



# Oregon

## Recreational Marijuana

1. **Governing Agency.** Oregon Liquor Control Commission (“OLCC”).<sup>25</sup> The OLCC is authorized by statute to control the cultivation, manufacture and sale of marijuana in Oregon.<sup>26</sup>
2. **Requirements for Consumers.** Must be an adult (21+). Measure 91, Section 6(1).
3. **Personal Use Allowed?** Yes. Adults (21+) may:
  - Produce, process, keep or store homegrown marijuana, hidden from public view, if the total of homegrown marijuana at the household does not exceed four marijuana plants and g ounces of usable marijuana at a given time. Measure 91, Sections 6(1)(a), 56.
  - Make, process, keep or store homemade marijuana products, hidden from public view, at a household if the total homemade marijuana products at the household does not exceed sixteen ounces in solid form or seventy-two ounces in liquid form at a given time. Measure 91, Sections 6(1)(b)-(c), 56.
  - Deliver not more than: (a) one ounce of homegrown marijuana, (b) sixteen ounces of homemade marijuana products in solid form or (c) seventy-two ounces of homemade marijuana products in liquid form at a given time to another person 21 or older for noncommercial purposes. Measure 91, Section 6(1)(d)-(f).
  - Use marijuana in non-public places. Measure 91, Section 54.
  - Possess up to (a) one ounce of usable marijuana in a public place, (b) eight ounces of usable marijuana, (c) sixteen ounces of marijuana products in solid form, (d) seventy-two ounces

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<sup>25</sup> The Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act (“Measure 91”), effective July 1, 2015, gives the OLCC authority to regulate the recreational marijuana industry in Oregon. The OLCC will begin accepting applications for growers, wholesalers, processors and retail outlets on January 4, 2016. See <http://www.oregon.gov/olcc/marijuana/Documents/Measure91.pdf>; [http://www.oregon.gov/olcc/marijuana/Pages/Frequently-Asked-Questions.aspx#Recreational\\_Marijuana\\_in\\_General](http://www.oregon.gov/olcc/marijuana/Pages/Frequently-Asked-Questions.aspx#Recreational_Marijuana_in_General).

<sup>26</sup> As of August 4, 2015, the OLCC has issued proposed regulations addressing many aspects of the recreational marijuana industry, including, for example, age verification procedures and equipment, civil penalties, confiscation of marijuana, residency requirements, and definitions of various terms. See OLCC Recommendations on Marijuana Policy, issued on February 27, 2015, [http://www.oregon.gov/olcc/docs/commission\\_minutes/2015/OLCC\\_Recommendations\\_Marijuana\\_Policy.pdf](http://www.oregon.gov/olcc/docs/commission_minutes/2015/OLCC_Recommendations_Marijuana_Policy.pdf).

of marijuana products in liquid form, (e) one ounce of marijuana extracts, or (f) any marijuana extracts that were not purchased from a licensed marijuana retailer. ORS 475.864(6).

- Possess, or sell or deliver marijuana paraphernalia to a person 21 or older. ORS 475.5259(1), (7).

4. **Personal Cultivation Allowed?** Yes, with the restrictions noted above.

5. **Licenses.**

a. **General Information.** The OLCC to begin accepting applications by January 4, 2016. Measure 91, Section 18.

b. **Residency Requirements.**

- Require residency in Oregon for both the individual applicant and the business entity. Measure 91, Section 29 (proposed).

c. **Other Requirements.**

- Must not locate the licensed premises within 1,000 feet of a school, defined as an institution serving children in grades K-12 with mandatory attendance. Measure 91, Sections 7, 29(2)(a) (proposed).
- Must not (a) have drug or alcohol issues; (b) have made false statements to the OLCC; (c) be incompetent, unable to understand the relevant laws and regulations, or physically unable to carry on the management of the proposed establishment; (d) have been convicted or a state or federal crime relevant to the applicant's fitness and ability within the last five years *and* not more than once of certain marijuana-related crimes; (e) have maintained an insanitary establishment; (f) be of not good repute or moral character; (g) be an illegitimate owner of the proposed business or fail to disclose other persons with ownership interests in the proposed business; or (h) fail to demonstrate sufficient financial responsibility to meet the requirements of the proposed business. Measure 91, Section 29.
- Must pay an annual license fee of \$1,000. Measure 91, Section 28(5).

d. **Definition of Ownership.** Proposed regulations do not directly address.

e. **Limited Number of Licenses?**

- Licensees may hold one or more of each of the following types of licenses: (a) production, (b) processor, (c) wholesale, and (d) retail. Measure 91, Section 24.

f. **Application Process.**

- Must submit applications to the OLCC upon forms to be furnished by the OLCC. Measure 91, Section 28.<sup>27</sup> Must submit fingerprints to the OLCC as a component of the application. Measure 91 (proposed).
- Must pay an application processing fee of \$250 to the OLCC. Measure 91, Section 28(4).

g. **Requirements For All.** The OLCC has not yet proposed detailed regulations on most topics. However, some topics have received attention from the OLCC, or are already addressed in Measure 91.

- Insurance. The OLCC has discretion to require that marijuana licensees carry insurance. Measure 91 (proposed).
- Licensed Premises. The OLCC may limit license types at a single location. Measure 91 (proposed).
- Restricted Access. No person under the age of 21 may, except in the case of emergency or as otherwise permitted by rule, enter any portion of a licensed premises. Measure 91, Section 29(2).<sup>28</sup>
- Health and Safety Standards. Must maintain a sanitary establishment. Measure 91, Section 30.
- Identification. All licensees, before selling or serving marijuana items to any person about whom there is a reasonable doubt of the person being at least 21 years old, must require such person to produce one of the specified forms of identification. Measure 91, Section 16.
- Inspection, Records. Marijuana establishments/books/records are subject to inspection by the OLCC at any time. Every marijuana producer must maintain and keep for two years all records, books and accounts required by Measure 91 and must provide copies of such records, books and accounts to the OLCC upon request. Measure 91, Section 39.
- Statements. Marijuana producers must file with the OLCC a statement of the quantities of marijuana flowers, leaves, and immature marijuana plants sold by the producer during the preceding calendar month. Measure 91, Section 35.

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<sup>27</sup> The OLCC has not yet proposed specific procedures or forms for the application process.

<sup>28</sup> This Section describes “a licensed premises that is posted or otherwise identified as being prohibited to the use of minors.” Measure 91, Section 49(2). The language suggests that posting requirements will be developed for licensed premises, and there may be liability on the part of the premises for illegal entry of minors.

- Employment. All licensee employees must be at least 21 years of age, which may be verified by OLCC during an inspection. Measure 91, Section 52. Licensee employees may also be required to hold marijuana licenses. Measure 91 (proposed).
- Tracking System. The OLCC has proposed that it be granted specific authority to create and operate a seed to sale tracking system for all license types.<sup>29</sup>

**h. Other Requirements.**

- Mature Plants. Except for licensed producers and their licensee representatives, no licensee may possess a mature marijuana plant. No licensee may sell a mature plant. Measure 91, Section 53.<sup>30</sup>
- Processing Sub-Categories. The OLCC has proposed the creation of three sub-categories of processor licenses: (1) packaging, (2) concentrates, and (3) manufactured products. Measure 91, Sections 5(26) and 18.<sup>31</sup>

**i. Transferability of License.**

- May be transferred, subject to the discretion of the OLCC. Measure 91, Section 7(b).

6. **Vertical Integration Allowed?** Licensees may hold one or more of each of the following types of licenses: (a) production, (b) processor, (c) wholesale, and (d) retail. Measure 91, Section 24.

7. **Security Requirements**. Not yet addressed.

8. **Regulation of IP Licensing**. Not yet addressed.

9. **Local Option?**

a. **Generally.** Local government may:

- Adopt reasonable time, place and manner regulations of the nuisance aspects of retail establishments after making specific findings of adverse effects. Measure 91, Section 59(1).

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<sup>29</sup> See [http://www.oregon.gov/olcc/docs/commission\\_minutes/2015/OLCC\\_Recommendations\\_Marijuana\\_Policy.pdf](http://www.oregon.gov/olcc/docs/commission_minutes/2015/OLCC_Recommendations_Marijuana_Policy.pdf).

<sup>30</sup> Although individuals are exempt from criminal prosecution for producing homegrown marijuana from plants, Measure 91, Section 6(1)(a), licensees may not possess mature marijuana plants.

<sup>31</sup> It is likely that additional regulations will be proposed for those sub-categories, which the OLCC has identified as posing additional regulatory challenges. See [http://www.oregon.gov/olcc/docs/commission\\_minutes/2015/OLCC\\_Recommendations\\_Marijuana\\_Policy.pdf](http://www.oregon.gov/olcc/docs/commission_minutes/2015/OLCC_Recommendations_Marijuana_Policy.pdf).

- After filing a petition, the governing body of a city or county may hold an election on whether the operation of licensed premises shall be prohibited in the city or county (the “local option”). Measure 91, Section 60.

10. **Taxes.** Marijuana producer must pay:

- Marijuana producer must pay, subject to future adjustment:
  - \$35 per ounce on all marijuana flowers;
  - \$10 per ounce on all marijuana leaves; and
  - \$5 per immature marijuana plant for marijuana produced and sold. Measure 91, Section 33.
- On/before the 20<sup>th</sup> day of each calendar month, submit statement to the OLCC stating:
  - Quantities of marijuana flowers, leaves and immature plants sold during the preceding calendar month (Measure 91, Section 35);
  - The taxes due to be paid for the preceding month (Measure 91, Section 34(1)).

11. **Advertising.** Not yet addressed.

12. **Labeling.** The OLCC is likely to propose labeling regulations. Currently, no licensee may use or allow the use marks or labels that are misleading with regards to the nature, composition, quantity, age or quality of the marijuana item. Measure 91, Section 51.

# Oregon

## Medical Marijuana

1. **Governing Agency.** The Oregon Health Authority (the “OHA”).

2. **Qualifying Users.**

a. **Qualifications.**

- “Patient” is a person with a debilitating medical condition and for whom the use of medical marijuana may mitigate the symptoms or effects of that condition. OAR 333-008-0010(20), (26).
- Debilitating medical conditions include: cancer, glaucoma, agitation incident to Alzheimer’s, HIV or AIDS, cachexia, severe pain, severe nausea, seizures, persistent muscle spasms, PTSD, or any other medical condition or side effect adopted by the OHA. OAR 333-008-0010(5)(b)

b. **Restrictions on Use.** Patients may not:

- Possess more than six mature marijuana plants, 24 ounces of usable marijuana, and a combined total of up to 18 marijuana seeds or starts, OAR 333-008-0080(1)<sup>32</sup>;
- Drive under the influence of marijuana, ORS 475.316(a);
- Use medical marijuana in a public place, or in public view or in a correctional facility, ORS 475.316(b);
- Deliver marijuana to any individual not in possession of a registry identification card, or any individual for consideration, ORS 475.316(c)-(d); or
- Manufacture or produce marijuana at more than one address, or at a place other than an authorized grow site, ORS 475.316(e)-(f).

3. **Qualifying Care-Givers.**

- a. **Qualifications.** “Designated primary caregivers” means an individual who is at least 18 years old who has significant responsibility for a Patient and who is designated on that Patient’s application for a registry identification card.

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<sup>32</sup> If a patient has been convicted, on or after January 1, 2006 of a Class A or Class B felony under ORS 475.752 through 475.920 relating to manufacture or delivery of Schedule I or Schedule II controlled substances, the patient or patient’s caregiver may possess only one ounce of usable marijuana at any given time for a period of five years following the date of conviction.

- b. **Restrictions on use.** Same as those for patients.
- c. **Allowed to Serve as Care-Giver for More Than One Patient?** Not addressed.

4. **Qualifying Physicians.**

a. **Licensure.**

- “Attending physician” means a Doctor of Medicine or Doctor of Osteopathy licensed under ORS chapter 677, who has primary responsibility for the care and treatment of a Patient, OAR 333-008-0010(3);
- An attending physician having “primary responsibility” means that the physician provides: (i) primary health care to the Patient; (ii) medical specialty care and treatment as recognized by the American Board of Medical Specialties; (iii) treatment as a consultant at the request of the attending physician; or (iv) has reviewed the Patient’s medical records and has conducted a thorough physical examination, has provided or planned follow-up care, and has documented these activities in the Patient’s medical record. OAR 333-008-0010(23).

b. **Examination.**

- The Patient’s application must include written documentation signed by the applicant’s attending physician within 90 days of the date of receipt by the OHA. 333-008-0020(1)(c).

c. **Penalties?** Not subject to penalties for:

- Advising patient whom s/he diagnosed with a debilitating medical condition, or the attending physician knows has been so diagnosed by another physician licensed under ORS chapter 677, about the benefits and risks of medical marijuana use provided that the advice is based on the attending physician’s personal assessment of the person’s medical history and current condition, or
- Providing written documentation in application for registration under the same conditions as above. ORS 475.326.

5. **Registry?** Yes.

- Contains names of patient and his/her designated caregiver. ORS 475.331(1).
- Registry is confidential; not considered a public record. ORS 475.331.
- Law enforcement may access to verify registration. ORS 475.331.
- Registry ID cards \_\_p\_\_ on the last day of the 12th full calendar month after issuance. OAR 333-008-0040.

- Must notify Department of change in patient's name, address, physician, or primary/alternate care-giver within 30 days of change. OAR 333-008-0045(1).
- Must return card within 30 days of diagnosis by physician that patient no longer has a qualifying debilitating medical condition. OAR 333-008-0045(4).
- Registered patient and designated have affirmative defense to criminal prosecution for medical marijuana. ORS 475.319.

**6. Application Process.**

a. **Patients.** To apply for a registry ID card, applicant must provide:

- Completed, sworn application;
- Name, address, DOB, SSN, and driver's license or ID card number of patient (as required by application);
- Name, address, telephone number of physician;
- Name of designated caregiver, if any;
- Name of designated grower (either patient or another person), if any, and the location of the grow site;
- Written documentation by attending physician, signed within 90 days of the date of the receipt by the OHA, that:
  - States that patient was diagnosed with a debilitating medical condition;
  - States that medical marijuana may mitigate the symptoms or effects of the patient's debilitating medical condition.
- Non-refundable application fee of \$200, OAR 333-008-0020;
- Person must resubmit required documentation annually, OAR 333-008-0040;
- Applications must be mailed or hand delivered, OAR 333-008-0020;

b. **Minor applicants.** Oregon parent/legal guardian of minor applicant must submit a completed and notarized "Declaration of Person Responsible for Minor." OAR 333-008-0020(1)(d).

c. **Department.** Department will:

- Review for completeness and verify information, allowing a patient 14 days to submit any missing information. OAR 333-008-0020(2)(b).



- The OHA may contact each applicant by telephone, mail or in person, as well as a minor's parent or legal guardian. OAR 333-008-0020(2)(e).
- The OHA may contact the attending physician to request further documentation, and will notify the applicant of its intent to review the medical records and request the applicant's authorization to conduct the review. Failure to grant such authorization is grounds to deny the application. OAR 333-008-0020(2)(e)(D).
- Within 30 days, approve or deny the application. OAR 333-008-0030
- Within 5 days of approving an application, issue a serially numbered registration card. OAR 333-008-0030. Registration identification cards will also be issued for the designated primary caregiver and the grower. The OHA will issue a grow site registration card to the patient.
- Grounds for denial include:
  - Information not provided establishing applicant's debilitating medical condition and to document consultation with physician regarding use of medical marijuana in connection with such condition;
  - Application willfully violated the provisions of ORS 475.300 to 475.346 or the regulations;
  - Applicant is prohibited by court order from obtaining a registry identification card; or
  - Information is false; or
  - Applicant submitted another application less than 6 months prior.
- A person whose application has been denied may not apply for at least six months, unless otherwise authorized to do so. OAR 333-008-0030(4).

7. **Licenses?** No. See information on registration ID cards.

8. **Taxes.** Statute/regulations do not address.

9. **Labeling requirements.** Statute/regulations do not address.

10. **Notes.** None.