must provide a copy of the transport manifest to each licensed premises receiving the inventory described in the transport manifest, but in order to maintain transaction confidentiality, may prepare a separate manifest for each receiving licensed premises.*
- (7) *A licensee must contact the commission immediately, or as soon as possible under the circumstances, if a vehicle transporting marijuana items is involved in any accident that involves product loss.*
- (8) *Upon receipt of inventory a receiving licensee must ensure that the marijuana items received are as described in the transport manifest.*

- (9) A receiving licensee must separately document any differences between the quantity specified in the transport manifest and the quantities received. Such documentation shall be made in CTS and in any relevant business records.
- (10) A licensee must provide temperature control for perishable marijuana items during transport.
- (11) Any vehicle transporting marijuana items must travel directly from the shipping licensee to the receiving licensee and must not make any unnecessary stops in between except to other licensed premises receiving inventory.
- (12) A licensee may transport marijuana for other licensees if the transporting licensee holds a wholesale license.

Staff drafted the majority of this proposed rule around the ability of the CTS and manifest system, a similar version of what is used currently in Colorado. The rule requires all transportation information to be entered into the CTS system and a manifest generated to accompany all transports between licensees. Staff also relayed that the agency is currently collaborating with Oregon State Police to develop a means of providing local law enforcement with quick access to transportation records so that they may verify transportation information and routes for any licensees they may encounter.

b. Majority Recommendation.

The majority of the RAC (9 out of 13 voting members) recommends that the Commission adopt this rule. The majority believes that requiring the use of CTS to generate transport manifests provides a safe, effective and simple way to track transportation of product between licensees. Several members of the majority stated that they currently transport marijuana items in the medical market without any additional security or transport verification measures, and have not encountered any problems or safety issues in doing so.

c. Minority Recommendation.

The minority of the RAC (4 out of 13 voting members) does not recommend that the Commission adopt this rule. This segment of the Committee believes the rule should include language that requires drivers to share all needed information with law enforcement, and/or provide local law enforcement 24/7 access to the seed-to-sale system to verify the legality of any transport. The minority believes that adding this concept to this rule will ensure that local police have sufficient access and can distinguish legitimate, legal transports from transports that are not legitimate and legal. The minority expressed concern that the rule as written leaves room for individuals and businesses to falsify manifests, and that without the ability for police to easily and quickly confirm the validity of a transport there will be many avenues for diversion into the unregulated market. The minority believes that it is in the interest of licensed businesses to require additional transport verification mechanisms as well, given that currently local law enforcement agencies do not return seized marijuana products because it is illegal under federal law.

WASTE MANAGEMENT

1. OAR 845-025-XXXX Waste Management [\(return to index\)](#)

a. Proposed language. OLCC staff proposed the following rule language to the RAC:

- (1) A licensee must:
 - (a) Store, manage and dispose of solid and liquid wastes generated during marijuana production and processing in accordance with applicable state and local laws and regulations which may include but are not limited to:.
 - (A) Solid waste requirements in ORS 459 and OAR 340 Divisions 93 to 96;

- (B) Hazardous waste requirements in ORS 466 and OAR 340, Divisions 100 to 106; and
- (C) Wastewater requirements in ORS 468B and OAR 340, Divisions 41 to 42, 44 to 45, 53, 55 and 73.
- (b) Store marijuana waste in a secured waste receptacle in the possession of and under the control of the licensee.
- (2) A licensee may give or sell marijuana waste to a producer, processor or wholesale licensee or research certificate holder. Any such transaction must be entered into CTS pursuant to [x-ref seed/sale rule]
- (3) In addition to information required to be entered into CTS pursuant to [x-ref seed/sale rule] a licensee must maintain accurate and comprehensive records regarding waste material that accounts for, reconciles, and evidences all waste activity related to the disposal of marijuana.

b. RAC Recommendation.

The RAC unanimously (13 out of 13 voting members) recommends that the Commission adopt this proposed rule.

ADVERTISING

1. OAR 845-025-XXXX Purpose and Application of Rules [\(return to index\)](#)

a. Proposed language. OLCC staff proposed the following rule language to the RAC:

- (1) *The Commission serves the interests of the citizens of Oregon by regulating and prohibiting advertising marijuana items in a manner:*
 - (a) *That is attractive to minors;*
 - (b) *That promotes excessive use;*
 - (c) *That promotes activity that is illegal under Oregon law; or*
 - (d) *That otherwise presents a significant risk to public health and safety.*
- (2) *The Commission also serves the interests of Oregonians by allowing advertising for the purpose of informing the public of the availability and characteristics of marijuana.*
- (3) *All marijuana advertising by a licensee must conform to these rules.*

b. RAC Recommendation.

The RAC unanimously (13 out of 13 voting members) recommends that the Commission adopt this proposed rule.

2. OAR 845-025-XXXX Definitions [\(return to index\)](#)

a. Proposed language. OLCC staff proposed the following rule language to the RAC:

- As used in OAR 845-025-XXXX through 845-025-XXXX:*
- (1) *"Advertising" is publicizing the trade name of a licensee together with words or symbols referring to marijuana or publicizing the brand name of marijuana or a marijuana product.*
 - (2) *"Handbill" is a flyer, leaflet, or sheet that advertises marijuana.*

- (3) "Radio" means a system for transmitting sound without visual images, and includes broadcast, cable, on-demand, satellite, or internet programming. Radio includes any audio programming downloaded or streamed via the internet.
- (4) "Television" means a system for transmitting visual images and sound that are reproduced on screens, and includes broadcast, cable, on-demand, satellite, or internet programming. Television includes any video programming downloaded or streamed via the internet.

b. RAC Recommendation.

The RAC unanimously (13 out of 13 voting members) recommends that the Commission adopt this proposed rule.

3. OAR 845-025-XXXX Advertising Restrictions [\(return to index\)](#)

a. Proposed language. OLCC staff proposed the following rule language to the RAC:

- (1) *Marijuana advertising may not:*
 - (a) *Contain statements that are deceptive, false, or misleading;*
 - (b) *Contain any content that can reasonably be considered to target individuals under the age of 21, including but not limited to cartoon characters, toys, or similar images and items typically marketed towards minors;*
 - (c) *Specifically encourages the transportation of marijuana items across state lines;*
 - (d) *Assert that marijuana items are safe because they are regulated by the commission or have been tested by a certified laboratory or otherwise make claims that any government agency endorses or supports marijuana;*
 - (e) *Make claims that recreational marijuana has curative or therapeutic effects;*
 - (f) *Display consumption of marijuana items;*
 - (g) *Contain material that encourages the use of marijuana because of its intoxicating effect;*
or
 - (h) *Contain material that encourages excessive or rapid consumption.*
- (2) *A marijuana retailer may not make any deceptive, false, or misleading assertions or statements on any product, any sign, or any document provided to a consumer*
- (3) *A licensee must include the following statement on all advertising:*
 - (a) *"Do not operate a vehicle or machinery under the influence of this drug".*
 - (b) *"For use only by adults twenty-one and older."*
 - (c) *"Keep out of the reach of children."*

b. RAC Recommendation.

The majority of the RAC (12 out of 13 voting members) recommends that the Commission adopt this proposed rule.

4. OAR 845-025-XXXX Advertising Media, Coupons and Promotions [\(return to index\)](#)

a. Proposed language. OLCC staff proposed the following rule language to the RAC:

- (1) *The Commission prohibits advertising through handbills that are posted or passed out in public areas such as parking lots and publicly owned property; and*
- (2) *A licensee may not utilize television, radio, print media or internet advertising unless the licensee has reliable evidence that no more than 30 percent of the audience for the*

program, publication or internet web site in or on which the advertising is to air or appear is reasonably expected to be under the age of 21.

- (3) *A licensee may not engage in advertising via marketing directed towards location-based devices, including but not limited to cellular phones, unless the marketing is a mobile device application installed on the device by the owner of the device who is 21 year of age or older and includes a permanent and easy opt-out feature*

b. RAC Recommendation.

The RAC unanimously (13 out of 13 voting members) recommends that the Commission adopt this proposed rule.

5. OAR 845-025-XXXX Removal of Objectionable and Non-Conforming Advertising

[\(return to index\)](#)

a. Proposed language. OLCC staff proposed the following rule language to the RAC:

- (1) *A licensee must remove any sign, display, or advertisement if the Commission finds it violates these rules.*
- (2) *The Commission will notify the licensee and specify a reasonable time period for the licensee to remove any sign, display or advertisement that the Commission finds objectionable.*

b. RAC Recommendation.

The RAC unanimously (13 out of 13 voting members) recommends that the Commission adopt this proposed rule.

INVESTIGATION AND ENFORCEMENT

1. OAR 845-025-XXXX Responsibility of a Licensee, Responsibility for Conduct of Others

[\(return to index\)](#)

a. Proposed language. OLCC staff proposed the following rule language to the RAC:

Each licensee is responsible for violations of any provision of chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2014, or chapter 699, Oregon Laws 2015, affecting the licensed privileges, or these rules and for any act or omission of a licensee representative that violates any law, administrative rule, or regulation affecting the licensed privileges.

b. RAC Recommendation.

The RAC unanimously (13 out of 13 voting members) recommends that the Commission adopt this proposed rule.

2. OAR 845-025-XXXX Prohibited Conduct [\(return to index\)](#)

a. Proposed language. OLCC staff proposed the following rule language to the RAC:

- (1) *Access to Premises. A licensee or permittee may not:*
- (a) *During regular business hours for the licensed premises, refuse to admit or fail to promptly admit a Commission regulatory specialist who identifies him or herself and who enters or*

- wants to enter a licensed premises to conduct an inspection to ensure compliance with chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2014, or chapter 699, Oregon Laws 2015, affecting the licensed privileges, or these rules;
- (b) Outside of regular business hours or when the premises appear closed, refuse to admit or fail to promptly admit a Commission regulatory specialist who identifies him or herself and requests entry on the basis that there is a reason to believe a violation of chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2014, or chapter 699, Oregon Laws 2015, affecting the licensed privileges, or these rules is occurring; or
- (c) Once a regulatory specialist is on the licensed premises, ask the regulatory specialist to leave until the specialist has had an opportunity to conduct an inspection to ensure compliance with chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2014, or chapter 699, Oregon Laws 2015, affecting the licensed privileges, or these rules.
- (d) Violation of this section is a Category II violation.
- (2) Use or Consumption of Intoxicants on Duty and Under the Influence on Duty.
- (a) No licensee, licensee representative, or permittee may consume any intoxicating substances while on duty. Violation of this subsection is a Category III violation.
- (b) No licensee, licensee representative, or permittee may be under the influence of intoxicating substances while on duty. Violation of this subsection is a Category III violation.
- (c) Whether a person is paid or scheduled for a work shift is not determinative of whether the person is considered "on duty."
- (d) As used in this section:
- (A) "On duty" means:
- (i) From the beginning to the end of a work shift for the licensed business, including any and all coffee, rest or meal breaks; or
- (ii) Performing any acts on behalf of the licensee or the licensed business outside of a work shift if the individual has the authority to put himself or herself on duty.
- As used in this section.
- (B) "Intoxicants" means any substance that is known to have or does have intoxicating effects, and includes alcohol, marijuana, or any other controlled substances.
- (3) Permitting Use of Marijuana at Licensed Premises. A licensee or permittee may not permit the use or consumption of marijuana, or any other intoxicating substance, anywhere in or on the licensed premises, or in surrounding areas under the control of the licensee. Violation of this section is a Category III violation.
- (4) Import and Export. A licensee or permittee may not import marijuana items into this state or export marijuana items out of this state. Violation of this section is a Category I violation and could result in license or permit revocation.
- (5) Permitting, Disorderly or Unlawful Conduct. A licensee or permittee may not permit disorderly activity or activity that is unlawful under Oregon state law on the licensed premises or in areas adjacent to or outside the licensed premises under the control of the licensee.
- (a) If the prohibited activity under this section results in death or serious physical injury, or involves unlawful use or attempted use of a deadly weapon against another person, or results in a sexual offense which is a Class A felony such as first degree rape, sodomy, or unlawful sexual penetration, the violation is a Category I violation and could result in license or permit revocation.
- (b) If the prohibited activity under this section involves use of a dangerous weapon against another person with intent to cause death or serious physical injury, it is a Category II violation.
- (c) As used in this section:
- (A) "Disorderly activities" means activities that harass, threaten or physically harm oneself or another person.

- (B) “Unlawful activity” means activities that violate the laws of this state, including but not limited to any activity that violates a state criminal statute.
- (d) The Commission does not require a conviction to establish a violation of this section except as section 13(1)(f), chapter 614, Oregon Laws 2015 requires.
- (6) *Marijuana as a Prize, Premium or Consideration.* No licensee or permittee may give or permit the giving of any marijuana item as a prize, premium, or consideration for any lottery, contest, game of chance or skill, exhibition, or any competition of any kind on the licensed premises. Violation of this section is a Category V violation.
- (7) *Visibly Intoxicated Persons.* No licensee or permittee may sell, give, or otherwise make available any marijuana item to any person who is visibly intoxicated. Violation of this section is a Category X violation.
- (8) *Additional Prohibitions.* A licensee or permittee may not:
- (a) Sell or deliver any marijuana item through a drive-up window.
- (b) Sell or offer for sale any marijuana item for a price per item that is less than the licensee’s cost for the marijuana item;
- (c) Use any device or machine that both verifies the age of the consumer and delivers marijuana to the consumer; or
- (d) Deliver marijuana to a consumer off the licensed premises, except that retail licensees may provide delivery as set forth in OAR 845-025-xxxx (bona fide purchase).
- (e) Violation of this subsection is a Category III violation.

b. Majority Recommendation.

The majority of the RAC (8 out of 13 voting members) does not recommend that the Commission adopt this proposed rule. This segment does not agree with a prohibition against use of medical marijuana by OMMP patients while on duty. The majority agrees that patients should not be intoxicated on duty, but note that most OMMP patients use marijuana products that are CBD-dominant which are not intoxicating. Further the majority believes that because the Oregon Board of Pharmacy as medicine recognizes marijuana, it should be treated as all other medicines for purposes of allowing use while on duty.

c. Minority Recommendation.

The minority of the RAC (5 out of 13 members) recommends that the Commission adopt this proposed rule. The minority agrees with the stated prohibitions, including a prohibition against use of marijuana by all employees whether or not they are also OMMP patients.

3. OAR 845-025-XXXX Dishonest Conduct [\(return to index\)](#)

a. Proposed language. OLCC staff proposed the following rule language to the RAC:

- (1) *False Statements.* A licensee or permittee may not:
- (a) Make a false statement or representation to the Commission or law enforcement in order to induce or prevent action or investigation by the Commission or law enforcement. Violation of this subsection is a Category II violation.
- (b) If the Commission finds that the false statement or representation was intentional, the Commission may charge the violation as a Category I violation and could result in license or permit revocation.
- (2) *Marijuana Item Misrepresentations.*
- (a) A licensee or permittee may not misrepresent any marijuana item to a consumer, licensee, or the public, including:
- (A) Misrepresenting the contents of a marijuana item;

- (B) *Misrepresenting the testing results of a marijuana item;*
- (C) *Misrepresenting the potency of a marijuana item; or*
- (D) *Making representations or claims that the marijuana item has curative or therapeutic effects. .*
- (b) *A licensee may not treat or otherwise adulterate usable marijuana with any chemical, biologically active drug, plant, substance, including nicotine, or other compound that has the effect or intent of altering the usable marijuana's color, appearance, weight or smell in violation of OAR 845-025-XXXX.*
- (c) *A knowing or intentional violation of this section is a Category I violation and could result in license or permit revocation.*
- (d) *Violation of this section in any manner other than knowing or intentional is a Category II violation.*
- (3) *Supply of Adulterated Marijuana Items.*
 - (a) *A licensee may not supply adulterated marijuana items.*
 - (b) *Violation of this section is a Category I violation and could result in license revocation.*
- (4) *Evidence. A licensee or permittee may not:*
 - (a) *Intentionally destroy, damage, alter, remove or conceal potential evidence, or attempt to do so, or ask or encourage another person to do so. Violation of this subsection is a Category I violation and could result in license cancellation.*
 - (b) *Destroy, damage, alter, remove or conceal potential evidence, or attempt to do so, or ask or encourage another person to do so, in any manner other than intentional. Violation of this subsection is a Category II violation.*
 - (c) *Refuse to give, or fail to promptly give, a Commission regulatory specialist or law enforcement officer evidence when lawfully requested to do so. Violation of this subsection is a Category II violation.*

b. RAC Recommendation.

The RAC unanimously (12 out of 12 voting members) recommends that the Commission adopt this proposed rule.

4. OAR 845-025-XXXX Inspections ([return to index](#))

a. Proposed language. OLCC staff proposed the following rule language to the RAC:

- (1) *The commission may conduct:*
 - (a) *A complaint inspection at any time following the receipt of a complaint that alleges a licensee or permittee is in violation of chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2015, chapter 699, Oregon Laws 2015, or these rules;*
 - (b) *An inspection at any time if it believes, for any reason, that a licensee or permittee is in violation of chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2015, chapter 699, Oregon Laws 2015, or these rules; or*
 - (c) *Compliance buys in order to determine whether a licensee or permittee is complying with chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2015, chapter 699, Oregon Laws 2015, or these rules.*
- (2) *A licensee, licensee representative, or permittee must cooperate with the Commission during an inspection.*
- (3) *If licensee, licensee representative or permittee fails to permit the Commission to conduct an inspection the Commission may seek an investigative subpoena to inspect the premises and gather books, payrolls, accounts, papers, documents or records.*

b. RAC Recommendation.

The RAC unanimously (12 out of 12 voting members) recommends that the Commission adopt this proposed rule.

5. OAR 845-025-XXXX Suspended Licenses: Posting of Suspension Notice Sign, Activities Allowed During Suspension [\(return to index\)](#)

a. Proposed language. OLCC staff proposed the following rule language to the RAC:

- (1) Before 7:00 a.m. on the date a license suspension goes into effect, and until the suspension is completed, Commission staff must ensure that a suspension notice sign is posted on each outside entrance or door to the licensed premises.*
- (2) The suspension notice sign must be posted in a way that allows any person entering the premises to read it. Licensees must use the suspension notice sign provided by the Commission. The sign will state that the license has been suspended by order of the Commission due to violations of the recreational marijuana laws (statutes or administrative rule) of Oregon. If there are multiple licenses at the location, the sign will specify which license privileges have been suspended.*
- (3) During the period of license suspension, the licensee is responsible for ensuring:*
 - (a) Compliance with all applicable laws and rules, including compliance with all minor postings assigned to the premises under OAR 845-025-XXXX; and*
 - (b) That the suspension notice sign is not removed, altered, or covered.*
- (4) A licensee or licensee representative may not allow the sale, delivery to or from, or receipt of marijuana items at the licensed premises during the period of time that the license is under suspension. During a period of time that the license is under suspension, a recreational marijuana licensee may operate the business provided there is no sale, delivery to or from, or receipt of a marijuana item.*
- (5) Sanction:*
 - (a) A violation of section (4) of this rule is a Category I violation.*
 - (b) A violation of sections (2) or (3)(b) of this rule is a Category IV violation.*

b. RAC Recommendation.

The RAC unanimously (12 out of 12 voting members) recommends that the Commission adopt this proposed rule.

6. OAR 845-025-XXXX Suspension, Cancellation, Civil Penalties, Sanction Schedule [\(return to index\)](#)

a. Proposed language. OLCC staff proposed the following rule language to the RAC:

- (1) The Commission may suspend or cancel:*
 - (a) A license under section 9, Chapter 614, Oregon Laws, 2015.*
 - (b) A marijuana handlers permit under section 20, Chapter 614, Oregon Laws, 2015.*
 - (c) A research certificate under section 113, Chapter 614, Oregon Laws, 2015.*
- (2) The Commission may impose a civil penalty not to exceed \$5,000 under section 29, Chapter 614, Oregon Laws 2015. 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.*
- (3) *Violation Categories:*
- (a) *The Commission has the following violation categories:*
- (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;*
 - (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.*
- (b) *A proposed sanction schedule for the first and subsequent violations within a two-year period within each violation category is listed in Exhibit 1, incorporated by reference.*
- (c) *If the Commission finds aggravating or mitigating circumstances, it may assess a greater or lesser sanction from the proposed sanctions listed in Exhibit 1. Mitigating and aggravating circumstances include but are not limited to:*
- (A) *Good faith efforts by a licensee, permittee or certificate holder to prevent a violation;*
 - (B) *Extraordinary cooperation from the licensee, permittee or certificate holder during the violation investigation that shows the licensee, permittee, or certificate holder accepts responsibility;*
 - (C) *A prior warning about compliance problems;*
 - (D) *Repeated failure to comply with laws;*
 - (E) *Efforts to conceal a violation;*
 - (F) *The violation involved more than one customer or employee;*
 - (G) *The violation involved an individual under the age of 18; or*
 - (H) *The violation resulted in injury or death.*
- (d) *The Commission may always increase or decrease a sanction to prevent inequity or to take account of particular circumstances in the case.*
- (6) *The Commission increases sanctions based on successive violations in the same category within a two-year period. For example, if a licensee, permittee, or certificate holder who has committed one Category III violation and one Category IV violation within the past two years, commits another Category III violation, the Commission assesses the sanction at the second level for the pending Class III violation. Numerous violations within the two-year period, regardless of the type, may indicate such a disregard for the law or failure to control the premises so as to warrant cancellation of the license, permit or certificate.*
- (7) *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.*

b. RAC Recommendation.

The RAC unanimously (13 out of 13 voting members) recommends that the Commission adopt this proposed rule with a proposal to eliminate the Category II violation for intentional failure to verify the age of a minor. This category calls for a 30day suspension for a first offense. The RAC believes this is not necessary and would be unduly harsh to licensees who have the unfortunate circumstances of a rouge employee deciding to deliberately sell to a minor. The RAC believes treating all failure to verify age violations the same as Category III violations, which calls for a monetary fine of \$1,650 or a ten day suspension, and using aggravation and mitigation depending on the individual facts of the sale, is more appropriate.

Exhibit 1, OAR 845-025-xxxx [\(return to index\)](#)

**Oregon Liquor Control Commission
Recreational Marijuana Sanctions**

| Category | 1st | 2nd | 3rd | 4th | 5th | 6th | 7th |
|------------|------------------------------|------------------------------|------------------------------|------------------------------|----------------|---------------|-----|
| I | Cancel | | | | | | |
| II | 30 days | Cancel | | | | | |
| III | 10 days or \$1650 | 30 days or \$4950 | 30 days | Cancel | | | |
| IV | 7 days or \$1155 | 10 days or \$1650 | 20 days or \$3300 | 30 days | Cancel | | |
| V | 3 days or \$495 | 7 days or \$1155 | 10 days or \$1650 | 20 days or \$3300 | 30 days | Cancel | |

Categories for Most Common Violations

| Category | Violation |
|---|--|
| I | |
| | Conviction of a felony |
| | Operating other than the license permits |
| | Intentional false statement to the Commission |
| | Intentional destruction or concealment of evidence |
| | |
| | Permitted noisy, disorderly or unlawful activity that results in death or serious physical injury, or that involves unlawful use or attempted use of a deadly weapon against another person, or that results in a sexual offense which is a Class A felony, such as first degree rape, sodomy, or unlawful sexual penetration |
| | Failure to notify prior to complete change of ownership/allowed interest in licensed business without prior Commission approval |
| Operated licensed business while suspended | |

| Category | Violation |
|-----------|---|
| II | False statement or representation to Commission |
| | Destruction or concealment of evidence (other than intentional) |
| | |
| | Failure to promptly admit regulatory specialist or law enforcement into licensed retail premises |
| | Under the influence of intoxicants while on duty |
| | |

| | |
|-------------------|--|
| II (cont.) | Denial of access by law enforcement or regulatory specialist to the licensed premises during regular business hours |
| | Permitted noisy, disorderly or unlawful activity that involves use of a dangerous weapon against another person with intent to cause death or serious physical injury |
| | Intentional failure to verify the age of a minor |
| | Failure to promptly admit regulatory specialist or law enforcement onto the licensed premises when premises appear closed (for producer, processor, wholesale or lab licensees, and research certificate holders) |
| | Failure to permit premises or records inspection |

| Category | Violation |
|--|--|
| III | Permitted minor to enter or remain in a prohibited area |
| | Conviction of a crime other than a felony (licensee) |
| | Permitted sales by an employee without a marijuana handler permit |
| | Sold or made recreational marijuana available to a visibly intoxicated person |
| | Failure to verify the age of a minor (other than intentional) |
| | Consumption of marijuana, alcohol or other intoxicants while on duty |
| | Permitted consumption (by employees, customers or the public) of alcohol, marijuana or other intoxicants on the licensed premises or in areas adjacent to the licensed premises under licensee’s control (such as parking lots) |
| | Failure to keep required records (other than as required in 845-025-xxxx, seed-to-sale tracking requirements) |
| | |
| | Permitted disorderly activity |
| | Permitted unlawful (under state law) activity |
| | Failure to complete manifest before transport |
| Failure to pay taxes to the Department of Revenue | |

| Category | Violation |
|-----------------|---|
| IV | Operated the licensed business after lawful hours for sale of marijuana items (retail licensees) |
| | Removed, altered or covered license suspension or other required notice sign |
| | Advertising violations |

| Category | Violation |
|-----------------|---|
| V | |
| | Permitted marijuana items to be given as a prize (retail licensees) |
| | Failure to notify the Commission of a temporary closure of the licensed business (all licenses and certificates) |
| | |