

Only Impacts on Original or Engrossed Versions are Considered Official

Prepared by: Kim To
 Reviewed by: Michelle Deister, Linda Ames, Paul Siebert, Julie Neburka, Steve Bender, John Borden
 Date: 5/3/2017

Measure Description:

Provides Oregon Liquor Control Commission with additional power to enforce state marijuana laws.

Government Unit(s) Affected:

Oregon Liquor Control Commission (OLCC), Oregon Health Authority (OHA), Oregon Department of Agriculture (ODA), Department of Public Safety Standards and Training (DPSST), Oregon Judicial Department (OJD), Department of Revenue (DOR)

Summary of Expenditure Impact:

	2017-19 Biennium	2019-21 Biennium
Oregon Liquor Control Commission		
Personal Services	1,575,876	2,912,567
Services and Supplies	3,458,515	4,841,795
TOTAL OTHER FUNDS	\$5,034,391	\$7,754,362
Positions	19	19
FTE	10.42	19.00
Oregon Health Authority - Oregon Medical Marijuana Program (OMMP)		
Personal Services	(1,371,253)	(3,081,168)
Services and Supplies	(1,273,941)	(2,644,032)
Special Payments	56,706	
TOTAL OTHER FUNDS	(\$2,588,488)	(\$5,725,200)
Positions	2	(16)
FTE	(7.00)	(16.00)

Summary of Revenue Impact:

	2017-19 Biennium	2019-21 Biennium
Oregon Liquor Control Commission		
R1 OHA-Imposed Tracking System Fee	1,847,520	3,695,040
R2 Marijuana Tax - Tracking System Startup	1,800,000	-
R3 Marijuana Tax - Quarterly distribution of or Medical Licensure	1,386,871	4,059,322
R4 OLCC Licensing Fees	R4	R4
TOTAL OTHER FUNDS	\$5,034,391	\$7,754,362
Oregon Health Authority		
R1 OHA-Imposed Tracking System Fee	1,847,520	3,695,040
R1 OHA-Imposed Tracking System Fee transfer to OLCC	(1,847,520)	(3,695,040)
R5 OHA OMMP Registration Fees	(2,862,600)	(5,725,200)
TOTAL OTHER FUNDS	(\$2,862,600)	(\$5,725,200)

Analysis:

Senate Bill 1057 modifies statutes relating to the recreational and medical marijuana programs administered by the Oregon Liquor Control Commission (OLCC) and Oregon Health Authority (OHA). In addition to making technical changes and requiring OLCC to establish a medical designation under the OLCC licensure system for marijuana growers, processors, wholesalers, and retailers that produce marijuana solely for medical purposes, the bill:

- Directs OHA to enter into an agreement with OLCC to use the METRC Cannabis Tracking System (CTS) to track marijuana plants and products produced in the medical marijuana system including propagation of immature plants, production of grow operations, processing of marijuana concentrates and extracts, and the transfer of these products to medical dispensaries and medical cardholders. Allows OHA to charge a fee to cover the costs of using this tracking system. Growers with no more than 12 mature plants and 24 immature plants are not subject to this tracking requirement. OLCC is authorized to use regulatory specialists to conduct inspections and investigations of medical marijuana licensees for compliance related to this tracking requirement.
- Provides for the quarterly distribution of up to \$1.25 million per quarter from marijuana tax revenues to OLCC for ongoing operating costs related to tracking medical marijuana growers, processors, and dispensaries. The precise amount of this quarterly distribution will be determined in consultation with the Legislative Fiscal Office (LFO) based on agency need as dictated by the number of medical growers, processors, and dispensaries that enroll in the tracking system.
- Mandates the transfer of the \$1.8 million from the Oregon Marijuana Account to the Marijuana Control and Regulation Fund to fund the startup costs of including medical growers, processors, and dispensaries in the METRC Cannabis Tracking System.
- Requires OHA to establish and operate an electronic system (separate from the METRC Cannabis Tracking System) for keeping information related to the Oregon Medical Marijuana Program (OMMP) registry identification and marijuana grow site cardholders. OLCC and the Department of Revenue (DOR) must be able to remotely access this system.
- Specifies the schedule for OHA medical registrants to enter the OLCC METRC Cannabis Tracking System. Tracking of medical marijuana registrants is required to begin July 1, 2018. OHA must notify growers, processors, and dispensaries of this tracking requirement by September 1, 2017. Medical growers, processors, and dispensaries must declare if: (1) They will elect to remain registered under the OHA Oregon Medical Marijuana Program (OMMP) and subject to this new tracking requirement; or (2) They will opt to fully migrate to OLCC licensure. If these entities elect to fully migrate to OLCC, they must file an application with OLCC by January 1, 2018.
- Transfers the regulation of labeling and packaging of medical marijuana from OHA to OLCC. Civil penalties collected by OLCC for labeling infractions will go into the Marijuana Control and Regulation Fund.
- Empowers OLCC to perform any function necessary to prevent diversion of marijuana from a source that is legal under state law to an illegal source.
- Provides OLCC with the authority to conduct inspections, make seizures, and issue citations to licensees related to Oregon's marijuana law. Prohibits OLCC regulatory specialists from carrying firearms, conducting inspections at a primary residence, and conducting investigations and inspections of medical marijuana cardholders or caregivers.
- Allows OLCC to revise an order against a licensee and to proceed with an investigation even after a suspension of a license.
- Allows marijuana to be exhibited in trade shows with OLCC approval. Allows OLCC to mandate requirements for trade show exhibits of marijuana including tracking in the METRC Cannabis Tracking System.
- Changes the number of commissioners at OLCC from five to seven. One additional commissioner must be from the east side of the state and one additional commissioner must be from the west side of the state.
- Grants the Oregon Department of Agriculture (ODA) laboratories statutory authority to possess, test, and dispose of marijuana.

- Requires licensees to disclose certain financial information to OLCC.
- Exempts persons who hold a license for the state’s recreational or medical marijuana programs from criminal prosecution for the possession, delivery, or manufacture of marijuana items provided the person complies with all state laws and rules that apply to licensees.
- Allows recreational marijuana growers to increase the size of the grow operation by up to 10% if the excess is deemed to go to medical card holders. Permits OLCC to revoke the designation if grower fails to meet requirements.
- Clarifies the number of plants and usable marijuana that a registry identification cardholder or designated primary caregivers may possess.
- Renames the “Control and Regulation of Marijuana Act” to the “Adult and Medical Use of Cannabis Act.”

As a preliminary analysis, this fiscal impact statement uses information provided by OHA from the agency’s April 2017 Oregon Medical Marijuana Program Snapshot, and makes the following assumptions:

	◆ Subject to METRIC	▲ Projected to Remain with OHA	▲ Projected to Migrate to OLCC	TOTAL
Growers	3,779	-	3,779	3,779
Processors	35	-	35	35
Dispensaries	35	-	35	35
TOTAL	3,849	-	3,849	3,849

The Legislative Fiscal Office notes that the numbers in the above table serve as placeholders. Ultimately, the comprehensive fiscal impact of this bill, particularly the impact on revenue streams, will depend on two main factors that can only be roughly projected at this time:

- ◆ The number of medical growers, processors, wholesalers, and retailers that will be subject to the METRC tracking and OLCC inspection requirement. The 3,779 number reflects all growers with 3 or 4 patients currently in Oregon Medical Marijuana Program system.
- ▲ The number of medical growers, processors, and dispensaries that will elect to remain with OHA medical licensure versus the number that will opt to fully migrate to OLCC licensure, and the timing of this migration. This fiscal impact assumes all growers with 3 or 4 patients, all processors, and all dispensaries currently in the in Oregon Medical Marijuana Program system will migrate to OLCC.

By January 1, 2018, growers, processors, and dispensaries must file an application with OLCC if they elect to fully migrate to OLCC licensure. After this deadline, OLCC and OHA will have a better assessment of these variable factors. This fiscal assumes that after this deadline, OLCC and OHA will return to the Legislature with updated and revised licensee numbers, staffing needs, as well as corresponding expenditure and revenue estimates.

Oregon Liquor Control Commission - Expenditure Impact

		2017-19 Biennium	2019-21 Biennium
A	Personal Services	\$1,575,876	\$2,912,567
B	Services and Supplies	346,874	596,102
C	Facilities	401,300	370,656
D	Vehicle Acquisition	368,333	158,167
E	METRC Tracking System - Startup	350,000	0
F	METRC Tracking System - Ongoing	1,847,520	3,695,040
G	NIC USA	50,000	0
H	Commission Travel & Per Diem	20,028	21,830
I	Commission Dias Remodel	75,000	0
Total Other Funds		\$5,034,931	\$7,754,362
	Positions	19	19
	FTE	10.42	19.00

The fiscal impact of this bill on OLCC is estimated to be \$5,034,931 Other Funds, 19 positions, and 10.42 FTE for the 2017-19 biennium. These calculations assume that 3,849 medical growers, processors, and dispensaries will be subject to the METRC tracking and OLCC inspection requirements. OLCC reports that, currently, there are 1,100 recreational licensees in the METRC Cannabis Tracking System. OLCC expects the inclusion of medical registrants to more than triple work related to training, certification, call center support, data analysis, reporting, and inspections.

^A Personal services expenses reported in the table above assumes the establishment of the following new 19 positions:

- 12 Regulatory Specialist positions to conduct inspections and investigations of medical growers, processors, and dispensaries for compliance. OLCC based staffing needs on the assumption that one regulatory specialist can perform 1.5 inspections per day based on 220 actual work days in a year. Assuming a base of 3,849 medical growers, processors, and dispensaries, OLCC projects the need for 12 additional regulatory specialists to be able to visit each site at least once per year. In addition, these positions will investigate growers, processors, and dispensaries who are out of compliance and provide this information to the Oregon Health Authority for enforcement action.
- 2 Administrative Specialist 1 positions to register applicants, provide training and ongoing call center support to medical registrants.
- 3 Compliance Specialist 1 positions to monitor data from the METRC Cannabis Tracking System to identify potential compliance issues that will be referred to OLCC Regulatory Specialists.
- 1 Operations and Policy Analyst 3 position to develop and manage data operations for compliance work. This position would coordinate activities for the three Compliance Specialist 1 positions.
- 1 Principal Executive Manager D position to manage this new medical division within OLCC.

^B Related services and supplies includes the cost of providing office set up for each new employee, including cubicles, computers, and personal protective equipment if visiting grow operations. Also, included in this related services and supplies amount is the cost of providing Regulatory Specialist with training from the Department of Public Safety Standards and Training (DPSST).

^C With the addition of 19 new employees, OLCC will need additional workspace. OLCC headquarter and field offices are at capacity after the recent implementation of recreational marijuana. Assuming most of the new positions will be based in the Portland Metro area, lease office space for the 19 new hires is estimated at \$401,300 for the 2017-19 biennium.

^D This \$368,333 amount is the estimated cost of 13 vehicles for Regulatory Specialists site visits.

^{E, F, (R1)} The \$1,847,520 amount reflects the \$40 per month (\$960 per biennium) user fee charged by the vendor for access to the METRC Cannabis Tracking System. This calculation assumes it will take one year to train and certify all the registrants in the system, and registrants will be in the system for twelve months of the 2017-19 biennium. The bill directs OHA to enter into an agreement with OLCC to track marijuana plants and products produced in the medical marijuana system including propagation of immature plants, production of grow operations, processing of marijuana concentrates and extracts, and the transfer of these products to a medical marijuana card holder. This tracking will be performed using the METRC Cannabis Tracking System. In addition to the access fee, OLCC estimates the cost to set up, train, and register additional users to be \$350,000 for the 2017-19 biennium. Under current practice, METRC Cannabis Tracking System and related OLCC inspection costs are included in the license fees paid by OLCC licensees. For medical growers, processors, and dispensaries that elect to remain with OHA medical licensure and subject to this new tracking requirement, OHA will charge a fee to cover the costs of this tracking requirement, and transfer the fee to OLCC.

^G Creation of new license type designations in the OLCC marijuana licensing system will require changes to the current online system being hosted by a private contractor, NIC USA. OLCC calculates changes to this system to be approximately \$50,000 but may be more depending on the type of change that would need to be made.

^{H, I} Expanding the number of commissioners from five to seven will require a redesign of the current Commission meeting room to include space for seven seats at the dais. In addition, the new commissioners will incur travel and daily per diem costs for monthly meetings. The total costs for adding two commissioners is estimated at \$95,028 for the 2017-19 biennium.

The bill makes the following provisions for revenues to cover the costs of implementing the METRC Cannabis Tracking System tracking and OLCC inspection requirements for medical marijuana registrants:

^{R1} The bill directs OHA to enter into an agreement with OLCC to track marijuana plants and products produced in the medical marijuana system including propagation of immature plants, production of grow operations, processing of marijuana concentrates and extracts, and the transfer of these products to a medical marijuana card holder. The bill allows OHA to charge a fee to cover the costs of this tracking system. OHA would propose to charge growers, processors, and dispensaries a fee of \$480 annually to cover the cost for using the METRC Cannabis Tracking System. Growers with no more than 12 mature plants and 24 immature plants are not subject to this tracking requirement. OHA estimates 3,779 growers, 35 processors, and 35 dispensaries would pay this fee resulting in annual revenues of \$1,847,520 Other Funds for the 2017-19 biennium and \$3,695,040 Other Funds for the 2019-21 biennium. These moneys would be transferred to OLCC. These amounts assume that none of the 3,779 growers, 35 processors, and 35 dispensaries would fully migrate to OLCC licensure. If any of these entities fully migrate to OLCC, the revenue from this fee would be less. However, correspondingly, it is expected that OLCC would offset this decrease in this revenue transfer from OHA with fees reflected in the OLCC Licensing Fees ^{R4} category.

^{R2} The bill allocates \$1,800,000 from marijuana tax revenues to OLCC to cover startup costs of the medical marijuana tracking system.

^{R3} The bill provides for an amount up to \$1,250,000 per quarter from marijuana tax revenues to OLCC for ongoing operating costs related to tracking medical marijuana growers, processors, and dispensaries. The precise amount of this quarterly distribution will be determined in consultation with LFO based on agency need as dictated by the number of medical growers, processors, and dispensaries that enroll in the METRC Cannabis Tracking System. With the uncertainty surrounding

OLCC Licensing Fees^{R4} related to how many medical registrants would opt to fully migrate to OLCC coupled with the uncertainty of how many of these applicants OLCC would be able to accommodate with existing licensing staff, the amount of funding needed from this revenue source is estimated at \$1,386,871 for the 2017-19 biennium. See written analysis for R4 and R5. Less revenue from this source would be required depending on the number of licensees who fully migrate to OLCC.

^{R4} OHA projects that with passage of this bill, an estimated 3,779 medical growers, 35 processors, and 35 dispensaries currently licensed under OHA would opt to fully migrate to OLCC. If these entities fully migrate to OLCC and are subject to OLCC licensing fees, the revenue gain in the this OLCC Licensing Fees^{R4} category is expected to roughly correspond with the OHA OMMP Registration Fees^{R5} revenue loss. For a frame of reference, note that growers with 3 patients electing to remain with OHA would be expected to pay an annual fee of \$1,080 (this amount includes the projected \$480 annually to cover the cost for using the METRC Cannabis Tracking System). Alternatively, for growers with 3 patients opting to migrate to OLCC the current fee for a micro-canopy with OLCC is \$1,000 a year plus a \$250 application fee. The migration projections assume that growers, processors, and dispensaries would choose the least costly option for their businesses, but these projections cannot account for how these entities will choose to expand or downscale their businesses in order to leverage the new licensing options provided by this bill. Note that until January 1, 2018 (the deadline by which entities electing to fully migrate to OLCC must file an application with OLCC) these R3, R4, and R5 revenue categories essentially serve as placeholders. To add to the uncertainty, in addition to the indeterminate nature of the potential migration, OLCC reports that currently the agency does not have the capacity to process the licensing applications for a high volume of additional medical licensees. In the OLCC 2017-19 budget, the agency is requesting 37 positions and \$7.3 million in funding to handle the projected increase in licensing volume for its recreational program.

^{R5} OHA predicts that the option for medical grow sites, processing sites, and dispensaries to move from OHA to full OLCC licensure will result in a reduction in registration fee revenues for the Oregon Medical Marijuana Program. Assuming all medical growers with 3 or 4 patients as well as all processors dispensaries will elect to migrate to full OLCC licensure by July 1, 2018, OHA projects a loss of revenue totaling \$2,862,600 Other Funds for the 2017-19 biennium, and \$5,725,200 for the 2019-21 biennium. However, if these entities choose to stay under OHA licensure or if OLCC does not have the capacity to process applications and oversee the licensing for additional licensees, this loss in revenue would be smaller and/or at a slower pace. OHA will reduce program activities and staffing to correspond with the volume and pace of the migration. Correspondingly, OLCC will expand program activities and staffing to correspond with the volume and pace of the migration.

Oregon Health Authority - OMMP Expenditure Impact:

	2017-19 Biennium	2019-21 Biennium
1 System Modification - Shared Services / Statewide Assessments & Enterprise-Wide Costs*		
Personal Services	56,706	0
Special Payments	56,706	0
Total Other Funds	113,412	0
Positions	0	0
FTE	0.00	0.00
2 Registrant Notification - Public Health		
Personal Services	112,620	0
Services and Supplies	48,080	0
Total Other Funds	160,700	0
Positions	2	0
FTE	1.00	0.00
3 Migration to OLCC - Public Health		
Personal Services	(1,540,579)	(3,081,168)
Services and Supplies	(1,322,021)	(2,644,032)
Total Other Funds	(2,862,600)	(5,725,200)
Positions	0	(16)
FTE	(8.00)	(16.00)
TOTAL EXPENDITURE IMPACT TO OHA		
Personal Services	(1,371,253)	(3,081,168)
Services and Supplies	(1,273,941)	(2,644,032)
Special Payments	56,706	
TOTAL OTHER FUNDS	(2,588,488)	(5,725,200)
Positions	2	(16)
FTE	(7.00)	(16.00)

¹ The bill requires OHA to establish and operate an electronic system (separate from the METRC Cannabis Tracking System) for keeping certain information related to the Oregon Medical Marijuana Program (OMMP) registry identification and marijuana grow site cardholders. OLCC and the Department of Revenue (DOR) must be able to access this system. This database currently exists within OHA for medical marijuana grow sites, dispensaries, processors, patients, and caregivers. This database has protected Health Insurance Portability and Accountability Act (HIPPA) information included, so a modified view will be required to allow access to OLCC and DOR. OHA estimates the cost of this system modification to be \$56,706 Other Funds for the 2017-19 biennium.

* The Office of Information Services (OIS) is shared services, and the double \$56,706 amounts reflects how the agency accounts for shared services.

² The bill requires OHA to notify all affected medical registrants of the provisions requiring medical growers, processors, and dispensaries to register with the METRC Cannabis Tracking System by September 1, 2017. OHA anticipates hiring two limited duration Office Specialist 2 positions to communicate with and assist all affected registrants.

^{3, (R5)} OHA predicts that the option for medical grow sites, processing sites, and dispensaries to move from OHA to full OLCC licensure will result in a reduction in registration fee revenues for the Oregon Medical Marijuana Program. Assuming 3,779 growers, 35 processors, and 35 dispensaries will elect to

migrate to full OLCC licensure by July 1, 2018, OHA projects a loss of revenue totaling \$2,862,600 Other Funds for the 2017-19 biennium, and \$5,725,200 for the 2019-21 biennium. However, if these entities choose to stay under OHA licensure or if OLCC does not have the capacity to process applications and oversee the licensing for additional licensees, this loss in revenue would be smaller and/or at a slower pace. OHA will reduce program activities and staffing to correspond with the volume and pace of the migration. Correspondingly, OLCC will expand program activities and staffing to correspond with the volume and pace of the migration.

Oregon Department of Agriculture (ODA)

The fiscal impact of this measure to ODA is indeterminate. The bill grants ODA laboratories statutory authority to possess, test, and dispose of marijuana items. ODA assumes this work will be conducted on a cost recovery basis, but at this time, the agency cannot predict the level of demand for service.

Oregon Judicial Department (OJD)

The fiscal impact of this measure to OJD is anticipated to be minimal. Any person affected by agency orders resulting from this bill would have the right to appeal to the Oregon Court of Appeals, and possibly the Oregon Supreme Court. This could result in an increase cases in Oregon courts. However, OJD anticipates the agency can absorb this increase within existing resources.

Department of Public Safety Standards and Training (DPSST)

The fiscal impact of this measure to DPSST is anticipated to be minimal. Under current practice, DPSST offers a four-week Basic Academy that can be customized, using existing DPSST staff and resources, to add marijuana specific content within the existing curriculum for OLCC.

Department of Revenue (DOR)

The fiscal impact of this measure to DOR is anticipated to be minimal. The bill simply allows DOR access to the OHA database containing certain information related to the Oregon Medical Marijuana Program. DOR will use existing staff and resources to carry out the revenue distribution as directed by the bill.