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77th LEGISLATIVE ASSEMBLY
TASK FORCE ON OREGON LIQUOR CONTROL COMMISSION

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February 2, 2015

**TO: President Peter Courtney
Speaker Tina Kotek**

RE: Report from Task Force on Oregon Liquor Control Commission

The Oregon Liquor Control Commission Task Force was created jointly by Senate President Peter Courtney and Speaker of the House Tina Kotek in accordance with ORS 171.640. It was created, in part, to conduct a comprehensive review of Oregon's liquor control system in light of the recent transition of the State of Washington to an open system through passage of Initiative 1183 (2011) and aborted efforts to place a similar ballot measure on Oregon's 2014 General Election ballot. The Task Force was charged with educating its membership on the existing liquor control system, gathering data on Oregon and national markets for alcohol, examining the revenue stability of the existing system, identifying opportunities and challenges for expansion of the system in urban and rural areas, and review of initial plans for marijuana regulation following passage of Ballot Measure 91 (2014).

The Task Force held five meetings, each of which being intended to focus on specific topics:

- *Meeting 1 (July 30)* – how products (Oregon-produced and those produced elsewhere) are listed for sale at Oregon liquor stores; retail services at Oregon liquor stores; Oregon and regional market data for distilled spirits; current and projected warehouse shipping capacity and options for increasing capacity; and a tour of the OLCC warehouse and document catalogue facilities.
- *Meeting 2 (August 13)* – liquor revenue system; liquor pricing formula; OLCC retail store system; exclusive and non-exclusive agents; agent compensation and contracts; locations of highest-earning liquor stores; and national liquor market data.
- *Meeting 3 (September 12)* – overview of Oregon craft industries (wineries, breweries, distilleries); economic impact of Oregon craft industries; industry development (tourism, hospitality and marketing); craft industry boards; and tour of Deschutes Brewery.
- *Meeting 4 (November 19)* – options for system expansion; customer service and support; legislative and administrative rule proposals for support of Oregon craft beverage industries; Ballot Measure 91 and legalization and regulation of recreational marijuana.
- *Meeting 5 (December 9)* – public testimony on liquor-related issues.

Liquor Sales Revenue

The total projected gross revenues for OLCC during the 2013-15 biennium are estimated to be \$1.12 billion of which 95 percent is generated through sale of distilled spirits; the remainder is generated through privilege tax for beer and wine (four percent) and license fees and miscellaneous at less than one percent each. The agency utilizes econometric methods for forecasting revenues, based on population and the Consumer Price Index. Liquor sales are forecasted three and a half years into the future, in addition to monthly tracking.

Washington Privatization and Oregon Liquor Revenues

Following passage in Washington of Initiative 1183 in 2011, liquor prices in that state have been, on average, about 30 percent higher in stores near the Oregon/Washington border than in nearby Oregon liquor stores; Washington prices had been about five percent higher prior to passage of the measure. As a result, Oregon liquor stores near the border have seen a collective increase in sales of approximately 33 percent, accounting for approximately \$10-15 million in additional liquor sales.

Agency Expenditures

The Oregon Liquor Control Commission's expenditures for the 2013-15 biennium break down as follows:

- \$45.2 million for OLCC operations;
- \$10.3 million for credit card fees;
- \$95.2 million for compensation for liquor agents; and
- \$442 million in distributions, including \$251.6 million to the General Fund.

Liquor Products Sold at Retail Stores and Through Licensees

Approximately 31 million bottles of liquor were sold during Fiscal Year (FY) 2013, with a total of 2.9 million cases shipped during that same period. The average costs to the system per bottle sold averaged \$7.80, while the average retail price per bottle was \$15.99, a 105-percent markup. Approximately 1,900 different standard products are handled daily, with Oregon products making up approximately 12 percent of gross sales (\$59.8 million) and 16 percent of gallon volume. Bars and restaurants are required to purchase liquor from OLCC retail stores, receiving a five-percent discount off the consumer price. In 2014, licensee sales accounted for approximately 23 percent of total sales, down approximately one percent since 2006.

OLCC Warehousing System and Expansion Options

All liquor products sold in Oregon are shipped through the agency's central warehouse in Milwaukie. During FY 2014, the warehouse received and stored more than three million cases of product, shipping more than 2.95 million cases during that same period. About 560 trucks are loaded with product and shipped to Oregon liquor stores each month, while the warehouse receives about 15 trucks of product daily. The warehouse is staffed by two managers and 45 FTE positions, plus an additional five seasonal positions; 33 FTE serve on the day shift, with 12 staffing the swing shift.

OLCC is pursuing one of two potential strategies to address expected future need for expansion of its warehouse shipping capacity:

- *Option A* – A one-time expenditure of \$5.02 million to add conveyor lines, an IT upgrade, and new distribution equipment to enable the agency to ship out of four doors, as opposed to its current capacity to ship out of only one door, or;
- *Option B* – Add 14 warehouse staff to allow shipping and replenishment during the evening swing shift, at a cost of \$1.84 million per biennium.

The Current Liquor Retail System

There are currently 248 contracted liquor store outlets in Oregon, of which 137 are stores that exclusively sell liquor and related products. There are also two store-within-store outlets that are situated inside grocery stores, as well as 111 non-exclusive stores, mostly located in rural areas. In addition, there are currently 58 distillery retail outlets, where Oregon distillers are authorized to sell their products at retail. Agents are responsible for determining product selection, hours of operation, displays and related items, while OLCC determines the pricing formula for products and the minimum hours of operation.

Agent Compensation

Liquor agents in Oregon receive a base compensation based upon the sales range of their stores, ranging from a low-end maximum of \$1,425/month (for stores with sales of \$0-\$209,999) to a high-end maximum of \$2,700/month (for stores with sales of \$1.65 million and above). The average store compensation in 2014 was \$185,501 and the range was from \$3,109 to \$887,692. The total average, approved percentage of revenues designated to the “payout rate” for liquor agents is 8.88 percent which, for the 2013-15 biennium, is forecast at \$95.158 million. If sales exceed the forecast, then the Legislative Assembly’s Emergency Board must provide additional expenditure limitation in order to meet the 8.88 percent payout rate.

Oregon’s Craft Beverage Industry

OLCC’s role with the state’s craft industries includes licensure, tax collection, and distribution of spirits. Oregon currently has over 950 winery licensees, over 350 brewpub and brewery licensees, approximately 30 cider producers (operating under winery licenses), and 72 distilleries. Products made in Oregon account for 12.5 percent of all distilled spirits sold in Oregon liquor stores.

Legalization of Recreational Marijuana

Passage of Ballot Measure 91 (2014) grants OLCC authority to tax, license and regulate marijuana production and distribution in Oregon. Personal use becomes legal effective July 1, 2014, with licensure to follow in 2016. The agency will offer the following four types of licensure, with individuals and entities eligible for multiple license types:

- *Producer* – required to cultivate marijuana; responsible for payment of tax at first point of sale;
- *Processor* – packages and labels marijuana items, and manufactures edible products and concentrates;
- *Wholesale* – buys and sells marijuana at wholesale; and
- *Retail* – sells marijuana products at retail to adults over 21 years of age.

While OLCC will be responsible for licensure, regulation and tax collection similar to liquor products, unlike liquor products the agency is not authorized to possess or distribute marijuana.

Ballot Measure 91 does not affect the existing Oregon Medical Marijuana Program, nor existing landlord-tenant or employment laws. OLCC is also granted authority to regulate advertising, packaging and labels, subject to First Amendment considerations. The agency may also adopt standards and testing requirements. Other requirements imposed upon OLCC by Ballot Measure 91 include reporting to the Legislative Assembly by 2017 regarding research on marijuana-impaired driving, and partnering with the Department of Justice and the Oregon State Police to track data on traffic incidents and intoxication and to facilitate research on the issue.

Marijuana is to be taxed at the producer level as follows (indexed for inflation):

- \$35 per ounce of flowers;
- \$10 per ounce of leaves; and
- \$5 per immature plant.

Estimated revenues for the sale of recreational marijuana range from a low of \$17 million per year (Legislative Revenue Office) to a high of \$38 million per year (ECONorthwest). Cost to the agency is estimated at \$333,000 for FY 2015, \$2.6 million for FY 16, and \$6.7 million for the 2017-19 biennium, which includes a tracking system for marijuana products and 28 total positions.